

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 25-E-0072 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service.

CASE 25-G-0073 – 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.

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE STAFF
STATEMENT IN SUPPORT OF THE JOINT PROPOSAL

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NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE STAFF STATEMENT IN
SUPPORT OF THE JOINT PROPOSAL

I. INTRODUCTION

On November 5, 2025, 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 (City or NYC), Alliance for a Green Economy (AGREE), the National Railroad Passenger Corporation (Amtrak), Consumer Power Advocates (CPA), Environmental Defense Fund (EDF), Electrify America, LLC (Electrify America), New York Energy Consumers Council (NYECC), New York Power Authority (NYPA), the Retail Energy Supply Association (RESA), and New York Geothermal Energy Organization (NY-GEO) (collectively, the Signatory Parties) submitted a Joint Proposal recommending a comprehensive resolution of all issues raised in the above-captioned proceedings.¹ Other parties indicated that they would not oppose the Joint Proposal. They are: Metropolitan Transportation Authority (MTA); Public Utility Law Project (PULP); the Utility Intervention unit of the New York State Department of State's Division of Consumer Protection (UIU); and the Westchester Municipal Consortium (Westchester Consortium).

According to the Commission's mission statement, one of its core responsibilities is to ensure affordable, safe, secure, and reliable access to electric, gas, steam, telecommunications and water services for New York State's residential and business customers. This mission statement reflects the requirements of Public Service Law (PSL) Section 66 that requires the

¹ Staff, on November 21, 2025, filed with the Secretary to the Commission a corrected Appendix 18 to the Joint Proposal. Also, NY-GEO separately filed its signature page on November 6, 2025.

Commission to ensure safe and adequate service at just and reasonable rates. As we stated throughout our direct testimony, a primary concern of Staff in these proceedings is the significant incremental revenue increases the Company seeks, particularly considering the previous revenue requirements and rate increases determined in recent rate cases. The Company also has a significant arrears balance on its books, which demonstrates that customers are struggling to pay their electric and gas bills amidst generally rising costs due to inflation and broader economic pressures.

Staff's focus on affordability in these proceedings does not compromise the balancing of the PSL's requirement that the Company provide safe and adequate service at just and reasonable rates. In fact, our focus on affordability is a part of our assessment of what revenue requirements and what resulting rates would be "just and reasonable." Regarding the provision of safe and adequate service, the Company's electric and gas systems are among the most reliable delivery systems in the country.

In areas where safety and reliability issues in the Company's Transmission and Distribution (T&D) systems need to be addressed, the Joint Proposal provides adequate funding to the Company to enhance safety and reliability. The Joint Proposal also supports the goals of the Climate Leadership and Community Protection Act (CLCPA); and Staff's testimony reflects this by recommending that the Commission approve funding for projects and programs that advance CLCPA goals. Regarding its financial condition, the Company is characterized by Standard and Poor's as having an Excellent business risk profile, and its credit ratings are among the highest of New York's utilities. The Company also enjoys numerous Commission-supported pass-through and true-up mechanisms. These policies insulate the Company from certain risks that are beyond the Company's control. As discussed in this Statement in Support, given the Company's overall stability, the Joint Proposal focuses on affordability and balances the need for the Commission to ensure the provision of safe and adequate service while also addressing State and Commission policies including the CLCPA.

Therefore, by this Statement in Support of the Joint Proposal (Statement), Staff recommends that the Commission adopt the provisions of the Joint Proposal in their entirety and establish Electric and Gas Rate Plans for Con Edison as discussed in this Statement in Support.

II. PROCEDURAL HISTORY

On January 31, 2025, Con Edison submitted tariff leaves, pre-filed testimony and exhibits in support of new electric and gas rates to become effective no later than December 31, 2025. The Company sought an increase in annual electric delivery revenues of approximately \$1.612 billion and an increase in annual gas delivery revenues of approximately \$440 million for the 12 months ending December 31, 2026 (Rate Year or RY1). If adopted as filed by Con Edison, the Company's RY1 electric and gas delivery revenues would increase by approximately 18.0 percent and 18.8 percent, respectively. The requested increase in electric delivery revenues would result in an average residential monthly delivery bill increase of \$26.60 or 19.1 percent (from \$139.43 to \$166.03), or an average total bill increase of 13.40 percent for a 600 kilowatt hours (kWh) per month non-heating electric customer. The additional gas delivery revenues sought by the Company would result in an average residential monthly delivery bill increase of \$46.42 or 25.1 percent (from \$184.62 to \$231.04), or a total bill increase of 19.1 percent for the average residential gas heating customer using 100 cubic feet per month.

The primary rate drivers identified by the Company in support of its rate filings for electric and gas operations are the following: New Infrastructure Investment (\$370 million electric, \$65 million gas), Return on Equity (\$190 million electric, \$66 million gas), Other Financing Costs (\$20 million electric, \$8 million gas), Property Taxes (\$434 million electric, \$64 million gas), Pension and Other Post Employment Benefits (OPEB) (\$240 million electric, \$20 million gas), Operations and Maintenance (O&M) expenses (\$360 million electric, \$100 million gas), depreciation Expense (\$136 million electric, \$96 million gas), Sales Revenues (-\$57 million electric, \$24 million gas) and Other (-\$81 million electric, -\$2 million gas).²

A procedural conference was held on March 4, 2025, before Administrative Law Judges (ALJ) James A. Costello, Tara A. Kersey, and Nicholas Planty. The purpose of the procedural conference was to identify parties and major issues, establish a schedule for the proceedings and address issues related to service of documents, discovery and any other procedural matters identified by the parties at the conference. By ruling dated March 10, 2025, ALJs Costello, Kersey, and Planty adopted a litigation schedule as follows: Company updates and corrections

² Company Accounting Panel, Initial Testimony, pp. 7-8.

due April 10, 2025; Staff and Intervenor direct testimony due May 30, 2025; rebuttal testimony due June 24, 2025; and an evidentiary hearing to commence July 10, 2025.

On April 10, 2025, the Company filed its preliminary update and corrections, resulting in a decrease to its proposed electric revenue requirement of approximately \$3.2 million, from \$1.612 billion to \$1.608 billion, and a decrease to its gas revenue requirement of approximately \$91.5 million, from \$440 million to \$349.0 million. On May 30 and June 2, 2025, 19 parties filed direct testimony and exhibits in response to Con Edison's updated filings. Staff's pre-filed testimony and exhibits recommended a RY1 revenue requirement increase of \$319.204 million for electric in RY1 and a RY1 decrease of 45.463 million for gas. On June 18, Staff corrected its electric revenue increase to \$418.629 million and gas revenue requirement decrease to \$9.050 million, reflecting several corrections to its pre-filed positions.³ The \$418.629 million RY1 electric revenue increase was further revised to Staff's final litigated position of \$411.86 million, reflecting two corrections to electric revenue requirement. The \$9.050 million RY1 gas revenue decrease was further revised to Staff's final litigated position for a gas revenue decrease of \$15.220 million, reflecting one correction to the gas revenue requirement.

On June 24, 2025, the Company and eight parties filed rebuttal testimony, including the Staff.⁴ Also on June 24, 2025, the Company filed a letter with the Secretary to Commission, pursuant to 16 NYCRR §3.9, to provide notice of impending settlement negotiations in these proceedings. Specifically, the letter noted that the Company, Staff, and other parties had agreed to enter into settlement negotiations beginning June 26, 2025, with a virtual scheduling and administrative conference. The Company subsequently filed a request for a settlement judge on June 25, 2025, to which one was assigned. In addition, on June 25, 2025, ALJs Costello, Kersey, and Planty issued a ruling postponing the evidentiary hearing and extending the suspension date of the tariff leaves filed by the Company through February 28, 2026.

Settlement negotiations commenced on June 26, 2025, with settlement Judge Leary, and continued in approximately 45 settlement meetings. Staff, on behalf of the Signatory Parties, filed the Joint Proposal in these proceedings with the Secretary to the Commission and ALJs on November 5, 2025. On November 6, 2025, the ALJs issued a ruling via email setting the

³ Staff response to Con Edison IR Set #7, Question 83.

⁴ Staff Accounting Panel, Direct Testimony, pp. 14-16.

following procedural schedule: Statements in support or Opposition of the Joint Proposal due November 26, 2025; commencement of evidentiary hearings on December 3, 2025; and a decision on the allowance of post-hearing briefs, including Reply Statements, would be made at the conclusion of the evidentiary hearings.

III. OVERVIEW OF THE JOINT PROPOSAL

As discussed in greater detail below, and in the various sections of this Statement, the Joint Proposal contains a number of provisions designed to protect and benefit ratepayers, maintain and improve Con Edison's ability to provide safe and adequate service, and resolve other issues raised by intervenors where feasible and appropriate.

Section A of the Joint Proposal recommends three-year terms for the Electric Rate Plan and Gas Rate Plan (collectively, Rate Plans). Under the Rate Plans, Rate Year 1 (RY1) is the 12 months ending December 31, 2026; Rate Year 2 (RY2) is the 12 months ending December 31, 2027; and Rate Year 3 (RY3) is the 12 months ending December 31, 2028.

Section B of the Joint Proposal contains the rates and revenue levels recommended by the Signatory Parties. The Electric Rate Plan proposes an annual revenue increase of \$222.4 million in RY1, \$472.7 million in RY2, and \$329.0 million in RY3. To reduce bill volatility over the term of the Electric Rate Plan, the Joint Proposal recommends implementing the proposed base revenue changes on a shaped basis. This means that rates are designed to provide a consistent percentage of total revenue increase at an annual rate of 2.8 percent for electric. The shaped electric revenue increases are: \$234.0 million in RY1, \$409.7 million in RY2 and \$431.1 million in RY3. The table below summarizes the proposed overall revenue increases and bill impacts on a delivery and total bill basis:

		Unshaped	Shaped
RY1	Revenue Increase (million)	\$222.40	\$234.00
	Impact on Delivery	4.30%	4.40%
	Impact on Total Bill	2.70%	2.80%
RY2	Revenue Increase (million)	\$472.70	\$409.70
	Impact on Delivery	5.00%	4.40%

	Impact on Total Bill	3.20%	2.80%
RY3	Revenue Increase (million)	\$329.00	\$421.10
	Impact on Delivery	3.30%	4.30%
	Impact on Total Bill	2.20%	2.80%

Under the proposed Gas Rate Plan, there would be a revenue decrease of \$46.2 million for RY1 and a revenue increase of \$170.2 million for RY2, and a revenue increase of \$93.0 million for RY3. As with the Electric Rate Plan, to reduce bill volatility over the term of the Gas Rate Plan, the Joint Proposal recommends implementing the proposed base revenue changes on a shaped basis. This means that rates are designed to provide a consistent percentage of total revenue increase at an annual rate of 2.0 percent for gas. The shaped gas delivery revenue increases are \$27.5 million in RY1, \$68.8 million in RY2, and \$421.1 million in RY3. The table below summarizes the proposed overall revenue increases and bill impacts on a delivery and total bill basis:

		Unshaped	Shaped
RY1	Revenue Increase (million)	(46.2)	\$27.5
	Impact on Delivery	-0.3%	2.8%
	Impact on Total Bill	-0.2%	2.0%
RY2	Revenue Increase (million)	\$170.2	\$68.8
	Impact on Delivery	7.2%	2.8%
	Impact on Total Bill	5.1%	2.0%
RY3	Revenue Increase (million)	\$93.0	\$70.3
	Impact on Delivery	3.7%	2.8%
	Impact on Total Bill	2.6%	2.0%

For electric service, the annual shaped rate changes would result in higher base rates at the end of the three-year term of the Electric Rate Plan than they would otherwise be under a non-shaped approach. Accordingly, if the Company does not file for new rates to be effective January 1, 2029, the Joint Proposal requires that the Company make a compliance filing by December 1, 2028, to set rates effective January 1, 2029, at a level that is designed to produce non-competitive delivery base rate revenues on an annual basis that are lower by \$40.726 million.

For gas service, the annual shaped rate changes would result in lower base revenues at the end of the three-year term of the Gas Rate Plan than they would otherwise be under a non-shaped approach. Accordingly, if the Company does not file for new rates to be effective January 1, 2029, the Joint Proposal requires the Company to make a compliance filing by December 1, 2028, to set rates effective January 1, 2029, at a level that is designed to produce non-competitive delivery base rate revenues on an annual basis that are higher by \$50.383 million. The Signatory Parties predicated each of the Rate Year revenue requirements on a return on equity (ROE) of 9.40 percent, as set forth in Appendices 1 and 2 to the Joint Proposal.⁵ Additionally, Section C of the Joint Proposal details the earnings sharing between ratepayers and shareholders in the event the Company achieves earnings more than 50 basis points above the level authorized in any given Rate Year.

Section D addresses the Company's capital expenditure plans during the term of the Electric and Gas Rate Plans. The provisions in this section set net plant targets, based upon the Signatory Parties' proposed levels of capital expenditures, and provide for a downward-only true-up of any variance between the forecasted net plant target set in rates and the actual net plant levels. The reconciliation mechanism simultaneously protects ratepayers while providing the Company with the necessary flexibility to continue providing safe and reliable service. Section D also includes a Revenue Adjustment Mechanism to address the uncertainty of non-conforming welds related costs for the Company's gas system.

The Joint Proposal allows for the reconciliation of a number of expense items to the levels assumed in rates. These reconciliations, detailed in Section E of the Joint Proposal, protect ratepayers from under-spending in these categories, and the Company from over-spending in situations where the expense in question is not entirely within the Company's control and is difficult to forecast with a reasonable amount of certainty.

Section F of the Joint Proposal addresses a number of additional accounting provisions, including full time equivalent (FTE) employees and labor reporting and productivity, depreciation rates and reserves, interest on deferred costs, the treatment of property tax refunds that may be achieved during the term of the Rate Plans, and the allocation of common expenses and plant and intercompany shared services, information technology (IT) reporting, non-officer

⁵ Joint Proposal, Appendix 1, p. 11 and Appendix 2, p. 11.

Management Variable Pay and Long Term Incentive program design, Unbilled Revenue Adjustment Balance in Rate Base, property tax forecasting, and sales forecasting. Section F also addresses income taxes and the ongoing focused operations audit as initiated by the Commission in Case 18-M-0013.⁶

Section G details the electric revenue allocation, rate design, and customer charges, including a study of SC1 Rate III rate structure and an extension of the existing price guarantee for first-time SC 1 Rate III and Rate IV customers, a separate cost study for SC 5 Rate I and Rate II to be presented in its next rate case filing, a seasonal rate study to be included in future rate case filings, a change to residential demand calculation from a rolling hour basis to a clock hour basis, as well as other electric tariff changes.

Section H addresses gas revenue allocation, rate design, and minimum monthly charges, including continued volumetric block rate phase-out for SC 2 and SC 3, establishes separate rate structures for SC 3 Rate I and Rate II, as well as other gas tariff changes.

Section I and Appendices 17, 18, 19, and 22 of the Joint Proposal address various performance metrics designed to measure the Company's electric service, gas safety, and customer service operations.

Section J and its related Appendices address various Customer Energy Solutions issues, including the Customer Analytics Reporting and Engagement (CARE) program, building energy usage data to meet reporting requirements, and Earnings Adjustment Mechanisms (EAMs) to encourage the Company to go above and beyond to achieve the CLCPA.

Section K addresses, among other things, provisions concerning reliability projects needed to address generator retirements, streetlight registry and metrics, and the Westchester Annual Meeting.

Section L addresses additional gas provisions, including reporting on AMI-enabled natural gas detectors, first responder training, meter relocation, electric burnouts affecting gas facilities, advanced leak detection, renewable natural gas, non-pipeline alternatives, operational flow orders, and ending the differentiated natural gas pilot program.

⁶ Case 18-M-0013, In the Matter of a Focused Operations Audit to Investigate the Income Tax Accounting of Certain New York State Utilities, Order Approving and Issuing the Request for Proposals Seeking a Third-Party Consultant to Perform Audits to Investigate the Income Tax Accounting of Certain New York State Utilities (issued January 11, 2018).

Section M addresses various customer service issues, including the customer operations information technology program reporting, suspension of residential service termination during qualifying heat and cold weather events, expanded language access, improved procedures for recoding customers as electric heat, performance metrics and reporting requirements, and outreach and education.

Section N addresses the electric and gas low-income programs that comply with the Commission's Energy Affordability Policy.⁷ It also describes revisions to the Company's tariff that eliminate applicability of the reconnection fee for low-income participants and thus, removes the need for the low-income reconnection fee waiver programs. It also expands on the outreach efforts for program enrollment and addresses the commitment to adhere to the Enhanced Energy Affordability Program.⁸

Section O continues several provisions in addressing retail access issues, including communications between the Company and energy service companies (ESCOs) by responding to internal system issues that impact the exchange and processing of data impacting ESCO retail transactions within five business days. It also details ensuring Company employees have updated retail access related information and improves on the communications and transparency between the Company and ECSOs.⁹

Section P contains provisions related to the Clean Energy Transition and attainment of New York State's CLCPA goals, including a Disadvantaged Communities Report and a greenhouse gas (GHG) Emissions report. Both of these reports help address the Company's consistency with §§ 7(2) and 7(3) of the CLCPA in this Rate Plan.

Section Q is the miscellaneous provisions section.

⁷ Case 14-M-0565, Proceeding on Motion of the Commission Regarding Energy Affordability, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016); Case 14-M-0565, supra, Order Approving Implementation Plans With Modifications (issued February 17, 2017); Case 14-M-0565, supra, Order Granting in Part and Denying in Part Requests For Reconsideration and Petitions for Rehearing (issued February 17, 2017); Case 14-M-0565, supra, Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings (issued August 12, 2021) .

⁸ Case 14-M-0565, Proceeding on Motion Regarding Energy Affordability, Order Adopting Enhanced Energy Affordability Policy and Directing Utility Filings (issued July 7, 2025).

⁹ Joint Proposal, pp. 105-106.

IV. THE JOINT PROPOSAL IS IN THE PUBLIC INTEREST

A. Benefits of the Joint Proposal

The CLCPA enacted Article 75 of the New York Environmental Conservation Law (ECL). ECL §75-0107 sets statewide GHG emissions limits of 60 percent of 1990 emissions levels by 2030 and 15 percent of 1990 emissions levels by 2050. Among the provisions of the CLCPA, §7(2) requires that New York State agencies, in issuing administrative approvals or decisions, “consider whether such decisions are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits established in [ECL §75-0107].” Furthermore, §7(2) requires that “[w]here such decisions are deemed to be inconsistent with or will interfere with the attainment of statewide greenhouse gas emissions limits, each agency . . . shall provide a detailed statement of justification as to why such limits/criteria may not be met and identify alternatives or greenhouse gas mitigation measures to be required where such project is located.” Additionally, §7(3) requires that, in issuing administrative approvals and decisions, State agencies “shall not disproportionately burden disadvantaged communities as identified pursuant to subdivision 5 of section 75-0101 of the [ECL].”

On May 12, 2022, the Commission initiated a proceeding to track progress made toward meeting the requirements and targets of the CLCPA and provide policy guidance, as necessary, for additional actions needed to fulfill the objectives of the CLCPA.¹⁰ In the Order on Implementation of the Climate Leadership and Community Protection Act in that proceeding (CLCPA Implementation Order), the Commission recognized the need to “establish clear and consistent statewide guidelines for GHG emissions reporting requirements to ensure that the State’s major electric and gas IOUs (collectively, the Utilities) are on track to meet the CLCPA targets.”¹¹ To that end, the Commission directed the Utilities to work with Staff to develop a proposal for statewide GHG emissions reporting consistent with the methodology required by the CLCPA. That proposal was filed on December 1, 2022, and awaits action by the Commission.

The CLCPA Implementation Order also directed the Utilities to develop a proposal for a GHG Emissions Reduction Pathways Study to analyze the scale, timing, costs, risks,

¹⁰ Case 22-M-0149, In the Matter of Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act.

¹¹ Case 22-M-0149, supra, Order on Implementation of the Climate Leadership and Community Protection Act (issued May 12, 2022), pp. 14-15.

uncertainties, and customer bill impacts of achieving significant and quantifiable reductions in GHG emissions from the use of gas delivered by the Utilities, to be filed for public comment by March 31, 2023. The CLCPA Implementation Order stated that, in subsequent rate filings, utilities must describe, in detail, the investments, programs, and initiatives necessary to achieve the objectives described in the Study Proposal.¹²

As explained below, the Joint Proposal in these proceedings provides ample basis for the Commission to make the required findings under CLCPA §§7(2) and (3) that the Joint Proposal is not inconsistent with and will not interfere with the attainment of the CLCPA's GHG emissions targets and will not disproportionately burden disadvantaged communities. Taken as a whole, the Joint Proposal will contribute to the goals of the CLCPA while satisfying the Company's obligations under the PSL to continue to provide safe and adequate service to its ratepayers. While as an electric and gas utility the Company must, by law, provide service to all applicants, the Joint Proposal provides for Con Edison to limit the environmental impact of the utility service it provides to customers. The following provisions of the Joint Proposal further the goals of the CLCPA.

The Renewable Natural Gas (RNG) provision of the Joint Proposal will require developers to pay for interconnection costs necessary to interconnect local RNG supplies. If local RNG supplies are implemented and interconnected over the term of the gas rate plan, the Company will have the opportunity to interconnect with RNG production utilizing methane emissions that would have otherwise vented into the atmosphere.

The Advanced Leak Detection program in the Joint Proposal will require the Company to continue surveying its gas distribution system during the term of the Rate Plan. This survey targets gas leaks with the highest emissions, prioritizes types of leaks for repair, and compliments Con Edison's existing leak management efforts, allowing the Company to address the largest GHG emitting leaks first, accelerating the reduction of gas distribution system emissions. The Gas Infrastructure Replacement or Reduction Program provision in the Joint Proposal requires Con Edison to also consider whether gas piping can be eliminated rather than replaced. This program will highlight opportunities for the Company to promote electrification

¹² CLCPA Implementation Order, pp. 26-27.

to existing gas customers along such pipe segments via Non-Pipe Alternatives (NPAs), therefore reducing gas demand on its system.

As discussed in greater detail in Section V.D.2.c, below, the Main Replacement NPA Program, also referred to as the Electric Advantage Program, provision in the Joint Proposal requires the Company to annually report, among other details, various categories of leak prone pipe (LPP) footage throughout the Company's gas distribution system that the Company retired or replaced during the reporting period, and to report resulting emission reductions as a component of each Benefit-Cost Analysis (BCA) Summary provided for each implemented NPA and included in the NPA Implementation Plan and Annual Report. The Electric Advantage Program inherently provides methane emission reductions due to the replacement of LPP segments of the gas distribution system, in furtherance of the CLCPA.

The Joint Proposal also effectuates cost recovery of programs consistent with the cost recovery mechanisms authorized by the Commission through separate Commission proceedings, including the Electric and Gas Energy Efficiency Programs, the Clean Heat Program, the Light-Duty Electric Vehicle (EV) Make Ready Program and associated Medium- and Heavy-Duty EV Make Ready Pilot, Brooklyn Queens Demand Management Program, Reforming the Energy Vision (REV) Demonstration Projects. The Joint Proposal includes funding related to Company labor to implement and administer each of the above programs, if not already included in a surcharge and reconciliation mechanism, as well as labor and other O&M funding for ongoing clean energy projects - such as the Company-owned and operated energy storage systems previously authorized by the Commission, Con Edison's Demand Response programs, Non-Wires Alternatives projects, and Non-Pipes Alternatives projects. Additionally, the Joint Proposal includes a portfolio of EAMs designed to encourage Con Edison to have "skin in the game" sized to meet the needs of the present in delivering affordability for customers while achieving the New York's energy and environmental policy goals.

Regarding compliance with CLCPA §7(2), the Joint Proposal requires the Company to file a quantification of GHG emissions anticipated during the term of the Rate Plan, as well as an annual report and associated workpapers by May 31 following each rate year providing actual GHG emissions and emissions impacts for each rate year.¹³ This report provides a baseline and

¹³ Joint Proposal, pp. 116-117.

yearly data from which to measure the Company's progress in reducing its GHG emissions, particularly from the natural gas system, and helps New York State to achieve its clean energy goals.

Regarding compliance with CLCPA §7(3), in its initial testimony, the Company stated that the investments in its plan will continue the Company's focus on customers in disadvantaged communities and improvements to existing programs.¹⁴ The Company provided anticipated impacts and benefits to disadvantaged communities on a project-by-project basis as part of the Company's Electric Infrastructure and Operations Panel, Gas Infrastructure and Operations Panel, and Shared Service Panel's testimonies.¹⁵ Further, the Company included multiple projects and programs that it argues would enhance the overall safety and reliability of its electric and gas systems, while not creating disproportionate construction or operational burdens on those neighborhoods.¹⁶ In addition, the Company points to its 2024 Disadvantaged Communities Report as evidence of its performance.¹⁷

In its initial testimony, Staff stated that it reviewed the Company's investment exhibits, and determined that the Company's proposals do not present a potential for disproportionate burdens toward disadvantaged communities.¹⁸ Staff asserted that the physical impacts to disadvantaged communities are temporary construction burdens that the Company has developed measures to mitigate, and that the Company's infrastructure proposals in disadvantaged communities are based on system need and provide increased safety and reliability for those communities.¹⁹ Staff recommended that, in future rate proceedings, the Commission should require that the Company provide additional information on capital and O&M project whitepapers to describe past, present, and planned outreach efforts applicable to each project, and that such whitepapers should also include clear designations of whether such project will be located partially within, wholly within, or is likely to adversely impact disadvantaged

¹⁴ Company Clean Energy Transition Panel, Initial Testimony, p. 16.

¹⁵ Exhibit___(EIOP-4); Exhibit___(EIOP-5); Exhibit___(EIOP-7); Exhibit___(EIOP-8); Exhibit___(EIOP-9); Exhibit___(EIOP-10); Exhibit___(EIOP-11); Exhibit___(EIOP-12); Exhibit___(EIOP-13); Exhibit___(SIOP-1); Exhibit___(GIOP-2); Exhibit___(SSP-4).

¹⁶ Company Clean Energy Transition Panel, Initial Testimony, p. 77

¹⁷ Exhibit___(CETP-3).

¹⁸ Staff Climate Leadership and Community Protection Act Panel, Direct Testimony, p. 41.

¹⁹ Staff Climate Leadership and Community Protection Act Panel, Direct Testimony, pp. 32, 34-35, 38-39, 41.

communities—information which Staff was required to elicit via Discovery requests in these proceedings.²⁰

Because Staff did not find evidence of disproportionate burdens on disadvantaged communities in the Company’s capital plans or evidence of disproportionate burden related to Staff’s recommended modifications to such projects, the Joint Proposal will not result in a disproportionate burden to disadvantaged communities. Further, the Joint Proposal requires Con Edison to continue filing an annual report following each rate year detailing the Company’s investments and activities related to disadvantaged communities, which will allow for continued assessment of the potential burdens upon disadvantaged communities, in furtherance of §7(3) of the CLCPA (Disadvantaged Communities Report).²¹

Thus, viewed as a whole, the Joint Proposal in these proceedings contains numerous provisions that advance the goals of the CLCPA while satisfying the Company’s obligations under the PSL to continue to provide safe and adequate service to its ratepayers. Accordingly, the Commission should find that adopting the Joint Proposal is not inconsistent with, and will not interfere with, the attainment of the CLCPA’s GHG emissions targets and will not disproportionately burden disadvantaged communities.

B. Standard of Review

The Commission’s Settlement Guidelines state that all decisions, including those to adopt the terms of settlement agreements (*e.g.*, joint proposals) must be just and reasonable and in the public interest.²² In addition to compliance with proper procedures, determining whether the terms of a joint proposal are in the public interest involves substantive consideration of the following:

1. consistency with the law and regulatory economic, social and environmental State and Commission policies;
2. whether the terms of the joint proposal compare favorably with the likely result of a fully litigated case and produce a result within the range of reasonable outcomes;

²⁰ Staff Climate Leadership and Community Protection Act Panel, Direct Testimony, p. 45.

²¹ Joint Proposal, pp. 106-116.

²² Cases 90-M-0225 and 92-M-0138, Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines (issued March 24, 1992), p. 30.

3. whether the joint proposal fairly balances the interests of ratepayers, investors and the long-term soundness of the utility; and
4. whether the joint proposal provides a rational basis for the Commission's decision.

Additional consideration is given to the completeness of the record and whether the joint proposal is contested, and, if so, the substance of that opposition. The Settlement Guidelines also explain that the Signatory Parties' burden to show the agreement compares favorably with a litigated result increases when the record is less developed.²³

C. Compatibility with the Commission's Settlement Guidelines

The Joint Proposal resolves all outstanding issues presented in pre-filed testimony and settlement negotiations. In doing so, the Joint Proposal fully comports with the Commission's Settlement Guidelines. The fact that the Signatory Parties have executed the Joint Proposal is a testament to the extensive efforts to address key issues and the Joint Proposal's equitable resolutions and reasonable provisions. The Joint Proposal is a proposal reached among normally adversarial parties with varying interests and strong incentives to craft resolutions to address those interests. The proposal produces an outcome that we believe is likely superior to the probable outcome of adversarial litigation given the development of the agreement by a diverse group of parties.

To address affordability, the Joint Proposal contains various provisions that place a strong emphasis on Con Edison managing its costs and provides enhanced incentives to that end (*e.g.*, net-plant reconciliation and gas safety and customer service performance metrics). At the same time, Con Edison will receive sufficient additional revenues enabling it to implement new programs and make repairs and improvements to its electric and gas systems to ensure the continued provision of safe and adequate service. Moreover, the Joint Proposal continues reconciliation mechanisms and reporting requirements characteristic of Commission-adopted rate plans. The reconciliation mechanisms are designed to protect both customers and the Company from variations in estimated costs, and thus, enhance the stability and consistency in customer rates. The use of such mechanisms acknowledge that some costs are inherently difficult to predict and that some costs are at least partially beyond the Company's control.

²³ Id., p. 31.

The Joint Proposal's recommended allowed ROE of 9.4 percent is a fair compromise between the Company's position in its testimony and Staff's testimonial position. The 9.4 percent ROE reflects the current interest rate environment and is also consistent with other recently authorized ROEs for other major utilities operating under a Commission-approved multi-year rate plan. Furthermore, the earnings sharing mechanism mandates ratepayer sharing if Con Edison's earned ROE exceeds 9.9 percent in any Rate Year during the term of the Rate Plans.

In sum, the Joint Proposal satisfies the criteria the Commission has established, pursuant to the PSL, for judging the reasonableness of settlements. The proposed Rate Plan reflects an appropriate balancing of ratepayer and shareholder interests, such that the rate increases are close to the minimum necessary to provide Con Edison with a fair return on its investment while enabling the Company to provide safe and adequate service and advance important State policy objectives. The resulting rates are just and reasonable and in the public interest and, for the reasons discussed herein, should be adopted by the Commission.

D. Support Among the Parties

Support for the Joint Proposal comes from a multitude of entities with varying interests, including ratepayer protection, climate change and environmental protection, the provision of safe and adequate service at just and reasonable rates, and rate certainty. The support for the Joint Proposal demonstrates that it addresses a number of important issues to the satisfaction of a diverse group of Signatory Parties. In addition, as stated above, several parties to these proceedings who did not sign the Joint Proposal have affirmatively stated that they would not oppose it.

E. Adequacy of the Record

The record is adequate to justify adoption of all the provisions contained in the Joint Proposal. The provisions in the Joint Proposal are based on information and data supplied by Con Edison, Staff, and other parties in their pre-filed testimonies, during the course of discovery, and in updates and/or during negotiations. The parties had ample opportunity to review the documentation provided by the Company and to conduct extensive discovery into the content and development of those documents.

The appendices to the Joint Proposal represent a detailed agreement between the Signatory Parties as to the costs and revenues underlying the proposed electric and gas base rates and the various mechanisms provided for in the Joint Proposal. These costs and revenues, along with the other terms of the Joint Proposal, provide a sound, equitable, and rational evidentiary basis on which to determine that the Joint Proposal is reasonable and should be adopted by the Commission.

F. Public Interest

When the Commission considers whether the Joint Proposal is in the public interest, the document should be considered as a whole, with each individual section providing support and balance to the others. The Commission may accept, reject, or modify, in whole or in part, any recommendation or term of the Joint Proposal; however, it is Staff's belief that the Joint Proposal fairly resolves the revenue requirement and policy initiative issues, thereby providing improved service at an equitable and affordable cost. The Joint Proposal meets the public interest standard and, thus, should be adopted in its entirety.

The Joint Proposal should be adopted because it not only satisfies the criteria established by the Commission for judging the reasonableness of settlements, but it also provides for enhanced performance standards designed to improve the safety and reliability of the Company's electric and gas services while keeping rates affordable and reasonable. The record is more than adequate to support the terms of the Joint Proposal, which are consistent with both law and policy, have a rational basis, balance the interests of ratepayers and Con Edison, and compare favorably with the outcome of litigation. It is for these reasons that the Joint Proposal is in the public interest and should be adopted by the Commission.

V. ELEMENTS OF THE JOINT PROPOSAL²⁴

A. Term

The Joint Proposal envisions a three-year Rate Plans for both Con Edison's electric and gas businesses. The three-year term is in the public interest because it affords customers long-term

²⁴ To facilitate the reader's comparison of the actual provisions of the Joint Proposal with the descriptions included in this Statement in Support, the headings in this section generally correspond to the headings in the Joint Proposal.

certainty while securing for Con Edison a dependable revenue stream that bolsters its financial stability and ensures the resources necessary to fulfill its responsibility to provide safe and adequate service.

B. Rates and Revenue Levels

1. Electric

As noted above, the Joint Proposal recommends rates and charges designed to produce a shaped bill increase of 2.8 percent annually, with an annual revenues increase of \$234.0 million in RY1, \$409.7 million in RY2, and \$421.1 million in RY3. It is worth noting that, in its initial testimony, the Company sought a \$1.6 billion increase in RY1 alone, equating an 11.4 percent increase in total revenues. Thus, the revenue requirement increases proposed in the Joint Proposal reflect a substantial effort by the Signatory Parties to mitigate the Company's rate request and address affordability. This significant mitigation of the rate request illustrates the reasonableness and fairness of the Joint Proposal.

a. Rate Year One Revenue Requirement Recovery

Section B.1 of the Joint Proposal proposes that the Company recover revenues as if the revenue requirement increases were effective as of January 1, 2026, the beginning of RY1. Accordingly, the Joint Proposal recommends Con Edison be permitted to recover the revenue shortfall resulting from the extension of the suspension period beyond January 1, 2026, through a make-whole provision. The make-whole provision is designed to ensure the Company is placed in the same financial position it would have been in had rates gone into effect on January 1, 2026. The proposed make-whole provision is reasonable because it places the Company to the same financial position it would have been in had rates gone into effect January 1, 2026, absent the extension of the suspension period, which was required to allow the Signatory Parties the opportunity to reach a fair and reasonable outcome in these proceedings.

Should rates go into effect February 1, 2026 (a one-month delay), it's recommended the January make-whole recovery period be from February 1, 2026 through December 31, 2026, which would result a RY1 bill impact for a typical SC1 residential electric customer of approximately 3.9 percent.²⁵ If rates do not become effective by February 1, 2026, and instead were to become effective between February 1, 2026 and May 1, 2026, it's recommended the

²⁵ Con Edison typical residential customer usage is 280 kWh.

make-whole recovery period be for the remainder of RY1. Should rates become effective May 1, 2026, the approximate RY1 bill impact for a typical electric residential electric customer would be approximately 4.3 percent. If rates do not become effective by May 1, 2026, further evaluation would be needed to determine the make-whole recovery period as the make-whole period starts to include summer months and the recovery period loses those summer months. In addition, going beyond a May 1, 2026, effective date for rates and the resulting make-whole would further exacerbates the interest expenses that charged to customers.

b. Supply and Supply-Related Charges and Adjustments, Monthly Adjustment Clause (MAC) and NYPA Surcharge

The Joint Proposal proposes continuation of the Company's recovery of all prudently incurred supply and supply-related costs through the Supply and Supply-related Charges and Adjustments and the MAC mechanism. The Joint Proposal also would allow for the continuation of the Company's collection of certain charges from NYPA through the Statement of Other Charges and Adjustments as set forth in Section H of the PASNY Tariff. The Joint Proposal contains a number of modifications to the Electric Tariff and the PASNY Tariff to continue to allow for recovery of costs associated with actual storm costs in excess of the threshold, uncollectible expense/late payment fee reconciliation, and reconciliation of Property Taxes. The Joint Proposal also adds a new MAC component to recover changes in revenue due to new or modified laws, rules, regulations, orders, or court or agency interpretations of federal, state, or local requirements. The modifications are reasonable because they would continue the current practice of allowing Con Edison to recover its prudently incurred charges for cost components not included in base rates and, therefore, should be adopted by the Commission.

c. Revenue Decoupling Mechanism (*RDM*)

The Joint Proposal would continue the Company's electric RDM, including reconciliation of the EAP program. The energy affordability program costs will be reset to \$213.7 million to be included in rates and reconciled through the RDM in each Rate Year. Consistent with current Commission policy, the RDM reconciles forecast sales revenues in a manner designed to eliminate the financial disincentive a company would otherwise have to promote energy efficiency.

d. PJM Open Access Transmission Tariff (OATT) Charges

Con Edison may incur charges or receive refunds from PJM related to its former 1,000 megawatt (MW) firm transmission service agreement. As proposed in the Joint Proposal, the Company may recover or credit charges/refunds from its customers through the MAC and from NYPA through the NYPA Other Charges and Adjustments (OTH) Statement. The recoveries/refunds are to be allocated between Con Edison customers and NYPA in a manner that is consistent with how Con Edison formerly collected the rates and charges associated with the 1,000 MW firm transmission service agreement. The allocation will be based on the T&D revenue allocation for each rate year. If the PJM OATT charges are incurred for less than a full year, the NYPA allocation will be pro-rated. Allocating the PJM charges and refunds to NYPA is reasonable because the services provided to Con Edison under the PJM OATT were intended to provide reliability benefits to all Con Edison delivery customers, including NYPA.

e. Other Charges

The Joint Proposal recognizes that the Company may be subject to governmental or regional transmission organization (RTO) transmission and/or generation-related charges, costs or credits (*e.g.*, Federal Energy Regulatory Commission (FERC), New York Independent System Operator, Inc. (NYISO), PJM, United States Environmental Protection Agency (EPA)) not already listed in, or otherwise covered by, the then-effective MAC/Market Supply Charge (MSC) tariff language. Therefore, the Joint Proposal proposes that the Company make a tariff filing with the Commission to provide for recovery of such charges and costs, or application of such credits, through the MAC or MSC mechanism and/or comparable adjustment mechanism.

2. Gas

As noted above, the Joint Proposal recommends rates and charges designed to produce a shaped bill increase of 2.0 percent annually, with annual revenue increases of \$27.5 million in RY1, \$68.8 million in RY2, and \$70.3 million in RY3. It is worth noting that, in its initial testimony, the Company sought a \$440 million increase in RY1 alone, equating to a 13.3 percent increase in total revenues. Thus, the revenue requirement increases proposed in the Joint Proposal reflect a substantial effort by the Signatory Parties to address affordability.

a. Rate Year One Revenue Requirement Recovery

Under section B.2, the Joint Proposal allows for the Company to recover revenues as if the revenue requirement increases were effective as of January 1, 2026, the beginning of RY1.

