STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

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August 7, 2013

Re: Cases 13-E-0030, 13-G-0031 & 13-S-0032
Con Edison Evidentiary Hearings – Beginning July 22, 2013

** **Please note this is a Preliminary transcript, subject to later edits when reviewed by the Administrative Law Judges assigned to the cases.**

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICES

CASE 13-E-0030 - 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 13-G-0031 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service.

CASE 13-S-0032 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Steam Service.

Wednesday, July 24, 2013
9:30 a.m.

90 Church Street
4th Floor Board Room
New York, New York

ADMINISTRATIVE LAW JUDGES:

Paul Agresta
Julia Smead Bielawski

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W I T N E S S E S

E X H I B I T S

ALJ PAUL AGRESTA: Okay, we're going to go on the record. Good morning, everyone. Before we begin, are there any preliminary matters anyone wants to raise at this time? Okay, I’m not seeing any. I want to remind the witnesses that are on deck that you're supposed to bring a little name placard, like these witnesses have, up with you when you take the stand. So if you don't have one, if you could start preparing one in the off time. In addition, I want everybody to remember that the first time you speak to please say your name into the microphone for the record. And also witnesses, we've had trouble with hearing the witnesses. If you could make sure that you're talking directly into the microphones, okay? All right. Con Edison, you can call the first witness, please.

MS. MARY KRAYESKE: The company calls the electric witness - -.

ALJ JULIA SMEAD BIELAWSKI: Can you please stand for me. Raise your right hand. Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

MALE VOICE: I do.

ALJ BIELAWSKI: And do you adopt the

prefiled testimony as your sworn testimony in these proceedings?

MALE VOICE 1: We do.

ALJ BIELAWSKI: Thank you.

MS. KRAYESKE: Does the Panel have any corrections to either its initial or its rebuttal testimony?

MS. MARGARET LENZ: Yes, we have one correction in the initial testimony on page 35, line 5. The date, October 1st, 2013 should be changed to January 1st, 2014.

MS. KRAYESKE: Do you have any other corrections?

MS. LENZ: No, that's all.

MR. KRAYESKE: The panel is available for cross.

ALJ AGRESTA: Okay. - - is the first on my schedule.

MR. GARY LEVENSON: That's fine Your Honor.

ALJ AGRESTA: Please proceed.

MR. LEVENSON: How do you panel? My name is Gary Levenson, Counsel with the New York Power Authority. How are you this morning? I just want to ask you a few questions about your direct testimony starting on page 36 and on 37 where you discussed the

Revenue Decoupling Mechanism (RDM) in the Recharge New York Program. Now starting on the bottom of page 36 you describe how your proposal to include Recharge New York delivery revenues and the RDM mechanism, correct?

MS. LENZ: Correct.

MR. LEVENSON: Now you called, just for clarity, you called these below the allocation revenues associated with the RNY allocation, correct?

MR. PATRICK HOURHAN: - - correct.

MR. LEVENSON: And—

ALJ AGRESTA: [interposing] you're going to have to speak into the microphone if you're going to talk.

MR. HOURHAN: That’s - - is correct.

MR. LEVENSON: And above the allocation revenues is essentially the revenues associated with non-RNY power that are already included in the RDM mechanism, correct?

MR. HOURHAN: Correct.

MR. LEVENSON: So if adopted, your proposal would result in RDM surcharges or credits assigned to the RNY portion of the allocations.

MS. LENZ: When you say surcharges, are you referring to the RDM over on collections? I mean, it could be refunds also, it's not a surcharge.

MR. LEVENSON: I said surcharges or credits, yes.

MS. LENZ: Yes.

MR. LEVENSON: Now one of the reasons you raised for this proposed change, and you discussed this on lines 11 to 13, is that you said the company has no control over who gets RNY service, right?

MR. HOURHAN: Right.

ALJ AGRESTA: Again, you're going to—the way the transcript works is that we have a recording being made and then a computer is going to try to read that recording and convert it into text. If you don't speak into the microphone, your testimony is not going to be in the record. So even though it may take an extra minute to move the microphone over, I need you to speak into the microphone and you should be able to hear your voice resonating in the room. If you can't, then you're not talking loud enough. So talk louder. Don't be afraid to yell.

MR. LEVENSON: Okay, so just carry on. You also mentioned the company is informed by NYPA of the names of the customers who are allocated the RNY power and the amount, correct?

MR. HOURHAN: Correct.

MR. LEVENSON: Okay. Has there—you don't

testify that you have concerns about the timeliness of receiving that information, do you?

MR. HOURHAN: No.

MR. LEVENSON: And NYPA also informs you in a timely manner of how and why enrollments that are terminated, isn't that correct?

MR. HOURHAN: Correct.

MR. LEVENSON: Okay. So there is no technical difficulty in not applying the RDM to the RNY portion of the deliveries, right?

MS. LENZ: I mean, technically we can do it. That's not the problem. That's not what we're arguing. We're arguing that it doesn't really make sense because we don't have control over it, and the reason for excluding these types of customers is to give the company an incentive to grow these customers. And we really don't have any say in who signs up for these programs.

MR. LEVENSON: Okay. So including the RNY delivery revenues in the RDM, does it make the company's administration of the RDM mechanism easier?

MS. LENZ: It would make it easier.

MR. LEVENSON: And your testimony is not directed towards the Commission's—you wouldn't consider the Commission's policies on economic development policies with respect to RNY when you made your recommendation, correct?

MS. LENZ: Can you repeat the question?

MR. LEVENSON: When you made your proposal, you weren't considering the Commission's policies on economic development with respect to RNY, correct?

MS. LENZ: I mean, we're familiar with their policies; is that your question?

MR. LEVENSON: I guess what I'm asking is were you trying to respond to that policy or take that policy into account when you formed your proposal?

MS. LENZ: Well, I mean, we considered the policy, we're aware of it, but we are recommending something that differs from the policy. I mean…

MR. LEVENSON: Thank you panel. Your Honor, I think I'm concluded.

ALJ AGRESTA: Thank you. Environmental Defense Fund.

MR. JAMES TRIPP: Yes. Just one moment. Good morning. My name is James Tripp. I'm counsel for the Environmental Defense Fund. Just a few questions. When you do forecasting for delivery buying, you assume some price for power the customers are going to pay for it, or is that irrelevant to your forecast?

MR. HUCK NG: Yes, we do account for price changes in estimating the equation that explains to just in sales level.

MR. TRIPP: So in general does that mean if the price goes up, the buying may be down? Is there some relationship between price and volume?

MR. NG: Yes. The relation is negative.

MR. TRIPP: What do you mean by that?

MR. NG: So when the price goes up, the demand for electricity goes down.

MR. TRIPP: And do you also do forecasts for peak power as well as delivery volume?

MR. HOURHAN: No, we don't do the power portion of the forecast.

MR. TRIPP: Who does that?

MS. LENZ: That's another department.

MR. TRIPP: In doing your delivery buying forecasts, do you take distributive generation demand response, demand management kinds of programs into account?

MR. HOURHAN: The electric buying forecast we take in distributive generation, any anticipated new distributive generation coming on that's taken out of our forecast, and the part that's left that they may still need, if they're not putting the generated large enough to supply their entire load, we'll keep that portion under our standby service. But for, like peak hour, be something like when it got really hot like last week, and - - and we kind of had customers—and may have customers that will lower their load. That is not included in our sales forecast because we're forecasting to normal weather and the peak is at a designed temperature that has nothing to do with our abnormal weather.

MR. TRIPP: And how do you determine, how do you determine what the sort of total volume for distributive generation might be? Is that given to you or is that something you calculate?

MR. HOURHAN: We'll get from another department, distribution engineering, the size of the customer, what kind of plant they're putting in and then we'll take a look at the energy associated with their current demand, and if the customer is using 10 megawatts and they tell us they're going to put in an 8 megawatt plant, we'll say okay, basically the customer will still have 2 megawatts of power that will be registered on the meters and based on the association of energy with their original demands, we'll now take that 2 megawatts of power, multiply it by the factor to see how much energy is going to be left on standby services that company will be supplying.

MR. TRIPP: And for those customers you've just been describing, do they have a contract with Con Edison whereby Con Edison will provide backup power if their distributive generation fails?

MR. HOURHAN: In order to be on standby service, they have a standby service contract. They have a contract to demand that they're charged. So that if they ever take their generator off line, even if it's a peak day that the company is obligated to supply that customer.

MR. TRIPP: But for purposes of your determining the delivery volume forecast, you assume that their distributive generation capacity will be operating? Or you discount it by some of them?

MR. HOURHAN: No. Whatever we say that the company will supply, like I said the example of the 10 megawatt customer, we will put that energy associated with the 2 megawatts that are still left above the plant's capacity. We'll still leave that in our delivery volume forecast. And what we then do is remove all the energy that's associated with the 8 megawatts that they're generating for our total volumes.

MR. TRIPP: I asked you before about peak demand forecasting and you said you don't do it. But let me direct your attention to pages 29, 30 and 31 of your rebuttal where you're responding to testimony from Mr. Vue [phonetic] where he's comparing the delivery volume forecast relative to the peak - -. Who did that, the analysis that's presented in those papers?

MR. HOURHAN: I did most of them. I reached out to the people that do the peak forecast and went over, and we discussed our response to put in there.

MR. TRIPP: So this analysis points out that the, either the growth rate or the reduction rate in peak power may be different from what it is for the delivery volume; is that correct?

MR. HOURHAN: Well, it's just saying that because of different aspects on the two of them. Whereas, the sales forecast is impacted by distributive generation where the peak necessarily is not. And you have other customers, like I pointed out, like the City of New York has been exclusively reducing their load on the street lighting. Those are two aspects, if you want, that have nothing to do with 4:00 to 6:00 p.m. on a summer afternoon on the third day of a heat wave.

MR. TRIPP: So you say distributive generation has nothing to do with peak demand on a hot day?

MR. HOURHAN: It has something to do with it. What I'm saying is that the company has to maintain that they may be supplying 10 megawatts on a peak summer day.

MR. TRIPP: And you point out on page 31 that for the years, I guess four years, 2008 through 2012, that in fact the system peak growth for three of those four years was negative and another year at zero?

MR. HOURHAN: Correct. And that's based on the information that was supplied to Ampi Lu. He put in his, as a backup table to his testimony.

MR. TRIPP: And for three of those four years the delivery growth volume was in fact positive, is that right?

MR. HOURHAN: Correct.

MR. TRIPP: So at least for three of those four years, there was delivery volume growth of something greater than zero and yet a decline in peak growth, is that correct?

MR. HOURHAN: That's correct. And the whole thing is to show that, you know, just looking at the last four years, you can't say that well, if peak is growing by this, we're declining by that. That the sales forecast should follow the same direction or should be the same percentage.

MR. TRIPP: Do you have any explanation for this differential in what's happened to peak demand and delivery volume or is that somebody else at Con Edison who would have an answer for that?

MR. HOURHAN: That would more or less be, if you wanted the best answer, we'd be going to the electric peak forecasting group.

MR. TRIPP: I have no further questions.

ALJ AGRESTA: Thank you. DPS staff.

MR. DAKIN LECAKES: Thank you your honor. Panel, my name is Dakin Lecakes. I'm attorney for the Department of Public Service Staff. In your rebuttal testimony you provided an updated electric forecast, correct?

MR. NG: Yes.

MR. LECAKES: And part of the reason for that update was the availability of historical data through December 2012, correct?

MR. NG: Yes.

MR. LECAKES: For the most part, you did not change the model for your update from your direct testimony; is that correct?

MR. NG: Yes.

MR. LECAKES: And the only change that was made to your update was the use of a dummy variable for two of the forecast models; is that correct?

MR. NG: Are you referring to the dummy variable for the fourth quarter of 2012?

MR. LECAKES: Yes. In the updated model, as I understand it, there was a dummy variable inserted into SC9 model and the send out model; is that correct?

MR. NG: That's correct.

MR. LECAKES: Other than that change, there was no other change to the models from the direct testimony to the rebuttal testimony to the models themselves; is that correct?

MR. NG: There's no change in the structure of the model, the variables, but the estimated equations changed because of change in data.

MR. LECAKES: Right. So where we're at right now is we have the same model used in the original forecast and then the updated forecast, the data from fourth quarter of 2012 and then a dummy variable used in SC9 and sent out, correct?

MR. NG: That's correct.

MR. LECAKES: Okay. You did not include that dummy variable in any other service class models, correct?

MR. NG: We tried those variables in all our models. We put them into the models and we tested for their significance. We found that that variable was significant at 5% level, the standard 5% level in only two models, SC9 and the standard model as mentioned earlier. They were not significant at the standard 5% level in the other models and therefore they were not included in their models.

MR. LECAKES: Without that dummy variable in the models for forecasts for SC9 delivery and send out, the SC9 delivery and send out results were lower, correct, without the dummy variable?

MR. NG: Yes, the forecast for SC9 and send out would have been lower without the dummy variable.

MR. LECAKES: In fact, as I read your testimony, I believe that you found that without the dummy variable in SC9 and send out, there was a significant negative impact on the volume for the fourth quarter of 2012 sales; is that correct?

MR. NG: Yes.

MR. LECAKES: And by negative impact, we mean that the models results were lower than you expected them to be, correct?

MR. NG: No, the forecast would have been lower - -.

MR. LECAKES: Okay. Would it be fair to say unreasonably low?

MR. NG: Based on the historical pattern of the sales growth, yes, it would have been unusually low.

MR. LECAKES: You attributed the negative effect on the model results to the impact of super storm Sandy; is that correct?

MR. NG: Yes.

MR. LECAKES: As well as the aftermath of super storm Sandy, meaning the cleanup and recovery period?

MR. NG: Yes.

MR. LECAKES: The dummy variable that you used was necessary to prevent the temporary impact of the storm from influencing the forecast, correct? For SC9 and send out.

MR. NG: Well, because the sales volume for SC9 and send out were unusually low in the fourth quarter of 2012, if you build a forecast from those values, you're going to get lower forecasts in the same quarter in the following year. So putting in the dummy would ignore that last observation in 2012 for those two months.

MR. LECAKES: Based on your experience, the impact of Sandy and a storm of that size on electric usage is likely only to be negative; is that correct? Let me rephrase the question. With a storm like Sandy, you wouldn't expect there to be more electric usage, would you?

MR. NG: Well, considering all of the outages and the equipment that were damaged, I would expect the usage be low.

MR. LECAKES: Am I correct that portions of the electric system were turned off to minimize the impacts of the electric system or on the electric system prior to the storm, if you know.

MS. LENZ: Yeah, I don't think we participate in that - -. I'm not really sure.

MR. LECAKES: That's fair. Am I correct, if you know, that electricity was not restored to the entire Con Edison service territory immediately after the storm ended?

MS. LENZ: I mean, there were customers out for a period of time, not immediately or immediate, so our—

MR. LECAKES: [Interposing] right, and by a period of time, at least a few days or a couple of days, if you know.

MS. LENZ: I mean, there were customers out for a few days. I don't know how many customers but…

MR. LECAKES: The outage that we were just discussing, that affected customers in all services classes; am I correct?

MR. HOURHAN: It probably affected most of the service classes.

MR. LECAKES: The dummy variable was not included though, as we discussed, earlier in the other models, correct?

MR. NG: Correct.

MR. LECAKES: Did you run the—actually you mentioned earlier, I believe, that you ran the other service class models with that dummy variable, correct?

MR. NG: Correct.

MR. LECAKES: And that's why you said when you saw those test results they appeared to be statistically insignificant so you did not include those in your update, correct?

MR. NG: Correct.

MR. LECAKES: Now I will acknowledge that your answer said that your results were statistically insignificant but notwithstanding that, am I correct that the forecast for those other service classes would have been higher if the dummy variable was used in them?

MR. NG: I couldn't answer that because I didn't try forecasting without those—with those dummy variables being those - -.

MR. LECAKES: Okay, no problem. I have no further questions Your Honor.

ALJ AGRESTA: Okay. Thank you. Any redirect?

MS. KRAYESKE: Can you give us a second, Your Honor?

Just one question, Your Honors.

Panel, when you looked at the forecast for, after super storm Sandy, did you look at the growth rates regarding all the classes?

MR. NG: Yes, I looked at the growth rates of all of the classes and I found that for the service classes without a dummy, the growth rates did look—they looked reasonable without the dummy whereas for SC9 and send out, they looked unreasonably low without the dummy, and therefore the dummy was included in those two service classes.

MR. KRAYESKE: Nothing further.

MR. TRIPP: Your Honor, can I ask a question?

ALJ AGRESTA: If you're ready, Mr. Tripp, go ahead.

MR. TRIPP: I asked this panel about peak demand forecasting, which they do talk about in their rebuttal testimony. They said they don't do it. And they referred to a Con Edison peak demand forecasting panel. Well, there isn't such a panel so I guess this is maybe a question for people of Con Edison, you know, really having to do with which panel is the right one to ask about that.

ALJ AGRESTA: I don't think they referred to a panel. I think they referred to another division of the company.

MR. KRAYESKE: Right, they didn't refer to a panel.

MS. LENZ: I don't think there is a witness.

ALJ AGRESTA: Okay, so go ahead. There is no witness apparently so go ahead and ask your question.

MR. TRIPP: So do you do peak demand

forecasting?

MS. LENZ: No, we don't do demand forecasts.

MR. TRIPP: And does, to your knowledge, no one at Con Edison or at least no witness here who is going to appear to speak to the forecast.

MS. LENZ: Yeah, I don't believe there is a witness to testify on a peak demand forecast in this case. There is a department in the company that does the peak demand forecasts. That's not us.

MR. TRIPP: Thank you.

MR. LECAKES: Your Honor, as to our extra cross on follow up to the redirect, we'd be happy to address our points in brief. We have nothing.

ALJ AGRESTA: Thank you. Okay. Then these witnesses are excused. Thank you. Con Ed call the next witness.

MS. KRAYESKE: The company calls the gas forecasters now.

ALJ AGRESTA: You're the panel?

[Laughter]

ALJ AGRESTA: Did they all abandon you?

ALJ BIELAWSKI: Ms. Lenz, you're still under oath to your testimony. Raise your right hand, please. Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

MR. SCOTT CAMPAGNE: I do.

ALJ BIELAWSKI: And you adopt the prefiled testimony as your sworn testimony in these proceedings?

MR. CAMPAGNE: I do.

ALJ BIELAWSKI: Thank you. You may be seated.

MS. KRAYESKE: Does the panel have any corrections to either its initial or its rebuttal testimony?

MS. LENZ: We do have one correction. It's in the rebuttal testimony on page 22, line 22. The number 2307 should be replaced by 1573.

MS. KRAYESKE: Any additional corrections?

MS. LENZ: That's all.

MS. KRAYESKE: The panel is available for cross.

MR. BRIAN OSSIES: Could you just repeat the lines, page and line?

MS. LENZ: It's page 22 of the rebuttal testimony, line 22, the number 2307 should be 1573.

ALJ AGRESTA: Okay, staff, it's your turn to cross.

MR. BRAIN OSSIES: Just one minute, Your Honor. I have to consult with my notes.

ALJ AGRESTA: That's Mr. Ossies. Start with your name, please.

MR. OSSIES: Thank you, Your Honor. My name is Brian Ossies with the Department of Health Service Staff. I have some very brief questions for you today. The first thing I'd like to do is have Your Honor's—the company's response to DPS number 55. The packet premarked for identification. The response to DPS 755 consists of one page Q and A as well as several pages of exhibits.

ALJ AGRESTA: And consistently with past practice, it says page one of two even though there's only one page.

MR. OSSIES: We like to be consistent with past practice, Your Honor. But you are correct, it's page one of one. There is a blank page as well.

ALJ AGRESTA: Okay, we'll mark this as Exhibit 794 for identification.

MR. OSSIES: Panel, did you have an opportunity to review the response to DPS 755?

MS. LENZ: Yes.

MR. OSSIES: Thank you. And panel, was this response prepared by you or under your supervision?

MS. LENZ: Yes.

MR. OSSIES: Could you briefly explain what the response entails?

MR. CAMPAGNE: The response was a, provided the volume—

ALJ AGRESTA: [Interposing] please move the microphone closer to you.

MR. CAMPAGNE: Yes. The response provided the usage from January through June 2013, as well as equivalent bill information.

MR. OSSIES: Thank you. And with that additional usage and bill information in mind, did the panel run an update of the company's gas forecasting sales model to compare against the actual monthly 30-day billing equivalent?

MS. LENZ: Are you asking for a sales update or - - update?

MR. OSSIES: Why don't we start with the sales update.

MS. LENZ: No, we didn't update our updated forecast in this information.

MR. OSSIES: Okay. Thank you. And did the panel run an updated forecast using its model to compare the actual monthly 30-day billing equivalent for bills? A comparison of the forecast to the actual, if that helps.

MS. LENZ: We looked at our forecast versus how they were tracking an update on forecast. We compared our forecast and bills to the historical company - -.

MR. OSSIES: Okay. Your Honors, could we ask for that information to be provided and leave a space on the record?

ALJ AGRESTA: Can you be a little more specific as to what that information is?

MR. OSSIES: Sure.

MS. LENZ: When I say compare, I don't necessarily say I have a piece of paper. We eyeballed it. So I mean, we can, I mean, we have the information available. It's—

MR. OSSIES: [Interposing] that would be the company's forecast, the actual comparison forecast for the months January through June 2013.

MS. KRAYESKE: Your Honor, I object. The company provided staff with the same information that the company would have looked at to eyeball the forecast. So staff is certainly capable of looking at that information and coming up with what they believe the forecast would be.

MR. OSSIES: The panel, we're asking for a comparison. The panel has this information available. They have their model. The panel has said they eyeballed it. I think it would be important to know how its, you know, how its comparison—

ALJ AGRESTA: [Interposing] okay, let's start at the beginning now. Does the panel understand what they're even asking for?

MS. LENZ: I thought they were asking for a comparison of the historical monthly bills, how they came in, versus our forecast, the January through June period. And then, - - to reiterate it, they have our forecast; they asked for the actual which we provided. So it's, we did not re-forecast our bills if that's what you're thinking. We just—so they have the information necessary to do what they're asking us to do.

MR. CAMPAGNE: What I'd like—again, let me clarify. What I'd like the company to do is to provide a validated model against the recent actual that the company provided in its update.

MS. KRAYESKE: The company provided an update, Your Honor, that included all of the things that needed to be updated as of December 30th, 2012.

We did not do a subsequent update and generally subsequent updates are not done. We did an initial forecast and we did an update. In fact, what Mr. Ossies is asking for is a third update.

ALJ AGRESTA: Okay, but is the reason why you're asking for it is because they have the model and you don't?

MR. OSSIES: That's correct, Your Honor.

ALJ AGRESTA: Okay. Would it be a monumental task for you to run the model one more time?

MS. LENZ: So you want us to update our forecast of billing; is that correct? Because initially I thought he just wanted us to compare how we're tracking to our updated forecast. So you want a whole new forecast?

MR. OSSIES: No.

MS. LENZ: Oh.

MR. OSSIES: I want a comparison to the recent—against the recent actual.

MS. LENZ: Okay. But I mean, we could do it but you also have the data to do it. That's—

MR. OSSIES: [Interposing] you have the model.

MS. LENZ: But the model, you have the

model, but you don't need the model because the model gives you the forecast which is done already. That's where I'm confused. Unless you're asking for a new forecast.

