BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

Consolidated Edison Company of New York, Inc.

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

May 2022

Prepared Testimony of:

Staff Climate Leadership and Community Protection Act Panel

Humayun Kabir
Power System Operations Specialist 4

Davide Maioriello
Utility Engineering Specialist 3
Office of Electric, Gas, & Water

Kathryn Mammen
Utility Supervisor

Robert Cully
Utility Engineering Specialist 3

Maude Emerson
Utility Analyst Trainee 1
Office of Markets and Innovation

Michael Summa
Supervisor Utility Accounting & Finance
Office of Accounting, Audits, and Finance

State of New York
Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

Q. Members of the Staff Climate Leadership and Community Protection Act Panel, referred to as the Staff CLCPA Panel, or Panel, please state your names, employer, and business address.

A. Our names are Michael Summa, Katheryn Mammen, Robert Cully, Maude Emerson, Davide Maioriello and Humayun Kabir. We are employed by the New York State Department of Public Service, or Department. Our business address is Three Empire State Plaza, Albany, New York 12223.

Q. Have the members of the Panel already discussed your credentials in testimony submitted in these proceedings?

A. Mr. Summa's credentials are provided in the testimony of the Staff Accounting Panel. Ms. Emerson, Ms. Mammen and Mr. Cully's credentials are provided in the testimony of the Staff Clean Energy Programs Panel. Mr. Maioriello's credentials are provided in the testimony of the Staff Gas Reliability Panel. Mr. Kabir's credentials are provided in the testimony of the Staff Electric Infrastructure and Operations Panel, referred to as SEIOP.

Q. Panel, what is the purpose of your testimony in these proceedings?

A. We will present our review of Con Edison's rate filing, as modified by Staff, in the context of determining its consistency with prior Commission Orders in rate cases to the extent related to examining compliance with Sections 7(2) and (3) of the CLCPA.

Q. In this testimony, will the Panel refer to, or otherwise rely upon, any information obtained during the discovery phase of these proceedings?

A. Yes. We will refer to, and have relied upon, several responses to Department Staff Information Requests, or IRs, all of which are included in Exhibit___(SCLCPAP-1). We will refer to these IR responses by the designation given to them by the Department, e.g., DPS-1-123.

Q. Is the Panel sponsoring other exhibits?

A. No.

Q. What time period does the Panel's testimony address?

A. The Company's testimony includes proposals for the 12-month period ending December 31, 2023, or the Rate Year; the 12-month period ending

December 31, 2024, or Rate Year 2; and the 12-month period ending December 31, 2025, or Rate Year 3.

CLCPA Requirements

Q. What major obligations does the CLCPA impose on the Public Service Commission, or Commission?

A. The CLCPA establishes deadlines by which Commission-established programs must meet specific clean energy goals. For example, the CLCPA added Section 66-p to the Public Service Law, or PSL, which requires, among other things, the Commission to establish a renewable energy program under which the State's jurisdictional load serving entities, or LSEs, procure a minimum of 70 percent of the State's electric load from renewable sources by 2030. It also requires the Commission to establish a program by which the statewide electrical demand system is zero emissions by 2040. Other requirements under PSL Section 66-p include that the Commission shall, no later than July 1, 2024, establish programs to require the procurement of nine gigawatts, or GW, of offshore wind by 2035, six GW of photovoltaic solar generation by 2025, and three GW of statewide energy storage capacity by 2030.

Q. Has the Commission commenced a program designed to achieve the CLCPA electric system targets that you referenced?

A. Yes. Before the passage of the CLCPA, the Commission was already pursuing ambitious clean energy objectives under several programs including:

- The original Clean Energy Standard, or CES, which the Commission adopted pursuant to its Order Adopting a Clean Energy Standard, issued on August 1, 2016, in Case 15-E-0302, referred to as the CES Order; and
- the Offshore Wind Standard, which the Commission adopted pursuant to its Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement, issued on July 12, 2018, in Case 18-E-0071.

Q. Please describe the requirements of the original CES.

A. The CES requires that, by the year 2030, 50 percent of New York’s electricity to be generated in the State must come from renewable sources, referred to as the 50 by 30 target.

Q. What actions, if any, did the Commission undertake to meet the clean energy targets specified under the CLCPA?

A. On October 15, 2020, the Commission issued its Order Adopting Modifications to the Clean Energy Standard in Case 15-E-0302, referred to as the CES Modification Order, which modified the CES to comply with the CLCPA targets related to: (1) ensuring that 70 percent of the statewide electricity generated in New York by 2030 is from renewable energy resources; (2) ensuring that the statewide electrical demand system is zero emissions by 2040; and (3) requiring nine GW of offshore wind to be procured by 2035.