Accordingly, the Joint Proposal recommends Con Edison be permitted to recover the revenue shortfall resulting from the extension of the suspension period beyond January 1, 2026, through a make-whole provision. The make-whole provision is designed to ensure the Company is in the same financial position it would have been in had rates gone into effect on January 1, 2026. This provision is reasonable because it places the Company to the same financial position it would have been in had rates gone into effect January 1, 2026, absent the extension of the suspension period, which was required to allow the Signatory Parties the opportunity to reach a fair and reasonable outcome in these proceedings.

Should rates go into effect February 1, 2026 (a one-month delay), Staff recommends the January make-whole recovery period be from February 1, 2026 through December 31, 2026, which would result in a RY1 bill impact for a typical SC3 Rate I residential gas heating customer of approximately 2.4 percent.²⁶ The same make-whole recovery period from February 1, 2026 through December 31, 2026 would result in a RY1 bill impact for a typical SC3 Rate II residential gas heating customer of approximately 0.2 percent.²⁷ If rates do not become effective by February 1, 2026, additional analysis will need to be performed to determine the most fitting make-whole recovery period while balancing bill impacts, interest cost, and the significant differences in residential heating customer gas usage between summer and winter months.

b. Revenue Decoupling Mechanism

The Joint Proposal would continue the Company's gas RDM, with proposed modifications as reflected in Appendix 5 and section H.6. of the Joint Proposal. Consistent with current Commission policy, the RDM reconciles forecast sales revenues in a manner designed to eliminate the financial disincentive a utility would otherwise have to promote energy efficiency.

c. Gas Cost Facto/ Monthly Rate Adjustment (MRA)

The Joint Proposal contains a number of modifications to the Company's MRA that either were not disputed by Staff or other parties in pre-filed testimony or that provide necessary changes to allow the Company to recover costs associated with other provisions of the Joint Proposal.²⁸ These modifications include language to clarify certain components of the MRA, the

²⁶ Con Edison typical residential customer usage is 100 therms for SC 3 Rate I.

²⁷ Con Edison typical residential customer usage is 2,549 therms for SC 3 Rate II.

²⁸ Joint Proposal, pp. 12-13.

Unbilled Fees Adjustment, Reconciliation of Property Taxes and the Uncollectible Bill Expense will continue, and remove language in the Non-Pipeline Alternative General Information Section for the recovery of costs associated with the Direct Energy Initiative.

d. Non-Firm Revenues

The Non-Firm Revenue provision in the Joint Proposal remains unchanged from the current gas rate plan established in the 2023 Rate Order.²⁹ The revenue requirement for each Rate Year reflects a revenue imputation of \$65.0 million attributable to Non-Firm Revenues, which includes: net base revenues from interruptible customers; net base revenues from contract, interruptible, and off-peak power generation customers; net revenues associated with interstate pipeline capacity; and gas balancing revenues. The Non-Firm Revenue Imputation provisions in the Joint Proposal are designed to provide an incentive for Con Edison to enhance participation in interruptible rate classes. The \$65.0 million Non-Firm Revenue Imputation level is reasonable because it is in line with historically achieved levels and is a reasonable projection of revenues Con Edison will achieve during the Gas Rate Plan; therefore, this provision should be adopted by the Commission.

e. Lost and Unaccounted for Gas

In its initial testimony, the Company did not propose any changes to the calculation of the Lost and Unaccounted For (LAUF) factor of adjustment (FOA) and incentive deadband, which would continue to reflect the line losses from the previous five years.³⁰ The LAUF provision of the Joint Proposal remains unchanged from the current gas plan except for updates to the FOA and Line Loss Factor (LLF) to reflect the latest data available. The rolling prior five-year average LLF as of August 2025 is 3.755 percent, resulting in a FOA applicable to RY1 of 1.0390.³¹ Consistent with past practice, the Joint Proposal recommends the FOA and incentive dead band be updated on an annual basis using a five-year rolling average to set allowable line losses to reflect the latest data available.³²

²⁹ Cases 22-E-0064 and 22-G-0065, Con Edison – Electric and Gas Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements (issued July 20, 2023) (2023 Rate Order or 2023 Rate Plans).

³⁰ The LAUF FOA calculation methodology is contained in the Joint Proposal, Appendix 6.

³¹ Joint Proposal, Appendix 6.

³² Id.

f. Other Charges

The Joint Proposal recognizes that the Company may be subject to FERC-approved charges, costs, or credits not already listed in or otherwise covered by the then-effective tariff language. Therefore, the Joint Proposal allows the Company to make a tariff filing with the Commission to provide for recovery of such charges/costs, or application of such credits, through the Gas Cost Factor (GCF), Daily Delivery Service Program (DDS) and/or Monthly Rate Adjustment (MRA) mechanism, and/or comparable adjustment mechanism.

3. Capital Structure & Cost of Financing

In the Company's initial testimony, it sought an overall cost of capital of 7.32 percent, which consisted of a ROE of 10.10 percent, a common equity ratio of 48.00 percent, a long-term debt ratio of 51.08 percent with a cost rate of 4.78 percent, and a customer deposits ratio of 0.92 percent with a cost rate of 3.00 percent for its electric and gas operations.³³ In its update and corrections testimony, the Company sought an overall cost of capital of 7.27 percent, which consisted of a ROE of 10.00 percent, a common equity ratio of 48.00 percent, a long-term debt ratio of 51.21 percent with a cost rate of 4.78 percent, and a customer deposits ratio of 0.79 percent with a cost rate of 3.00 percent.³⁴ Staff's direct testimony recommended an overall cost of capital of 6.94 percent, consisting of a ROE of 9.30 percent, a common equity ratio of 48.00 percent, a long-term debt ratio of 51.21 percent with a cost rate of 4.79 percent, and a customer deposits ratio of 0.79 percent with a cost rate of 3.00 percent.³⁵

Several parties also filed initial and/or rebuttal testimony in which they provided a proposal for the ROE. In its initial testimony, PULP proposed three recommendations pertaining to ROE, including an annual bi-directional true-up of the authorized ROE, a more restrictive earnings sharing mechanism, and the introduction of a study in order to estimate the potential impacts of its proposals. Staff testified in its rebuttal that these proposals would result in ratepayer harm and do not serve the public interest.³⁶ It should be noted that PULP's positions remain consistent with those previously rejected by the Commission. Mr. Dario Quinsac, on behalf of State Senator Robert Jackson, proposed in his initial testimony that the ROE "should

³³ Exhibit___(AP-5), Schedule 2.

³⁴ Update and Corrections, Exhibit___(AP-5) UPD, Schedule 2.

³⁵ Staff Finance Panel, Exhibit___(SFP-2).

³⁶ Staff Finance Panel Rebuttal Testimony, p. 6.

hover between the Fed Funds rate and 50 basis points above the most recent bond issuance.”³⁷ Staff testified in its rebuttal that Mr. Quinsac’s proposal, if adopted, would result in a ROE that did not adequately compensate investors for the risk of investing in Con Edison.³⁸

Assemblymember Chris Burdick’s direct testimony proposed a ROE of 8.80 percent. This was based off his opinion that the then-current market conditions, at the time of his testimony, were similar to those which were present during the 2017 rate proceeding for Central Hudson Gas and Electric Corp. under Cases 17-E-0459 and 17-G-0460, in which the Commission authorized a ROE of 8.80 percent.³⁹ NYC and UIU both proposed changes to the inputs of Staff’s ROE model in their respective rebuttal testimonies. NYC proposed using a different long term growth rate in Staff’s Discounted Cash Flow analysis, resulting in a ROE of 8.64 percent.⁴⁰ Similarly, UIU proposed using a different market risk premium in Staff’s Capital Asset Pricing Model, resulting in a ROE of 8.90 percent.⁴¹

The revenue requirements in the Joint Proposal (and Appendices 1 and 2) reflect an overall cost of capital of 6.98 percent, which consists of a ROE of 9.40 percent, a common equity ratio of 48.00 percent, a long-term debt ratio of 51.21 percent with a cost rate of 4.78 percent, and a customer deposits ratio of 0.79 percent with a cost rate of 3.00 percent. The ROE and common equity ratio continue for RY2 and RY3, but the long-term debt cost rate increases to 4.90 percent and 5.01 percent, respectively. This results in an increase in the overall cost of capital to 7.04 percent in RY2 and to 7.10 percent in RY3.

The cost of capital terms contained in the Joint Proposal, and particularly the 9.40 percent ROE, are a reasonable outcome given the current economic environment. The Joint Proposal’s recommended 9.40 percent ROE is less than the 9.50 percent ROE which was recently adopted by the Commission in the August 2025 rate orders for Central Hudson Gas and Electric Corp. and Niagara Mohawk Power Corp.⁴² The Joint Proposal’s recommended 9.40 percent ROE is

³⁷ Direct Testimony of Dario Quinsac on behalf of State Senator Robert Jackson, p. 14.

³⁸ Staff Finance Panel Rebuttal Testimony, p. 35.

³⁹ Direct Testimony of Chris Burdick, p. 19.

⁴⁰ NYC – Finance Panel Rebuttal Testimony, pp. 6-7.

⁴¹ Rebuttal Testimony of David Garrett, p. 6.

⁴² Central Hudson Gas and Electric Corp., Cases 24-E-0461 and 24-G-0462, Order Adopting Terms of the Joint Proposal, (Issued August 14, 2025). Niagara Mohawk Power Corp., Cases 24-E-0322 and 24-G-0323, Order Adopting Terms of the Joint Proposal (Issued August 14, 2025).

also less than the 9.75 percent ROE that was adopted by the Commission in the March 2025 rate order for Orange and Rockland Utilities, Inc.⁴³ The 48.00 percent common equity ratio, to which the Company has managed its common equity layer for over the past 15 years, will allow the Company to continue to access capital at favorable terms.

The terms of the Joint Proposal adequately recognize the increased financial and business risks inherent in setting rates over a multi-year period. As opposed to a single rate year, the extended term of the Joint Proposal inherently carries more financial risk as investors are subject to the potential that economic conditions will change, and the actual cost of capital could increase during the three-year term. Furthermore, because the Joint Proposal locks in forecasted amounts for numerous elements of expense for the three-year term, Con Edison's business risk is also impacted by the potential that actual operating costs are greater than those forecasted.

Overall, the allocation of risk and the rate of return reflected in the Joint Proposal reasonably balance the return requirements of Con Edison's investors with customers' expectations of safe and reliable service at just and reasonable rates. In addition, the Joint Proposal will benefit customers in that the multi-year rate plans will provide relative predictability and stability to Con Edison's operations over the next three years. Therefore, the capital structure and cost of financing provisions are in the public interest, reflect a reasonable outcome, and should be adopted by the Commission.

C. Computation and Disposition of Earnings

For the duration of the electric and gas rate plans, the Joint Proposal would institute earnings sharing thresholds set at 50 basis points above the recommended ROE of 9.40 percent, or 9.90 percent, and earnings above this threshold will be deemed "shared earnings."⁴⁴ Earnings above the 9.90 percent threshold but less than 10.40 percent are shared equally (50 percent/50 percent) between customers and the Company. Earnings equal to, or in excess of, 10.40 percent, but less than 10.90 percent, are shared 75 percent/25 percent between customers and the Company, respectively. Finally, earnings equal to, or in excess of, 10.90 percent are shared 90 percent/10 percent between customers and the Company, respectively. For earnings in excess of

⁴³ Orange and Rockland Utilities Inc., Cases 24-E-0060 and 24-G-0061, Order Adopting Terms of the Joint Proposal, (Issued March 20, 2025).

⁴⁴ Joint Proposal, pp. 14-15.

the sharing threshold in any rate year, the Company will apply 50 percent of its share and the full amount of the customers' share of earnings to reduce under-collections of Site Investigation and Remediation (SIR) costs deferred in the rate year.

The use of the earnings sharing mechanism is beneficial to customers because it provides the Company with a financial incentive to control its costs, while simultaneously ensuring customers an opportunity to share in those efficiency gains. Thus, any gains that the Company achieves would also benefit ratepayers in future proceedings and provide a safeguard against the potential for excess earnings by the Company. The use of earnings sharing thresholds, and the tiered nature of the earnings sharing mechanism, is consistent with prior multi-year rate plans approved by the Commission. In fact, the actual threshold level and the widths of the various sharing bands are identical to that which was approved by the Commission in the 2023 Rate Order.⁴⁵ The application of a portion of the Company's share, as well as the full customer share, of any excess earnings to offset deferred SIR costs is responsive to the Commission's expectation that the negotiation of earnings sharing mechanisms in rate plans explore the opportunity to allocate some portion of shared earnings to offset SIR costs.⁴⁶ For the reasons discussed, these provisions of the Joint Proposal are reasonable and should be adopted by the Commission.

D. Capital Expenditures and Net Plant Reconciliation

1. Electric

a. Net Plant Reconciliation

The Company proposed to continue its current downward-only reconciliation mechanism in its initial testimony.⁴⁷ Staff did not take exception to this proposal in its testimony. As such, the Joint Proposal continues the current downward-only reconciliation mechanism for electric, with changes to the treatment of municipal infrastructure support and electric new business. The Company would defer the revenue requirement impact (*i.e.*, carrying costs, including

⁴⁵ 2023 Rate Order, p. 80.

⁴⁶ Case 11-M-0034, Proceeding on Motion of the Commission to Commence a Review and Evaluation of the Treatment of the State's Regulated Utilities' SIR Costs, Order Concerning Costs for Site Investigation and Remediation (issued November 28, 2012), p. 12.

⁴⁷ Company Accounting Panel, Initial Testimony, p. 116.

depreciation, as identified in the Joint Proposal, Appendix 7) of the amount below the Company's estimated expenditures for electric capital programs and projects that result in actual average net plant in service balances for the benefit of customers. However, the Company would not be permitted to defer carrying charges on the amount of net plant that exceeds the aggregate net plant target due to excess project spending.

This provides electric customers with important protections against under-spending that would not be captured through traditional ratemaking. The mechanism also provides the Company flexibility over the term of the proposed Rate Plan to modify the type, timing, nature, and scope of capital projects from those currently incorporated into the net plant targets.

For municipal infrastructure support, the Company proposed a full reconciliation of its capital expenditures, claiming that interference costs are beyond the Company's direct control and are driven by local and state governments' infrastructure work.⁴⁸ If the expenditures exceed its respective net plant targets, the Company would recover carrying charges on the amount of net plant that exceeds the aggregate net plant target through a surcharge.⁴⁹

In its direct testimony, Staff recommended applying the existing gas reconciliation mechanism to electric municipal infrastructure support capital expenditures.⁵⁰ Staff explained the existing gas reconciliation mechanism allows the Company to defer for future recovery from customers the carrying charges on average net plant in service, excluding removal costs, resulting from infrastructure related capital costs up to \$10 million annually incurred due to either a change in customary practice relating to interference and/or all other public works or municipal infrastructure projects with a projected total cost in excess of \$100 million. This would apply to the extent that the Company's capital expenditures up to \$10 million related to those activities result in total actual average net plant in service exceeding the average gas plant in service balance in any or all rate years.⁵¹

The Joint Proposal would permit the Company to defer such carrying charges on average net plant in service, excluding removal costs, resulting from municipal infrastructure support related capital costs up to 10 percent above established capital expenditure targets incurred. This

⁴⁸ Company Municipal Infrastructure Support Panel, Initial Testimony, pp. 37-38.

⁴⁹ *Id.*, p. 37.

⁵⁰ Staff Municipal Infrastructure Support Panel, Direct Testimony, p. 28.

⁵¹ *Id.*, pp. 25-26.

is to the extent that the Company's capital expenditures related to those activities result in total actual average net plant in service exceeding the average electric plant in service balance in any or all rate years.⁵² This provision is reasonable because it allows the Company to recover unexpected costs associated with infrastructure work performed by local and State governments, while limiting ratepayers cost exposure.

For electric new business, the Company also proposed upward reconciliation of electric new business net plant costs above the Company's aggregate electric net plant target.⁵³ The Company explained this proposal would address potentially significant budget overruns during the rate years outside of the Company's control, due to reasons such as the uncertainty in the rate of electrification adoption.⁵⁴

Staff opposed the Company's proposal in its direct testimony for a number of reasons, including: upward reconciliations resulting in less incentive for the Company to properly forecast capital expenditures; the fact that the Company has some insight into near-term electric New Business costs through developer requests for service; and that New York City Local Law 154 and the New York State All-Electric Buildings Act set specific dates for when new buildings are prohibited from installing fossil fuel equipment and building systems.⁵⁵ Instead, Staff recommended that the electric new business costs continue to be part of the general downward net plant reconciliation.⁵⁶

The Joint Proposal provides that the Company may defer on its books of account for future recovery from customers the carrying charges on average net plant in service, excluding removal costs, resulting from electric new business capital costs of up to \$50 million annually, to the extent the Company's capital expenditures related to electric new business results in total actual average net plant in service exceeding the average electric plant in service balance in any or all rate years.⁵⁷ This provision is reasonable because it provides the Company with the ability

⁵² Joint Proposal, p. 18.

⁵³ Company Electric Infrastructure and Operations Panel, Initial Testimony, p. 60.

⁵⁴ Company Accounting Panel, Initial Testimony, pp. 116-117.

⁵⁵ Staff Electric Infrastructure and Operations Panel, Direct Testimony, p. 261.

⁵⁶ *Id.*, p. 261.

⁵⁷ Joint Proposal, pp. 18-19.

to recover unexpected costs associated with electrification, while limiting ratepayer's cost exposure by setting an annual cap.

b. Infrastructure Investment and Jobs Act Funding

Neither Staff or the Company provided testimony regarding funding for the Infrastructure Investment and Jobs Act. The Joint Proposal would continue the Infrastructure Investment and Jobs Act Funding provisions. Specifically, if the Company receives funding under the Infrastructure Investment and Jobs Act during the proposed Rate Plan, the Company would sur-credit the carrying charge associated with the funding received, which would begin when the underlying project is in-service.

c. Reporting Requirements

The Joint Proposal would continue the existing annual and quarterly electric capital reporting requirements established by the Commission in the 2023 Rate Order.⁵⁸ The Joint Proposal includes a new provision that would require the Company to provide, in all quarterly reports, project status reports for information technology projects with more than \$10 million in total planned spending.⁵⁹ To the extent that one of these information technology projects leads to actual significant avoided costs or productivity impacts, those would be included in the quarterly report. Additionally, the Company would include details of its evaluation of artificial intelligence systems and tools in these project status reports.⁶⁰ Con Edison would file its most recent annual projected electric capital projects and program lists and associated capital expenditures on February 28 of each Rate Year and file quarterly reports on year-to-date spending on May 15, August 15, and November 15 of each Rate Year.⁶¹ In addition, the Company would file actual Rate Year annual capital expenditures and O&M expenses for distributed system implementation plan (DSIP) implementation on February 28 of each Rate Year.⁶² These provisions should be continued by the Commission because they provide transparency into the Company's capital spending, which can be reviewed by Staff, other parties to the case, and the public.

⁵⁸ Joint Proposal, Appendix 11, pp. 2-3.

⁵⁹ Joint Proposal, Appendix 11, p. 2.

⁶⁰ Joint Proposal, Appendix 11, p. 2.

⁶¹ Joint Proposal, Appendix 11, p. 2.

⁶² Joint Proposal, Appendix 11, p. 3.

d. Non-Wires Alternative (NWA) Adjustment Mechanism

In its initial testimony, the Company proposed to continue the existing NWA cost recovery mechanism, which has remained substantially unchanged since 2016.⁶³ The Company proposed that the costs of any new electric projects would be deferred as a regulatory asset, amortized over a 10-year period, and proposed to include recovery of several existing NWA projects, including the Plymouth/Water Street project and Columbus Circle project, in base rates.⁶⁴ Staff did not address the Company's NWA-related proposals in its direct testimony, but recommended recovery of the existing NWA projects in base rates as proposed by the Company.⁶⁵ No other party provided testimony regarding NWAs.

The Joint Proposal continues the existing NWA cost recovery mechanism, with minor clarifications. The NWA cost recovery mechanism provides for and recovery of the annual revenue requirement associated with any such project would begin through the MAC and NYPA OTH Statement until a subsequent base rate proceeding included it in base rates.⁶⁶ To the extent an NWA project results in the Company displacing a capital project included in its electric net plant target, the Company would net the carrying charge associated with the displaced capital project against the surcharge recovery through the MAC, with any remaining credit deferred for the benefit of customers.⁶⁷ The Joint Proposal clarifies the process for recovering incurred costs for NWA projects that are established if the projects are subsequently determined to be not viable.⁶⁸ The Joint Proposal also clarifies existing reporting requirements that require the Company to provide notice to the Commission and stakeholders by letter explaining how the Company developed an NWA project and whether the Company would expect it to be cost effective before signing contracts to implement said NWA project.⁶⁹ The Joint Proposal also includes recovery of amortized costs for ongoing and former projects within base rates.⁷⁰

⁶³ Company Accounting Panel, Initial Testimony, p. 109.

⁶⁴ Company Accounting Panel, Initial Testimony, p. 38.

⁶⁵ Exhibit___(SAP-1), Schedule 4.

⁶⁶ Joint Proposal, p. 19.

⁶⁷ Joint Proposal, pp. 19-20.

⁶⁸ Joint Proposal, p. 20.

⁶⁹ Joint Proposal, p. 21.

⁷⁰ Joint Proposal, p. 39.

The Joint Proposal continues previously approved cost recovery of NWA projects consistent with existing Commission policy.⁷¹ It also clarifies processes for recovering costs and reporting. Of particular note is the requirement that the Company must explain whether it expects an NWA project that is currently in development to be cost-effective or not – this insight gives stakeholders an opportunity to provide feedback and ask questions without jeopardizing the competitiveness of the NWA project solicitation or the Company’s negotiating position to achieve the most beneficial portfolio of solutions at least cost to customers. As such, these provisions are reasonable and should be adopted.

2. Gas

a. Net Plant Reconciliation

The Company proposed to continue its current mechanism, which is a downward-only reconciliation, and Staff did not take exception to this proposal in testimony.⁷² The Joint Proposal would continue the current downward-only reconciliation mechanism for gas, as proposed by Con Edison, with changes to the treatment of municipal infrastructure support. Specifically, the net plant mechanism would require the Company to defer, for ratepayer benefit, the revenue requirement impact of actual average net plant in service balances that are less than the average plant in service balances used to develop the revenue requirement. This provides gas customers with important protections against under-spending that would otherwise not be captured through traditional ratemaking. The mechanism would also provide the Company flexibility over the term of the Rate Plan to modify the type, timing, nature, and scope of capital projects from those currently incorporated in the net plant targets.

Additionally, under the terms of the Joint Proposal, the Company would defer the revenue requirement impact (*i.e.*, carrying costs, including depreciation, as identified in the Joint Proposal, Appendix 8) of the amount below the Company’s estimated expenditures for gas capital programs and projects that result in actual average net plant in service balances for the benefit of customers. However, the Company would not be permitted to defer carrying charges on the amount of net plant that exceeds the aggregate net plant target due to excess project spending.

⁷¹ Case 19-G-0066, Con Edison Rates – Gas, Order Approving Non-Pipes Alternative Projects Amortization Period and Shareholder Incentive Mechanism for Specified Projects (issued June 17, 2022) (NPA Order).

⁷² Company Accounting Panel Initial Testimony, pp. 117-118.

For municipal infrastructure support, the Company proposed a full reconciliation of its capital expenditures because such work is required to support local and State government projects.⁷³ The Company also proposed recovery of carrying charges associated with interference costs that exceed the net electric plant target through a surcharge.⁷⁴ Staff recommended a full downward reconciliation of gas interference net plant targets, with limited upward reconciliation for certain gas interference capital costs.⁷⁵ Staff also recommended allowing the Company to defer for future recovery from customers the carrying charges on average net plant in service, excluding removal costs, resulting from interference-related capital costs, up to \$10 million annually, that were incurred due to either a change in customary practice relating to interference and/or all other public works or municipal infrastructure projects with a projected total cost in excess of \$100 million. This would apply to the extent that the Company's capital expenditures, up to \$10 million related to those activities, result in total actual average net plant in service exceeding the average gas plant in service balance in any or all rate years.⁷⁶

The Joint Proposal provides that the Company may defer for future recovery from customers the carrying charges on average net plant in service, excluding removal costs, resulting from gas municipal infrastructure support-related capital costs up to 10 percent above the established capital expenditure targets incurred, to the extent the Company's capital expenditures related to those activities result in total actual average net plant in service exceeding the average plant in service balance in any or all rate years.⁷⁷ This provision is reasonable as it allows the Company to recover unexpected costs associated with infrastructure work performed by local and State governments, which it has no direct control over, while limiting ratepayers' cost exposure.

b. Reporting Requirements

The Company will continue to provide reports regarding its capital expenditures as provided for in Appendix 11 of the Joint Proposal.

⁷³ Company Municipal Infrastructure Support Panel Initial Testimony, pp. 37-38.

⁷⁴ Company Municipal Infrastructure Support Panel Initial Testimony, pp. 37-38.

⁷⁵ Staff Municipal Infrastructure Support Panel, Direct Testimony, p. 28.

⁷⁶ Staff Municipal Infrastructure Support Panel, Direct Testimony, p. 28.

⁷⁷ Joint Proposal, p. 18.

c. NPA Adjustment Mechanism

In its testimony, the Company provided an overview of its NPA options, including the following sub-programs: the Electric Advantage Program to avoid the need to replace leak-prone main, the Energy Exchange Program to avoid the need to replace leak prone services, and the Area Load Relief Program to avoid or defer the need to upgrade or replace larger pieces of infrastructure such as regulator stations.⁷⁸ The Company stated that it has a number of active Electric Advantage Program and Energy Exchange Program projects and proposed to continue developing such projects in the future. However, the Company does not have any active Area Load Relief Program projects and has not identified any new Area Load Relief Program opportunities due to the lack of forecast system load growth.⁷⁹ The Company noted that the costs of any new NPA projects would be deferred as a regulatory asset, amortized over a 20-year period, and proposed to include recovery of existing NPA projects within base rates.⁸⁰ The Company also requested six incremental FTEs to help implement NPA projects.⁸¹

Several parties, including Staff, submitted testimony regarding NPAs. Staff recommended that the Commission deny the Company's requested six incremental NPA FTEs, noting that growth of the NPA programs do not justify expansion of the FTE headcount assigned to them.⁸² In its testimony, National Resources Defense Council (NRDC) recommended directing Con Edison to develop a geospatial tool to identify potential NPA opportunities; eliminate all eligibility requirements for the Energy Exchange Program and expand program offerings to all customers who require a service replacement for leaking services or services associated with main replacement; expand its Electric Advantage Program offerings to more main replacement projects; report more metrics regarding progress; and disclose more information about BCA calculations for each NPA project.⁸³ The City proposed directing Con Edison to pursue NPAs such as targeted load reductions via electrification, energy efficiency, and other customer-side measures throughout its service territory; investigate the use of NPAs

⁷⁸ Company Clean Energy Transitions Panel, Initial Testimony pp. 50-54.

⁷⁹ Company Clean Energy Transitions Panel, Initial Testimony, pp. 52-54.

⁸⁰ Company Accounting Panel, Initial Testimony, pp. 42-43.

⁸¹ Exhibit___(CES-6), p. 37.

⁸² Staff Gas Reliability and Supply Panel, Direct Testimony, p. 138.

⁸³ Natural Resources Defense Council, Witness Alice Napoleon, Direct Testimony, pp. 48-51.

over long-term horizons and present proposals, either through this proceeding or the Gas Planning Proceeding; and examine the successes other utilities have had in implementing NPAs to avoid traditional gas infrastructure.⁸⁴

In its rebuttal testimony, the Company generally agreed with several of the proposals submitted by NRDC and the City. However, the Company explained that several of the requests were already addressed in the Company's existing plans.⁸⁵ The Company explained that it already uses a suite of geospatial and data analysis tools to identify NPAs; that it already discloses information about NPA project BCA inputs and results as part of its annual NPA program implementation plans, information included past rate case proceedings, the Avoided Cost of Gas Working Group within the Gas Planning Proceeding in Case 20-G-0131, and the BCA Handbook filed in Case 16-M-0101; that the Area Load Relief Program already has processes set up to pursue NPAs through targeted gas load reductions; that the Company is already investigating the use of NPAs over longer time-horizons as part of Cases 20-G-0131 and 23-G-0147; and that the Company is already using benchmarking against other utilities to identify and implement best practices to improve NPA deployment.⁸⁶

The Company also noted areas of disagreement with Staff's, NRDC's, and the City's NPA positions. The Company disagreed with Staff's proposal to avoid expanding the NPA program related labor requests.⁸⁷ Con Edison opposed expanding eligibility for the Energy Exchange Program beyond those services installed before 1972 and for the Electric Advantage Program, due to a need to balance the size, reach, incremental employee resources needed to support a significant expansion of such programs.⁸⁸ The Company also disagreed that additional NPA reporting metrics are necessary, because all of the information that NRDC requests can already be found in existing reporting requirements.⁸⁹ The Company also asserted that individual utility rate proceedings are not the appropriate venue for considering the NPA-related provisions proposed by NRDC and the City, and that those provisions should be considered

⁸⁴ City of New York, Witness Jahn Sano, Direct Testimony, pp. 20, 28-30.

⁸⁵ Con Edison Clean Energy Transition Panel, Rebuttal Testimony, pp. 6-7.

⁸⁶ Con Edison Clean Energy Transition Panel, Rebuttal Testimony, pp. 7-9.

⁸⁷ Con Edison Customer Energy Solutions Panel, Rebuttal Testimony, pp. 10-13.

⁸⁸ Con Edison Clean Energy Transition Panel, Rebuttal Testimony, pp. 7-8.

⁸⁹ Con Edison Clean Energy Transition Panel, Rebuttal Testimony, pp. 8-9.

either as part of the statewide Gas Planning Proceeding in Case 20-G-0131, or as part of the Long Term Gas Planning proceeding for Con Edison in Case 23-G-0147.⁹⁰

The Joint Proposal provides cost recovery and shareholder mechanisms consistent with the NPA Order in Case 19-G-0066 unless and until new procedures are approved by the Commission as part of the Gas Planning Proceeding.⁹¹ The cost recovery mechanism in the Joint Proposal mirrors the cost recovery mechanism previously approved by the Commission as part of the Company's current gas rate plan, includes the stipulations and requirements for pursuing NPA projects, and includes the shareholder incentive mechanism established in the NPA Order.⁹² The Joint Proposal would require the Company to continue using existing tools to identify and prioritize potential Electric Advantage Program projects.⁹³ The Joint Proposal would also continue existing NPA-related project development, implementation, and cost-effectiveness reporting requirements.⁹⁴

The Joint Proposal includes several new NPA-related requirements. First, the Joint Proposal would require the Company to evaluate the cost and feasibility of implementing new public-facing tools for the Energy Exchange Program, which, if implemented, may allow customers to determine whether they are eligible to participate in the Program via an online tool.⁹⁵ Currently, the customers can either wait for the Company to inform customers of their eligibility, or inquire about program eligibility themselves via email and wait for a response from a Company representative. Second, the Joint Proposal would expedite outreach efforts to all customers potentially eligible to participate in the Energy Exchange Program, requiring that the Company conduct outreach to all such customers by the end of RY1, assess the effectiveness of such outreach efforts, and repeat effective outreach efforts remaining eligible customers during RY2 and RY3, and to focus outreach efforts on customers that are scheduled to have their service lines replaced in the near future.⁹⁶ Third, the Joint Proposal would require Con Edison to

⁹⁰ Con Edison Clean Energy Transition Panel, Rebuttal Testimony, p. 6.

⁹¹ Joint Proposal, p. 27.

⁹² 2020 Rate Order, pp. 38-39; Joint Proposal, pp. 27-28.

⁹³ Joint Proposal, p. 79.

⁹⁴ Joint Proposal, p. 79.

⁹⁵ Joint Proposal, p. 78.

⁹⁶ Joint Proposal, p. 78.

evaluate the cost-effectiveness of the Electric Advantage Program could be assessed on a portfolio basis on a project-by-project basis instead of the present methodology of requiring each Electric Advantage project be considered individually.⁹⁷ Finally, the Joint Proposal would require the Company to hold a Technical Conference to discuss and solicit input on the NPA-related items above as well as the Company's 2027 Gas Long Term Plan filing.⁹⁸

The existing NPA project cost recovery mechanism, shareholder incentive mechanism, and reporting requirements are consistent with existing Commission Policy and previously approved methodologies. Further, the Joint Proposal accommodates for potential updates to such policies from the Commission in the ongoing Gas Planning Proceeding and allows those updates to be implemented during the term of the Rate Plan.⁹⁹ The new improvements to the outreach and education requirements for implementing the Energy Exchange program should help customers understand the program's existence and goals, and provide a better opportunity for customers to participate with continued outreach efforts. The deliberative approach of studying improvements in the Electric Advantage Program may result in a significant improvement in operational flexibility for implementing gas main replacement NPA projects, or, if nothing else, leaves no stone unturned in seeking to further improve the program. The NPA-related requirements of the Joint Proposal are responsive to Party feedback provided in their respective testimonies, reasonable, justified, and considerate of both statewide determinations and individual utility operational needs and should therefore be adopted.

3. Additional Common Capital Reporting

The Joint Proposal includes provisions for annual and quarterly common capital reports to be filed with the electric capital reports, which are discussed in Appendix 11.

In its initial testimony, the Company requested a three year capital budget for information technology projects and programs of \$2.737 billion, and incremental O&M of \$248.366 million.¹⁰⁰ In the Company's updated testimony, the total capital request decreased to \$2.646 billion; and the incremental O&M request decreased to \$230.121 million.¹⁰¹ The

⁹⁷ Joint Proposal, p. 79.

⁹⁸ Joint Proposal, p. 80.

⁹⁹ Joint Proposal, p. 24.

¹⁰⁰ Company IT Panel, Initial Testimony, pp. 10.

¹⁰¹ Company IT-Panel, Update Testimony, pp. 3-4.

Company’s proposed IT projects and programs – or “IT Portfolio”, strove to exceed the expectations of customers, stakeholders, regulators, and employees.¹⁰² The Company’s IT Portfolio included improvements to the customer journey, modernization, and the adoption of emerging technologies.¹⁰³ The Company identified increasing IT costs arising from subscription service models¹⁰⁴ and the rising cost of owning and operating IT infrastructure as factors impacting the budget request.¹⁰⁵ The Company’s filings included workpapers in support of its budgetary requests, with each workpaper categorized as “Operationally Required”, “Strategic” and/or “Regulatory Mandated” in accordance with the Company’s guidance document, the Capital Project Playbook (CPP).¹⁰⁶

Staff, NYC, and NYECC filed testimony recommending modifications to the Company’s IT Portfolio. Staff, concerned that the Company’s IT Portfolio budget request would endanger current and future service affordability,¹⁰⁷ recommended adjustments to each category of projects and programs within the Company’s IT Portfolio.¹⁰⁸ Staff recommended reducing the three year IT portfolio capital budget to \$1.463 billion and the three year incremental O&M to \$161.020 million.¹⁰⁹ Staff’s recommended budget reductions utilized multiple methodologies, including reducing budgets in line with historical trends, reducing project scopes and budgets where the project scope is not finalized, and reducing budgets for projects containing unnecessary or insufficiently justified project elements.¹¹⁰ Staff also asserted that certain projects within the IT Portfolio were inappropriately categorized as “Operationally Required” according to the definitions provided within the CPP.¹¹¹ Staff also recommended additional reporting requirements for projects within the IT Portfolio, including the provision of Project Status

¹⁰² Company IT-Panel, Initial Testimony, pp. 7.

¹⁰³ Company IT-Panel, Initial Testimony, pp. 7-8.

¹⁰⁴ Company IT-Panel, Initial Testimony, pp 17.

¹⁰⁵ *See e.g.* Company IT-Panel, Exhibits 2-11.

¹⁰⁶ Carpenter, Exhibit AC-1, Response to DPS-1016.

¹⁰⁷ Carpenter, Direct Testimony pp. 17.

¹⁰⁸ *See* Carpenter, Direct Testimony pp. 54-262.

¹⁰⁹ *See e.g.* Company IT-Panel, Exhibits 2-11.

¹¹⁰ *See* Carpenter, Direct Testimony pp. 7-8, and 22.

¹¹¹ *See e.g.* Carpenter, Direct Testimony pp. 23-32.

Reports (PSRs),¹¹² and reporting specific technical details related to the Company’s adoption and utilization of Artificial Intelligence technologies.¹¹³ Staff recommended that the Commission order the Company to take efforts to parse the workpapers supporting IT projects in subsequent similarly to the “AMI Communications Steady State” and “AMI Systems Enhancement” projects which separate the costs of maintaining and upgrading.¹¹⁴

NYC expressed concern that the IT portfolio containing projects that were premature, have limited cost-benefit analysis detail, provide insufficient justification, have unclear scopes, and are potentially strategically misaligned.¹¹⁵ NYC recommended that significant funding for projects be deferred until projects are complete; that robust cost-benefit analyses should be required; that additional cost escalation substantiation be required; that cost breakdowns and scopes be clarified; for strategic misalignments to be reconciled; for scopes beyond the baseline required to be justified; the necessity of large strategic programs be validated; and for FTE justifications to be strengthened.¹¹⁶ Additionally, NYC recommended that the Company provide the data from the Building Energy and Usage Portal (BEUP) on a lot-specific level.¹¹⁷

NYECC disagreed with the Company as to the necessity of modernizing and upgrading its existing information technology, and recommended reducing or eliminating funding for projects or programs that would improve or upgrade existing systems or technologies that are currently adequate.¹¹⁸

In rebuttal testimony, the Company argued that Staff’s focus on cost avoidance is misplaced, and that cost reduction is not the main driver for IT work, and that cost avoidance is an ancillary benefit.¹¹⁹ The Company disagreed with Staff and stated that the project funding requested was necessary regardless of project classification as “Operationally Required” or “Strategic”. Further, the Company stated Staff’s recommendation related to parsing projects into

¹¹² Carpenter, Direct Testimony pp. 36-39.

¹¹³ Carpenter, Direct Testimony pp. 264 – 265.

¹¹⁴ Carpenter, Direct Testimony pp. 31-32.

¹¹⁵ NYC, Electric Infrastructure Panel pp. 34-35.

¹¹⁶ See NYC, Electric Infrastructure Panel pp. 44 - 45.

¹¹⁷ NYC, Policy Panel pp. 32-33.

¹¹⁸ NYECC, Direct Testimony pp. 32.

¹¹⁹ Company IT Panel, Rebuttal Testimony pp. 26.

“maintenance” versus “enhancement” is impractical.¹²⁰ The Company also disagreed with NYC’s concerns in recommendations, stating that detailed estimates and scoping materials are not always available and that, although scope is refined during project development, the level of detail provided in filings is sufficient to properly evaluate requests.¹²¹

The Joint Proposal provides for a total three year capital budget of \$1.738 billion for the projects in the IT Portfolio, a reduction of approximately \$907 million,¹²² and a three year incremental O&M of approximately \$102 million, a reduction of approximately \$145 million.¹²³ The budget for projects within the IT Portfolio enables the Company to continue to maintain current operational standards, adopt emerging IT technologies to improve service standards, and drives supports efficiency through productivity, as discussed in section F.B. The JP also includes the modification to the BEUP project recommended by NYC.¹²⁴ For these reasons, the Joint Proposal is within the range of litigated outcomes and should be adopted by the Commission.

