

Before the
New York State Public Service Commission

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

Case 22-E-0064
Case 22-G-0065

May 2022

Prepared Direct Testimony of

New York City Policy Panel

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On Behalf of:

The City of New York

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INTRODUCTION

Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.

A. Mr. Berkman – My name is Seth Berkman. I am an Energy Policy Advisor in the New York City Mayor’s Office of Climate and Environmental Justice. My business address is 253 Broadway, 14th floor, New York, New York.

Ms. Lane – My name is Kathryn Lane. I am a Senior Environmental Epidemiologist with the New York City Department of Health and Mental Hygiene, or DOHMH. My business address is 125 Worth Street, 3rd Floor, New York, New York.

Mr. Fiore – My name is Anthony J. Fiore. I am a Deputy Commissioner and the Chief Decarbonization Officer of the New York City Department of Citywide Administrative Services. My business address is One Centre Street, 17th Floor, New York, New York.

Q. ON WHOSE BEHALF ARE YOU SUBMITTING THIS TESTIMONY?

A. The City of New York, or City.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.

A. Mr. Berkman – I received a Bachelor’s Degree in Environmental Studies from Washington University in St. Louis in 2012 and a Master’s Degree in Carbon Management from the University of Edinburgh in 2015.

Ms. Lane – I received a Bachelor’s Degree in History from the University of Virginia in 2000, a Master’s Degree in History from the University of Cape Town

1 in 2006, and a Master's Degree in Public Health with a concentration in
2 Epidemiology from Columbia University in 2011.

3 Mr. Fiore – I received Bachelor's Degree in Biological Sciences from Binghamton
4 University in 1991 and a Master's Degree in Environmental Health Sciences from
5 the Mailman School of Public Health at Columbia University in 2005.

6 **Q. PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE AND**
7 **CURRENT RESPONSIBILITIES.**

8 A. Mr. Berkman – I have been in my current position since September 2019. I am
9 responsible for managing the City's involvement in energy regulatory affairs,
10 providing analysis in support of the City's positions in administrative and other
11 proceedings, advocating before State and federal agencies and the New York
12 Independent System Operator, Inc. for the City's energy initiatives in service of
13 New York City's climate and environmental justice goals, and leading the City's
14 interactions with the local utility companies and other entities within the energy
15 sector. Prior to joining the City, I served as an Energy Market Analyst with
16 SourceOne, Inc. I advised clients on electricity and gas procurements, risk
17 management, and renewable energy options. I also assisted clients in rate and tariff
18 issues and resolving utility billing problems.

19 Ms. Lane – I have been in my current position since 2017 and have worked as an
20 environmental epidemiologist at the DOHMH since 2011. I am responsible for
21 managing a portfolio of environmental health surveillance that includes hot and
22 cold weather, developing and conducting epidemiologic studies related to extreme

1 weather events and climate change, analyzing data related to extreme weather
2 events such as heat waves and other environmental hazards, and characterization of
3 at-risk populations and the burden of health impacts. I also completed the Council
4 of State & Territorial Epidemiologists Applied Epidemiology Fellowship program
5 in 2011-2012.

6 Mr. Fiore – I lead the team responsible for demand management and purchasing
7 energy for all City agencies, cultural institutions, hospitals, schools, and
8 universities. I manage a \$700 to \$800 million annual energy supply budget and a
9 \$3.8 billion capital budget to develop and implement programs to achieve the City’s
10 greenhouse gas emissions reduction goals. Prior to assuming my current position
11 in 2016, I served as the City’s Director of Energy Regulatory Affairs. In that
12 position, I was the primary energy policy advocate for the City before numerous
13 State and federal agencies, and I led a team that provided analysis on a wide range
14 of regulatory and legislative matters related to energy. I also was responsible for
15 the development of energy supply and transportation sector action plans as part of
16 a comprehensive Climate Action Plan developed by the City. Earlier in my career,
17 I was the Director of the New York City Department of Environmental Protection’s
18 Energy Office with overall responsibility for setting the strategic energy goals for
19 that agency, developing metrics and quality assurance programs for tracking
20 consumption and energy costs, and managing capital priorities for energy projects.
21 In particular, I led development efforts for hydroelectric projects, assessments of

1 wind and solar opportunities, and an investigation of the beneficial use of anaerobic
2 digester gas.

3 **Q. HAVE YOU EVER TESTIFIED BEFORE ANY AGENCY OR COURT OR**
4 **IN ANY OTHER VENUE ON THE TOPICS YOU ADDRESS IN THIS**
5 **TESTIMONY?**

6 A. Mr. Berkman – No.

7 Ms. Lane – No.

8 Mr. Fiore – I have testified multiple times before the New York City Council on
9 various energy-related topics. I have not previously testified on the issue of
10 extension of energy efficiency programs to New York Power Authority, or NYPA,
11 customers.

12 **PURPOSE OF TESTIMONY**

13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

14 A. The purpose of this testimony is to discuss the City’s energy policies, their
15 correlation to State energy policies, and their relationship to these rate cases; the
16 need for balance between the interests of Consolidated Edison Company of New
17 York, Inc.’s, or Con Edison’s, customers and shareholders and generally the
18 magnitude of Con Edison’s rate requests; the need for special attention to
19 infrastructure needs in disadvantaged communities that have disproportionately
20 suffered from diminutions in service, Con Edison’s proposal regarding NYPA
21 customers’ participation in energy efficiency programs; ending service
22 terminations during certain cold weather events and modifying the temperature

1 trigger for suspension of service terminations during extreme heat events; the cost
2 impacts of bill arrearage solutions; ongoing energy cost burden issues; the need for
3 a performance metric associated with community distributed generation bill
4 crediting; and to provide a summary of the City’s other pieces of testimony.

5 **Q. WHAT DO YOU MEAN BY THE TERM “DISADVANTAGED**
6 **COMMUNITIES”?**

7 A. By disadvantaged communities, we mean the census tracts identified by the Climate
8 Justice Working Group as disadvantaged communities. We understand that there
9 is sensitivity regarding this term, but we use it here to be consistent with the
10 phrasing used by the Climate Justice Working Group and Climate Leadership and
11 Community Protection Act, or CLCPA.

12 **Q. ARE YOU SPONSORING ANY EXHIBITS WITH YOUR TESTIMONY?**

13 A. Yes. We offer Exhibit__(NYCPP-1), which is a compilation of the discovery
14 responses from Con Edison that we relied upon in preparing our testimony, some
15 of which we expressly reference. Exhibit__(NYCPP-2) is a series of maps showing
16 disadvantaged communities and electric distribution networks with high incidences
17 of customer outages or low network reliability. Exhibit__(NYCPP-3) provides
18 information on the relationship between temperature and mortality.

19 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

20 A. One of the primary objectives of both the City and State is significantly reducing
21 greenhouse gas emissions through a multi-faceted approach that includes
22 increasing reliance on renewable resources and expanding energy efficiency

1 programs. At the same time, both the City and State are concerned about
2 maintaining a reliable and resilient electric and gas system, keeping electric and gas
3 rates affordable, especially for low income and vulnerable residents, and ensuring
4 that disadvantaged communities equally benefit in the transition to a clean energy
5 future through targeted investments and programs.

6 Ambitious energy efficiency and beneficial electrification efforts are
7 needed to help meet the City's and State's clean energy transition goals while also
8 reducing the need for electric and gas capital expenditures to accommodate growing
9 demand. By beneficial electrification, we are referring especially to buildings via
10 the use of heat pumps and vehicles of all types – light, medium, and heavy duty.

11 The City is very concerned about the overall magnitude of the requested
12 rate increases and the impacts of those increases on customers. By way of example,
13 the City's energy costs are expected to increase by almost 13% or about \$100
14 million. The economy is still recovering from the COVID pandemic, and that
15 recovery is slower in New York City than elsewhere. The past two years have
16 demonstrated the importance of policies which promote public health and welfare,
17 and the need for changes to how Con Edison conducts business have become more
18 apparent. In particular, there should be greater protections against terminations
19 than existed previously – not as broad as the emergency protections adopted during
20 the height of the pandemic, but broader than the protections that now exist.
21 Shareholders were largely protected from pandemic-related impacts, and the
22 Company is seeking extensive shareholder protections and benefits in these cases.

1 We submit that customers need greater protections than shareholders, especially in
2 light of the very substantial rate increases that are likely to result from these
3 proceedings. We therefore offer a proposal for such protections, which also
4 benefits public health and welfare.

5 The City also urges the Commission to reconsider the nature and extent of
6 the incentives it authorizes for Con Edison's shareholders. While the City
7 recognizes that incentives may be appropriate to induce exceptional performance,
8 there is nothing to be gained by rewarding shareholders for actions taken by
9 customers with no Company involvement. Indeed, State policy and State law have
10 advanced substantially over the past few years that the marketplace is transforming
11 and people are more cognizant of the need to reduce greenhouse gas emissions and
12 move away from fossil fuels. So-called outcome-based shareholder incentives
13 which reward shareholders for meeting targets that are achieved as a result of broad
14 market responses through no action by the Company serve only to exacerbate
15 energy cost burdens and unnecessarily increase customer bills.

16 The Commission must carefully scrutinize all of the Company's requests
17 and proposals and ensure that the rates it adopts are just and reasonable and fairly
18 balance the interests of customers and shareholders.

19 **ENERGY PUBLIC POLICY CONSIDERATIONS**

20 **Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE CITY'S ENERGY**
21 **POLICIES.**

1 A. Effective energy policy can play a critical role in promoting fairness and equity,
2 reducing burdens on disadvantaged communities, successful and equitable
3 economic development, public health, sustainability, and resiliency. The City
4 actively seeks to balance objectives that include affordable electric and gas rates,
5 improvement of conditions within disadvantaged communities, equitable treatment
6 of all utility customers, a resilient and reliable utility system, especially for
7 vulnerable populations, and decarbonization.

8 Beginning with affordable electric and gas rates, the City is committed to
9 identifying pathways to reduce the energy cost burden (defined as the sum of
10 electric, gas and/or fuel oil expenditures relative to pre-tax income). The City
11 applauds the efforts taken by the Public Service Commission to address energy cost
12 burdens on many New York City households, but more is needed. The increases
13 sought by Con Edison in these rate cases will exacerbate existing energy cost
14 burdens and likely cause more households to become energy cost burdened. In
15 setting new electric and gas rates, the Commission should consider energy cost
16 burdens and avoid setting new rates at levels that would unduly burden customers,
17 especially low income customers.