ALJ AGRESTA: I'm confused too. It sounds like you want them to re-run the model and produce another forecast using this new data. But you're not being clear.

MR. OSSIES: Your Honor, all I want is the comparisons to be on the record. Us running it at this point would have very little effect for purposes of getting this on the record.

MS. LENZ: When you say running it, it's just looking at the numbers and comparing. You're not really running anything. That's where I'm not sure when he's saying running.

MR. OSSIES: Again, I'll restate. I'd like a validation of the company's model against the recent actuals that the company provided.

MR. KRAYESKE: Your Honor, if the company was to do the model, and I'm still confused about what's being asked here.

ALJ AGRESTA: [Interposing] and I don't know what a validation of the company's model even means so you're going to have to come up with a better way to say that.

MS. OSSIES: I'm just looking for a comparison for the record.

MS. KRAYESKE: A comparison for the record I think would simply be taking the numbers that were provided in the response to 755 and comparing it to whatever our original forecast was which is something that staff could do.

ALJ AGRESTA: And that second set of numbers is already in the record somewhere?

MS. KRAYESKE: I believe our forecast numbers were January through June 2013 are in the record. I can't point to it right now.

ALJ AGRESTA: Does the panel know where that would be?

MR. CAMPAGNE: It would be in the backup work pages.

MS. KRAYESKE: Which we provided to staff.

ALJ AGRESTA: Okay, so that doesn't put it in the record.

MS. OSSIES: No, Your Honor.

ALJ AGRESTA: Can the panel produce something that we'll call a comparison, which is the two sets of numbers that staff is apparently seeking, in a single electronic document that we can mark in as an exhibit? And where it goes with that, I don't know. But…

MR. LENZ: Yes.

ALJ AGRESTA: Okay. Thank you.

MR. OSSIES: Thank you, Your Honor. I have no further questions.

ALJ AGRESTA: We're going to reserve Exhibit number 795 for what I'm going to loosely call a comparison and which the panel is going to help us out by producing something that makes some sense out of that word. Is there any redirect?

MS. KRAYESKE: Can you give us a second, please, Your Honor?

ALJ AGRESTA: Yes.

MS. KRAYESKE: So—

ALJ AGRESTA: [Interposing] okay, hold on a second. Are you recording? Okay. Go ahead.

MS. KRAYESKE: Your Honor, we have no further questions for this panel.

ALJ AGRESTA: Thank you.

MS. KRAYESKE: I'm ready to call the next panel, which are the same two witnesses.

[laughter]

MS. KRAYESKE: Mr. Campagne and Ms. Lenz are the steam forecasting panel.

ALJ AGRESTA: Okay.

MS. KRAYESKE: So I don't—

ALJ AGRESTA: [interposing] they're still under oath and so we're not going to do that again.

MS. KRAYESKE: And did you guys have any corrections to this testimony?

MR. JAY GOODMAN: No, no corrections.

MS. KRAYESKE: They're available for cross, Your Honor.

ALJ AGRESTA: New York City.

MR. JAY GOODMAN: Thank you Your Honor. Good morning, panel. My name is Jay Goodman, attorney for the City of New York. I have just a few questions for you this morning. First, on pages three to four of your direct testimony, you testified that the weather normalization clause that - - were adjusted on a real time basis for variance in weather, normal weather outside the dead band before customer bills are issued; isn't that correct?

MS. LENZ: It's to adjust for actual weather that may some - - right outside the dead band.

MR. GOODMAN: And on page 27 of your rebuttal testimony, you testified that the company did not need to demonstrate a financial need for the weather normalization clause because it is not purposed in the mechanism and you address the financial need; isn't that correct?

MS. LENZ: Can you say which minutes, the page again and line number?

MR. GOODMAN: It was page 27. Simply that it's the panel's position that because it's not proposing the weather normalization clause to adjust the financial needs; that it did not need to demonstrate a financial need. Is that correct?

MS. LENZ: We say that is not proposing it in our financial needs.

MR. CAMPAGNE: That's correct.

MR. GOODMAN: The panel testified that one reason to implement a weather normalization clause is to moderate annual variations in revenues due to weather; isn't that correct?

MR. CAMPAGNE: That's correct.

MR. GOODMAN: I'm sorry, annual variations in revenues due to weather.

ALJ AGRESTA: [Interposing] could you move your microphone down, please, and speak right into it. Just put it right up to your face.

MR. GOODMAN: And the panel also anticipates that if the period of normal weather

switched from 30 years to 10 years, that those year
to year variations in revenues due to weather might
increase, there might be more volatility. That was a
concern expressed by the panel in its testimony; is
that correct?

MS. LENZ: Right. We said there would be
more volatility in a 10-year normal because you have
more weight at each year. You have 1, 10 - - versus
a 30-year normals only - - .

MR. GOODMAN: And the weather normalization
clause would moderate the financial impact of weather
related variations and revenues on the company; isn't
that correct?

MS. LENZ: The weather normalization clause
we're proposing is to protect both the customer and
the company. So it also, you know, moderates the
effect of weather on the customer's bills.

MR. GOODMAN: I understand, but one purpose
would be to moderate the financial impact on the
company—

MS. LENZ: [Interposing] well, it would
stabilize their bills.

MR. GOODMAN: For the customer, but from
the company's perspective, it would moderate those—

MS. LENZ: [Interposing] it would also

moderate revenues to the variations in weather.

MR. GOODMAN: Since the weather normalization clause would reduce the risk of revenue volatility, if the clause is approved as proposed, would the company accept a lower return on equity given the lower risk to the company?

MS. LENZ: I don't know if that's necessarily a lower risk. It's still risky to the company in other areas.

MR. GOODMAN: In other areas, but with respect to this one area, the risk is reduced; is that correct?

MR. RICHTER: Your Honor, these witnesses are not testifying as to the proposed ROA, in this case to the company.

ALJ AGRESTA: I'm sorry, what was the question again?

MR. GOODMAN: Given that the proposed weather normalization clause would reduce the risk of revenue volatility, isn't it true that if the clause was approved—I'm sorry, let me start over. Given that the clause would reduce the risk of revenue volatility, would the company accept a lower return on equity if the weather normalization clause is approved as proposed?

MR. RICHTER: I think such a question would have been more properly addressed to the company’s cost of capital witnesses when they were on the stand.

ALJ AGRESTA: I agree. This is not the panel for that.

MR. GOODMAN: Your Honor, I have a discovery response I'd like to have marked into the record. This is panel's response to staff IR139, if you’d take a moment to look at it.

MALE VOICE 1: Do you want one copy or two?

ALJ AGRESTA: Okay. This is a six page exhibit. The first page appears to indicate that it's a response to question number S0139 and that the response was provided by the Con Ed's - - forecasting panel. I will mark it as Exhibit 796 for identification.

MR. GOODMAN: Panel, have you had an opportunity to read the questions? I would just like to direct your attention to subpart four, the question reading explain why the dead band range 95% and 105% throughout the normal was chosen. As you see on page two, the panel's response to the question is that the dead band around normal heating three days was selected based on discussions with the accounting panel regarding a reasonable weather related level of risk to steam return on equity. So I have two follow up questions then. First, let me restate the question. I'd like to go back to my prior question of given that the weather normalization clause would reduce the annual risk of revenue volatility to the company, if it is approved as proposed, would the company accept a lower return on equity. Your Honor, given that the panel touched on the issue in its response, I think that this is a relevant question.

ALJ AGRESTA: Again, the interrogatory response appears to indicate that the accounting panel is the one that made the decision on return of equity. I'll let the panel answer if it knows what the company's position is going to be. I don't have great hopes. So panel, do you know the answer to that?

MS. LENZ: No.

ALJ AGRESTA: I would like to know though if you could explain—if I could interrupt you for a second, Mr. Goodman. What exactly is going on here with the mention of return on equity? What is it that the—explain in your own words how the dead band relates to return on equity.

MS. LENZ: It was basically equating it to a dollar figure. So how the dollar figure, and the dollar revenues that we would be at risk for within the dead band would impact a level of revenues.

ALJ AGRESTA: So within the dead band you might be giving up revenues or you might be getting revenues or you might be getting too many revenues.

MS. LENZ: That's correct.

ALJ AGRESTA: And you want to look at whether that amount of revenue is significant in terms of whatever the return is going to be for the company?

MS. LENZ: Correct.

ALJ AGRESTA: Okay. And so the dead band—did you conclude that the dead bank would reduce somewhat the risk of the company?

MS. LENZ: Well, I don't think the dead band reduced the risk.

ALJ AGRESTA: I'm sorry; the weather normalization adjustment altogether, would that reduce the risk to the company?

MS. LENZ: I mean, it would, we would retain revenues at the normal level of whether that rate is set at so, you know, right now we, if it's a milder winter or a colder winter, we do the—you know, we take more revenues or less revenues. I don't know if that answers the question.

ALJ AGRESTA: Okay, I think I understand where you're coming from. Go ahead, Mr. Goodman.

MR. GOODMAN: That's all I have with respect to that exhibit. My last question is that the weather normalization clause is based on an estimate of the average per customer's steam usage under normal weather; isn't that correct?

MS. LENZ: Correct.

MR. GOODMAN: Isn't it also correct, therefore, that a new customer with very efficient steam equipment would be deemed to have class average usage levels for purposes of the weather normalization clause?

MS. LENZ: Well, if you're a new customer, we would be updating or refreshing equations every year so eventually you would be, that would be reflected in the weather response to the average class.

MR. GOODMAN: I'm sorry, I didn't hear the full answer. Could you repeat that?

MS. LENZ: In order to estimate the weather effect, we would be running your aggression analysis to determine how much each degree day effects customer's usage. If we have a new customer that's much more energy efficient, and their weather effect is less, that would be embedded in the refreshed analysis and the overall reduce all of the customers.

MR. GOODMAN: Just to be clear that I understand the response correctly, that is a class average.

MS. LENZ: It is a class average but—

MR. GOODMAN: [Interposing] but you said over time—

MS. LENZ: [interposing] right, but then in a class average, right, all customers that will use less. So while some customers may have a higher weather impact, some have less, it's going to have an overall—those customers using more then will benefit if they're impacted by customers that are more efficient.

MR. GOODMAN: So over time, the class average will the—excuse me, the more efficient customer, but that new customer with very efficient steam equipment still will be having class average usage.

MS. LENZ: Yes.

MR. GOODMAN: So similarly, if you have an existing customer that implements energy efficiency measures or otherwise reduces its load, that customer also would be deemed to have a class average use levels for purposes of the clause, correct?

MS. LENZ: Could you repeat the question?

MR. GOODMAN: Sure. It's just a variation on the question that you just answered. And that’s then, say the new customer, if you have an existing customer that implements energy efficiency measures or otherwise reduces its load, that customer would be deemed to have class average usage levels for purposes of the weather normalization clause; isn't that correct?

MS. LENZ: Yes.

MR. GOODMAN: The operation of weather normalization clause would not be able to distinguish whether a customer's change in lower consumption is due to an intentional act by the customer or due to weather; isn't that correct?

MS. LENZ: Well, then maybe we should talk about whether - - efficiency. I mean, it's when the energy efficiency impact on the steam load, and as long as - - was injected last case because there weren't many measures.

MR. GOODMAN: Well, the question is to understand how the weather normalization clause would—what the impact of that would be to the customer's perspective if they're energy efficiency—

MS. LENZ: [Interposing] well, we're not saying to be perfect.

MR. GOODMAN: [Interposing] because you mentioned revenue to the company.

MS. LENZ: We're not saying it's going to be perfect for every customer. You have to make assumptions. You're right. There are some customers who will probably use more in their, and there are weather factors, they probably won't pay what they're using on the weather - -, but overall we're updating every year so over time it will reflect usage characteristics of the customers if they're providing efficient measures in, those type of things.

MR. GOODMAN: On a class - - basis.

MS. LENZ: Yes.

MR. GOODMAN: So a customer that invests in energy efficiency measures or monitors its steam usage to manage monthly costs, would not realize the full benefits of those efforts if its bills are adjusted by the weather normalization clause; isn't that correct?

MS. LENZ: Well, I don't agree with that. I mean, it's still saving money on the energy portion of the bill. I mean, you know, we're trying to basically reflect in the - - revenues what somebody would have received in a normal weather which - - . So the customer still benefits from whatever measures they put in fuel side, they'll still save quite a bit.

MR. GOODMAN: Nothing further, Your Honor.

ALJ AGRESTA: When you say it's updated annually, that means that it's like a rolling class average that continually gets updated?

MS. LENZ: Well, once a year. It's not every month, it's once a year--

ALJ AGRESTA: [Interposing] right.

MS. LENZ: We reflect the prior year’s winter.

ALJ AGRESTA: So if a customer takes an action at the beginning of the year, it won't get reflected in the class average until it's already been in place probably for about a year. Is that how it works?

MS. CAMPAGNE: Yes, similar to gas. It would be updated every year.

ALJ AGRESTA: Okay. Is there any redirect?

MS. KRAYESKE: One second, Your Honor.

ALJ AGRESTA: Okay, we're back on the

record.

MS. KRAYESKE: Just one question, Your Honor. Can you just explain a little bit about how the application of the steam weather normalization clause?

MS. LENZ: We just want to clarify that the steam weather normalization clause would only be applied in the months of November through April. I think earlier it was mentioned something about annual. So it's only the billing months from November through April.

MS. KRAYESKE: Nothing further.

ALJ AGRESTA: Okay. Thank you. These witnesses are excused. Staff, it's your turn to call a witness.

MR. LECAKES: Thank you, Your Honor. Staff calls An Ping Lu [phonetic].

ALJ BIELAWSKI: May I have you stand, please, and raise your right hand. Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

DR. LU: Yes.

ALJ BIELAWSKI: And do you adopt your prefiled testimony as your sworn testimony in these proceedings?

DR. LU: Yes.

ALJ BIELAWSKI: Thank you.

MR. LECAKES: Dr. Lu, you only filed direct testimony; is that correct?

DR. LU: Yes.

MR. LECAKES: Do you have any corrections to that testimony?

DR. LU: No, I don't.

MR. LECAKES: Your Honor, the witness is available for cross examination.

ALJ AGRESTA: Okay. The only cross I see is Con Edison.

MS. KRAYESKE: Okay, Your Honor. Hello, Dr. Lu. How are you today?

DR. LU: Fine, thank you. How are you?

MS. KRAYESKE: Good. My name is Mary Krayeske and I'm from Con Edison and I just have a couple of questions for you. The case 0170523, you recommended models of the same functional form the company used in this case, correct?

DR. LU: Correct.

MS. KRAYESKE: And in case 08E0539, you also recommended models of the same functional form that the company used in this case, correct?

DR. LU: I don't recall. In the previous case I think I—could you speak the case number again?

MS. KRAYESKE: This was the 08 case, case 08E0539.

ALJ AGRESTA: Which company was that, please?

MS. KRAYESKE: All three of these cases were Con Edison - - electric rate cases.

DR. LU: Okay, then the previous one is 07.

MS. KRAYESKE: Correct.

DR. LU: I don't recall a specifically a - - company’s model.

MS. KRAYESKE: Would you accept, subject to check, that you recommended the models with same functional form?

DR. LU: Yes.

MS. KRAYESKE: Okay. And in case 09E0428 which was the last electric rate case before this electric rate case, you also recommended models of the same functional form, correct?

DR. LU: Correct.

MS. KRAYESKE: Okay. On page five of your testimony you recommended 10-year average basis for normal weather because you say it puts more weight on recent weather data, correct?

DR. LU: Correct.

MS. KRAYESKE: And weather data is available on a year by year basis for many years, correct?

DR. LU: Yes.

MS. KRAYESKE: And you chose 10 years, correct?

DR. LU: Yes.

MS. KRAYESKE: What was the criteria that you used to determine that 10 years was the optimal amount?

DR. LU: One of the source we got is from the US Energy Administration (EIA). I don't have the resource of the citation - - the U.S. Department of Energy, EIA, has used the 10-year average before. And in considering 30-year versus 10-year is, 10 year is reflecting weather trend more accurately of current weather.

MS. KRAYESKE: Did you perform any studies to determine if 10 was the optimum number versus 5, versus 15, versus 20?

DR. LU: I did perform the 10 year instead of the 30. But I didn't do 5 year.

MS. KRAYESKE: Okay. If you were to use a model to forecast a variable, is ARIMA model preferable to a cycle linear regression model?

ALJ AGRESTA: I'm sorry. Is what kind of model?

MS. KRAYESKE: ARIMA. Capital A, capital R, capital I, capital M, capital A. ARIMA.

DR. LU: When you mentioned—can you define ARIMA - -? Did you mean to - - model - - the structure without the independent variable?

MS. KRAYESKE: Yes, without the independent variable.

DR. LU: So what was the question again?

MS. KRAYESKE: Okay. So if you were to use a model to forecast a variable as an ARIMA, which means auto regressive integrated moving average, model preferable to the cycle linear regression model?

DR. LU: It really depends on what I forecast.

MS. KRAYESKE: On page 25 and 26 of your testimony, you explain that the inclusion of an intercept in Con Edison's model is equivalent to adding a time trend to the level model which can lead to an incorrectly specified model if the added time trend is irrelevant. Correct?

DR. LU: Correct.

MS. KRAYESKE: You're saying that the addition of a time trend model may or may not be relevant, correct?

DR. LU: Correct.

MS. KRAYESKE: Did you conduct any tests to show that a time trend is not relevant in the level model equivalence of Con Edison's model?

DR. LU: No, I did not.

MS. KRAYESKE: So it's just conjecture on your part that Con Edison's model may be incorrectly specified, correct?

DR. LU: Correct.

MS. KRAYESKE: Then you say right after that on page 26, you say that the coefficients of the equations for an incorrectly specified model are biased, correct?

DR. LU: Yes.

MS. KRAYESKE: Were you referring to the situation where an irrelevant variable is added to a model?

DR. LU: Pardon me, what was—

MS. KRAYESKE: [Interposing] Were you referring to a situation where an irrelevant variable is added to a model?

DR. LU: I'm saying if the model is

incorrectly specified, such as including a time trend variable which would not being included, then the consequence would be the coefficient of the variable - -.

MS. KRAYESKE: So you're saying this in general, correct?

DR. LU: Yes.

MS. KRAYESKE: You're not pointing to anything specific. It's more a theoretical statement.

DR. LU: Yes.

MS. KRAYESKE: Is it specifically with respect to the inclusion in a relevant variable?

DR. LU: Yes.

MS. KRAYESKE: Are you aware that in the situation where a model is overspecified, it could include an irrelevant variable, and therefore the statement could actually be false?

MR. LECAKES: I apologize. Could I hear that question again?

MS. KRAYESKE: Let me try it slightly differently.

MR. LECAKES: Thanks very much.

MS. KRAYESKE: Are you aware that the statement is actually false where the model includes an irrelevant variable?

MR. LECAKES: By statement, are we still referring to his testimony on page 26, lines 9 and 10?

MS. KRAYESKE: Yes.

MR. LECAKES: Okay.

DR. LU: Well, this statement is, according to the two types of errors, then if you included the variable that should not be included you could have biased estimate. On the other hand, if you omit some variables that should be included in the model, and the coefficient of the variable can also be biased.

MS. KRAYESKE: Are you saying that including an irrelevant variable in model leads to biased estimates?

DR. LU: Yes. Including an irrelevant variable in the model will result in biased estimates.

MS. KRAYESKE: Would you accept, subject to check, that in basic econometric textbooks, your statement is not true in the case of overspecified models? And I would give you the names of some textbooks or I can even provide you with some excerpts.

DR. LU: I think you're using words like

overspecified, correct? Or this is - -.

MS. KRAYESKE: Yes, overspecified means inclusion of irrelevant variables.

DR. LU: I would accept.

MS. KRAYESKE: Okay. I refer you to customer forecasting models in Exhibit AL5. Do you agree that the logarithm of the number of customers in each service class is trending over time?

DR. LU: Yes.

MS. KRAYESKE: Do you agree that the dependent variable in each of your customer models is not stationery?

DR. LU: Yes.

MS. KRAYESKE: Do you agree that the logarithm of employment variables that was employed as a regressor in each of your customer models for SCs 1, 2, 8 and 9 is also trending over time?

DR. LU: Yes.

MS. KRAYESKE: Do you agree that the trend of the logarithm of employment variable is not assumed?

DR. LU: Yes.

MS. KRAYESKE: Did you perform any tests to see if the customer variable in each model and the employment variable are co-integrated?

DR. LU: No, I do not.
MS. KRAYESKE: Now I'd like to turn to the journal article that you included in Exhibit AL-8. Do you agree that this study warns about the potential loss in estimation efficiency when using difference equations only under certain particular conditions?
DR. LU: Yes.
MS. KRAYESKE: Do you have any proof that these particular conditions apply to Con Edison's models?
DR. LU: I did not perform any tests.
MS. KRAYESKE: I have nothing further.
MR. LECAKES: One minute with this witness Your Honor.
ALJ AGRESTA: Okay, we're back on the record, everyone.
MR. LECAKES: Dr. Lu, did you perform any tests for co-integration between the dependent variable and the regressors of each of your logarithm and linear models?
DR. LU: No, I did not.
MR. LECAKES: And why not?
DR. LU: I believe my models have been appropriately analyzed with the - - relationship with

taking care of the regression of the residuals based on recent - -.

MR. LECAKES: I have no further questions, Your Honor.

MS. KRAYESKE: Nothing further.

ALJ AGRESTA: Okay. This witness is excused. Thank you. We're going to take a 10-minute break but if the next panel could come up and take its place. Off the record.

Okay, we're on the record.

MR. OSSIES: DPSF staff would like to call the gas sales forecasting panel to the stand.

ALJ BIELAWSKI: Can you stand, please, and raise your right hand. Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

MR. SRIRANGARAM SESHADRI: I do.

ALJ BIELAWSKI: And do you also adopt your prefiled testimony as your sworn testimony in these proceedings?

MR. SESHADRI: Yes.

ALJ BIELAWSKI: Thank you.

MR. OSSIES: Your Honor, to the gas sales forecasting panel, staff's gas forecasting panel have some minor corrections to the testimony that was previously filed. With that, the panel is available for cross examination.

ALJ AGRESTA: Thank you. The only cross I have on the schedule is Con Edison.

MS. KRAYESKE: Hello. My name is Mary Krayeske. I'm an attorney with Con Edison and I have a couple of questions for you. How are you guys today? Staff's gas rate panel proposes that the company provide incentives to customers to either remain on interruptible service or switch to interruptible service, correct?

MS. LILIYA RANDT: Could you repeat the question, please?

MS. KRAYESKE: The staff gas rate panel.

MS. RANDT: Yes.

MS. KRAYESKE: Proposes that the company provide incentives to customers to either, so that those customers either remain on interruptible service or they switch to interruptible service, correct?

MS. RANDT: Can you point me to the line?

MS. KRAYESKE: It's on page 28 of staff's gas rate panel testimony. If you'd like, I can get it for you.

MS. RANDT: Yes, please. Yes, I can see

that.

MS. KRAYESKE: This proposal is designed to result in fewer customers than would otherwise be taking firm service—be taking gas firm service, correct?

MS. OSSIES: Your Honor, I'm going to object to this line of questioning only because this panel is here for the sales forecast testimony that was submitted.

ALJ AGRESTA: It sounds like it's foundational from what she's going to get into with this panel so I'm going to let it go.