E. Other Deferral Accounting and Reconciliation Mechanisms

The Joint Proposal contains a number of provisions addressing reconciliations of specific costs and revenues. The Joint Proposal, if adopted by the Commission, would continue the reconciliation mechanisms in the 2023 Rate Order for, among other things, pension and OPEBs expense, environmental remediation costs, non-officer management variable pay, adjustments for competitive service, long term debt costs, prospective sales and use tax refunds and assessments, the congestion tolling program, East River maintenance costs and East River interdepartmental rent, other transmission revenues, Nuclear Electric Insurance Limited (NEIL) dividends, brownfield tax credits, proceeds from the sales of SO₂ allowances, Brooklyn Queens Demand Management (BQDM) program and REV Demonstration Project costs, New York Facilities Agreement costs and revenues, gas research and development expense, costs to comply with the Pipeline Safety Act, and costs associated with the White Plains Gate Station. These

¹²⁰ Company IT Panel, Rebuttal Testimony pp. 48.

¹²¹ Id.

¹²² Joint Proposal Appendix 11.

¹²³ Joint Proposal Appendix 1, Joint Proposal Appendix 2, Joint Proposal Appendix 9.

¹²⁴ Joint Proposal Section I.3.

mechanisms, along with new or existing mechanisms with significant modifications are described below.

These reconciliation mechanisms are designed to protect both customers and the Company from variations in estimated costs or revenue forecasts for items that are unpredictable in nature and at least partially beyond the Company's control. Some mechanisms allow for a partial reconciliation, which puts the Company at risk for a portion of the variance and therefore provides the Company with a financial incentive to control costs. Actual costs will be reconciled to the levels reflected in the recommended revenue requirements, which are illustrated in Appendices 7 and 8 of the Joint Proposal, with over-recoveries and under-recoveries to be deferred with carrying charges, as applicable, for future Commission disposition (subject to the reduction of certain deferred costs in connection with the earnings sharing mechanism).

1. Property Taxes (Electric and Gas)

The Company is currently authorized to reconcile its property tax expense by deferring 90 percent of the difference between its actual property tax expense and the allowance reflected in rates subject to a cap on the Company's share of the variance equal to ten, five, and five basis points on common equity in rate years 1, 2, and 3, respectively.¹²⁵ Further, the Company will collect or refund the variances through surcharge or sur-credit subject to separate annual caps for the electric and gas businesses limiting surcharge recoveries to produce no more than a half percent total bill impact.¹²⁶ In its initial testimony, the Company proposed to modify its current property tax reconciliation to a full and symmetrical reconciliation with continued recovery of any variances through a surcharge.¹²⁷ The Company explained that its proposal for a full and symmetrical reconciliation was appropriate because property taxes are not subject to reasonable estimation as they are a result of municipal fiscal practices and economic circumstances.¹²⁸ Further, the Company claimed that surcharge recovery remains appropriate due to the magnitude

¹²⁵ 2023 Rate Order, p. 24.

¹²⁶ 2023 Rate Order, pp. 24-25.

¹²⁷ Company Accounting Panel, Initial Testimony, pp. 120-121.

¹²⁸ Company Accounting Panel, Initial Testimony, p. 121; Testimony of Stephanie Merritt – Property Tax Panel, Initial Testimony, pp. 27-40.

of variations that can occur between the Company's actual property tax expenses and the amounts included in rates.¹²⁹

Staff, in its direct testimony, rejected the Company's proposal to continue its property tax reconciliation with modification noting that a property tax reconciliation is not necessary in the context of a one-year rate proceeding, where Staff believed a reasonable forecast could be made, and that a full and symmetrical reconciliation would reduce the Company's incentive to minimize its property tax expenses. Further, Staff noted that the Company's request for a full reconciliation for its property tax expense was inconsistent with the Company's proposal to share only a portion of the prospective property tax refunds received net of the costs incurred to achieve those refunds.¹³⁰ Additionally, in his direct testimony, Dustin M. J. Madsen (Witness Madsen), on behalf of the Utility Intervention Unit of the New York State Department of State's Division of Consumer Protection, agreed with the Company regarding the difficulty in forecasting property taxes, however, noted the benefit to the Company's electric and gas customers if the Company is incentivized to reduce the property tax payments wherever possible. As such, Witness Madsen opposed the Company's modification and recommended the continuation of the existing property tax reconciliation mechanism.¹³¹

In rebuttal, the Company continued to argue that because property taxes are outside the Company's control and are not subject to reasonable estimation, a full and symmetrical reconciliation is reasonable and appropriate regardless of the duration of the rate plan as it would serve to protect both customers and the Company from forecast variation that would otherwise result in a windfall to the Company and a cost to the customers that could otherwise be avoided, and vice versa.¹³² The Company also disagreed with Staff's position that the reconciliation would reduce the Company's incentive to minimize its property tax expense claiming that Staff's position was unsupported.¹³³

The Joint Proposal modifies the existing property tax reconciliation and recommends authorizing the Company to recover or refund through a surcharge/sur-credit mechanism the full

¹²⁹ Company Accounting Panel, Initial Testimony, p. 121.

¹³⁰ Staff Accounting Panel, Direct Testimony, pp. 156-163.

¹³¹ Dustin M. J. Madsen, Direct Testimony, pp. 55-56.

¹³² Testimony of Stephanie Merritt - Property Tax Panel, Rebuttal Testimony, pp. 20-21.

¹³³ *Id.*, p. 22.

variation between its actual property tax expenses and the amount allowed in rates in any Rate Year. Furthermore, under the Joint Proposal, the surcharge recoveries from the reconciliation would continue to be limited to no more than a half percent of the total bill impact per commodity, rolling over any amounts in excess of the cap in a specific year forward for recovery in the following year's surcharge.¹³⁴ The modification of the existing provision in this Joint Proposal to a full reconciliation is reasonable as it appropriately balances customer and Company interests by protecting both parties from the variability and unpredictability of property tax expense. As the Company explained, property taxes are driven by municipal assessments and local economic conditions that are largely outside the Company's control and are difficult to forecast, especially for multiple years, with reasonable accuracy. A full and symmetrical reconciliation ensures that customers pay only the actual amount of property tax incurred by the utility, no more and no less, which directly supports affordability, a key concern among the parties in this proceeding. Under this approach, customers now fully benefit when actual property tax expenses are below forecasted levels, whereas previously the Company was authorized to retain a portion of the variation.

The continuation of the current 86 percent customer/14 percent Company sharing mechanism for prospective property tax refunds maintains a meaningful incentive for the Company to actively manage and contest property tax assessments, since the Company continues to benefit from a share of any successful refund or credit obtained.¹³⁵ Further, the Joint Proposal preserves important customers protections by maintaining the annual cap limiting surcharge recoveries to no more than a half-percent total bill impact per commodity, with any excess deferred for recovery in a subsequent year. Taken together, these provisions ensure that the property tax reconciliation mechanism remains equitable and transparent by mitigating the risks of property tax volatility, promoting affordability for an expense largely outside of the Company's control, preserving incentives for the Company to control costs, and minimizing rate impacts for customers. Accordingly, this provision should be adopted.

¹³⁴ Joint Proposal, p. 26.

¹³⁵ Joint Proposal, p. 47.

2. Pensions/OPEBs (Electric and Gas)

Consistent with the Commission's Pension Policy Statement, the Company is currently authorized to reconcile its annual pension and OPEB costs by deferring 100 percent of the difference between its actual pension and OPEB costs to the levels reflected in base rates.¹³⁶ In its initial testimony, the Company proposed to continue its current Pension & OPEB reconciliation with no modification¹³⁷ and neither Staff, nor any other party, opposed the proposed continuation of the mechanism in their initial testimonies.

The Joint Proposal continues this reconciliation and recommends authorizing the Company to true up the annual variation between the Company's actual pensions and OPEB costs and the amount allowed in rates. This provision of the Joint Proposal is reasonable as it is consistent with the Commission's Pension Policy Statement and recognizes that the Company's pension and OPEB costs are largely out of the Company's control and can vary significantly from what has been forecasted in rates

3. Environmental Remediation (Electric and Gas)

The Company is currently authorized to reconcile the difference between the Company's actual site investigation and remediation (SIR) costs and those provided in rates. The deferred balances subject to interest will be reduced by accruals, insurance recoveries, associated reserves, deferred taxes and amounts included in rate base.¹³⁸ In its initial testimony, the Company proposed to continue its current SIR reconciliation with no modification¹³⁹ and neither Staff, nor any other party, opposed the proposed continuation of the mechanism. The Joint Proposal continues the mechanism. The provision is reasonable and consistent with Commission's Order in Case 11-M-0034,¹⁴⁰ permitting deferral of variances from the rate allowance so that the actual prudent environmental costs can be recovered and reconciled in

¹³⁶ Case 91-M-0890, In the Matter of the Development of a Statement of Policy Concerning the Accounting and Ratemaking Treatment for Pensions and Postretirement Benefits Other than Pensions, Statement of Policy and Order Concerning the Accounting and Ratemaking Treatment for Pensions and Postretirement Benefits Other than Pensions (issued and effective September 7, 1993) (Pension Policy Statement).

¹³⁷ Company Accounting Panel, Initial Testimony, p. 109

¹³⁸ 2023 Rate Order, p. 33.

¹³⁹ Company Accounting Panel, Initial Testimony, p.108

¹⁴⁰ Case 11-M-0034, Proceeding on Motion of the Commission to Commence a Review and Evaluation of the Treatment of the State's Regulated Utilities' SIR Costs, Order Concerning Costs for Site Investigation and Remediation (issued November 28, 2012),

future cases, therefore should be adopted by the Commission. Non-Officer Management Variable Pay (Electric and Gas)

The Company is currently required to defer for future credit the excess funds it collects in rates when the actual Non-Officer Management Variable Pay costs are lower than those provided for in rates.¹⁴¹ In its initial testimony, the Company proposed to continue the current reconciliation with no modification¹⁴² and neither Staff, nor any other party, opposed the proposed continuation of the mechanism in their direct testimonies. The provision is reasonable since it incentivizes the Company to control these costs and ensures that customers only pay the costs of the program and provides a refund when actual costs are lower than those collected in rates, therefore should be adopted by the Commission.

4. Adjustments for Competitive Services (Electric and Gas)

The Joint Proposal provides that Con Edison continue to reconcile competitive service charges in accordance with its tariff provisions.¹⁴³ Competitive service charges consist of the supply-related and credit and collections-related components of the merchant function charge, the credit and collections component of the purchase of receivable discount rate and Billing and Payment Processing.¹⁴⁴

5. Municipal Infrastructure Support (Other Than Company Labor) (Electric and Gas)

In its initial testimony, the Company proposed a full and symmetrical reconciliation of O&M expenses related to municipal interference costs on the basis that interference costs are beyond the Company's direct control, are not subject to reasonable estimation, are driven by the infrastructure work performed by the City, State, and other municipalities, and constitute work the Company is required to perform pursuant to a schedule established by the municipality.¹⁴⁵ Additionally, the Company stated that there should not be a concern that the Company would not seek to minimize costs if a full reconciliation was approved noting that it has demonstrated a longstanding and consistent approach to mitigating these costs, to the extent practicable.¹⁴⁶

¹⁴¹ 2023 Rate Order, p. 33.

¹⁴² Company Accounting Panel, Initial Testimony, p. 108.

¹⁴³ Joint Proposal, pp. 28.

¹⁴⁴ Id.; pp. 28-29.

¹⁴⁵ Con Edison Municipal Infrastructure Support Panel, Initial Testimony, pp. 38-39.

¹⁴⁶ Id.

Staff recommended in its direct testimony that the Commission continue the existing reconciliation, stating that while it agreed that interference expenses are largely outside of the Company's control, Staff did not believe that a reasonable forecast for the Rate Year could not be made.¹⁴⁷ Further, despite the Company's claims to the contrary, Staff stated that it still had concerns that a full reconciliation would reduce the Company's incentive to minimize its non-Company labor interference expenses, as the Company's past approach to mitigating these costs was used under prior rate plans that typically included interference reconciliations subject to a sharing arrangement between the customers and the Company for any upward variance.¹⁴⁸ Additionally, Witness Chait, on behalf of the City, and Witness Madsen rejected the Company's proposed modification and instead proposed the continuation of the existing O&M interference reconciliation mechanism.¹⁴⁹

In rebuttal, the Company disagreed with Staff, Witness Chait, and Witness Madsen stating that, in its view, Staff's lower funding would place undue hardship on both the Company and the municipalities performing interference projects for the benefit of New York's citizens. The Company further argued that its proposed funding level, paired with a full reconciliation, is necessary to provide a balanced approach to interference funding.¹⁵⁰

The Joint Proposal, if adopted by the Commission, would continue the current reconciliation mechanism for O&M interference expenses, which provides for a full downward reconciliation of actual expenses below the level set in rates, and for the reconciliation of actual expenses up to 15 percent above the level set in rates, shared between customers and the Company on an 80 percent/20 percent basis, respectively. O&M expenses in excess of 15 percent above the target are not recoverable from customers except if those expenses are the result of any public works or municipal infrastructure project with a projected total cost in excess of \$100 million, or there is a change subject to the legislative, regulatory, and related laws provision of the Joint Proposal. In such cases, 80 percent of the variation above the target plus 15 percent will be deferred on the Company's books for future recovery from electric and/or gas

¹⁴⁷ Staff Municipal Infrastructure and Support Panel, Direct Testimony, pp. 31-35.

¹⁴⁸ Id

¹⁴⁹ Michele Chait, Direct Testimony, pp.66-67; Dustin M. J. Madsen, Direct Testimony, pp. 55-56.

¹⁵⁰ Con Edison Municipal Infrastructure Support Panel, Rebuttal Testimony, p.15-17.

customers as applicable.¹⁵¹ The Joint Proposal continues to balance the need for Con Edison to have access to additional funding to support its projected interference O&M expenses while limiting ratepayers' exposure to such expenses. Further, these provisions ensure that the Company has an incentive to control these costs and does not simply have a "blank check" to recover O&M expenses related to interference work.

6. Long Term Debt Cost Rate (Electric and Gas)

Consistent with the 2023 Rate Order, the cost of long-term debt provisions of the Joint Proposal does not allow for reconciliations to the Company's fixed-rate debt portfolio. This is a benefit to ratepayers in that it puts the responsibility on the Company to effectively manage its overall debt portfolio to the agreed upon cost rates. The variable-rate portion of the Company's debt portfolio, however, allows for a true-up, similar to that provided for in the 2023 Rate Order, because the interest rates on these securities are largely out of the Company's control.

7. Prospective Sales and Use Tax Refunds/Assessments (Electric and Gas)

Consistent with the 2023 Rate Order, the Joint Proposal recommends that any sales and use tax refunds and/or assessments allocated to electric and/or gas that are not reflected in the respective Rate Plans will be deferred for future disposition. However, does not change the Company's obligations under 16 NYCRR §89.3 to notify the Commission of any tax refunds received. This provision of the Joint Proposal provides the Company with an incentive to not only minimize its sales and use tax liabilities to the greatest extent possible, but also to pursue property tax refunds which would benefit both Con Edison and its customers and therefore are in the public interest and should be adopted.

8. Congestion Tolling Program (Electric and Gas)

The Company is currently authorized to defer the NY State Congestion Tolling Program incremental congestion charges that are not reflected in rates.¹⁵² In its initial testimony, the Company proposed to continue deferral mechanism with no modification¹⁵³ and neither Staff, nor any other party, opposed the proposed continuation of the mechanism. The Joint Proposal continues this provision. The provision is reasonable since the NYS Congestion Toll charges are

¹⁵¹ Joint Proposal, pp. 29.

¹⁵² 2023 Rate Order, p. 37.

¹⁵³ Company Accounting Panel, Initial Testimony, p.109

business expenses that are not subject to accurate estimation, it allows the Company to recover prudently incurred cost while ensuring customer pay only the actual, reasonable expenses and is in public interest, thereby it should be adopted.

9. Uncollectible Expense and Late Payment Charges (LPC) Reconciliation (Electric and Gas)

Under the existing uncollectible and late payment charge reconciliations, the Company is authorized to defer the full difference between its actual uncollectible expenses and late payment charge revenues and the levels included in rates in each year. The variances are subsequently recovered from, or refunded to, customers through surcharge or sur-credit, as applicable. Surcharge recoveries from the uncollectible expense and late payment charge reconciliations are collectively subject to annual caps per commodity. These caps are designed to limit the total bill impact to no more than a half percent per commodity. Any deferred amounts exceeding the annual cap are rolled forward for recovery in the following year, subject to that year's surcharge limitation.¹⁵⁴

In its initial testimony, the Company proposed to continue the existing uncollectible expense reconciliation beyond its current December 31, 2025 expiration date. The Company proposed to fully reconcile the difference between its actual uncollectible expense and the level in rates each year with recovery from, or refund to, ratepayers of the annual variance for the uncollectible write-offs through a sur-credit/surcharge mechanism for the period January 1, 2020 through December 31, 2025. In support of its proposal, the Company explained that a reconciliation is necessary due to the uncertainty around the financial health of its customers as a result of the COVID-19 pandemic and therefore, the inability to set an acceptable estimate in rates that arrears balances and the number of customers in arrears remain significantly elevated relative to pre-pandemic levels and, as such, uncollectible expenses for the Rate Year cannot be forecasted with reasonable accuracy. The Company further stated that the uncertainty regarding how quickly arrears will decrease under its proposed arrears management program, along with the time lag between arrears and corresponding write-offs, necessitates continuation of the existing mechanism. The Company also proposed to continue the late payment charge reconciliation, explaining that late payment revenues are closely linked to arrears and

¹⁵⁴ 2023 Rate Order, pp. 37-39.

uncollectible write-offs, and that it is not possible to predict when arrears reduction efforts will lead to lower late payment charge revenues. Accordingly, the Company contended that continuation of both reconciliations remains appropriate.¹⁵⁵

Staff disagreed with the Company's proposal stating that a reconciliation mechanism was unnecessary in the context of a one-year rate proceeding, where the forecasts recommended by Staff represent a reasonable estimate, considering the Company's elevated arrears balances and arrears reduction efforts, for the Rate Year levels. Staff further explained that, if the Company's actual late payment charge revenues or uncollectible expenses were to vary significantly from the levels reflected in rates, the Company could petition the Commission for authority to defer those extraordinary and material variances.¹⁵⁶

The NYC Policy Panel opposed the Company's uncollectible expense reconciliation, stating it would unfairly insulate shareholders from the financial impacts of elevated arrears and remove incentives to manage credit risk. It further cautioned that automatic recovery of these costs could discourage proactive arrears management and customer assistance efforts. Accordingly, the NYC Policy Panel recommended that the Commission deny the proposal or, alternatively, cap annual recovery to limit bill impacts to no more than one percent.¹⁵⁷

In rebuttal, the Company disagreed with Staff's late payment charge and uncollectible expense forecasts, maintaining that both Staff and the Company's forecasts were untenable. The Company further argued that, for significant items that cannot be reasonably forecasted, such as these, reconciliation is appropriate regardless of the duration of the rate plan.¹⁵⁸

The Joint Proposal recommends authorizing the Company to reconcile its actual uncollectible expenses and late payment charge revenues against the levels reflected in rates each year. If actual net expenses are lower than forecast, the Company, will refund the full difference to customers through a sur-credit. If actual net expenses are higher than forecast, the Company may defer and recover through surcharge the portion of the variance exceeding \$10 million in RY1, \$15 million in RY2, and \$20 million in RY3 (combined for electric and gas). Surcharge recoveries will be limited to no more than a half percent of the total bill impact per commodity,

¹⁵⁵ Company Accounting Panel, Initial Testimony, pp. 110-113.

¹⁵⁶ Staff Accounting Panel, Direct Testimony, pp. 168-172.

¹⁵⁷ New York City Policy Panel, Direct Testimony, pp. 67-69.

¹⁵⁸ Company Accounting Panel Testimony, Rebuttal Testimony, pp. 38-41.

with any excess amounts carried forward for recovery in the following year. At the end of RY3, the Company will perform a final reconciliation of actual versus forecast net expenses, with any remaining variances refunded or recovered through a surcharge or sur-credit subject to the same annual cap. Residual balances above the cap will be deferred for future Commission disposition, and the reconciliation mechanism will end after RY3.¹⁵⁹

This provision represents a balanced approach that protects both customers and the Company while addressing ongoing post-pandemic and arrears-reduction uncertainties. It limits customer exposure to only the portion of net expenses that actually materialize above the established thresholds, ensuring the Company remains accountable for normal forecasting fluctuations while being made whole for legitimate costs outside its control. Customers, in turn, benefit fully when actual net expenses are lower than forecast. By setting dollar thresholds that shareholders must absorb before recovery is permitted and maintaining annual caps that limit total bill impacts to no more than 0.5% per commodity, the Joint Proposal effectively mitigates rate volatility and prevents excessive surcharges. Overall, this provision preserves Company accountability, protects customers, and ensures cost recovery is based on actual experience rather than uncertain forecasts. Accordingly, the Commission should adopt this provision.

10. Customer Analytics Reporting and Engagement (CARE) Program (Electric and Gas)
Discussion of this topic is provided in Section J.1., below.

11. Multivariable Optimization Process (Electric and Gas)

In the initial testimony of the Clean Energy Transition Panel (CETP), the Company requested the future recovery of all associated costs to complete the Multivariable Optimization Process, as directed in the Long Term Gas Planning Proceeding, Case 23-G-0147,¹⁶⁰ up to a maximum of \$10 million.¹⁶¹ The Company stated that in order to satisfy the requirements outlined by the Gas System Long Term Planning Proceeding, it sought to purchase proprietary data, purchase or develop additional analytical tools, retain outside experts to assist with areas of analyses beyond the Company's core expertise, and/or hire additional staff that may be needed to

¹⁵⁹ Joint Proposal, pp. 31-32.

¹⁶⁰ Case 23-G-0147, Review of the Long-Term Gas System Plans of Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc., Order Regarding Long-Term Natural Gas Plan And Requiring Further Actions (issued September 20, 2024) (Long Term Planning Proceeding or Long Term Plan).

¹⁶¹ Company Clean Energy Transition Panel, Direct Testimony, pp. 59-60.

oversee and perform work related to the process.¹⁶² The Company did not complete the scoping or bidding process necessary to identify an appropriate budget for the Multivariable Optimization Process, but requested \$7 million in 2026 and \$3 million in 2027 for deferral.¹⁶³

In the direct testimony of the Staff Gas Reliability and Supply Panel (SGRSP), Staff agreed with the Company's need to complete the Multivariable Optimization Process along with some form of deferral mechanism, but disagreed with the approach used to develop the \$10 million deferral cap initially requested.¹⁶⁴ Staff pointed out that no competitive solicitation was issued to develop the \$10 million deferral, and that the existing estimate was based on an order of magnitude estimate from other studies conducted by the Company.¹⁶⁵ Staff determined this to not be a sensible approach, and that approval of such a high deferral cap without any supporting documentation was improper.¹⁶⁶

The Joint Proposal recommends allowing the Company to defer up to \$2 million in costs for the completion of the Multivariable Optimization Process. This provision provides a sensible deferral cap considering the limited documentation supporting the Companies initial request of \$10 million, while recognizing the Company's need for flexibility in achieving the requirements set out by the Commission in the Gas Planning Proceeding.¹⁶⁷ The Company can increase the use of internal resources to limit the total costs needed to create the Multivariable Optimization Process, and should costs exceed the \$2 million deferral cap, the Company may petition the Commission for additional cost recovery. The Commission should adopt this provision seeing as it balances the requirements established in other Commission proceedings at a reasonable cost to customers.

12. Federal Income Tax (Electric and Gas)

The Company in its initial testimony explained that three new Internal Revenue Service (IRS) rules and regulations will impact its Rate Year income tax expense forecasts. The first is a safe harbor method of accounting the Company may use to determine whether to expense or

¹⁶² Company Clean Energy Transition Panel, Direct Testimony, pp. 58-59.

¹⁶³ Company Clean Energy Transition Panel, Direct Testimony, pp.59.

¹⁶⁴ Staff Gas Reliability and Supply Panel, Direct Testimony, pp.130-131.

¹⁶⁵ Staff Gas Reliability and Supply Panel, Direct Testimony, pp.131.

¹⁶⁶ Staff Gas Reliability and Supply Panel, Direct Testimony, pp.132.

¹⁶⁷ Joint Proposal, pp. 32, 116-117.

capitalize expenditures related to the repair, maintenance, replacement, or improvement of natural gas transmission and distribution property. The Company stated it is adopting the safe harbor accounting method and its plant-related tax depreciation and deferred income taxes for Rate Years 1, 2, and 3 reflect estimated annual gas repair deduction amounts based on a Section 481(a) cumulative adjustment.¹⁶⁸ The second is an IRS Private Letter Ruling on reflecting net operating losses (NOL) on a standalone basis. The Company has imputed the estimated impacts on its electric and gas rate year deferred tax forecasts.¹⁶⁹ The third is the Corporate Alternative Minimum Tax (CAMT) regulation resulting from the enactment of the 2022 Inflation Reduction Act.¹⁷⁰ The Company was subject to CAMT for 2024 tax year and has included the estimated 2024 CAMT liability and a CAMT credit carryforward deferred tax assets balances in the RY forecast. However, the Company did not include any estimated CAMT impacts for year 2025 through 2028, a period within the term of the proposed rate plan.¹⁷¹ The Company proposes to reconcile the ratemaking effects associated with the CAMT regulations.¹⁷²

To address the uncertainty of the safe harbor accounting method change to the income tax forecasts, the Joint Proposal would authorize the Company to reconcile the income tax impact of the actual annual gas repair deduction amounts net of related changes in tax depreciation with the levels provided in rates.¹⁷³ The Joint Proposal also would provide that the Company be allowed to reconcile the income tax impact of any tax attributes (i.e., the NOL on a standalone basis and CAMT credit carryforward allocated) during the term of the rate plan, and requires the Company to accrue carrying charges if any cash saving benefits of the NOL carryover (net of any increase in CAMT credit carryforward) are used in each tax year during the Rate Plans). The gas repair tax accounting change reconciliation and the tax attributes (i.e., the NOL and CAMT credit carryforward) reconciliation are reasonable since they ensure that both the Company and

¹⁶⁸ Company Income Tax Panel, Direct Testimony pp.7-9.

¹⁶⁹ Company Income Tax Panel, Direct Testimony pp.11-12; Company Income Tax Panel, Update/Corrections Testimony pp.1-3.

¹⁷⁰ Company Income Tax Panel, Direct Testimony pp.13-14.

¹⁷¹ Company Income Tax Panel, Update/Correction Testimony pp.3-5.

¹⁷² Company Income Tax Panel, Update/Correction Testimony p.5, Company Accounting Panel, Update/Correction Testimony pp.19-20.

¹⁷³ Joint Proposal, p. 33.

ratepayers are made whole for possible impacts resulting from these tax accounting changes, and therefore, these provisions should be adopted.¹⁷⁴

13. Management and Operations Audit (Electric and Gas)

In its initial testimony, the Company proposed to defer the actual costs incurred in the future management audit for recovery in its next bases rate cases.¹⁷⁵ Staff recommended that the deferral mechanism only be provided to the costs of the Comprehensive Management and Operations Audits, and the deferred costs of be limited to contract amounts.¹⁷⁶

The Joint Proposal adopts Staff's recommendation.¹⁷⁷ The Joint Proposal's provision is reasonable since the Comprehensive Management and Operations Audit is a mandatory audit required by Commission which is aimed for greater overall operation efficiency, better customer service, more effective long-term planning. This provision allows the Company to recover its actual contractual costs, it is in public interest, thereby it should be adopted.

14. Major Storm Cost Reserve (Electric)

Con Edison is currently authorized by the Commission to use reserve accounting for its incremental non-capital major storm costs for its electric operations.¹⁷⁸ In its initial testimony, the Company proposed to maintain the historic test year level of storm reserve expenditures increased by general inflation.¹⁷⁹ Staff recommended that the storm reserve funding be based on the three-year average of major storm costs for the period of 2022 through 2024.¹⁸⁰

The Joint Proposal would allow the Company to continue charging incremental non-capital major storm costs to the major storm reserve, subject to Staff's review, and require the Company to defer the difference between the actual incremental major storm costs incurred by the Company to the amounts provided for in rates.¹⁸¹ The Joint Proposal provides for annual rate allowances of \$28 million in RY1, \$28.672 million in RY2, and \$29.303 million in RY3.¹⁸² The

¹⁷⁴ Joint Proposal, pp. 33-34.

¹⁷⁵ Company Accounting Panel, Initial Testimony, p.13.

¹⁷⁶ Staff Management and Operations Audit Panel, Direct Testimony, p. 115

¹⁷⁷ Joint Proposal, p.34.

¹⁷⁸ 2023 Rate Order, pp. 39-44.

¹⁷⁹ Company Accounting Panel, Initial Testimony, p. 92.

¹⁸⁰ Staff Electric Resilience and Reliability Performance Mechanism Panel, Direct Testimony, pp. 115-116.

¹⁸¹ Joint Proposal, pp. 34-35.

¹⁸² Joint Proposal, pp. 38

Joint Proposal also recommends continuing the implementation of an annual surcharge and a cap if the actual major storm costs, in any given year, exceed the rate allowance.¹⁸³ Specifically, if the Company’s major storm costs chargeable to the reserve exceeds the annual rate allowance by more than \$7 million in a rate year, the Company will recover through a surcharge mechanism all costs up to \$43 million in RY1, \$46 million in RY2 and \$47 million in RY3. Further, the Joint Proposal provides that any amounts in excess of the annual surcharge cap be deferred for future recovery in the Company’s next base rate.¹⁸⁴ The Joint Proposal is reasonable as it will mitigate the potential for significant deferral balances associated with storm restoration costs thereby moderating the need for future base rate increases, while limiting the potential bill impact to customers during the term of the rate plan. Therefore, the Major Storm Reserve provisions are in the public interest and should be adopted.

Additionally, the Joint Proposal would continue currently effective provisions for pre-staging and mobilization costs that can be charged to the Major Storm Reserve and the two percent deductible. For pre-staging and mobilization costs, the Company is required to expense pre-staging and mobilization costs up to \$350,000, charge costs between \$350,000 and \$4.5 million to the Major Storm Reserve, unless the event meets the criteria for a Tropical Cyclone event,¹⁸⁵ and provides for a sharing arrangement between the Company and its customers for costs that exceed \$4.5 million.¹⁸⁶ This term of the Joint Proposal is reasonable as it allows the Company to obtain the necessary mutual aid in light of a threat of a storm while simultaneously protecting ratepayers by giving the Company a financial incentive to ensure that its preparation is reasonable in both scope and cost. Regarding the two percent deductible, the Joint Proposal continues the 2023 Rate Plan’s provisions and provides that the deductible be retained for costs incurred (net of insurance and other recoveries) due to the occurrence of a major storm.¹⁸⁷ It should be noted that the two percent deductible does not apply to pre-staging and mobilizations

¹⁸³ Id.

¹⁸⁴ Id.

¹⁸⁵ The \$4.5 million per event cap will not apply for events that meet the definition of a Tropical Cyclone Event, i.e., an event that the Company prepares for when the Company’s service territory appears in the National Hurricane Center’s “5-day Probability of 50kt Winds” forecasting map.

¹⁸⁶ Joint Proposal, pp. 35-36.

¹⁸⁷ Id., pp. 36-38.

costs for a storm that does not materialize.¹⁸⁸ The deductible provision is reasonable as it precludes the Company from charging de minimis costs to the Major Storm Reserve and does not place the entire financial burden associated with storm restoration on customers. Therefore, these Major Storm Reserve provisions are in the public interest and should be adopted.

15. NWA (Electric)

Discussion of this topic is provided in Section D.1.d., above.

16. East River Major Maintenance Cost Reserve (Electric)

Con Edison is currently authorized pursuant to the 2023 Rate Order to use reserve accounting for its major, planned maintenance costs for the East River Repowering Station, and reconcile the cumulative East River Major Maintenance costs against the allowance provided in rates plus any residual deferred balance.¹⁸⁹ In its initial testimony, the Company proposed to continue the reconciliation mechanism with no modification¹⁹⁰ and neither Staff, nor any other party, opposed the proposed continuation of the reserve accounting and reconciliation mechanism.

The Joint Proposal recommends an annual rate allowance of \$8.944 million for each of RY1, RY2 and RY3, and the continuation of the reserve accounting and reconciliation mechanism.¹⁹¹ The provision is in public interest since it provides the recovery of the prudently incurred cost and the reserve accounting of such costs smooths the rate impacts over time and avoid either the customer or the Company receive a windfall at the expense of the other, therefore should be adopted by the Commission.

17. East River Interdepartmental Rent (Electric)

The East River Interdepartmental Rent reconciliation reflects the recovery from electric customers through the MAC of the carrying costs charged by the Company's steam department for the carrying charges of the East River plant costs in accordance with the order issued in Case 04-E-0572 (Order Adopting Three-Year Rate Plan, issued March 24, 2005). Con Edison is currently authorized by the Commission to defer the impact of the change in expense to steam until steam base rates are reset, whether positive or negative, to continue the "earnings neutral"

¹⁸⁸ Id., p. 37.

¹⁸⁹ 2023 Rate Order, p. 39.

¹⁹⁰ Company Accounting Panel, Initial Testimony, p. 108.

¹⁹¹ Joint Proposal, p.39

of these revenues.¹⁹² In its initial testimony, the Company proposed to continue the reconciliation mechanism with no modification,¹⁹³ and neither Staff, nor any other party opposed the proposed continuation of reconciliation mechanism. The provision is reasonable since it is provided on a “earning neutral” basis, thus the expenses changes are driven by differences in electric and steam rate cases cycles, the Company earns no unintended profit or loss from the mismatch of in timing, and, therefore, should be adopted by the Commission.

18. Other Transmission Revenues (Electric)

Under the current rate plan, the Company is authorized to reconcile the revenues received by the Company from its wholesale transmission services, including the Transmission Congestion Contracts (TCC) revenues, Transmission Service Charges (TSC) and Grandfathered Transmission Wheeling Contracts (GTWC) revenues. Annual variations between the TCC, TSC and GTWC revenue targets and actual amounts will be passed back or recovered, as appropriate, through MAC.¹⁹⁴ In its initial testimony, the Company proposed to continue the reconciliation mechanism with no modification,¹⁹⁵ and neither Staff, nor any other party opposed the Company’s position. This provision of the Joint Proposal is reasonable since it ensures the ratepayer receives the actual wholesale transmission revenues and therefore should be adopted by the Commission.

19. NEIL Dividends (Electric)

Con Edison is currently required by the Commission to credit electric customers via the MAC any dividends the Company might receive from its Nuclear Electric Insurance Limited (NEIL) insurance policy.¹⁹⁶ In its initial testimony, the Company proposed to continue the deferral mechanism with no modification,¹⁹⁷ and neither Staff, nor any other party opposed the proposed continuation of the deferral mechanism. The Joint Proposal would continue this provision. The provision is reasonable since it benefits the customer by requiring the Company

¹⁹² Joint Proposal, pp.39-40

¹⁹³ Company Accounting Panel, Initial Testimony, p. 108.

¹⁹⁴ 2023 Rate Order, p.45.

¹⁹⁵ Company Accounting Panel, Initial Testimony, p. 109.

¹⁹⁶ 2023 Rate Order, p.45.

¹⁹⁷ Company Accounting Panel, Initial Testimony, p. 109.

to pass back any dividends the Company might receive from its NEIL policy, therefore should be adopted by the Commission.

20. Brownfield Tax Credits (Electric)

Under the current rate plan, Con Edison is required to defer for electric customer benefit any Brownfield environmental tax credits it might receive.¹⁹⁸ In its initial testimony, the Company proposed to continue the deferral mechanism with no modification,¹⁹⁹ and neither Staff, nor any other party opposed the proposed continuation of the deferral mechanism. The Joint Proposal continues this provision. The provision is reasonable because it benefits customers by requiring the Company to defer for their future benefit any Brownfield environmental tax credits it might receive; therefore, this term of the Joint Proposal is in the public interest and should be adopted by the Commission.

21. Proceeds from the Sales of SO2 Allowances (Electric)

Con Edison is currently required by the Commission to defer for the benefit of customers the proceeds from the sales of SO2 allowances it may receive during the term of the proposed electric rate plan.²⁰⁰ In its initial testimony, the Company proposed to continue the deferral mechanism with no modification,²⁰¹ and neither Staff nor any other party opposed the continuation of the deferral mechanism. The Joint Proposal continues this mechanism. The provision is reasonable since it benefits the electric customer by requiring the Company to defer for customer benefit the proceeds from the sales of SO2 allowances it may receive, and, therefore, it should be adopted by the Commission.

22. BQDM Program and REV Demo Project Costs (Electric)

The Joint Proposal continues the existing Brooklyn/Queens Demand Management (BQDM) Program and REV Demonstration Projects framework, which provides that the Company will continue to manage its BQDM Program and REV Demonstration Projects with costs being reconciled consistent with the Track One REV Order.²⁰² This provision of the Joint

¹⁹⁸ 2023 Rate Order, p.45.

¹⁹⁹ Company Accounting Panel, Initial Testimony, p. 109.

²⁰⁰ 2023 Rate Order, p.45.

²⁰¹ Company Accounting Panel, Initial Testimony, p. 109.

²⁰² Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Adopting Regulatory Policy Framework and Implementation Plan (issued February 26, 2015), pp. 116-117.

proposal continues the requirements established in the 2023 Rate Order and is consistent with the Commission's Track One REV Order. Therefore, this provision of the Joint Proposal is reasonable and should be adopted by the Commission.

23. Sulfur Hexafluoride Standards (Electric)

In its initial testimony, the Company proposed to defer for recovery in its next electric base rate case the incremental compliance costs associated with the New York State Department of Environmental Conservation's (NYSDEC) rule, adopted at the end of 2024, regarding gas-insulated equipment containing sulfur hexafluoride (SF6).²⁰³ The NYSDEC rule (6 NYCRR Part 495) imposes a one percent SF6 emissions limit on gas-insulated equipment starting in 2030, and phases out the ability to acquire SF6 equipment from 2027 through 2033, depending on the equipment voltage.²⁰⁴ The Company stated that it proposed this deferral because it did not have enough time to fully analyze the cost impacts of the rule and incorporate forecasts into its electric revenue requirement.²⁰⁵

In its direct testimony, Staff recommended delaying the deferral past 2026 since SF6 equipment begins to be phased-out in 2027 and the uncertainty of any potential cost impact in 2026 because of the NYSDEC rule.²⁰⁶ Staff also raised concerns with a workpaper the Company provided to support how it derived a \$700 million preliminary estimate, as it did not explain why two specific substations were chosen and how the number of breakers and associated bus sections needed to be replaced to comply with the NYSDEC rule were derived.²⁰⁷

In rebuttal, the Company disagreed with Staff's recommendation and emphasized the fact that the new rule was adopted near the end of 2024, which did not provide the Company with the time to adequately evaluate the impacts of the rule before it filed its testimony in this proceeding, on January 31, 2025, which is why it proposed the use of a deferral mechanism.²⁰⁸ The Company further added that Staff's uncertainty around any potential cost impact in 2026 stems from the fact that the Company did not have the time to identify the potential scope of system

²⁰³ Company Accounting Panel, Initial Testimony, p. 114.

²⁰⁴ Company Electric Infrastructure and Operations Panel, Initial Testimony, p. 184.

²⁰⁵ Company Accounting Panel, Initial Testimony, p. 114.

²⁰⁶ Staff Electric Infrastructure and Operations Panel, Direct Testimony, pp. 262-264.

²⁰⁷ *Id.*, pp. 264-265.