18 Additionally, the Commission should consider that there are multiple
19 drivers of rate increases that are not reflected in the estimates of delivery rate
20 increases and total bill impacts presented by the Company. Within the rate cases,
21 the estimates do not include the hundreds of millions of dollars of uncollectible bill
22 expenses that the Company proposes to recover via a reconciliation mechanism, the

1 tens of millions of dollars requested for shareholder incentives, incremental capital
2 cost recoveries for excess leak-prone pipe replacements, or the myriad expense
3 reconciliations that could add tens of millions of dollars or more to customer bills.
4 Concurrent but outside of the rate cases, Con Edison is seeking additional funding
5 of up to \$390 million for its Clean Heat program in Case 18-M-0084, cost recovery
6 for a \$1 billion transmission substation in Brooklyn in Case 20-E-0197, and
7 recovery of an arrears forgiveness program proposed in Case 14-M-0565.
8 Separately, customers will be required to pay increasing amounts for the purchase
9 of renewable energy credits under the Clean Energy Standard program tiers, as well
10 as socialized costs for bulk system and local transmission projects. While these
11 projects are generally meritorious and important to achieve State and City policy
12 goals, they nevertheless place upward pressure on electric bills. In setting just and
13 reasonable rates, the Commission should look at the totality of costs customers will
14 be required to bear.

15 **Q. PLEASE DISCUSS THE NEED FOR CONSIDERATION OF THE**
16 **IMPACTS ON DISADVANTAGED COMMUNITIES.**

17 A. We submit that this need is now a matter of law. In the Climate Leadership and
18 Community Protection Act, or CLCPA, the State Legislature declared that “Climate
19 change especially heightens the vulnerability of disadvantaged communities, which
20 bear environmental and socioeconomic burdens as well as legacies of racial and
21 ethnic discrimination. Actions undertaken by New York state to mitigate
22 greenhouse gas emissions should prioritize the safety and health of disadvantaged

1 communities, control potential regressive impacts of future climate change
2 mitigation and adaptation policies on these communities, and prioritize the
3 allocation of public investments in these areas.” The CLCPA imposes a series of
4 requirements on the Climate Action Council and State agencies related to
5 evaluation of burdens on disadvantaged communities and provision of a dedicated
6 share of program benefits to such communities.

7 As will be discussed by the City’s infrastructure experts, there are concerns
8 as to how Con Edison is spending money and maintaining its utility systems. It is
9 not clear whether customers in disadvantaged communities are receiving the same
10 level of attention as customers in other areas. The Commission should closely
11 investigate the Company’s performance and practices to ensure that customers in
12 disadvantaged communities are not disproportionately burdened by outages and
13 voltage reductions due to system inadequacies. Moreover, the structure and design
14 of energy efficiency, electrification, and other customer benefit programs should
15 provide for a fair distribution of funding and equal opportunities for participation
16 by members of disadvantaged communities. As necessary, Con Edison should be
17 required to tailor its program offerings to ensure members of such communities
18 have equal opportunities to access the programs. Examples include providing
19 program information in multiple languages, partnering with community-based
20 organizations, and customizing outreach and communications materials to reach
21 the targeted audience in a meaningful manner.

22 **Q. WHAT ELSE SHOULD THE COMPANY BE DOING?**

1 A. The Company needs to better understand how it is serving these communities.
2 According to its response to Department Staff Information Request 733, the
3 Company is not able to report on its level of investment in disadvantaged
4 communities. Consistent with requirements of the CLCPA, the Commission should
5 require the Company to track and report on its investments and other activities
6 within disadvantaged communities. This will promote transparency and help the
7 State ensure that progress is being made towards its policy goals.

8 **Q. HAS THE CITY CONDUCTED ANY ANALYSIS OF THE NEED FOR**
9 **INVESTMENT IN DISADVANTAGED COMMUNITIES?**

10 A. Yes. Based on the Company's responses to City Information Requests 292, 298,
11 and 322, the City has mapped networks with high incidences of outages and low
12 network reliability overlayed on top of disadvantaged community census tracts as
13 identified by the Climate Justice Working Group's draft disadvantaged community
14 criteria. As shown in the maps included in Exhibit __ (NYCPP-2), there appears to
15 be significant overlap. That is, disadvantaged communities appear be experiencing
16 more system reliability problems than other communities within the Company's
17 service territory.

18 **Q. WHAT CONCLUSIONS DO YOU DRAW FROM THIS ANALYSIS?**

19 A. The mapping exercise reveals that some neighborhoods are impacted by poor
20 service to a greater extent than others, indicating that the Company needs to provide
21 more attention to those neighborhoods. That many of these same neighborhoods

1 are part of disadvantaged communities underscores the need for the Company to
2 pay greater attention to service quality in such areas.

3 To be clear, we have not found evidence that the Company is intentionally
4 providing different levels of service to different segments of its customer base.
5 However, given the disproportional impacts suffered by members of disadvantaged
6 communities, the Company should pay more attention to the composition of
7 customers within its networks. Within its prioritization process, there should be
8 some adjustment made for disadvantaged communities. Otherwise, the incidents
9 of poor service will persist in those communities.

10 **Q. PLEASE DISCUSS RESILIENCY AND RELIABILITY**
11 **CONSIDERATIONS.**

12 A. Given the dense vertical urban environment in New York City, with an increasing
13 number of high rise developments, electricity has become a basic human need. It
14 is well-established that the continuous provision of electricity is critical to
15 preserving public health and safety. New York City has one of the most reliable
16 electric systems in the world, and that reliability should not be diminished.

17 Our changing climate has placed growing emphasis on the need for highly
18 resilient utility systems. Severe storms, previously considered very unlikely, are
19 now occurring every few years. The severity of storms is increasing, and climate
20 science indicates that future conditions will worsen. Future heat waves could last
21 a week or more, and flooding will impact greater areas and larger numbers of
22 residents. The future is also expected to bring compound and cascading climatic

1 events that create conditions like simultaneous high heat and high humidity which
2 increase grid stress while simultaneously exacerbating related health impacts. Con
3 Edison has made good progress in making its utility systems more resilient to severe
4 storms and other climatic conditions. However, as demonstrated by some of its
5 proposed projects in these rate cases, more work is needed.

6 In maintaining system reliability and increasing system resilience, Con
7 Edison must give due consideration to all parts of its service territory, particularly
8 to customers in disadvantaged communities who are expected to be at greater risk
9 of climate disruptions.

10 **Q. IS YOUR PERSPECTIVE THAT CUSTOMERS IN DISADVANTAGED**
11 **COMMUNITIES ARE LIKELY TO BE AT GREATER RISK SHARED BY**
12 **OTHERS?**

13 A. Yes. This view is fully supported by the work of the Climate Justice Working
14 Group and its development of criteria to identify disadvantaged communities.

15 **Q. DO YOU HAVE ANY SPECIFIC COMMENTS ON THE IMPACTS OF**
16 **FLOODING?**

17 A. Yes. There are many low-lying areas within New York City that experience storm
18 surges and flooding, now. Climate change is expected to worsen storm surges and
19 expand the impact of flooding. The City is taking bold steps to address this concern,
20 including the East Side Coastal Resiliency Project, which will add layers of
21 protection against storm surges and flooding from Montgomery Street to East 25th
22 Street. Con Edison's East 13th Street Substation, which was inundated during

1 Superstorm Sandy, is one of critical facilities to be protected. In fact, the East Side
2 Coastal Resiliency Project is expected to involve Con Edison's entire complex from
3 about 13th Street to 15th Street. It is important that Con Edison's facilities not be
4 the weak link in the system, and the City is working with the Company to ensure
5 the Company's flood protections are as robust as the rest of the system.

6 **Q. IS THERE ANY ACTION FOR THE COMMISSION TO TAKE**
7 **REGARDING THIS PROJECT?**

8 A. Not directly at this time. However, if the City is unable to secure the Company's
9 cooperation in this essential public works project, we may ask the Commission to
10 intercede to protect the public interest.

11 **Q. PLEASE CONTINUE WITH YOUR DISCUSSION OF RESILIENCY AND**
12 **RELIABILITY CONSIDERATIONS.**

13 A. Residents in disadvantaged communities suffer from higher rates of respiratory,
14 cardiovascular, and diabetes-related disease in part from poor air from the
15 combustion of fossil fuels. Impacts from climate change such as more frequent
16 extreme temperature days, extended high ground-level ozone periods and increased
17 precipitation exacerbate these conditions resulting higher incidence of emergency
18 room visits, morbidity, and mortality. Without reliable utility energy service to
19 temper the effects of extreme temperatures and humidity, poor public health
20 outcomes are magnified.

21 **Q. DOES THE PANEL HAVE ANY COMMENTS ABOUT**
22 **DECARBONIZATION?**

1 A. We believe that the need to decarbonize is well-known and needs no extensive
2 discussion. Decarbonization is at the core of the CLCPA, the State's energy
3 policies, the Commission's agenda, and the City's energy policies. These rate cases
4 present an opportunity to advance decarbonization efforts. However, the
5 Commission must proceed with due care to ensure that the actions it approves are
6 truly related to achievement of this important public policy objective.

7 **Q. PLEASE EXPLAIN THIS COMMENT.**

8 A. A review of Con Edison's direct testimony reveals numerous instances in which
9 the Company is casting actions as related to decarbonization when they are not.
10 Perhaps the best example is the Company's proposal for replacement of leak-prone
11 gas mains. The Company claims that the project is consistent with the CLCPA and
12 State policy goals, but in our view it is not. State policy requires a systemic
13 transition away from fossil-fuel based infrastructure and technology. While
14 rebuilding an aging gas system may reduce leakage or fugitive emissions on the
15 margin, it also risks extending our reliance on carbon-intensive infrastructure and
16 creating stranded assets. In our view, the Company's emphasis on this strategy is
17 not consistent with the State's policy vision and the imperative to address climate
18 change as quickly as possible. Succinctly, much greater emphasis should be placed
19 on the retirement of gas mains and conversion of customers to heating and hot water
20 systems that do not rely on fossil fuels.

21 **Q. ARE YOU AWARE OF PREVIOUS COMMISSION ORDERS ON THIS**
22 **TOPIC?**

1 A. Yes, we are aware that the Commission has found some recent rate case settlements
2 that included similar provisions to be consistent with the CLCPA. We fully agree
3 with the Commission that the provision of safe and adequate service at just and
4 reasonable rates remain paramount considerations. But, as the Climate Action
5 Council discussed in its draft Scoping Plan, there needs to be a downsizing of the
6 gas system, and gas utilities need to transform their business models.

7 We acknowledge that the Commission, in other rate cases, has approved
8 leak-prone pipe replacements as consistent with the CLCPA, and the draft Scoping
9 Plan recognizes the need for repairs that reduce and eliminate emissions. However,
10 the leak-prone pipe programs should be planned as part of a comprehensive
11 transition plan, and we do not believe the Company is doing so sufficiently. Since
12 most of the Commission Orders addressing CLCPA compliance were issued prior
13 to the draft Scoping Plan, they did not address this need. In our view, a stand-alone
14 leak-prone pipe replacement program is not what the CLCPA contemplated and is
15 not consistent with the need to transition the gas industry.