MS. KRAYESKE: And I would note that one of the members of this panel was on the gas rate, is on the gas rate panel, so…

MS. RANDT: We did not state a specific main - - .

MS. KRAYESKE: I'm sorry. Can you--

ALJ AGRESTA: You have to talk really loud.

MS. RANDT: We did not state in our aspect gas rate - - specifically - - .

MS. KRAYESKE: If customers moved to interruptible from firm, you’re going to have fewer firm customers, correct?

MS. RANDT: That's correct.

MS. KRAYESKE: And if you have fewer firm customers, you'd have less firm usage, correct?
MS. RANDT: That's correct.
MR. KRAYESKE: Can you explain to me how the change in your approach, wanting to move more customers to interruptible, is reflected in your gas sales forecast for firm usage and firm customers for the rating?
MS. RANDT: We didn't expect this change.
MS. KRAYESKE: Turning now to SC2 rate one, those customers are non-heating customers, correct?
MR. SESHADRI: I'm sorry, can you repeat the question?
MS. KRAYESKE: SC2 rate one customers, they're non-heating customers, correct?
MR. OSSIES: Actually the counsel has - - question.
MS. KRAYESKE: I'm sorry, what did you say?
MR. OSSIES: I just didn't hear the question. I was asking him to repeat it.
MS. KRAYESKE: Okay.
MR. SESHADRI: Based on what's in the company's tariff, I have SC2 rate one as general.
MS. KRAYESKE: Right, they're non-heating customers, correct?

MS. RANDT: Yes, that's correct.
MS. KRAYESKE: Yes? And this class does not include four to six conversion customers, correct?
MR. SESHADRI: Yes.
MS. KRAYESKE: In staff's model for SC2 rate one customers, you forecast the number of 30-day bills for the rate year to be 750,984, correct?
MS. OSSIES: Could you provide a line or a page number for their reference?
MS. KRAYESKE: Sure. I can provide them with stats from their work papers. I'll provide them with - - lines. Would you like me to point out exactly where it is? Of course, I can no longer read it as I'm getting older, but if you go to the bottom of the, 1, 2, 3, 4, 5, 6, 7—the bottom of the 11th column, it's in gray. And it says, the last number there says 757 I think 984. I can't really read it.
Now for 2010—
ALJ AGRESTA: [Interposing] Hold on. If you're going to say yes, you have to actually say yes. You can't just shake your head.
MS. RANDT: Yes, that's correct.
MR. SESHADRI: Yes.
L I L I Y A R A N D T and S R I R A N G A

R A M S E S H A D R I, having been first duly sworn, testified as follows:

CROSS-EXAMINATION

BY MS. MARY KRAYESKE

Q: For 2010, the company's total number of 30-day bills for SC2 rate one customers was 734,287, correct? And I think that number is also down on that sheet as well.

MR. SESHADRI: Yes.

Q: Okay. And for 2012, the company's total number of 30-day bills for SC2 rate 1 customers was 740,619, correct?

MR. SESHADRI: Yes.

Q: So basically, in a two-year period, the company experienced an increase of 6,332 bills, correct?

MR. SESHADRI: Would you repeat that question, please?

Q: So in a two-year period, from 2010 to 2012, the company experienced an increase of 6,332 bills, correct?

MR. SESHADRI: Yes.

Q: Okay. And your forecast includes an increase of 17,365 bills, correct?

MS. RANDT: Where do you see this number?

Q: It's the 757,984 number over the 740,619 number. It's just the difference--

MR. SESHADRI: [Interposing] If the difference comes out to that be number, yes.

Q: Okay. So for this class of customers, multiplying the 17,365 bills times the RPC factor, that equates to about $1.5 million in sales? Correct? Let me slightly rephrase the question. Is the incremental—the difference between kind of where we had increase in the past 2 years of about 6,000 versus the 17,000. That 11,000 customer difference is worth about $1.5 million?

MS. RANDT: It's subject to check, but I don't - - .

Q: Turning now to SC3 greater than 4 dwelling units, your revised forecast—so this is the forecast that was revised that was provided last week—shows a bill count of 194,225 in 2014, correct?

MS. RANDT: Is it in the papers that you provided to us?

Q: It's the second page of the work papers that I provided to you.

MS. RANDT: Yes.

Q: And this class of customers also—these class--this class—the numbers I've quoted doesn't include any 46 conversions. So it's clean as to 46 conversions, correct?

MS. RANDT: What number are talking about? This is detailed.

Q: We're talking about the 183,000--no, that's Con Edison's number. Their number is—I'm sorry, strike that for the record.

MR. BRIAN OSSIES: Yeah. Mary, I'm having a hard time following as well on the sheet you handed out.

Q: The--they are bifocal contacts. If you go to 12 columns over, the bottom number in gray, believe it or not, says 194,225.

MS. RANDT: Yes.

Q: Okay. And for 2010, the company's total number of 30-day bills was 183,683, and I believe that is in 1, 2, 3, 4, 5, 6, 7--the 9th column on the bottom.

MS. RANDT: I don't know what number you're talking about.

Q: Would you accept that subject to check?

MR. OSSIES: Mary, can you actually--I'm sorry, Your Honor. Could you please be more specific? 'Cause I'm trying to find—

MS. MARY KRAYESKE: [Interposing] Okay. I'm sorry. I just cited the wrong--

MR. OSSIES: [Interposing] I just want to make sure the witness is--

MS. KRAYESKE: [Interposing] Right.

ALJ AGRESTA: Okay. Okay. Let's everybody just slow down, okay?

MS. KRAYESKE: [Interposing] I'm just--

ALJ AGRESTA: --try it one more time.

Q: Okay. So if you--on the sheet that is on top that says SC3, if you go over 1--if you go over to the 11th column, the first number in that column is 183,683, which is a compilation of the bill count for the company's total number of 30-day bills for 2010 for SC3 greater than 4 dwelling units.

MS. RANDT: It's the 183,683? This is the number that you're talking--

Q: [Interposing] One eighty-three six eighty-three, yes.

MS. RANDT: Okay.

Q: Okay. Then for 2012, would you accept, subject to check, that the company's total number of 30-day bills was 188,772? And you can find that three columns over the first number, which compiles the 2012 numbers.

MS. RANDT: Subject to check.

Q: Right. So the company's bills increased by about 5,089 bills, correct? So--

MS. RANDT: [Interposing] this is what the paper shows.

Q: Okay. Now, staff forecast is--forecasts an increase of 364 bills, correct?

MS. RANDT: Which--point me or show me where is it?

Q: Okay. So it's--again, it's taking the staff number that we talked about earlier, which was 194,225, from the company's total as of 2012, which was 188,772.

MS. RANDT: So this is the difference between what?

Q: So basically, the calculation that we did here was we looked at the amount of bills that had increased between 2012 and 2010, and we subtracted that out and that was 5,000. And then your number was 194,000. So we subtracted the 5,089 from the 194,225 to find out how much--how many more bills was in your forecast versus our forecast.

MS. RANDT: For what year?

Q: For 2014.

MS. RANDT: So you wanted to know how many bills did--

Q: [Interposing] how many bills did staff forecasted above what the company forecasted.

MS. RANDT: Okay.

Q: And would you accept subject to check that's about 365 bills?

MS. RANDT: I would accept subject to check.

Q: And the RPC factor for each one of these bills is about $1,000 per bill, correct?

MS. RANDT: For what year?

Q: It's the current RPC factor.

MS. RANDT: Okay. Subject to check.

Q: Okay. So the difference between the extra 365 bills is about $350,000, subject to--

MS. RANDT: Subject to check.

Q: Okay. Now, let's turn to the SC5 dwelling forecast--less than five dwelling forecast. In developing your revised forecast, you used 30 months of data, which--correct?

MR. SESHADRI: I'm sorry? Did you say SC5?

Q: SC3 less than 5 dwelling units.

MR. SESHADRI: Okay.

Q: Okay. You used 30 months of data to develop your forecast, correct?

MS. RANDT: That's correct.

Q: Okay. And that basically equates to 19 observations of 12 months of rolling data, correct?

MS. RANDT: Mary? Would you please repeat your question?

Q: I'll try. Basically, in using 30 months of data, that equates to 19 observations of a rolling 12 months. So 12--you took the 12 months and you looked at it 19 different times, correct?

MR. SESHADRI: Eighteen, actually.

Q: Eighteen? Okay. Now, when you did your regression analysis that yielded a statistical 91% R square metric, correct?

MR. SESHADRI: Yes.

Q: Okay. And as a result of this regression, you had a forecast of 3,381,123 bills for the rate year, correct?

MS. RANDT: Yes.

Q: Okay. So hypothetically, if I were to select a period that used 27 months and 16 observations of 12 months of data, but the data yielded a 99% R squared, would you say that that might be a better model to use? And I have an example here to show you if you'd like to see.

MS. RANDT: That's fine.

Q: You want to see it?

MS. RANDT: Yeah.

Q: Okay.

MS. RANDT: So how--may I ask, how many observations you're taking?

Q: When I did this hypothetical example? I looked at 27 months of data, which turned out to be 16 observations of 12-month rolling data.

MS. RANDT: To answer to your question, to arrive at the reasonable number of observation, we look--looked at the--we try to capture the most recent data and we--at the same time, we're trying to achieve the best R squared. So basically, in our attempt, we looked at each class and we look at the combination of number of observation and the best R squared.

Q: So your matrix for looking at all of these forecasts and the observations was R squared?

MS. RANDT: No. It's a combination between the data for each class, the recent data that you give the balance between the amount of recent data and the best R squared. We didn't do just the R squared. We didn't look--we look at that number of observation, the recent data. And we look at the data of the class, how it's changed, overall how the forecast changed.

Q: So the example that I've given you provides the most recent data, just a couple of months shy of what you did, correct? I looked at 27 months and you guys looked at 30 months?

MS. RANDT: It depends on a class. Each class have different needs, which was the same data in the R squared.

Q: Right.

MS. RANDT: We can pick and choose. We choose--we chose what we found to be reasonable numbers. It gave us the comfort level between the R squared and the number recently.

Q: Well, what I've showed you looks at a period of time, just simply a shorter period of time, correct?

MS. RANDT: That's correct.

Q: And the R squared on that is actually 99%.

MS. RANDT: Subject to check.

Q: Okay. Would you say that using a little bit less data with a higher R squared might be a better model to use?

MS. RANDT: I cannot say this. I didn't try this question. It was a hypothetical question.

Q: Okay. Subject to check, if you looked at--

MS. RANDT: [Interposing] I'm not going to run this. I mean, I have my data, which I support, and this is not what I presented in my testimony.

ALJ AGRESTA: Well, the question doesn't require you to agree with the results. It's asking whether using 27 observations instead of 30, but getting a better R squared is a reasonable or better way of doing it.

MS. RANDT: I think--

ALJ AGRESTA: [Interposing] so what's your professional opinion on that?

MS. RANDT: I think it should be, you know, it could be 15 observations that could give me better R squared, you know. Between, like, 29 and 30, I probably would use whatever give me the best R squared. But if the R square is not that significant, the difference between the - - calculation's going to give me the known something, a chance with the percent. It doesn't match up.

Q: So is the difference between the 91% R squared and 30 months and the 99% R squared pushing 27 months, is that significant enough to offset keeping 3 months out?

MR. OSSIES: You know, Your Honor, the panel has testified.

ALJ AGRESTA: I would like to hear the answer to that question, which trumps all objections.

A: Would you please repeat this question?

Q: So this probably isn't the exact question, but I'm going to do about the best I can to get it to the exact question. So would you say--would you agree that looking at a 30-month observation with a 91% R squared and comparing it to a 27-month observation with a 99% R squared, that the differences in the R squared is acceptable enough that the losing 3 months is okay because you have a better R squared? I didn’t ask it the exact same way, but I--

ALJ AGRESTA: [Interposing] I think the word used before was whether it was significant enough.

MS. KRAYESKE: Okay. Sorry.

ALJ AGRESTA: And then let’s make the question is it significant enough that you would make such a change?

MS. RANDT: I think I accept this. We can lose three months. The way how we develop our R squared, we wanted them to be more than 90%. We tried to achieve R squared over 90%. The reason--

ALJ AGRESTA: [Interposing] Okay. So once it got higher than 90%, then you stopped looking for new--

MS. RANDT: [Interposing] I mean, we did.

ALJ AGRESTA: --scenarios?

MS. RANDT: We did, but we didn’t take data which is less than 90. We try to achieve, like, 90 and up.

ALJ AGRESTA: Okay.

MS. RANDT: You know, and whatever it gave us--the 90 was a comfortable level for us to achieve an R squared.

Q: So you could live with dropping the three months?

MS. RANDT: Yes.

Q: Okay. So if you did this regression, would you accept, subject to check, that it would yield a bill forecast of 26,493 less bills and it would lower the forecast by 2.2 million for the service class?

MS. RANDT: Subject to check.

Q: Okay. Do you agree that staff witness--I'm turning to another area. Do you agree that staff witness Lu [phonetic] suggested the use of the latest tenure weather data?

MS. RANDT: Yes.

Q: And in discovery, the company asked what normal was used by the Staff Gas Forecasting Panel, correct?

MR. SESHADRI: Yes.

Q: And your answer, which was in response--which we provided in Exhibit GFP20--was that staff forecast the total annual bills for various service classes using a linear--using linear regression analysis. And you provided that response in request--in response to Con Edison's request number 66?

MS. RANDT: Do you have it?

Q: What?

MS. RANDT: Do you have it?

Q: Do I have it? I will get it. Just give me ten seconds.

MS. RANDT: Yes, I can see it. Yes.

Q: Okay. And at the same time, the company asked you what time period did the normal cover. And in response to 67, you basically gave the same answer, which I can provide, and I'd like to have marked as well.

MS. KRAYESKE: Your Honor, I would request that the response to company question 67 to staff be marked as Exhibit 797.

ALJ AGRESTA: It will be marked Exhibit 797 for identification.

Q: And then shortly after you provided this answer, staff also provided a revised response, correct?

MR. SESHADRI: A supplemental.

Q: A supplemental response. And that supplemental response was dated July 8th, 2013, and it included a one-page--a response to question 66 and 67, which I ask be marked as Exhibit 798 for identification.

ALJ AGRESTA: The one-page supplemental response to 66 and 67 will be marked 798 for identification.

Q: That--are you guys ready?

MS. RANDT: Yeah.

Q: Okay. Your revised response to 67 noted that the normal that you used was the 30 years ended 2011, correct?

MS. RANDT: Yes, that's--

MR. SESHADRI: [Interposing] Yes.

MS. RANDT: --correct.

Q: Okay. Now, after submitting these revised discovery responses on July 8th, you corrected your forecast on July 17th, correct?

MS. RANDT: Yes.

Q: And the forecast submitted on July 17th did not reflect the ten-year normal when you corrected for other errors, correct?

MS. RANDT: That is correct.

Q: Now, would you agree that--accept subject to check that adjusting for the ten-year weather ended 2012 would decrease this--your sales forecast by $3.8 million?

MS. RANDT: Subject to check.

Q: I have no further questions.

MR. OSSIES: Your Honor, we'd like to take some time to talk to the witnesses.

ALJ AGRESTA: Okay.

[OFF THE RECORD]

[ON THE RECORD]

ALJ AGRESTA: Okay. Let's go back on the record.

MR. OSSIES: Thank you, Your Honor. We do have some redirect.

REDIRECT EXAMINATION

BY MR. BRIAN OSSIES

Q: I just want to be sure that we're clear, based on the questions that the company asked the panel. First question I'd like to ask is, did the rate panel recommend providing incentives to interruptible customers?

MS. RANDT: No, they did not recommend an incentive. We did not recommend any incentive payments. We just--they are separate. They don't testify to the right rate zone.

Q: Thank you. And you were asked questions by the company regarding whether or not your forecast reflected movement between firm to interruptible customers. Doesn't your forecast actually reflect customers moving from firm to interruptible?

MS. RANDT: Our forecast projected the normal--

ALJ AGRESTA: [Interposing] Can you speak louder, please? I can't hear you.

MS. RANDT: Our forecast reflected the movement that was captured in an underlying historical data.

Q: And that was data provided by the company, correct?

MS. RANDT: Yes, that's correct.

Q: Thank you. The company asked you questions regarding how your forecast compared to recent 2010, 2012--excuse me--2012 actual data. My question is, did the panel compare your forecast to the most recent actuals provided by the company from January 2013, to June 2013?

MS. RANDT: In response to the company IR740 number 126140, we received actual number of bills for January ’13, through June 2013, and we compare it--compare it rolling average of the actual data to the step sales forecast. And for each class. And for example, for the SC31, recent actual data shows higher in the sales forecast and--but it’s trending in the same direction. And for the S2, it goes along with the staff forecast.

Q: And to be clear, this information was provided to the company--

MS. RANDT: [Interposing] Yes.

Q: --pursuant to a company interrogatory directed to staff, correct?

MS. RANDT: Yes, that’s correct.

Q: And that number was set 40, number 126?

MS. RANDT: - - 130 - - .

Q: I’m sorry?

MS. RANDT: It’s 126 to 131.

Q: Excuse me. 126 to 131.

MR. OSSIES: Your Honor, I would ask that we be allowed to provide those responses as part of the record in this case.

MS. KRAYESKE: Your Honor, I object. The company asked staff some questions and, you know, the company looked with staff, may or may not have looked at staff's responses, but for staff to try and get some discovery responses in at this point, you know, it is unfair and unreasonable.

ALJ AGRESTA: I'm going to sustain the objection.

MR. OSSIES: So there were questions asked regarding how the actual data was being used and how the witnesses applied that toward linear regression - - .

ALJ AGRESTA: And the witnesses answered that--

MR. OSSIES: [Interposing] and the company provided information as part of its update. Staff was given very little time to analyze. We got the responses very late. And Your Honor, except to say that, you know, based on testimony you heard today, that information could be very beneficial to - - .

ALJ AGRESTA: You could have presented it as a cross-exhibit to the company's panel and you did not.

MR. OSSIES: Well, then I would ask to have time to have additional cross-examination for the company’s panel.

ALJ AGRESTA: No.

MS. KRAYESKE: And, Your Honor, I would also ask that--there’s a lot of testifying going on so, you know, that that be considered.

ALJ AGRESTA: Well, and he can talk a lot, but that doesn’t make it testimony, okay?

Q: Panel, you were presented with a hypothetical - - SC11, and you agreed to the hypothetical, but are you agreeing to a change in your forecasted position?

MS. RANDT: No, we do not agree to the change of our forecast.

Q: Thank you.

MR. OSSIES: I have no further questions.

MS. KRAYESKE: Just one quick question. I’m sorry.

RE-CROSS EXAMINATION
BY MS. MARY KRAYESKE

Q: A trend over six months doesn’t necessarily equate to a trend over two, three, four years. It’s just a six-month snapshot, correct?

MS. RANDT: It’s a hypothetical question.

Q: No, it’s not a hypothetical question. It’s a question.

MS. RANDT: Would you repeat it, please?

Q: A trend over six months doesn't necessarily make--the past in a trend isn't necessarily a prologue to what the future's going to be, correct?

MS. RANDT: I think it depends on the class. Some have a cycle, some--it's a different trend for each class, and I have to look at each individual class alone to make this conclusion.

Q: And it can go up and down?

MS. RANDT: That's right.

Q: Okay.

MS. KRAYESKE: Nothing further. Thank you.

ALJ AGRESTA: Anything else, staff?

MR. OSSIES: No, Your Honor.

ALJ AGRESTA: Okay. These witnesses are excused, thank you. Okay. At this time, I'm going to mark for identification the witness affidavit of James Fine. That will be Exhibit 799 for identification. And--

MS. KRAYESKE: [Interposing] Your Honor, is this the--in lieu of Mr. Barney [phonetic] testifying, we were going to mark some exhibits. So would this be the appropriate time to do that?

ALJ AGRESTA: If you have them ready.

MS. KRAYESKE: Of course I do.

MR. DARIN LECAKES: Your Honor, 799 was the witness affidavit of which witness? I'm sorry.

ALJ AGRESTA: James Fine.

MR. LECAKES: Thank you.

MS. KRAYESKE: Your Honor, I would request that Exhibit Number 800 would be a six-page document, which provides some discovery responses to--from Fred Barney to the company and some other documents. The staff has agreed to allow into the record. So it's a six-page document. The first page, it says it's the response to question 78 from Fred Barney to the company.

ALJ AGRESTA: Thank you. That'll be marked Exhibit 800 for identification.

MS. KRAYESKE: Thank you, Your Honor.

ALJ AGRESTA: Okay. Let's go to the next witness. Con Edison, please call your next witness.

MR. MARC RICHTER: Your Honor, the company calls Mr. Ivan Kimball.

ALJ BIELAWSKI: Raise your right hand, please. Do you swear or affirm that the testimony you're about to give is the truth, the whole truth, and nothing but the truth?

MR. IVAN KIMBALL: Yes.

ALJ BIELAWSKI: And do you also adopt your pre-trial testimony as your sworn testimony in these proceedings?

MR. KIMBALL: Yes.

ALJ BIELAWSKI: Thank you.

ALJ AGRESTA: Is Mr. Kimball available for cross at this point?

MR. RICHTER: Yes, he is, Your Honor.

ALJ AGRESTA: Okay. I have Environmental Defense Fund down as the next party up.

MR. RICHTER: Thank you.

ALJ AGRESTA: If you could repeat your name, sir.

MR. JAMES TRIPP: Yeah.

I V A N K I M B A L L, having been first duly sworn, testified as follows:

CROSS-EXAMINATION

BY MR. JAMES TRIPP

Q: Mr. Kimball, my name is James Tripp, T-R-I-P-P. I'm counsel for the Environmental Defense Fund. Just have a few questions. In your testimony, you talked about various actions that you take to acquire both capacity and energy at reasonable prices. Is that correct?

A: Yes.

Q: Yeah. And your exhibits, as I read them, you presented in your first exhibit total cost to purchase power during those years and then you have projections for those costs in the future. Is that right?

A: Yes.

Q: And do you make any separate projections about the cost of energy or capacity during higher demand periods, peak periods, say, during the summer, than you do during non-peak periods?

A: Can you clarify that in terms of what specific projections you mean?

Q: Well, there are times of the year, particularly during the summer, hotter periods during the summer when the total demand for power goes up. What do you do to make sure that there is sufficient power in the system to meet demand during higher-demand days, such as we had last week?

A: Well, our responsibility in energy management is to supply power for the full service customers. So the reliability requirement is part of the New York ISO responsibility, in terms of making sure there's sufficient supply to meet total demand in New York State.

Q: By full service customers, you mean commercial and residential?

A: Yes. The customers that get their supply from Con Edison, as opposed to the other customers that get their supply from retail suppliers.

Q: So just in general, during high-demand days, such as last week, for your full service customers, do you pay more for power than you do during other periods of the year?

A: For portions of our supply, the prices vary hourly. Are you speaking specifically of the New York ISO purchases?

Q: For example, yes.

A: For example. So those market purchases, the prices vary every hour of the year. And typically, they respond to supply-and-demand criteria so that when demand is higher, prices are higher, yes.

Q: And are the differences in prices demand increases on a hot day, the increases in price very small, modest, significant?

A: Relative to what? Can you clarify that a little?

Q: Relative to the prices that you would pay NYISO purchases during non-peak periods.