²⁰⁸ Company Electric Infrastructure and Operations Panel, Rebuttal Testimony, pp. 351-352.

changes needed to comply with the rule, and that the immediate evaluation and planning needs will require funding in 2026.²⁰⁹ Regarding Staff's concerns with the workpaper, the Company stated that the estimate was a very high-level, directional estimate to demonstrate the cost risk was significant, and that the rationale for the selection of the stations and the bases for the specific equipment included were explained in the white paper for the Gas Insulated Substation Replacement Program.²¹⁰

The Joint Proposal would allow the Company to defer incremental costs incurred to meet the emissions standards in the NYSDEC regulation, 6 NYCRR Part 495, and the phase out of gas-insulating equipment containing SF6, capped at \$20 million revenue requirement impact in each year for 2027 and 2028.²¹¹ This provision of the Joint Proposal is reasonable as it allows the Company to defer the cost of compliance with the NYSDEC regulation, which the Company did not have the time to properly evaluate, while mitigating the impact to ratepayers by setting a cap on the impact to revenue requirement.

24. Streetlight Registry (Electric)

The City recommended the creation of a new streetlight registry to track and identify maintenance of streetlights and traffic poles throughout New York City.²¹² In rebuttal, the Company stated that it was open to further discussions with New York City Department of Transportation (NYCDOT) regarding how to improve location tracking for streetlight work.²¹³ Staff did not propose a change to the Company's existing registry in initial testimony. The Joint Proposal will allow the Company to defer up to \$1 million over the term of the rate plan for efforts in assessing the parameters for a new streetlight registry between the Company and New York City Department of Transportation systems.²¹⁴ This includes the development of a cost estimate for the new system and the establishment of a framework for ownership, operation, maintenance, and access to the new system.²¹⁵ This provision should be adopted because the

²⁰⁹ Id., pp. 352-353.

²¹⁰ Id., pp. 353-354

²¹¹ Joint Proposal, p. 42.

²¹² New York City Witness Felicia Tunnah, Direct Testimony, p. 18.

²¹³ Company Electric Infrastructure and Operations Panel, Rebuttal Testimony, p. 384.

²¹⁴ Joint Proposal, pp. 72-73.

²¹⁵ Id.

existing registry is not capable of geolocation tracking of streetlights or traffic poles, and streetlight and traffic pole locations have changed or deleted over time which has made them increasingly difficult to track. The difficulty to track streetlight locations could lead to slower repair and maintenance which could result in potential public safety hazards. This provision addresses public safety and is in the public interest and should be approved by the Commission.

25. NY Facilities Agreement (Gas)

The Company is authorized in existing rate plan to defer the variance between the actual costs/revenues experienced under the Amended NY Facilities Agreement and the rate allowances and reconcile annually through Monthly Rate Adjustment mechanism as surcharge (under-recovery) or sur-credit (over-recovery) to its gas customer.²¹⁶ In its initial testimony, the Company proposed to continue the deferral mechanism with no modification,²¹⁷ and neither Staff, nor any other party opposed the Company's position. The Joint Proposal continues this deferral provision. The provision is reasonable since it ensures the gas customers pay no more or less than the actual cost/revenues, protecting ratepayer from forecasting risk while allowing the Company's full recovery of prudent net costs incurred under a third-party agreement, therefore should be adopted by the Commission.

26. Research and Development Expense (Gas)

The current rate plan provides a cumulative downward-only reconciliation for the Company's gas research and development (R&D) program and requires that the deferral balance in excess of the \$100,000 be used to fund the Company's committed new or increased gas R&D spending. For the deferral balance in excess of the \$100,000 that is not committed for new or increased gas R&D spendings, the provision requires the Company to apply the balance to either enhanced decarbonization or enhanced safety programs. This provision of the JP also provides the Company with flexibility to reprioritize its gas R&D budgets so long as such funding can be achieved with prior deferred over-recoveries.²¹⁸ In its initial testimony, the Company proposed

²¹⁶ 2023 Rate Order, p. 51.

²¹⁷ Company Accounting Panel Initial Testimony, p. 108.

²¹⁸ 2023 Rate Order, pp. 47-78.

to continue the deferral mechanism with no modification,²¹⁹ and neither Staff nor any other party, opposed the Company's proposal.

The Joint Proposal continues the cumulative downward-only reconciliation and the established mechanism allowing the Company to use its R&D deferral balance for its gas R&D programs. The Commission approved a similar provision in the O&R 2015 Rate Plan,²²⁰ which allowed the utility to use unspent funds on safety-related R&D projects, such as methane detection. The Joint Proposal provision is reasonable since it provides a proper regulatory balance in that the Company is afforded with flexibility for its actual gas R&D spendings while guarding against over-collections, therefore it should be adopted by the Commission.

27. Pipeline Safety Act (Gas)

The Joint Proposal, if adopted by the Commission, provides a reconciliation mechanism for costs to comply with the Protecting our infrastructure of Pipelines and Enhancing Safety (Pipeline Safety) Act of 2019.²²¹ This reconciliation mechanism is designed to protect both customers and the Company from variations in estimated costs or revenue forecasts for the items that are unpredictable in nature and at least partially beyond the Company's control. Actual incremental operation and maintenance costs to comply with the new regulations during the Gas Rate Plan will be deferred for future evaluation and recovery from customers. Thus, this reconciliation mechanism is in the public interest and should be adopted by the Commission.

28. White Plains Gate Station (Gas)

The White Plains Gate Station is a gas transmission project by which the Company plans on addressing gas reliability and load growth concerns in Westchester County portion of Con Edison's service territory. The costs for the project were deferred and recovered through the Pipeline Facilities Adjustment component of the MRA surcharge. The project was completed in 2022, however, there are still residual balance of costs incurred after July 1, 2019, and they will be collected through the mechanism over the twelve months ending November 2026. In its initial testimony, the Company proposed to continue the deferral mechanism with no

²¹⁹ Company Accounting Panel, Initial Testimony, p. 109

²²⁰ Cases 14-E-0493 and 14-G-0494, O&R – Electric and Gas Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans (issued October 16, 2015), joint proposal, pp. 29-30

²²¹ Joint Proposal, p. 43.

modification,²²² and neither Staff, nor any other party opposed the Company's proposal. The Joint Proposal continues the provision in the current rate plan.²²³ The provision is reasonable, and the MRA surcharge recovery mechanism is appropriate, therefore this provision is in the public interest and should be adopted by the Commission.

29. Safety and Reliability Surcharge Mechanism (Gas)

The Joint Proposal recommends continuing the Safety and Reliability Surcharge Mechanism (SRSM), to allow the Company recover the carrying costs on a capped amount of incremental capital expenditures and uncapped O&M expenses associated with the replacement of Leak Prone Pipe (LPP) above the levels established in the Joint Proposal and recover incremental O&M expenses associated with lowering the Company's leak backlog.²²⁴ The Joint Proposal would allow for recovery of expenses associated with LPP replacement and should help to reduce the amount of LPP in Con Edison's gas system. Therefore, these provisions are reasonable, in the public interest, and should be adopted by the Commission.

30. Revenue Adjustment Mechanism (Gas)

In a 2024 Securities and Exchange Commission (SEC) 10-K filing by Consolidated Edison, Inc. (CEI), the parent of Con Edison, CEI states on page 129 in the "other Regulatory Matters" section that Con Edison initiated a review of certain non-conforming gas and steam main welds. This disclosure raises concerns that the costs associated with the non-conforming welds may be encompassed and thus reflected in the historic test year (HTY) for gas and the Company's proposed gas revenue requirement for the rate year.

Since the Commission will not know whether such costs are included in the HTY or the rate year until the Company completes its investigation and until it can be determined what costs, if any, the non-conforming gas welds had on the HTY and rate year, the Staff recommended that the Commission require that \$33.33 million of gas revenue requirement in each rate year be collected through a revenue adjustment clause, subject to audit by the Commission and potential refund to gas customers.²²⁵ Staff was the only party to file direct testimony regarding this matter, although in the Company's Accounting Panel rebuttal testimony, the Company asserted that the

²²² Company Accounting Panel, Initial Testimony, p. 109.

²²³ Joint Proposal, p.43.

²²⁴ Joint Proposal, Appendix 12, p. 2.

²²⁵ Staff Accounting Panel, Direct Testimony, pp. 172-176.

RAM was premature and that Staff had not sufficiently justified the need for the RAM during the pendency of the Company's investigation.²²⁶

The provision in the Joint Proposal would have the Commission establish the RAM so to protect customers in case it is determined that the non-conforming gas weld costs are reflected in the HTY and/or the incremental gas revenue requirement. Thus, this provision is in the public interest and should be approved by the Commission as it will ensure that customers are not burdened by the costs of the non-conforming gas welds that may be in the HTY and/or the rate years.

31. Discontinued Deferrals/Reconciliations

In its initial testimony, the Company proposed to discontinue the following deferrals and reconciliations as the Company considered them to be no longer necessary: the O&M reconciliation for CSS implementation; net plant reconciliation for CSS implementation; and net plant reconciliation for AMI implementation.²²⁷ As the CSS and AMI projects were fully implemented in 2024, all three mechanisms have been terminated.

In its direct testimony, Staff did not take issue with the Company's proposal to discontinue these deferrals and/or reconciliations. Since these deferrals and/or reconciliations are no longer necessary the Joint Proposal recommends they be discontinued, which is appropriate, and should be adopted by the Commission.²²⁸

a. Energy Efficiency (EE) (Electric and Gas)

The Company proposed to continue to incur energy efficiency (EE) and building electrification (BE) program costs as regulatory assets recovered in base rates, amortized over fifteen years.²²⁹ In workpapers provided by its Accounting Panel, the Company proposed budgets of approximately \$256 million and \$101 million to fund its electric and gas EE/BE portfolios, respectively, for the Rate Year.²³⁰ The Company did not propose any change to its

²²⁶ Company Accounting Panel Testimony, Rebuttal Testimony, pp. 40-41.

²²⁷ Company Accounting Panel, Initial Testimony, p. 110

²²⁸ Joint Proposal, pp. 44-45

²²⁹ Company Accounting Panel, Initial Testimony, p. 123.

²³⁰ Company Accounting Panel Update Testimony, 'CECONY DEC24 EE Rate Plan Spend Forecast.xlsx' workpaper (filed 4/14/2025.)

current manner and mechanism of recovery of EE/BE labor costs through base rates, but it did request six incremental EE/BE full-time equivalent (FTEs) employees for the Rate Year.²³¹

Staff opposed the Company's proposed EE/BE budgets and recommended annual budgets of \$21.9 million and \$69.6 million for the Company's electric and gas low- to moderate income (LMI) EE/BE portfolios, respectively, and annual budgets of \$277.8 million and \$58.4 million for the Company's electric and gas non-LMI EE/BE portfolios, respectively,²³² as authorized by Commission order in May 2025.²³³ Staff opposed the Company's proposed manner and mechanism of EE/BE program cost recovery and recommended that the Company's Rate Year EE/BE costs be removed from its proposed revenue requirement models and that recovery of program costs associated with the EE/BE budgets occur through an existing surcharge mechanism, as required by the May 2025 Order.²³⁴ Staff further recommended that EE/BE program costs that have already been authorized to be recovered in base rates and amortized over fifteen years also be removed from the Company's revenue requirement models, with cost recovery to occur through an existing surcharge mechanism as required by the Commission's May 2025 Order.²³⁵ Staff opposed the Company's proposed manner and mechanism of EE/BE labor cost recovery and recommended that EE/BE labor costs, both baseline and incremental, be removed from the revenue requirement models and that recovery of those costs occur through an existing surcharge mechanism.²³⁶

Specifically, for the electric business, Staff recommended removing annual amortization cost recovery of \$78.17 million from base rates, which is one-fifteenth of the unamortized EE/BE portfolio deferral balance of \$916.89 million as of December 31, 2025, and the projected Rate Year EE/BE portfolio costs of \$255.58 million. Staff also recommended downward adjustments of \$16.54 million of EE/BE labor O&M costs, \$6.38 million of incremental EE/BE

²³¹ Company Customer Energy Solutions Panel, Initial Testimony, Exhibit___(CES-3), p. 1.

²³² Staff Markets and Innovation Panel, Direct Testimony, p. 14.

²³³ Case 25-M-0248, In the Matter of a Comprehensive Energy Efficiency Initiative, Order Authorizing Utility and NYSERDA-Administered Non- Low- and Moderate-Income Energy Efficiency and Building Electrification Portfolios for 2026 Through 2030, (issued May 15, 2025) (May 2025 Order), Appendices C and D.

²³⁴ Staff Markets and Innovation Panel, Direct Testimony, p. 16.

²³⁵ Id., p. 17.

²³⁶ Id., p. 19.

non-salary labor O&M costs, and \$0.74 million of EE/BE non-labor O&M costs from the Company's forecast of Rate Year O&M expenses.

For the gas business, Staff recommended removing annual amortization cost recovery of \$30.14 million from base rates, which is one-fifteenth of the unamortized EE/BE portfolio deferral balance of \$350.97 million as of December 31, 2025, and the projected Rate Year EE/BE portfolio costs of \$101.09 million. Staff also recommended reductions of \$2.92 million of EE/BE labor O&M costs, \$1.13 million of incremental EE/BE non-salary labor O&M costs, and \$0.13 million of EE/BE non-labor O&M costs from the Company's forecast of Rate Year O&M expenses.²³⁷

Staff had no recommendations regarding the proposed incremental EE/BE FTEs for the Rate Year but noted that the May 2025 Order does not specifically limit the number of FTEs in a given period. Instead, the Order limits the percentage of those budgets that may be spent on backend program implementation, including labor, that does not directly support customers or installation contractors in implementing EE/BE projects.²³⁸ No parties raised concerns with these recommendations in rebuttal testimony.

Regarding the EE/BE labor requests, the Company agreed with Staff's recommendations and withdrew the request for incremental EE/BE labor.²³⁹ The Joint Proposal adopts a treatment and recovery of all EE/BE costs as directed in the May 2025 Order.²⁴⁰ Therefore, this provision is both reasonable, in the public interest, and should be adopted.

32. Additional Reconciliation/Deferral Provisions

The Joint Proposal contains a number of provisions addressing reconciliations of specific costs and revenues. The Joint Proposal, if adopted by the Commission, continues the reconciliation mechanisms in the current rate plan, including but are not limited to, Financial Accounting Standards (FAS) 109 taxes, Regional Greenhouse Gas Initiative (RGGI) costs associated with Company owned generation, SBC, Demand Side Management (DSM) costs, MTA taxes, New York PSL §18-a regulatory assessment, the Supply and Supply-related Charges

²³⁷ Staff Markets and Innovation Panel, Direct Testimony, pp. 26-28.

²³⁸ *Id.*, p. 20.

²³⁹ Company Customer Energy Solutions Panel, Rebuttal Testimony, p. 3.

²⁴⁰ Joint Proposal, p. 43.

and Adjustments and the MAC, and MRA/GCF mechanisms, as well as the cost of the Low-Income customer charge discount. These reconciliation mechanisms are either in furtherance of public policy, such as the Low-Income customer charge discount, or protect both customers and the Company from variations in estimated costs or revenue forecasts for items that are unpredictable in nature and beyond the Company's control. Therefore, these provisions are reasonable, in the public interest, and should be adopted.

F. Additional Accounting Provisions

1. Labor - Full Time Equivalent Employees (FTE) and Productivity

a. Incremental FTE and Labor Reporting

In its initial filing, the Company proposed to add 2,415 incremental FTEs for RY1, 423 FTEs for RY2, and 229 FTEs for RY3, totaling 3,057 FTEs.²⁴¹ In its April 2025 Update/Correction filings, the Company lowered its request to 2,187 FTEs for RY1, 473 FTEs for RY2, and 229 FTEs for RY3, totaling 2,889 FTEs.²⁴²

In its direct testimony, Staff recommended eliminating a total of 1,282 FTEs from the Company's updated FTE request.²⁴³ The Staff Accounting Panel also adjusted eight FTEs out of RY1 and moved them to RY2 based on the Company's response to DPS-752,²⁴⁴ which indicates that the Company plans to initiate the hiring process for those eight positions in the first quarter of 2027.²⁴⁵

In its direct testimony, NYC questioned the Company's justifications for such an large increase to its workforce, and pointed out the affordability concerns for the significant costs associated with the magnitude of the Rate Year workforce proposal.²⁴⁶ NYC proposed that the Commission adjust the Company's revenue requirement to the minimum levels of new hires that the Commission deems necessary for Con Edison to maintain safe, reliable, and adequate

²⁴¹ Company Accounting Panel, Exhibit AP-3, Sch 6, Various Labor Lines (Program Change INPUT).

²⁴² Company Accounting Panel, Exhibit AP-3, Sch 6, Various Labor Line – Updated Filing 20250408 (Program Change INPUT).

²⁴³ Staff Accounting Panel, pp. 54-55.

²⁴⁴ Company Response to DPS-752

²⁴⁵ Staff Accounting Panel, p. 55.

²⁴⁶ New York City Policy Panel Testimony, p. 75.

service. The City further proposed a downward-only reconciliation for the Company's requested FTEs.²⁴⁷

The Joint Proposal reflects the costs associated with 981 incremental FTEs for RY1 with no additional new FTEs allowed for RY2 and RY3. The Joint Proposal also requires that within 90 days of the end of each Rate Year the Company, submit annual reports regarding its hiring of the FTEs provided for in rates and on the Company's overall rate year headcounts. These terms of the Joint Proposal are reasonable because they provide the Company with additional FTEs to maintain safe and adequate service while maintaining affordability. The reporting requirements will provide transparency regarding the hiring status of the incremental FTEs funded by ratepayers, will provide accountability, will assist the Commission in assessing the Company's performance and productivity and support future rate case review by Department of Public Service staff. Therefore, these provisions should be adopted by the Commission.

b. Productivity

In its initial testimony, the Company included a traditional one percent productivity adjustment to capture unidentified and/or unquantifiable productivity gains, efficiencies, and cost savings that could be realized during the Rate Year.²⁴⁸

In its direct testimony, Staff recommended a three percent productivity adjustment, which reflected the traditional one percent productivity imputation, an additional one percent productivity adjustment as a proxy to capture the savings resulting from the incremental FTEs proposed by the Company, and an additional one percent as a proxy to capture the productivity gains and efficiencies associated with the Company's information technology investments and implementation of management and operations audit recommendations related to improved capital project oversight.²⁴⁹

In its rebuttal, the Company disagreed with the additional two percent productivity adjustments, arguing that the FTE productivity adjustment is been overstated because the Company hired some of the proposed FTEs during the linking period and the adjustment was applied to its existing labor costs. Further, Con Edison argued that the additional one percent to reflect efficiencies and productivity of its IT investments is inappropriate because the intent of its

²⁴⁷ New York City Policy Panel Direct Testimony, p. 76

²⁴⁸ Company Accounting Panel Initial Testimony, p. 65.

²⁴⁹ Staff Accounting Panel Direct Testimony, pp. 60-67.

capital investment is not efficiency, but to maintain and build resilience in its electric and gas systems, integrate clean energy, enhance cybersecurity and to address other operational/customer needs. It further argued that its traditional one percent productivity imputation has captured the attendant efficiency gain for a subset of its total capital budget.²⁵⁰

NYECC's direct testimony proposed that a two percent productivity adjustment would not only ensure that ratepayers receive more of the productivity gains made by the Company during the Rate Year or in a multi-year rate plan, but would also encourage the Company to proactively seek out more productivity measures than it may otherwise have if the productivity adjustment continues in the business-as-usual manner at one percent.²⁵¹

The Joint Proposal imputes a three percent productivity adjustment in RY1, and a two percent productivity adjustment in both RY2 and RY3.²⁵² This reflects a significant increase in the imputed productivity adjustment than the productivity adjustments in rate plans approved by the Commission in previous rate cases and will capture productivity benefits for customers during the rate plans. This provision of the Joint Proposal is reasonable because it reflects the unidentified and/or unquantifiable productivity gains, efficiencies, and cost savings that could be realized during the term of the Rate Plan, including additional operational efficiencies associated with the Company's information technology investments. Therefore, it should be adopted by the Commission.

2. Depreciation Rates and Reserves

a. Depreciation Rates

Several parties, including the Company, UIU, NYC, NYECC, and Staff submitted testimony on the topic of depreciation with each party generally taking significantly different positions. The Company proposed new depreciation rates based on its depreciation study.²⁵³ The Company also proposed to shorten the average service lives of selected gas accounts by five years, as a step to address the impacts of the CLCPA.²⁵⁴ Staff disagreed with the results of the depreciation study for 12 electric accounts and 11 gas accounts, and disagreed with the Company's proposal to

²⁵⁰ Company Accounting Panel, Rebuttal Testimony, pp. 9-10.

²⁵¹ Direct Testimony of Andy Anderson, pp. 11-12.

²⁵² Joint Proposal, p. 50.

²⁵³ Company Depreciation Panel, Initial Testimony, p. 13.

²⁵⁴ Company Depreciation Panel, Initial Testimony, p. 43.

shorten the lives of certain gas accounts by five years.²⁵⁵ UIU Witness David Garrett proposed adjustments to three electric accounts and four gas accounts, and proposed rejecting the Company's proposal to reduce the lives of certain gas accounts by five years.²⁵⁶ NYECC Witness Andy Anderson and NYC Witness John P. Sano both proposed rejecting the Company's proposal to shorten the services lives of certain gas accounts; Mr. Sano also proposed keeping the gas depreciation rates that were approved by the Commission in the 2023 Rate Order.²⁵⁷ In its Rebuttal Testimony, the Company continued to support its original proposals, including the five-year reduction to services lives to certain gas accounts.²⁵⁸

Under the terms of the Joint Proposal, new depreciation rates for electric, gas, and common plant accounts would be established. The average service lives, survivor curves (life table number), LPP amortization, net salvage factors, and annual deprecation rates for each account as shown in Appendix 13, were agreed upon for settlement purposes. These provisions do not represent methodological agreement amongst the Signatory Parties. The provisions relating to depreciation rates as contained in the Joint Proposal do not include the Company's proposal to reduce the service lives of certain gas accounts by five years and keep the RY2 and RY3 depreciation expenses at RY1 levels for the purposes of reducing the incremental revenue requirements. Therefore, the provisions relating to depreciation in the Joint Proposal reduce the financial burden on ratepayers, are reasonable, and should be adopted by the Commission.

b. Reserve Deficiency

The theoretical reserve is the accumulated amount of depreciation expense that should have been collected for a specific plant account as of a particular date. The theoretical reserve is dependent on the average service life, survivor curve, and net salvage factor used to determine an account's depreciation rate, as well as the age of the assets in that account. Comparing the theoretical reserve to the book reserve will demonstrate an imbalance between the amount of depreciation expense that would have been collected had the depreciation rate in question been in effect since the account went into service versus the amount of depreciation expense that was actually collected. Typically, if the accumulated imbalance exceeds 10 percent of the theoretical

²⁵⁵ Staff Depreciation Panel, Direct Testimony, pp. 19-21, 26-28.

²⁵⁶ UIU David Garrett, Direct Testimony, pp. 10-12, 18-28.

²⁵⁷ NYECC Andy Anderson, Direct Testimony, p. 21; NYC Witness John P. Sano, Direct Testimony, p. 43.

²⁵⁸ Company Depreciation Panel, Rebuttal Testimony, p. 5.

reserve, the portion of the deficiency or surplus over 10 percent of the theoretical reserve would be subject to amortization over a reasonable period of time. A tolerance band is used because some variation between the book and theoretical reserve is expected.

In testimony, the Company, Staff, UIU Witness David Garrett, and NYC Witness John P. Sano stated that there was an electric and gas depreciation reserve deficiency that should be amortized over a 20-year period.²⁵⁹ Pursuant to the Joint Proposal, the Company would continue the electric amortization established in the current rate plan of \$3.8 million for the Hudson Avenue Station, and for the purposes of reducing the incremental revenue requirements, there will be no other reserve deficiency amortization for either electric or gas for the duration of the three-year rate plan. The provisions relating to the reverse deficiency in the Joint Proposal address affordability concerns and help to reduce the financial burden on ratepayers, and thus are reasonable, in the public interest and should be adopted as proposed.

3. Interest on Deferred Costs

The Joint Proposal continues the Interest on Deferred Costs provision in current rate plan, where the Company will record on its books and records of accounts various credits and debits that ultimately will be reflected in the rates to be charged to customers.²⁶⁰ Unless otherwise specified in the Joint Proposal, or by Commission Order, the Company will accrue interest on all such book amounts, net of Federal and State income taxes, at the other customer provided capital rate published by the Commission annually and applicable on a calendar year basis. Given the short-term nature of these variances, a short-term carrying charge rate is reasonable.

4. Prospective Property Tax Refunds and Credits

Consistent with the 2023 Rate Order, the Joint Proposal recommends that any property tax refunds, including credits against tax payments or similar forms of tax reductions, received by the Company as a result of its efforts will be shared 86 percent/14 percent between customers and shareholders, net of the incremental costs incurred by Con Edison to achieve an actual refund or credit from the governmental entity.²⁶¹ The Joint Proposal's recommendation, however, does not change the Company's obligations under 16 NYCRR §89.3 which requires

²⁵⁹ Company Depreciation Panel, Initial Testimony, p. 63; Staff Depreciation Panel, Direct Testimony, pp. 30-31; UIU David Garrett, Direct Testimony, p. 30; NYC John Sano, Direct Testimony, pp. 46-47.

²⁶⁰ Joint Proposal, pp. 46-47

²⁶¹ Joint Proposal, p. 47.

that the utility notify the Commission of any tax refunds it receives during the rate plan, nor the Commission's authority under PSL §113(2) to determine whether the refunds should be passed on to ratepayers. Furthermore, the deferral and retention of property tax refunds remain subject to an annual filing by Con Edison to the Commission of the Company's ongoing efforts to reduce its property tax burden. These provisions of the Joint Proposal provide the Company with an incentive to minimize its property tax liabilities to the greatest extent possible, and to pursue fundamental taxation changes that would benefit both Con Edison and its customers and, therefore, are in the public interest and should be adopted.

5. Income Taxes and Cost of Removal Audit

In 2018, the Commission issued an Order commencing a focused operations audit to investigate the income tax accounting of Con Edison and other New York utilities.²⁶² This audit is focused on determining whether an income tax error occurred with respect to the Company's accounting for cost of removal (COR) and whether ratepayers received the benefit of lower income tax expense as a result of any such error. The Commission allowed the Company to correct the income tax error,²⁶³ however, the amounts reflected in rates will be subject to the final outcome of the operations audit. The operations audit is still ongoing at this time; therefore, the Joint Proposal does not make a specific recommendation regarding the audit, however, it does reserve all the administrative and judicial rights of the signatory parties to take and pursue their respective positions in that proceeding.²⁶⁴

6. Allocation of Common Expenses/Plant

In its initial testimony, the Company proposed to continue the current allocation factors for Common Plant, which are 83 percent for electric service and 17 percent for gas.²⁶⁵ However, the Company proposed to change the common expense allocation factors set in the 2023 Rate Order. Specifically, the Company proposed to change Customer Operations and Customer

²⁶² Case 18-M-0013, In the Matter of a Focused Operations Audit to Investigate the Income Tax Accounting of Certain New York State Utilities, Order Approving and Issuing the Request for Proposals Seeking a Third-Party Consultant to Perform Audits to Investigate the Income Tax Accounting of Certain New York State Utilities (issued January 11, 2018).

²⁶³ Case 16-E-0060 and 16-G-0061, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric and Gas Service, Order Approving Electric and Gas Rate Plans (issued January 25, 2017) (2017 Rate Order).

²⁶⁴ Joint Proposal, pp. 47-48.

²⁶⁵ Con Edison Accounting Panel, Initial Testimony, p.103

Service expenses allocation from 84 percent to 85 percent for its electric operations and from 16 percent to 15 percent for its gas operations.²⁶⁶ It also proposed to change its Administrative & General expenses (A&G) allocation factor to electric, gas, and steam from 77.60 percent, 15.95 percent, and 6.45 percent, respectively, under the current rate plan to 73.35 percent, 21.9 percent and 4.75 percent, respectively.²⁶⁷ Neither Staff nor the parties took exception to the Company's proposals and the Joint Proposal reflects the Company's proposed allocation factors. These factors continue to appropriately align costs incurred by each service and, as such, should be adopted.

7. Allocation of Intercompany Shared Services Expense

The Joint Proposal continues the current method for allocating common expenses incurred by the Company's parent Consolidated Edison, Inc. (CEI) among the Company and CEI's other subsidiaries. Neither Staff, nor any other parties, opposed the proposed continuation of the method. This method continues to appropriately allocate costs to affiliates and will better track the growth of CEI and, therefore, should be adopted.

8. Information Technology (IT) Reporting

In addition to the common capital reporting discussed previously in section 5.D.3, Staff also recommended additional reporting requirements for projects within the IT Portfolio, including the provision of Project Status Reports (PSRs),²⁶⁸ and reporting on specific technical details related to the Company's adoption and utilization of Artificial Intelligence technologies.²⁶⁹ Staff recommended that the Commission direct the Company to take efforts to parse the workpapers supporting IT projects, similar to the "AMI Communications Steady State" and "AMI Systems Enhancement" projects that separate the costs of maintaining and upgrading.²⁷⁰ The Joint Proposal establishes additional reporting for IT projects and programs described in Appendix 11, in addition to the FTE reporting described in Appendix 9 and discussed previously in section F.1. Appendix 11 includes proposed new requirement for the Company's Project Status Reports on IT projects with over \$10 million in total planned

²⁶⁶ Company Accounting Panel, Initial Testimony, pp. 66-67.

²⁶⁷ Company Accounting Panel, Initial Testimony, pp. 66-68.

²⁶⁸ Carpenter, Direct Testimony pp. 36-39.

²⁶⁹ Carpenter, Direct Testimony pp. 264 – 265.

²⁷⁰ Carpenter, Direct Testimony pp. 31-32.

spending, that would include, as applicable for each project, significant avoided costs or productivity impacts. Artificial Intelligence (AI) projects specifically, will include details on the Company's evaluation of AI systems and tools. These are important considerations due to the significant capital spending and expanding role of IT and AI in the Company's budgets and operations. These reporting requirements would establish tighter monitoring on the Company's IT budgeting during a period of increasing instability and rising costs within the information technology market. Therefore, is in the public interest and should be adopted.

9. Non-Officer Management Variable Pay (MVP) and Long Term Incentive Program (LTIP) Design

In the Company's initial testimony, it sought to recover \$66.830 million for its incentive compensation programs for non-officer management employees, inclusive of \$44.692 million for MVP and \$22.138 million for the LTIP.²⁷¹ In its April 2025 Corrections and Updates filing, the Company updated its RY1 LTIP cost to \$20.967 million,²⁷² and reflected a total request for MVP and LTIP of \$65.659 million.²⁷³

In its direct testimony, Staff recommended removing both incentive compensation programs from the revenue requirement. Staff argued that the Company's incentive compensation programs, when viewed holistically, were predominantly focused on corporate financial performance and contained undefined objectives that could be averse to Commission policy or ratepayers' interests.²⁷⁴

NYS Assemblymember Chris Burdick's initial testimony notes that the Commission is currently conducting an audit of utility management incentive compensation programs in Case 25-M-0043, and requests that the audit be completed before the Commission approves any recovery of executive compensation.²⁷⁵ The rebuttal testimony of the Company's Compensation and Benefits Panel indicated that Assemblymember Burdick appeared to have misunderstood the

²⁷¹ Staff Incentive Compensation Panel, Exhibit__ (SICP-1) p.20.

²⁷² Company Accounting Panel, Update/Correction Exhibit__ (AP-E3) Schedule 5, and Exhibit (AP-G3) Schedule 5, Other Compensation (Long-Term Equity) line.

²⁷³ Staff Incentive Compensation Panel, Direct Testimony, p. 16.

²⁷⁴ Staff Incentive Compensation Panel, Direct Testimony, pp. 11-16.

²⁷⁵ Case 25-M-0043, In the Matter of a Focused Operations Audit to Examine Management Incentive Compensation Programs at Electric, Gas, and Water Utilities; NYS Assemblymember Chris Burdick, Direct Testimony, pp. 20-22.

intention of the incentive compensation audit, which focuses on non-executive management compensation. The Company also stated that it is not seeking recovery of executive incentive compensation in these rate proceedings.²⁷⁶

In rebuttal testimony, the Company disagreed with Staff's adjustment to incentive compensation, arguing that customers benefit from the Company achieving its financial goals, that incentive compensation had been allowed in prior rate cases, and that long-term incentives were critical to employee retention.²⁷⁷

The Joint Proposal reflects that the Company modified its compensation programs so that they clearly focus on targets related to customer service, reliability, safety, and the environment, while limiting the consideration of financial metrics to 10 percent of each program.²⁷⁸ The modifications detailed in the Joint Proposal address Staff's concerns regarding unclear objectives and the programs' focus on financial performance.

The Joint Proposal provides for recovery of \$58.428 million in RY1, \$59.714 million in RY2, and \$60.997 million in RY3 based on the settled labor escalation rates and the latest known gross domestic product rates. These amounts continue full recovery for both incentive compensation programs in recognition of the programs' modifications, provided the Company maintains the programs' structure for the duration of the rate plan and returns any unpaid incentives to customers.²⁷⁹ The Joint Proposal further acknowledges that in Case 25-M-0043, the Commission may require modifications to incentive compensation programs.²⁸⁰ As the Company's incentive compensation targets are now more beneficial to customers, meets the Commission's current policy on such compensation, and the Joint Proposal's proposed recovery of these costs is reasonable and should therefore be adopted.

10. Unbilled Revenue Adjustment Balance in Rate Base

In Case 08-M-1150, the Commission authorized the Company to adopt the accrual method for recognizing its Unbilled Revenues for accounting and regulatory purposes. The adoption of the accrual method by the Company resulted in a one-time adjustment that required

²⁷⁶ Con Edison's Compensation and Benefits Panel, Rebuttal Testimony, p. 10.

²⁷⁷ Id., pp. 6-8.

²⁷⁸ Joint Proposal, pp. 49-50.

²⁷⁹ Id., pp. 28 and 49-50.

²⁸⁰ Id., p.50

the Company to book approximately one-half month of additional sales revenues, creating a regulatory liability balance in the Company's book for future rate mitigations. To reduce the proposed revenue increases, the Joint Proposal's revenue requirements reflect the use of this regulatory liability balance. Specifically, the electric and gas revenue requirements of the Joint Proposal reflect an annual reduction of \$83.33 million for electric, or \$250 million in the aggregate over the term of the electric rate plan, and \$46.66 million for gas, or \$140 million in the aggregate over the term of the gas rate plan.²⁸¹ Since these annual benefits represent a cash reduction that the Company has not received in rates, an offsetting regulatory asset of Unbilled Revenue Adjustment balance is reflected in the electric and gas rate bases. The Joint Proposal would require that these regulatory asset balances be reduced by any net realized gains resulting from the sales of the Company's electric and gas utility property.²⁸² This provision of the Joint Proposal is reasonable since the use of the Unbilled Revenue regulatory liability reduces revenue needs and thus mitigates rates. Further, the requirement that Company use the net realized gains resulting from the sales of the Company's electric and gas utility property to offset the associated regulatory assets is in the public interest and should be approved by the Commission as it will ensure the customer are not burdened in the future by the carrying cost of the regulatory assets.

11. Property Tax Forecasting

The Joint Proposal provides that in its next electric and gas base rates filings, if the Company uses a property tax forecasting methodology different from what was used in its 2019 and 2022 rate case filings, for informational purposes, it must also provide forecasts and detailed supporting workpapers under the prior methodology, in addition to those supporting its chosen methodology. This provision should be adopted because it ensures transparency and allows for meaningful comparison between forecasting methodologies. While the Company may use the property tax forecasting methodology it deems most appropriate in its next filings, providing forecasts and detailed workpapers consistent with the methodology used in prior cases enables Staff to effectively review and evaluate any new methodologies.

²⁸¹ Joint Proposal, Appendix 1 page 4 of 11, Appendix 2, page 4 of 11.

²⁸² Joint Proposal, pp. 50-51.

12. Sales Forecasting

In its Corrections & Updates filing, the Company forecasted approximately 53,319 gigawatt hours (GWh) in total electric delivery volume for RY1,²⁸³ whereas Staff forecasted approximately 53,867 GWh in RY1 sales.²⁸⁴ The difference in Staff's sales and customer forecasts, as compared to the Company's, is due to differences in forecasting methodology, as discussed in the Staff Sales Forecasting Panel testimony.²⁸⁵

The Joint Proposal uses Staff's forecasts of 53,867 GWh, 54,210 GWh, and 54,936 GWh for RY1, RY2, and RY3 respectively and Staff's forecast of customers for RY1, RY2 and RY3.²⁸⁶ This is a reasonable result as Staff's models are well-grounded in economic and econometric theory and are more likely to produce accurate forecasts that will reduce price volatility for ratepayers.²⁸⁷

In its Corrections and Updates filing, the Company forecasted approximately 165,630 thousand dekatherms (MDt) in firm gas delivery volume for RY1,²⁸⁸ whereas Staff forecasted approximately 165,822 MDt in RY1 firm sales.²⁸⁹ The difference in Staff's sales and customer forecasts, as compared to the Company's, is due to differences in forecasting methodology, as discussed in the Staff Sales Forecasting Panel testimony.²⁹⁰

The Joint Proposal recommends the Commission use total volume forecasts of 168,616, 165,682, and 163,144 MDt for RY1, RY2, and RY3 respectively and to use Staff's forecast of customers for RY1, RY2 and RY3.²⁹¹ The total volume forecasts were calculated by adding the Company's non-firm sales to Staff's firm sales forecasts for RY1, RY2, and RY3. This is a reasonable result as Staff's customer and firm sales models are well-grounded in economic and

²⁸³ Exhibit___(EFP-15), p. 2.

²⁸⁴ Exhibit___(SSFP-2).

²⁸⁵ Staff Sales Forecasting Panel, Direct Testimony, pp. 16-26.

²⁸⁶ Joint Proposal, Appendix 4, p. 1.

²⁸⁷ Staff Sales Forecasting Panel, Direct Testimony, pp. 15-16.

²⁸⁸ Exhibit___(GFP-6), p.1.

²⁸⁹ Staff Sales Forecasting Panel, Corrected Testimony, pp. 11.

²⁹⁰ Staff Sales Forecasting Panel, Direct Testimony, pp. 26-37.

²⁹¹ Joint Proposal, Appendix 5, p.1.

econometric theory and are more likely to produce accurate forecasts that will reduce price volatility for ratepayers.²⁹²

In its next electric and/or gas base rate filing, the Joint Proposal requires the Company to estimate sendout forecasts for electric and gas and synchronize those forecasts with its service class-specific forecasts for electric and gas sales.²⁹³ Such a synchronization of top-down sendout forecasts with bottom-up service class forecasts is reasonable as it would likely increase the accuracy of the sales forecasts used to set rates in future proceedings, decreasing volatility for ratepayers. Staff also explains that such a forecast synchronization would allow for policy related scenario analysis on the economic drivers that are more readily modeled in the top-down forecast.²⁹⁴ This type of scenario analysis could be especially helpful in times of increased economic uncertainty. Finally, Staff notes that the benefits of synchronizing top-down and bottom-up forecasts have been previously addressed by the Commission and one of the Company's Distributed System Implementation Plans (DSIP).²⁹⁵

G. Electric Revenue Allocation/Rate Design and Tariff Changes

1. Revenue Allocation

Con Edison's 2023 Embedded Cost of Service study (2023 ECOS Study) forms the basis for electric revenue allocation in the Joint Proposal. The 2023 ECOS Study, which was filed with the Company's initial testimony, is based on analyses of the rate base and operating expenses for the calendar year 2023. In the 2023 ECOS Study, operating costs are allocated to all Service Classes (SCs) under the Company's electric tariff (PSC No. 10 - Electricity) and to NYPA under the Company's PASNY tariff (PSC No. 12 – Electricity). The 2023 ECOS Study included the minimum system methodology for the development of demand and customer components of transformers. The 2023 ECOS Study illustrated that SC 9 – General Large Non-Time-of-Day (Non-TOD) and SC 12 – Multiple Dwelling Space Heating Non-TOD were in surplus and SC 5 – Electric Traction Non-TOD, SC 5 – Electric Traction Time of Day (TOD),

²⁹² Staff Sales Forecasting Panel, Direct Testimony, p. 34.