16 **Q. WHAT SHOULD CON EDISON BE DOING?**

17 A. Achieving the City's and State's policy goals, reducing the reliance on fossil fuels,
18 and encouraging customers to be more energy efficient will require a coordinated
19 effort among government, the utilities, environmental and community groups, and
20 others. Con Edison has an important role in this effort. The Company talks about
21 the transformation of its business, and its proposals for its electric business indicate
22 consideration of and planning for future needs, such as load growth due to

1 electrification. However, for the gas business, the approach seems to be mostly
2 business-as-usual.

3 **Q. ISN'T IT TRUE THAT THE COMPANY HAS PROPOSED A SERIES OF**
4 **MEASURES TO BEGIN TO TRANSITION AWAY FROM A**
5 **TRADITIONAL GAS UTILITY STRUCTURE?**

6 A. Yes, the Company has proposed some tariff changes and other actions, but we
7 believe these are relatively minor. For example, simply asking a customer whether
8 an alternative to gas was considered before allowing the customer to sign up for gas
9 service is unlikely to have any material effect. At the same time, the Company is
10 proposing a very robust capital program that appears to be of a similar scale to
11 previous capital plans. When we view the totality of the Company's proposal, the
12 approach seems to us to be generally a business-as-usual approach.

13 **Q. WHAT SHOULD THE COMPANY BE DOING?**

14 A. The Company needs to put more effort into realizing a future that likely has a much
15 smaller gas footprint, and it needs to look more closely at system needs in order to
16 reduce its capital spending over time.

17 **Q. WHAT ELSE SHOULD CON EDISON DO, OR NOT DO, RELATED TO**
18 **ITS GAS BUSINESS?**

19 A. As discussed above, the emphasis needs to be on strategies which are consistent
20 with a systemic transition off fossil fuels. The Company should continue to pursue
21 its district-level geothermal pilot project, an effort that came out of the 2019 rate
22 case. The Company also should continue to explore the viability of renewable

1 natural gas and green hydrogen. Conversely, the Company should abandon its
2 proposal to purchase certified natural gas. While this strategy may reduce
3 greenhouse gas emissions on the margin, such reductions are speculative, and more
4 importantly, this strategy does not contribute to the clean energy transition. As
5 such, it is not a prudent use of ratepayer funds nor will it advance State or City
6 policy goals.

7 The Company has made reasonable efforts to explore gas energy efficiency
8 initiatives, and it should continue to explore other potential initiatives. We
9 recognize that there have been challenges in identifying cost-effective programs
10 that can provide meaningful savings. Nevertheless, with evolving technologies,
11 new opportunities may exist. Gas demand response programs also hold promise in
12 helping to reduce peak demand.

13 As a general matter, the City supports the Company's efforts to pursue non-
14 pipeline alternatives. However, here too, there needs to be a balance between
15 customer and shareholder interests. It is not acceptable that customers bear 100
16 percent of the risks while shareholders receive sizeable incentives, or that
17 shareholders receive incentives even if there are no benefits or savings. The
18 Company needs to conduct due diligence on its proposals and demonstrate their
19 likely viability as first steps – before there is any request for or consideration of
20 cost recovery and incentives.

21 **Q. DO YOU HAVE ANY COMMENTS PERTAINING TO SUPPORT FOR**
22 **ELECTRIC VEHICLES?**

1 A. Yes. The City strongly supports electrification of transportation, and particularly
2 the need to place more emphasis on the electrification of medium- and heavy-duty
3 vehicles, fleets, and buses. Con Edison can play a pivotal role in encouraging and
4 supporting electrification of vehicles, and the Company should view this as a
5 growth opportunity.

6 Our understanding is that the Commission plans to address issues related to
7 rate design and other support for electrification of transportation in generic
8 proceedings, and it issued a Notice Soliciting Comments on potential rate design
9 and tariff changes related to electric vehicle charging on April 21, 2022 in its
10 ongoing and new generic electric vehicle proceedings – Cases 18-E-0138 and 22-
11 E-0236. Given that action, we are not advancing specific electric vehicle-related
12 proposals here.

13 **Q. DOES THE PANEL HAVE ANY COMMENT ON THE IMPACT OF THE**
14 **PROPOSED RATE INCREASES ON CUSTOMERS?**

15 A. Yes. In the 2019 rate cases and in other proceedings before the Commission, the
16 City presented its analysis of the energy cost burdens experienced by New York
17 City residents. That analysis revealed that almost 500,000 New York City
18 households have energy cost burdens in excess of six percent of their annual
19 incomes.

20 Since the COVID pandemic, the situation has become worse for many
21 families. Members of disadvantaged communities have been disproportionately
22 impacted not only by the health problems associated with the pandemic, but also

1 from loss of employment. While we have not fully updated the 2019 analysis, our
2 preliminary work indicates that if the requested rate increases are approved, an
3 estimated 625,000 households in New York City would face energy cost burdens
4 in excess of six percent if the Company's rate increases were to be approved.

5 **Q. WHAT DOES THAT MEAN IN THE CONTEXT OF THESE RATE**
6 **CASES?**

7 A. It means that utility service presently is unaffordable for an increasing number of
8 New York City residents, and the very substantial rate increases sought by Con
9 Edison likely will further increase the number of energy cost burdened households.
10 It also means that the Commission needs to carefully examine the totality of the bill
11 impacts that customers will experience when deciding what constitutes just and
12 reasonable rates.

13 **Q. PLEASE EXPLAIN.**

14 A. As we noted previously, Con Edison has provided information as to the magnitude
15 of the rate increases on both a delivery and total bill basis. However, the
16 information provided does not convey the full picture of the total bill impacts
17 customers would realize.

18 The bill impacts provided by the Company do not include shareholder
19 incentives, reconciliations, or other types of surcharges. According to a recent
20 report filed by the Company on its energy efficiency-related shareholder incentives,
21 the Company claimed to have earned \$66 million in 2021. While some of those
22 incentives arise from achieved savings, others are direct payments from customers

1 and contribute to bill increases. As an example of a reconciliation and surcharge,
2 the Company is seeking full protection from increases in inflation.

3 As we noted above, Con Edison and the other New York utilities are seeking
4 socialized cost recovery of billions of dollars of new infrastructure. Separately, the
5 New York Independent System Operator, Inc. is conducting a solicitation for
6 another major infrastructure project that could cost billions more.

7 Thus, the bill increases that customers will bear will be higher – perhaps
8 significantly higher – than the levels stated by Con Edison. For customers who are
9 just under the six percent target established by the Commission for energy cost
10 burdens, the total increases very well could put those customers over the six percent
11 level. In real terms, high energy cost burdens cause customers to be forced to
12 choose among paying their utility bills, rent, food, medicine, medical care, and
13 other living expenses.

14 **Q. WHY IS THIS A CONCERN FOR THE COMMISSION?**

15 A. The Public Service Law requires utility rates to be just and reasonable. We question
16 whether annual rate increases of 20 percent to 30 percent can be considered just
17 and reasonable. Moreover, Section 7(3) of the Climate Leadership and Community
18 Protection Act, or CLCPA, requires the Commission to consider the impacts of its
19 decisions on disadvantaged communities and ensure that they are not
20 disproportionately burdened. In this matter, all customers will be burdened by the
21 rate increases. However, to the extent the rate increases cause members of
22 disadvantaged communities to become energy cost burdened, they arguably will be

1 disproportionately burdened. We submit that it is not sufficient to simply look at
2 the impacts of individual projects, as occurred in the National Grid rate cases.
3 Rather, the Commission should look at the totality of the rate case and Con Edison's
4 requests. We believe that a broad application of the admonition in Section 7(3) of
5 the CLCPA is more consistent with the legislative intent than the narrow
6 application applied in the National Grid rate cases.

7 **NEED FOR FAIRNESS AND BALANCED CONSIDERATION OF**
8 **CUSTOMER AND SHAREHOLDER INTERESTS**
9

10 **Q. IN REVIEWING CON EDISON'S RATE FILING, HOW SHOULD THE**
11 **COMMISSION BALANCE THE INTERESTS OF CUSTOMERS AND**
12 **SHAREHOLDERS?**

13 A. We are advised by Counsel that the Commission is legally required to consider both
14 ratepayer and shareholder interests in setting rates. We offer a perspective separate,
15 but related to, the legal requirements.

16 Con Edison is seeking an electric revenue requirement increase of
17 approximately \$1.2 billion, and a total electric revenue requirement for 2023 of
18 about \$9.15 billion. The Company is seeking a gas revenue requirement increase
19 of approximately \$500 million, and possibly more, and a total gas revenue
20 requirement for 2023 of approximately \$3.27 billion. These requests are based, in
21 part, on planned electric capital investments of about \$2.7 billion and gas capital
22 investments of about \$1.2 billion.

23 **Q. TURNING BACK TO THE NEED FOR BALANCE, PLEASE CONTINUE**
24 **PROVIDING YOUR PERSPECTIVE.**

1 A. The City's technical experts advise us that most of the projects included in the
2 Company's capital plans are, on their face, legitimate utility projects. However, it
3 appears that the Company has not exercised proper oversight or judgment in
4 prioritizing the list of projects, or in staging the projects over time to reduce the
5 impacts on customers. We also question whether the Company has the ability and
6 the internal resources to properly manage such a large spending plan and ensure
7 that all expenditures are prudent, proper practices are in place to prevent and avoid
8 waste, and duplication of efforts is avoided.

9 There is a need to balance the Company's proposals for the electric and gas
10 system with the impacts of those proposals on customers. Rates should not be
11 considered an unlimited source of funding for Con Edison. The Company did not
12 appear to exercise constraint in determining the scope and magnitude of its rate case
13 requests, and its rate filing does not appear to exhibit consideration as to how these
14 impacts could negatively affect its customers. The Commission must carefully
15 review and evaluate the Company's proposals, and it must make adjustments to the
16 requests to ensure that the rates charged to customers are fair and reasonable.

17 **Q. WHAT DO YOU RECOMMEND?**

18 A. Ordinarily in a one-year rate case, the Commission sets rates with few items subject
19 to reconciliation. With respect to the capital expenditures in these rate cases, unless
20 the total amounts are substantially reduced, the Commission should require that the
21 amounts allowed to be recovered in rates be subject to reconciliation in the event

1 the Company does not, or cannot, complete all of the projects it identified.
2 Otherwise, the Company's shareholders would be unfairly enriched.

3 **Q. EARLIER, YOU TESTIFIED THAT THE COMPANY SHOULD BE**
4 **PERMITTED TO RECEIVE SHAREHOLDER INCENTIVES FOR**
5 **SUPERIOR PERFORMANCE. PLEASE EXPAND ON THAT**
6 **STATEMENT.**

7 A. The City recognizes that sometimes rewards are needed to induce certain behavior.
8 In the case of utilities, shareholder incentives – both positive and negative – have
9 been used for many years to discourage poor performance and encourage the
10 utilities to do tasks they otherwise may not do. At the same time, the Public Service
11 Commission has very broad power to order the utilities to take certain actions or
12 refrain from taking other actions. Violations of Commission Orders can result in
13 monetary penalties of hundreds of thousands of dollars or more.