A: They--the pricing for the NYISO market is public, and it does vary, yes. I don’t know how to characterize--what you would characterize as significant and exactly which timeframe you’re speaking of so it’s hard for me to exactly talk specific numbers, if you would like, but the number--

Q: [Interposing] But based on your experience, maybe you can't answer this, but on--when you have a stretch of hot weather and demand really escalates, how much more do you pay for the power that you're purchasing? Particularly stock market purchases during that period of time compared to non-peak purchase.

A: Well, there are a number of factors that go into the customer costs. So the market price is one of those. We also have a hedging program that mitigates some of the costs for customers, a financial hedging program that I speak of there, and are also reflected in the exhibits. We have some supplies from our existing or own company-owned resources that don't necessarily vary when demand goes up, in terms of price, based on our fuel costs. Similarly, our purchases from our non-utility generators, those costs don't necessarily vary on an hourly basis. It's tied more closely to the fuel. So there is a portion of our New York ISO market purchases that the customers do pay a significantly higher price for that energy. You referenced last week. During those peak periods, the real-time pricing in that some of those peak hours was approximately $500 per megawatt hour. In the day-ahead market, it was typically less than that, but the prices do go much higher than what we see on a typical summer day like today, maybe $100 a megawatt hour.

Q: And can you give it on a, what you call more normal summer day like today, what portion of total power supplied to your firm customers comes through the NYISO process?

A: I would say approximately 50%, maybe a little more. So maybe 60--50-60% of our purchases on a normal summer day are New York ISO purchases. And a portion of those would be hedged in financial positions that would mitigate that price difference in the key periods.

Q: And during a period like last week where you have prolonged high temperatures, would that percentage be higher than the 50 or 60% you just mentioned?

A: That would depend on the resource availability. So there would be different numbers, obviously, but would depend on whether or not our other resources were at the same level today as they were last week. If the resources were dispatched higher during that period, then the percentage may not go up. But if those are held constant then, yes, our demand is higher and that percentage would be higher.

Q: Page 23 of your testimony, you talk about the cost with demand response. Can you tell us what you mean by that? These are purchases that you make from entities that do what, guarantee your reduction in demand for some period of time?

A: I believe in this particular reference, I'm speaking of the New York ISO program, and this is under the section where I talk about some of our advocacy to make sure that we're trying to participate in the market rules, process, and at ORCA [phonetic] discussions to advocate for customer positions to make sure that we're managing customer costs. And what we're talking about here is the rules to determine how much demand response gets paid when they activate.

Q: Do you view--can you just tell us what you mean by demand response in this context? What do you--do you pay--what are you getting?

A: In demand response, we would be expecting to get a reduction in customer demand in response to either a signal or a communication in advance of the period that we're looking for the reduction in customer demand.

Q: And do you pay for some unit of demand response really--withdraw that. Are you, in general, interested in the cost of demand response or purchasing some unit of demand response during periods of higher demand or peak demand? Or is this something you think about year-round?

A: I would say predominantly during the higher peak periods that would be the most beneficial. That's when the supply-and-demand ratio is closest and we'd expect the biggest benefit for reducing demand at periods, yes.

Q: And what do you mean by benefit in that context? Is this a cost benefit to Con Edison or to the system or what? What's the benefit?

A: Yes, there is definitely a benefit to Con Edison for managing peak demand because it reduces the stress on the system as a whole and individual--can do the same for individual networks within the system to manage that peak demand.

Q: And when you purchase some amount of demand, what you call demand response, you purchase that from a--from who? What kind of an entity?

A: So there are two different programs. I believe the one that we're talking about here, the NYISO demand response is the New York ISO has a demand response program. And Con Edison also has a specific customer demand response programs where they compensate individual customers for participating in programs to reduce their demand.

Q: Okay. Let's first of all talk about the NYISO program. You just--from your point of view, just purchase it from NYISO or do you purchase it from a particular entity, which is offering some amount of demand response?

A: No. We don't purchase demand response from the New York ISO. They have a market-based program where customers who sign up for New York ISO demand response are compensated through a capacity market, New York ISO.

Q: And from your point of view, trying to satisfy all your customers, is the, you know, the value of purchasing some amount of demand response comparable to going to someone who's actually generating power and offering that on the stock market? Are the values the same? In other words, do you look at the demand response from a cost point of view the same market context as you do for actual purchasing of power?

A: I'm a little confused about whether that perspective is the market perspective or the company perspective. So maybe can you just clarify that?

Q: Well, say first of all from the company's point of view.

A: So from the company's point of view, it costs us less to provide nothing than it does to provide energy. So demand response is going to cost less for the company to provide that than if there were no demand response. Especially if the customers participating in the New York ISO demand response program and they're compensated through the markets, the company is not providing and servicing that case and there's really no cost to the company for that. So compared to purchasing generation to meet the demand that would have been there, yes, demand response is more cost effective than purchasing to meet that supply.

Q: What about from the market point of view?

A: Can you just clarify your question about the market point of view then?

Q: Well, few minutes ago, you said there were sort of two ways of looking at the comparable value of demand response in terms of actually purchasing power, from the company's point of view and I thought you said from the market's point of view. So you told us the company perspective so--

A: [Interposing] So just in general, a market perspective on demand response? I think that there would be generators or suppliers in the market that would be concerned that during peak periods when the prices would rise, if providers of demand response were allowed to or were compensated in the market for providing demand response and reducing demand, and that reduced the price of energy at the time, then the generators would argue that that may not be good for markets when there's high demand on the system if the price isn't reflecting that there's high demand. And what we saw last week, with the new rules in New York ISO is that scarcity pricing mechanism forces those prices to, as I mentioned, $500 a megawatt hour and reflects that high-demand scenario, which provides the signal to the market, which I think the generators would be happy with, in terms of providing the appropriate market signals for the peak period pricing.

Q: Well, when you--go back and refresh my--I think I began to ask earlier. When you--in the NYISO market, when you purchase some amount of demand response, are you--is this from a specific entity that's gone out there, aggregated reductions in demand from a number of different consumers?

A: So again, we don't purchase through an ISO program. The New York ISO administers that program for the demand response providers. I can't speak to aggregators or large buildings or providers that are signed up on that program with an ISO. It's likely that somebody aggregates buildings to do that, but I don't know.

Q: But is it your assumption when you actually go out there through NYISO and purchase some amount of demand response that your customers here in New York City are reducing their demand for power by that amount so that you're not going to have to supply that power to regular power purchases?

A: I'm not sure that the question accurately reflects how the resources are committed and who is responsible for acquiring demand response. So I don't know if you can maybe clarify your understanding of that, but I don’t think it reflects how it works in the market. An ISO has a program and they are able to notify customers that have signed up through demand response when they want those customers to produce their demand. Con Edison’s not involved in that part of the program.

Q: You also mentioned that Con Edison has its own in-house demand response program. Is that right?

A: That’s correct.

Q: Okay. Is this exclusively with commercial customers or also some residential customers?

A: I believe we have two programs, one that is involved with the commercial customers and also one with residential customers, yes.

Q: And would the commercial customer program, these customers agree when you request that they not consume power or they reduce their consumption of power on a high-demand day? How does that work? What do you do?

A: So my group doesn’t actually implement that program so I don’t know the real details behind the actual implementation. But I do know that customers sign up and they get compensated for how much they can reduce and there is a notification process for when the company would like them to reduce their demand.

Q: And do those customers get paid somehow for doing that?

A: Yes. There's a tariff rate for compensation for those customers.

Q: Is that something you negotiate or someone else?

A: That's not in my group.

Q: And in general, is, you know, would Con Edison invoke a demand response agreement with a customer when the cost of exercising that contract would be less than the cost of you going out to the stock market and buying additional power to furnish that customer?

A: I believe that the process for notification for those customers is not determined based on the market price or projection of the market price, but is more dependent on network load or customer demand. So it's an independent assessment, I would say not performed in my group.

Q: On another topic that you covered, on Page 32 of your testimony, you talk about changing lost and unaccounted-for gas calculations for power generation customers.

A: That's correct.

Q: Okay. And you're proposing a change from, as I understand it, from the current level of 0.1% to 0.5%?

MR. RICHTER: Your Honor, if I may, I think what Mr. Kimball testified to is the impact of the proposal made by the company's cast [phonetic] witness in terms of a change to the LAUF as opposed to the gas LAUF proposal itself.

ALJ AGRESTA: I didn't hear anything more than a foundational question yet so--we're on Page 32 of the testimony, is that right?

MR. TRIPP: Yes.

ALJ AGRESTA: I'm sorry. Could you try the question one more time?

Q: Whether you note a change from 0.1 to 0.5, from your point of view, what's the implication?

A: Right. I believe that's what the testimony is, is the impact to the customer's cost for the assumed increase to generators' costs and a calculation that would flow, expecting that increased cost to flow through the New York ISO electric market pricing and part of the cost that customers would pay.

MR. TRIPP: No further questions. Thank you.

ALJ AGRESTA: Okay. New York Energy Consumers Counsel?

MR. GEORGE DIAMANTOPOULOS: Thank you, Your Honor. I just have one interrogatory for Mr. Kimball.

CROSS-EXAMINATION

BY MR. GEORGE DIAMANTOPOULOS

Q: Good morning--or actually, good afternoon, Mr. Kimball.

A: Good afternoon.

Q: Mr. Kimball--

MR. DIAMANTOPOULOS: Oh, Your Honor, this be marked as 801 for identification?

ALJ AGRESTA: Why don’t you ask him first if he prepared them under his direction and then we’ll mark it.

MR. DIAMANTOPOULOS: Okay.

Q: Mr. Kimball, show you what has been--well, actually, it hasn’t been marked yet, but this is an interrogatory request by NYECC, number 4 in set 1, originally posed to Con Edison witness Mosillo [phonetic]. And I believe it was responded--you responded on his behalf, on behalf to the company. Is that correct?

A: Yes.

Q: And referring you to your response to 4B and the attached table provided in this response, which is on the third page, had the company estimates changed since this response was provided?

ALJ AGRESTA: Okay. Hold on. After you asked him the first--this is the little dance we have to do. You prepared this response? The answer is yes. Okay. So it’ll now be marked Exhibit 801 for identification, okay? And now you may ask your questions.

MR. DIAMANTOPOULOS: Thank you.

Q: So referring you to Exhibit 801 for identification, and referring your attention to Section 4B of that response and the attached table, which is on Page 3, had the company estimates, as reflected in the last two columns of the table on Page 3, have those changed since this response was provided, I believe in February? And if so, what are the company's updated estimates for those last two columns on the right?

A: We did not do an updated estimate.

Q: You did not. Do you have any other changes to this company response?

A: Not at this time.

MR. DIAMANTOPOULOS: Your Honor, I have no further questions.

ALJ AGRESTA: Thank you. Does Con Edison have any redirect?

MR. RICHTER: Your Honor, we have no redirect.

ALJ AGRESTA: Thank you. Witness is excused. Thank you for your testimony.

MR. KIMBALL: Thank you.

ALJ AGRESTA: I think we're going to take one more witness then we're probably going to take a lunch break.

MR. RICHTER: Company calls Mr. Peter Carnavos.

ALJ BIELAWSKI: Do you swear or affirm that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth?

MR. PETER CARNAVOS: Yes.

ALJ BIELAWSKI: And do you adopt your pre-trial testimony as your sworn testimony in these proceedings?

MR. CARNAVOS: Yes, I do.

ALJ BIELAWSKI: Thank you.

MR. RICHTER: Your Honor, the witness is available for cross-examination.

ALJ AGRESTA: Thank you.

MR. CARNAVOS: Good afternoon.

ALJ AGRESTA: Environmental defense fund, I have down for ten minutes.

MR. TRIPP: Thank you.

P E T E R C A R N A V O S, having been first duly sworn, testified as follows:

CROSS-EXAMINATION

BY MR. JAMES TRIPP

Q: My name is James Tripp. I'm counsel for the

Environmental Defense Fund. I just have a few questions about what you had to say Pages 42, 46 of your testimony about lost and unaccounted-for gas. As I understand it, you're adopting a somewhat modified procedure for calculating the amount of gas that's lost in the distribution system. Is that correct?

A: The company's proposal is a total improvement method, some modifications, which is consistent with the whitepaper guidelines that was divided by DPS staff in these proceedings and attached to their direct testimony.

Q: And the proposal is to increase the amount that is unaccounted for or gets lost from 0.1 to 0.5%?

A: You want to give me a specific reference where you're making that observation, sir?

Q: Well, I'm looking at Page 43.

A: Okay. The proposal we're making here provides an attribution to generators, as we define generators in this context, to increase the current 0.1 factor to 0.5 under this proposal.

Q: And do you, I mean, are you the person at Con Edison who came up with or developed the 0.5% proposal?

A: I am sponsoring that proposal, yes.

Q: And is this increase from 0.1 to 0.5% based on any measured data that you may have of actual--let me withdraw that. I take it that there are two or three different factors that you look to, to account for this loss, such as theft maybe as a possibility?

A: Okay.

Q: Okay. What about leaks from the system?

A: Leaks are obviously a component of the total line loss that we’re developing here, yes.

Q: And do you have any idea what portion of the 0.5% loss that you’re talking about is due to leaks from the system?

A: As I propose in my testimony--bring you back to the page you pointed to--I describe how we develop the 0.5%, which begins with what we can identify, which is 0.1% heat or fuel, and compressor fuel, 0.1% is attributed to meter inaccuracies that have been measured. Differential between 0.2 and 0.3 is a contribution to the unknown factors, which might include what you’re describing as leaks as part of that.

Q: So insofar as you attribute any of this to leaks, do you have any measured data of leakage from the natural gas distribution system to support this higher loss number?

A: I—in my possession, I do not. I believe the information you might be seeking related to the system, I think that would be addressed by the Gas Operations Infrastructure Panel.

MR. TRIPP: I have no further questions.

ALJ AGRESTA: Okay. Astoria Generating, I have down for ten minutes.

CROSS-EXAMINATION

BY MR. DAVID JOHNSON

Q: Good afternoon. My name is David Johnson. I'm counsel to Astoria Generating Company.

A: Good afternoon.

Q: Could you please turn to Page 6 of your rebuttal testimony? On Lines 11 through 17, you testified that the intent of the collaborative was to allow for a more comprehensive technical review of the specific issues, while still allowing the company to potentially make incremental improvements to its transportation program as it is currently doing so through its normal collaborative process. What do you mean by normal collaborative process?

A: The company engages in an ongoing dialogue with the market participants, which includes as marketers and its generating customers. So therefore, we continue to discuss issues of concern that may be raised related to how we provide services. And we obviously want the input of that community in terms of how we evaluate proposed changes or suggested alternatives to how we're currently doing business with each other.

Q: Has Con Edison contacted power generators to participate in the market collaborative?

A: The market collaborative you're referring to here, we maintain two separate groups. One is the market collaborative, which is specifically the retail market to serve gas customers. And we have an ongoing conversation with our generating customers as part of the current gas-- New York ISO Gas Electric Board - - initiative; we've been discussing things with our generators. We plan to have more formal meetings that relate to certain issues that have gotten raised in that New York ISO collaborative over the course of the summer. We've already made contact with these generators to do something.

Q: Okay. So when you make this recommendation that staff's proposal be addressed in the marketer collaborative, then you weren't intending that power generators be included in those discussions?

A: I was viewing it more broadly. I mean, obviously if we can do it as one meeting, that's preferable to both parties. I was wanting to maintain focus, which meant that I probably would suggest we did it with the generators' community, which is a smaller group. We have over 80 marketers participating in Con Edison gas service territory, which represent a range of market participants. And we have a handful of generators. So depending on interested parties, we can either do it as one meeting, do it as multiple meetings or separate meetings. There's no predetermined view related to how that would go forward. It would be a function of the issues that people want to discuss the best way to proceed in a positive way.

Q: Okay. And the issue of the change in the dead bands and the cash-outs, has that already--has discussions already started on that or is that something--

A: [Interposing] No. No, sir. Because we didn't initiate that proposal, as you know. That was a staff proposal. We were responding to staff's proposal in this context.

Q: Okay. And then in your recommendation, you testified that your recommendations on all the balancing services it was impacting interruptible customers you pursued a market collaborative. How do you define interruptible customers? That's--

A: [Interposing] I guess as we just discussed, I would view it more broadly than maybe I would--

Q: [Interposing] So that would include power generators?

A: I'm sorry. I would view it more broadly than how it's narrowly written here. It was written specifically related to the existing market collaborative under the presumptions that we could initiate a dialogue with the generators. So obviously--

Q: [Interposing] Okay. So your--just to be clear, your recommendation is, is that the staff proposal with respect to changing the dead bands and increasing cash-outs, that that should be addressed with the power generators as part of the market collaborative?

A: If that's the best way to do it, as I described.

Q: Okay.

A: I'm suggesting that having a dialogue before any change is made is the first preference.

Q: Are there any power generators currently taking service under SC9 that don't have a contract with Con Edison?

A: There are generators that take service of SC9, and the negotiated agreements have power of days, balance and services.

Q: Okay. So they'd be--they would be--if staff's proposal went into effect, let's say, January 1st, they would immediately be subject to those provisions? Or would their contracts provide something different?

A: There's a range of outcomes.

Q: There's a what?

A: There's some--there's a range of outcomes. Some would be affected. Those that are on--currently have negotiated agreements, that have provisions that provide for them, balance of service, and - - of - -, as you indicated, the Commission determines that this change goes into effect as part of this rate agreement. That would be effective beginning January 1st. There are others that have negotiated agreements, which are confidential. But generally speaking, we'd have terms that could be effective on a prospective basis, depending on how the Commission acts on this proposal. I can't tell you all possible combinations of how this gets resolved at this proceeding.

Q: Okay. And can you give a guesstimate of what you think the timing would be if the Commission accepted your proposal to first discuss this with--in the market collaborative with power generators? How long do you think that process would take?

A: I would be speculating at this point how long that conversation would take. I mean, it'd be a function of what other related issues may be discussed and how that may impact the implementation. You're asking me to speculate about what will be, you know, certified by the Commission related to how they would like this issue address, whether they establish a timeframe to implement something, whether they give us total latitude to work through something that is mutually agreeable and allow us to implement that or not implement it at any point of time. You know, there's a whole number of outcomes and I'd be, you know, reaching in that point to determine how that would be resolved.

Q: Now, do you personally participate in these meetings?

A: Yes, I do. I'm the responsible person for Con Edison related to the gas supply department that interacts with the marketers and the generators. Yes, that is under my responsibility.

Q: Okay. And could one of the issues that would be discussed be programs to help customers mitigate imbalances?

A: Programs to help customers mitigate imbalance? Is there--any, you know, idea that has merit would obviously be allowed to be discussed. So I can't speculate about what you mean by programs to mitigate imbalances by customers.

Q: Well, I mean, like, aggregation programs or, you know, imbalance trading programs.

A: We already have those today for power generators in the Con Ed system. We allow marketers--generators--I'm sorry--specifically who have multiple locations within Con Edison's service territory, physical plants in separate locations, Con Ed's gas service territory, to aggregate a schedule and aggregate imbalances and treat that as one for that purpose. We also provide for imbalanced trade and between generators. So those are already things that are in place today on the Con Edison system.

Q: Do you mean generators of different companies?

A: Yes, sir. We allow generators to trade their imbalances among generators at the end of the gas day. Yes, we do. We've had that in place for a number of years.

Q: Okay. And do the--do you know if the existing contracts that you have allow for that? If a customer's under a contract--

A: [Interposing] Yes, it does.

Q: --they can--

A: [Interposing] Yes.

Q: You--

A: [Interposing] Yes, it does. There is no prohibition. Again, you're asking me to speak about negotiating commercial terms, but I'll say generally, there's no prohibition that's available to all generators who have an opportunity to exercise. If they can find a willing party to offset an imbalanced position then we allow them to do so.

Q: Okay.

A: Whether it's daily, I don't know, sir.

MR. JOHNSON: That's all I have, Your Honor.

Thank you.

ALJ AGRESTA: Thank you.

MR. OSSIES: Your Honor, staff has some very brief cross.

ALJ AGRESTA: Okay.

CROSS-EXAMINATION

BY MR. BRIAN OSSIES

Q: I think you testified that you would be willing to allow the issues that staff identified in this testimony to be available to form a free-marketing collaborative. Is that correct?

A: Yes.

Q: Okay.

A: But I clarified today, what I intended to mean was a broader collaborative to include representation from the generators, either as part of that marketer collaborative or as a separate collaborative where we could have a focused discussion because of the dynamics I described here today, the number of parties involved on the marketer side, certain gas customer diversity, the interest of a limited number of generators--it’s less than six--operate on the - - .

Q: So I think you also testified that you’re not aware that the proposals put forth in staff’s testimony, specifically with regard to shrinking of dead bands, increasing the cash-out; that has not been an issue or issues presented in the market collaborative to date, correct?

A: Specifically, staff's proposal has not been put forward for discussion because it's discussed here in a rate case and not all the marketers are participating in market collaborative are parties to this case.

Q: Thank you.

A: Or the generators.

Q: Thank you. And it's fair to say, based on your experience with rate cases, and I'm assuming that goes back several years?

A: Yeah. I think we established - -.

Q: Okay. Thank you. So it's fair to say that if these issues were dealt with in the rate case, we'd have some certainty on these issues sooner rather than later with regards to some of the proposals that staff identified in its--

A: [Interposing] Yeah. As I think I testified to in my testimony in the case that the Commission decides to go forward with any proposal made from either staff or any parties, regardless of what issues were raised related to the efficiency or what related to dealing with this outside of this proceeding, - - .

Q: In the context of this rate case--

A: [Interposing] Correct.

Q: --which I'm--if rates are set January 1st, 2014, you'd have some certainty in settling with that?

A: That is an option, obviously. That could be an option.

Q: Thank you very much.

A: You're welcome.

MR. RICHTER: Just some very brief redirect, Your Honor.

ALJ AGRESTA: Okay. Go ahead.

REDIRECT EXAMINATION

BY MR. MARC RICHTER

Q: Mr. Carnavos, earlier, when you were questioned by Mr. Tripp, he mentioned couple of times increases in the losses from generators. Do you remember those questions?

A: Yes, I do.

Q: Am I correct that the increase that the company is proposing with respect to the LAUF as applicable to generators just means increased contribution from generators to system losses, which would reduce the contribution made by other customers on the system?

A: That is correct.

MR. RICHTER: No further questions, Your Honor.

ALJ AGRESTA: Okay. Anybody else have anything based on that one question? All right. We're going to take a lunch recess until 1:45 and then we'll recommence right on time so please be back on time.

[OFF THE RECORD]

[ON THE RECORD]

ALJ AGRESTA: Okay. We're back on the record. Con Edison, please call the next witness.

MS. KRAYESKE: Con Edison calls its Steam Fuel Panel.

ALJ BIELAWSKI: Please stand. Please raise your right hand. Do you swear to affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

MR. JOHN CATUOGNO: I do.

MS. CHRISTINA HO: I do.

ALJ BIELAWSKI: And do you adopt your pre-trial testimony as your sworn testimony in these proceedings?

MR. CATUOGNO: I do.

MS. HO: I do.

ALJ BIELAWSKI: Thank you.

J O H N C A T U O G N O and C H R I S T I N A H O, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. MARY KRAYESKE

Q: Other than the corrections that were provided last week, on Friday by the company regarding your testimony, do you have any other corrections?