²⁹³ Joint Proposal, p. 51.

²⁹⁴ Staff Sales Forecasting Panel, Direct Testimony, pp. 38-39.

²⁹⁵ Staff Sales Forecasting Panel, Direct Testimony, p. 39; Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Adopting Distributed System Implementation Plan Guidance (issued April 20, 2026), p. 29.

and SC 6 – Public and Private Street Lighting were deficient, indicating a need for revenue realignment among the service classes. In its initial testimony, the Company proposed to realign class-specific revenues such that its respective service class in Rate Year one, and to further realign revenues based on the remaining two-thirds of the revenue adjustments shown in Table 1A of the Company’s 2023 ECOS Study in subsequent years. The Company proposed to allocate the adjusted net delivery revenue increase among the service classes in proportion to the relative contribution made by each class to the realigned total Rate Year delivery revenues (i.e., the customer, demand and usage charges, as applicable).²⁹⁶

In direct testimony Staff supported the Company’s methodology and the 2023 ECOS Study results. Staff agreed with Con Edison’s cost allocation methodologies because the Company’s methodologies minimize revenue/cost imbalances, with the exception of proposing to apply one-fourth of the class-specific 2023 ECOS Study deficiencies/surpluses to the applicable service classes to further mitigate customer bill impacts.²⁹⁷

In addition to its next ECOS study, the Company will prepare an informational analysis of primary and secondary distribution facilities and service connections categorized by overhead and underground. The Company will also provide various SC 1 residential data and characteristics to be used solely for informational purposes. These provisions are therefore in the public interest and should be adopted by the Commission.

2. Rate Design

The Joint Proposal establishes new competitive and non-competitive electric delivery rates, including changes to provisions of the MAC and NYPA OTH Statement.²⁹⁸ Specifically, for Rate I of SCs 5, 8, 9, and 12, demand and energy rates were redesigned on a revenue neutral basis by shifting seven percent of energy revenue to demand revenue.²⁹⁹ The purpose of shifting seven percent of the usage revenue from per-kWh charges to demand charges on a revenue neutral basis for the conventional demand services classes is to align the rates more closely with transmission and distribution costs since the majority of transmission and distribution costs are fixed in nature and better aligns with how costs are incurred and collected from customers. The

²⁹⁶ Company Electric Rate Panel, Initial Testimony, p. 12.

²⁹⁷ Staff Rates Panel, Direct Testimony, pp. 24-25.

²⁹⁸ Joint Proposal, p. 52.

²⁹⁹ Joint Proposal, Appendix 15, p. 3.

high tension / low tension rate differentials were adjusted, in the interest of gradualism, over three years because the high tension / low tension cost differential in the 2023 ECOS Study was more than 5 percent different than the high tension / low tension rate differential for SC 5 Rate I. Whenever the high tension / low tension differentials are greater or less than five percent, they are adjusted back towards each other to align the rate differentials with the cost differentials indicated by the 2023 ECOS Study. Based on the seasonal rate study, adjustments were made to SC 5 TOD, SC 8 TOD, SC 9 TOD, SC 12 non-TOD and SC 12 TOD classes using a gradual, revenue neutral process to approach the target seasonal delivery revenue ratio. The seasonal target ratios are based on the results of the 2023 ECOS Study and are reasonable because they are revenue neutral and will better align the seasonal rates based on the study's cost indications.

3. Customer Charges

In its initial testimony, Con Edison proposed to increase the customer charges for: SC 1 Rates I, II, III and IV; SC 2 Rates I and II; and SC 6, so to better align with the Customer charge indicated in its 2023 ECOS Study.³⁰⁰ In direct testimony, Staff supported the Company proposal to increase the customer charges, but recommended adjusting the customers charges to reflect Staff's lower revenue requirement.³⁰¹ In direct testimony, the UIU Rate Panel proposed a smaller percent increase to the SC 1 customer charge than the volumetric charge to promote energy conservation and efficiency.³⁰² In direct testimony for the Westchester Collation, witness Ben Johnson proposed constraining increases to the customer charges and recovering more of the costs through the volumetric rates to encourage energy conservation and improve price signals.³⁰³ NYC witness Michele Chait, in direct testimony, proposed that Con Edison study the feasibility of setting the SC 1 Rate IV Customer charge above the SC 1 customer cost ECOS Study indication (excluding the Billing and Payment Processing Charge) to support bill reduction for higher usage customer taking service on the optional demand. In rebuttal testimony, Con Edison disagreed with Staff recommended customer charges and claimed its proposed customer charges are design to better align with the customer related costs in its 2023

³⁰⁰ Company Electric Rate Panel, Initial Testimony, pp. 24.

³⁰¹ Staff Rates Panel, Direct Testimony, p. 35.

³⁰² UIU Rate Panel, Direct Testimony, pp. 34-35.

³⁰³ Witness Ben Johnson, Direct Testimony, pp. 88-89.

ECOS Study.³⁰⁴ In rebuttal testimony, Con Edison disagreed with the customer charge proposals of the UIU Rate Panel, witness Ben Johnson and NYC witness Chait and claimed the proposals makes less progress toward the ECOS Study customers costs, could cause higher usage customers to subsidize lower usage customers, and would disproportionately impact low usage customers respectively.³⁰⁵ Increasing the customer charges by the class percent based on the revenue requirement proposed in the Joint Proposal is reasonable because the 2023 ECOS Study indicated that the SCs are well below the level indicated in the study.³⁰⁶

4. SC 12 Rate I - Energy Only

In its initial testimony, Con Edison proposed to simplify energy only billed Service Class 12 – Multiple Dwellings Rate 1 by adding a \$21.00 new customer charge, eliminating the first 10 Kilowatt hour rate block and establishing a single per kWh rate for summer and non-summer periods.³⁰⁷ In direct testimony, Staff recommended a \$19.00 new customer charge and a lower per kWh rates for each of the summer and non-summer periods by applying Staff’s lower revenue requirement.³⁰⁸ In direct testimony, NYC witness Chait proposed a reduction in the energy only charge by increasing the customer charge to reduce bill impacts for higher usage electric heating customers.³⁰⁹ In rebuttal testimony, Con Edison supported Staff’s \$19.00 recommended customer charge.³¹⁰ Con Edison disagreed with NYC witness Chait’s energy only customer charge proposal and claimed its proposed new customer charge is consistent with the structure of current rates, while avoiding an inappropriately high fixed charge for energy-only group.³¹¹ The Joint Proposal proposes \$18.00, \$19.00, and \$20.00 new energy only customer charges for Rate Years 1 through 3, respectively, which is reasonable and mitigate high customer charges for energy only customers and thus should be adopted by the Commission.³¹²

³⁰⁴ Company Electric Rate Panel, Rebuttal Testimony, pp. 9-10.

³⁰⁵ Id., pp 11-13

³⁰⁶ Joint Proposal, pp 52-52.

³⁰⁷ Company Electric Rate Panel, Initial Testimony, pp. 26-27.

³⁰⁸ Staff Rates Panel, Direct Testimony, p. 35.

³⁰⁹ NYC witness Michele Chait, Direct Testimony, pp. 38-43.

³¹⁰ Company Electric Rate Panel, Rebuttal Testimony, p. 9.

³¹¹ Id., pp. 13-14.

³¹² Joint Proposal, pp. 52-53.

5. SC 1 Rate III and SC 1 Rate IV

In its initial testimony, Con Edison proposed two modifications to applicable to SC 1 Rate III and/or SC 1 Rate IV. First, Con Edison proposes to extend the existing Price Guarantee for SC 1 Rate IV customers, as well as eliminate the existing enrollment caps of 500 ground-source heat pump customers and 500 air-source heat pump customers.³¹³ Costs of providing the Price Guarantee would continue to be collected through the Revenue Decoupling Mechanism (RDM), and are expected to not exceed more than \$1 million for the entirety of the three-year period 2026 through 2028.³¹⁴ Second, Con Edison proposed to modify the way it measures billing demand for all residential rate options – SC 1 Rates IV and V, and Rider Z rate options – from a rolling 60-minute demand measured every 15 minutes to a single measurement of 15-minute interval usage data on the clock hour (Clock Hour demand).³¹⁵ Con Edison explains that the Clock Hour demand is a simpler concept for customers to understand, which may lead to better behavioral responses to demand rates, and would reduce the volatility of demand measurements for applicable customers.³¹⁶

In their respective direct testimonies, the City and EDF asserted that SC 1 Rate III and/or SC 1 Rate IV are designed to reduce bills for heat pump customers.³¹⁷ In initial testimony, EDF and AGREE expressed concern that the long duration of the on-peak period for SC 1 Rate III makes it challenging for customers to shift energy usage outside of those on-peak hours.³¹⁸ AGREE cautions that the Company's proposal to reduce the ratio of on-peak to off-peak rates would likely reduce the amount of customer load shifted into off-peak periods.³¹⁹

Regarding SC 1 Rate IV, EDF and AGREE expressed concern in their direct testimonies, that demand-based rate options, such as SC 1 Rate IV, are inherently complex and difficult for customers to understand, which may lead to low participation in such rates despite opportunities

³¹³ Company Customer Energy Solutions Panel, Initial Testimony, p. 34. The Price Guarantee ensures that eligible customers that try SC 1 Rate IV will pay no more than they would have paid under the standard rate (SC 1 Rate I) – this provides a one-year risk-free trial period for eligible customers.

³¹⁴ Company Customer Energy Solutions Panel, Initial Testimony, p. 35.

³¹⁵ Company Electric Rate Panel, Initial Testimony, p. 32.

³¹⁶ Company Electric Rate Panel, Initial Testimony, pp. 32-33.

³¹⁷ City Witness Michelle Chait, Direct Testimony, p. 43; EDF Witness Ron Nelson, Direct Testimony, p. 11.

³¹⁸ EDF Witness Ron Nelson, Direct Testimony, p. 13; AGREE Witness Alexander Lopez, Direct Testimony, p. 22.

³¹⁹ AGREE Witness Alexander Lopez, Direct Testimony, p. 23.

to save money.³²⁰ AGREE asserted that demand charges do not necessarily reduce coincident peak demand as demonstrated in reporting provided by the Company on its Innovative Pricing Pilot, introduce volatility in customer bills from month to month, and assert that customers struggle to plan how to maintain low hourly demand during specific times of day.³²¹ In its direct testimony, the City proposed that the Company study implementing a shorter on-peak period to enable customers with heat pumps to shift consumption to the less expensive off-peak period.³²²

As part of its direct testimony, EDF proposed that the Commission approve a set of two new technology-specific rate design options for heat pump customers – a “Seasonal Heat Pump Rate” and a “Heat Pump Time-of-Use (TOU) Rate”.³²³ The Seasonal Heat Pump Rate would include different flat volumetric charges applicable to the summer and winter periods with the dollar-per-kilowatt-hour volumetric charge lower in the winter period and higher in the summer period, whereas the Heat Pump TOU Rate would include a six-hour peak period from 2:00 P.M. to 8:00 P.M. every day, during which volumetric charges would be higher than the applicable off-peak volumetric charges during the same season, where the winter On-Peak energy charge would be approximately five times the winter Off-Peak energy charge; the summer Off-Peak energy charge would be approximately double the winter Off-Peak energy charge; and the summer On-Peak energy charge would be approximately three times the summer Off-Peak energy charge.³²⁴ In its direct testimony, AGREE proposed that the Commission approve the Seasonal Heat Pump Rate and Heat Pump TOU Rate proposed by EDF.³²⁵

In its rebuttal, Con Edison disagreed with most of EDF, AGREE, and the City’s proposals. First, regarding the concept of development of technology-specific rate design in general, the Company stated that it does not support rates designed to promote any specific technologies, and that rates should instead be cost-based and provide price signals that incentivize efficient use of the grid, regardless of any specific technology.³²⁶ The Company

³²⁰ EDF Witness Ron Nelson, Direct Testimony, pp. 14-17; AGREE Witness Alexander Lopez, Direct Testimony, pp. 31, 33.

³²¹ AGREE Witness Alexander Lopez, Direct Testimony, pp. 24-25, 32.

³²² City Witness Michelle Chait, Direct Testimony, p. 46.

³²³ EDF Witness Ron Nelson, Direct Testimony, p. 19.

³²⁴ EDF Witness Ron Nelson, Direct Testimony, pp. 6, 19, 22.

³²⁵ AGREE Witness Alexander Lopez, Direct Testimony, pp. 10, 18, 23, 33, 36-37, 40, 44, 54, 72.

³²⁶ Company Electric Rate Panel, Rebuttal Testimony, p. 33.

noted that of the ten rate design principles established in the Commission's REV Track Two Order, three principles emphasize the importance of technology-neutral rate design practices.³²⁷ Instead of using rate design to incentivize adoption of specific technologies, the Company emphasized the use of customer incentive programs, and warns of unintended consequences when mixing price signals intended reflect cost-causation principles with those intended to drive technology adoption policy outcomes.³²⁸ The Company further disagreed with the City's and EDF's assertions that SC 1 Rate III and/or Rate IV are *intended* to reduce bills for heat pump customers, and instead asserts that while SC 1 Rates III and IV may benefit certain heat pump customers these rate options were instead designed to be revenue-neutral to the entire service class and to reflect cost-causation principles.³²⁹

Regarding SC 1 Rate III, in its rebuttal testimony the Company noted that the peak periods for SC 1 Rate III – between 8:00 A.M. and 11:00 P.M. – were set based on the hours during which the Company's networks experience 90 percent or higher of their peak demand due to variations in usage patterns and availability of resources in different areas throughout the day.³³⁰ Con Edison stated that its proposal to reduce the ratio of on-peak to off-peak rates aligns better with cost-causation principles by shifting a greater proportion of the service class's secondary costs to all hours.³³¹

Regarding SC 1 Rate IV, in its rebuttal testimony the Company asserted that the time and duration of its on-peak period is consistent with the on-peak periods approved by the Commission for the Innovative Pricing Pilot and remain appropriate.³³² The Company claimed that EDF and AGREE's concerns that demand-based rates are unsubstantiated, arguing that neither EDF nor AGREE have proven that customers inherently comprehend volumetric rate structures better than demand-based rates, and that the Company's proposal regarding modifying

³²⁷ Case 14-M-0101, Reforming the Energy Vision, Order Adopting a Ratemaking and Revenue Policy Framework (issued May 19, 2016) (REV Track Two Order), Appendix A; Company Electric Rate Panel, Rebuttal Testimony, p. 34.

³²⁸ Company Electric Rate Panel, Rebuttal Testimony, pp. 35-37.

³²⁹ Company Electric Rate Panel, Rebuttal Testimony, pp. 40, 45.

³³⁰ Company Electric Rate Panel, Rebuttal Testimony, p. 38.

³³¹ Company Electric Rate Panel, Rebuttal Testimony, p. 39.

³³² Case 18-E-0397, Innovative Pricing Pilot, Order Approving Tariff Amendments with Modifications (issued December 13, 2018); Company Electric Rate Panel, Rebuttal Testimony, p. 40.

demand measurement for residential demand rate options would help simplify the concept of demand for customers and reduce volatility in the measured demand.³³³ The Company argued that results of the Innovative Pricing Pilot showed that customers on demand-based rates did not reduce their peak demand may be explained by the fact that the average participant in the Innovative Pricing Pilot would save money on that rate without requiring behavior modifications.³³⁴ According to Con Edison, if a demand-based rate is unsuitable for a customer due to inability to reduce demand under SC 1 Rate IV, other rate options which may be more suitable for such customers are available.³³⁵

In their respective rebuttal testimonies, both Staff and the Company disagreed with EDF's and AGREE's proposals to implement new heat pump-specific rate options for residential customers. In its rebuttal testimony, Staff recommended that the Commission reject EDF's and AGREE's proposed new rate options, and instead recommended that EDF and AGREE pursue their proposals through statewide policy proceedings which the Commission has already initiated, such as the Grid of the Future Proceeding.³³⁶ Staff asserted that a decision to implement new technology-specific rate design options amounts to a significant change to Commission policy and therefore should not be considered as part of an individual utility rate proceeding, that engaging with a statewide proceeding is ultimately more efficient and effective than trying to implement similar changes across utilities in multiple individual utility rate proceedings, and that the Commission has already indicated that it would consider "whether additional rate options providing strong time-varying price-signals beyond those already available to customers should be implemented, such as a rate option which may be attractive for customers that install beneficial electrification technologies including ground-source and air-source heat pumps."³³⁷ For its part, the Company stated that it opposes the creation of a heat pump-specific rate and instead strongly prefers rates developed using cost-based and technology-agnostic rate design principles.³³⁸ Con Edison argued that current SC 1 Rate IV customers are

³³³ Company Electric Rate Panel, Rebuttal Testimony, pp. 41, 43-44.

³³⁴ Company Electric Rate Panel, Rebuttal Testimony, p. 43.

³³⁵ Company Electric Rate Panel, Rebuttal Testimony, p. 43.

³³⁶ Staff Markets and Innovation Panel, Rebuttal Testimony, pp. 3, 9.

³³⁷ Staff Markets and Innovation Panel, Rebuttal Testimony, pp. 3-4, 9; Case 24-E-0165, Grid of the Future, Order Instituting Proceeding (issued April 18, 2024), p. 17.

³³⁸ Company Electric Rate Panel, Rebuttal Testimony, p. 47.

already experiencing savings of approximately \$1,000 annually, and that EDF and AGREE fail to demonstrate that customers would experience greater savings under their proposed volumetric rate options than those already available under SC 1 Rate IV.³³⁹

The Joint Proposal provides three improvements in SC 1 Rates III and IV: the requirement that Con Edison file a study to consider underlying cost structures and rate design criteria for both SC 1 Rates III and IV (SC 1 Rates III and IV Study), continuation and expansion of the existing one-year bill savings guarantees for both SC 1 Rates III and IV (Price Guarantee), and continues existing reporting requirements applicable to the SC 1 Rate IV and the Price Guarantee to include customers participating in SC 1 Rate III (SC 1 Rates III and IV Reporting). Regarding the SC 1 Rates III and IV Study, the Joint Proposal requires Con Edison to: complete the initial phase of the study by November 30, 2026; present the initial results of its study by December 18, 2026; invite written stakeholder comments by January 15, 2027; and file a final study considering such comments by March 31, 2027.³⁴⁰ The Joint Proposal further requires the Company to file any changes to SC 1 Rate III and/or SC 1 Rate IV that it deems appropriate given the results of the final SC 1 Rates III and IV Study for Commission consideration by May 31, 2027.³⁴¹ The SC 1 Rates III and IV Study is required to consider and identify any appropriate changes to: (1) the rate structure for SC 1 Rate III, including peak period, cost recovery between summer and winter periods, and seasonal peak to off-peak rate differentials; (2) the peak period applicable to SC 1 Rate IV.³⁴²

Regarding the Price Guarantee, the Joint Proposal removes existing limitations on the number of customers eligible to participate in the Price Guarantee under SC 1 Rate IV, and expands the existing Price Guarantee available under SC 1 Rate III to also include customers that adopt air-source or ground-source heat pumps.³⁴³ Other elements of the Price Guarantee – such as the cost recovery mechanism of any applicable Price Guarantee payments made to customers through the Revenue Decoupling Mechanism – are continued without modification.³⁴⁴

³³⁹ Company Electric Rate Panel, Rebuttal Testimony, p. 48.

³⁴⁰ Joint Proposal, pp. 53-54.

³⁴¹ Joint Proposal, p. 54.

³⁴² Joint Proposal, p. 53.

³⁴³ Joint Proposal, p. 54; The existing Price Guarantee applicable to SC 1 Rate III is applicable only to customers that own or lease an electric vehicle.

³⁴⁴ Joint Proposal, p. 54.

The Joint Proposal establishes a process to consider and implement meaningful improvements to Con Edison's time-varying and demand-based residential rate options, without violating any of the core procedural and design criteria espoused by Staff or the Commission. The SC 1 Rates III and IV Study required of Con Edison to consider its peak periods, on-peak to off-peak ratios, and seasonal variations will be useful for improving the existing rate design options for Con Edison customers and comports with planned work to improve time-varying rate options statewide as part of the Grid of the Future Proceeding. While Staff continues to stand by its position that the venue to consider new residential rate options is the Grid of the Future Proceeding, the balancing act established in the Joint Proposal appropriately seeks improvements to individual utility rate options which already exist at Con Edison. In requiring the Company to perform a study, solicit input on that study, and request authorization to make modifications from the Commission, the Joint Proposal establishes a reasonable process to carefully consider potentially significant and meaningful changes to impactful design criteria such as the duration of on-peak periods for SC 1 Rates III and IV. The Joint Proposal also expands the successful Price Guarantee from only certain SC 1 Rate IV customers to a wider pool of customers willing to try different rate design options, including SC 1 Rate III. These terms of the Joint Proposal are reasonable, in the public interest, and are likely to improve rate design options available from Con Edison as well as provide additional information useful to other ongoing statewide efforts and should therefore be approved by the Commission.

6. SC 5 Rate I and II

In direct testimony, Amtrack witness Faryniarz raised concerns that SC 5 Rate II customers taking service as high tension cannot be assured that low-tension plant and equipment allocated to them is used and useful and properly recoverable in SC 5 Rate II delivery rates.³⁴⁵ In rebuttal testimony, Con Edison disagreed with Amtrak witness Faryniarz and stated that SC 5 Rate II customers are correctly being allocated a small fraction of low-tension equipment costs in the ECOS study.³⁴⁶ The Joint proposal provides that the Company will file with its next rate case filing an ECOS study, demand cost study, high / low tension service cost study and a seasonal

³⁴⁵ Amtrak Direct Testimony, p. 7.

³⁴⁶ Company Demand Analysis and Cost of Service Panel, Rebuttal Testimony, p. 20.

rate study for SC 5 Rate I and SC5 Rate II. The studies will be in a format with sufficient detail to track and verify the cost of service for SC 5 Rate I and SC 5 Rate II.³⁴⁷

7. Seasonal Rate Study

In its next rate case filing, the Company will provide a seasonal rate study based on its most recent ECOS study and Demand Analysis. The study will be used as a guide to adjust seasonal rate differentials for service classes with seasonal ratios that have a seasonal delivery revenue ratio divided by the seasonal delivery cost ratio that is greater than 1.5. This will better align the seasonal rates based on the cost indications of the seasonal rate study and is therefore reasonable. In its initial testimony, Con Edison proposed to adjust the seasonal rate differential for SC 8 Time of Day (TOD) and SC 9 TOD to gradually approach cost-based indication based on their seasonal delivery revenue ratio minus the seasonal delivery cost ratio greater than 1.0.³⁴⁸ In direct testimony, NYC witness Chait proposed that in addition to SC 8 TOD and SC 9 TOD, the summer and winter revenues for SC 5 TOD, SC 12 Non-TOD and SC 12 TOD should also be adjusted to better reflect the seasonal delivery cost based on seasonal ratios that have a seasonal delivery revenue ratio divided by the seasonal delivery cost that is greater than 1.5.³⁴⁹ The Joint Proposal would have adjustments made to SC 5 TOD, SC 8 TOD, SC 9 TOD, and SC 12 Non-TOD and TOD seasonal delivery revenue ratios to begin the gradual approach to the seasonal delivery cost ratios.³⁵⁰

8. Residential Demand Calculation (SC 1 Rates IV and V, Rider Z)

The Company proposed to change the demand measurement calculation for SC 1 Rate IV and Rider Z from a rolling 15-minute interval basis to a clock hour basis.³⁵¹ The clock hour basis will restrict the 15-minute intervals to within one clock hour. The Company proposed this change, which would take effect January 1, 2027, because it claimed it is a simpler concept than the rolling basis, which will improve customer understanding and lead to better behavioral response to demand rates.³⁵² The Company also expects it will benefit customers by reducing

³⁴⁷ Joint Proposal, p. 55.

³⁴⁸ Company Demand Analysis and Cost of Service Panel, Initial Testimony, pp. 27-28.

³⁴⁹ NYC Witness Chait, Direct Testimony, pp. 11-15.

³⁵⁰ Joint Proposal, Appendix 15, p. 4.

³⁵¹ Company Electric Rate Panel, Initial Testimony, p. 32.

³⁵² Company Electric Rate Panel, Initial Testimony, pp. 32-33.

volatility of demand measurements. This proposal is a revenue neutral change. Staff did not oppose this proposal given the estimated bill impact increases are mostly limited to less than 1.0 percent with the maximum impact approximately 2.0 percent but did recommend further analysis should be considered based on the final rates that will more closely align with the proposed January 1, 2027 implementation of this change.³⁵³ NYC Witness Michele Chait also did not oppose the proposal but asserted the Company should provide evidence that the clock hour basis will reduce volatility in demand measurements and should provide information on the administrative cost impact.³⁵⁴ Con Edison asserted that to properly assess the impact attributable to this change, the change should be isolated from the bill impact attributable to the change in rates due to the change in revenue requirement.³⁵⁵ Regarding bill volatility, the Company referred to data provided in Exhibit__(ERP-6) and Exhibit__(ERP-7), which shows the volatility of monthly billable demands as measured by the standard deviation across the samples is reduced by switching to a clock hour measurement.³⁵⁶ The Company estimated the cost of implementing this change as a one-time \$200,000 cost related to programing the change in methodology.³⁵⁷

The Joint Proposal would implement the Company's proposal to change its calculation of billable demand from a rolling to clock hour basis to be implemented January 1, 2027. This is reasonable and should be approved by the Commission as its primary intent is to improve the understandability of this demand rate for customers, while also reducing demand measurement volatility.

9. NYPA Facilities Charge

In initial testimony, Con Edison proposed to increase the NYPA facilities charge by a 1.5 factor of the class percent increase to better reflect the costs of facilities specifically associated with the service of streetlights.³⁵⁸ In direct testimony, NYC witness Chait proposed that the 1.5 factor should be eliminated and claimed that Con Edison has not demonstrated a

³⁵³ Staff Rates Panel, Direct Testimony, p. 51.

³⁵⁴ NYC Witness Michele Chait, Direct Testimony, p. 37.

³⁵⁵ Company Electric Rate Panel, Rebuttal Testimony, pp. 24-25.

³⁵⁶ Company Electric Rate Panel, Rebuttal Testimony, pp. 26-27.

³⁵⁷ Company Electric Rate Panel, Rebuttal Testimony, p. 27.

³⁵⁸ Company Electric Rate Panel, Initial Testimony, p. 39.

change in the cost of facilities associated with the New York City streetlights.³⁵⁹ In rebuttal testimony, Con Edison disagreed with NYC witness Chait assertion that no evidence supports the 1.5 factor adjustment to its proposed NYPA facilities charge, and that the proposed adjustment is intended to make further progress towards aligning the NYC Street Lighting charge under Rate 1 – Power Authority of the New York delivery service with the ECOS study cost of \$41.50.³⁶⁰ The Joint Proposal provides an increase in the facility charge by a 1.25 factor times the NYPA class delivery percent increase.³⁶¹ This increase in the NYPA facilities charge is reasonable and move the facilities charge towards the \$41.50 ECOS study costs indication.

10. Tariff Changes

The tariff changes implement various provisions of the Joint Proposal, update numbers consistent with the Joint Proposal or are housekeeping in nature. These changes are all reasonable and should be approved by the Commission.

H. Gas Revenue Allocation/Rate Design and Tariff Changes

1. Revenue Allocation

The Company proposed to apply one-sixth of the class-specific 2023 ECOS Study deficiencies and surpluses in a revenue neutral manner to arrive at the realigned total Rate Year delivery revenues.³⁶² The Company then allocated the delivery revenue increase among customer classes in proportion to the relative contribution made by each class to the realigned total Rate Year delivery revenues (i.e., the customer, demand and usage charges, as applicable). As required in the 2023 Rate Order, the Company established separate rates structures for SC 3 residential heating customers with 1-4 dwelling units (SC 3 Rate I) and more than four dwelling units (SC 3 Rate II), which were previously a single service class. In its direct testimony, the Staff Rates Panel supported the Company's 2023 ECOS Study results and the SC 3 split but recommended that the Commission apply one-ninth of the deficiencies and surpluses to reduce bill impacts on SC 3 Rate I customers, who were found to be deficient by \$276.4 million in the 2023 ECOS Study.³⁶³

³⁵⁹ NYC witness Chait, Direct Testimony, pp. 30-31.

³⁶⁰ Company Electric Rate Panel, Rebuttal Testimony, p. 23.

³⁶¹ Joint Proposal, p. 56.

³⁶² Company Gas Rate Panel, Initial Testimony, p. 21.

³⁶³ Staff Rates Panel, Direct Testimony, p. 31.

The Joint Proposal employs the Company's 2023 ECOS Study as the basis for gas revenue allocation and applies one-ninth of the deficiency and surplus indications, as recommended by Staff. This approach is reasonable because it addresses existing surpluses and deficiencies as indicated in the 2023 ECOS Study, while simultaneously mitigating large bill increases to those customers in the deficient classes. For these reasons, this provision of the Joint Proposal is reasonable and should be approved.

2. Rate Design

The Joint Proposal establishes new competitive and non-competitive gas delivery rates. Competitive delivery components include the MFC fixed components: the MFC supply and C&C components; the purchase of receivables (POR) C&C component, and the BPP charge. For each Rate Year, revised revenue levels for the MFC fixed components and POR C&C component were based on percentages of delivery revenue as determined in the 2023 ECOS Study.

3. Minimum Monthly Charges

The Company proposed in its initial testimony to increase the minimum charge for SC 1 above the indications in the 2023 ECOS Study since most SC 1 customers use less than five therms per month and applying the revenue increase solely to the volumetric charge would result in significant bill impacts for the higher usage customers in this class.³⁶⁴ The Company also proposed to increase the minimum charges for SC 2 Rate I, SC 2 Rate II, SC 3 Rate I and SC 3 Rate II to better align with the customer costs indicated in the 2023 ECOS Study. Staff recommended that the SC1 customer charge be decreased from \$33.23 to \$32.00, and to maintain the SC 2 Rate I, SC 2 Rate II and SC 3 Rate I customer charges at their current levels.³⁶⁵ Staff also supported the Company's proposal to increase the minimum charges for SC 3 Rate II but suggested a smaller increase to align with the class-specific increases indicated in the 2023 ECOS Study. The minimum charge increases enumerated in the Joint Proposal reflect a middle ground between the proposals of the Company and Staff's recommendation.

The Joint Proposal provides for the SC 1 customer charge to remain at \$33.23 in the Rate Year. It also includes increases from \$47.00 to \$48.00 for SC 2 Rate I and SC 2 Rate II, from

³⁶⁴ Company Gas Rate Panel, Initial Testimony, p. 26.

³⁶⁵ Staff Rates Panel, Direct Testimony, pp. 38-39.

\$32.00 to \$34.00 for SC 3 Rate I, and from \$32.00 to \$51.00 for SC3 Rate II in the Rate Year. Increasing the minimum charge for all SCs except SC 1 is reasonable because the 2023 ECOS Study indicates that all the SCs, with the exception of SC 1, are well below the indicated level. The increases to SC 2 Rates I and II, and SC 3 Rate I are in line with the overall revenue percentage increases for those classes, rounded to the nearest dollar. The SC 3 Rate II customer charge was increased to 150 percent of the SC 3 Rate I customer charge, which helps gradually move the SC3 Rate II rate design toward the 2023 ECOS indications that customer costs for SC 3 Rate II customers are double the costs to service SC 3 Rate I customers. The Rate Year customer charges in the Joint Proposal are all lower than the Company's initial proposals of \$38.73 for SC 1, \$57.00 for SC 2 Rates I and II, \$40.00 for SC 3 Rate I and \$60.00 for SC 3 Rate II.³⁶⁶

4. Blocked Rates

The Company proposed to continue a 10-year phase out of the declining block rate structure rates in a revenue neutral manner at current rates prior to applying any rate year revenue increase for SC 2 and SC 3 Rate II, as established in the Joint Proposal for Case 22-G-0065, to encourage conservation by eliminating favorable marginal rates for the highest-usage gas customers.³⁶⁷ The Company also proposed to eliminate the third rate block for SC 3 Rate I, in addition to continuing to flatten the remaining two blocks in a revenue-neutral manner. Staff agreed with these proposals, and they are reflected in the Joint Proposal.

5. Tariff Changes

The Company proposed to add a monthly fixed component to the RDM Adjustment for SC 1 firm customers and equivalent SC 9 transportation customers to better align the RDM Adjustment with the underlying rate structure for that class.³⁶⁸ This change faced no opposition. Other tariff changes implement various provisions of the Joint Proposal, update numbers consistent with the Joint Proposal or are housekeeping in nature. These changes are all reasonable and should be adopted.

³⁶⁶ Company Gas Rate Panel, Initial Testimony, p. 26.

³⁶⁷ Company Gas Rate Panel, Initial Testimony, pp. 27-28.

³⁶⁸ Company Gas Rate Panel, Initial Testimony, p. 40.

I. Performance Metrics

1. Electric Service Reliability Performance Mechanism (RPM)

Under the system-wide threshold standards category of the RPM, outage interruption duration and frequency are tracked, monitored, and compared to predetermined targets to evaluate reliability on a calendar year basis. During each annual measurement period, Con Edison's year-end non-network (also known as radial) System Average Interruption Frequency Index (SAIFI), network SAIFI, radial Customer Average Interruption Duration Index (CAIDI), and network CAIDI are measured against their respective performance targets. The Company is subject to a negative revenue adjustment (NRA) for each of metric that does not meet its respective performance target. In its initial testimony, Con Edison proposed to establish a non-network compound measure using CAIDI in conjunction with SAIFI while maintaining the existing CAIDI and SAIFI NRA levels for both network and non-network metrics.³⁶⁹ Staff recommended that the Commission reject the Company's proposal and testified in support of continuing to measure CAIDI and SAIFI metrics separately.³⁷⁰ Staff also recommended increasing the NRA for each metric contained in the system-wide threshold standards category from \$5 million to \$15 million.³⁷¹ The Joint Proposal maintains the use of CAIDI and SAIFI as distinct metrics and increases the NRA to \$10 million for each of the outage interruption duration and frequency metrics.³⁷² This increase to the NRA should be adopted because it continues stringent targets, while increasing potential negative revenue adjustment exposure if the Company's annual performance does not meet reasonable electric reliability performance levels.

The RPM includes a program standard for Con Edison to address substation circuit breakers that are at, or over, their fault current capacity. This program standard requires the Company to retrofit or replace over-duty circuit breakers throughout its network system. Con Edison proposed to discontinue the program standard. In its initial testimony, the Company claimed that the over-duty circuit breaker metric is unnecessary because of the significant number of breaker retrofits that have been completed since 2005 and because of the technologies

³⁶⁹ Company Electric Infrastructure and Operations Panel, Initial Testimony, pp. 174-175.

³⁷⁰ Staff Electric Resilience and Reliability Performance Mechanism Panel Direct Testimony, pp. 119-122.

³⁷¹ Staff Electric Resilience and Reliability Performance Mechanism Panel Direct Testimony, pp. 126-128.

³⁷² Joint Proposal, Appendix 17, p. 3.

Distributed Generation (DG) customers are currently using to connect to Con Edison's system.³⁷³ Staff recommended maintaining this program standard for the RPM to ensure that Con Edison continues to upgrade substandard breakers and to mitigate potential barrier of these devices to DG interconnection.³⁷⁴ The Joint Proposal maintains the over-duty circuit breaker metric of the RPM and reduces the annual replacement target from 50 to 30 breakers.³⁷⁵ The revision to this program standard should be adopted because it accounts for the significant number of breakers that have been replaced by Con Edison over the past 20 years and reflects the need to continue to allocate funds to address remaining substandard breakers. This will lessen the potential barriers to DG interconnection with the Company's system.

2. Gas Safety

The Company, Staff, and the NYC, provided direct testimony on the gas safety performance measures, targets, and associated revenue adjustments, along with various reporting requirements.³⁷⁶ NYECC, EDF and NRDC also submitted direct testimony on gas safety measures, which focused, in large part, on greenhouse gas emissions, compliance with the CLCPA requirements, and the adoption of more non-pipeline alternatives in lieu of traditional pipeline replacements.³⁷⁷ . The Company provided rebuttal testimony to further elaborate on the rationale for its compliance metric proposals.³⁷⁸

Appendix 18 of the Joint Proposal reestablishes the current gas safety performance measures in the areas of gas infrastructure reduction or replacement, leak management, damage prevention, emergency response, and compliance with various safety regulations and procedures. In addition, the Joint Proposal encourages improvement in these areas by maintaining or enhancing both the targets and the potential offsetting credit, as well as negative revenue

³⁷³ Company Electric Infrastructure and Operations Panel, pp. 175-180.

³⁷⁴ Staff Electric Resilience and Reliability Performance Mechanism Panel, Direct Testimony, pp. 126-128.

³⁷⁵ Joint Proposal, Appendix 17, p. 4.

³⁷⁶ Company, Gas Infrastructure and Operations Panel, Initial Testimony, pp. 53-56; Staff, Gas Safety Panel, Direct Testimony, pp. 12-63; City of New York, John P. Sano, Direct Testimony, pp. 6-14, and pp. 36-41.

³⁷⁷ NYECC Direct Testimony, pp. 6-31; EDF, David Lyon, Direct Testimony, pp. 4-35; NRDC, Alice Napoleon, Direct Testimony, pp. 7-69.

³⁷⁸ Company, Gas Infrastructure and Operations Panel, Rebuttal Testimony, pp. 3-70.

adjustments, OCAs, and NRAs, respectively.³⁷⁹ Encouraging the Company to improve its performance in these areas benefits customers and the public by improving system safety, lowering methane emissions, decreasing the potential for an incident or safety-related condition, reducing the total number of damages on gas facilities, eliminating leak-prone infrastructure, and providing a financial disincentive for noncompliance with the minimum gas safety regulations.

In total, under the terms of the Joint Proposal, the Company will be subject to a maximum annual potential NRA of 150 basis points for failing to meet the minimum levels of gas performance standards. Conversely, the Company may offset up to a maximum of 16 basis points in OCAs annually for exceeding the targeted levels. These levels are reasonable considering the Company's prior performance and are needed to ensure and improve compliance with Commission regulations. Thus, the measures, targets, and associated revenue adjustments provided in the Joint Proposal are in the public interest and should be adopted.

3. Gas Infrastructure Removal or Replacement

The Company did not propose to update or modify its existing infrastructure replacement or reduction program in its initial testimony. The Company proposed to undertake key activities, such as replacing the LLP, system simplification, and focusing on flood prone areas. The Company suggested a negative rate adjustment of 15 basis points and no positive revenue adjustments for this measure.³⁸⁰ Staff supported the Company's proposed targets of removing from service 76 miles of LPP in 2026 and 2027, and removing a cumulative minimum of 240 miles of LPP by 2028, along with accruing a negative revenue adjustment of 15 basis points and no positive revenue adjustments.³⁸¹ The NYC supported continuing to address LPP and encouraged the Company to pursue more non-pipeline alternatives.³⁸² The NRDC was mainly supportive of pursuing more non-pipeline alternatives and abandoning the "business-as-usual" approach to its gas distribution system.³⁸³

For the LPP removal or replacement metric, Appendix B of the Joint Proposal requires that the Company address a minimum of 240 miles of LPP from 2026 to 2028. The Company

³⁷⁹ Joint Proposal, p. 65, and Appendix 18.