Q. Please explain how the CES Modification Order would comply with the targets that you just mentioned.

A. The CES Modification Order, among other things, updated the CES to accelerate the rate of New York State Energy Research and Development Authority, or NYSERDA, procurements to meet the targets just summarized.

Q. Does the CLCPA impose electric delivery system mandates on utilities, like Con Edison?

A. Not directly. As noted above, Section 66-p of the PSL – which was added by the CLCPA – directs the Commission to implement the renewable and clean energy targets through obligations imposed on LSEs, which includes Con Edison. The CES Modification Order complies with this requirement by imposing an obligation on each of the LSEs to purchase Renewable Energy Credits, or RECs, and Offshore Wind Energy Credits, or ORECs, from NYSERDA equivalent to each of the LSE's share of overall state load.

Q. Do the targets you summarized need to be addressed through this and other rate cases?

A. No. As noted, the Commission's CES Modification Order imposed an obligation on each of the LSEs to meet the renewable and clean energy targets summarized above through the purchase of RECs and ORECs. That is a statewide program that is not being implemented through the rate cases.

Q. Is the Panel familiar with CLCPA Section 7(2)?

A. Yes. While none of the members of the Panel are attorneys and thus cannot speak to specific legal requirements, we are generally familiar with CLCPA Section 7(2).

Q. Please explain the Panel’s understanding.

A. CLCPA Section 7(2) requires all State agencies, including the Commission, to take into consideration whether certain specified final agency actions are inconsistent with or will interfere with the attainment of the statewide greenhouse gas, or GHG, emission limits established by the Department of Environmental Conservation, or DEC, under Environmental Conservation Law, or ECL, Article 75. Thus, final Commission decisions are subject to the evaluation required under Section 7(2).

Q. If a decision is determined to be inconsistent with the attainment of emissions limits established in Article 75, what course of action does the CLCPA require?

A. Section 7(2) states that where a decision is deemed to be inconsistent with, or to interfere with, the attainment of the statewide GHG emissions limits, the deciding agency, office, authority, or division must provide a detailed statement of justification as to why such limits/criteria may not be met and identify alternatives or GHG mitigation measures to be required where such project is located.

Q. Has the Commission issued any orders addressing Section 7(2) of the CLCPA specific to rate plans?

A. Yes. On August 12, 2021, the Commission issued an Order Approving Joint Proposal, As Modified, and Imposing Additional Requirements in Cases 19-G-0309 and 19-G-0310, referred to as the KEDNY and KEDLI Rate Order, which adopted a Joint Proposal establishing rate plans for The Brooklyn Union Gas Company d/b/a National Grid NY, or KEDNY, and KeySpan Gas East Corporation d/b/a National Grid, or KEDLI. In the KEDNY and KEDLI Rate Order, the Commission specifically found that Section 7(2) of the CLCPA applies to rate cases. The Commission has since undertaken the analysis required under Section 7(2) in rate cases initiated by Niagara Mohawk Power Corporation d/b/a National Grid, or NMPC, Central Hudson Gas & Electric Corporation, or Central Hudson, and Orange and Rockland Utilities, or O&R.

Q. Has the Commission addressed other CLCPA provisions in recent rate cases?

A. Yes. In the KEDNY and KEDLI Rate Order, the Commission found that Section 7(3) of the CLCPA also applies to rate cases.

Q. What is your understanding of what is required under Section 7(3) of the CLCPA?

A. Section 7(3) provides that, in issuing certain administrative approvals and decisions, the State’s agencies and public authorities shall not disproportionately burden disadvantaged communities and must also prioritize reductions of GHG emissions and co-pollutants in disadvantaged communities.

Q. Are there any further CLCPA provisions regarding disadvantaged communities that are applicable to rate cases?

A. Yes. There are provisions of ECL Article 75 and PSL Section 66-p that require the Commission to ensure that its clean energy programs also provide specific benefits to disadvantaged communities.

Q. Has the Commission applied Section 7(3) of the CLCPA in any rate cases?

A. Yes, in the same cases mentioned above.

Q. What role, if any, do the prior Commission Orders that have applied Section 7(2) and (3) play with respect to Staff's review of Con Edison's rate filing?

A. Staff applies prior relevant Orders to guide its analysis of proposed rate plans. Applied here, we reviewed Con Edison's rate filing, as modified by Staff, in the context of determining its consistency with prior Commission Orders on rate cases to the extent related to examining compliance with Sections 7(2) and (3) of the CLCPA.