MR. CATUOGNO: No, we do not.

MS. KRAYESKE: The panel is available for cross.

ALJ AGRESTA: Thank you. New York City?

CROSS-EXAMINATION

BY MR. JAY GOODMAN

Q: Good afternoon, panel. My name is Jay Goodman. I'm attorney for the City of New York. I have a few questions for you this afternoon regarding the variants, steam variance. Do you have with you copies of the exhibits appended to the testimony of city witness Harvey Arnet [phonetic]? Like to give you a copy if not. Panel, I'm handing you a few pages from Exhibit HA5 from Harvey on his direct testimony. Initially, does the panel agree that the--

MS. KRAYESKE: [Interposing] Excuse me one--

Q: --purpose--

MS. KRAYESKE: --second, Your Honor. Can Mr. Goodman please advise as to what pages in HA5?

It’s a 147-page document.

MR. JAY GOODMAN: I will, Mary. The first is just a general question.

MS. KRAYESKE: Okay.

MR. GOODMAN: I will be starting on Page 61.

MS. KRAYESKE: Thank you.

Q: Does the panel agree that the purpose of the steam variance inside the mechanism is to encourage the company to reduce line losses on the steam system?

MR. CATUOGNO: Yes.

Q: Now, if you’ll turn to Exhibit HA5, Page 61, copy of which I handed to you, it’s the panel’s response to City 365. Will you accept, subject to check, that for the 5-year period indicated in your response to that information request, steam system variance averaged 14.1% of systems MF?

MR. CATUOGNO: Can you just repeat that figure?

Q: Fourteen point one percent.

MR. CATUOGNO: I will, subject to check.

Q: Okay. Is the panel aware of how many times annual system variance has exceeded 15% from the rate year ending September 31, 2005, through the present?

MR. CATUOGNO: Are you asking in the last 12 months, 5 years, on a monthly basis, 10 years?

Q: On an annual basis.

MR. CATUOGNO: On an annual--

Q: [Interposing] Going back that far.

MR. CATUOGNO: You said 15%?

Q: That's correct.

MR. CATUOGNO: Well, obviously, it's evident in the exhibit that it did in the in the last rate year, it was at 15.3%. And then the last--on an annual basis. And then the last rate here on an annual basis that it was at 15% of--15.0% in—for the rate year ending September 30th, 2007. I will add that on a monthly basis, though there can be from month to month, steam variance can be well above 15%, as well as below 15% at different times of the seasons.

Q: Panel, I also handed you copies of your responses to City 574 and 575, which were included beginning on Pages 75 of Exhibit HA5. In those responses--I'm sorry. Are you ready?

MR. CATUOGNO: Can I just have one minute, please?

Q: Sure.

MR. CATUOGNO: Thank you. Okay. I'm ready.

Q: In the panel's response to City 574, the panel indicated the company plans to continue ongoing efforts during each of the next three rate years to minimize steam variance. Is that your position here today as well?

MR. CATUOGNO: That is correct.

Q: Is it the panel's position also that those ongoing efforts will continue to yield improvements in steam variance?

MR. CATUOGNO: This panel cannot come to that conclusion due to several variables beyond the company's control that would happen from one year to another.

Q: Those are the factors that you described in your testimony?

MR. CATUOGNO: That is correct.

Q: Have the efforts described in the panel's response to 574 yielded improvements in steam variance?

MR. CATUOGNO: Yes.

Q: Does the panel have any specific reason to anticipate that as those programs or efforts are continued, they no longer will yield improvements in variance?

MR. CATUOGNO: As mentioned before, from time to time, several factors as mentioned in the testimony that we agreed to can drive the variance up regardless of all the efforts that may be mentioned here, such as weather, rainfall, ambient air temperature, infrastructure leaks that are not part of the company system.

Q: And those same factors also can drive the variance down. Is that fair?

MR. CATUOGNO: They could, but I believe that that pretty much has been shown to the extent of the range in the previous exhibit, that was shown in 365. As you can see, you know, you're ranging from 3.5 billion pounds of steam to 4 billion pounds of steam on any given year. And I think that's a reasonable range in typical years, but I think if it--could it get higher or a little lower? I believe so because looking prior to September 2008, you know, the line losses, steam variance, were greater than 4 billion pounds. And steam dispatch, outage schedules, you know, like I said, rain, precipitation, the amount of units on that have super heat or don't have super heat, can all impact this number.

Q: And again, that impact can be to increase or to decrease variants across given years. Is that correct?

MR. CATUOGNO: It will depend. It will range. That is correct.

Q: In the panel's Exhibit FP1, the panel forecasts that there will be no significant change in total annual steam send-out through December 31, 2018. That is a correct interpretation of the exhibit?

MR. CATUOGNO: I'm sorry. I just turned to the--could you just please repeat it once more?

Q: Sure. Isn't it correct that according to the exhibit, the panel's position is that there will be no significant change in total annual steam send-out through

December 31, 2018?

MR. CATUOGNO: I won't say--I will say that from the exhibit, from years 2014 through 2018, our forecasted steam production will range from 25.2 billion pounds to 25.8 billion pounds. A difference of 0.6 billion pounds is noticeable from certain aspects, depending on what frame you're talking about.

Q: And the panel is aware that the City and staff both have proposed updates to the variance incentives - -, isn't that correct?

MR. CATUOGNO: Yes.

Q: The City has published an upward variance limit that would not trigger a penalty or negative incentive unless annual steam system variance exceeds 4.1 billion pounds. Does the panel agree?

MR. CATUOGNO: We do.

Q: Does the panel also agree that annual system variance has been under that threshold during every year since the rate year ending September 2007?

MR. CATUOGNO: No.

Q: Will you please explain?

MR. CATUOGNO: Yeah. I have for the rate year ending September 30th, 2007, a steam variance of approximately 4.38 billion pounds.

Q: That's correct. I--but from that time, since the following rate year ending September 2008, it has been under the 4.1 billion end pound threshold. Is that correct?

MR. CATUOGNO: Yes, that is correct.

Q: And the upper variance limit proposed by staff is that there would be no negative incentive unless the system variance exceeds 3,840 MM pounds, correct?

MR. CATUOGNO: That is correct.

Q: And annual system variance has been below that threshold every year since rate year ending--excuse me--September 2009, correct?

MR. CATUOGNO: That is correct.

MR. GOODMAN: I have no further questions for the panel. I do have one exhibit that I'd like to introduce. I had a brief discussion with counsel for Con Edison as to whether or not this would be the appropriate panel. But an excerpt from the company's steam long range plan that I'd like to introduce as a hearing exhibit is provided in response to an information request. If the company disagrees this would be the appropriate time, I'd be happy to raise that at a later point. I don't think it's--I don't recall if it's attached to a specific witness.

MR. RICHTER: You don't have any questions for the panel about this excerpt?

MR. GOODMAN: I do not.

MR. RICHTER: And did you say it was provided as part of the interrogatory response?

MR. GOODMAN: It was.

MR. RICHTER: Can I ask who the responding witness was at the department?

MR. GOODMAN: No responding witness is indicated. It is a publicly-available document on the company's Web site.

MR. RICHTER: No objection.

MALE VOICE: No objection.

ALJ AGRESTA: You have copies?

MR. GOODMAN: Yes.

ALJ AGRESTA: Are these both the same?

MR. GOODMAN: They are, yes.

ALJ AGRESTA: Okay. The document previously described, which on the first page is a response to question S-009. It'll be marked as Exhibit 802 for identification.

MR. GOODMAN: Now I have nothing further, Your Honor.

ALJ AGRESTA: Thank you. Okay. DPS staff.

MR. GUY MAZZA: Thank you, Your Honor, and members of the panel.

CROSS-EXAMINATION

BY MR. GUY MAZZA

Q: I have a few questions I'd like to pose to you today.

ALJ AGRESTA: Give us your name, please.

MR. MAZZA: It's Guy Mazza, DPS staff.

Q: Like to direct your attention to Page 4 of your rebuttal testimony. And beginning on page--sorry. Beginning on Line 12, you state, moreover, most of the actions the company can take to reduce steam variance beyond current levels are not cost-effective when measured solely from the point of view of reducing losses. I draw your attention to the word solely. My question is, is the implication of that statement that synergies, while considered when evaluating actions that may be taken by the company, which would reduce the steam variance? Perhaps, for example, in the context of storm hardening measures?

MR. CATUOGNO: Yes. Synergies are considered and can be considered under this context.

Q: That position is not reflected in your testimony. Is that correct?

MR. CATUOGNO: That is correct. My testimony focused on line loss, thermal losses.

Q: Okay. Then moving down to Line 19, the question is, has the company undertaken any efforts to identify additional measures to further reduce the thermal losses? The answer is, a collaborative effort undertaken in 2009, which included staff and the City to review and summarize prior steam variance studies and evaluate any opportunities to reduce steam losses demonstrated that there is very little else, if anything, that the company can do to economically--economically to further reduce thermal losses. And then go on to cite an effort of the company reducing steam operating pressure. Now, that collaborative that you refer to is four years ago. Can I infer that you're stating there have been no technological advances since 2009, which may help you in reducing your thermal losses?

MR. CATUOGNO: Okay. So the collaborative effort was undertaken in 2009, and then further work was continued and a report was filed by the company subsequent, October 31st, 2010. So the timeframe has been a little bit narrower than from your starting point. And there have not--this study looked at previous studies going back as far as we had for reducing line loss, several--many, many years, through many cases. And the purpose of this effort was to review all of those studies and determine if there was anything else that could be done. As a result of looking at those studies and looking at new technologies at that time, which I believe has not made any serious, severe breakthroughs at this point in time, have there been anything--is there anything of real material that we could do that would be cost effective, or economical to reduce the line loss that we might not be doing already or in other programs.

Q: Am I misunderstanding what you said? Are you basing that on a report that was in 2010?

MR. CATUOGNO: Well, as I said, in 2010, we concluded that there was nothing much we could do that we didn't do--in 2010, we concluded we could--probable insulation was not going to be cost effective. We looked at increasing the amount of super heat on the steam system, and there were mechanical limitations as far as thermal expansion and contraction. And there was very little room for improving the amount of super heat. So that option was not followed through. But then the option of reducing system operating pressure was brought out and the company did implement it. And this--and from that time through now, we've implemented lowering the amount of pressure, gaining more super heat, and we have considered other items and looked is there anything else we could do. And really, what the company does in its day-to-day chores, we rebuild panels, we work with the DDP to minimize their structure leaks or clogged catch basins to minimize water infiltration. We've gone through many efforts to seal our steam structures in areas that were prone to water to water intrusion. So those kind of efforts will continue and have continued. Since then, we've also implemented our steam incident action plan that looks at remote metering, remote monitoring of structures, and I feel confident that those numbers have been reflected already in the steam variance reductions that we've seen.

Q: So other than the items that were raised in the collaborative and the ones you've mentioned now, there are no other advances since 2010, which may be cost-effective when--just if you looked at the other areas that may improve the steam variance?

MR. CATUOGNO: Well, I'm not aware of any other cost-effective things that we could do to solely reduce the variance.

Q: You're using the word solely again. Solely is not—

MR. CATUOGNO: [Interposing] Yeah, the—

Q: [Interposing] Solely is not my question.

MR. CATUOGNO: Well--

Q: [Interposing] Synergistically is my question.

MR. CATUOGNO: Well, synergistically, it depends on, you know, on what's the synergy, what's the other benefit that you're getting, and is there another program that's going to be taking care of that? The way we looked at it on a sole basis, and that’s what we testified to. And that’s what the study was done to look at.

Q: And one more question. You referred to thermal losses. What about other types of losses?

MR. CATUOGNO: So thermal losses is the largest component of the steam variance. The other losses are leaks. And occasionally meter error could skew the loss plus or minus either way. The company does, you know, have a program for meters, it does have a program for leaks. That’s part of our performance. So the main--the majority of thermal losses--the majority of steam variance, predominantly in a big way, is the thermal loss. I would also add that, you know, my judgment, I feel that a 90% competence level is more appropriate for steam variance relative to an 80% competence level.

Q: Thank you, but that’s really a statement unrelated to what I’m asking for now. Thank you. If I may pursue the synergies for a moment. When you’re doing construction work, for example, revealing pipes, which may make them more readily susceptible to reinsulation, is that not something you would pursue?

MR. CATUOGNO: I’m sorry. Just repeat the front end of that question.

Q: Work that may be relating to--this is not what I said prior, previously, but let me clarify. Related to municipal inference work when, for example, pipes become more readily able to be reinsulated, is that not something you would pursue?

MR. CATUOGNO: So I won't--I'm not familiar exactly with what happens when we do municipal interference work, but I'd say generally speaking, when we are rebuilding a main or replacing a section of pipe, and it could be it could come up interference, we absolutely remove all the housing, remove all the thermal insulation, whenever they do with the main or sectional component will get new thermal insulation, it will get new housing and they will use best engineering practices and construction skills to ensure the best thermal performance, as well as with the mindset to mitigate more water intrusion.

MR. MAZZA: Staff has nothing further at this time, Your Honor.

ALJ AGRESTA: There is a--I think it's a one billion dollar budget for storm hardening measures spread out among electric, gas and steam over a 4-year period. If my memory serves me correct, some of that money is for storm hardening related to the steam system. Will any of those activities result in a reduction in steam variance that's not already taken into account in your numbers?

MR. CATUOGNO: I'm sorry. Did you say one million?

ALJ AGRESTA: I said one billion.

MR. CATUOGNO: Oh, one billion. Your Honor, nothing off the top of my head. The storm hardening program has, as far as on the steam side, is going to have a material implication on steam variance in the coming—in forward years.

ALJ AGRESTA: Okay. Thank you. Do you have any redirect?

MR. RICHTER: Just a moment.

MS. KRAYESKE: One question, Your Honor. One question, Your Honor.

REDIRECT EXAMINATION

BY MS. MARY KRAYESKE

Q: The Judge just asked you some questions about storm hardening and its effect on steam line losses. Can you please explain your response?

MR. CATUOGNO: Yes. The steam storm hardening program is focused on the steam production side. And the reason for a steam distribution site not having a capital allotment from storm hardening is because in the advent a storm, hours out, the company preemptively shuts down and isolates a section of the steam system. So regardless of whether it was hardened or not, if that section of steam pipe was going to be under water, we would not feel comfortable leaving it in service. So that hardening effort would be really not adding a value there. So, you know, our plans in place are to preemptively isolate sections that are expected to be under water during major storm events.

Q: Thank you.

MS. KRAYESKE: Nothing further.

ALJ AGRESTA: Okay. Your question has to be related to that.

RE-CROSS EXAMINATION

BY MR. GUY MAZZA

Q: None of the hardening of the steam tunnels would have any positive impact on steam variance?

MR. CATUOGNO: I would say insignificant as to the magnitude of these, because if you had a storm, it would be a short-lived period. And for example, the Hudson Avenue tunnel would already be isolated as part of a storm, so that tunnel's out. The First Avenue tunnel, that will be hardened a little bit, but I believe that that tunnel--if it was out for a short period of time, I don't see a significant amount of decrease in variance. And the Ravenswood tunnel, again, I don't foresee a material impact on a decrease in steam variance based on the upgrade and any upgrades on those two tunnels.

Q: Thank you.

MR. GOODMAN: Your Honor, I have—I've got just a couple quick questions.

ALJ AGRESTA: It’s got to be on this topic only--

MR. GOODMAN: [Interposing] Yeah, just following up on those questions.

RE-CROSS EXAMINATION

BY MR. JAY GOODMAN

Q: Just to be clear with your response to the questions posed by staff, when you are talking about the potential impact variance of, for example, hardening the tunnels, your response pertained to the period of time that the--there may be an outage due to a storm. If you look at it on an annual basis, would there be any--would you anticipate an impact on variance from those hardening activities, from hardening the tunnel?

MR. CATUOGNO: None whatsoever. The tunnels are accessible, and so we maintain the thermal insulation on that piping system to minimize line loss all other times. So the answer is no.

Q: Thank you.

ALJ AGRESTA: Okay. These witnesses are excused. Thank you. Con Ed, could you please call the next witness?

MS. SUSAN VERCHEAK: Your Honor, Con Edison calls Joey [phonetic] DeBreeze to the stand.

ALJ AGRESTA: Okay. We need your name.

MS. VERCHEAK: You need my name? It’s--

ALJ AGRESTA: [Interposing] No, no. Just say--

MS. VERCHEAK: [Interposing] You need my card?

ALJ AGRESTA: --your name for the--

MS. VERCHEAK: [Interposing] It’s Susan Vercheak, V, as in Victor, E-R-C-H-E-A-K. I’m with Con Ed.

ALJ AGRESTA: Okay. Thank you.

MS. VERCHEAK: You’re welcome.

ALJ BIELAWSKI: Can you stand for me, please, and raise your right hand? Do you swear or affirm that the testimony you’re about to give is the truth, the whole truth, and nothing but the truth?

MR. DEBREEZE: I do.

ALJ BIELAWSKI: And do you adopt your pre-trial testimony as your sworn testimony in these proceedings?

MR. DEBREEZE: I do.

ALJ BIELAWSKI: Thank you.

ALJ AGRESTA: Okay.

J O E Y D E B R E E Z E , having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SUSAN VERCHEAK

Q: Mr. DeBreeze, do you have any corrections to add to your testimony beyond those which have already been submitted to the Court?

A: No, I don’t.

Q: Thank you. Mr. DeBreeze is available for cross-examination, Your Honors.

ALJ AGRESTA: Thank you. Environmental Defense Fund, I have you down for 15 minutes, and that’s the only cross I see for this witness.

MR. TRIPP: Thank you.

CROSS-EXAMINATION

BY MR. JAMES TRIPP

Q: Mr. DeBreeze, my name is James Tripp. I’m counsel for the Environmental Defense Fund in this proceeding. You’re the Director of Con Edison’s research and development program, is that right?

A: That’s correct.

Q: You indicated in your--both your electric and gas testimony that when you select projects for research and development, you look--among other things, you look at the benefits, you look at the costs, and you do sort of a cost-benefit analysis to decide whether or not you should proceed. Is that right?

A: That's correct.

Q: Now, the R&D budget for Con Edison for the next rate year is the same as it was this year or last year. Is that correct?

A: It's the same for electric is the same as the historic year.

Q: For electric? For gas?

A: For gas is a little bit lower.

Q: And for electric in 2014, it's the same as the historic year end. That's also the case for 2015 and 2016?

A: It's okay to check?

Q: In other words--

A: [Interposing] That's correct.

Q: --Page 3 of your--yeah.

A: That's correct.

Q: So I take it whatever kind of benefit-cost analyses you've done of individual prices, your--the decision is not to increase the R&D budget in any way, as far as electric is concerned?

A: So our process, we look at opportunities that are presented to us, opportunities that we come up with internally within R&D and also in our operating groups. We put that all through our prioritization methodology where we take into account impact on reliability, impact on safety, both the customers and employee safety, impact on cost production, impact on risks. We look at new technologies, the development of new technologies, and we look at the readiness of technology. We put all that into a package and we decide which projects are proven to move forward. And to answer your question--I guess I didn't answer that question. To answer the question, right now, we don't see any need to increase that for the foreseeable future.

Q: And have you--I mean, your R&D budget is something in the order of 1% or revenue of the company. Is that right?

A: I believe it's lower than that, but it is on par with utilities, as per--I was looking at a study done by the National Science Foundation in 2007, and the top 20 performing utility companies, we're right on par.

Q: Your testimony describes some research you're doing with respect to the lithium plan battery technology. I'm referring specifically to Pages 18 and 19 of your testimony.

A: Okay. I'm following you.

Q: Is that right?

A: Yes.

Q: And you were also quoted in a New York Times article, in the business section, a couple weeks ago about a different kind of battery technology.

A: That’s correct.

Q: Can you tell us about that?

A: That’s a--we’re working with a company Veos, V-E-O-S, that’s a NYSERDA project. They’re developing a nickel--I’m sorry, a zinc air battery. Is there anything more you’re looking for that on that? It's a very small-scale battery. It’s--we’re looking at the development of technology to see if it has potential.

MR. TRIPP: Could we have this marked as Exhibit 201? A copy of the New York Times article to which I was just referring, I believe from July 17th, 2013.

ALJ AGRESTA: So you don’t read the Post? You read the Times?

MR. TRIPP: In Post, this witness--

ALJ AGRESTA: [Interposing] No, I’m sorry. We had a Post article the other day that somebody wanted to mark. We’ll take the Times too. You can pass that around. It’s a two-page exhibit. It will be marked Exhibit 803 for identification.

MR. TRIPP: May I proceed?

ALJ AGRESTA: Yes.

Q: Mr. DeBreeze, you’re quoted on the second page of this article. The Times article says “they’ve got a cost factor that makes the technology viable to use their batteries.” Is that a correct reflection of what you said or what you think?

A: Yeah. They have a cost target. So when the--the reference to cost factor is not there yet, but the development target is very attractive.

Q: And when you say it’s very attractive, what do you see as being the benefits of battery storage technology?

A: So I believe the article goes over a lot of that, but it’s leveling out lower curves as deferring infrastructure. So we’re hoping that, you know, we’re working with a number of battery companies to try and find the right technology that makes sense.

Q: So one of your R&D interests is looking at techniques, technologies, techniques or strategies that could reduce peak demand, and therefore avoid stresses in the system?

A: So we’re looking at that at all levels, from production to the customer. So it could be peak demand or it could be a local demand issue that we’re trying to mitigate.

Q: And you also refer on Page 12 of your testimony to a project having to do with room air conditioners.

A: Yes.
Q: Is this sort of a demand response kind of technology or--
A: [Interposing] It’s a technology aimed at enabling demand response for window air conditioning.
Q: And again, what’s the potential benefit of that?
A: The same type of response to both - -.
Q: If I may refer you to Page 2 of your rebuttal testimony.
A: Electrical hub?
Q: Yes. Do you know, at the current time, are you spending any R&D dollars on AMI, you know, metered technology that allows for prospective utilization of time variant - -?
A: So we have done projects like that and we may have a small amount in the budget for next year, for 2014. Yes.
Q: You know, on Page 2 of your testimony, you’re referring to Mr. Cetovella’s [phonetic] testimony regarding the company R&D Program. And you refer to his perception that the company proposes an 85% reduction in its smart grid funding for 2012 to 2016. Do you see that statement in your rebuttal?
A: Yes.
Q: Is it true that the company is proposing an 85%

reduction in its smart grid funding for those years?

A: No.

Q: And is that because it's being offset to some degree by R&D money that's going to - - and the project Hydra?

A: The calculation was based on line items that have projects with the words smart grid in the title. If you look through the--'cause smart grid has a fairly broad definition. If you look through the projects we're involved in, I would say more than half of our budget is towards smart grid initiatives.

Q: Would it be fair to say that the bulk of the--what you call funding that's--where there's this increase of 40% that's going to Ebry [phonetic] project Hydra, that's for transmission and distribution times of R&D projects?

A: It sounds like there's two pieces to that question. Can I ask you to separate them? T&D? You're asking about T&D? So project Hydra is a transmission project.

Q: And the Ebry projects?

A: Ebry projects cover the full range. We have substation projects, we have transmission projects, we have distribution projects.

Q: Okay. But that does not include anything on the customer side of the meters?