14 Accordingly, there is no reason to provide shareholder incentives to Con
15 Edison related to any action that the Commission requires the Company to do or
16 not to undertake, and for which the Company would be liable for penalties for
17 failure to comply. As we noted above, outcome-based energy efficiency incentives
18 are a perfect example of incentives that are no longer appropriate. Achieving
19 greenhouse gas emissions reductions, decarbonization, and electrification are now
20 matters of law in New York. The State is taking multiple steps to achieve the
21 CLCPA's goals, and as demonstrated by the Climate Action Council's draft
22 Scoping Plan, many more actions are contemplated. Rewarding Con Edison's

1 shareholders because of actions taken by others to satisfy legal obligations no
2 longer serves any valid purpose.

3 Where the Company may take discretionary actions that are outside the
4 scope of CLCPA compliance, the use of shareholder incentives may be appropriate.
5 In such cases, though, the incentives should reward only superior performance, not
6 business-as-usual conduct. Even in such cases, though, care is needed to ensure
7 that targets are properly set.

8 **Q. WHAT IS THE BASIS OF THIS CONCERN?**

9 A. In the context of energy efficiency incentives, Con Edison reported that it
10 suspended energy efficiency activities for about half of 2020 due to the COVID
11 pandemic. However, the Company was still able to achieve almost \$48 million of
12 shareholder incentives for its energy efficiency programs. These results suggest
13 that the energy efficiency targets established in the 2019 rate cases were not
14 sufficiently aggressive.

15 **Q. DO YOU HAVE OTHER CONCERNS WITH THE CONSTRUCT OF**
16 **SHAREHOLDER INCENTIVES?**

17 A. Yes. Experience during the current rate plan has shown that unpredictable,
18 exogenous events – most notably the COVID-19 pandemic – can have a positive or
19 negative material impact on the Company’s achievement of performance metrics.
20 In cases where that impact is negative, the Company has petitioned the Commission
21 for relief. For example, on April 30, 2021 the Company requested relief from the
22 negative revenue adjustments associated with failing to meet its 2020 main

1 replacement targets citing the COVID-19 pandemic and related work suspensions.
2 At the same time, the Company intended to retain all of its positive revenue
3 adjustments, thereby disrupting the balance between customer and shareholder
4 incentives that was crafted in the rate plan. The City opposed the Company's
5 request and argued that the balance must be retained. The Commission agreed;
6 while it granted relief to the Company, it also directed the Company to return to
7 customers the positive incentives it had collected. The Company sought rehearing,
8 arguing that the Commission erred in appropriately balancing customer and
9 shareholder interests.

10 The City recommends that the Commission consider this experience in its
11 assessment of proposed shareholder incentives in these rate cases. Specifically, for
12 any subject matter, such as gas safety performance or energy efficiency, there
13 should be linkages between positive and negative incentives such that the Company
14 cannot benefit if it is relieved of the consequences of failure to achieve any
15 performance metric.

16 Additionally, we note that in the case of electric reliability performance for
17 2021, the Company claimed exclusions from its metrics for almost the entire month
18 of February due to storm activity. It is now beyond dispute that climate change is
19 causing more severe storms and more volatile climatic conditions. The Company
20 undertook a Climate Change Vulnerability Study precisely to consider future
21 changes in conditions and how to respond to such changes. It no longer is
22 satisfactory to exclude the Company's reliability performance during what are now

1 becoming “typical” conditions, or conditions for which the Company should be
2 planning based on its own studies.

3 As the Company seeks to spend billions of dollars each year on
4 infrastructure and takes climate change and resilience considerations into account
5 in its planning, construction, operations, and maintenance practices and activities,
6 it is reasonable for customers to expect that service be maintained through all but
7 the most severe storms and that service be restored expeditiously when it is lost.
8 Excluding an entire month from its performance metrics is not consistent with the
9 manner in which the Company should now be operating.

10 **Q. DO YOU HAVE ANY OTHER RECOMMENDATIONS?**

11 A. Yes. Positive shareholder incentives no longer should be automatic. As a condition
12 to receiving positive shareholder incentives, the Company should be required to
13 provide a narrative description demonstrating how its actions – and not exogenous
14 factors such as background market trends, economic conditions, or major events –
15 resulted in achieving the incentive. The Commission should reserve and exercise
16 its discretion, as needed, to ensure that the spirit of each shareholder incentive is
17 met before approving additional collections from customers. This approach
18 appropriately protects customers against unearned and unjust benefits to
19 shareholders.

20 **Q. DO YOU HAVE ANY COMMENTS ON PARTICULAR EARNINGS**
21 **ADJUSTMENT MECHANISMS?**

22 A. No. The City’s Energy Efficiency Panel addresses this topic in detail.

1 **LIMITATIONS ON SERVICE TERMINATIONS**

2 **Q. IS THE PANEL AWARE THAT CON EDISON ALREADY IS SUBJECT TO**
3 **CERTAIN RESTRICTIONS AND LIMITATIONS ON TERMINATING**
4 **CUSTOMERS?**

5 A. Yes. We are aware of provisions of the Commission’s regulations that impose
6 certain requirements and restrictions on a utility’s ability to terminate elderly, blind,
7 disabled customers, customers with medical emergencies, of whom rely on life
8 support systems. We also are aware of provisions implemented in the last rate case
9 which apply during certain heat events.

10 **Q. ARE THESE PROVISIONS SUFFICIENT TO REASONABLY PROTECT**
11 **CUSTOMERS?**

12 A. They are a good start, but no, they are not sufficient.

13 **Q. PLEASE EXPLAIN WHY NOT.**

14 A. New York State’s Home Energy Fair Practices Act, or HEFPA, prohibits the
15 Company from disconnecting utility service for residential customers during
16 November 1 to April 15 (the “cold weather period”) “where the utility ascertains
17 that such resident is likely to suffer from a serious impairment to human health or
18 safety as a result of termination, disconnection or suspension.”

19 However, HEFPA does not include a measure to prohibit utility
20 disconnections to other residential customers during cold weather based on
21 temperature thresholds. The responsibility is placed on each utility to determine
22 the “likelihood” of a shutoff causing serious impairment to health or safety without

1 defining what qualifies as “serious” or how this should or could be determined.
2 This lack of specificity introduces significant liability risk for Con Edison (and
3 other utilities), particularly given the documented morbidity and mortality impacts
4 of cold exposure. Similarly, there are very limited protections in place against
5 disconnections during hot weather, conditions that also can adversely impact public
6 health. For example the European heat wave of 2003 killed over 50,000 people and
7 the Chicago heat wave of 1995 resulted in over 700 deaths.

8 **Q. TO THE PANEL’S KNOWLEDGE, ARE THE NEW YORK**
9 **REQUIREMENTS DIFFERENT THAN THOSE IN OTHER STATES?**

10 A. Yes. A growing number of states now prohibit utilities from terminating residential
11 customers during periods of very hot or very cold weather. By enacting such
12 protections, the states have eliminated the need for utilities to make health-related
13 decisions that they are ill-equipped to make. The states further have added clarity
14 for all – customers and utilities alike – as to when customer terminations may and
15 may not be used.

16 **Q. WHAT ARE THE DANGERS OF LIVING WITHOUT HEAT AND/OR**
17 **POWER IN COLD WEATHER?**

18 A. Exposure to cold temperatures can cause death and serious illness. Each winter
19 season from 2005 to 2018 in New York City, there were an average of about 15
20 cold stress deaths, as well as 240 hospital admissions and 180 treat-and-release
21 emergency department visits for cold-related illness. By winter season, we mean
22 October through April. The data show that 25% of people who died were 60 years

1 old or older and had no heat within their homes. As a result they were exposed to
2 dangerous cold temperatures inside their homes.

3 **Q. ARE THERE OTHER FACTORS WHICH SHOULD BE CONSIDERED?**

4 A. Yes. The cold-related deaths and illnesses represent a small fraction of the total
5 burden of cold-related health impacts. Cold exposure can exacerbate existing
6 health conditions, including asthma, other respiratory conditions, and
7 cardiovascular conditions, sometimes resulting in emergency department visits,
8 hospitalizations, or death. Living in homes without proper heating may force a
9 household to provide alternative heat with kerosene heaters or gas stoves, which
10 create risks of carbon monoxide poisoning and fires, both of which can lead to loss
11 of life. A tragic example of this occurred on January 9, 2022 in the Bronx, when
12 use of an alternative heating device led to an apartment fire that killed nine
13 residents.

14 Similarly, a lack of power can cause residents to rely on candles for lighting.
15 Improper placement, inattention, or accidents can cause burns or fires which can
16 lead to injuries or deaths. For example, a candle used for lighting following a utility
17 disconnection in the Bronx in 2013 sparked a fire and caused the deaths of three
18 young children.

19 The loss of power for medical equipment and refrigeration, which may
20 include refrigeration for critical medicine, can pose food and health risks. Inability
21 to charge phones could hinder a resident's ability to receive emergency weather
22 alerts or to call for help in an emergency. Studies show that living without adequate

1 heat or power can impact mental health, with increased symptoms of anxiety or
2 depression.

3 **Q. WHO IS MOST VULNERABLE TO ADVERSE HEALTH IMPACTS**
4 **DURING COLD WEATHER?**

5 A. People who are most at risk of cold weather health impacts include those with
6 certain underlying medical conditions, including cardiovascular or respiratory
7 diseases, and people who have mental health conditions, developmental disabilities,
8 physical disabilities, or trouble leaving the home. Older adults, infants and young
9 children are biologically more susceptible to adverse impacts from cold weather.

10 **Q. ARE THERE ANY STUDIES WHICH SUPPORT THESE ASSERTIONS?**

11 A. Yes. Scientific studies support all of the assertions we are making. Particular to
12 this issue, a national study of disconnections found that households with children
13 were more likely to have a disconnection than households without children, putting
14 them at greater risk of exposure to the health risks we just described.

15 **Q. PLEASE CONTINUE WITH YOUR DISCUSSION OF VULNERABLE**
16 **PERSONS.**

17 A. People using electric medical equipment are also particularly at risk when they lack
18 power. In New York City, a survey conducted by the Department of Health and
19 Mental Hygiene revealed that approximately 40% of people using electric medical
20 equipment are not signed up for utility outage notification programs, indicating that
21 there may be a relatively large group unknown to the Company who would have to
22 be identified during the disconnection process prior to shut off. The prevalence of

1 people reporting using electric medical equipment in New York City is highest in
2 the Bronx and in neighborhoods with a higher percentage of people living below
3 the poverty line, suggesting that disconnections during dangerous weather
4 conditions have health and equity implications.