Q. Are there other Commission programs that will help to meet the goals of the CLCPA to reduce GHG emissions?

A. Yes, there are numerous other programs already in place that will help meet the CLCPA's climate goals, including: (1) the statewide New Efficiency New York, or NE:NY, electric and gas energy efficiency programs authorized in Case 18-M-0084; (2) the statewide Clean Heat Program, an electric heat pump program authorized in Case 18-M-0084; (3) statewide electric Demand Response, or DR, programs; (4) gas DR programs implemented at several utilities, including Con Edison; (5) the statewide electric vehicle, or EV, charging infrastructure Make-Ready Program authorized in Case 18-E-0138; (6) the statewide direct current fast charging incentive program authorized in Case 18-E-0138; (7) statewide implementation of non-wires alternatives, or NWA, projects (referred to by the Company as Non-Wires Solutions, or NWS, for marketing purposes), which the Company has several operational NWA projects; (8) the statewide New York Sun, or NY-Sun, Program, which the Commission recently expanded to achieve a goal of 10 GW of solar capacity installed in New York by 2030; (9) a statewide electric transmission and distribution system planning process to identify necessary infrastructure upgrades needed to effectively move renewable generation around the State; and (10) statewide bulk energy storage dispatch rights procurements authorized in Case 18-E-0130.

Q. Are there other ongoing efforts that have not been considered by the Commission yet?

A. Yes. In addition to the continuing work in the projects and programs already approved by the Commission, there are a number of ongoing efforts which we anticipate will be brought to the Commission for consideration soon, including: (1) the development of statewide EV managed charging programs through the Commission’s generic EV proceeding in Case 18-E-0138; (2) a statewide alternative to the traditional demand rates for commercial EV charging required under PSL Section 66-o; (3) further statewide development of gas DR programs; (4) further statewide development of Non-Pipeline Alternatives, or NPAs, as discussed in the Commission’s May 12, 2022 Order Adopting Gas System Planning Process, or Gas Planning Order, in Case 20-G-0131; and (5) updates to the Energy Storage Roadmap to achieve a goal of six GW of energy storage systems installed in New York by 2030, as noted on page iii of Staff’s third Annual Energy Storage Deployment Report Pursuant to Public Service Law §74, filed on April 1, 2022, in Case 18-E-0130.

Q. Are any of these programs that you mentioned being addressed through separate proceedings?

A. Yes. Many of the initiatives noted above were initiated through a statewide proceeding or are currently being considered in a statewide proceeding. In addition to the programs noted above, the Commission commenced a CLCPA proceeding through the May 12, 2022 Order on Implementation of the Climate Leadership And Community Protection Act in Case 22-M-0149, referred to as the CLCPA Order.

Q. Please describe the CLCPA Order.

A. The CLCPA Order has several purposes. First, it instituted the new proceeding as a forum to track and assess the advancements made towards meeting the CLCPA mandates and to provide policy guidance, as necessary, for additional actions necessary to help achieve the CLCPA mandates. Second, the Order directed Staff to present an annual informational item to the Commission regarding that progress. It also initiates the process to, among other things, establish statewide GHG emissions reporting guidelines to be adopted by the State’s utilities.

Q. How does the Order initiate this process?

A. The Commission directed the investor-owned utilities, including Con Edison, to build on GHG emission inventory requirements from recent rate cases by working with Staff to develop a proposal regarding the content of utility-specific GHG emissions inventory reports that include an inventory of total gas system-wide emissions, following the methodology required in the CLCPA and by DEC to calculate their system emissions. The goal is for the utilities to assess the current direct and indirect GHG emissions, including upstream emissions from imported fossil fuels, local distribution emissions, and end-use, or customer meter, emissions and file a report on an annual basis. The proposed methodology used to calculate emissions for the annual GHG Emissions Inventory Reports is to be filed for public comment by December 1, 2022.

Q. Did the Commission require any utilities to provide a GHG emissions inventory report in any prior rate cases?

A. Yes. The recent rate Orders mentioned earlier all required the subject utilities to provide such a report.

Q. Does the process regarding the GHG Emission Inventory Report established in the CLCPA Order differ from the process approved by the Commission in recent rate cases?

A. Yes. The Commission required each of the utilities – KEDNY and KEDLI, Central Hudson, NMPC, and O&R – to prepare their reports either during the term of the rate plan or by the next rate filing. The CLCPA Order requires the utilities, in consultation with Staff, to propose a more refined methodology in a proposal and, after the Commission approves that proposal, for the utilities to file their reports by a date to be determined by the Commission. Until the Commission approves that methodology, Staff is being guided in this case by these prior Commission orders that approved the aspects of Joint Proposals related to preparation of GHG emission inventory reports.

