BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

CONSOLIDATED EDISON COMPANY of NEW YORK, INC.

Case 08-E-0539

SEPTEMBER 2008

Prepared Testimony of:

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Q. Please state your name, employer, and business address.

A. Marco L. Padula. I am employed by the New York State Department of Public Service (Department). My business address is Three Empire State Plaza, Albany, New York 12223-1350.

Q. Mr. Padula, what is your position in the Department?

A. I am employed as a Utility Supervisor in the Rates and Tariffs Section of the Office of Electric, Gas and Water.

Q. Mr. Padula, please briefly state your educational background and professional experience.

A. I received a Bachelor of Science Degree in Electrical Engineering from Northeastern University in 1990 and Master of Business Administration from Rensselaer Polytechnic Institute in 1998. From 1990 to 1994 I was employed by IBM as an Electrical Engineer responsible for the design and development of high performance power/thermal control systems for mainframe computers. In 1994 I joined the Department.

Q. Please briefly describe your current responsibilities with the Department.

A. My current responsibilities include electric and steam utility revenue allocation and rate design, computer simulation of electricity production, transmission and pricing, and wholesale electric market issues. I also serve as Staff co-leader on Con Edison electric and steam rate cases.

Q. Have you previously testified before the New York State Public Service Commission (Commission)?

A. Yes. I have testified on operating and maintenance expenses in Cases 94-G-0885 and 03-S-1672 and on embedded cost of service studies and rate design in Case 04-E-0572, Case 05-S-1376, Case 07-E-0523, Case 07-S-1315 and the Stand-by Service proceedings.

Q. What is the scope of your testimony in this proceeding?

A. My testimony recommends the following:

- Continuation of the existing allocation of Transmission Congestion Contact (TCC) revenues to all Consolidated Edison Company of New York, Inc. (Con Edison or the Company) customer classes other than those served under the Company's Power Authority of the State of New York Delivery Service Rate Schedule No. 4 (NYPA) and its Economic Development Delivery Service Rate Schedule No. 2 (EDDS).
- That Con Edison be required to develop a mechanism that would allow it to require a contribution in aid of construction from customers that request service for a new or additional load that results in the Company having to make a significant investment to reinforce its system in order to meet the service request.
- That the current Revenue Decoupling Mechanism (RDM) remain in place through the next rate year.

- That the current Transmission and Distribution (T&D) net plant reconciliation mechanism be continued and modified to apply to all capital expenditures, including those related to production, shared services and municipal interference. In addition, I recommend a reporting requirement be implemented to insure the Company is completing the projects that is has proposed within a reasonable range of the forecasted costs.
- That the Company continues to examine the expansion of mandatory hourly pricing (MHP) to lower use customer groups.

Q. Will you refer to, or otherwise rely upon, any information produced during the discovery phase of this proceeding in your testimony?

A. Yes. I will refer to, and have relied upon, several responses to Staff Information Requests (IR). They are attached as Exhibit___(MLP-1).

TRANSMISSION CONGESTION CONRACT REVENUES

Q. What matters are you addressing regarding the issue of TCC revenues?

A. I will address the reasonableness of continuing the current allocation of TCC revenues to all Con Edison customer classes other than the NYPA and EDDS classes. In addition, I will address the imputed annual TCC revenue level of $150 million per year that is currently used to offset base delivery service rates by recommending a lower level of $120 million per year that is more reflective of recent actual levels in order to minimize the bill impact of the reconciliation to actual through the Company's Monthly Adjustment Clause (MAC).

Q. Please describe your understanding of what a Transmission Congestion Contract (TCC) is.

A. It would be best to start with the fact that the New York Independent System Operator (NYISO) energy prices are comprised of a marginal energy price, line losses and congestion. Congestion is one component that can cause energy prices to differ between two locations. A TCC is a financial instrument that allows buyers and sellers to fix the congestion component in advance. The NYISO market participants can purchase or sell TCCs, or be holders of grandfathered rights, which give them the right to collect or pay the congestion rent between a defined point of energy injection and point of energy withdrawal.

Q. How can a TCC be used by a market participant to hedge congestion costs?

A. There are two types of settlements that could be used by a market participant when buying or selling energy in the market: 1) based on the locational based marginal price (LBMP) or 2) based on a bilateral agreement between two parties. Under the LBMP settlement, the market participant would pay for transmission congestion through the congestion component of the LBMP price. Under the bilateral approach, the market participant would pay the Transmission Usage

Charge to the NYISO, which includes a transmission congestion component. Therefore, a TCC can be used by a market participant to offset or hedge the congestion related component of a bilateral transaction or a LBMP transaction.