5 **Q. HOW CAN NEW YORK CITY RESIDENTS BE BETTER PROTECTED**
6 **DURING COLD WEATHER?**

7 A. Heating and electricity are necessary to maintain health and safety during cold
8 weather. While the Company is supposed to follow protocols to prevent
9 disconnections if a resident would suffer a serious impairment to health or safety,
10 and we understand that Con Edison does so, the process is complicated. Moreover,
11 as we noted, many customers do not report their conditions or circumstances to the
12 Con Edison, so the Company is not aware of special needs of many of its customers.
13 As a result, many residents who are vulnerable to temperature-related health effects
14 and who are subject to HEFPA protections do not receive them.

15 In addition, available coping mechanisms for residents living with limited
16 resources hold significant health and safety risks for all members of households,
17 regardless of age or underlying health conditions. While people across US regions
18 receive disconnection notices at the same rate, households in the Northeast are the
19 most likely of all US regions to actually experience utility disconnections. This
20 data indicate that areas like New York City may be lacking in sufficient
21 disconnection protections.

22 **Q. WHAT DOES THE PANEL RECOMMEND?**

1 A. The Commission should establish a disconnection ban when temperatures are
2 below 32 degrees Fahrenheit, which is the threshold used in other states as being
3 the appropriate level to protect the public against unsafe cold temperatures. The
4 New York City Department of Homeless Services uses this temperature threshold
5 to conduct enhanced outreach to homeless individuals to help them get into shelters.

6 This proposed threshold also is substantially lower than the World Health
7 Organization guidance, which established a general minimum safe temperature of
8 64.4 degrees Fahrenheit and suggests that a higher minimum temperature may be
9 necessary for vulnerable groups like seniors, children, and people with chronic
10 illnesses, especially cardiovascular disease. Using our recommended temperature
11 threshold will provide added definition and clarity to the existing disconnection
12 policy.

13 **Q. IS THERE A RELATIONSHIP BETWEEN TEMPERATURE AND**
14 **MORTALITY?**

15 A. Yes. Analysis reveals that in New York City, there is a non-linear relationship of
16 temperature to hypothermia deaths on the same and following day, showing that
17 risks increase exponentially as temperatures cool. This relationship is shown on
18 the figures included as Exhibit __ (NYCPP-3).

19 **Q. APPROXIMATELY HOW MANY DAYS PER YEAR ARE AT OR BELOW**
20 **THIS TEMPERATURE LEVEL IN NEW YORK CITY?**

21 A. From 2012 to 2021, using all three National Weather Service weather stations in
22 New York City, there were 73 days on average each year during the heating season,

1 which the City defines as October 1 through May 31 in its housing regulations,
2 when the temperature fell to 32 degrees Fahrenheit or below.

3 **Q. WHO SHOULD BE COVERED BY THIS TEMPERATURE-BASED**
4 **PROTECTION?**

5 A. Given the relatively large population at risk from a serious impairment to human
6 health and safety because of loss of utility service, no customer should be subject
7 to termination when these weather conditions are met.

8 **Q. DOES THE PANEL RECOMMEND ANY TERMINATION**
9 **PROTECTIONS APPLICABLE DURING HOT WEATHER BEYOND**
10 **THOSE ADOPTED IN THE 2019 RATE CASES?**

11 A. Yes. While the protections adopted in the last rate cases were an improvement over
12 the status quo and a good first step, they are not sufficient.

13 **Q. PLEASE BRIEFLY DESCRIBE THE PROTECTIONS THAT ARE NOW IN**
14 **PLACE.**

15 A. Service terminations for non-payment for all residential customers are suspended
16 on days where the heat index is forecasted by the National Weather Service to reach
17 93 degrees Fahrenheit or higher, as well as one calendar day before days where the
18 heat index is forecasted by the National Weather Service to reach 93 degrees
19 Fahrenheit or higher. Also, if the actual heat index reaches 93 degrees Fahrenheit
20 or higher on any day, the Company will suspend residential service terminations
21 for non-payment on the following two calendar days.

1 **Q. APPROXIMATELY HOW MANY DAYS PER YEAR ARE**
2 **TEMPERATURES WITHIN THESE PARAMETERS?**

3 A. Based on temperature data for the period 2012 to 2021, the heat index reaches 93
4 degrees or higher, including the day before and two days after, 43 days per year, on
5 average, during the period June 1 through September 30.

6 **Q. WHAT, IF ANYTHING, HAS BEEN LEARNED ABOUT THE DANGERS**
7 **OF HOT WEATHER SINCE 2019?**

8 A. In 2021, the New York City Health Department published data demonstrating that
9 from 2010 to 2018, there were approximately 350 heat-related deaths each year
10 when the daily maximum temperature exceeded 82 degrees Fahrenheit, with about
11 100 deaths attributed to extreme heat events; that is, at least two consecutive days
12 with a 95 degree or higher daily maximum heat index or any day with a maximum
13 heat index of 100 degrees or higher. In addition, since 2019, the City has made
14 significant investments in access to home air conditioning for New Yorkers at
15 greatest risk of heat-related health impacts.

16 In the spring of 2020, in response to stay-at-home guidance to reduce
17 COVID-19 transmission and limited access to public air-conditioned spaces, the
18 City funded a large effort to purchase and install air conditioning units in the homes
19 of low-income older adults to protect them from extreme heat. The Get Cool NYC
20 program installed nearly 73,000 air conditioners, including more than 16,000 units
21 in public housing, to ensure access to home cooling.

1 The City also worked with the state partners to make free home air
2 conditioners plus free installation through the Low Income Home Energy
3 Assistance Program, or LIHEAP, more accessible. As a result, the number of New
4 York City households receiving air conditioners through LIHEAP increased from
5 600 in 2019 to about 2,100 units in 2020 and about 6,600 units in 2021. In addition,
6 based in part on City advocacy, the State agreed to waive health documentation
7 requirements for the LIHEAP Cooling Assistance Program, making the program
8 more accessible to low income households.

9 **Q. WHY IS THE PENETRATION OF AIR CONDITIONING UNITS**
10 **IMPORTANT TO THIS MATTER?**

11 A. Home air conditioning is a key strategy to prevent heat-related mortality within
12 New York City, as indoor temperatures can be substantially hotter than outdoor
13 temperatures in the absence of air conditioning. Thus, ensuring that power is
14 available for New Yorkers to run their air conditioners during period of hot weather
15 is critical. For residents who do not have air conditioning, power is essential to
16 refrigerate food, run fans, and to charge phones so residents can call for medical
17 help and receive emergency messages.

18 **Q. WHO IS MOST VULNERABLE TO ADVERSE HEALTH IMPACTS**
19 **DURING HOT WEATHER?**

20 A. The groups most at risk of death or health impacts during hot weather include
21 people without air conditioning who have chronic medical conditions, such as heart,
22 lung or kidney disease, diabetes, or obesity. New Yorkers with serious mental

1 health, cognitive or developmental conditions (such as dementia or schizophrenia),
2 take medicines that make it difficult for the body to stay cool, and have limited
3 mobility or are unable to leave the home are at risk. Adults aged 60 and older are
4 most likely to have some combination of these conditions/factors.

5 In addition, longstanding structural racism has created economic, health
6 care, housing, energy and other systems that disadvantage people of color, resulting
7 in inequities placing such New Yorkers at a higher risk of dying from heat-related
8 causes.

9 **Q. WHAT CAN BE DONE TO BETTER PROTECT VULNERABLE NEW**
10 **YORK CITY RESIDENTS AND CON EDISON CUSTOMERS DURING**
11 **HOT WEATHER?**

12 A. In addition to the protections already in place for the hottest days of the year, the
13 Commission should expand the disconnection protections to prohibit service
14 terminations when the maximum temperature reaches 83 degrees Fahrenheit or
15 higher, including the day before and two days afterwards as in the current
16 protections.

17 **Q. HOW FREQUENTLY DOES THE MAXIMUM TEMPERATURE IN NEW**
18 **YORK CITY REACH OR EXCEED 83 DEGREES FAHRENHEIT?**

19 A. Based on the data from the period 2012 to 2021, the maximum temperature reaches
20 or exceeds 83 degrees Fahrenheit on about 76 days, on average.

21 **Q. DO SIMILAR PROTECTIONS EXIST IN OTHER JURISDICTIONS?**

1 A. Yes. Alabama, Arizona, Arkansas, Delaware, Georgia, Illinois, Maryland, Missouri,
2 Oregon, Texas, and Washington D.C. all suspend disconnections below 32 degrees
3 Fahrenheit.

4 **NYPA PARTICIPATION IN ENERGY EFFICIENCY PROGRAMS**

5 **Q. DOES THE CITY PRESENTLY UNDERTAKE ENERGY EFFICIENCY**
6 **INITIATIVES?**

7 A. Yes. The City has a very robust energy efficiency program. Some initiatives are
8 undertaken with the assistance of NYPA, while others are pursued directly by the
9 City or with the use of a third-party consultant or contractor.

10 **Q. PLEASE DESCRIBE SOME OF THE INITIATIVES BEING PURSUED.**

11 A. In accordance with City policies and requirements of various local laws, the City is
12 implementing measures to reduce the carbon emissions from City government
13 operations by 40 percent by 2025, 50 percent by 2030, and 80 percent by 2050. For
14 example, the City's vehicle fleet will achieve carbon neutrality by 2040, including
15 an interim commitment that all light duty on-road vehicles (except law enforcement
16 and emergency response vehicles) will be electric models by 2030.

17 The City benchmarked the energy usage in its buildings to measure their
18 efficiency. In all, about 3,000 buildings were evaluated. Based on that information,
19 as well as energy audits and other site-specific assessments, the City developed
20 retrofit projects, upgrades, operational changes, preventative maintenance, and
21 conservation measures, as appropriate. Examples include new lighting, heating,
22 cooling, ventilation, and energy management systems. The City also conducted

1 outreach and training for facility engineers and managers, support services staff,
2 and building maintenance personnel.

3 Separately, the City has been installing solar photovoltaic systems on the
4 rooftops of schools and other City buildings. As a corollary to its energy efficiency
5 programs, the City is an active participant in the demand response programs
6 administered by Con Edison and the New York Independent System Operator.

7 **Q. HOW MUCH HAS THE CITY SPENT ON ENERGY EFFICIENCY**
8 **INITIATIVES TO DATE.**

9 A. Since 2014, the City has invested more than \$800 million on energy efficiency
10 projects within almost 2,000 buildings. Separately, the City has spent about \$40
11 million on 110 completed solar projects. Because human resources are as important
12 as physical resources in effectuating improvements, the City also has invested
13 approximately \$12.5 million in training City employees in the areas of energy
14 efficiency and renewable energy.

15 **Q. APPROXIMATELY HOW MUCH DOES THE CITY SPEND ON ENERGY**
16 **EFFICIENCY INITIATIVES EACH YEAR?**

17 A. Historically, the City has spent approximately \$100 million per year on energy
18 efficiency projects. Given the requirements of Local Law 97 and commitments the
19 City has made to reduce emissions and be more efficient, the City is increasing its
20 annual average planned spending on energy efficiency projects to above \$315
21 million.