Q. Does the Order require the utilities to document emissions associated with the electric side of their business?

A. No. As explained in the CLCPA Order, DEC is already maintaining an inventory related to GHG emissions from the power plant sector, and the renewable and clean energy targets discussed earlier will gradually result in reduced emissions as renewable generation displaces fossil-fuel fired generation.

Q. Earlier, you mentioned the recent Gas Planning Order, please describe it.

A. The purpose of this Order is to ensure more thoughtful, strategic, and comprehensive planning for natural gas usage and investments. It also presents a regulatory planning roadmap to enable gas utilities to maximize the use of energy efficiency, new technologies (such as electric heat pumps) and demand response programs, as well as minimize — and even potentially eliminate — new gas infrastructure investments while maintaining safe and reliable service, consistent with the CLCPA. The Gas Planning Order also requires gas utilities, including Con Edison, to make filings to propose: (1) screening criteria, which reflect the unique characteristics of each service territory to be used to identify the most likely gas infrastructure projects to be successfully deferred or avoided through implementation of NPA projects; (2) a NPA project cost recovery mechanism, filed jointly if possible; and (3) a NPA shareholder incentive mechanism, jointly if possible. The Gas Planning Order requires the Company, and other gas utilities, to make these required filings within 90 days of the effective date of that Order.

Con Edison's Proposed Investments & Programs

Q. Please provide an overview of the investments and programs the Company is proposing to help mitigate emissions and facilitate the achievement of the CLCPA targets.

A. As explained on pages 36 through 57 of the initial testimony of Con Edison's CLCPA Panel, the Company proposes several investments and programs which are broken down into the following categories: electric investments and programs, gas investments and programs, clean energy investments and programs, and investment in Con Edison facilities.

Q. Please describe the electric investments and programs the Company is proposing in this proceeding.

A. As explained on pages 36 through 40 of the initial testimony of the CLCPA Panel, the Company is proposing to spend approximately $1.288 billion during Rate Year through Rate Year 3 associated with the following electric investments: Gateway Park Area Station, Crown Heights Network Split, Light Duty Electric Vehicle Charging Make Ready Program, New Business Capital, Williamsburg Network Improvement, Primary Feeder Relief, Farragut (STATCOM), Parkview TR5 and Feeder 38M85, Retrofit Over-Duty 13kV and 27kV Circuit Breaker Program, and Goethals Circuit Switcher.

Q. Does Staff have any recommendations regarding the Company's proposed electric investments?

A. Yes. As discussed in further detail in the direct testimony of the SEIOP, Staff recommends eliminating the Crown Heights Network Split, Farragut (STATCOM), and Parkview TR5 and Feeder

38M85 projects. In addition, the SEIOP recommends adjustments to the forecasted budgets for the New Business Capital Program and Primary Feeder Relief Program and the Gateway Park Area Substation. A summary of the SEIOP's adjustments is included in Exhibit___(SEIOP-2).

Q. Has the Company proposed any additional electric investments that would help mitigate emissions and facilitate the State's achievement of the CLCPA's requirements?

A. Yes. As explained on pages 42 to 57 of the initial testimony of the CLCPA Panel, the Company, as part of the Accelerated Renewable Act Implementation Proceeding, Case 20-E-0197, has proposed Phase 2 transmission projects, which include "Clean Energy Hubs" for offshore wind and other new resources to connect and deliver renewable generation to its customers.

Q. Has the Commission approved any electric investments proposed by the Company that would help mitigate emissions and facilitate the State's achievement of the CLCPA's requirements?

A. Yes. The Commission approved three Con Edison transmission projects, known as the Reliable

Clean City Projects, also referred to as the Transmission Reliability and Clean Energy Projects, or TRACE projects, that will allow for the retirement of high emission peaking generators and eliminate transmission constraints that would otherwise prevent renewable resources from reaching its customers.

Q. Please describe the gas investments and programs the Company is proposing in this proceeding.

A. As explained on pages 43 through 46 of the initial testimony of the CLCPA Panel, the Company is proposing to invest approximately $1.376 billion from Rate Year 1 through Rate Year 3 associated with the following gas investments: Main and Service Replacement Program, Natural Gas Detection Devices, Methane Capture Technology, Advanced Leak Detection, Renewable Natural Gas Interconnection, and a Certified Natural Gas Pilot Program.

Q. Does the Panel have any recommendations regarding the Company's proposed gas investments?

A. Although these programs are a step forward, more needs to be done for emission reductions of leaking methane into the atmosphere associated with excavation damages on the gas system.