Q. Why does Con Edison receive revenues from TCCs?

A. After the formation of the NYISO, the concept of transmission congestion was developed as way to assign a value to transmission resources. Transmission Owners (TOs) were provided with TCC rights related to their transmission facilities. In addition, entities that were a party to existing transmission agreements prior to the NYISO were granted TCC rights as well. Grandfathering basically insured that the rights that each party had under a transmission agreement prior to the formation of the NYISO remained the same after the NYISO's transmission congestion concept was established. Con Edison, as a transmission owner, holds TCC rights related to its Existing Transmission Capacity for

Native Load (ETCNL) and Residual Transmission Capacity (RTC), which it offers for sale in the NYISO's forward looking TCC auctions and thereby receives the associated revenues.

Q. Does Con Edison receive any other revenues related to TCCs in addition to these auction revenues?

A. Yes, as described in detail in the Company's response to Staff IR DPS-460, TCC revenues come in the form of auction revenues and TCC rents. Auction revenues arise when the Company sells TCC rights, TCC rents arise when the Company retains the TCC rights and collects the associated rents. Con Edison receives TCC rents from: TCCs related to the Company's grandfathered rights; from TCCs that it purchases on behalf of its full service customers; and, from TCC rights that were transferred to the Company from NYPA as the result of an agreement.

Q. Please explain the TCC rights that the Company holds related to its agreement with NYPA.

A. In 1989, prior to the establishment of the NYISO, NYPA and Con Edison entered into a Delivery Service Agreement that required Con Edison to provide certain transmission and delivery services to NYPA for the power that NYPA generates and/or purchases upstate to be used by NYPA public customers and economic development customers in New York City (NYC). For those services, NYPA pays delivery rates to Con Edison as defined in the Company's Power Authority of the State of New York Delivery Service Rate Schedule No. 4 and its Economic Development Delivery Service Rate Schedule No. 2. With the start of the NYISO, the grandfathered transmission rights under this agreement were converted into TCCs and held by NYPA. NYPA retained all the revenues associated with these grandfathered rights through 2001. However, in May 2001, NYPA and Con Edison entered into an agreement that transferred certain NYPA TCCs to Con Edison. In return, the Company is required to "reimburse NYPA for all inter-zonal congestion costs incurred in the NYISO day-ahead market by NYPA as a result of transactions south of the East Fishkill 345 kV bus associated with NYPA's serving load, as defined in the original 1989 service agreement, in the Con Edison service area." In addition, Con Edison is required to retain the rights to these transferred TCCs. They are not offered for sale into the TCC auctions. Con Ed retains the right to collect the associated congestion rents and uses this revenue to reimburse NYPA for congestion costs as described earlier.

Q. Why are the 1989 and 2000 agreements between NYPA and the Company important to consider when examining the reasonableness of the current allocation of the Company's TCC auction revenues it receives from ETCNL and RTC related TCCs?

A. Similar to the assignment of grandfathered TCC rights to Con Edison for its native load at the formation of the NYISO, the NYISO also assigned

TCC rights to NYPA in order to provide it with the same transmission rights it had under the 1989 agreement. The specific point of injection and point of withdrawal associated with these grandfathered rights are specified in Attachment L of the NYISO Open Access Transmission Tariff (OATT). The 2001 agreement essentially modified the effect of the original NYPA grandfathered rights to make them more consistent with NYPA's transmission rights that existed under the 1989 agreement; specifically a financially defined congestion-free transmission path. Prior to the 2001 agreement, NYPA received revenues associated with these grandfathered rights which exceeded the amount of congestion costs that NYPA was incurring. No other Con Edison customer class is subject to such an agreement.

Q. Please describe how you conclude that the current TCC allocation is reasonable.

A. The auction revenues that transmission owners receive from ETCNL and RTC TCCs are an offset to the revenue requirement associated with the transmission facilities. Customers are entitled to these TCC revenues since they are the ones funding the cost of transmission facilities. Generally speaking, TCC revenues should be allocated to rate classes in the same manner that those classes are contributing to the costs of transmission facilities. In the case of Con Edison, since the NYPA class is entitled to certain grandfathered rights as I described earlier, the effect of those rights should be compared to an allocation based on cost contribution to the transmission facilities to determine the reasonableness of the current allocation.