A: Ebry has--does work in that area. That’s typically not the stuff we’re focusing on.

Q: Okay. Let me--I just have a couple questions about your natural gas testimony.

A: Sure.

Q: You recognize that--I think you indicate on Page 12 of your testimony, you recognize that methane is a greenhouse gas.

A: Yes.

Q: And you indicate that one of the benefits of a variety of research and development projects that you identify here would reduce methane leakage or methane emissions that would include an environmental benefit, as well as an economic benefit?

A: Yes.

Q: You refer on Page 14, and again on 17 to a project to--I think it is develop portable ethane and methane sensors.

A: Yes.

Q: Okay. The purpose of that is to really pinpoint leakage of methane from the natural gas emission system, above ground system?

A: That’s correct.

Q: Have you started that research, that project?

A: Yes.

Q: And can you describe what the sensors are, what they look like and what they--

A: [Interposing] So if your question is what size is about that big, right? Six inches by four inches. And this technology is through collaborative efforts with OTD, Operations Technology Development, and - - Search. They both have efforts along these lines. There are different technologies for sensing the methane. I don’t know that I could, off the top of my head, give you the details on the technologies.

Q: But this is ongoing research?

A: Yes.

Q: And what’s your goal in terms of, I mean, what’s the potential benefit?

A: We do leak detection. We also do leak surveys. These devices probably would be used by mechanics for leak detection is where we think this would go for us.

Q: And would you see a benefit to this technology in detecting leaks that may not necessarily qualify as a safety problem, but might still constitute an environmental problem that methane is being used in the atmosphere?

A: Can you repeat the question? ’Cause—

Q: [Interposing] Is a benefit—you’re talking about the benefits of this kind of technology, the sensor technology. Is the sole benefit to detect leaks that constitute a safety problem, or are you also including a potential environmental benefit of reducing methane as a greenhouse gas emissions to the atmosphere?

A: So as I said earlier, there are benefits for the environment. The leak detection and the leak survey that we--what we do in those areas, these devices would detect leaks regardless of the purpose for why I'm looking for them. Does that answer your question?

Q: And on Page 25 of your testimony, at the bottom, you refer to developing an automated gas leak survey mapping system that records leak surveys directly onto electronic maps. Can you describe what that project is?

A: Yeah. So this is an interesting project where we're taking GIS mapping data and coordinating that with leak detection vehicles, so vehicles that arrive at system and scan for leaks and put them together so that the data is tracked instantaneously, put right onto the map, that I've review this section of pipe. It can determine how close you are to the pipe to make sure you're directly over the pipe when it's checking for leaks.

Q: You were just referring to the--if you--if some of these sensor technologies were that that you described, could they be carried on a vehicle and you could—describe how they could be used.

A: So absolutely. So we have vehicles already equipped with sensors. The other sensors could--some of the sensors we're looking at have higher sensitivity than the current sensors. So yes, they could--the vehicles could be equipped with additional sensors or even replace those sensors when they become available.

Q: Thank you very much.

MR. TRIPP: I have no further questions.

ALJ AGRESTA: Any redirect?

MS. VERCHEAK: No redirect, Your Honors.

ALJ AGRESTA: Thank you. You're excused. Thank you for your testimony. New York City, you can call the next witness, please.

MR. KEVIN LANG: Your Honor, we call Mr. Gorman.

ALJ BIELAWSKI: Raise your right hand for me, please. Do you swear or affirm the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

MR. GORMAN: I do.

ALJ BIELAWSKI: And do you adopt your pre-trial testimony in these proceedings as your sworn testimony in these proceedings?

MR. GORMAN: Yes.

M R. G O R M A N, having been first duly
sworn, testified as follows:
DIRECT EXAMINATION
BY MR. KEVIN LANG
Q: Mr. Gorman, do you have any corrections to your testimony?
A: I do.
MR. LANG: Your Honor, this witness is available for cross.
ALJ AGRESTA: Okay. I see 20 minutes by Con Edison and that's it for this witness. So Con Edison, you can proceed.
MR. RICHTER: Thank you, Your Honor.
CROSS-EXAMINATION
BY MR. MARC RICHTER
Q: Good afternoon, Mr. Gorman.
A: Good afternoon.
Q: If I could ask you to please turn to Page 28 of your testimony.
A: I'm there.
Q: Where you addressed the company's elimination of the temperature control option.
A: Yes.
Q: Am I correct that you're recommending the commission not consider this proposed change outside of a

rate case because--and I quote--“adjusting any rate outside of the general rate case base would be inappropriate”?

A: Yes.

Q: Okay. Could you please explain to me your understanding as to how rates paid by temperature control option customers would change under the company’s proposal?

A: I believe they’re proposing to eliminate the temperature control option.

Q: Right.

A: To the extent that’s put in at the revenue collections of the company, that may impact the overall revenue collections and the accuracy of the other rates to produce the correct revenue.

Q: Okay. So let me just clarify what you’re saying. You’re saying that the elimination of the temperature control option wouldn’t change what an individual customer, a temperature control option customer today, a notification customer tomorrow, would pay for service? It might just impact the overall revenues by the company?

A: By switching customers from one rate to another, that could impact the overall revenue collections.

Q: So I’m trying to clarify is your records to determine rate, right? So you have, let’s say, ten temperature control option customers today, you look at the company's tariff and there's a rate that they would pay for service, right?

A: Yes.

Q: And what I'm saying is that if that temperature control option were eliminated, are you suggesting that tomorrow, the service that they take, they would pay a different rate for that service?

A: The rate they're on is eliminated. They would have to move to a different rate.

Q: Okay. So it is your understanding that the rate they would pay would be a different rate, higher or lower?

A: It would be a different rate if the rate schedule they're on is eliminated. And that may impact the amount of contribution made to the company revenue requirement by switching rates.

Q: I'm not sure if you can accept the subject to check or not, but I'll ask. Would you accept, subject to check, that the customers today—again, the temperature control option is a means by which customers are notified or otherwise have devices in place by which they would interrupt service under certain circumstances.

A: That's my understanding, yes.

Q: So that today, a temperature control customer would have a device, but based upon a certain temperature, they would cease taking service for a period of time?

A: Correct.

Q: And as a notification customer, right, they would only cease taking service when they receive notification from the company to cease taking service and then come back on to service when the company so advised?

A: That’s my understanding.

Q: Would you accept, subject to check, that the rate they would pay for that service would not be any different under those two options? The only thing that’s changing is the means by which they notify or self-notify to interrupt service?

A: That is correct.

Q: Thank you.

A: That the frequency in the amount of service they take from the company could change, depending on the frequency and amount of interruptions.

Q: Thank you. Like to ask you a few questions about your comments on the company’s proposed steam weather normalization cost.

A: Okay.

Q: Am I correct that you’re proposing the commission reject the company’s proposal with respect to that mechanism?

A: Yes.

Q: Okay. And am I correct that one of the reasons for rejecting that clause is your belief that the weather normalization will make it more difficult for steam customers to predict and manage their bills?

A: Yes.

Q: So I’d like to understand a little--I’d like to understand your understanding of that a little bit better. When you speak of steam customers predicting their steam bills, are you talking in terms of the next month, the next year, some other period?

A: It can be all of the above.

Q: Could be all of the above.

A: Steam customers, as well as electric, as well as gas customers look at options for installing energy consumption equipment. When they need to understand what the price of energy is when they're using that.

Q: Fair enough. And when you say steam customers predicting their steam bills, when you talk in terms of steam customers predicting their steam bills, looking forward to energy efficiency or other factors that might affect their usage, is it your understanding that they assume normal weather in making those predictions, or is it some other weather that they may be assuming in predicting their usage?

MR. LANG: Objection. Calls for

speculation. He’s asking what customers believe, what they’re assuming. There’s nothing in his testimony that says--

ALJ AGRESTA: [Interposing] Well, I--

MR. LANG: --that he’s interviewed customers.

ALJ AGRESTA: I think it’s a fair question. He said he wanted customers to be able to understand what their bills are going to be. And I think the question goes directly to that. So go ahead and answer the question.

A: Well, I guess it would be a pretty lengthy list in looking what a customer could consider in trying to manage their energy costs.

Q: Absolutely. I agree with that.

A: One can be the efficiency of the equipment, the way in which they take service from the utility, and their budgetary limitations, and modify consumptions based on economic necessity. All of those factors could be considered by companies in making their energy assets investments, or simply dialing down the thermostats or not dialing them up, whatever the case may be, in an effort to manage their energy costs.

Q: I agree with you. And on a customer-to-customer basis, there are many, many factors I assume that each customer takes into consideration in predicting what their energy bills may be going forward. Do you agree with that?

A: I do.

Q: Okay. And weather might be one of those factors?

A: Yes.

Q: And what I'm asking is, when a customer considers weather, among all those other factors, do you think they're assuming normal weather, colder than normal weather, or warmer than normal weather?

MR. LANG: Objection. Are you talking about a particular customer, every customer? I mean, you're asking what specific customers are doing. Mr. Gorman has already said that there's a number of factors. So are you talking about a particular customer here or what?

MR. RICHTER: I'll clarify that I'm not talking about a particular customer. I'm saying as a general matter, Mr. Gorman is indicating that for weather normalization costs, which is going to adjust a customer's bill based upon actual weather, as compared to forecasted weather, will make it more difficult for customers, as a general matter, to predict their energy uses.

Q: Just do you have in mind, as a general matter, whether customers--when you wrote this testimony, were you assuming that customers would be assuming normal weather, colder than normal weather, or warmer than normal weather when they come up with their forecast of their energy needs going forward?

A: When I wrote this testimony, I was considering customers who considered more than just weather conditions describing their consumption behavior.

Q: I agree.

A: It would be one factor.

Q: And that one--

A: [Interposing] But it wouldn't be the only factor.

Q: Absolutely. That one factor, though, in your opinion, would customers be considering as a general matter normal weather, colder than normal weather, or warmer than normal weather?

A: I would hope they'd be considering normal weather.

Q: Thank you. Okay. Is it your understanding that the company's proposed weather normalization clause would act to adjust customers' bills based upon variances in weather before the bills are issued?

A: That's my understanding. It's on a real-time basis; I think is how I described it.

Q: Okay. So would you agree in a winter month--

let’s take the month of December 2013--is colder than normal, then the non-fuel portion of the customer’s bill would be lower than it would otherwise be?

A: If it was colder than normal?

Q: If it was colder than normal that the non-fuel portion of the customer’s bill may be lower than it would otherwise be.

A: Depends on how the bill of the units are priced. I mean, if there’s fixed cost in the variable component then they will pay more fixed cost under colder, higher-use model than they would under a lower-use model.

Q: If I could just clarify my previous question. Would you agree if a winter month is colder than normal, if the company’s proposed steam weather normalization clause as applied then the non-fuel portion of the customer’s bill would be lower than it would otherwise be?

A: It would be restated to normal weather conditions, yes.

Q: And would you agree that if a month is warmer than normal and the customer’s fuel charges would be lower than the customer had planned and the delivery charges, although adjusted upward by the application of the steam weather normalization clause, would still be lower than would have been the case under normal weather?

A: Long question. To make sure I understand your question, if it was warmer than normal and sales were lower than normal sales, would the company under-recover its fuel costs?

Q: No. That was not my question so let me restate it. So what I'm saying is that in a month that's warmer than normal, a customer--again, you say as a general matter, we're taking a customer that's planning for normal weather, okay? So if a month turns out to be normal--warmer than normal, then the customer's fuel charges should be lower because they used less heat, correct?

A: Well, on a per-unit basis, I don't know if that's accurate because the lower fuel use would correspond with the lower actual billing deliveries. Until you adjust for the normalization adjustment. So you're--

Q: [Interposing] Will you accept that the company's normalization adjustment adjusts the delivery charge and not the fuel charge?

A: Can you repeat your question?

Q: Okay. Would you agree that in a warmer than normal month that the customer's fuel charges would be lower than they would be when the customer had planned for normal weather, since the weather normalization clause does not adjust the fuel component?

A: That would depend on the price of fuel and the non-weather related impacts on cost of fuel. Gas prices are higher, coal prices change relative to what the customer was expecting. I mean, the fuel price is going to be what the fuel cost is.

Q: I agree with you, the fuel prices would be what the cost is. So we go into a month, and after the month, the fuel price is what it is. And all I'm saying is that if the customer used less fuel then they're going to pay-- the portion of their bill for fuel cost is going to be lower that month than if the weather had been colder and they had used more fuel that month.

A: That's true.

Q: And with respect to the delivery component of the bill, so they used less steam because the weather was warmer than normal. And what I'm asking you is that would you agree that under the company's steam weather normalization clause, while that delivery component may be adjusted upward that the delivery charges that the customer would pay that month would still be lower than they would otherwise pay during a normal weather month?

A: It would be consistent with a normal month billing.

Q: Thank you, Mr. Gorman. We'll move on to another topic now, please. On Page 6 of your testimony, you indicate that it does not make sense for the company to continue to set interruptible rates based on the cost of alternate fuels as proposed by the company. Is that correct?

A: Yes.

Q: Okay. You're talking about, in this context, when you use the term interruptible rates, company's SC12 rate 1 and SC9 rate B customers?

A: Yeah. But what is referred to as a rate 1 interruptible customer.

Q: Would you agree with me that the company's pricing mechanism for SC12 rate 1 customers today has a floor of an equitherm [phonetic] and a ceiling of the rate otherwise charged to firm customers?

A: Yes.

Q: And that the company's not proposing to change those parameters for setting the rate?

A: Did you say for SC9 customers? Or was that SC12 customers?

Q: Both.

A: Well, I believe there is a change in the reconciliation for SC9 customers to go--or excuse me, SC12 customers to delivery component revenues on the bill. So that is one change.

Q: That's a fair comment. So other than the possible change in terms of reconciling cost on an annual basis, though, basically the rate today is capped by the otherwise applicable firm service rate?

A: That’s not necessarily the case for a sales customer to reconcile to delivery component.

Q: Okay. But you agree with me that today all customers on the Con Edison system have the opportunity to purchase their gas supply from a third-party supplier?

A: That’s my understanding, yes.

Q: On Page 12, Line 7 of your testimony, you state that pricing interruptible customers higher than firm service customers is a significant disincentive for customers that are capable of taking service on an interruptible basis and logically will lead to interruptible customers seeking to migrate to firm service. Do you remember that reference in your testimony?

A: I do, yes.

Q: Okay. Are you aware that the company’s current tariff already provides for situations in which the company may charge interruptible customers rates higher than firm service?

A: It's my understanding of firm rate it would cap it at firm service.

Q: Mr. Gorman, we’re going to be handing to you a copy of the company’s gas tariff leaf 332. Do you have that before you?

A: I do.

MR. RICHTER: Your Honor, we request that this tariff leaf be marked for identification.

ALJ AGRESTA: It'll be marked Exhibit 804 for identification.

Q: Mr. Gorman, if I can point your attention to the middle of the second paragraph on that tariff leaf, the paragraph beginning with the words a minimum rate shall be set. About halfway down that paragraph is a line that begins—it's the sentence that begins the reconciliation shall exclude.

A: Yes.

Q: So do you see that there are circumstances today under the company's tariff where in the terms of performing an admirable reconciliation there's a possibility that customers would pay above the firm rate?

A: Yes.

Q: Are you aware of any interruptible customers on the company's system that have converted to firm service because of this provision?

A: I am not.

Q: As you mentioned a moment ago, you are aware that the company is proposing a change in the reconciliation mechanism that would provide additional opportunities for the interruptible rate to be higher than the firm rate by reconciling the delivery component column. Is that correct?

A: Yes.

Q: Would you agree that the gas supply that the company purchases in order to serve full service interruptible customers is not marked up by the company, it's just flowed through at cost?

A: That's my understanding, yes.

MR. RICHTER: I have no further questions, Your Honor. Thank you, Mr. Gorman.

ALJ AGRESTA: Any redirect?

MR. LANG: May we have a second, Your Honor?

ALJ AGRESTA: Yeah, sure.

MR. LANG: Your Honor, we have one question on redirect.

ALJ AGRESTA: Okay. Proceed.

REDIRECT EXAMINATION

BY MR. KEVIN LANG

Q: Mr. Gorman, Mr. Richter was asking a number of questions about the impact of the weather normalization adjustment, whether it was colder weather, warmer weather. Do you recall that--

A: [Interposing] I do.

Q: --cross-examination? Is it your testimony, sir, that there are a number of factors that could affect what the actual delivery bill is, weather only being one of those factors?

A: Yes.

Q: Thank you.

MR. LANG: Nothing further, Your Honor.

ALJ AGRESTA: Okay. Thank you. This witness is excused. DPS staff, if you could call the next witness.

MR. OSSIES: DPS staff would like to call the staff--excuse me--the Staff Gas Policy and Supply Panel.

ALJ BIELAWSKI: Raise your right hand for me, please. Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

MR. RIEBEL: I do.

MS. MIMI CHAN: I do.

ALJ BIELAWSKI: And do you adopt the pre-trial testimony as your sworn testimony in these proceedings?

MR. RIEBEL: I do.

MS. CHAN: Yes.

ALJ BIELAWSKI: Thank you.

M R. R I E B E L and M I M I C H A N, having been first duly sworn, testified as follows:

DIRECT EXAMINATION
BY MR. BRIAN OSSIES
Q: Panel, do you have any corrections to your testimony or exhibits that were previously filed in this matter?
MR. RIEBEL: No, we do not.
Q: Okay. Thank you.
MR. OSSIES: Your Honor, this panel is available for cross-examination.
ALJ AGRESTA: Okay. Astoria Generation.
CROSS-EXAMINATION
BY MR. DAVID JOHNSON
Q: Good afternoon, panel. I am David Johnson, counsel to Astoria Generating Company. Could you please turn to Page 16 of your rebuttal testimony? And lines--
MR. RIEBEL: Did you say rebuttal?
Q: Yeah. Direct. Excuse me.
MR. RIEBEL: Okay.
Q: On Lines 1 through 4, you testified that the power generators taking transportation service are giving a 10% dead band before any charges are assessed from imbalances. This level is too high. Is that correct?
MR. RIEBEL: Yes, that’s what we wrote.
Q: Was that level too high when this tariff provision became effective in 1999?

MR. RIEBEL: Well, we--this provision is--as you say, this has been in place since 1999. I assume there were reasons that the level was put forth at that time, that we--we are addressing what is currently in--sorry. I don't know.

ALJ AGRESTA: Try and speak a little louder too.

MR. RIEBEL: Regard--I'm sorry. Regarding 1999, if that's the timeframe that this was put in place, then I don't know if we can comment as to the reasons why that was put in at that time.

Q: Are you aware of any changes that have occurred between 1999 and today that would cause you to say that it's too high today?

MR. RIEBEL: As far as our testimony and why we are recommending that that is too high and it needs to be changed is that there is similarly situated customers in downstate utilities, other than Con Edison, that currently have a different rate at a lower level. And we want to provide consistency in the downstate area.

Q: Has the panel performed any studies that indicate the level of imbalances that power generators are causing on Con Edison's gas system?

MR. RIEBEL: We have not authored any

studies regarding that, no.

Q: In fact, power generators could be causing less imbalances today than when the currently effective balance and service charges for power generation customers went into effect in 1999. Is that correct?

MR. OSSIES: Your Honor, I'm going to object. I think that does call for speculation.

ALJ AGRESTA: I think they should have to answer the question. It may not be the most valuable question in the world, but I think they should have to answer.

MR. RIEBEL: I would ask the lawyer too, would you repeat the question, please?

Q: Isn't it true that power generators could be causing less imbalances today than when the currently effective balance and service charges went into effect in 1999?

MR. RIEBEL: Yes, we would reply that since '99, a lot of time has passed and we believe that the generators--sorry--and the larger customers have more experience in this area and would be better able to manage imbalances.

Q: And what do you base that on?

MR. RIEBEL: We base that on the experience that we see in other areas of New York State.

Q: But isn't it true that many of the generators in New York City have been in service since the '50s?

MR. RIEBEL: I'm sorry. Can you repeat that?

Q: Isn't it true that many of the generators in New York City have been in service since the '50s? Same work.

MR. RIEBEL: I would have to take that subject to check, yes.

MR. DAVID JOHNSON: Your Honors, I'd like to mark for identification staff response to Astoria Generating interrogatory Agency 2.

ALJ AGRESTA: This one-page exhibit will be marked Exhibit 805 for identification.

Q: Panel, was this prepared by you or under your supervision?

MR. RIEBEL: Yes, it was.

Q: Could you please review your response to Question 2B? Based on your response, is it correct to state that staff has not performed any studies or analyses that demonstrate that the cost of power generation posed on Con Edison's gas system when they cause imbalances?

MR. OSSIES: Your Honor, I'd just like to object. It says staff didn't perform any formal studies. No objection.

MR. RIEBEL: Can I have you repeat the

question?

Q: Is it correct to state that staff has not performed any studies or analyses that demonstrate that cost that power generators impose on Con Edison's gas system when they cause imbalances?

MR. RIEBEL: Staff reviewed other territories in what's happening there and--but as far as formal study, no, this response--as we understand, by the response here, that we did not perform a formal studies on this issue.

Q: So you reviewed other service territories, but you haven't reviewed how the generators that are in Con Edison's service territory that take gas on Con Edison's system, what cost they're imposing on Con Edison's system?

MR. RIEBEL: We looked at both Con Edison and other territories in New York State when looking at this issue, yes.

Q: So you do have data that demonstrates what the cost are that generators impose on the Con Ed's system when they cause imbalances?

MR. RIEBEL: We do not have data to present regarding that.

Q: Please turn to Page 16 of your testimony. You're already there. You recommend that the company rework the cash-out tiers so that the dead band ends at 2%, and you provide an example of how that should be done. Is that correct?

MR. RIEBEL: That’s correct.

Q: When you use the word example, is this your recommendation or are you suggesting that the cash-out tiers could be arranged in some other manner?

MR. RIEBEL: This is one example of how this might work within those cash-out percentages. This is just one particular example of how that would work.

Q: So what exactly are you recommending the commission do? Are you recommending the commission direct Con Edison to develop cash-out tiers? How would the commission--

MR. RIEBEL: [Interposing] We--

Q: --decide what to do?

MR. RIEBEL: We set the levels between 2 and 10%, with particular cash-out levels at different percentages. And we think this is a reasonable way of accomplishing those goals, but we do not necessarily think this has to be the end of all of how that--how those numbers could be provided.

Q: So it’s possible then that Con Edison could work with its customers, power generators, to develop how those cash-out tiers should be structured?

MR. RIEBEL: Right. Within the 2 to 10% level, yes.

Q: And would you agree that under the existing tariff, power generators that have balances that exceed--imbalances that exceed 2% when they're charged for gas, that there is a penalty?

MR. RIEBEL: Could I have you repeat that question?

Q: When a power generator causes an imbalance that's greater than 2%, the--what they have to pay for gas in cash-out, they incur a penalty because of the price of gas that they're paying for?

MR. RIEBEL: Yes. There's a premium placed on that level, yes.

Q: Okay. And my final question. Does staff participate in the marketer collaborative?

MR. RIEBEL: We have participation in the collaborative, yes.

Q: Okay. Thank you.

MR. JOHNSON: I have no further questions.

ALJ AGRESTA: Con Edison?

MR. RICHTER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. MARC RICHTER

Q: Good afternoon, panel.