Q. Please describe your concerns.

A. Our concerns are two-fold. First, excavation damages on the gas system commonly result in GHG emissions due to leaking natural gas. Second, utilities do not currently accurately account for such losses.

Q. What does the Panel recommend with respect to these types of emissions?

A. We recommend that the Company develop a program during the Rate Year to accurately estimate the quantity of natural gas lost from excavation damages. This quantity should be included in the Company's inventory of GHG emissions for its system. If an excavator is at fault, the Company should attempt to recover the cost of the lost gas from the excavator.

Q. Please describe the clean energy investments and programs the Company is proposing in this proceeding.

A. As explained on pages 50 through 54 of the initial testimony of the CLCPA Panel, the Company is proposing to invest approximately

$530.4 million from Rate Year 1 through Rate Year 3 associated with the following clean energy investments: Distributed Energy Resource, or DER, Integration and Management Program, four energy storage equipment facilities at Company substations, Clean Energy Credits for Low-Income Customers Program, DER Make-Ready Program, Heating Electrification Make Ready Program, and a Customer Recommendation and Analysis Tool.

Q. Does Staff have any recommendations regarding the Company's proposed clean energy investments?

A. Yes, as described in the direct testimony of the Staff Clean Energy Programs Panel, Staff recommends several program changes. To provide additional context to many of those recommendations, a number of the program changes recommended by the Staff Clean Energy Programs Panel are intended to more appropriately address policy issues in statewide proceedings rather than piecemeal in individual utility rate proceedings.

Q. What are Staff's recommended changes to the Company's proposed clean energy programs?

A. These recommendations are discussed in the direct testimony of the Staff Clean Energy Programs Panel. First, Staff recommends that the Heating Electrification Make-Ready Program be addressed on a statewide basis. Second, Staff recommends that the Customer Recommendation and Analysis Tools be eliminated to provide the Company time to further develop its proposal for this project. Third, Staff does not support the DER Make-Ready for Disadvantaged Communities and Low Income Customers Program as it is duplicative of incentives recently approved by the Commission’s recent Order expanding the NY-Sun Program. Fourth, Staff recommends that the Clean Energy Credits for Low Income Customers Program be considered and developed in the context of a statewide proceeding subject to the May 12, 2022 Notice Soliciting Comments in Case 22-M-0149. Fifth, Staff recommends that the Company pursue its proposed Smart Inverters Program as a Demonstration Project. Sixth, Staff supports two of the four proposed utility-owned energy storage projects that pass Benefit Cost Analysis tests, and further recommends that the Company pursue one of the other two projects as a Demonstration Project. In total, of the Company’s many proposals in this proceeding, Staff only recommends eliminating two programs – the DER Make-Ready for Disadvantaged Communities and Low Income Customers, and the Customer Recommendation and Analysis Tools – without also recommending a statewide proceeding where similar issues should be considered or an alternative cost recovery mechanism to implement similar programs.

Q. What is the aggregate impact of Staff’s recommendations discussed above on the Company’s budgeted clean energy investments?

A. The Staff Clean Energy Programs Panel recommends a total three-year downward adjustment related to these projects of approximately $437 million. As discussed above, however, the adjustments related to projects that Staff recommends eliminating without consideration in a separate proceeding or an alternate cost recovery mechanism is approximately $99 million.

Q. Please describe the investments the Company is proposing in this proceeding related to its facilities.

A. As explained on pages 56 to 57 of the initial testimony of the CLCPA Panel, the Company is proposing to invest approximately $56.5 million from Rate Year 1 through Rate Year 3 associated with clean energy investments in its own facilities to mitigate emissions. The Company proposes to spend $7.5 million to design and construct EV charging stations at Con Edison’s work locations and $49 million on various energy efficiency measures at its corporate and regional headquarters, as well as at its learning center.

Q. Does the Panel recommend any adjustments to the Company’s proposed EV charging station investments?

A. No. We support Con Edison’s proposal to invest in the design and construction of EV charging stations at its facilities. The Company proposes to fund the design and construction of 75 Dual-Level EV charging stations and 30 direct current fast charging stations at 15 Company locations, which will support the Company’s vision of an 80 percent light duty EV fleet by

2030 and 100 percent by 2035.

Q. Does Staff have any recommendations regarding the Company’s proposed energy efficiency facilities investments?

A. Yes. Staff Witness Srirangaram Seshadri recommends that the Company to prioritize certain energy efficiency measures, specifically lighting, to support the Company’s compliance with New York City Local Law 88, referred to as NYC LL88. NYC LL88 requires all buildings greater than 25,000 square feet to upgrade lighting to meet New York City Conservation Code Standards by January 1, 2025. Focusing the Company’s energy efficiency facilities investments on lighting results in a recommended reduction in funding during the Rate Year from $23.96 million to $20.09 million.