1 **Q. PLEASE COMMENT BRIEFLY ON THE RESULTS OF THE CITY'S**
2 **EFFORTS.**

3 A. The City has reduced in annual energy costs by about \$90 million and avoided 2.9
4 million MMBtu of energy. On a total basis, the City's summer peak demand has
5 been reduced by about 11.4 percent and its emissions have decreased by about 27
6 percent. Importantly, 65 percent of the greenhouse gas emissions reductions and
7 72 percent of PM_{2.5} reductions have occurred in environmental justice
8 communities.

9 More than 16 megawatts of solar arrays have been installed, producing 19
10 million kilowatt-hours of energy each year, on average. 56 percent of these
11 projects, comprising 63 percent of the solar capacity, have been added in
12 environmental justice communities.

13 On the training side, 3,800 City employees from almost 40 City agencies
14 have participated in training programs. Since 2018, more than 1,000 teachers have
15 been trained on energy efficiency topics. Thousands of students have benefitted
16 from this training.

17 **Q. IS THE PANEL FAMILIAR WITH CON EDISON'S PROPOSAL TO**
18 **ALLOW NYPA CUSTOMERS TO PARTICIPATE IN ITS ENERGY**
19 **EFFICIENCY PROGRAMS?**

20 A. Yes. We have reviewed that proposal.

21 **Q. DID CON EDISON CONSULT WITH THE CITY PRIOR TO MAKING**
22 **THIS PROPOSAL?**

1 A. No, not in any substantive way.

2 **Q. TO THE PANEL'S KNOWLEDGE, DID CON EDISON CONSULT WITH**
3 **ANY NYPA CUSTOMERS, OR WITH NYPA, REGARDING THIS**
4 **PROPOSAL?**

5 A. We understand that the Company had a brief conceptual conversation with NYPA
6 personnel, but the details of the proposal were not shared. We are not aware of any
7 other NYPA customer having been consulted.

8 **Q. DO YOU THINK CON EDISON SHOULD HAVE CONSULTED WITH**
9 **THE NYPA CUSTOMERS?**

10 A. Yes. The majority of NYPA customers in the Con Edison service territory are large
11 consumers with very different functions and load profiles. Each customer has its
12 own contract with NYPA that outlines the services NYPA provides. Even if Con
13 Edison is not directly aware of many of the energy efficiency initiatives each
14 customer self-funds, the Company reads all of the NYPA customer meters and
15 should be aware of the customers' changes in energy usage over time. Since this
16 proposal impacts the customers, Con Edison should have consulted directly with
17 those customers along with NYPA, itself.

18 **Q. WHAT IS THE CITY'S POSITION ON THIS PROPOSAL?**

19 A. The City has not been able to develop a position because the Company has declined
20 to be forthcoming regarding the substance and merits of the proposal.

21 **Q. PLEASE EXPLAIN.**

1 A. The City engaged in discussions with Con Edison, and as well as with NYPA and
2 other NYPA customers, to try to understand the merits of the proposal. Con Edison
3 spoke very vaguely about the benefits but provided no details. We informally asked
4 the Company to provide an analysis showing the extent to which NYPA customers
5 would benefit from the proposal, and that the benefits would exceed the costs. Con
6 Edison indicated that it would provide such an analysis, but it never did.

7 **Q. DID YOU PURSUE INFORMATION MORE FORMALLY?**

8 A. Yes. When we never received the requested analysis, the City posed a series of
9 discovery requests seeking similar information. In responses to City Information
10 Requests 344, 345, 346, 347, and 348, the Company stated that it prepared no
11 analysis to support its proposal. The responses reveal that the Company has no
12 basis, other than some generalized assumptions, to support its proposal. We also
13 asked Con Edison to identify and quantify the potential benefits, but the Company
14 declined to provide substantive responses to those requests.

15 **Q. WHAT DID YOU LEARN FROM YOUR DISCUSSIONS WITH NYPA AND**
16 **OTHER NYPA CUSTOMERS?**

17 A. While some customers also saw little to no value in the proposal, the New York
18 City Housing Authority, or NYCHA, identified a series of projects that potentially
19 could be aided by the incentives available via the Con Edison energy efficiency
20 programs. We are aware of communications between NYCHA and Con Edison
21 regarding this matter. The City decided that if NYCHA would receive material
22 benefits from the proposal, it would stand with NYCHA and support the proposal.

1 **Q. WILL NYCHA RECEIVE MATERIAL BENEFITS FROM**
2 **PARTICIPATION IN CON EDISON'S ENERGY EFFICIENCY**
3 **PROGRAMS?**

4 A. We do not know. Again, Con Edison was asked to provide analysis showing the
5 benefits NYCHA could receive. We understand that Con Edison provided NYCHA
6 an overview of the existing incentives and explained that no electrification
7 incentives are currently available. However, the Company did not provide
8 quantitative data to understand the benefits, if any, NYCHA could receive. As a
9 result, we have no confidence regarding the incentives NYCHA could receive or
10 that the proposal would result in net benefits for NYCHA.

11 **Q. WHAT IS YOUR CONCERN?**

12 A. Our concern is that Con Edison, via its Clean Heat funding petition filed in Case
13 18-M-0084, is seeking to reduce the funding available for energy efficiency
14 programs, and that little to no funding may be available in and after 2023 for its
15 Clean Heat program, or the incentives that may be available will be greatly reduced.
16 As a result, NYCHA may receive very limited financial support for its projects, and
17 the incentives provided will be far lower than the costs to be allocated to NYPA
18 customers. Thus, this would not be a beneficial outcome for NYCHA or the City
19 or any other NYPA customer.

20 **Q. WHAT DO YOU RECOMMEND THAT THE COMMISSION DO**
21 **REGARDING THIS PROPOSAL?**

1 A. The preferred outcome is that the Commission neither approve nor reject the
2 proposal and instead direct Con Edison to perform an analysis demonstrating the
3 costs and benefits that would be available to NYPA customers, particularly
4 NYCHA, under different scenarios of customer uptake and funding amounts. Once
5 NYPA customers, NYPA, and other interested parties have an opportunity to
6 review, understand, and comment on the analysis, the Commission should then
7 substantively consider the proposal.

8 **Q. DO YOU HAVE ANY FURTHER COMMENTS?**

9 A. Contrary to Con Edison's unfounded assumption, the City already is fully engaged
10 in energy efficiency efforts. It is our understanding that most, if not all, of the
11 NYPA customers within Con Edison's service territory are similarly engaged.
12 Indeed, based on information discussed at the March meeting of NYPA's Board of
13 Trustees, it appears that NYPA's energy efficiency program is very robust and has
14 yielded very positive results. The Commission should not accept Con Edison's
15 assumption regarding the need for its proposal, and the Commission should ensure
16 that it a proper basis to consider the proposal, including evidence as to the costs and
17 benefits to all customers. Otherwise, the Commission cannot confirm that the rates
18 it adopts will be just and reasonable for all customers.

19 **Q. IS THERE AN ALTERNATE APPROACH THE COMMISSION SHOULD**
20 **CONSIDER?**

21 A. Yes. On June 30, 2016, Con Edison and the other investor-owned electric utilities
22 jointly filed a proposal with the Commission to allow NYPA customers to opt-in to

1 the utilities', and NYSERDA's, energy efficiency programs. Participation would
2 be on a voluntary basis, and any NYPA customer that elects to opt-in would be
3 treated the same as general service customers. That is, they would have the full
4 ability to participate in the energy efficiency programs, and they would pay the
5 same volumetric surcharges for such programs as general service customers.

6 **Q. DO YOU KNOW THE GENESIS OF THAT PROPOSAL?**

7 A. Yes. In its January 21, 2016 Order establishing the Clean Energy Fund, the
8 Commission specifically directed the utilities to develop and submit a proposal to
9 allow NYPA customers to opt-in to Clean Energy Fund and utility energy
10 efficiency programs.

11 **Q. WHAT WAS THE DISPOSITION OF THAT PROPOSAL?**

12 A. The Commission assigned it Case 16-M-0395. By Notice issued July 12, 2016, the
13 Commission solicited comments on the proposal. The City, NYPA, and a gas
14 utility submitted initial comments, and the utilities and NYPA submitted reply
15 comments. The Commission has never acted on the proposal.

16 **Q. DID THE CITY SUPPORT THAT PROPOSAL?**

17 A. In concept, yes, but the City suggested a few changes to it.

18 **Q. WHAT IS THE CITY'S CURRENT POSITION ON AN OPT-IN
19 PROPOSAL?**

20 A. Ideally, the City continues to support the changes it recommended in 2016.
21 However, even in the form advanced by the utilities in 2016, that proposal is far
22 superior to the proposal now advanced by Con Edison.

1 If a NYPA customer wants to opt-in to the Con Edison and NYSERDA
2 programs, become eligible for the incentives and other benefits available under
3 those programs, and bear a proportional share of the program costs, the customer
4 should be allowed to do so. However, if a NYPA customer does not want to
5 participate, it should not be saddled with those costs.

6 **Q. IF THE COMMISSION REJECTS THE CITY'S RECOMMENDED**
7 **APPROACH AND DECIDES TO APPROVE THE PROPOSAL, DO YOU**
8 **HAVE ANY ADDITIONAL COMMENTS?**

9 A. Yes. The direct testimony of the Company's Customer Energy Solutions Panel
10 suggested that most NYPA customer projects in disadvantaged communities would
11 involve NYCHA and NYCHA residents, and the costs of such projects would be
12 allocated to all Con Edison customers. The Panel's update testimony clarified that
13 the NYPA/General Service cost allocation would also apply to all projects at all
14 NYPA facilities within disadvantaged communities because of the important role
15 of the facilities to the communities.

16 The City agrees. In addition to schools and hospitals, fire and police
17 stations, sanitation facilities, playgrounds and parks, community centers, libraries,
18 schools and many other governmental facilities directly and indirectly serve the
19 residents and businesses in disadvantaged communities and throughout New York
20 City. Accordingly, it is appropriate and equitable that all customers bear the costs
21 of energy efficiency and electrification improvements at all facilities that serve the
22 public.

1 **Q. CON EDISON CLAIMS THAT ITS PROPOSAL IS INTENDED TO**
2 **ADVANCE STATE POLICY GOALS. IS THE CITY’S POSITION**
3 **EQUALLY SUPPORTIVE OF ACHIEVEMENT OF STATE POLICY**
4 **GOALS?**

5 A. Yes. The City is engaging in substantial efforts to help achieve concurrent State
6 and City policy goals. Earlier this year, the City entered into a multi-billion dollar
7 contract with NYSERDA to purchase Tier 4 renewable energy certificates in
8 quantities that will allow City operations to become 100 percent carbon free as soon
9 as the Tier 4 projects commence operations and over a decade in advance of the
10 targets established first by the Commission and subsequently by the Climate
11 Leadership and Community Protection Act.