MR. RIEBEL: Good afternoon.

Q: Can I ask you to please turn to Page 5, Line 4 of your testimony? If I could clarify something, which might basically entail a small correction. Am I correct that your statement that says—in fact, let me read the whole sentence. On Page 5, Line 4, for the benefit of everyone in the room, says on the design date, the company projects that it will need to provide 1,274,000 dekatherms per day of firm load during the 2013 through ’14 winter season. And then it says, with an increase of 1,419 MDT per day for the 2015 through 2016 winter season. Am I correct that should read with an increase to 1,419 MDT per day?

MR. RIEBEL: Yes, you are correct.

Q: Thanks. I just wanted to clarify that for purposes of the record. If you can now turn to Page 6, Line 11 of your testimony where you state there will likely be--there will likely need to be additional supply brought into the city in the future in order to meet the longer-term increased demand tied to plan NYC initiative.

MR. RIEBEL: Yes.

Q: See that testimony? Thank you. Now, on Page 7, Line 6, you indicate that in order to mitigate the amount of capacity needed to meet winter design conditions associated with increased demand that that panel recommends that the company manage its interruptible--I’m sorry, manage its level of interruptible service for current customers and encourage new customers to utilize this option. Do you see that testimony?

MR. RIEBEL: Yes.

Q: And so when you say encourage customers to utilize this option, do you mean encourage customers to take interruptible service?

MR. RIEBEL: Yes. We believe interruptible service should be an option for existing customers and new customers as well.

Q: And it is an option today, isn't it?

MR. RIEBEL: It is.

Q: But the testimony in this case is to encourage that option, to encourage--I'm trying to understand your proposal in this case. Your testimony says it's to encourage that option. So what do you mean by encourage?

MR. RIEBEL: Well, basically, we want to make sure that this option is maintained in the future. And we don't want new customers just to be given an option of going on, on a firm basis.

Q: Okay. And what's generating your concern that his option was going to be eliminated?

MR. RIEBEL: Well, this goes to the rates panel and what they have testified to, but we saw things in the rates panel, testimony that led us to believe that there may, in fact, be, you know, be a, you know, an effort, I guess, for lack of a better word, for the companies to bring folks on as firm customers and not provide that interruptible option going forward.

Q: Okay. And when you say not provide that interruptible option going forward, I guess other than the company's proposal, I guess, to limit prospectively interruptible service of very small customers, the company has not proposed to eliminate that option for customers to choose in the future. Isn't that correct?

MR. RIEBEL: I would have to agree, subject to check, I guess.

Q: Okay. And are you familiar with the testimony of the Staff Gas Rate Panel?

MR. RIEBEL: Not entirely, no.

Q: Okay. Well, you do--I think you are, at least in some respect. I'm thinking on Page 7 to the top of Page 8 of your testimony, you indicate, therefore providing additional incentives to retain and grow the company's interruptible customer base should be an important part of the company's supply plans. Incentives for interruptible customers are discussed in more detail in the Staff Gas Rate Panel's testimony.

MR. RIEBEL: I see that, yes.

Q: All right. So you're aware that the Staff Gas Rate Panel that's proposed to modify, that the company modify its interruptible rates to provide an incentive for interruptible service?

MR. RIEBEL: Yes. As stated in the testimony, yes.

Q: So by an incentive, it's a change in the rate intending to affect behavior, make that service more attractive to customers choosing as between interruptible and firm service?

MR. RIEBEL: Well, again, as I said, I don't have a lot of the detail behind the Staff Rate Panel testimony so I don't want to define that term incentive here and say that it is exactly as you suggested.

Q: Okay. In fact, I think you can check. The Staff Gas Rate Panel does not define the incentive. It basically, I think, recommends that the company perform a study, you know, to develop, you know, an incentive. What I'm trying to understand is the totality of the staff position as between your panel and the Staff Gas Rate Panel. If you read it as encouraging and providing incentives, you know, for interruptible service, which appears to me to be more than just maintaining the option--

MR. OSSIES: [Interposing] Your Honor, I--
Q: --with the interruptible service.
MR. OSSIUM: --I am going to try to object again. I think some of these questions are now going more towards the Staff Gas Rate Panel. There’s a line in this testimony that simply refers to the Staff Gas Rate Panel. The company is starting to delve into issues that are better addressed by that panel.
MR. RICHTER: If I may, Your Honor, the reference to the Staff Gas--
ALJ AGRESTA: [Interposing] Hold on. My understanding of the incentives that the Staff Gas Rate Panel is talking about is that there remain a price differential between firm rates and interruptible rates, such that some customers will actually want interruptible rates. They were not talking about a payment incentive of any kind to be paid to customers. Okay?
MR. OSSIES: That’s correct.
ALJ AGRESTA: So if we all will agree with that understanding of what incentives means--
MR. RICHTER: [Interposing] I agree in that context, Your Honor.
ALJ AGRESTA: --let’s move on.
MR. OSSIES: Thank you.

ALJ AGRESTA: So ask whatever you need to ask, but let's try not to define incentives anymore, other than what I just said.

MR. RICHTER: And I agree with Your Honor that we're not talking about any type of payment to interruptible customers.

Q: But again, putting aside the Staff Gas Rate Panel's proposal and just your testimony, you say that you testified to providing additional incentives to retain and grow the company's interruptible customer base should be important part of the company's supply plans. And I guess I'm just trying to understand what you mean by providing additional incentives, other than the company maintaining on its books, as it has today, interruptible service as an option for customers.

MR. OSSIES: Your Honor, again, I'm going to object. There seems to be some other words being added to the testimony of this panel by the company. That's, of course, changing the, you know, the company's testimony--excuse me--has changed staff's--

ALJ AGRESTA: [Interposing] No, the--

MR. OSSIES: [Interposing] I object to the form of the question.

ALJ AGRESTA: The testimony says, therefore, providing additional incentives to retain and grow the company’s interruptible customer base should be a important part of the company’s supply plans. That’s virtually exactly what Mr. Richter said.

MR. OSSIES: Thank you.

ALJ AGRESTA: So are you asking that there be any other incentive other than what the Staff Gas Rate Panel had suggested there be?

MR. RIEBEL: No. We are not asking for anything additional to the Staff Rate Panel testimony.

ALJ AGRESTA: Does that help you any, Mr. Richter?

MR. RICHTER: I’m not sure.

ALJ AGRESTA: Okay.

MR. RICHTER: If I can continue.

ALJ AGRESTA: Please continue.

Q: On a going-forward basis--strike that. Let me just try this one question. When you talk about the company growing the company’s interruptible customer base, are you talking about how that customer base may grow just by reason of the interruptible rate remaining an option for customers and then customers deciding as between firm and interruptible?

MR. RIEBEL: I need you to rephrase the question, if you could.

Q: I'll ask a different question. Would your panel feel it was a bad result if customers going forward, for argument's sake, selected firm service exclusively over interruptible service?

MR. RIEBEL: If I understand the question, you're asking if all new customers came on from this point forward as firm customers, would we have an objection to that.

Q: Would you consider that a bad result?

MR. RIEBEL: Yeah. I think we would, yes.

Q: So then when you say the company should be encouraging customers to take interruptible service, are you looking for the company to encourage customers, individual customers, to move in one direction or another as between the two services, depending upon how company's relative firm and interruptible customer bases are growing?

MR. RIEBEL: The intent here is to provide the option for customers going forward.

Q: And I guess what I'm trying to understand here is that is it just an option that remains on the book and the company and the customer makes their choice? Or whether or not you're looking for some type of customer behavior which will move customers choosing those options towards a particular result?

MR. RIEBEL: This is a customer option. Ultimately, what they choose to do--

Q: [Interposing] Agreed. And I'm looking to understand just your testimony, are you looking for the company to take any type of actions which might influence those customers' decision in order to maintain a certain level of interruptible service as compared to firm service.

MR. RIEBEL: Well, I think I'd like to rephrase the answer a little differently than you're suggesting, is that instead of encouraging customers to choose the interruptible option, we want to make sure that that customer is not somehow told that that is not available to them.

Q: And again, as of today, there's no proposal by the company on the table, other than the issue of threshold level for small customers going forward, to pull that option off the table, correct?

MR. RIEBEL: As the testimony states on Page 7, Lines 12 and 13 and 14, it's our understanding that the company is forecasting the majority of all new load to come on as firm load. So that's the genesis of where--of our position.

Q: And is it your impression that company's projection of all new load--your understanding that it's the projection that all new load coming on will be firm load is not a good result; and therefore, the company should be taking steps to change that direction in terms of what customers may be electing?

A: Well, again, I just said earlier, ultimately it's up to the customer to decide. We just want to make sure that these customers that are coming to the company for service are aware that they have options.

Q: And if they're aware that they have that option, but they choose firm service, you have no problem with that?

A: If the customer chooses that and they've been given two options, yeah, that's all we can ask for.

Q: Panel, am I correct that it's the staff's view that the company does not need to acquire additional firm pipeline capacity for a gas supplier, other upstream assets like storage, in order to meet the requirements of interruptible customers?

A: In what time frame are you referring?

Q: Just when the company plans its supply portfolio, they should be planning to meet the needs of firm customers and not to meet the needs of interruptible customers.

A: Right. I would agree with that.

Q: Panel, if I could ask you to turn to page eight, line eight of your testimony, and just for the benefit of the record, the statement that reads, “the company acknowledged that it cannot build out its existing system at a pace that would provide sufficient and reliable gas service to all current heavy fuel oil users within a short few years. This will take time to accomplish and the company has implemented a plan to address this potential new load by upgrading its mains, adding regulators to bolster system pressures, and finding additional upstream capacity to bring into its service territory.” Do you have that portion of your testimony in front of you?

A: Yes.

Q: Thank you. Can you point me to any publicly available statements by the company indicating that it’s unable to meet the demands of customers requesting firm service?

A: I just want a clarification. Are you referring to supply into the system or infrastructure within the system?

Q: Both.

A: If you're referring to this part of the testimony, the staff is basically acknowledging the fact that there are a lot of potential load of customers that could be coming onto the system in the near future, and in the next few years, we don't believe it's reasonable to expect these customers can all be brought on within that short time frame, and if—if and when all this load does come on the system, the company will need to access more supply as the-- to meet the needs of the new load.

Q: Okay. But would you agree with me that in terms of if and when all or some of that portion of potential load comes on the system is a function of more than the company's ability to acquire additional pipeline capacity, gas supply, build infrastructure? A lot of it also is whether or not they decide, as we discussed a few minutes ago, interruptible versus firm service, whether or not it's customer choice. When the customer itself chooses to come on the system.

A: I would agree that that's a portion of the equation.

Q: But right now, based upon customer's request for firm service, the company is acting to meet the customer's request for firm service.

A: In the near term, the company has plenty of supply faceted to meet that new firm load that is projected to come on.

Q: Are you familiar with the company's pending tariff filing proposing an area growth program?

A: Yes, I am.

Q: Does staff recommend that the company include interruptible customers in that area growth program?

A: Understand, that tariff filing is still under review and it is separate from this proceeding. I don't know ultimately what that conclusion will be and the timing of that.

Q: So when you say the conclusion and the timing, I agree it's a pending tariff filing with the Commission. What I'm asking, if you know and if you have an opinion, whether this panel has an opinion as to whether or not the company should include interruptible customers in that program?

MR. OSSIES: Your Honor, I'm going to object, this being outside the scope.

ALJ AGRESTA: He asked him if he knows.

A: I would answer that I do not know that answer at this time.

Q: Thank you. If you could turn to page 11 of your testimony where you described the tolerance band for daily balancing services. Take a look at testimony starting on line 22. You got that reference?

A: Mm-hmm.

Q: Now you indicate that surplus imbalances are cashed out using the Transco Zone Three, well head price and that deficiency imbalances are cashed out using the Transco zone six, city gate price, correct?

A: That's correct.
Q: Am I correct that the discussion in this part of your testimony is applicable to non-firm customers other than power generation customers?
A: That is true, yes.
Q: And you discussed the balancing for power generation customers at the bottom of page 12.
A: Yes.
Q: And from that discussion, am I correct that the dead band and price levels are the same, though, for the power generation customers as they are for the other non-firm customers, too?
A: Yes, that's correct.
Q: Okay. Now, on page 13, you state that the company is using, and I quote, "inconsistent reference points," close quote, when cashing out customers. Do you see that reference?
A: Yes.
Q: Okay. By inconsistent, you mean different?
A: That's correct.
Q: And staff is recommending a change to the Transco Zone Six index for both surplus and deficiency imbalance, is that correct?
A: Right. We're recommending that the same-- in this part of the testimony, we were recommending that the

same reference would be used for both deficiency and surplus.

Q: Thank you. And this proposed change would be applicable to all interruptible and non-firm customers including power generation customers, so it's an across the board change?

A: Can you repeat that?

Q: Okay. And this proposed change by staff would be applicable to all interruptible and non-firm customers including power gen customers?

A: Yeah. We would agree with that.

Q: Thank you. Now you state that you're proposing the change for the Transco Zone Six for surplus imbalances. I'm sorry. Let me restate. You state that you're proposing to use Transco Zone Six for surplus imbalances because using this index, quote, “gives the proper market signal to all participants in the city's market area,” close quote. With that statement--

A: [Interposing] I'm sorry. Can you give me the reference?

Q: It would be on page 13, lines 21 through 23.

A: Okay.

Q: Now with that testimony in mind, does staff agree that it's in the interest of all customers that imbalances, including surplus imbalances, be minimized?

A: Yes.

Q: If you could, if you could explain why the panel believes that a change in the reference index from Transco Zone Three to Transco Zone Six will provide an incentive for marketers and power generators to minimize surplus imbalances?

A: I'm not sure the testimony—what's exactly the question that you presented?

Q: Okay. So the Transco Zone Six price is higher than the Transco Zone Three price that's in effect today for surplus imbalances? Would you agree with that?

A: Subject to check.

Q: So that if your objective is to minimizing balances, what I'm trying to understand is by changing from the Transco Zone Three price to a higher Transco Zone Six price, which would be the entire payment to marketers or power generators that deliver extra gas into the system provides an incentive for them to minimize imbalances, since under your proposal, the reimbursement they would receive would be higher than what is in effect today.

A: I guess I would respond to that by saying that we-- in suggesting that Transco Zone Six be the preference price for both surplus and deficiencies was used because this is the market price in the New York City area and we felt, as the testimony says here, we would also provide consistency with what the neighboring downstate utility is offering.

Q: Okay. So then I remember those portions of your testimony which indicate this change would provide consistency with another downstate tariff. I'll accept for purposes of this question that zone six is the city gate market price, a surrogate for the city gate market price, but again, would you agree that a change in the tariff which provides somebody delivering gas to the New York City gate with a higher price than is in effect today, with a higher price for gas for over deliveries that is in effect today, is not going to provide an incentive to them to minimize surplus imbalances?

A: I would just ask you to repeat the question so I make sure I understand the scenario.

Q: So accepting that there's another tariff in place today that provides for the circumstance of which you're trying to make the Con Edison tariff consistent, would you agree with me, though, that when you offer somebody a higher price that is in effect today for extra deliveries of gas they make into the system, that's not going to provide them an incentive to minimize imbalances?

A: Let me respond by-- the hypothetical scenario that you presented is-- it's just that. It's a hypothetical. We think there's potentially more issues at play and we wouldn't be able to provide you with a yes or no answer right now.

Q: By your response you're saying that there are other factors that might influence whether a customer over-delivers gas or not under the company's transportation program?

A: I'd have to respond by repeating the response I gave earlier, that this particular Transco Zone[background noise] market price in the New York City area and this is the area-- this is the price we wanted to use for generators, for imbalances, rather, and again, consistent with what's happening in the other downstate utility.

ALJ AGRESTA: But isn't it true that a higher price would encourage more surplus deliveries, but symmetrically it would also discourage more deficiency supply 'cause the deficiency, they'd have to pay a higher price to make up the deficiency whereas if they had surplus, they would get more money?

MR. RIEBEL: I don’t understand, when a customer over-delivers into the system, they do not just get the-- they don't receive the cost of gas. There's a discount off the cost of gas that they receive if they over-deliver.

ALJ AGRESTA: Okay. But it's a higher cost of gas than they previously had to deal with, so they're getting more revenue than under the current rates. So there's a little bit of an incentive there for them to over-supply.

MR. RIEBEL: Again, not having all the data of those points over in front of me here, I would answer by saying potentially it could be higher, but it could also be lower.

ALJ AGRESTA: So would that be offset by the fact that if they had a deficiency, it would cost them more? Or does it not matter? Would they all just start delivering surplus?

MR. RIEBEL: By them, you're referring to the customer.

ALJ AGRESTA: Yes.

MR. RIEBEL: I'm sorry. Could you repeat that question?

ALJ AGRESTA: Well, it seems to me that if there's a higher price, there's more of an incentive to over-supply, but if there's a higher price, there's also more of an incentive to not be deficient, and I'm wondering if the two counteract each other such that it doesn't matter, or whether they won't counteract each other.

MR. RIEBEL: It's hard for me to respond

because we'd have to have exact numbers. It's difficult to exercise, to see those-- see how that would develop.

ALJ AGRESTA: Okay.

Q: Panel, if I could just clarify something for the record in relation to the questions just asked by Your Honor, in terms of a higher price for deficiencies on the company's system, am I correct that the current tariff already uses the higher Transco Zone Six price for deficiencies, and that your proposal in this case is only the change the reference for surplus from Zone Three up to Zone Six?

A: Correct. Transco Zone Six is currently used for deficiencies, and we're suggesting that it also be used for surplus.

Q: And I understand in certain contexts the value of consistency. I propose for consideration it's impossible there may be a different utility’s tariff is the issue.

A: But we're on the Con Ed case now so this is the one that we're focusing on.

ALJ AGRESTA: Okay. I think I understand the issue. Let's move on to something else.

Q: Okay. If you can please turn to page 15 of your testimony and reference your statement starting on line five where you say that tightening the dead band will decrease the assets the company needs to retain to account for the 10% fluctuation in volumes for which there is no additional charge.

A: I see that.

Q: Is it staff's-- would you agree with me that earlier I asked you and you agreed that the company only acquires upstream assets, storage, firm supply, pipeline capacity, in order to meet the needs of its firm customers?

A: I recall that, yes.

Q: Then can you please state the basis for staff's statement assertion that a chance in the dead band would or should enable the company to decrease these assets?

A: When a dead band is at a 10% level, there's a certain amount—there's a certain obligation on the company to have available the supply capacity to serve that level. Assuming these customers have an imbalance at that level, if we were to reduce the dead band down to 2%, which is what we're suggesting—or for generators, I'm sorry—for 5% to the daily customers, there would be less of those-- less obligation on the company to have that additional load delivered through its system to meet that differential.

Q: So I just want to clarify here. We're talking about balancing deliveries here. We're talking about balancing for interruptible customers, non-firm customers, not the company's firm customers, correct?

A: The transportation customers are also included in this.

Q: The interruptible transportation customers, am I correct? In terms of the proposal you make here, I thought we've only been talking about changes to cash-out charges and dead bands associated with interruptible, non-firm customers, not the firm customers.

A: I would agree with that.

Q: Okay. And so when you speak of-- I thought I heard you mention an obligation to balance for interruptible customers. Would you agree with me that the company has provisions either in its tariff or its gas transportation operating procedures commonly known as a GTOP, which basically says that if we don't have enough capacity in our existing portfolio required for the firm customers? We can visit new things like OFOs, operation flow orders to force the interruptible markets in terms of the deliveries to our systems.

A: Yes. I would agree that the company has those options available to them.

Q: So there really shouldn't be any assets required for firm customers. It's still needed it to provide service to firm customers that can be reduced because the dead bands or cash-out charges may be changed for interruptible customers. Would you agree?

A: I'm just not sure I could make that acknowledgment at this time. No.

Q: Okay. So, again the company acquires upstream assets, a different combination of them to meet the needs of firm customers, correct?

A: Correct.

Q: And you agreed earlier they don’t require upstream assets to meet the needs of interruptible customers.

A: Correct.

Q: And on any day or days, there might be additional capacity flexibility in those assets to provide various services to interruptible customers, including balancing.

A: Correct.

Q: But that if interruptible customers are forced basically to more closely manage their deliveries to the city gate to their needs, to the extent the company has demonstrated a need for those assets to serve firm customers, there'd be no reason for the company to have the ability to reduce those assets just because interruptible customers are performing with that entire delivery dead band.

A: We would agree that the company has options to deal with those scenarios that where there's over-deliveries and they do have these OFOs that you mentioned earlier as a mechanism to help with that. I don't have data in front of me here, but the OFOs-- I don't believe, going back a few years, there haven't been a lot of OFOs called by the company. So I guess what I'm saying, that would mean to me that that option can be used more effectively by the company.

Q: That the OFO option can be used more effectively?

A: Correct.

Q: Are you suggesting we should have used it more frequently?

A: I'm just suggesting that that is an option that I'm not sure has been used to its full extent.

Q: Okay. But again, how is using that option more frequently a basis for reducing assets that were required for and still needed to serve firm customers?

A: By using the OFOs the company will not have to deliver as much gas to these customers.

Q: I know this is a scenario from our earlier discussion that you probably don't want to hear, but for purposes of this question, the company acquires a set of upstream assets to serve firm customers.

A: Right.

Q: And tomorrow all of the interruptible customers go to oil because contrary to everybody's expectations, the price drops through the floor. The company still needs those same assets to serve their firm customers, correct?

A: Yeah, that's correct.

Q: Thank you. If you could please turn to page 28 of your testimony. On that page, am I correct that in your testimony, you recommend that the downward reconciliation of gas R&D expenses be continued? Do you see that reference?

MS. CHAN: Yes, that's correct.

MR. RICHTER: Thank you. Panel, I'd like to show you a copy of a response to the Con Edison interrogatories, set four, number 14 provided by your panel. Panel, am I correct that on the basis of this response, that your panel is amending its recommendation in this case to be consistent with that of the Staff Accounting Panel, which is that the downward only reconciliation mechanism be eliminated for the purposes of this one year case?

MS. CHAN: Yes, that's correct.

ALJ AGRESTA: Just one second. This

response was prepared by you under your direction?
MS. CHAN: Yes.
ALJ AGRESTA: Okay. Let me mark Exhibit 806 for identification.
MR. RICHTER: Sorry, Your Honor. Thank you, panel. Your Honor, that completes my cross examination.
ALJ AGRESTA: Thank you. New York City, down to ten minutes.
MR. LANG: Thank you, Your Honor. I will try to be brief.

CROSS EXAMINATION
BY MR. KEVIN LANG

Q: Good afternoon, panel. My name is Kevin Lang. I'm an attorney with Couch White for the City of New York. I have a few questions for this afternoon. I just ask that if you don't understand my questions, please let me know and I'd be happy to rephrase it. All right. Turn your attention to page six of your testimony. When talking about the company's long terms of pipelines-- excuse me-- you say that the company appears to be taking a proactive approach. Do you see that in line 23?
A: Yes.
Q: Could you explain what your basis is for claiming that the company is being proactive here?

A: This part of the testimony refers to the company's area growth program that they're currently running where they're addressing oil to gas conversations.

Q: Right. And under that approach, isn't it true, panel, that the company is actually being reactive to the requests that are made for oil to gas conversions rather than being proactive?

A: Yeah. The oil to gas situation that we have now is due to a directive from New York City.