Q. Beyond the statewide programs and efforts discussed previously, does the Company have any unique existing projects or programs that will help meet the goals of the CLCPA?

A. Yes. The Company is the only utility in New York with an operational managed EV charging program, its SmartCharge NY Program, which was first authorized in Case 16-E-0060, and is currently continuing through the Commission’s generic EV proceeding in Case 18-E-0138. Con Edison already has two Company-owned energy storage facilities, one in Fox Hills, Staten Island, which was approved in Case 19-E-0065, and a second in Ozone Park, Queens, as part of the Brooklyn/Queens Demand Management Project initially authorized in Case 14-E-0302. Con Edison has also implemented several NWA projects, including the Brooklyn/Queens Demand Management Program, and the Plymouth Street/Water Street project and Newtown project, both of which are operating under the terms for implementing NWA projects established in Cases 16-E-0060 and 15-E-0229. In addition, the Company has one of the few operational Gas Demand Response pilots in New York State, and the Commission has provided Con Edison with authorization for a number of other gas-reducing pilot programs in Cases 17-G-0606 and 19-G-0066.

Q. Does the Company propose any changes to its existing programs?

A. No. The Company is not proposing changes to these existing programs within these rate proceedings. The Commission funds and addresses the NE:NY Program, the Clean Heat Program, the PowerReady Program, and the SmartCharge NY Program within generic statewide proceedings.

Q. Does the Company propose any additional measures to help reduce emissions in these proceedings?

A. Yes. As explained on pages 46 to 49 of the initial testimony of the CLCPA Panel, the Company proposes to remove the financial incentives for new gas customer connections, increase clean energy outreach and education for customers, change its design philosophy of upsizing gas mains for future growth, and including NPAs in its gas planning process. Further, on pages 57 to 59 of the Gas Infrastructure, Operations and Supply Panel’s initial testimony, the Company requests waiver from the requirements of 16 New York Codes, Rules and Regulations, or NYCRR, Sections 230.2 and 230.3. Specifically, the Company requests waiver of these regulations with respect to its proposals to eliminate the revenue test for all customers; eliminate reimbursements to customers who chose to pay for their main extensions due to subsequent customer connections; and to combine the 100-foot allotment of main and service, regardless of the customers' service classification or usage. These waiver requests would apply to new customer connections only.

Q. What is the Panel's recommendation with respect to these waiver requests?

A. The waivers could potentially deter future customers from choosing natural gas service, which would slow demand and lead to fewer emissions from the natural gas system. However, changes of this nature are better suited to be addressed within the context of a generic proceeding impacting all gas local distribution companies statewide.

Q. Has the Commission recently opined on 16 NYCRR Part 230 in any statewide proceeding?

A. Yes, on pages 59 and 60 of the Gas Planning Order. The Commission noted that several commenters in Case 20-G-0131 requested changes to 16 NYCRR Part 230. In response, the Commission stated "[w]e recognize that continued extension of natural gas mains may be contrary to achievement of GHG emission reduction targets.” The Commission then required the 11 largest gas utilities in New York State, including Con Edison, to provide reports on the costs of the “100-foot rule” within 90 days of the date of the Gas Planning Order. Finally, the Commission stated its expectation that “Staff will develop a proposal for revisions to Part 230 within 60 days of receipt of the [gas utilities’] reports regarding the costs of the 100-foot rule.”

Q. Has the Company quantified the estimated emissions savings resulting from its existing and proposed investments and programs?

A. Yes. On page 57 of the initial testimony of the CLCPA Panel, the Company estimates its investments will result in emission savings of approximately 2,379,453 metric tons of carbon dioxide equivalent from Rate Year 1 through Rate Year 3.

<u>Alignment with Prior Commission Determinations Regarding CLCPA Sections 7(2) and (3)</u>

Q. Please identify the specific aspects of the recent prior rate Orders in which the Commission addressed compliance with Sections 7(2) and (3) of the CLCPA.