³⁸⁰ Company, Gas Infrastructure and Operations Panel, Initial Testimony, pp. 16-20.

³⁸¹ Staff, Gas Safety Panel, Direct Testimony, pp. 12-24.

³⁸² City of New York, John P. Sano, Direct Testimony, pp. 16-21.

³⁸³ NRDC, Alice Napoleon, Direct Testimony, pp. 7-69.

must address a minimum of 76 miles in 2026 and 2027. Should the Company fail to meet the targets in 2026, 2027, or cumulatively from 2026 to 2028, it will incur a negative revenue adjustment of 15 basis points. The Company will also address a minimum of 12 miles of flood prone pipe over the rate plan, with 6 miles being addressed within NYC and 6 miles within Westchester County. The Company will continue to remove services in conjunction with LPP replacements and/or reductions, use a risk-based prioritization algorithm to identify and rank segments of LPP for replacement or reduction, include non-pipeline alternatives as an option in lieu of this program, and provide adequate on-site inspection of the construction activities.³⁸⁴ The Joint Proposal continues to focus the Company's efforts on LPP removals, which is consistent with its long-term plan³⁸⁵ Accordingly, the LPP metric is in the public interest and should be adopted.

4. Leak Management

The Company did not propose to update or modify its leak management targets in its initial testimony. The Company proposed to increase the positive revenue adjustments from 2, 4, and 6 basis points, to 4, 6, and 8 basis points, respectively.³⁸⁶ Staff recommended that in 2026, the Company be required to accrue no positive revenue adjustments and to maintain a leak backlog of: between 116 and 125 leaks, or incur a negative revenue adjustment of 5 basis points; between 126 and 135 leaks, or a negative revenue adjustment of 10 basis points; and 136 leaks or greater, or a negative revenue adjustment of 15 basis points.³⁸⁷ The City proposed in that in 2026, the Company to accrue no positive revenue adjustments and to maintain a leak backlog of: between 135 and 144 leaks, or a negative revenue adjustment of five basis points; between 145 and 154 leaks, or a negative revenue adjustment of 10 basis points; and 155 leaks or greater, or a negative revenue adjustment of 15 basis points.³⁸⁸ The Company, Staff, and the City New York were in agreement on the Company achieving the backlog at any point between December 21

³⁸⁴ Joint Proposal, Appendix 18, pp. 6-7.

³⁸⁵ Case 23-G-0147, In the Matter of a Review of the Long-Term Gas System Plans of Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.

³⁸⁶ Con Edison, Gas Infrastructure and Operations Panel, Direct Testimony, pp. 53-54.

³⁸⁷ Staff Gas Safety Panel, Direct Testimony, pp. 24-33.

³⁸⁸ City of New York, John P. Sano, Direct Testimony, pp. 36-39.

and December 31 of the calendar year and only considering a leak successfully addressed if it were eliminated from the backlog.

For the leak management metric, the Joint Proposal requires that the Company reduce its total leak backlog (Types 1, 2, 2A, and 3) on a calendar basis. The total leak backlog for 2026 is set at 135 leaks or fewer, with no basis point adjustment; between 136 and 145 leaks, with a negative revenue adjustment of five basis points; between 146 and 155 leaks, with a negative revenue adjustment of 10 basis points; and 156 or greater leaks, with a negative revenue adjustment of 15 basis points. The total leak backlog for 2027 is set at 125 leaks or fewer, with no basis adjustment; between 126 and 135 leaks, with a negative revenue adjustment of five basis points; between 136 and 145 leaks, with a negative revenue adjustment of 10 basis points; and 146 leaks or greater, with a negative revenue adjustment of 15 basis points. The total leak backlog for 2028 is set at 115 leaks or fewer, with no basis point adjustment; between 116 and 125 leaks, with a negative revenue adjustment of five basis points; between 126 and 135 leaks, with a negative revenue adjustment of 10 basis points; and between 136 leaks or greater, with a negative revenue adjustment of 15 basis points. Only the successful elimination of a leak will be considered a valid leak repair. The successful elimination of a leak is defined as both a leak repaired (which does not require a recheck inspection) and a leak requiring recheck inspection that successfully completes the recheck inspection, as required by the pipeline safety regulations.³⁸⁹ Leaks that fail recheck inspections must be added back into the backlog.³⁹⁰ The Joint Proposal provisions related to leak management are reasonable because they require the Company to further reduce its total leak backlog and have corresponding negative revenue adjustments associated with this metric. This will not only benefit customers by improving system safety, but it will also benefit the environment in the form of lower methane emissions. Therefore, these provisions should be adopted.

5. Damage Prevention

The Company proposed in its initial testimony that there be no changes to its current damage prevention metric.³⁹¹ Staff recommended in its direct testimony that the 2025 targets and revenue adjustments be continued with the exclusion of refresh and/or retransmit tickets in

³⁸⁹ 16 NYCRR §255.819.

³⁹⁰ Joint Proposal, Appendix 18, pp. 2-3.

³⁹¹ Con Edison Gas Infrastructure and Operations Panel, Initial Testimony, p. 53.

Westchester County. Additionally, when a one-call notification is not provided, damages caused by homeowners, humans, and animals shall be excluded from the total damage rate calculation. Staff recommended that Con Edison submit damage data per Staff's guidance letter reiterating the following targets: for a total damage performance rate per 1,000 one-call notifications greater than 2.50, Con Edison would incur a negative revenue adjustment of 20 basis points; for a rate between 2.26 and 2.50, Con Edison would incur a negative revenue adjustment of 10 basis points; for a rate between 2.01 and 2.25, Con Edison would incur a negative revenue of five basis points; for a rate between 1.01 and 2.00, Con Edison would not incur any adjustment; for a rate between 1.01 and 1.20, Con Edison would obtain a positive revenue adjustment of five basis points; and for a rate less than 1.01, Con Edison would obtain a positive revenue adjustment of 10 basis points.³⁹²

In its direct testimony, the City disagreed with the Company and Staff on positive revenue adjustments, stating that negative revenue adjustments should either remain as currently established or be tightened, that any positive revenue adjustments should motivate achievement of improved performance, that positive revenue adjustments were not intended to replace ordinary expenses incurred to achieve such safety goals, and that if additional expenses are required, the Company has ample ability in this rate case to request those funds.³⁹³

For the damage prevention metric, the Joint Proposal provides a tiered approach for each calendar year, which includes all damage prevention categories combined into a single measure. For a damage rate per 1,000 one-call notifications of greater than 2.50, the Company would incur a negative revenue adjustment of 20 basis points; for a damage rate between than 2.26 through 2.50, the Company would incur a negative revenue adjustment of 10 basis points; for a damage rate between 2.01 through 2.25, the Company would incur a negative revenue adjustment of five basis points; for a damage rate between 1.29 and 2.00, the Company would receive no adjustment; for a damage rate between 1.08 and 1.28, the Company would receive an offsetting credit adjustment of five basis points; and for a damage rate of 1.07 or less, the Company would receive an offsetting credit adjustment of 10 basis points.³⁹⁴ The Joint Proposal accepts the concerns of Staff and the City concerns regarding positive revenue adjustments, which have been

³⁹² Staff Gas Safety Panel, Direct Testimony, pp. 41-42.

³⁹³ City of New York, John P. Sano, Direct Testimony, p. 9.

³⁹⁴ Joint Proposal, pp. 295, 296, and 300.

replaced with offsetting credit adjustments. Offsetting credit adjustments may only be applied in the calendar year they are earned (*i.e.*, they may not be carried over into subsequent calendar years) and firm customers would not provide any additional revenue if offsetting credit adjustments exceeded incurred negative revenue adjustments within the same calendar year. Acknowledging that LPP removals expose the Company to a greater risk of damage to its underground pipeline systems, the Joint Proposal reasonably balances the risk with the need to continue robust safety performance metrics by maintaining minimum targets that are based on recent performance. These terms are in the public interest and within the range of potential litigated outcomes, and therefore, should be adopted.

6. Emergency Response

In its initial testimony, the Company proposed to maintain its previously established emergency response targets with changes to the positive revenue adjustments associated with the current 30-minute emergency response target; going from 2, 4 and 6 basis points to 4, 6 and 8 basis points, respectively.³⁹⁵ In its direct testimony, Staff recommended maintaining the current negative revenue adjustment targets and recommended eliminating all positive revenue adjustments associated with emergency response times based on Con Edison's historical performance.³⁹⁶ The City agreed with Staff's position to maintain current targets and to fully eliminate positive revenue adjustments.³⁹⁷

In its rebuttal testimony, Con Edison maintained its testimonial position of increasing emergency response positive revenue adjustments. As justification for the increased positive revenue adjustments, the Company cited New York City Local Law 157 and NYDOT's Vision Zero initiative as sources that could potentially increase the number of gas safety calls and impact response times.³⁹⁸

The Joint Proposal would maintain the minimum statewide emergency response targets, requiring Con Edison to respond to: 75 percent of emergency reports within 30-minutes; 90 percent within 45-minutes; and 95 percent within 60-minutes with associated negative revenue

³⁹⁵ Con Edison, Gas Infrastructure and Operations Panel, Initial Testimony, pp. 53-54; Exhibit__(GIOP-4), p. 2.

³⁹⁶ Staff Gas Safety Panel, Direct Testimony, p. 33.

³⁹⁷ City of New York, John P. Sano, Direct Testimony, pp. 37-39.

³⁹⁸ Con Edison Gas Infrastructure and Operations Panel, Rebuttal Testimony, p. 55.

adjustments for failure to meet these targets set at 12, eight, and five basis points, respectively.³⁹⁹ The Joint Proposal proposes to eliminate positive revenue adjustments and to provide the Company with offset credit adjustments, which can only be used to offset negative revenue adjustments incurred by the gas safety measures in the calendar year, thereby, incentivizing the Company while having no impact on rate payers.⁴⁰⁰ For the Company's 30-minute response times, it can earn offsetting credit adjustments in a three-tiered target structure of two, four and six basis points.⁴⁰¹

The Joint Proposal further provides that the Company will track and report annually its performance for this measure under two parameters in parallel. For the purposes of current performance measurement, the Company will track from the time a call is received, and enough information is acquired to dispatch personnel. For purposes of future statewide standard development, the Company will also track response times from the time a call is first received.⁴⁰² The Joint Proposal also maintains previously established exclusionary request language regarding 20 or more emergency reports within a two-hour period.⁴⁰³ The emergency response metric should be adopted by the Commission because it incentivizes the Company to respond quickly to reports of emergencies which is in the public interest.

7. Compliance with Pipeline Safety Regulations

The Company, in its initial testimony, proposed exclusions from negative revenue adjustments for procedure violations where the requirements exceed that of prescribed minimum pipeline safety regulations, violations previously identified and rectified by quality assurance and control efforts, and self-reported violations not subject to reporting requirements.⁴⁰⁴ In direct testimony, Staff challenged violation exclusions and recommended eliminating deadbands, or instances where violations would not be subject to a negative revenue adjustment, eliminating violation caps, and eliminating remediation plans.⁴⁰⁵ The City stated that negative revenue

³⁹⁹ Joint Proposal, Appendix 18, pp. 3-5.

⁴⁰⁰ Joint Proposal, Appendix 18, p. 7.

⁴⁰¹ Joint Proposal, Appendix 18, p. 8.

⁴⁰² Joint Proposal, Appendix 18, pp. 3-4.

⁴⁰³ Joint Proposal, Appendix 18, p. 4.

⁴⁰⁴ Con Edison Gas Infrastructure and Operations Panel, Direct Testimony, pp. 54-56.

⁴⁰⁵ Staff Gas Safety Panel, Direct Testimony, pp. 59-63.

adjustments should either remain as currently established or possibly tightened, that the Company likely did not establish procedures that go above and beyond the Commission's pipeline safety regulations, and that if the Company is in violation, self-reporting should be viewed as irrelevant.⁴⁰⁶

In its rebuttal testimony, the Company challenged the concept of considering negative revenue adjustments on a case-by-case basis, stated that applying adjustments for violations that have been rectified is contrary to the requirements for Pipeline Safety Management Systems (PSMS) that the compliance measure is not mature and has been updated in each of the last several rate proceedings, identified service line inspections as an area where violations should be exempt, and compared its compliance measure procedure with that of other distribution operators in New York State.⁴⁰⁷

The Joint Proposal recommends adopting the compliance measure procedure, crediting incurred negative revenue adjustments to customers, and continuing to provide a financial disincentive for the Company's non-compliance with the gas safety regulations. The updated procedure eliminates violation deadbands, provides a monetary cap, and removes the provision for remediation plans in excess of a certain number of violations.⁴⁰⁸

Although this mechanism has evolved, it does not reduce the obligations imposed on the Company because any violation that is not captured under this measure remains subject to a potential penalty action under PSL §25-a. This provision promotes the safe and reliable operation of the Company's gas system by providing a strong financial disincentive for non-compliance. For these reasons, this provision protects ratepayer interests, and therefore, is reasonable and should be adopted by the Commission.

J. Customer Energy Solutions Provisions

1. Customer Analytics Reporting and Engagement (CARE) Program

In its initial testimony, the Company stated that the Company expects that the CARE Program, previously referred to as the Customer Recommendation and Analysis Tools, will

⁴⁰⁶ City of New York, John P. Sano, Direct Testimony, pp. 9, 39-40, and 41.

⁴⁰⁷ Con Edison Gas Infrastructure and Operations Panel, Rebuttal Testimony, pp. 49-62.

⁴⁰⁸ Joint Proposal, Appendix 18, pp. 10-20.

provide an improved clean energy digital experience through a suite of tools to facilitate decision-making, accelerate clean energy technology adoption, and support State and City climate and clean energy goals.⁴⁰⁹ The Company stated that since its inception in 2023, the CARE Program launched a consolidated and searchable energy efficiency rebate experience, deployed a customer scheduling tool for electric vehicle site assessments, and redesigned clean energy program web pages for several Con Edison programs, and that additional efforts underway include centralizing contractor resources, developing tools to guide customers through alternative rate options, and continuing redesign of clean energy program web pages.⁴¹⁰ The Company stated that it anticipates including an electrification experience that will guide customers through the electrification process, and clean energy customer service tools to support Company employees who advise and respond to customer inquiries.⁴¹¹ The Company proposed to allocate 100 percent of the CARE Program O&M costs to electric customers, while designating the capital portion of the program as Common, resulting in an 83/17 percent split of capital costs between electric and gas customers, respectively.⁴¹²

In its direct testimony, Staff made four recommendations regarding the CARE Program. First, Staff recommend an adjustment to lower the Company's proposed capital budget for the Rate Year to account for the removal of the Building Energy Usage Portal (BEUP) project to a separate project line-item with its own budget and to reflect a lower level of contingency budget in line with historical performance.⁴¹³ Second, Staff recommended an adjustment to lower the Company's proposed O&M budget for the Rate Year to account for the impact of the removal of the BEUP project to a separate project line-item, as well as adjust the Company's labor costs in line with historical performance.⁴¹⁴ Third, Staff recommended that the Company allocate the O&M cost of the CARE Program towards both electric and gas customers based on the Customer Operations Common Allocation Expense Factor to establish a consistent cost recovery

⁴⁰⁹ Company Information Technology Panel, Initial Testimony, p. 37.

⁴¹⁰ Company Information Technology Panel, Initial Testimony, p. 38.

⁴¹¹ Company Information Technology Panel, Initial Testimony, p. 38.

⁴¹² Company Accounting Panel workpaper "AP-EG3 Schedule 6 Customer Energy Solutions" – Exhibit____(SMIP-4); Company Accounting Panel, Initial Testimony, p. 103.

⁴¹³ Staff Markets and Innovation Panel, Direct Testimony, pp. 59-63; See section J.3. for further discussion on the Building Energy Usage Portal project.

⁴¹⁴ Staff Markets and Innovation Panel, Direct Testimony, pp. 63-66.

pathway for both capital and O&M costs which is consistent with anticipated use of the CARE Program by both Electric and Gas customers.⁴¹⁵ Finally, Staff recommended a downward-only reconciliation for CARE Program O&M costs due to significant historical underspending of the O&M budget during 2023 and 2024 and to ensure that funding earmarked for this project is either spent on the CARE Program or returned to customers.⁴¹⁶

In its direct testimony, the City described the CARE Program as a large, integrated program versus a more Agile, incremental program, and questioned the necessity and timing given a recent slowdown of the development of the clean energy market.⁴¹⁷ In its initial testimony AGREE stated that there appear to be contradictions about which capabilities are committed and which are exploratory, noting that many of the Company's rate tool capabilities contain vague descriptions that make it difficult to determine what capabilities are and when they will become available for customer use.⁴¹⁸ As examples, AGREE stated that it is unclear whether the rate tools provided through the CARE Program would allow customers to compare bill impacts associated with various clean energy technologies, and whether the tools would rely on generic customer load profiles or historical customer-specific actual usage data to make such comparisons.⁴¹⁹ AGREE proposed that the Company continue to conduct market research to study rate tools which have been deployed successfully in support of other rate programs in other utilities and jurisdictions.⁴²⁰ AGREE also proposed that the Company develop rate tools which: (1) allow customers to determine the best rates for their households, the impacts of switching rate options, and bill management strategies; (2) uses each customer's individual interval and demand consumption data instead of generic customer load profiles; (3) is accessible through a self-service online portal or mobile application which; and (4) can model the impacts of heat pump adoption.⁴²¹

⁴¹⁵ Staff Markets and Innovation Panel, Direct Testimony, p. 67.

⁴¹⁶ Staff Markets and Innovation Panel, Direct Testimony, pp. 67-69.

⁴¹⁷ City of New York Electric Infrastructure Panel, Direct Testimony, pp. 41-42.

⁴¹⁸ AGREE Witness Alexander Lopez, Direct Testimony, pp. 58-62.

⁴¹⁹ AGREE Witness Alexander Lopez, Direct Testimony, p. 62.

⁴²⁰ AGREE Witness Alexander Lopez, Direct Testimony, p. 63.

⁴²¹ AGREE Witness Alexander Lopez, Direct Testimony, pp. 63-65.

In its rebuttal testimony, the Company disagreed with nearly all positions taken by Staff, the City, and AGREE.⁴²² Responding to Staff, the Company asserted that although the BEUP was formally part of the CARE Program and is being separated out into its own line-item, the capital and O&M costs forecast for the CARE Program are not related to the BEUP.⁴²³ The Company argued that historical expenditure levels should not be relied upon as an indication of future need due to an up-prioritization of work done for the BEUP under the CARE Program umbrella during the historical period, and that the go-forward budget should reflect the work that needs to be done for the CARE Program.⁴²⁴ The Company asserted that its requested O&M funding and FTE requests are necessary to do the scope of work to implement the CARE Program, and that a downward-only reconciliation on such costs is inappropriate as exposes the Company to downside risk while providing no opportunity for recovery if costs exceed the forecast, thus resulting in postponement of work necessary to complete the project.⁴²⁵

Responding to the City, the Company stated that the CARE Program is not a single large project but instead a collection of distinct but in some cases interrelated projects that leverage an agile and iterative approach to development, and argues that while clean energy markets face headwinds, the market overall is continuing to grow and will nevertheless require additional tools to support customer education and engagement in such markets.⁴²⁶ Responding to AGREE, the Company stated that the CARE Program is a commitment to implementing enhancements that support customer exploration of available rate options and clean energy technologies, which will use a phased approach to assess and develop rate comparison tools to facilitate customer engagement and feedback opportunities.⁴²⁷

The Joint Proposal continues the CARE Program with several clarifications and improvements. First, the Joint Proposal includes a specific description of each of the tools that will be designed as part of the CARE Program, and continues and improves quarterly reporting

⁴²² The Company did not comment on Staff's recommended allocation of O&M costs to both Electric and Gas customers.

⁴²³ Company Information Technology Panel, Rebuttal Testimony, p. 105.

⁴²⁴ Company Information Technology Panel, Rebuttal Testimony, p. 105.

⁴²⁵ Company Information Technology Panel, Rebuttal Testimony, pp. 106-107.

⁴²⁶ Company Information Technology Panel, Rebuttal Testimony, pp. 107-108.

⁴²⁷ Company Information Technology Panel, Rebuttal Testimony, pp. 108-109.

requirements for the CARE Program, for both the Program as a whole and broken out by tool.⁴²⁸ The tools provided under the CARE Program are the Clean Energy Experience Tools, which will provide customers with recommendations to customers on clean energy products and programs which are likely suitable for their households; the Rate Products Tools, which will provide personalized rate recommendations and bill comparisons using historic AMI usage data, and will work toward being able to provide projected bill impacts to customers associated with installation of heat pumps and rooftop solar, among others; the Electrification Experience Hub and Tools to help educate customers about the process of electrifying their homes and connect customers to Company programs and resources; the Clean Energy Contractor Hub Tool, which will provide contractors with Company-approved marketing material and connect contractors with Con Edison program implementation experts; and the Clean Energy Customer Service Tools to help provide support to Company customer service representatives to respond to inquiries about clean energy technologies and solicitations.⁴²⁹ The Joint Proposal requires the Company to establish metrics to measure usefulness of each tool implemented as such tools are completed.⁴³⁰ The Joint Proposal acknowledges that the scope of products and tools developed through the CARE Program may change over time due to market forces or customer feedback, but requires the Company to include information on any anticipated shifts in program activity due to such changes within the quarterly reports.⁴³¹ The Joint Proposal also includes a downward-only reconciliation on unspent O&M funding over the term of the Rate Plan.⁴³²

The Joint Proposal's more granular level of reporting – by tool and as an overall program – is a significant improvement on the current reporting requirements applicable to the CARE Program which are provided on an overall program level only. This increased reporting granularity will provide stakeholders with insights into which tools are being implement on-time and on-budget or which tools may be delayed or not receiving sufficient managerial or financial support. The Clean Energy Experience Tools and Rate Products Tools in particular are

⁴²⁸ Joint Proposal, pp. 66-67. Existing quarterly reporting requirements for the CARE Program are provided on an overall Program level.

⁴²⁹ Joint Proposal, pp. 66-67.

⁴³⁰ Joint Proposal, p. 67.

⁴³¹ Joint Proposal, pp. 67-68.

⁴³² Joint Proposal, pp. 32-33.

responsive to AGREE's requests for more useful, granular information to help customers support decisions to invest in clean energy technologies and/or participate in alternate rate options. The Joint Proposal continues support for the critical platforms and tools developed through the CARE Program, while protecting customers and ensuring that O&M funding intended for the CARE Program are either spent on that program or returned to customers. The Joint Proposal provides the improvements requested by stakeholders, including both Staff and AGREE, and is reasonable, and should therefore be adopted.

2. Heat Pump Operating Economics Customer Engagement Plan (Engagement Plan)

In its direct testimony, AGREE proposed rate education tools and rate marketing, education, and outreach strategies to support each stage of the customer experience including a pre-enrollment rate identification stage, an enrollment stage to guide customers in switching to new rates, an early post-enrollment stage to guide customers through initial onboarding to new rate options, and a long-term post-enrollment stage which would provide bill management strategies to participating customers.⁴³³ In combination with rate tools (described above in Section J.1), AGREE proposed that Con Edison provide proactive screening for all customers to identify the best rate options for their household, and provide the results of proactive heat pump rate impact modeling to participants in the Company's Clean Heat Program.⁴³⁴ AGREE further proposed that the Company's market research activities include customer surveys, user testing, structured interviews and other strategies to reveal valuable marketing and engagement strategies, as well as understand customer program participation goals, preferences for specific rate insights and messaging, and desired communication channel and frequency.⁴³⁵ AGREE proposed that rate insights generated using the rate tool be delivered to customers through those customers preferred outbound communications and self-service channels, noting, however, that print mail campaigns should be used judiciously due to cost considerations.⁴³⁶

In its rebuttal testimony, the Company indicated that AGREE's recommendations should not be required.⁴³⁷ The Company stated that it is taking an iterative approach to developing rate

⁴³³ AGREE Witness Alexander Lopez, Direct Testimony, p. 63.

⁴³⁴ AGREE Witness Alexander Lopez, Direct Testimony, pp. 64-65.

⁴³⁵ AGREE Witness Alexander Lopez, Direct Testimony, p. 65.

⁴³⁶ AGREE Witness Alexander Lopez, Direct Testimony, pp. 65-66.

⁴³⁷ Company Information Technology Panel, Rebuttal Testimony, p. 109.

products, beginning with a rate education model to facilitate residential customer understanding of components of their utility bill and available alternative rate design options.⁴³⁸ The Company asserted that its iterative product development cycle will facilitate customer engagement and gather feedback for improvements.⁴³⁹

The Joint Proposal requires the Company to develop a Heat Pump Operating Economics Customer Engagement Plan (Engagement Plan) within 90 days of Commission approval of the Joint Proposal, with opportunities for stakeholder feedback and modifications, and a final Engagement Plan to be filed approximately 180 days after Commission approval of the Joint Proposal.⁴⁴⁰ The Engagement Plan must: (1) include promotion of SC 1 Rate IV to heat pump customers, discussed in Section G.5; (2) incorporate CARE Program Rate Product Tools and Clean Energy Experience Tools discussed in Section J.1, as well as provide proactive rate comparison reports to heat pump and EV customers, among others, at least once per year; and (3) expand to include any changes to SC 1 Rates III and IV resulting from studies discussed in Section G.5.⁴⁴¹

The Joint Proposal is responsive to AGREE's proposals in its testimony, and leverages other tools, capabilities, and studies being developed simultaneously. The Joint Proposal establishes a reasonable process for developing the Engagement Plan, with opportunities for stakeholders to provide input, and that input to be considered as part of the Engagement Plan that is ultimately filed publicly. The proactive rate option information should help induce customers to try alternative rate designs, possibly leading to lower bill impacts for both participants and non-participants and smarter utilization of existing grid assets.⁴⁴² These terms of the Joint Proposal are reasonable, in the public interest, and should be approved.

⁴³⁸ Company Information Technology Panel, Rebuttal Testimony, p. 108.

⁴³⁹ Company Information Technology Panel, Rebuttal Testimony, p. 109.

⁴⁴⁰ Joint Proposal, p. 69.

⁴⁴¹ Joint Proposal, pp. 68-69.

⁴⁴² To the extent that more economically efficient price signals provided through more granular optional rates drives participant behavior in reducing demand coincident with local peaks, distribution-system peaks, or bulk system peaks, non-participating customers may also benefit from reduced need for future infrastructure investments and/or avoidance of wholesale market energy and installed capacity purchases.

3. Building Energy Usage Data

In its initial testimony, the Company proposed to establish the Building Energy Usage Portal (BEUP), which the Company explained had previously been one of several projects under the Customer Recommendation and Analysis Tools umbrella, now renamed to Customer Analytics Reporting and Engagement (CARE) Program.⁴⁴³ The Company explained that the BEUP is needed to deliver aggregated building usage data to comply with New York City and Westchester local laws and other benchmarking needs.⁴⁴⁴ In its direct testimony, Staff noted that several of its revenue requirement-related adjustments to the CARE Program stem from the separation of the BEUP as a separate IT project and line item from the remainder of the CARE Program costs, but otherwise provided no BEUP-specific recommendations.⁴⁴⁵ In its direct testimony, the City highlighted the importance of the availability of building energy usage benchmarking data, and explains that it supports Con Edison's proposed BEUP project, provided that such project provide accurate and reliable benchmarking data.⁴⁴⁶

The Joint Proposal requires Con Edison to provide benchmarking data to building owners at the Building Identification Number level upon request, at no cost to building owners, through an online portal.⁴⁴⁷ The Joint Proposal implements the BEUP as described by the Company, with the requirements requested by the City to maximize usefulness for customers that need to comply with New York City Local Laws 84 and 97, as well as Westchester County energy benchmarking requirements. The outcome of the Joint Proposal with respect to the BEUP is reasonable and within the testimonial positions presented by the parties, therefore, it should be approved.

4. Earnings Adjustment Mechanisms (EAMs)

This section is structured to provide a description of testimony positions regarding EAMs overall, then focused description of the testimony positions regarding three EAMs included in the Joint Proposal, then a description and discussion on the EAMs included in the Joint Proposal.

⁴⁴³ Exhibit___(IT-5), pp. 36-37.

⁴⁴⁴ Exhibit___(IT-5), p. 36.

⁴⁴⁵ Staff Markets and Innovation Panel, Direct Testimony, pp. 57-58.

⁴⁴⁶ City of New York Policy Panel, Direct Testimony, pp. 32-40.

⁴⁴⁷ Joint Proposal, p. 69.

⁴⁴⁸ EAM metrics which are not included in the Joint Proposal are truncated due to time constraints and relevance to the Joint Proposal.

5. Overall Discussion of EAMs

In its initial testimony the Company proposed eight EAM metrics, seven of which would be continued from the present Rate Plan with minor proposed alterations, with the last EAM metric being a new proposal, with a maximum level of financial award for EAM performance of 68 basis points.⁴⁴⁹ The Company proposed to continue the Demand Response EAM, the DER Utilization – Solar EAM (DERU-Solar), the DER Utilization – Storage EAM (DERU-Storage), the Transportation Interconnection EAM, the Residential Managed Charging EAM, the Commercial Managed Charging EAM, and the Light-Duty Electric Vehicle Emissions Reduction EAM, each with slight modifications to targets, baseline methodology, and financial awards compared to the current EAMs, and proposes to implement a new Electric Bus Emissions Reduction EAM.⁴⁵⁰

In its direct testimony, Staff made several overall recommendations; provided insight on its target-setting philosophy; provided specific recommendations regarding the Demand Response EAM, DERU-Solar, DERU-Storage, Residential Managed Charging, Commercial Managed Charging EAMs; as well as recommended elimination of the Light Duty Electric Vehicle Emissions Reduction EAM, Transportation Interconnection EAM, and Electric Bus Emissions Reduction EAM, with associated maximum financial awards of up to 32 basis points in total.⁴⁵¹ Staff also provided an overview of the Commission's policy on EAM development, including a focus on outcome-based metrics that aren't necessarily within direct utility control, and that EAMs are not directed to traditional basic service, but instead to new types of

⁴⁴⁸ The three EAM metrics included in the Joint Proposal are Demand Response, Commercial Managed Charging, and Interconnection Transportation/Buildings (developed from and replacing the Transportation Interconnection EAM) metric. Joint Proposal, pp. 70-71.

⁴⁴⁹ Exhibit___(CES-7), p. 3.

⁴⁵⁰ Company Customer Energy Solutions Panel, Initial Testimony, pp. 50-51.

⁴⁵¹ Staff Markets and Innovation Panel, Direct Testimony, pp. 135, 146, 154-155. Staff did not contest the Company's proposed maximum financial incentive levels for the Demand Response EAM (eight basis points) and DERU-Solar EAM (seven basis points). As shown in the cited testimony, Staff supported previously approved maximum financial awards for the Residential Managed Charging EAM of five basis points, Commercial Managed Charging EAM of five basis points, and DERU-Storage EAM of seven basis points.

performance expectations which may run counter to conventional methods of operations and to the implicit financial incentives inherent in the cost-of-service ratemaking model.⁴⁵²

Regarding overall EAM recommendations, Staff recommended that: (1) EAMs ultimately be expressed in terms of absolute dollars instead of basis points; (2) any EAMs associated with financial rewards be adopted for a minimum period of three years; and (3) in the instance of a litigated case resulting in a one-year rate plan, the EAM metrics be used by the Commission as scorecard metrics only and not be associated with any financial rewards at maximum achievement levels.⁴⁵³ Staff notes that its position regarding one-year litigated EAMs as incentive-less scorecards was approved by the Commission in a recent litigated rate proceeding.⁴⁵⁴

Regarding its target setting philosophy, Staff direct testimony stated that while EAM targets should generally be developed by first developing a baseline then developing minimum, midpoint, and maximum targets, EAM targets should incentivize Company activity above and beyond expected activity due to normal course of business, and generally the baseline should be set based on expected level of activity from the Company's normal course of business.⁴⁵⁵ Staff described four criteria that it applies when considering whether to offer an EAM in furtherance of a policy outcome, and how baselines and targets should be developed for those EAMs which are reasonable to provide. First, where the outcome of a proposed EAM is simply to maximize use and usefulness of a piece of utility plant or equipment, an EAM award is not warranted.⁴⁵⁶ Second, where the Commission has authorized utility-operated programs with utility-specific budgets and targets specifically intended to meet statutory requirements, the Company is required to deliver these outcomes and should do so at least cost, and therefore for these types of outcomes, Staff does not recommend shareholder incentives, as such incentives would further add to the costs imposed on customers to achieve these statutory mandates.⁴⁵⁷ Third, where the

⁴⁵² Staff Markets and Innovation Panel, Direct Testimony, pp. 98, 100.

⁴⁵³ Staff Markets and Innovation Panel, Direct Testimony, pp. 101-103.

⁴⁵⁴ Staff Markets and Innovation Panel, Direct Testimony, Initial Testimony, p. 104. Case 23-E-0418, et al., Central Hudson Gas & Electric Corporation – Rates, Order Establishing Rates Electric and Gas Service (issued July 18, 2024).

⁴⁵⁵ Staff Markets and Innovation Panel, Direct Testimony, p. 108.

⁴⁵⁶ Staff Markets and Innovation Panel, Direct Testimony, p. 108.

⁴⁵⁷ Staff Markets and Innovation Panel, Direct Testimony, p. 109.

Commission or the State has established a target related to policy goals but has not committed utility-specific programs and funding to directly achieve those goals, Staff recommended that any EAM metrics designed to help achieve such goals have targets based directly on achieving or over-achieving those goals.⁴⁵⁸ Finally, if none of the other conditions are applicable, or the Company is already on track to over-achieve the applicable state policy goal, only then should EAM targets be developed based on over-achieving compared to historic performance.⁴⁵⁹

In its testimony, the City takes a more aggressive approach regarding the Company's EAM requests. The City makes three recommendations regarding EAMs in general before moving to recommendations on specific EAM metrics. First, the City asserted that there is no reason to provide shareholder incentives to Con Edison related to any action that the Commission requires the Company to do or not to undertake, and for which the Company would be liable for penalties for failure to comply.⁴⁶⁰ The City argued that all EAMs related to energy efficiency, building electrification, and transportation electrification should be terminated.⁴⁶¹ This position is similar conceptually to Staff's second EAM development criterion⁴⁶², and at least partially consistent with Commission directives in the most recent EE/BE Orders to discontinue EAMs related to the EE/BE programs.⁴⁶³

Second, the City asserted that Con Edison's request financial awards at the maximum level – 68 basis points in total, worth approximately \$116 million per year based on Con Edison's proposed basis point valuation of \$2.29 million – is excessive.⁴⁶⁴ The City claims that shareholder incentives valued at or approaching \$100 million per year cannot be considered reasonable, given that such incentives would be incremental to returns on and of costs through the traditional utility business model.⁴⁶⁵ Third, the City expressed concern that the currently-effective portfolio of EAMs provides shareholder incentives which have targets that are set

⁴⁵⁸ Staff Markets and Innovation Panel, Direct Testimony, p. 111.

⁴⁵⁹ Staff Markets and Innovation Panel, Direct Testimony, pp. 111-112.

⁴⁶⁰ City of New York Policy Panel, Direct Testimony, p. 77.

⁴⁶¹ City of New York Policy Panel, Direct Testimony, pp. 77-78.

⁴⁶² Staff Markets and Innovation Panel, Direct Testimony, pp. 109-111.

⁴⁶³ Case 18-M-0084, In the Matter of a Comprehensive Energy Efficiency Initiative, Order Directing Energy Efficiency and Building Electrification Proposals (issued 7/20/2023), p. 86.

⁴⁶⁴ City of New York Policy Panel, Direct Testimony, p. 79.

⁴⁶⁵ City of New York Policy Panel, Direct Testimony, p. 79.

inappropriately low, or otherwise do not require the Company to perform in order to achieve such incentives.⁴⁶⁶ The City recommended that some EAM incentives should be terminated, or otherwise should have substantially increased target thresholds.⁴⁶⁷

In its direct testimony, the Office of State Senator Robert Jackson asserted that if EAMs are determined using factors that are not directly under the utility's control they become arbitrary and easy for utilities to achieve.⁴⁶⁸ Senator Jackson claimed that such EAMs may unfairly penalize or reward the utility, misaligning incentives and potentially shifting undue costs onto ratepayers.⁴⁶⁹

In its direct testimony, NYECC claimed that the Company's EAM proposals are premature since they were not the product of a negotiated Joint Proposal.⁴⁷⁰ According to NYECC, Con Edison is not entitled to any EAMs whatsoever, that EAM proposals should be considered in the context of the rate case overall including the overall impact to customers of both the revenue requirement increases and additional incentives provided through EAMs, that EAMs should be justified on the basis of net savings to ratepayers that the outcome achieves, and that EAM incentives should be reserved for truly exceptional utility service and performance significantly beyond what is expected and afforded in rates.⁴⁷¹ Further, that EAMs should not be used to provide incentives for pre-existing obligations to customers which the utility is already being compensated for through rates, and that EAMs should not be used to reward the utility for items beyond its control and efforts.⁴⁷²

a. Demand Response EAM

In its initial testimony, the Company proposed to retain the Demand Response EAM, but with lower target achievement levels than in the 2023 Rate Plan.⁴⁷³ This program incentivizes growth in various Company demand response programs including the Commercial System Relief

⁴⁶⁶ City of New York Policy Panel, Direct Testimony, pp. 81-82.

⁴⁶⁷ City of New York Policy Panel, Direct Testimony, p. 82.

⁴⁶⁸ State Senator Robert Jackson Witness Dario Quinsac, Direct Testimony, pp. 11-12.

⁴⁶⁹ State Senator Robert Jackson Witness Dario Quinsac, Direct Testimony, p. 12.

⁴⁷⁰ NYECC Witness Andy Anderson, Direct Testimony, p. 12.

⁴⁷¹ NYECC Witness Andy Anderson, Direct Testimony, pp. 13-14.

⁴⁷² NYECC Witness Andy Anderson, Direct Testimony, p. 15.

⁴⁷³ Company Customer Energy Solutions Panel, Initial Testimony, pp. 55-59.

Program (CSRP), Distribution Load Relief Program (DLRP), Term Dynamic Load Management (Term-DLM), Auto Dynamic Load Management (Auto-DLM), and Bring Your Own Thermostat program (BYOT), in addition to the NYISO's SCR program. The proposed target levels were multipliers of 1.15x, 1.3x, and 1.5x above the baseline annual growth rate for the minimum, midpoint, and maximum achievement levels, respectively.⁴⁷⁴ The Company cited enrollment volatility risk in the NYISO SCR program as well as implementation of NYC emissions regulations as justifications for lowering the target achievement levels.⁴⁷⁵ Finally, the Company proposed to calculate the baseline using data from the period running from 2019-2024, excluding 2020 and 2021 due to the pandemic.⁴⁷⁶

In Staff's direct testimony, we disagreed with the Company's rationale for lowering the targets.⁴⁷⁷ Staff disagreed with the Company's concern about enrollment volatility risk in the NYISO SCR program noting that the NYISO had tabled efforts to modify the program since the Company's initial testimony was filed.⁴⁷⁸ In addition, Staff referenced a petition the Company filed to allow dual participation in their own BYOT program and the NYISO SCR program as further evidence for reduced enrollment volatility risk.⁴⁷⁹

In its direct testimony, NYC generally supported the Demand Response EAM noting that the City itself is likely one of the largest participants in various demand response programs.⁴⁸⁰ The City recommended continuing the Company's efforts related to this EAM.⁴⁸¹ In its rebuttal testimony, the Company disagreed with Staff's proposed targets, stating that the resulting targets would be too high, rehashing similar arguments from its initial testimony about diesel generator ineligibility, and SCR Program volatility.⁴⁸²

⁴⁷⁴ Company Customer Energy Solutions Panel, Initial Testimony, pp. 57-58.