Q: But what I mean is, it is, to your knowledge, is Con Edison going out and actively soliciting new gas customers or simply waiting to address those customers that are coming to it?

A: We believe the company is actively pursuing those customers.

Q: Do you know how they are actively pursuing them?

A: I mean, this is also being discussed in the infrastructure panel testimony, so perhaps they can continue that, but I will say that from our perspective that the company has created an oil to gas group and that is planning and building out the system to meet this anticipated load.

Q: But that's not the issue that I'm asking you. The issue that I'm asking you is, is it--you just testified a second ago that the company is proactively reaching out to attract new customers, and my question to you is what proactive measures is it your understanding that the company is taking to attract these new customers?

A: As far as all the activities the company is undertaking to attract new customers, I guess I would defer to the company to respond to that. I'm aware of the oil to gas program that they've implemented. Also, they have a website where they're identifying the area growth and pinpoints particular street boundaries that the-- where they will build and in what timeframe that will happen. Again, there could be a lot of other efforts that they are undertaking contacting these potential customers that I'm not aware of right now.

Q: I understand that you'd like me to defer to the company, but this is your testimony and I'm cross examining you on your testimony, and your testimony is that you believe the company is taking a proactive approach. I'd like to understand the basis of your testimony, not the company's testimony, and we'll talk to them on another day, but right now we're talking to you and I'd like to understand when you say the company is being proactive, what—is your only understanding of the company's measures this website that you just referred to?

MR. RIEBEL: Your Honor, if there is a question there, again I think the panel has asked and answered the question several times.

MR. LANG: I don't think he's answered it at all.

ALJ AGRESTA: The question is are you aware of anything other than the website you described?

MR. RIEBEL: I cannot provide you with specific activities that they're undertaking right now.

Q: On page seven, I know you had some discussion with Mr. Richter on this page, and I'm going to approach it from a different direction from what he did. I understand the panel's position as you've explained it both in your testimony and in your discussions with Mr. Richter about continuing to include interruptible customers. My question to you is how do you address the inequities that Con Edison has imposed on the interruptible customers? In other words, in lines 11 and 12, you say that they should maintain this level of interruptible service and encourage new customers to take interruptible. Panel, are you aware that the company imposes very significant costs on new customers that want to take interruptible service, costs that are not imposed on firm service customers?

MS. CHAN: Can you clarify costs are you talking about?

Q: Sure. When a new customers comes to Con Edison and seeks to connect to the system, that the company gives the customer two numbers. If you're going to take firm service, they oftentimes will say its zero, although sometimes it's in the millions of dollars, but if you're an interruptible customer, the debt cost can be hundreds of thousands to millions of dollars to interconnect with the Con Ed system. Are you aware of that?

A: Are you talking about connection costs?

Q: Yes.

A: As far as connection costs, interruptible versus firm, this is not something that's unique to the Con Ed system. Interruptible customers throughout New York State have to pay a double the - - to access—get access to the system.

Q: So if I understand your testimony then, and please what I'm asking you is—is my understanding incorrect, that you're telling Con Edison that they should open up this conversation program to interruptible customers, but at the same time you have no problem with Con Edison charging these customers potentially millions of dollars for those connections?

A: I'm not sure that things are--can be put together like that. Interruptible rules are consistent state-wide. Company area growth plan, my understanding is that customers within that area, whether they be firm or interruptible, can participate.

Q: Well, is it your understanding that interruptible customers in the area of growth can participate in the cost basis as firm customers?

A: Can you restate that? I'm sorry.

MR. LANG: Judge, I assume there's no way I can have my question read back, is there?

ALJ AGRESTA: Nope.

MR. LANG: I had to try.

Q: Is it your understanding, panel, that within these area growth areas that the company has designated, that the interruptible and firm customers are given the opportunity to connect at the same cost level, in other words, for zero cost?

A: I don't think I can provide an answer on that. I don't have the details of the area growth in front of me now.

Q: Well, you've testified-- I guess I'd like to understand generally then, what is your understanding of the area growth plan?

A: My understanding of the area growth plan is that, and it would depend entirely on the director from the city, to get folks off the heavy fuel oil has a timeframe that has to be managed by the company, and they are-- I think they've identified 7,000 of these customers within their service territory that are currently using the heavy fuel oil, and they are identifying areas that the system can support area by area, year by year, and providing the option for those customers within that particular area zone that they have identified, that customers that come on will be provided a low to no-cost connection to the systems.

Q: So is it your view then that within these area growth areas, that all customers, regardless of whether they're firm or interruptible, should be able to come out for zero or low cost?

A: Well, the tariff regarding interruptible service, I think, is still old and whether the company can provide a low cost or no cost option to interruptible customers, I think that's on a case by case basis, and I wouldn't be able to respond more general.

Q: You've just testified that it's your understanding the area growth program is to foster these expansions, and I'm trying to understand what you mean by that, so do you mean that should include all customers or only some customers?

A: Providing the gas service to heavy fuel oil-- current heavy fuel oil users, whether it be firm or interruptible, is something that the company is challenged to meet.

Q: Well, again, that's not in any way responsive to the question I asked you, so I'll go back to my question. Within these area growth areas, is it staff's position-- I don't care right now what the company's position is. They can talk for themselves. I don't want you to answer for the company. I don't want you to refer to the company. I'd like to know, you are the gas supply policy panel here. Is it your position that within these areas that the company should be offering the same opportunities to all heavy users seeking to join the gas system?

A: When you say same opportunities—

Q: [Interposing] The same costs.

A: The company should at least look at the possibility.

Q: I don't know what that means. What is your position, not what the company's position is. What is your position?

A: I don't have access to all of the data that the company has, so if they can provide that option at a lower cost to interruptible customers, then I believe that they should at least pursue that. Whether they need to, I'm not going to respond to that. Like I said earlier, the tariff-- interruptible services is a state-wide mandate. There’s rules that regulate how that's supposed to be implemented.

Q: Let's take a hypothetical then, in an area of growth, let's say that you have three customers in a row along the same street in the middle of the area of growth. The customer on one end says, 'I want to be firm,' the customer two doors down says, 'I want to be firm,' and the customer in the middle says, 'I want to be interruptible.' Would you agree that the expansion plan that the company needs to do to connect all three customers is probably going to be the same project?

A: I would agree. Yes.

Q: So in your view, should the company be charging that customer in the middle of those three customers something other than zero to low cost for that connection in the area growth zone, assuming that all three customers were signing up at the same time?

MS. CHAN: So the interruptible customer has to pay full cost of connection. That has been established a long time ago. The legal oil/gas conversion has been established since 2011, and we haven't had enough data to see how many customers among them would be interruptible or firm. So as of right now, we should follow what the state laws say, but in the future, there could be other discussions and we don't have an answer for that at the moment.

If you're asking for our opinion--

MR. LANG: [Interposing] Well, when is the future that you're referring to? We're in the middle of a rate case. When is the future?

MS. CHAN: I said I don't have enough data to make the conclusion of the question that you're asking.

ALJ AGRESTA: I think it's fair to assume the future is not during this rate case.

MR. LANG: Well, I'm not sure that it is and that's what I'm trying to understand, because we are in the middle of an oil/gas conversion program. We have a law that requires these conversions within the next two years, and I'd like to understand. You folks were the ones that are testifying today and my hypothetical didn't talk about history and it didn't talk about future. It said that in one of Con Ed's area growth plans, which is a specific defined area, which Mr. Riebel has already said he understands to mean it's a fixed period of time, and in that period of time in which the area growth plan is available in this area that I'm saying, and you have three customers that have all signed up at the same time, and based on your understanding of the area growth program, it's not some future hypothetical area, not something that happened in the past. Based on the program as you know it right now, as Con Ed is operating it right now, do you believe that they should be offering zero to low cost for all three of those customers within that program?

A: May I respond by saying the interruptible rules that are in place need to take precedent over an oil to gas area plan. So, potentially, yes, there could be costs associated with that interruptible coming into the system.

ALJ AGRESTA: Okay. I think they've answered your question the same way twice, so it's time to move on.

MR. LANG: I was planning on it, Judge.

Q: Mr. Riebel, you stated earlier that with respect to the tariff filing related to the oil/gas conversion program that is currently under review, do you mean under review by staff?

A: Yes, that's correct.

Q: Do you understand that there is a timing urgency given the local law requirements for this program to move forward?

A: Yes. I understand that.

Q: Could you tell us when you expect to complete that review?

MR. OSSIES: Your Honor, I think that

really is subject to internal deliberations with the Commission and I would object to the question. Also, it's entirely different case.

ALJ AGRESTA: I think it's a perfectly fair question. If he knows when it's going to be done, he should say so.

A: If you're asking do we have a—do we know the timing and the potential outcome of that, we do not have the answer to that. No, we do not.

Q: Perhaps you can answer this, and if you can, that would be wonderful. Does the staff understand that there is a sense of urgency to get the new rules in place to facilitate oil to gas conversions?

A: The staff understands that the oil to gas program has been in place now for over a year and the company has been building up a system to handle this new load. This tariff filing that the company has put forth is something that may or may not be a—it may or may not prohibit the company from moving forward.

Q: So in other words, you don't see a sense of urgency is what you're saying?

A: With the tariff filing or with the area growth plan?

Q: With the tariff filing which facilitates the area growth plan.

A: I would take exception to that. The tariff filing is facilitating the area growth plan.

Q: I guess I'll just move on. We could turn to page eight of your testimony, and again, I'm going to approach this from a very different way from Mr. Richter. Okay. In lines 8 through 17, you note that the company acknowledges it cannot build out its existing system of pace that would provide a sufficient reliable gas service. Do you see that testimony?

A: Yes, and it continues to say within a short few years.

Q: Sure. I didn't feel the need to repeat. It's already in the record. Have you investigated why the company cannot build out its system at the appropriate pace?

A: Again, I don't think the testimony is saying they can't build a system at an appropriate pace; it's saying that they can't build out a system to meet all of the anticipated load within a few short years.

Q: Is that a concern at all to staff, that they can't meet the demands being placed on them?

A: No. I don't believe that is a concern. They are meeting the demands going forward. It's just unreasonable to expect a company to build out its entire system for all these 7,000 customers in a short few years.

Q: When you say they are meeting the demands, what demands do you think they're meeting?

A: They are, the oil to gas—I'm sorry, the clean heat initiative has a certain windows that need to be dealt with. In 2015 I believe, right, they have to get off number six and number four. That have until 2030 to get these customers switched off of that fuel. I guess I would also have to mention that in order to meet the clean heat requirements, these customers might not all be coming on as gas customers. There are other options for those customers that they may choose, such as number two fuel oil, which would also meet the clean heat initiative and not require the company to provide gas service to those.

Q: You said a lot of things there, but it wasn't clear to me whether any of them were actually responsive to the question I asked, so just to be clear, if you could just limit yourself to the question that I ask, I would really appreciate it. Do you believe that the company is on pace to meet the demand that is being placed upon it? Not about number two, because this company doesn't deal with number two fuel. They deal with natural gas. Do you believe that they are on the appropriate pace?

A: This panel believes that the company is at a pace that is reasonable and, yes.

Q: Do you believe that the pace is consistent with the Commission's state of intentions in case 12G-0297 about gas expansion in this state?

A: I don't believe that the company's pace is in conflict with that generic proceeding. I don’t know.

Q: What is your understanding of the company's plans for dealing with oil to gas conversions outside of these area growth zones?

MR. OSSIES: I'm going to object to the question being out of the scope of the staff's panel.

Q: Well, I'll rephrase it, then. What is your understanding of the area encompassed by the area growth zones?

A: I'm not sure I understand, what do you mean by that?

Q: Well, you've testified a number of times about the area of growth zones that the company has proposed. What is your understanding about the geographic scope of those? In other words, are they limited? Do they cover the entire city?

A: They are dealing with a finite area, basically blocks of streets, and they have a plan to know which customers are located in what areas, and these particular blocks are meant to deal with a certain size of a load of those customers at each particular year; whether the company needs to build infrastructure to meet those needs, whether they can serve it through the current system. My understanding of that plan is that it is something that they look at every year and they continue to build it out year by year.

ALJ AGRESTA: Mr. Lang, go ahead and ask your question about outside of the area zones. This panel is giving a forecast for the entire system, not just the area zones, and let's not talk about the area zone program anymore if we can help it. Okay?

MR. LANG: Well, I'm sorry, Your Honor, but it's a very important issue.

ALJ AGRESTA: No, I'm saying go back and ask your question that you wanted to ask two questions ago.

Q: Let me try to structure it-- Mr. Riebel, I would really ask this; if I ask a specific question about the geographic scope, I don't need you to go into a long discussion of what the company is doing in each area growth zone. Is it your understanding that the area growth zones only cover a portion of the city of New York?

A: As I said earlier, your question is related to geographic area. These area growth zones are specific geographic areas.

Q: And do they cover the entirety of the city of New York?

A: No. One area at a time--

Q: [Interposing] Thank you. Thank you. All I needed was a no. So, for customers that are not located within an area growth zone, what is your understanding of their options for getting zero to low cost conversions?

A: Customers not in the area's growth zone, it's my understanding the company addresses each of those applications as it did before oil to gas conversions began.

Q: Do you believe that it is appropriate to treat those customers differently than those in the area growth zones?

A: Yes. I don't think they necessarily are the same—have the same requirements, or have the same costs associated with them.

Q: Have you done any investigation at all of the cost that Con Edison is charging to these customers?

A: Which customers are you referring to?

Q: The ones outside of the area growth zones.

A: I don't have data in front of me to - -, no.

Q: Well, I'm not asking whether you have it in front of you this second. I'm asking whether you've done any analysis of that. It's a yes or no question.

A: No. No analysis.

Q: I'll move on. Turning to page nine of your testimony, you have a question that was asked of you in lines 4 to 6 and you gave a response of 7 to 12. What do you mean by optimum cost in your response?

A: Optimum costs that we referred to in the testimony is basically the zero to low cost-- external costs to provide service.

Q: And, so just to be clear then, the staff doesn't see any problem that only some customers are able to convert at what you've defined as optimum cost?

A: Again, the area growth-- in developing those areas, by providing-- in order to provide the zero to low cost--

Q: [Interposing] Mr. Riebel, please. Could you answer my question?

A: I'll ask you to repeat that.

ALJ AGRESTA: Don't interrupt him when he's answering the question.

MR. LANG: Your Honor, I'm trying to get an answer to my questions.

ALJ AGRESTA: I understand. I understand. Just let him finish whatever he's going to say and then you can respond.

Q: Is it staff's position that staff doesn't have a problem with only some customers seeking to convert being able to do so for the optimum cost as you've defined it?

A: Staff does not have a problem with how the company's approaching new load, whether it's area growth or outside the area growth.

Q: What analysis have you done to determine that the company's approach is maximizing the number of conversions the company can accomplish as you've discussed in this response?

A: Staff's testimony referring to maximum number of conversions in a particular area of growth can be accomplished when these customers are given zero to low cost.

Q: So you didn't look at the boundaries to figure out whether different boundaries could actually provide more inducements to more customers, in other words, to attract the greater number of customers?

A: No. The company has a—had presented to us their models on how to determine how these area growths are determined and we did not take exception to that, to that plan that the company presented.

Q: Did you do any independent analysis of the boundaries of the area growth zones?

A: No, we did not.

MR. LANG: That's all I have.

ALJ AGRESTA: Thank you. Any redirect?

MR. OSSIES: One second, Your Honor. We'd like to confer. Your Honor, staff doesn't have any redirect.

ALJ AGRESTA: Good. You're excused. Thank you for your testimony. Astoria Gen, you can call next witness, please. Mr. Radigan should get an award for having to wait all day for his 10 minutes of cross.

[Background conversation]

ALJ BIELAWSKI: Raise your right hand, please. Do you swear or affirm that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth?

MR. FRANK RADIGAN: I do.

ALJ BIELAWSKI: And do you also adopt your pre-filing testimony to be your sworn testimony in these proceedings?

MR. RADIGAN: I do.

[Background conversation]

MR. GOODMAN: Mr. Radigan, do you have any changes to your testimony?

MR. RADIGAN: I do not.

MR. GOODMAN: I present Mr. Frank Radigan for cross examination.

ALJ AGRESTA: Okay. We've got Con Edison for ten minutes.

CROSS EXAMINATION
BY MR. MARC RICHTER
Q: Good afternoon, Mr. Radigan.
A: Good afternoon.
Q: Good afternoon, sir.
A: Good afternoon.
Q: I'd like you to please refer to pages one to two of your testimony where you state that Astoria Gen owns and operates approximately 1,500 megawatts of gas and oil fire generation in New York City and you named three stations; the Astoria Generating Station, Narrows Gas Turbine Facility, and the Gowanus Gas Turbine Facility. Do you see that testimony?
A: I'm sorry. What page are we on?
Q: Pages one to two where you talk about the amount of generation that Astoria Gen owns and you name the three stations.
A: Yes.
Q: And you also state that these facilities were formerly owned by Con Ed and that Astoria Gen takes transportation service from the company pursuant to negotiated contracts under the company's SC9 tariff.
A: Yes.
Q: Am I correct that Narrows and Gowanus facilities are located in Brooklyn?

ALJ AGRESTA: Is this a geography test?

A: Yes.

Q: Would you agree then that the transportation service for those two facilities are provided by National Grid and not by Con Edison?

A: Oh, okay. Yes.

Q: One plant that's affected in this case is the Astoria Generating Station?

A: Yes.

Q: I just wanted to clear the record on that, sir.

A: Thank you. I understand.

Q: If you can turn to page four of your testimony.

A: Yup.

Q: When you say you take no issue with the staff gas policy panel's first recommendation, am I correct that you're referring to the staff proposal to use the Transco Zone Six price for surplus imbalances?

A: Yes.

Q: If I can turn your attention now to page six, line three of your testimony where you state for surplus imbalances the company uses the Transco Zone Three well head price plus a variable transportation charge. Do you see that testimony?

A: I see that.

Q: Are you there referring to the company's SC9

terra provisions applicable to power generators?
A: Yes, I believe so.
Q: Can you please state the basis for your belief or understanding that the company's tariff currently provides for the Transco Zone Three well head price plus a variable transportation charge as opposed to just the Transco Zone Three well head price?
A: I thought that's what I read. I might have been referring to the wrong tariff.
Q: I have copies of the tariff pages.
A: Okay.
Q: If you'd like to review them.
MR. RICHTER: Your Honor, we're handing the witness a copy of three leaves from the company's gas tariff. Leaf numbers 300, 300.1, and 300.2. The heading at the top of the first page is 'Balancing Services and Charges for CNG Bypass and Power Generation Customers,' and we ask that this be marked for identification.
ALJ AGRESTA: It will be marked as Exhibit 807 for identification.
MR. RICHTER: I apologize, Your Honor.
Q: Mr. Radigan, if I can point your attention to leaf-- the second leaf-- 300.1-- under the heading of 'Net Surplus and Balance.'

A: I have that.

Q: If you can see there, do you agree with me that the cash-out price for the net surplus imbalances is the Transco Station 65, which is the equivalent of the Transco Zone Three Price?

A: That's my understanding.

Q: Okay. Without any addition of a variable--

A: [Interposing] Yeah. I must have been looking at the wrong tariff.

Q: If you can turn now to page nine of your testimony.

A: I'm there.

Q: There you reference testimony by staff that tightening dead bands for balancing generators will decrease assets the company needs to retain to account for the 10% fluctuation in volume. Do you see that reference in your testimony?

A: I do.

Q: Okay. And I assume you heard the earlier discussion today with the Staff Gas Policy Panel?

A: I did.

Q: I direct your attention to page nine of your testimony starting on line nine where you state the panel-- I assume you're referring to the staff's policy panel-- 'proposing to decrease the dead band with no change to the cash-out charge, increase potential charges to the customer, allow the utility to retain any savings that occur from decreasing the assets needed to serve customers.' Do you have that reference?

A: I do.

Q: Could you please explain the basis for your statement that, just assuming any assets could be reduced, that the company would be able to retain the savings from reducing those assets?

A: This is in reference to the staff testimony that they say that there will be a decrease in assets.

Q: Okay. But the staff testimony didn't talk about the company retaining any savings, did they?

A: No. But the absence of what happens to these savings that the company would get to retain, a normal rate-making process, you would impute a level of miscellaneous revenues and after rates are set, if the company makes more money, they get to keep it.

Q: So for instance, the assets that you're talking about, that staff I believe was talking about, at least in its testimony prior to the discussion we had today during this hearing, was the company might be able to reduce an asset. Would you agree? Like a storage asset.

A: Yes, but I also meant that just like in previous cases if the company had an opportunity to increase capacity sales during the summertime, run out some of that storage capacity and make money off of that, those would accrue to the company.

Q: Okay. So then maybe to clarify, just to clarify what you are saying here is that the company wouldn't necessarily retain savings if it was able to eliminate, let's say, a storage contract with the - -. You're saying that if staff's proposal would enable the company to provide other services using that capacity, the company might be able to share in some of those additional revenues.

A: Right. That's a normal provision in previous settlements, that if there was an opportunity and you got to make money and there was some kind of sharing arrangement, but the absence of--

Q: [Interposing] But utilizing those assets in a different manner rather than just getting rid of them.

A: For instance, the obvious example here is that if power generator then had to go get storage assets during the summer in order to get storage to do that balancing at a lower tolerance band, the company might sell it to them.

MR. RICHTER: Thank you, Mr. Radigan. No further questions, Your Honor.

ALJ AGRESTA: Any redirect?

MR. GOODMAN: Just one second. No redirect, Your Honor.

ALJ AGRESTA: Thank you. The witness is excused. Are there any other procedural matters to come before us?

MR. RICHTER: Your Honor-- Marc Richter-- just what I'll mention, that based upon the hearing today, the company had scheduled time to cross examine AGC's Liam Baker next week. We have no questions for that witness.

ALJ AGRESTA: Okay. Thank you. Okay. Then, we will recommence tomorrow morning at 9:30 a.m.. Off the record.

[END OF HEARING]

C E R T I F I C A T E

I, Doreen Angermayr, certify that the foregoing transcript of proceedings in the Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric, Gas, and Steam Service, Case Nos. 13-E-0030, 13-G-0031, and 13-S-0032 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Doreen Angermayr

Date: July 27, 2013

C E R T I F I C A T E

I, Amber Israelsen, certify that the foregoing transcript of proceedings in the Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric, Gas, and Steam Service, Case Nos. 13-E-0030, 13-G-0031, and 13-S-0032 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Signature: ______________________________

Date: July 26, 2013

C E R T I F I C A T E

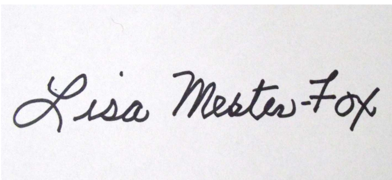
I, Christine Morrell, certify that the foregoing transcript of proceedings in the Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric, Gas, and Steam Service, Case Nos. 13-E-0030, 13-G-0031, and 13-S-0032 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Signature: 

Date: July 28, 2013

C E R T I F I C A T E

I, Lisa Mester-Fox, certify that the foregoing transcript of proceedings in the Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Incredible. For Electric, Gas, and Steam Service, Case Nos. 13-E-0030, 13-G-0031, and 13-S-0032 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.



Signature:

Lisa Mester-Fox

Date: August 6, 2013