A. With respect to Section 7(2), the Joint Proposals approved by the Commission contained specific utility actions that are intended to reduce GHG emissions associated with utility operations and advance the CLCPA's objectives. These actions are numerous and often specific to the particular case. The most generalizable, and most relevant to the case at hand, include:

- completing a CLCPA Study that includes an annual system-wide GHG emissions inventory and report;
- providing funding for electric transmission and distribution system investments consistent with CLCPA electric system targets;
- advancing Advanced Metering Infrastructure, particularly in light of the benefits for the electric system;
- undertaking battery storage projects;
- facilitating Community Distributed Generation enrollment;
- completing a study considering the evolution

of the gas system and/or the depreciation of gas system assets;

- prioritizing the retirement, replacement, and repair of leak prone pipe and, where possible, considering NPAs instead of replacement;
- deploying methane detection technologies;
- eliminating gas marketing efforts and oil-to-gas conversion incentives;
- eliminating gas declining block rates;
- targeting a reduction in gas sales volumes; and
- taking steps toward company fleet electrification and facility efficiency.

Q. Are Con Edison's rate filings, as modified by Staff, consistent with what the Commission previously approved with respect to compliance with Section 7(2)?

A. To a large extent, yes. As we will discuss in greater detail later in this testimony, Con Edison's rate filings, as modified by Staff's recommendations, contain many of the features listed above. Others have been or will be addressed in other Commission proceedings.

Q. Has Con Edison proposed to supply a GHG emissions inventory as required in recent Joint Proposals?

A. Con Edison's CLCPA Panel's initial testimony includes an estimate of the GHG emissions associated with its gas and electric load forecasts, as well as anticipated emissions reductions associated with the proposals advanced in the rate filings. These forecasts show an expected reduction in GHG emissions associated with the Company's electric service over the course of the rate plan. GHG emissions associated with gas delivery are expected to increase slightly from Rate Year 1 to Rate Year 2 and decrease slightly from Rate Year 2 to Rate Year 3. Con Edison states that it calculated its emissions estimates using the same method employed by other utilities in recent rate filings. The calculations, however, do not include upstream emissions or otherwise conform with CLCPA accounting methodologies. Along with the other utilities, Con Edison will be required to update its emissions reporting according to guidelines to be established in Case 22-M-0149, as described above.

Q. Are Con Edison’s proposed electric system investments, as modified by Staff’s recommendations, consistent with the Commission’s prior Orders regarding compliance with CLCPA Section 7(2)?

A. As in previous rate cases that the Commission has determined to be consistent with Section 7(2), in this case, Con Edison is proposing electric system investments that will facilitate the delivery of zero-emissions electricity and build the system capacity and resilience required to accommodate increasing levels of transportation and building electrification. As explained in the SEIOP’s testimony, Staff reviewed and supports the three TRACE projects, also known as the Reliable Clean City Projects, that will allow for the retirement of high emission peaking generators and eliminate transmission constraints that would otherwise prevent renewable resources from reaching its customers. The SEIOP also reviewed and made recommendations on numerous other electric projects which will help to fulfill the CLCPA targets as well as transportation and building electrifications.

Q. Are Con Edison's gas system proposals, as modified by Staff's recommendations, consistent with the Commission's prior Orders regarding compliance with CLCPA Section 7(2)?

A. Many of Con Edison's proposals regarding the gas system are comparable to provisions and investments approved by the Commission in other recent rate cases. As outlined above, Con Edison is proposing major investments related to its Main and Service Replacement Program, Natural Gas Detection Devices, Methane Capture Technology, Advanced Leak Detection, Renewable Natural Gas Interconnection, and a Certified Natural Gas Pilot. We recommend that, in addition to these investments, the Company develop a program to quantify and address methane leakage caused by excavator damage. Con Edison has also already agreed to many of the other gas system provisions that the Commission has cited in determining CLCPA compliance in prior rate Orders, including the flattening of declining block rates and the elimination of oil-to-gas conversion programs and rebate incentives, which were addressed in in the Company's last rate proceeding, Case 19-G-0066. In addition, the Gas Planning Order now requires the completion of a gas depreciation study, which has been required of several utilities in recent Joint Proposals.

Q. Are there any inconsistencies between Con Edison's gas system proposals and the Commission's prior rate orders regarding compliance with CLCPA Section 7(2)?

A. Two features of recent Joint Proposals that the Commission has determined to be compliant with the CLCPA are not present in Con Edison's rate filings. The Company has not proposed to discontinue gas marketing efforts or to commit to a reduction in gas sales volume over the term of the rate plan.

Q. Does the Panel recommend addressing these inconsistencies?

A. Yes. The Company could help to achieve the State's GHG emissions goals under the CLCPA, by working to reduce natural gas usage. Therefore, we recommend that Con Edison cease efforts to actively market natural gas and make a commitment to target a reduction in overall gas sales volumes.

Q. Are the Company's energy storage proposals, as modified by Staff's recommendations, consistent with the Commission's prior Orders regarding compliance with CLCPA Section 7(2)?