⁴⁷⁵ Company Customer Energy Solutions Panel, Initial Testimony, pp. 58-59.

⁴⁷⁶ Company Customer Energy Solutions Panel, Initial Testimony, p. 57.

⁴⁷⁷ Staff Markets and Innovation Panel, Direct Testimony, pp.113-117.

⁴⁷⁸ Staff Markets and Innovation Panel, Direct Testimony, p. 115.

⁴⁷⁹ Staff Markets and Innovation Panel, Direct Testimony, pp.116-117.

⁴⁸⁰ New York City Policy Panel, Direct Testimony, pp. 89-90.

⁴⁸¹ New York City Policy Panel, Direct Testimony, p. 90.

⁴⁸² Company Customer Energy Solutions Panel, Rebuttal Testimony, p. 29-31.

b. Commercial Managed Charging

In its initial testimony, the Company proposed to continue the existing Commercial Managed Charging EAM with modification to the metric's baseline methodology, maximum targets, when certain input data needed for the metric are measured, and the financial awards available for achievement of the targets.⁴⁸³ The Company proposed to increase the financial awards available at the midpoint and maximum achievement levels, with maximum level rising from five basis points to seven basis points.⁴⁸⁴

In its initial testimony, Staff recommended that the Commission maintain the present Residential Managed Charging EAM financial awards at the minimum, midpoint, and maximum achievement levels of two basis points, three basis points, and five basis points, respectively, asserting that the Company did not provide a compelling rationale for significantly increasing the financial awards.⁴⁸⁵

Responding to Staff in its rebuttal testimony, the Company asserted that its requested financial incentives appropriately balance value with outcomes and effort.⁴⁸⁶

c. Interconnection Transportation/Buildings

In its initial testimony, the Company proposed to continue the existing Transportation Interconnection EAM with two modifications. First, the Company proposed to update the historical baseline data to use data collected between January 1, 2019 and August 31, 2024 explaining that the longer timeline and larger sample size will reduce the impact of anomalies in the historical data.⁴⁸⁷ Second, the Company proposed to increase the financial awards at the midpoint achievement level to five basis points, and the financial awards at the maximum achievement level to eight basis points.⁴⁸⁸

In its direct testimony, Staff proposed to eliminate the Transportation Interconnection EAM, along with several other transportation electrification-related EAM metrics proposed by

⁴⁸³ Company Customer Energy Solutions Panel, Initial Testimony, pp. 78-79; Exhibit___(CES-7), pp. 4, 22.

⁴⁸⁴ Exhibit___(CES-7), p. 4.

⁴⁸⁵ Staff Markets and Innovation Panel, Direct Testimony, pp. 154-155.

⁴⁸⁶ Company Customer Energy Solutions Panel, Rebuttal Testimony, p. 51.

⁴⁸⁷ Company Customer Energy Solutions Panel, Initial Testimony, pp.67-68.

⁴⁸⁸ Exhibit___(CES-7), p. 4.

the Company.⁴⁸⁹ Staff explained that the purpose of EAMs is to align the utility business model with desired policy outcomes, especially those which run counter to the traditional cost of service ratemaking model, however, because the utility's traditional business model has aligned with the desired outcome of encouraging EV adoption, as evidenced by a significant amount of forecast capital expenditures at least partially related to meeting transportation electrification needs, EAMs to further boost the utility's attention to that topic are no longer necessary or reasonable to provide.⁴⁹⁰

In its direct testimony, Electrify America claimed that the achievement targets proposed by the Company are not enough to significantly improve transportation interconnection timelines, and that a meager 20 percent improvement on what are already exceedingly long timelines should not be viewed as a success worthy of financial incentives.⁴⁹¹ Instead, Electrify America recommended that payment on the Transportation Interconnection EAM be withheld until the Company achieves a 50 percent reduction in interconnection timelines.⁴⁹²

Regarding the Transportation Interconnection EAM, in its initial testimony, the City recommended eliminating the current Transportation Interconnection EAM and replacing it with a new EAM metric that is structured to reward Con Edison for making material improvements to the timing of interconnecting both transportation and building electrification projects.⁴⁹³ The City highlighted issues that it has experienced with delays in upgrading capacity of electric service for customers seeking to electrify their buildings and vehicles.⁴⁹⁴ The City asserted that the Transportation Interconnection EAM addresses only transportation electrification projects, and that interconnection delays apply equally to building electrification, which is expected to increase due to the impact of Local Law 97 requiring buildings to undergo electrification of heating.⁴⁹⁵ The City recommended that a combined transportation and building electrification

⁴⁸⁹ The other metrics included the Light-Duty EV Emissions Reduction EAM and the Electric Bus Emissions EAM, however, those EAM metrics are not described in detail herein as they are not included in the Joint Proposal.

⁴⁹⁰ Staff Markets and Innovation Panel, Direct Testimony, pp. 164-167.

⁴⁹¹ Electrify America Witness Jigar Shah, Direct Testimony, pp.6-7.

⁴⁹² Electrify America Witness Jigar Shah, Direct Testimony, p. 7.

⁴⁹³ City of New York Policy Panel, Direct Testimony, pp. 90-91.

⁴⁹⁴ City of New York Policy Panel, Direct Testimony, pp. 94-101.

⁴⁹⁵ City of New York Policy Panel, Direct Testimony, p. 92.

interconnection metric include positive incentives for superior performance of reducing interconnection timelines - approximately 30 to 40 percent improvements - and also negative incentives for failure to meet minimum threshold levels of improvement – approximately 10 to 15 percent.⁴⁹⁶

In its direct testimony, NYECC points to the Transportation Interconnection EAM as a metric which should be eliminated.⁴⁹⁷ According to NYECC, providing electric service to customers is something that is currently part of the Company's underlying obligations and is adequately compensated for in the revenue requirement, and therefore there is no need for an EAM to reward the Company for something it is already doing that it can easily build on and improve.⁴⁹⁸

In its rebuttal testimony, the Company disagreed with Staff, the City, and NYECC. Responding to Staff and NYECC, the Company argued that Staff's review of capital projects does not support its conclusion that the Transportation Interconnection EAM is no longer necessary, and that while the traditional utility business model does encourage the Company to serve all load growth the Transportation Interconnection EAM is valuable to improve a present timing mismatch between desired customer project timeline and utility infrastructure buildout timeline.⁴⁹⁹ Responding to the City, the Company claimed that a Commission Order precludes development of EAMs related to building electrification, and that building electrification interconnection projects and issues are sufficiently different from transportation electrification projects and issues to warrant separate EAMs.⁵⁰⁰ Responding to the City, the Company further asserted that a negative revenue requirement associated with building and transportation interconnection issues is not warranted.⁵⁰¹ Responding to the City and Electrify America, the Company stated that significantly stricter targets for a Transportation Interconnection EAM would unrealistic and upset the balance between attainability and societal value.⁵⁰²

⁴⁹⁶ City of New York Policy Panel, Direct Testimony, p.93

⁴⁹⁷ NYECC Andy Anderson, Direct Testimony, p. 15.

⁴⁹⁸ NYECC Witness Andy Anderson, Direct Testimony, p.15.

⁴⁹⁹ Company Customer Energy Solutions Panel, Rebuttal Testimony, pp. 41-42.

⁵⁰⁰ Company Customer Energy Solutions Panel, Rebuttal Testimony, pp. 42-43.

⁵⁰¹ Company Customer Energy Solutions Panel, Rebuttal Testimony, pp. 43-44.

⁵⁰² Company Customer Energy Solutions Panel, Rebuttal Testimony, pp. 44-45.

In its rebuttal testimony, the MTA stated that it opposes elimination of the Transportation Interconnection EAM, however, it would support the City's proposal to replace the Transportation Interconnection EAM with a combined metric supporting interconnection timeline improvements for both transportation and building electrification projects.⁵⁰³ MTA asserted that it has observed Con Edison undertake greater effort and adopt process efficiencies to improve the interconnection timeline for its transportation electrification projects during the present Rate Plan, that these improvements appear to be the impact of the current Transportation Interconnection EAM, and that further improvement to the interconnection timeline is necessary.⁵⁰⁴ MTA stated that the Company load interconnection process is similar for buildings as it is for transportation electrification, and that improving the interconnection process for building electrification projects as well would also provide benefits for ratepayers.⁵⁰⁵ MTA did not agree with Staff's rationale for eliminating the Transportation Interconnection EAM – stating that while it does agree that the Company's traditional business model is aligned with providing new or incremental service to customers adopting electric vehicles, such business model does not align with providing such service in a reasonable timeframe after customers request it.⁵⁰⁶

d. Joint Proposal

The Joint Proposal provides for three EAMs, consisting of a total of four metrics, with a total maximum financial incentive of 18 basis points per year– valued between \$38.7 million and \$47.2 million annually due to fluctuations in the value of a rate year basis point.⁵⁰⁷ Specifically, the Joint Proposal includes the Demand Response and Commercial Managed Charging EAMs, and an Interconnection Building/Transportation EAM consisting of two separately-measured but interrelated metrics.⁵⁰⁸ The Demand Response EAM in the Joint Proposal counting enrollment in all the above-referenced Company and NYISO DR programs, with a rolling baseline is proposed to be calculated with enrollment data from 2019-2025, excluding 2020 and 2021, target achievement levels are set at 1.4x, 1.8x, and 2.3x above the baseline, and maximum financial

⁵⁰³ MTA Metropolitan Transportation Authority Rebuttal Panel, Rebuttal Testimony, p. 5.

⁵⁰⁴ MTA Metropolitan Transportation Authority Rebuttal Panel, Rebuttal Testimony, p. 6.

⁵⁰⁵ MTA Metropolitan Transportation Authority Rebuttal Panel, Rebuttal Testimony, p. 8.

⁵⁰⁶ MTA Metropolitan Transportation Authority Rebuttal Panel, Rebuttal Testimony, p. 9.

⁵⁰⁷ Joint Proposal, pp. 70-71.

⁵⁰⁸ Joint Proposal, p. 70.

awards of up to six basis points.⁵⁰⁹ The Commercial Managed Charging EAM included in the Joint Proposal continues the existing EAM, implements the Company's proposed two-month lag-time, higher maximum targets, and maximum financial awards of six basis points.⁵¹⁰

The Interconnection Transportation/Buildings EAM consists of two metrics – the Transportation Electrification Interconnection Timeline metric and the Building Interconnection Timeline metric – which will be measured and achieved separately.⁵¹¹ The Transportation Electrification Interconnection Timeline metric and the Building Interconnection Timeline metric have maximum financial awards of up to three basis points each, and a conditional Interconnection Timeline Synergy Bonus, with combined maximum financial awards not to exceed 6 basis points in total.⁵¹² The Interconnection Timeline Synergy Bonus provides an additional 0.5 basis points if the Company achieves the minimum target or higher on both the Transportation Electrification Interconnection Timeline and Building Interconnection Timeline metrics.⁵¹³ The Transportation Electrification Interconnection Timeline metric largely continues the current Transportation Interconnection EAM with updated baseline measurements, achievement targets that ramp up from year to year, with maximum targets increasing from a 40 percent improvement in transportation interconnection timeline during RY1 to a 50 percent improvement during RY3.⁵¹⁴ The Building Interconnection Timeline metric is a new metric mirroring the Transportation Electrification Interconnection Timeline metric with separate baseline levels and achievement targets, the maximum level of which ramp up from a 25 percent improvement in RY1 to a 40 percent improvement in RY3.⁵¹⁵

e. Discussion of Joint Proposal

EAMs are amongst the most impactful, complex, and challenging topics to negotiate in any given rate proceeding. Speaking generally, relatively few parties provide specific testimony on EAMs, however, nearly all parties have very specific thoughts on the topic around the

⁵⁰⁹ Joint Proposal, Appendix 20, pp. 1, 5-7.

⁵¹⁰ Joint Proposal, Appendix 20, pp. 1, 7-11.

⁵¹¹ Joint Proposal, p. 70.

⁵¹² Joint Proposal, pp. 70-71, Appendix 20, p. 1.

⁵¹³ Joint Proposal, p. 71.

⁵¹⁴ Joint Proposal, Appendix 20, pp. 11-16.

⁵¹⁵ Joint Proposal, Appendix 20, pp. 16-21.

negotiating table. There are a wide range of reasonable outcomes in terms of the EAMs recommended, metric design, baseline and target levels, and financial awards available at the various achievement levels. There are a wide range of differing desired outcomes; EAM design philosophies; opinions on whether any the targets for any given metric would be unattainable, or a fait accompli; whether the financial awards are insufficient to drive desired changes in utility behavior or tantamount to a bonus payment above and beyond the traditional cost of service business model; or whether to offer EAM all. As summarized above, the testimonial positions of parties in this proceeding cannot even agree as to whether the Commission should follow its own policy of favoring outcome-based EAMs established in the Reforming the Energy Vision Proceeding's Order Adopting a Ratemaking and Utility Revenue Model Policy Framework, issued on May 19, 2016 in Case 14-M-0101, and since reaffirmed in nearly every Rate Order for each major electric and gas combination investor-owned utility, as well as some major gas-only investor-owned utilities.⁵¹⁶ In short, the EAM portfolio proposed in each Joint Proposal is a product of significant negotiations among diverse parties which, often, results in a mutually disagreeable set of EAM metrics, targets, and financial awards that are nevertheless mutually agreeable to the signatories.

The portfolio of EAMs in this Joint Proposal is no different. The Joint Proposal presents a core set of EAMs which puts affordability at the forefront and focuses utility and stakeholder efforts on topics that are critically needed, incentivize actions contrary to the traditional utility business model, and seek to solve problems experienced by customers as New York transitions to new energy sources for meeting its heating and transportation needs. In terms of magnitude of financial awards available, the 18-basis point EAM portfolio in this Joint Proposal is approximately one-third the size of the EAMs approved by the Commission in the present Rate Plan totaling 50 basis points for the Electric business and six basis points for the Gas business.⁵¹⁷

Both the Demand Response EAM and the Commercial Managed Charging EAMs directly incentivize the Company to encourage customers to enroll in grid flexibility programs – and more importantly, provide valuable and necessary load relief by measuring actual customer

⁵¹⁶ The one exception being the Commission's July 18, 2024 Order Establishing Rates for Electric and Gas Service in Cases 23-E-0418 and 23-G-0419 in which the Commission adopted the terms of a Recommended Decision which recommended not to establish financial awards related to EAMs for that one-year litigated rate period, and instead required a report on the performance of various metrics and targets during the calendar year.

⁵¹⁷ Case 22-E-0064, et al., Con Edison – Rates, Joint Proposal (filed February 16, 2023), Appendix 22, p. 1.

performing in those programs – which has the potential to decrease the future need for additional incremental traditional grid infrastructure to meet peak demands.

The Interconnection Transportation/Buildings EAM builds on successful efforts by the Company to decrease the time it takes to interconnect electrification loads, which the City correctly highlights in its initial testimony as a significant cause of concern for customers seeking to electrify their building and transportation end-uses to comply with both City and State law. It is important to highlight that the Interconnection Transportation/Buildings EAM does not fall afoul of the Commission’s directives to pause building electrification program-related EAM proposals.⁵¹⁸ The Interconnection Transportation/Buildings EAM, and the associated Building Interconnection Timeline metric does not incentivize the decision of customers, the Company, or other stakeholders to invest in building electrification technologies, but instead seeks to solve an identified issue of customers having trouble getting the upgraded electric service they need to interconnect to the grid after the decision to invest in building electrification technologies has already been made. In Staff’s opinion, these two issues are entirely separate, and deserve separate consideration.

It is also important to note that while Staff’s testimonial position was not in favor of continuing a transportation interconnection timeline metric, as noted by the MTA the availability of an EAM in the current Rate Plan has led the Company successfully drive down interconnection timelines for transportation electrification metrics, and both the City and MTA agree that further improvements must be made. It is Staff’s position that this EAM is a useful tool for testing whether the Company can solve these issues through a positive incentive. If the Company proves not to be up to the task during the three-year term of the proposed rate plan, then the Commission should consider alternate mechanisms in the future to ensure minimum reasonable service thresholds are achieved.

While the Joint Proposal does not specifically endorse the four EAM target setting and metric-design criteria Staff recommended in its initial testimony, the outcomes sought, metrics proposed, and methodologies for setting such targets cleaves closely to Staff’s recommended criteria. The proposed EAMs are also within the range of outcomes advocated in the parties’ initial and rebuttal testimony, and, further, the basis point awards available to the Company for

⁵¹⁸ Case 18-M-0094, In the Matter of a Comprehensive Energy Efficiency Initiative, Order Directing Energy Efficiency and Building Electrification Proposals (filed July 20, 2023), pp. 85-86.

the included EAM metrics, on a per-metric basis, are similar to the basis point levels approved by the Commission for other utilities. For the foregoing reasons, these provisions are reasonable, in the public interest, and should be adopted.

6. AMI Platform Service Revenues

The Joint Proposal includes provisions allowing the Company to retain up to 20 percent of any Platform Service Revenues which may be identified, with the remaining 80 percent of such revenues returned to customers.⁵¹⁹ Notably, this provision does not authorize any specific Platform Service Revenues – any such requests from the Company would require Commission approval – however, it does constrain the maximum level of revenue sharing between the shareholders and customers that the Company may request in such a filing.⁵²⁰

As identified in the Joint Proposal, this provision is a continuation of an identical provision of the current rate plan, and actually goes as far back as the Joint Proposal adopted by the Commission in Case 16-E-0060.⁵²¹ The Commission approved this provision in its 2017 Rate Order, and has since approved the same provision in each of its subsequent Rate Orders in 2020 and 2023.⁵²² Staff is not aware of any instances where the Company has identified a Platform Service Revenue opportunity arising from implementation of the AMI system since this provision was first implemented. Nevertheless, as explained in Staff’s Statement in Support of the 2016 Joint Proposal, the opportunity to develop Platform Service Revenues was a core feature of the regulatory framework established in the Reforming the Energy Vision Proceeding, and that opportunity remains through the present Joint Proposal.⁵²³

⁵¹⁹ Joint Proposal, p. 72.

⁵²⁰ Since the provision in the Joint Proposal specifies that the Company may request a sharing level *up to* a 20 percent share of Platform Service Revenues for shareholders, the Company is free to request a lower level of Platform Service Revenue

⁵²¹ Joint Proposal, p. 72; Case 16-E-0060, Con Edison – Rates, Joint Proposal (submitted September 19, 2016).

⁵²² Case 16-E-0060, et al., Con Edison – Rates, Order Approving Electric and Gas Rate Plans (issued January 25, 2017); Case 19-E-0065, et al., Con Edison – Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plan (issued January 16, 2020); Case 22-E-0064, et al., Con Edison – Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements (issued July 20, 2023).

⁵²³ Case 16-E-0060, supra, Staff Statement in Support of the Joint Proposal (filed October 13, 2016), p.61; Case 14-M-0101, Reforming the Energy Vision, Order Adopting a Ratemaking and Revenue Model Policy Framework (issued May 19, 2016), p. 46.

K. Additional Electric Provisions

1. Reliability Projects Due to Generator Retirements

In another continuing provision, the Joint Proposal provides for the continuation of the provision regarding reliability projects needed because of generator retirements. The provision states that nothing in the Joint Proposal precludes or limits the Company from filing a petition with the Commission seeking recovery of incremental costs associated with transmission or distribution projects resulting from generator retirements that the Company determines are necessary to maintain reliability, and that nothing in the proposal commits a Signatory Party to supporting such a petition or prevents a Signatory Party from opposing such a petition, except on the grounds that filing or granting such a petition would violate the Joint Proposal.⁵²⁴ This provision of the Joint Proposal is in the public interest as it affords the Company the ability to appropriately react and seek recovery of costs associated with generator retirements, thus ensuring the continuation of reliable service.

2. Streetlight Registry

See Section E.24 for a discussion of this provision.

3. Streetlight Metric

In its direct testimony, the City proposed that the streetlight metric be revised to require the Company to respond within seven days of being notified of a no current streetlight so to effectuate repair.⁵²⁵ In rebuttal, Con Edison disagreed with the City's proposal and argued that the existing reliability performance requirement is reasonable because it accounts for circumstances beyond the Company's control.⁵²⁶ Staff did not address this issue in its testimony. The Joint Proposal would continue the current Electric Service Reliability Performance Mechanism that includes a program standard for Con Edison to make permanent repair to streetlights and traffic signals in locations where the Company's electric service supplying these facilities is not working. This reliability program standard requires the Company to repair within 90 days at least 90 percent of streetlights that lose power during the month of November through April, and within 45 days to at least 80 percent of streetlights that lose power during the months

⁵²⁴ Joint Proposal, p. 72.

⁵²⁵ New York City Witness Felicia Tunnah, Direct Testimony, p. 14.

⁵²⁶ Company Electric Infrastructure and Operations Panel, Rebuttal Testimony, p. 379.

of May through October. The Joint Proposal notes that Con Edison and the City will enter into a Memorandum of Understanding concerning urgent streetlight repairs, including a definition of urgency, notification requirements, and escalation procedures.⁵²⁷ This provision of the Joint Proposal is in public interest and should be adopted because it will ensure that urgent repairs are completed in a timely manner and mitigate public safety risks.

4. Safety Inspection Program Pilot

While no party testified to the implementation of a safety inspection program pilot, the Joint Proposal includes a provision that allows the Company to conduct a pilot from January 1, 2026, to December 31, 2030, where it will not hydro vacuum solid debris from underground structures in some low and medium priority underground structures. The Company will continue to remove standing water to allow safe access and evaluation. For a structure to be eligible under this pilot, most of the structural wall must be visible and any debris within the structure shall not interfere with the inspection of the equipment as required by the Public Service Commission's Electric Safety Standards.⁵²⁸ In addition to the normal stray voltage and atmospheric testing done at structures, the Company will use 360-degree view and infrared cameras to facilitate on-site inspections at structures that require cleaning only to enable an employee or contractor to enter the structure to the inspection. The Company's Engineering group will review a statistically significant sample of structures exempted from hydro-vacuum cleaning to validate inspection outcomes, and include this information, the number of structures not hydro-vacuumed, and estimates of avoided costs in its annual report filed under Case 04-M-0159.⁵²⁹ This provision is reasonable as it is an opportunity for cost savings to ratepayers, while maintaining public safety and compliance with the Commissions' Electric Safety Standards, which will be monitored by Staff through the Company's annual filings. Thus, it should be approved by the Commission.

5. Service Requests

In the direct testimony of Assemblymember Levenberg, concerns are expressed regarding Con Edison's efforts to address electric service requests in a timely manner. Assemblymember

⁵²⁷ Joint Proposal, p. 73.

⁵²⁸ Joint Proposal, p. 73.

⁵²⁹ Joint Proposal, p. 74.

Levenberg stated that the Company is not meeting customer demands for electrification, due to the number of electric and gas service requests during 2024 that were not completed, which the Assemblymember claims demonstrates that Con Edison is not meeting the goals of the CLCPA.⁵³⁰ The City also addressed this issue in its direct testimony, explaining that while there has been some improvements, the timeliness of service billing modifications requests is still a significant problem.⁵³¹ In rebuttal, the Company disagreed that there is an issue,⁵³² however, the Joint Proposal would require that Con Edison host a meeting within 60 days of the approval of the Joint Proposal to improve communications, cooperation and understanding of key project timelines and milestones related to electric service requests by customers. This provision of the Joint Proposal should be adopted by the Commission as address electric service requests are critical to the parties as well as the public and is, therefore, in the public interest.

6. Westchester Annual Meeting

While not directly addressed in the testimony pre-filed in these proceedings, the Joint Proposal provides for annual meetings with interested Westchester municipalities and other government representatives during the term of the electric and gas rate plans to review Con Edison's electric and gas capital projects in Westchester County. In particular, the Company will identify projects in the County that have been prioritized for safety and reliability, storm preparedness, and growth. Additional agenda items will be the relative level of spending compared to the NYC portion of the service territory, double poles, streetlighting issues, the impact of data centers and AI on Westchester customers and other concerns raised by the municipalities. This this provision will address the concerns of Westchester government entities as well as the ratepayers they represent and should be adopted by the Commission as in the public interest.

L. Additional Gas Provisions

1. Reporting on Various Gas Programs

In its direct testimony, Staff recommended that the Company be required to continue filing annual reports within 60 days following the close of each rate year on AMI-enabled natural gas detectors, first responder trainings, meter relocations, electric burnouts affecting gas

⁵³⁰ Assemblymember Levenberg Direct Testimony, pp 5-8.

⁵³¹ NYC Billing Panel Direct Testimony, pp.25-

⁵³² Company EIOP Rebuttal Testimony, pp. 40, 386-388.

facilities, and advanced leak detection.⁵³³ The Joint Proposal would require that the Company continue these efforts with the reports serving as benchmarks for the Company's performance, associated costs, training efforts, leak emissions, and electric burnouts affecting gas facilities.⁵³⁴ These reports would also serve as both a guide for future decisions related to these programs and the possible actions required of the Company. Thus, continuing these reporting provisions is in the public interest and should be adopted by the Commission.

2. Renewable Natural Gas (RNG)

In its initial testimony, Con Edison proposed to continue recovering interconnection costs to connect local RNG supplies through the existing Monthly Rate Adjustment (MRA) surcharge, up to the cap of \$10 million in capital over the term of the Company's current gas rate plan.⁵³⁵ This would have allowed the Company to incorporate these costs into base rates in the Company's next gas rate filing. In its direct testimony, Staff recommended the Commission not allow the Company to recover RNG connection costs through the MRA, and further recommended that all interconnection costs be paid directly from developers and producers.⁵³⁶ In its initial testimony, NRDC proposed that the entity requesting interconnection for RNG to the gas system should be responsible for the full cost of interconnection, as it is consistent with how the entities requesting interconnection pay for interconnection costs on the electric side.⁵³⁷

In rebuttal testimony, the Company disagreed with these recommendations because requiring developers to pay the cost of interconnecting RNG sources to Con Edison's distribution system is inconsistent with the approach used for geological sources of natural gas.⁵³⁸ The Joint Proposal would require that all costs necessary to interconnect local RNG supplies be funded by developers, rather than ratepayers.⁵³⁹ This provision benefits customers by reducing costs and risks borne by customers and, therefore, should be adopted by the Commission.

⁵³³ Staff Gas Safety Panel, Direct Testimony, pp. 66-71.

⁵³⁴ Joint Proposal, p. 75-77.

⁵³⁵ Con Edison Gas Infrastructure and Operations Panel pp. 62-63.

⁵³⁶ Staff Gas Reliability and Supply Panel, Direct Testimony, pp 145-146.

⁵³⁷ Direct Testimony of Alice Napoleon on behalf of NRDC, p. 68.

⁵³⁸ Con Edison Gas Infrastructure and Operations Panel, Rebuttal Testimony, pp. 67-68.

⁵³⁹ Joint Proposal, p. 77.

3. Non-Pipeline Alternatives

Discussion of this topic is included in Section D.2.c., above.

4. Operational Flow Orders (OFOs)

Neither the Company nor Staff proposed any modifications related to this provision in their initial and direct testimonies. NYPA proposed modifications in its initial testimony to the Company's operations flow orders notification process to ensure more consistency in implementing, announcing, and terminating OFO's.⁵⁴⁰ In its rebuttal testimony, the Company disagreed with NYPA proposals, claiming that they are out of the scope of the rate case and rate making process.⁵⁴¹

Joint Proposal would require the Company to make best efforts to adhere to the OFO notification guidelines described in the Company's Gas Transmission Operating Procedure and as part of specific customer agreements.⁵⁴² Additionally, the Company would commit to providing as much notice as possible and to engage in bi-annual meetings with interruptible generation market participants to review past performance and issues that have been encountered to consider process improvements. The bi-annual meetings will also provide information to market participants on operating guidelines and restrictions, including additional detail in OFO notices issued when possible. This provision provides increased communication, coordination, and transparency among large gas consumers on the gas system, which in-turn improves overall reliability of the gas system on behalf of firm core gas customers. Therefore, this provision should be adopted by the Commission.

5. Differentiated Natural Gas Procurement Pilot Program

In its initial testimony, the Company proposed to continue its Differentiated Natural Gas Procurement Pilot Program, limited to an annual cost above traditional supplies of \$800,000 per year.⁵⁴³ This program allows for the procurement of differentiated natural gas, which is natural gas derived in a manner that is certified to have decreased environmental impact and lower greenhouse gas emissions. In its direct testimony, UIU stated that the pilot program was structured to incentivize suppliers that already qualified for the program and did not incentivize

⁵⁴⁰ Direct Testimony of New York Power Authority Gas Operations Panel, pp. 15-18

⁵⁴¹ Con Edison Rebuttal Testimony of Gas Supply Panel pp. 6-7

⁵⁴² Joint Proposal, pp. 80-81

⁵⁴³ Con Edison Gas Supply Panel Initial Testimony, pp. 26-27

high emitters to reduce emissions. UIU proposed eliminating this program and proposed that, as an alternative, the Company incentivize the gas industry to take steps to lower emissions.⁵⁴⁴ In direct testimony, Staff recommended that the Commission reject the proposal to continue the Differentiated Natural Gas Procurement Pilot Program because this program was initiated as a knowledge-gathering effort to better understand the utility procurement process for Differentiated Gas and potential benefits associated with its procurement.⁵⁴⁵

In its rebuttal testimony, the Company stated that the Commission's approval of the continuation of Orange and Rockland's Differentiated Natural Gas program in Case 24-G-0061 suggests that the pilot could be in the best interest in customers. Additionally, in response to UIU, the Company stated that the continuation of the Differentiated Natural Gas Procurement Program is part of an effort to create a marketplace that would incentivize high emitters to take steps towards reducing emissions.⁵⁴⁶ The terms of the Joint Proposal would end the Differentiated Natural Gas Pilot Program as well as the Company's solicitation and purchase of differentiated gas, would remove funding for the program, thus reducing costs borne by customers. Therefore, this term is in the public interest and should be adopted by the Commission.⁵⁴⁷

M. Customer Operations Provisions

1. Customer Operations Information Technology Program Reporting

In its direct testimony, Staff raised the concern that the Company was unable to quantify certain cost savings resulting from its Customer Data and Analytics IT program and recommended that the program include annual reports that includes a description of use cases developed and compares actual capital costs to budgeted costs broken down by use case or other components to help gauge the effectiveness of the program.⁵⁴⁸ Further, the report should include a description of use cases developed and how it will reduce or avoid future costs.⁵⁴⁹ In

⁵⁴⁴ Direct Testimony of John Haff, pp. 4-9.

⁵⁴⁵ Staff Gas Reliability and Supply Panel, Direct Testimony, pp. 138-140.

⁵⁴⁶ Company Gas Supply Panel Rebuttal Testimony, pp. 2-6.

⁵⁴⁷ Joint Proposal, p. 81.

⁵⁴⁸ Staff Consumer Services Panel Direct testimony, pp. 82-83.

⁵⁴⁹ Id.

its rebuttal testimony, the Company stated that it already provided reporting about the program through its Strategic Customer Experience reports filed in Cases 22-E-0064 and 22-G-0065.⁵⁵⁰

The Joint Proposal would require that the Company continue filing reports similar to the Strategic Customer Experience Initiative reports in Cases 22-E-0064 and 22-G-0065, no later than 60 days after the end of each calendar quarter.⁵⁵¹ This report will include program status, recent activities, costs, cost savings/avoidance, non-financial benefits, and future activities. The Joint Proposal also adopts a comparison of budgeted and actual spending and a breakdown of labor and non-labor costs.⁵⁵² This reporting requirement is reasonable since it continues procedures already in place under the current rate plan and is in the public interest as it keeps the public informed of the progress of the various customer service-oriented IT programs under the Strategic Customer Operations Information Technology Program heading. Thus, the provision should be adopted.

2. Additional Customer Operations Quarterly Reporting

No testimony was offered regarding customer operations quarterly reporting. The Joint Proposal would require that the Company continue to file the Payment and Meter Access Report and the Same-Day Electric Service Report, adopted in the Commission's 2020 rate order, on a quarterly basis, 30 days after the end of each reporting period.⁵⁵³ These terms are reasonable because they continue an existing, approved practice from previously approved Joint Proposals that provides clarity and routine reporting requirements. Accordingly, the provision should be adopted by the Commission.

3. Outreach and Education

In its initial testimony, Con Edison proposed increasing its annual outreach and education budget by \$1.322 million in RY1, with incremental increases of \$71,000 in RY2 and RY3, respectively.⁵⁵⁴ The Company proposed expansions of several outreach and education program

⁵⁵⁰ Con Edison Customer Operations Panel. Rebuttal, p 55.

⁵⁵¹ Joint Proposal, pp. 81-82.

⁵⁵² Id.

⁵⁵³ Cases 19-E-0065 and 19-G-0066, Con Edison – Electric and Gas Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plan (issued January 16, 2020) (2020 Rate Order), Joint Proposal p. 82.

⁵⁵⁴ Company Customer Operations Panel, Direct Testimony, p. 55.

areas and services.⁵⁵⁵ These activities include: expanding the Company's targeted regional outreach program; expanding language translation services and developing new tools for non-English speaking customers; adding the Opower Affordability Suite to assist customers in enrolling in affordability programs; incorporating an automated work notification tool for customers affected by construction; developing personalized engagement campaigns for customer-specific information in languages other than English and Spanish; expanding email campaigns for clean energy, energy efficiency, digital literacy, payment agreements, and self-service tools; administering smart-meter communications that were previously funded in the AMI Awareness budget; and additional community engagement.⁵⁵⁶

Staff recommended in its direct testimony that the Commission deny the Company's requested budget increase outside of \$80,000 in proposed funding for the Company's Work Notice Information System project.⁵⁵⁷ Staff noted that the Company could not reconcile its historical spending in 2022, 2023, and 2024 with the actual spending reflected in the Company's O&E plans.⁵⁵⁸ Staff also found inconsistencies in the breakdown of historical O&E costs and that the Company did not provide a breakdown of its proposed Rate Year funding.⁵⁵⁹ Staff recommended that the Commission direct the Company to implement a one-way downward reconciliation for O&E costs as an additional protection to ratepayers.⁵⁶⁰ Staff also recommended that the Company be required to continue filing its annual outreach and education plans and reports and improve customer options to schedule a gas service line inspection appointment.⁵⁶¹

In PULP's direct testimony, PULP supported Con Edison's proposal for increased language access and language translation services to also include Bengali, Polish, Haitian-Creole, Urdu, and Yiddish.⁵⁶² PULP also supported the Company's proposal to add the Opower

⁵⁵⁵ Id., p. 52.

⁵⁵⁶ Id., pp. 52 – 53.

⁵⁵⁷ Staff Consumer Services Panel, Direct Testimony, p. 41.

⁵⁵⁸ Id., p. 40

⁵⁵⁹ Id.

⁵⁶⁰ Id., pp. 41-42.

⁵⁶¹ Id., pp. 42-44.

⁵⁶² PULP Witness William D. Yates, CPA, Direct Testimony, p. 66.

Affordability Suite because it will increase enrollment in EAP and facilitate customer participation in other Company bill assistance resources.⁵⁶³ In the City's testimony, the City recommended that the company conduct further due diligence on the proposed use of the Opower Affordability Suite before implementing it and recommended that the Commission require safeguards and review the proposal in a separate proceeding open to public comments.⁵⁶⁴ In its rebuttal testimony, the Company disagreed with Staff's concerns about the accuracy and transparency of reporting for O&E and Staff's interpretation of the Company's responses to discovery.⁵⁶⁵

The Joint Proposal commits the Company to develop and provide O&E activities, programs, and materials to educate customers regarding customer rights, responsibilities, and available programs and services.⁵⁶⁶ The Joint Proposal also requires Con Edison to annually file its O&E report, which will be used as a template and provide a detailed breakdown of budget to actual expenses, and including a Language Access Plan in this filing.⁵⁶⁷ Furthermore, the Joint Proposal would require that the Company's reclassify spending on outreach regarding enrollment in EAP from the EAP program budget to the customer O&E budget.⁵⁶⁸ These provisions are reasonable because they facilitate clarity in Company reporting and require including a language access plan, which will enhance both transparency in the Company's spending and customer experience. These terms are in the public interest and this provision should be adopted by the Commission.

4. Language Access

In its initial testimony, Con Edison proposed to expand translated services from English, Spanish, Russian, Chinese, and Korean to include Bengali, Polish, Haitian-Creole, Urdu, and

⁵⁶³ Id., p. 70.

⁵⁶⁴ NYC Policy Panel, Direct Testimony, p. 62 – 65.

⁵⁶⁵ Company Customer Operations Panel, Rebuttal Testimony, p. 57.

⁵⁶⁶ Joint Proposal, p. 82.

⁵⁶⁷ Id.

⁵⁶⁸ Id., p. 83.

Yiddish.⁵⁶⁹ The Company proposed funding for additional language translations as well as new tools for website translations.⁵⁷⁰

In Staff's direct testimony, Staff stated that the Company's response to Staff's discovery indicated that the Company already provides some communications in a large variety of languages, including those proposed by the Company.⁵⁷¹ Staff noted that the 2023 Rate Order requires the Company to include translations for Polish and Bengali; as a result, Staff was unclear if additional funding was required to expand Polish and Bengali translations.⁵⁷² Finally, Staff noted that the Company did not provide any costs associated with language access proposals.⁵⁷³ Due to a lack of transparency, Staff recommended that the Commission deny the Company's request for funding.⁵⁷⁴

In its direct testimony, PULP supported Con Edison's proposal for increased language access and language translation services to also include Bengali, Polish, Haitian-Creole, Urdu, and Yiddish.⁵⁷⁵ PULP stated that the proposed expansion of language access would raise the percentage of limited English proficiency households for which Con Edison provides language translations from 80 percent to 88 percent and that the proposal will align its services with NYC Local Law 30, which requires City agencies to provide language access for the City's ten official languages: Spanish; Chinese; Russian; Bengali; Haitian-Creole; Korean; Arabic; Urdu; French; and Polish.⁵⁷⁶

In its rebuttal testimony, the Company stated that the 2023 Rate Order provides that language translations should include languages such as Polish and Bengali "where feasible within the Outreach and Education budget."⁵⁷⁷ The Company has previously provided translation for some documents in Polish and Bengali, such as EAP applications. The Company clarified that its increased funding request is to translate more materials into the required

⁵⁶⁹ Company Customer Operations Panel, Direct Testimony, p. 54.

⁵⁷⁰ Company Customer Operations Panel, Exhibit __ (CO-8), p. 1.

⁵⁷¹ Staff Consumer Services Panel, Direct Testimony, p. 38.

⁵⁷² Id., pp. 38-39.

⁵⁷³ Id., p. 39.

⁵⁷⁴ Id., pp. 40-41.

⁵⁷⁵ PULP Witness William D. Yates, CPA, Direct Testimony, p. 66.

⁵⁷⁶ Id.