12 Additionally, and as we already noted, the City is engaged in a multi-billion
13 dollar program to make its operations energy efficient. The City is investing in
14 energy efficiency and electrification improvements at schools, police stations,
15 community centers, homeless shelters, and other social services locations and does
16 not need the Con Edison programs to do so. Further, the City has benchmarked and
17 conducted energy audits at most of its buildings. Based on this information,
18 comprehensive plans have been developed to reduce their energy usage.

19 In fact, it is fair to say that the City is ahead of many property owners in
20 terms of supporting achievement of the State’s energy policy goals. The City’s
21 recommendations on this issue are intended to maximize the ability of it and other

1 NYPA customers to contribute towards achievement of the State's goals in a
2 reasonable, cost-effective manner.

3 **ARREARAGES AND UNCOLLECTIBLE BILLS**

4 **Q. DOES THE PANEL HAVE ANY COMMENTS ON THE COMPANY'S**
5 **PROPOSAL FOR A FULL RECONCILIATION FOR UNCOLLECTIBLE**
6 **EXPENSES?**

7 A. Yes. We have reviewed the Company's testimony and discovery responses related
8 to this issue. Initially, we note that we are not familiar with the facts and
9 circumstances in the Orange and Rockland rate case referenced by Con Edison, but
10 we don't think the treatment in that case is in any way dispositive or controlling in
11 these rate cases.

12 **Q, PLEASE EXPLAIN WHY NOT.**

13 A. We understand that the treatment in the Orange and Rockland rate cases arose from
14 terms of a settlement. As such, it presumably was subject to the give and take
15 normally associated with rate case settlement negotiations. Its mere inclusion in
16 the settlement agreement, albeit approved by the Commission, does not, in our
17 view, constitute a sufficient or appropriate reason to apply the same treatment to
18 Con Edison.

19 Moreover, based on our review of salient information, including the levels
20 of arrearages and uncollectable expenses, revenue requirements, and rate increases
21 for Con Edison, and similar information for Orange and Rockland, we do not
22 believe the circumstances between the two utilities are comparable. The rate

1 increases sought by Orange and Rockland initially, and resulting from its
2 settlement, are a fraction of the size of the increases sought by Con Edison, and the
3 amounts at issue there seem to be orders of magnitude smaller than the amounts at
4 issue in these cases.

5 **Q. DOES THE PANEL HAVE ANY OTHER REASONS FOR OPPOSING**
6 **THIS PROPOSAL?**

7 A. Yes. While the State is generally recovering from the COVID pandemic, the
8 recovery is taking longer in New York City than in other parts of the State. Many
9 people in New York City became unemployed, and New York City employment
10 levels still have not recovered to pre-pandemic levels. Without this proposal, Con
11 Edison customers are facing double digit bill increases for both electric and gas.
12 Apart from the rate cases, Con Edison is seeking recovery of an additional \$390
13 million for its Clean Heat program and \$1 billion for a new transmission substation.
14 With shareholder incentives and other surcharges, the actual bill impacts customers
15 will experience are likely to be substantially larger than the amounts claimed by the
16 Company.

17 While customers struggled through the pandemic, and many people
18 continue to experience difficulty in paying their expenses, Con Edison's
19 shareholders were generally kept harmless via the revenue decoupling mechanism.
20 Further, they received extra profits of about \$70 million from energy efficiency
21 earnings adjustment mechanism, alone.

1 In other words, Con Edison's shareholders fared far better during the
2 pandemic than many of its customers. Now, the Company's shareholders want
3 additional protection against the lingering effects of the pandemic – namely,
4 arrearages and uncollectible bills. As we understand the Company's proposal,
5 customers would cover the vast majority of the Company's uncollectible expense,
6 now and in the future.

7 **Q. HOW MUCH DOES THE COMPANY SEEK TO RECOVER VIA THE**
8 **PROPOSED SURCHARGE?**

9 A. We do not have an exact number, but our understanding is that it could be in the
10 range of about \$300 to \$350 million.

11 **Q. DO YOU BELIEVE THE COMPANY'S PROPOSAL FAIRLY BALANCES**
12 **CUSTOMER AND SHAREHOLDER INTERESTS?**

13 A. In our view, it does not. The Company appears to want full protection for its
14 shareholders from any economic effects from the pandemic. Fairness dictates that
15 there should be some sharing of the effects, with shareholders bearing at least a
16 portion of the financial impacts.

17 **Q. WHY IS THIS A REASONABLE POSITION?**

18 A. Con Edison's shareholders receive a return on their investments in the Company,
19 and the return is based, in part, on the level of risk they bear. If shareholders bear
20 no risk, the return should be set very low. Shareholders do bear some risks, and
21 their return is set accordingly. Uncollectible expense is one of the risks the
22 Company, and its shareholders, bear, and they are compensated for this risk in their

1 return. The Company needs to manage its risks, but this proposal would essentially
2 eliminate its motivation to do so.

3 **Q. DO YOU HAVE ANY FURTHER COMMENTS ON THIS MATTER?**

4 A. Yes, as part of managing its risk, the Company should be proactively working with
5 its customers, such as by setting up deferred payment agreements. The City
6 understands that the Company currently engages in this practice, however the
7 proposal could obviate the motivation for the Company to be proactive in dealing
8 with its customers as shareholders would be compensated in any event. Denying
9 the proposed surcharge, or even reducing the amount shareholders would be
10 permitted to recover via the surcharge, should incentivize the Company to take
11 steps to help customers reduce their arrearages and minimize concomitant
12 uncollectible expenses.

13 **APPLICATION OF DISTRIBUTED GENERATION CREDITS**

14 **Q. DO YOU HAVE ANY CONCERNS REGARDING CON EDISON'S**
15 **PRACTICES INVOLVING COMMUNITY DISTRIBUTED**
16 **GENERATION?**

17 A. Yes. The Company does not timely apply credits from community distributed
18 generation, or CDG, projects and remote net metered projects to participating
19 customer accounts.

20 **Q. PLEASE ELABORATE.**

21 A. The Commission established a CDG framework nearly seven years ago in its July
22 17, 2015 "Order Establishing a Community Distributed Generation Program and

1 Making Other Findings” in Case 15-E-0082. Remote net metering has been around
2 even longer. The Commission has since issued several orders that have established,
3 modified, and clarified the policies, requirements, conditions, and compensation
4 available to these projects. In accordance with the Commission’s directives, Con
5 Edison developed tariff leaves and addenda governing its relationship with
6 distributed generation providers.

7 Related specifically to the CDG framework, CDG hosts must provide Con
8 Edison with initial CDG project allocation forms at least 60 days before their
9 projects commence service so that Con Edison can be ready to apply credits
10 generated by the projects to customer bills starting with the customers’ first full
11 billing period. Any subsequent changes to CDG allocation requests must be
12 provided to Con Edison 30 days in advance of the next CDG host billing cycle to
13 provide the Company with sufficient notice to implement the requested changes by
14 the next applicable customer billing cycle. This framework exists to ensure that
15 customers who subscribe to CDG projects receive credits on their electric bills as
16 close to, if not contemporaneously with, the actual generation of those bill credits
17 by the CDG projects.

18 It is our understanding that Con Edison has not been timely applying bill
19 credits from CDG projects to customer bills. Indeed, a group of Con Edison
20 customers that are CDG project subscribers filed a complaint with the Commission
21 on April 12, 2022 asserting that Con Edison’s billing errors and delays are

1 negatively impacting their realization of savings from their CDG subscriptions.

2 This filing was docketed as Matter No. 22-00801.

3 **Q. HOW LONG DOES CON EDISON TAKE TO APPLY CDG CREDITS TO**
4 **BILLS?**

5 A. It is our understanding that it often takes Con Edison approximately six months or
6 more to apply credits to customers' bills.

7 **Q. DO YOU KNOW WHY THE COMPANY IS UNABLE TO APPLY THE**
8 **CREDITS IN A TIMELY FASHION?**

9 A. Not specifically. We understand that the lack of timeliness is based in part on the
10 fact that the Company has not yet automated the CDG crediting process. That is,
11 CDG credits have to be calculated and applied manually, which can be a time-
12 consuming process. Based on conversations with the Company, we understand that
13 the Company intends to hire more employees to specifically assist with CDG
14 crediting.

15 **Q. WHY IS THE COMPANY'S INABILITY TO CREDIT BILLS IN A**
16 **TIMELY FASHION PROBLEMATIC?**

17 A. CDG projects are a critical component to achieving the State and City's clean
18 energy goals. For many New Yorkers, particularly those living in New York City,
19 rooftop solar is inaccessible due to financial constraints and/or because the
20 customer does not own their roof. CDG projects allow customers who are
21 interested in participating in the clean energy economy to do so despite such
22 constraints. CDG projects are particularly important for providing access to low

1 income customers and members of disadvantaged communities to clean supply
2 resources, and they are a tool in addressing energy cost burden. Indeed, the
3 Commission noted in its most recent Solar Roadmap Order issued in Case 21-E-
4 0269 that it is important to focus CDG efforts on disadvantaged communities.

5 To encourage participation in CDG projects, it is imperative that Con
6 Edison's CDG program is well-managed. Issues such as failure to timely or
7 accurately apply credits to customer bills can result in customers or potential
8 customers losing confidence in the program or being dissuaded from joining in the
9 first place. In addition, CDG project sponsors do not receive payment until credits
10 have been allocated to subscribers. Not applying credits in a timely manner
11 ultimately has the potential to chill development of CDG projects and hinder the
12 State and City's abilities to achieve their public policy goals.

13 **Q. WHAT IS YOUR RECOMMENDATION?**

14 A. The Commission should order the Company to develop a corrective action plan that
15 identifies the reasons for the delays and provides the substantive actions that will
16 be taken to resolve these problems, along with a timeline or deadline for each action
17 to be taken. Additionally, to the extent the Company continues to delay providing
18 timely credits to customers, it should be required to pay interest on the credit
19 amounts measured from the date the credits are created to the date they are applied.

20 **Q. SHOULD THE INTEREST EXPENSE BE RECOVERED FROM THE**
21 **GENERAL BODY OF CUSTOMERS?**

1 A. No. CDG crediting was first approved by the Commission in 2015. The Company
2 has had ample time to update its billing infrastructure. Resolution of the billing
3 problems have been and are fully within the Company's control, and the Company
4 has had sufficient time to fix the problems.

5 **Q. DO YOU HAVE ANY OTHER RECOMMENDATIONS?**

6 A. Yes. It seems that the Company is very attentive to ensuring that incentives and
7 other benefits timely flow to its shareholders, and we submit equal attention should
8 be paid to ensuring that credits timely flow to its customers. To ensure that the
9 Company pays appropriate attention to managing its CDG program and timely
10 providing associated bill credits to its customers, we propose that a new
11 performance metric be established. Specifically, if in any calendar year the
12 Company does not apply 100 percent of the generated bill credits from CDG,
13 remote net metered, remote credited, or excess generation from behind-the-meter
14 projects) to customer accounts or sponsor banks within one billing cycle of their
15 generation, a negative revenue adjustment of two basis points should be imposed.