A. Yes. As previously discussed, Staff's Clean Energy Programs Panel recommends that the Company move forward with two proposed cost-effective energy storage projects. This recommendation is similar to the Commission's previous finding that these cost-effective energy storage projects contribute toward compliance with the CLCPA.

Q. Do Staff's recommendations help support participation in CDG Programs?

A. Yes. As discussed in the direct testimony of the Staff Consumer Services Panel, Staff recommends an interim negative revenue adjustment, or NRA, incentive mechanism while the Commission gathers input on mechanisms to ensure that utilities improve their CDG billing accuracy and practices on a generic statewide basis. As recommended by the Staff Consumer Services Panel, this NRA mechanism would incentivize the Company to minimize billing mistakes and delays related to customer participation in CDG projects, and therefore avoid customer dissatisfaction and other negative impacts on CDG project participation.

Q. Do Con Edison's proposals, as modified by Staff's recommendations, help support decarbonization of the Company's vehicle fleet and facilities?

A. Yes. As discussed above, we support Con Edison's proposed investments in facility energy efficiency measures and fleet electrification, which will help support decarbonization of the Company's vehicle fleet and facilities.

Q. What features of prior rate cases has the Commission cited when discussing compliance with Section 7(3) of the CLCPA?

A. In discussing compliance with CLCPA Section 7(3), the Commission has referred to analysis performed by the subject utilities to determine whether any of their proposed capital projects are situated in environmental justice areas, as designated by DEC, and whether those projects are expected to impose additional environmental burdens on those communities or, to the contrary, to reduce emissions in those areas. In rate proceedings NMPC in Cases 20-E-0380 and 20-G-0381, the Commission also pointed to that utility's leak prone pipe replacement program, which included plans to eliminate older main segments in environmental justice communities. Additionally, the Commission has stated on multiple occasions that a Joint Proposal serves disadvantaged communities by enabling utilities to provide safe, reliable, and affordable gas and electric service.

Q. Has the Climate Justice Working Group issued final criteria for the designation of disadvantaged communities?

A. No. However, draft criteria and a draft list and interactive map of disadvantaged communities were released for public comment on March 9, 2022. In the CLCPA Order in Case 22-M-0149, note 38, the Commission notes that until criteria are formally adopted, New York State's interim definition includes communities located within census block groups that both meet the US Housing and Urban Development, or HUD, 50 percent Adjusted Median Income threshold and are located within the DEC Potential Environmental Justice Areas; or are located within New York State Opportunity Zones. The HUD 50 percent Adjusted Median Income threshold includes the top quartile of census block groups in New York, ranked by the percentage of Low-to-Moderate, or LMI, Households in each census block. LMI Households are defined as households with annual incomes at or below 50 percent of the Area Median Income of the County or Metro area where the Census Block Group resides.

Q. Please explain how the Company’s rate filings are consistent with what the Commission previously adopted with respect to compliance with Section 7(3) of the CLCPA.

A. We are unable at present to determine whether the Company’s rate filings are consistent with what the Commission previously approved with respect to CLCPA Section 7(3) because the Company has not provided analysis of the potential burdens each of its proposed capital projects would impose on disadvantaged communities. The Company has been inconsistent in its responses to IRs regarding disadvantaged communities. For example, in response to City-12-218, included in Exhibit___(SCLCPAP-1), Con Edison states that its panels consulted the draft criteria proposed by the Climate Justice Working Group and New York State data on potential environmental justice areas. However, in response to AGREE-048, included in Exhibit___(SCLCPAP-1), regarding gas main replacement in disadvantaged communities, Con Edison objected on the grounds that that New York State has not yet adopted final binding criteria to identify disadvantaged communities. To achieve consistency with prior rate cases that the Commission has deemed compliant with Section 7(3), Con Edison would have to demonstrate that none of its proposed capital projects disproportionately burden disadvantaged communities and identify proposed capital projects that would achieve significant emissions reductions in disadvantaged communities.

Q. Are the Company's rate filings aligned in other respects with Joint Proposals that the Commission has deemed consistent with CLCPA Section 7(3)?

A. Not entirely. NMPC agreed in Cases 20-E-0380 and 20-G-0381 to undertake reasonable efforts to prioritize projects to replace leak prone pipe with NPAs in low income and environmental justice communities. In response to IR DPS-18-530, included in Exhibit___(SCLCPA-1), Con Edison states that disadvantaged communities are not currently prioritized when selecting segments of LPP for removal and/or replacement.

Q. Does this conclude the Panel's testimony at this time?

A. Yes.