⁵⁷⁷ Company Customer Operations Panel, Rebuttal Testimony, p. 63.

languages as well as expand the translation to the additional materials mentioned in its testimony.⁵⁷⁸ The Company also stated that requested funding was not specifically broken out for language access because the costs were embedded in multiple different outreach channels.⁵⁷⁹

The Joint Proposal would require that the Company expand its language offerings in brochures, in-person event materials, direct mail, flyers, and print advertising in 12 languages other than English: Spanish, Russian, Chinese, Korean, Polish, Bengali (Bangla), Haitian-Creole, Urdu, Yiddish, Arabic, French, and Italian.⁵⁸⁰ The Joint Proposal would also require that the Company ask for a customer's language preference as part of its application to start service and to create a new language access website which will provide links to all available translated resources.⁵⁸¹ The Company will add language blocks to its final termination notices and a QR code that will provide customers access to the new language assistance website.⁵⁸² The Joint Proposal also provides that the Company will continue to provide oral interpretation services and prioritize hiring bilingual customer service representatives with a focus on the twelve languages listed above.⁵⁸³ These terms are reasonable because they expand access to Company materials for limited English proficiency customers. Accordingly, these provisions are in the public interest and should be adopted by the Commission.

5. Additional Provisions Related to Customer Terminations

In its direct testimony, the City claimed that, based on a review and mapping of service terminations, some neighborhoods, mainly in disadvantaged communities, are impacted by service terminations more than other customers.⁵⁸⁴ The City proposed that Con Edison be required to provide more attention to those neighborhoods with outreach and education efforts, including enrolling eligible customers in EAP and offering and explaining the benefits of deferred payment agreements.⁵⁸⁵ In its direct testimony, PULP expressed concerns that the

⁵⁷⁸ Id.

⁵⁷⁹ Id., p. 64.

⁵⁸⁰ Joint Proposal, p. 83.

⁵⁸¹ Id.

⁵⁸² Id.

⁵⁸³ Id., p. 84.

⁵⁸⁴ NYC Policy Panel Direct Testimony, p. 27.

⁵⁸⁵ Id.

number of terminations to multiple dwelling accounts will increase from 2025 through the rate plan, impacting tens of thousands of residential customers.⁵⁸⁶ Staff did not address this issue in testimony.

The Joint Proposal would require the Company to include on residential termination notices, the Company's bill assistance webpage address that directs customers to information about its low-income discount program and deferred payment agreements.⁵⁸⁷ Additionally, the Joint Proposal would require that the Company include on its website information on available resources to support tenants facing service termination in multi-family buildings where the building owner is the sole account holder for service to the building.⁵⁸⁸ In the event a multi-family building is no longer at risk of service termination, the Company will continue to clearly notify affected tenants that service termination is no longer imminent in accordance with PSL §33(1-a).⁵⁸⁹ Finally, the Joint Proposal would require the Company to conduct direct outreach to organizations representing the interests of landlords to discuss problems associated with landlord arrears and service terminations and solutions, such as payment agreements.⁵⁹⁰ These provisions provide additional information regarding resources for assistance and increased communications to residents who are not direct customers of Con Edison in multi-family buildings, however, are facing building-wide service termination due to nonpayment by the building owner. Accordingly, these provisions are in the public interest and should be adopted by the Commission.

6. Electric Heating

PULP's direct testimony included a study that it claimed indicates that HEAP customers who are customers using electric heat may not be identified as such by the Company.⁵⁹¹ PULP asserted that this caused customers to potentially receive the HEAP renter's benefit as opposed to the heating grants, which are significantly higher. PULP proposed that the Company develop analytical tools to identify patterns of electric heat usage, proactively engage in direct outreach to

⁵⁸⁶ PULP Witness William D. Yates, CPA, Direct Testimony, p. 85.

⁵⁸⁷ Joint Proposal, p. 84.

⁵⁸⁸ Id., pp. 84-85.

⁵⁸⁹ Id., p. 85

⁵⁹⁰ Id.

⁵⁹¹ PULP Witness William D. Yates, CPA, Direct Testimony, pp. 75-79.

customers to determine whether they are responsible for their own electric heat costs, additional EAP and Elderly, Blind and Disabled (EBD) customer screenings, prioritize heat recoding for customers receiving bill assistance, issue bill credits in the amount of the regular HEAP heating grants to customers who would otherwise have met HEAP heating requirements, and an annual report on recoding to the Commission.⁵⁹²

In rebuttal, Con Edison disagreed with PULP stating that the current heating recoding methods are sufficient, and the Company was already exploring alternative methods to identify accounts that need to be recoded.⁵⁹³ Regarding proactive outreach, the Company stated that additional outreach is a significant strain on Company resources.⁵⁹⁴ The Company proposed that heating account recoding prioritize the oldest cases, and the Company should not replace HEAP grants with ratepayer funds.⁵⁹⁵ Finally, Con Edison claimed that additional detailed reporting would be burdensome, and complaints can be reviewed and addressed in the associated case.⁵⁹⁶

The Joint Proposal requires the Company to develop the analytical tools to assist in the identification of electric customers who are currently coded as non-heating and who may be responsible for their own heating.⁵⁹⁷ The Company will focus on recoding all residential electric customers, beginning with those currently enrolled in EAP, targeting resolution of those cases within 30 days, noting that some cases may require additional time to resolve.⁵⁹⁸ Con Edison will also engage in direct outreach to customers about electric heat recoding and develop customer facing outreach materials to provide clear steps customers can take to be coded as electric heat customers as well as outreach to landlord organizations to inform them of the process to update utility accounts to electric heating.⁵⁹⁹ Also, the Company will develop a series of questions for customer service representatives to ask customers which will help identify electric heating customers which will reduce the number of required on-site inspections needed

⁵⁹² Id., pp. 81-82.

⁵⁹³ Company Customer Operations Panel, Rebuttal Testimony, p. 91.

⁵⁹⁴ Id.

⁵⁹⁵ Id., pp. 92-93.

⁵⁹⁶ Id., p. 94.

⁵⁹⁷ Joint Proposal, p. 85.

⁵⁹⁸ Id.

⁵⁹⁹ Id., pp. 85-86.

to recode customers to electric heat.⁶⁰⁰ Finally, the Company will file with the Secretary to the Commission an annual electric heating report that will track recoding requests and the amount of time it takes to resolve those requests.⁶⁰¹ The change to electric heat recoding processes will remove confusion around the recoding process and will classify customer accounts correctly for discount and average bill calculations. This provision, therefore, is in the public interest and should be adopted by the Commission.

7. Estimated and Delayed Billing

In its initial testimony Con Edison proposed two modifications to the exclusions for these metrics.⁶⁰² First, the metric currently excludes residential customers for whom the Company's Return to Utility vendor has made five unsuccessful attempts to install an AMI meter. The Company states that both its vendor and Company personnel are used to install AMI meters and for the purpose of the metric, there is no distinguishable difference as to who makes the attempt to install an AMI meter.⁶⁰³ The second exclusion would remove accounts with a defective or non-communicating meter which is in the replevin process as these meters require legal action to access.⁶⁰⁴

Staff recommended modifications to the Estimated and Delayed Billing Metric One, which includes electric residential, electric non-residential non-demand (excluding NYPA), and gas residential customer groups, initial target from 1.77 to 1.34 percent, consistent with the two-year average standard deviation method used in past rate cases to ensure customers receive actual bills in a timely fashion.⁶⁰⁵ Staff also disagreed with the Company's proposed exclusions since the it was not able to show how performance metrics would be affected by these exclusions.⁶⁰⁶

The City proposed additional reporting requirements regarding the number of estimated bills that are issued for multiple months in a row and a revised estimated billing performance

⁶⁰⁰ Id., p. 86.

⁶⁰¹ Id., p. 87.

⁶⁰² Company Customer Operations Panel, Direct Testimony, p. 84.

⁶⁰³ Id.

⁶⁰⁴ Id., pp. 85-86.

⁶⁰⁵ Staff Consumer Services Panel, Direct Testimony, pp. 58-59.

⁶⁰⁶ Id., p. 52.

metric for bills that are estimated for three months or more rather than four months or more.⁶⁰⁷ The City acknowledges improvements in the number of estimated bills but believes that the remaining number of estimated bills that need rebilling can create significant cash flow issues if there is a large difference.⁶⁰⁸ The City also cites estimated bills being received for multiple years in a row for various accounts, meter technical issues, and inconsistencies with the Company's response to estimated billing issues.⁶⁰⁹ With the amount of AMI meters installed and considering the Company's meter replacement volume, the City believes it unlikely that there is a need for such long term estimated bills.⁶¹⁰

In rebuttal, the Company reiterated the proposed exclusions are warranted because the Company should not be penalized for the customers' actions when they are in violation of the Company's tariffs regardless if it is the Company resources or its vendor completing the AMI installation and that the additional exclusions would have minimal impacts on its performance results.⁶¹¹ The Company also claims that using two years of historical data is not enough to warrant revisions of the targets levels as recommended by Staff.⁶¹² In rebuttal, the Company disagreed with the City's proposed additional reporting arguing that it already is required to provide granular reporting data in the current rate plan.⁶¹³ The Company also did not deem the City's proposal to revise the metric compelling and that such a change would make it more difficult to set reasonable target levels due to a lack of historical data.⁶¹⁴

The Joint Proposal continues the current Estimated and Delayed Billing Metric to measure the percentage of customer bills that have been estimated or delayed longer than 125 days and adopts Staff's recommended target levels and the Company's proposed exclusions.⁶¹⁵ However, Con Edison will expand the quarterly reporting on Estimated and Delayed Billing to include the number of accounts that have received an actual bill or any bill for the following time

⁶⁰⁷ New York City Billing Panel, Direct Testimony, p. 16.

⁶⁰⁸ Id., pp. 12-13.

⁶⁰⁹ Id., pp. 10-11.

⁶¹⁰ Id., pp. 7-8.

⁶¹¹ Company Customer Operations Panel, Rebuttal Testimony, pp. 135-136.

⁶¹² Id., p. 137.

⁶¹³ Id., p. 138.

⁶¹⁴ Id., p. 139.

⁶¹⁵ Joint Proposal, p. 87.

periods: 35-65 days, 66-95 days, 96-125 days, 126-180 days, 181-365 days, 366-548 days (12-18 months), and more than 548 days (more than 18 months).⁶¹⁶ Customers are entitled to timely and actual bills in order to properly manage their finances and to receive price signals to conserve energy. The reporting requirements will provide additional information regarding estimated and delayed billing. This provision, therefore, is in the public interest and should be adopted.

8. Customer Service Performance Mechanism

In its initial testimony, Con Edison proposed that the Outage Notification Incentive Mechanism (ONIM) be discontinued as the Company incorporated the ONIM provisions in its Emergency Response Plan.⁶¹⁷ In direct testimony, Staff recommended that the Commission reject Con Edison's proposal and suggested that the Company petition the Commission to seek authority to remove the ONIM from the Customer Service Performance Mechanism (CSPM).⁶¹⁸ In direct testimony, Staff also recommended increasing the target thresholds for Company's two Customer Satisfaction Survey metrics.⁶¹⁹ Staff also recommended increasing the negative revenue adjustment (NRA) for Call Answer Rate and Complaint Rate from the current maximum NRA of 10 combined electric and gas basis points (BP) to 15 combined BP which would align the Company with other utilities with similar metrics such as Orange & Rockland Utilities, Inc.⁶²⁰ Staff also recommended the Company report for informational purposes the Call Answer Rate using the calculation consistent with the Order Adopting Revisions to Customer Service Reporting Metrics issued August 4, 2017 which would account for abandoned calls.⁶²¹

In rebuttal, the Company did not accept the Call Answer Rate methodology as it would cause lower performance as evidenced by applying the new methodology to historic metrics.⁶²² An increase in the NRA's was rejected as aligning the NRA risk between the utilities ignores the nuance of utility service areas and would have no effect on the quality of service.⁶²³ In its

⁶¹⁶ Id., p. 87-88.

⁶¹⁷ Id., pp. 81-82.

⁶¹⁸ Staff Electric Resilience and Reliability Performance Mechanism Panel, Direct Testimony, p. 132.

⁶¹⁹ Staff Consumer Services Panel, Direct Testimony, pp. 54-56.

⁶²⁰ Id., pp. 60-61.

⁶²¹ Id., pp. 58-59.

⁶²² Company Customer Operations Panel, Rebuttal Testimony, pp. 125-126.

⁶²³ Id., pp. 129-130.

rebuttal, the Company also maintained its position that removing the ONIM in these proceedings was appropriate and rejected Staff's position that it must petition the Commission to remove the ONIM from the CSPM separately.⁶²⁴

The Joint Proposal proposes CSPM threshold performance levels for designated aspects of customer service. The threshold performance levels are detailed Appendix 19. Failure to achieve the specified targets will result in a revenue adjustment of up to 35 basis points in RY1, 37 basis points in RY2, and 39 basis points in RY3. All revenue adjustments related to the CSPM will be deferred for the benefit of customers. The NRA amounts would be increased to a maximum 12 combined BP for each the Complaint Rate and Call Answer Rate and the performance target levels for each metric are maintained at current levels. The increased NRA targets for Commission Complaints and Call Answer Rate encourages a high level of customer service for the Company and is therefore in the public interest. In addition, the Joint Proposal includes a provision to terminate the ONIM.⁶²⁵ This provision should be adopted because outage notification activities and requirements have been incorporated into Con Edison's Emergency Response Plan, which is filed by December 15 of each year for review and Commission approval.

9. Terminations/Uncollectibles/Arrears Metric

Con Edison proposed in its initial testimony to continue to suspend the use of the Residential, Termination, Uncollectibles and Arrears Incentive mechanism due to the COVID-19 pandemic during the 2026-2028 period.⁶²⁶ The Terminations/Uncollectibles/Arrears Incentive was developed to deter excessive use of terminations, as a credit and collections tool. No direct testimony was offered on this issue. The Joint Proposal provides that reconsideration of the pause on the metric will be addressed in the next rate proceeding because there is a lack of relevant historic data for setting reasonable target levels at this time.⁶²⁷

10. Weather-Related Customer Protections

The current rate plan prohibits residential terminations for non-payment under the following scenarios: one calendar day before the heat index is forecasted to be 90 degrees or

⁶²⁴ Id., pp. 130-132.

⁶²⁵ Joint Proposal, p. 89.

⁶²⁶ Con Edison Customer Operations Panel, Direct Testimony, p. 84.

⁶²⁷ Joint Proposal, p. 89.

higher on days where the heat index reaches 90 degrees or higher; or two calendar days following a day where the heat index reached 90 degrees or higher. For cold weather Con Edison will not terminate service to residential customers on days when the forecasted high temperature, factoring in wind chill, will not exceed 32 degrees, regardless of whether the day falls within the Cold Weather Period.⁶²⁸

The NYC Policy Panel claimed in its direct testimony that while Con Edison is prohibited from disconnecting utility service from November 1 to April 15 (the cold weather period) for residential customers that are likely to suffer from a serious impairment to human health or safety as a result of the disconnection, these measures are not sufficient in preventing serious harm.⁶²⁹ The NYC Policy Panel proposed establishing a disconnection ban when temperatures are below 40 degrees for residential customers and below 50 degrees for customers participating in EAP or who live in regulated housing.⁶³⁰

PULP, in its direct testimony, stated that preventing service terminations during extreme heat is a public health, safety, and welfare issue. PULP proposed that the Company continue the policy for this rate plan in expectation of a future Commission Order on extreme heat protections.⁶³¹

In rebuttal, the Company accepted PULP's proposal to continue heat-related protections unchanged but contended that the City's proposal lacked support to show that higher temperature thresholds for cold weather would mitigate an impairment that is serious, likely, and a result of service termination.⁶³² Additionally, Con Edison pointed out that such temperature thresholds would remove the possibility of performing any residential terminations for a high percentage of days in the cold-weather period.⁶³³

The Joint Proposal maintains the current rate plans' temperatures for cold and hot weather protections while, for measurement purposes, the Company will use the highest heat index of the data from the National Weather Service weather stations at Central Park, LaGuardia

⁶²⁸ 2023 Rate Order, Joint Proposal, p. 107.

⁶²⁹ NYC Policy Panel Direct Testimony, pp. 53-57.

⁶³⁰ NYC Policy Panel Direct Testimony, pp. 57-58.

⁶³¹ PULP Witness William D. Yates, CPA, Direct Testimony, p. 88-89.

⁶³² Company Customer Operations Panel Rebuttal Testimony, pp. 98-100.

⁶³³ Id., pp. 102-103.

Airport, and JFK Airport.⁶³⁴ The Joint Proposal also provides that a Commission determination in the generic proceeding will supersede the terms in outlined in the Joint Proposal.⁶³⁵

11. New York City and New York Power Authority Billing and Account Management

In its initial testimony, Con Edison proposed hiring 15 additional FTEs in the Rate Year to establish a dedicated group to investigate and resolve all inquiries from NYPA and its customers.⁶³⁶ According to the Company, the associated O&M costs in the Rate Year would be \$2 million.⁶³⁷ The Company stated that the proposed dedicated NYPA customer service group would focused solely on NYPA issues and inquiries, which are similar to the issues of other large customers but tend to be more complex because the Company does not bill NYPA customers directly, as NYPA bills its customers.⁶³⁸ The Company claimed that the current process is insufficient as it does not allow for expertise in NYPA-specific issues, including the monthly NYPA billing process and the complexity of NYPA inquiries, and that this proposal and additional staffing would address those issues.⁶³⁹

In direct testimony, Staff recommended denying the Company's request citing that, through discovery, the Company indicated that the Company does not currently track the number of inquiries it receives from NYPA or NYPA customers, instances where a customer service representative cannot resolve a NYPA complaint, nor the length of time it takes to resolve a NYPA inquiry.⁶⁴⁰ Thus, Staff indicated that it was unable to determine if there had been an increase in workload to justify the need for additional FTEs or a dedicated NYPA team and the Company should continue to manage its resources and prioritize its resources as necessary.⁶⁴¹

In its direct testimony, NYPA supported the Company's proposal in its to create a team dedicated to NYPA related issues and inquiries.⁶⁴² NYPA stated that its customers experience billing delays and slow response times for estimated meter reads and issues with non-billing of

⁶³⁴ Joint Proposal, pp. 89-90.

⁶³⁵ Id., p. 90.

⁶³⁶ Company Customer Operations Panel, Direct Testimony, p. 41.

⁶³⁷ Company Customer Operations Panel, Exhibit __ (CO-8), p. 1 – 6.

⁶³⁸ Company Customer Operations Panel, Direct Testimony, p. 39.

⁶³⁹ Id., pp. 41 – 42.

⁶⁴⁰ Staff Consumer Services Panel, Direct Testimony, p. 29.

⁶⁴¹ Id.

⁶⁴² Direct Testimony of Eric Bowers on Behalf of the New York Power Authority, Direct Testimony, p. 4.

accounts which lead to large monthly adjustments once readings are taken.⁶⁴³ NYPA proposed that the Commission establish benchmarks to ensure that the Company's dedicated NYPA account management team achieves its stated objectives.⁶⁴⁴

In the City's direct testimony, the City noted several concerns including repeated, unresolved estimated billing and lack of billing, meters incorrectly recording energy usage, AMI meter communications issues between NYPA and Con Edison, and meter access issues.⁶⁴⁵ The City did not provide testimony on the Company's proposal to create a dedicated NYPA account management team.

In UIU's direct testimony, it disagreed with the Company's proposal for a separate account management team for NYPA customers because the Company does not track the number of inquiries from NYPA customers nor the number of instances where billing representatives are unable to resolve these inquiries.⁶⁴⁶ UIU claims that the Company is already adequately staffed to address NYPA-related matters.⁶⁴⁷

In its rebuttal testimony, the Company disagreed with Staff's recommendation and stated that the responses to Staff's discovery were sufficient supporting evidence for its FTE request.⁶⁴⁸ The Company reiterated its position that the proposed group was necessary to manage NYPA accounts more effectively and efficiently.⁶⁴⁹ Regarding NYPA's proposal, the Company disagreed that the Commission establish benchmarks to monitor the Company's efforts and potential improvement in addressing issues with estimated and delayed bills.⁶⁵⁰ The Company disagreed with UIU's position, reiterating that the unique issues specific to NYPA are best addressed with a specialized team.⁶⁵¹

The Joint Proposal would require that the Company form two separate engagement teams, one for service billing modification requests and one for billing anomalies, which will

⁶⁴³ Id., p. 5.

⁶⁴⁴ Id., p. 5 – 6.

⁶⁴⁵ NYC Billing Panel, Direct Testimony, p. 1 – 15.

⁶⁴⁶ Utility Intervention Unit, Direct Testimony of Pooja Oberoi, p. 9 – 10.

⁶⁴⁷ Utility Intervention Unit, Direct Testimony of Pooja Oberoi, p. 9 – 10.

⁶⁴⁸ Company Customer Operations Panel, Rebuttal Testimony, p. 46 – 47.

⁶⁴⁹ Id., pp. 47 – 48.

⁶⁵⁰ Id., p. 48.

⁶⁵¹ Id., p. 50.

meet monthly with the City, NYPA, and the Company to review and address outstanding issues.⁶⁵² The Company will implement a file sharing process and tracking system, and at each meeting will update the stakeholders as to the status of these issues. The Joint Proposal also requires that the Company schedule additional meetings, separate from the engagement teams, when NYPA customers identify issues with billing anomalies.⁶⁵³ These terms of the Joint Proposal are reasonable because they provide a forum for the City, NYPA, and the Company to routinely discuss any ongoing billing issues. Thus, the terms in the Joint Proposal are reasonable and should be adopted by the Commission.

12. Access to Usage and Billing Data

In its initial testimony, the City noted that most of its problems and concerns regarding obtaining billing and usage data from the Company no longer exist but that the City is concerned that it will lose access to the necessary data, which would take a considerable amount of time to restore.⁶⁵⁴ The City stated that it needs billing and usage data from the Company to participate in demand response programs and analyze internal energy management initiatives.⁶⁵⁵ The City claimed that the Company's current platform is unworkable for the volume of accounts that the City operates and that the platform does not support simultaneous access by multiple City agencies, which makes it difficult to operate the City's full portfolio of accounts.⁶⁵⁶ The City stated that Con Edison's application programming interface (API) is currently operational but that the API would be migrated over to a new platform; the City is concerned about this migration due to previous issues with Con Edison platforms and the potential that the migration to a new API may take months to years for the City to receive timely and accurate data.⁶⁵⁷ The City stated that the API is a key tool for tracking the City's billing and consumption data.⁶⁵⁸ The City proposed that the Company ensure that customers receive timely, accurate and complete data from the new API, that the Company provide a migration timeline to a new API,

⁶⁵² Joint Proposal, p. 91.

⁶⁵³ Id., p. 92.

⁶⁵⁴ NYC Billing Panel Direct Testimony, p. 33.

⁶⁵⁵ Id.

⁶⁵⁶ Id., p. 34.

⁶⁵⁷ Id., pp. 35 – 36.

⁶⁵⁸ Id.

and that the Company continue to support its existing API until any and all issues with the new API are resolved.⁶⁵⁹ The City also proposed a revenue adjustment if the Company shuts off existing API access before the new API is fully functional to provide an incentive for the Company to ensure a reliable transition process.⁶⁶⁰ Staff did not address this issue in its testimony.

The Joint Proposal would require that the Company institute an API migration and support escalation process with the City Department of Citywide Administrative Services.⁶⁶¹ The Joint Proposal also states that the Customer Data Sharing program will continue bi-weekly meetings with the City to review current status, testing results, data issues, and remediations steps related to API migration and that a City and Company representative will meet monthly to discuss migration strategies and escalate any issues that would affect the City's ability to migrate to the new API before June 2026.⁶⁶² Additionally, the Joint Proposal would require that the Company's Vice President of Customer Operations have the authority to delay the cutover to the new API and take corrective actions in response to any problems raised by the Company or customers. These provisions are reasonable because they provide for routine communications and safeguards to address the City's concerns about access to billing and usage data and migration to the new API. Accordingly, these provisions should be adopted.

13. Coincident Demand

The Company's initial testimony proposed extending the coincident demand billing structure to all customers with multiple AMI meters rather than restricting it to only those on the Reactive Power Program at or above 500 kW of demand as it is generally more cost effective for customers.⁶⁶³

Neither Staff nor any other party submitted testimony contesting the Company's proposal. The Joint Proposal would adopt the Company's proposal, including notification to impacted customers regarding the change, for the reasons stated by the Company.⁶⁶⁴

⁶⁵⁹ Id., p. 38.

⁶⁶⁰ Id., pp. 39 – 40.

⁶⁶¹ Joint Proposal, p. 93.

⁶⁶² Id.

⁶⁶³ Company Customer Operations Panel Direct Testimony, pp. 88-89.

⁶⁶⁴ Joint Proposal, p. 93.

14. Bill Transparency

In its direct testimony, PULP asserted that property taxes from all jurisdictions are grouped together on customer bills and that there are no distinctions between the costs embedded in the revenue requirement for different jurisdictions.⁶⁶⁵ In its direct testimony, CPA stated that property taxes are a significant portion of Con Edison's rates that are hidden from customers, stating that property taxes are 24.1 percent of the combined proposed increases to the electric and gas revenue requirements; CPA proposed that this information should be transparently detailed on customer bills.⁶⁶⁶ CPA claimed that this is not comparable to property taxes in other jurisdictions like Boston, Chicago, and Washington D.C. and stated that the property taxes should be clearly broken out on bills so that consumers can fully understand the major drivers.⁶⁶⁷ Additionally, CPA proposed that any attribute of a bill that is greater than 5 percent of the distribution charges should be delineated on customer bills as a separate line item, rather than included in the components of the base delivery rate.⁶⁶⁸ Staff did not address this issue in its testimony.

The Joint Proposal would require that the Company itemize on customer bills the amounts attributable to municipal property taxes with a parenthetical next to the itemized charge that indicates "NYC/Westchester/Other jurisdictions".⁶⁶⁹ The Joint Proposal provides that the Company will include a reference on the bill to a Company website which will provide break-out the Company's property tax payments to the City, Westchester, and other jurisdictions. In RY1, the Company will hold a stakeholder meeting to discuss input on the contents of the website. The Company will be required to use its best efforts to implement this provision in RY1, but it will be implemented no later than RY2.⁶⁷⁰ This provision is reasonable because it provides transparency to customers regarding the amount that are attributable to property taxes. Accordingly, this provision should be adopted by the Commission.

⁶⁶⁵ PULP Testimony of William D. Yates, CPA, Direct Testimony, p. 23.

⁶⁶⁶ Id., p. 11.

⁶⁶⁷ Id., p. 12.

⁶⁶⁸ Id., pp. 13 – 14.

⁶⁶⁹ Joint Proposal pp. 93 – 94.

⁶⁷⁰ Id., p. 94.

N. Electric and Gas Energy Affordability Program (EAP)

1. Electric and Gas EAP Customer Qualification

The components of the Company's Electric and Gas Low Income Programs set forth in this section are largely addressed in the Commission's Energy Affordability Proceeding in Case 14-M-0565 accordance with the Low Income Order, Implementation Order, Rehearing Order, and Phase 2 Order (together, the Energy Affordability Policy or EAP).⁶⁷¹ The Company proposed in its initial testimony that the annual rate allowances for the Low Income Program in each rate year are \$215.8 million for electric and \$43.7 million for gas.⁶⁷² The Company also proposed the continuation of the reconnection fee waiver program for both electric and gas service.⁶⁷³ This program allows for a one-time waiver of the reconnection fee for customers participating in the Company's Low-Income Program who had service terminated for non-payment. The Company also proposed that the reconnection fee waiver budget target for each rate year is \$2.14 million for electric and \$75,000 for gas.⁶⁷⁴ Con Edison also proposed to exclude gas customers with more than four dwelling units from participation in the EAP arguing that it does not have a mechanism to ensure discount are passed on to tenants in multifamily buildings.⁶⁷⁵

Staff's direct testimony stated that the Company's filing complied with the Energy Affordability Policy applicable to discount levels, reconnection fee waivers, arrears forgiveness, implementation timetable, and the program budget.⁶⁷⁶ Staff is generally supports reconnection fee waiver programs for utilities in accordance with the Commission's Affordability Policy, however, we recommended that the Company update its tariff such that the reconnection charge is not applicable to electric EAP participants eliminating the electric reconnection fee waiver

⁶⁷¹ Case 14-M-0565, Proceeding on Motion Regarding Energy Affordability, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016); Case 14-M-0565, supra, Order Approving Implementation Plans With Modifications (issued February 17, 2017); Case 14-M-0565, supra, Order Granting in Part and Denying in Part Requests For Reconsideration and Petitions for Rehearing (issued February 17, 2017); Case 14-M-0565, supra, Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings (issued August 12, 2021) .

⁶⁷² Con Edison Customer Operations Panel Direct Testimony, p. 70.

⁶⁷³ Id., pp. 69-70.

⁶⁷⁴ Id., p. 69

⁶⁷⁵ Id., pp. 64-65.

⁶⁷⁶ Staff Consumer Services Panel Direct Testimony, pp. 62-63.

program.⁶⁷⁷ Staff stated that a small number of EAP customers would require a field visit for reconnection, however, the aggregate annual cost would be de minimis to the Company.⁶⁷⁸ Staff also recommended that the Company's proposal to remove gas customers with more than four dwelling units from EAP be addressed on a generic statewide basis because the issue may impact other utilities.⁶⁷⁹ In rebuttal testimony, the Company claimed that multifamily building owners receiving service for central gas heating accounts would receive the discount and not the individual tenants and thus, it is not an effective way to assist residents.⁶⁸⁰

NYC's Policy Panel direct testimony proposed, among other things, additional outreach specific to partnering with community-based organizations to broaden EAP participation.⁶⁸¹ PULP in its direct testimony proposed a customer service quality metric to track EAP self-certification and manual enrollments and file quarterly reports of such data with a narrative of Con Edison's activities during the period and its assessment of the reasons for material changes in the enrollment data.⁶⁸² The Company's rebuttal testimony stated that, consistent with the reporting requirements in the Affordability Orders, any changes to EAP reporting should be considered on a generic statewide basis.⁶⁸³

The Joint Proposal effectuates the Affordability Policy in all aspects and components in calculating the discount amount in accordance with the Commission's prescribed methodology from the August 2021 Phase 2 Order. The Joint Proposal also eliminates the reconnection fee waiver program because EAP participants will not be subject to reconnection fees going forward.⁶⁸⁴ The Joint Proposal also provides that the removal of certain gas accounts from the EAP be considered in the generic proceeding through EAP working group.⁶⁸⁵ The Joint Proposal includes enhanced EAP outreach with community-based organizations and targeted outreach to

⁶⁷⁷ Id., pp. 65-66.

⁶⁷⁸ Id., p. 66.

⁶⁷⁹ Id., pp. 67-68.

⁶⁸⁰ Con Edison Customer Operations Panel Rebuttal Testimony, p. 74.

⁶⁸¹ NYC Policy Panel Direct Testimony, pp. 60-61.

⁶⁸² PULP Witness William D. Yates, CPA Direct Testimony, p. 17.

⁶⁸³ Con Edison Customer Operations Panel Rebuttal Testimony, pp. 77-78

⁶⁸⁴ Joint Proposal, p. 94.

⁶⁸⁵ Id., p. 95.

engage with previous EAP participants over the last three years, however, no longer enrolled in the program.⁶⁸⁶

The Joint Proposal continues the Company's current enrollment procedures established with the New York City Human Resources Administration and Westchester DSS (collectively, the Agencies), which is completed on a quarterly basis. The Company will continue to contribute \$150,000 toward the Agencies' costs for mailings to facilitate quarterly reconciliations, which will not be recovered from customers, but will be borne by shareholders.⁶⁸⁷ The provisions in the Joint Proposal associated with the Company's electric and gas low-income programs should be adopted because they conform to the Commission's affordability policy in Case 14-M-0565 and provide for additional outreach efforts to improve EAP enrollments.

O. Retail Access Issues

There was no testimony offered on retail access issues. The Joint Proposal continues its process for Con Edison to communicate with energy service companies (ESCOs) operating in Con Edison's service territory when the Company experiences an internal system issue that impacts ESCO retail access transactions. The Joint Proposal provides for continued meetings with ESCOs and interested stakeholders to compile a list of internal system issues. In addition, within five business days of the Company becoming aware of an internal system issue, it will notify ESCOs and post the information on its website.⁶⁸⁸ If the issue is not resolved within 30 days, it will be added to a monthly report of outstanding issues, which will include all open issues, an explanation of progress toward resolution, and expected time frames.⁶⁸⁹ Con Edison will continue to hold quarterly meetings with ESCOs and other interested stakeholders to discuss system issues, billing issues, and ongoing or proposed IT changes that have an effect on customer billing or retail access.⁶⁹⁰ The Joint Proposal expands Con Edison's commitment to resolve retail access issues by agreeing to respond to simple inquiries with three business days

⁶⁸⁶ Id., p. 101.

⁶⁸⁷ Id., p. 98.

⁶⁸⁸ Joint Proposal, pp. 104-105.

⁶⁸⁹ Id., p. 104.

⁶⁹⁰ Id., p. 105.

and notifying the ESCO if additional time is needed.⁶⁹¹ Con Edison will also continue to provide annual updated reference materials to its employees that will provide updates to retail access developments, including information on rates and changes to the Uniform Business Practices.⁶⁹² These provisions will facilitate retail access transactions and improve communications with ESCOs. The provisions are in the public interest, and therefore, should be adopted.

P. Clean Energy Transition

1. Disadvantaged Communities Report

The Joint Proposal requires Con Edison to continue filing an annual report following each rate year detailing the Company's investments and activities related to disadvantaged communities allowing for further assessment of the potential burdens upon disadvantaged communities, in furtherance of §7(3) of the CLCPA (Disadvantaged Communities Report).⁶⁹³ The Joint Proposal specifies data to be reported in the following areas: Energy Efficiency and Building Electrification Spending; Electric Vehicle Make-Ready Program; Demand Response; Distributed Energy Resources; Strategic Electric Capital Investments; Non-Wire Alternatives; Non-Pipeline Alternatives; Customer Outages; Gas Infrastructure Replacement or Removal Program; Leak Repairs; Clean Energy Jobs; and Customer Operations Data.

There is a popular phrase in business circles, "you cannot manage what you do not measure." Continuation of the significant data collection and reporting requirements set forth in the Joint Proposal will help supply a more complete picture of the percentage of the Company's clean energy investments, and the benefits deriving from those investments, that are directed toward disadvantaged communities and will in the future assist the Company and the Commission in determining the overall benefits provided to disadvantaged communities. While many of the programs that the Disadvantaged Communities Report will include also have its own separate reporting requirements filed in the individual proceedings that those programs are approved under, the Disadvantaged Communities Report provided for in the Joint Proposal will aggregate and incorporate a significant amount of relevant data into a single filing, giving stakeholders and the Commission a broader view of the Company's efforts to include disadvantaged communities in the clean energy transition and ensure that investments made in

⁶⁹¹ Id., p. 105.

⁶⁹² Id., p. 106.

⁶⁹³ Joint Proposal, pp. 106-116.

the system do not disproportionately burden disadvantaged communities' residents and customers.

2. GHG Emissions

In the Company's Clean Energy Transition Panel testimony and exhibits, the Company provided a projection of the net GHG emissions reductions of its proposed projects and programs over the term of the Rate Plan.⁶⁹⁴ Staff's CLCPA Panel testimony noted that in the CLCPA Implementation Order, the Commission directed the utilities "to include, in all future rate filings, an assess of the impacts that the utility's specific investments, capital expenditures, programs and initiatives included in the rate filing will have on its GHG emissions from its gas network, specifying the potential emissions impacts of each" and that while the Company provided those impacts in the aggregate, Staff had to utilize the discovery process to obtain the specific emissions impact of each individual project or program. Staff also had to utilize the discovery process to obtain data on the Company's total natural gas network emissions in several key emissions categories (i.e., Emissions from Imported Natural Gas, Emissions from the Natural Gas System, Emissions from End-User Combustion, and Emissions from the Non-Gas System).⁶⁹⁵ Total emissions numbers provide a baseline from which to assess the emissions impacts of the Company's rate filing and put those emissions impacts into context. EDF also advocated for better, more consistent GHG emissions reporting, including the incorporation of a baseline, in its testimony.⁶⁹⁶

The Joint Proposal requires the Company to file a quantification of GHG emissions anticipated during the term of the Rate Plan, using 2024 actual emissions as a reference. The Company will provide an update including 2025 actual emissions by May 31, 2026. The Company is also required to file an annual report and associated workpapers by May 31 following each rate year providing actual GHG emissions and emissions impacts for each rate year.⁶⁹⁷ The parties acknowledge that the report will not include an exhaustive accounting of all Con Edison's emissions in the associated rate years.⁶⁹⁸ Rather, the parties attempted to balance

⁶⁹⁴ Con Edison Clean Energy Transition Panel Initial Testimony, p. 73; Exhibit____(CETP-2), Schedule 1.

⁶⁹⁵ Staff CLCPA Panel Direct Testimony, pp. 16-17.

⁶⁹⁶ Environmental Defense Fund Witness David Lyon, Direct Testimony, pp. 4-6.

⁶⁹⁷ Joint Proposal, pp. 116-117.

⁶⁹⁸ Joint Proposal, Appendix 23, p. 1.

the need for reporting on key categories of emissions with the administrative burden of gathering data on other categories and the lack of direction from the Commission at this time. An annual GHG Emissions Report is a reasonable requirement as it provides a baseline and yearly data from which to measure the Company's progress in reducing its GHG emissions, particularly from the natural gas system, and helping New York State to achieve its clean energy goals.

Q. Miscellaneous Provisions

The Joint Proposal, as in the prior joint proposal adopted by the 2023 Rate Order, contains a number of provisions that provide general terms for the agreement or continue certain aspects of Con Edison's current electric and gas rate plans without modification. These provisions, contained in section Q, Miscellaneous Provisions, represent matters that were not disputed by any parties and are uncontroversial in nature. Additionally, these terms and conditions are in general conformance with those typically seen in rate plans, such as recognition of the Commission's continuing authority over the Company's rates and that proceedings associated with statewide policy objectives may impact Con Edison during the terms of the Rate Plans. The continuing of these provisions is reasonable, in the public interest and should be adopted.

Section Q.2.b, "Legislative, Regulatory Actions" reflects one modification or addition to the term adopted in the 2023 Rate Order on deferred revenue. Specifically, the Joint proposal adds a clause that provides the Company authority to recover its deferred revenue over an 18-month period, with a 90-day reporting requirement.⁶⁹⁹ This addition is needed so that the Company's recovery of deferred revenue will comply with related U.S. Generally Accepted Accounting Principles (GAAP) rules.⁷⁰⁰ This addition to the Joint Proposal's provision is reasonable, thereby should be adopted by the Commission.

VI. CONCLUSION

The terms of the Joint Proposal fully satisfy the Commission's Settlement Guidelines as well as address the affordability concerns by limiting the shaped total bill increases for electric to

⁶⁹⁹ Joint Proposal, p. 121.

⁷⁰⁰ Company Accounting Panel Initial Testimony, pp. 125-126.

less than three percent and approximately two percent for gas. Taken as a whole, the Commission can reasonably conclude that the terms of the Joint Proposal fall within the potential result of a litigated case. As noted above, the fact that a diverse group of Signatory Parties and parties that indicated they would not oppose the Joint Proposal, testifies to the proper balancing in the Joint Proposal of the interests of intervenors, customers, and the Company. The Joint Proposal continues and advances the State's and Commission's goals and policies, while taking into account the critical need to ensure that the incremental revenue requirements addressed affordability concerns and minimizing to the extent possible the potential economic impact of the recommended revenue and rate increases on customers. Con Edison, meanwhile, will receive sufficient funds during the term of the rate plan proposed in the Joint Proposal to operate and manage its electric and gas businesses, to access to capital on reasonable terms, and to ensure the provision of safe and adequate service. For all of the above reasons Staff respectfully recommends that the terms of the Joint Proposal be found to be in the public interest and adopted by the Commission in their entirety.

Respectively submitted,

/s/

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Staff Counsels

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Albany, New York