16 Also, for at least the next year, and possibly for two to three years, the
17 Commission should pay close attention to this matter to ensure that performance is
18 improving and step in if it is not. Accordingly, the Commission should require the
19 Company to provide, on no less than a quarterly basis, monthly information on the
20 total number of projects producing bill credits, the total quantity of credit produced,
21 the total number of CDG subscribers, the percentage of credits that have been
22 allocated to the appropriate host and/or satellite accounts or sponsor banks, and the

1 percentage of credits that have not been so allocated. Additionally, the reasons for
2 any delays in providing credits should be provided. To the extent any bill credits
3 have not yet been applied to customer bills, the amount of such credits should be
4 specified.

5 **Q. WHY IS A NEW PERFORMANCE METRIC NECESSARY?**

6 A. As discussed above, the Company has had seven years since the Commission
7 established a CDG framework in New York to implement the necessary
8 infrastructure to manage its CDG program. It is inexcusable that foundational
9 aspects of the program, such as timely applying credits to customer bills, still
10 remain unsettled. The amount of time that has elapsed with no remedy suggests an
11 inappropriate lack of attention by Company management.

12 In other instances where there has been a similar lack of attention, such as
13 repairs of streetlights, the City has found that instituting a performance metric
14 captures management's attention and typically results in problems being remedied.
15 Here, because many customers have been and continue to be adversely impacted,
16 and because the Company's lack of attention has the potential to undermine the
17 viability of the program and hinder achievement of important public policy goals,
18 institution of a performance metric is appropriate.

19 **Q. DO YOU KNOW IF OTHER PARTIES SHARE THE SAME BELIEF ON**
20 **THE NEED FOR A PERFORMANCE METRIC?**

21 A. Yes. In a March 29, 2022 "Straw Proposal on Opt-Out Community Distributed
22 Generation" in Case 14-M-0224, Department of Public Service Staff identified

1 broad problems with CDG crediting. To ensure utilities are accountable for their
2 performance, Staff proposed a new performance metric based on crediting and
3 billing.

4 **Q. WHY IS THIS PERFORMANCE METRIC BEING PROPOSED HERE**
5 **RATHER THAN IN CASE 14-M-0224?**

6 A. Performance metrics are commonly established within rate cases, Given the
7 particular problems experienced by Con Edison customers, it is appropriate to
8 consider the metric as part of the Company's overall practices, terms and conditions
9 of service, and setting just and reasonable rates. Indeed, this rate case presents an
10 ideal opportunity for the Commission to take steps to induce proper performance
11 and advancement toward the State's policy goals.

12 **UPSTATE SOLAR PROPOSAL**

13 **Q. IS THE PANEL FAMILIAR WITH CON EDISON'S PROPOSAL TO**
14 **BUILD LARGE-SCALE SOLAR FACILITIES IN UPSTATE NEW YORK?**

15 A. Yes.

16 **Q. DOES THE PANEL SUPPORT THIS PROPOSAL?**

17 A. No. The Commission should reject it.

18 **Q. WHAT ARE YOUR CONCERNS WITH THIS PROPOSAL?**

19 A. Con Edison claims that this proposal will provide benefits for its low income
20 customers, but we are very concerned that when all of the costs of the project are
21 compared to all of the claimed benefits, customer costs will exceed the benefits.
22 The proposal would impose incremental costs on all customers but potentially

1 benefit only a subset of customers. While shareholders would realize enhanced
2 earnings, the majority of Con Edison's customers would see no benefits at all.

3 Moreover, investing in remote projects will not provide similar benefits as
4 investments within the Company's service territory, such as maintaining or
5 enhancing service to customers, improving local air quality, supporting local
6 economic development, and good-paying green job opportunities to local residents.
7 Con Edison's investments should be made within its service territory to directly
8 serve its customers, such as resolving the problems that have caused repeated
9 outages and other service quality deficiencies in certain networks, which we
10 discussed previously. To the extent the projects proposed by the Company within
11 its service territory are intended to resolve these service problems, then no
12 additional projects are needed and the overall capital budget should be reduced to
13 limit the bill impacts on customers.

14 Overall, we do not see this proposal as reasonably balancing customer and
15 shareholder interests.

16 **Q. WHY DON'T YOU THINK THIS PROJECT WILL PROVIDE BENEFITS?**

17 A. At present, renewable developers rely on the sale of renewable energy credits to the
18 New York State Energy Research and Development Authority to recover the
19 difference between the costs to build and operate the resources and the revenues
20 they receive from the sales of energy and capacity. Con Edison's proposed project
21 has no contract in place to make similar sales, and its responses to City Information
22 Requests 338, 339, and 340 are unclear as to the source of revenues associated with

1 the renewable energy credits the Company proposes to provide to low income
2 customers.

3 **Q. DO YOU HAVE ANY OTHER CONCERNS WITH THIS PROPOSAL?**

4 A. Yes. Right now, all renewable resources in New York are being developed on a
5 merchant basis, meaning that the developers can't seek recovery from ratepayers if
6 development costs increase beyond their forecasts and budgets. In other words, the
7 developers bear all of the development risk. This is appropriate. In contrast, for
8 Con Edison's project, all of the risk would be on customers. Additionally, there is
9 no cost containment, meaning that customers could be liable for the costs even if
10 they end up being two or three times or more than the Company forecasts. At the
11 same time, Con Edison has no incentive to control its costs because its shareholders
12 will receive a return on the total amount spent.

13 Based on the information provided by the Company in Exhibit__(CES-3),
14 there would not be any benefit to any customer during the rate year, and the benefits
15 in 2024 and 2025, assuming the Company is able to design the project, obtain siting
16 approval, procure the equipment, complete the interconnection process, and
17 construct the project – none of which are assured – the per customer benefits are
18 relatively small – less than \$3 per month. However, the Company does not provide
19 any information on the amount by which its rates would increase to recover its
20 capital and operating costs plus a return. In other words, the actual benefit per
21 customer is likely to be far lower than the amounts claimed by the Company.

1 In summary, we do not believe this proposal is in customers’ best interests
 2 or likely to provide any material benefit to low income customers, and we are very
 3 concerned that this proposal could result in unnecessary upward pressure on
 4 customers’ bills.

5 **SUMMARY OF OTHER CITY TESTIMONY**

6 **Q. PLEASE PROVIDE A BRIEF OVERVIEW OF THE OTHER TESTIMONY**
 7 **BEING SUBMITTED BY THE CITY.**

8 A. The City is submitting seven additional pieces of testimony addressing the
 9 following topics:

- 10 • The Energy Efficiency Panel is addressing the Company’s energy
 11 efficiency plans and the need for more reasonable shareholder incentives.
- 12 • Michele Chait is addressing a series of rate design issues, including a
 13 proposal to gather information and assess alternatives for an electrification
 14 rate to encourage the conversion of heating systems to air source and
 15 ground source heat pumps.
- 16 • The Billing Panel is addressing continuing problems with Con Edison’s
 17 billing and the need for improvements to billing processes and procedures.
 18 In particular, about one out of every three bills the City receives each month
 19 is based on an estimate rather than actual meter read, including account for
 20 which there are meters with advanced metering infrastructure in place.
- 21 • Richard Brown is addressing the Company’s proposals for electric capital
 22 projects and operations and maintenance activities.

- 1 • Walter Bak is addressing the Company’s proposals for gas capital projects
2 and operations and maintenance activities, as well as the Company’s
3 shareholder incentives proposals related to such projects and activities.
- 4 • Damien Tholomier is addressing the Company’s approach to conservation
5 voltage optimization and emergency voltage reductions. He explains that
6 the Company’s practices do not comply with common utility practice.
- 7 • David Garrett is addressing depreciation-related issues, including the need
8 for generational fairness, electric service lives, and the Company’s
9 proposal to reduce gas service lives.

10 **Q. DO YOU HAVE ANY ADDITIONAL COMMENTS REGARDING THE**
11 **COMPANY’S RATE CASE FILING AND REVENUE REQUIREMENT**
12 **REQUESTS?**

13 A. Overall, the City is very concerned about the magnitude of the Company’s requests.
14 While we appreciate that the provision of utility service has become more
15 complicated over time, and Con Edison must address a larger number of competing
16 demands and challenges, the Company has an obligation to prudently manage its
17 business. Based on the City’s comprehensive review of the rate case filing,
18 testimony, and discovery, it appears that the Company is trying, in part, to shift that
19 management responsibility onto the Public Service Commission to decide which
20 projects and programs should be undertaken in the rate year and which should not.

21 Further, we again raise a concern the City raised in the last rate cases – we
22 question whether the Company can reasonably and properly undertake all of the

1 projects and programs it has included in its rate filing. The Company is seeking to
2 spend far more in the rate year than it has ever spent in a single year, and its long-
3 term plan proposes to double its proposed level of spending in future years.

4 At the same time, resource constraints and supply-chain disruptions are
5 affecting all industries and all types of projects. It is questionable whether the
6 Company will have access to sufficient personnel (employees and contractors) and
7 materials to perform the work and to manage projects to avoid inefficiencies and
8 waste. The Commission will need to exercise close and continuous oversight of
9 the Company to ensure that the work is being undertaken and completed
10 competently and prudently.

11 **Q. DO YOU WISH TO ADD ANYTHING ELSE?**

12 A. We strongly urge the Commission to reconsider the nature and extent of the
13 incentives to be made available to shareholders. Any incentives should be limited
14 to rewarding exceptional performance and inducing conduct that goes well beyond
15 typical or expected utility practice. Moreover, where State policy has changed, or a
16 viable market now exists, no shareholder incentives are needed or appropriate.

17 As to leak-prone pipe replacements, it more important to control and reduce
18 capital spending than to expedite the replacement of gas mains that are not leaking.
19 Indeed, more emphasis should be placed on retirement of gas mains than on their
20 replacement.

21 With respect to energy efficiency, there is nothing to be gained by
22 incentivizing Con Edison's shareholders for actions taken unilaterally by

1 customers. Further, given the strong organic interest in energy efficiency, and the
2 ease of access to tools, technologies, and materials to become energy efficient, the
3 Company should be rewarded only for achieving very aggressive stretch goals.

4 The Public Service Commission should adopt revenue requirements, rates,
5 charges, rules, and processes that are sufficient to provide safe and adequate
6 service, designed to advance and facilitate achievement of the City's and State's
7 companion public policy goals, protect New York residents – especially low
8 income residents – from excessive energy cost burdens, limit the nature and
9 quantity of positive shareholder incentives, and build in protections to protect
10 against overearnings resulting from unrealistic spending requests.

11 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

12 A. Yes.