Q. Please continue.

A. I examined the total amount of payments made to NYPA from Con Edison to reimburse it for congestion payments pursuant to the May 2000 agreement for the period January 2005 through June 2008. I compared that to the total amount of auction revenues that Con Edison received from ETCNL and RTC TCCs and rents received from TCCs Con Edison holds under the May 2000 agreement, for the same period. I found that NYPA received 27% of the total TCC revenues that Con Edison received during that period. Comparing this to the transmission cost allocator D03 from the Company's embedded costs of service study, which is 13.7%, demonstrates that the NYPA class is receiving more than its reasonable share of the Company's TCC revenues. For this reason, the current allocation of TCC auction revenues to all customer classes other than the NYPA and EDDS classes should not be reduced.

Q. How are the TCC revenues that Con Edison receives currently dealt with today?

A. In its 2008 Rate Order in Case 07-E-0523, the Commission decided to impute a certain level of TCC auction revenues in base rates, specifically $150 million. The effect of which is that instead of returning the TCC auction proceeds to customers, the Company keeps the TCC auction proceeds as an offset to its revenue requirement. When the actual auction revenues are known for the rate year, the Company then credits or charges ratepayers for any difference between the imputed amount and the actual amount. This reconciliation is handled through the Company's Monthly Adjustment Clause (MAC) which is applicable to all delivery service customers except the NYPA and EDDS classes.

Q. Has the Company addressed the $150 million TCC imputation level?

A. Yes. The Company's Accounting Panel states in its testimony that it has included $150 million of projected TCC auction proceeds in its Other Electric Revenues and that any differences between actual revenues and the $150 million will be reconciled through the MAC. It states that it has taken this approach "in the interest of mitigating the base rate increase."

Q. Do you agree with the Company's Accounting Panel's approach?

A. Yes, but I question the reasonableness of continuing to use the $150 million level. Based on the most current TCC auction revenue for the period June 2007 through July 2008, the Company received only $113 million in revenues for the period. For a similar period June 2006 through July 2007, the Company received $138 million in TCC auction revenues. Based on this actual experience, I recommend that the imputation level be reduced to $120 million. This approach, based on recent history, would limit the amount of TCC auction revenues that would need to be recovered through the MAC, thereby reducing the potential effect that such a situation would have on customer bill volatility.

CONTRIBUTIONS IN AID OF CONSTRUCTION (CIAC)

Q. Please explain what is meant by the term Contribution in Aid of Construction (CIAC)

A. CIACs are contributions in the form of a monetary payment or exchange of real property that a potential customer of Con Edison would provide to the Company to support or aid in the construction of additional utility T&D facilities that are needed to serve new or expanded customer load.

Q. Are customers and/or developers currently required to make a CIAC under the current Con Edison tariff?

A. Under the current tariff, customers are only required to make contributions when they desire distribution facilities in excess of those normally provided by the Company, or desire temporary facilities. The provisions do not address substantial system reinforcements needed to serve new or expanded load.

Q. How does the Company determine the amount of system reinforcement necessary to serve a new or expanded load?

A. As described by the Company in response to Staff IR DPS-433, the process begins with a request to add new or additional load which is called a load letter. The Company's Energy Services department generates a Service Information Request which includes information such as the proposed additional load requirements, building use, size and any miscellaneous items pertinent to the applicant's building. The Company's Customer Engineering group then calculates the new or additional load based on historical diversity factors and reviews the existing secondary and primary electric distribution facilities to determine adequacy of service with existing facilities. If system adequacy under the new additional load is a concern, then an engineering load-flow analysis is performed which is used to determine what specific additional system reinforcements are needed. Once these steps are completed, the Company prepares preliminary construction documents for the proposed system reinforcement work and the project will ultimately go through all of the Company's internal approval and construction procedures.

Q. Are any of the costs associated with such system reinforcement directly assigned to the customer that requested to add the new or additional load?

A. No, these costs would currently be recovered from all customers in general.

Q. Are you suggesting that the Company should have the ability to assign these system reinforcement costs directly to the customer requesting to add the new or additional load?

A. Yes. In instances where significant system reinforcements may be necessary solely due to a major new or additional load that is proposed to be added to the system. The Company should be given the authority by the Commission to request an appropriate CIAC from the customer making the request. Such a contribution would mitigate the revenue requirement impact of the required system reinforcements on all other ratepayers.

Q. Please explain how an appropriate CIAC should be developed. Determining the appropriate amount of CIAC in these situations is not a simple calculation. As the Company identified in its response to Staff IR DPS-433, there may be situations where the cost of the reinforcement includes work that also provides some incremental benefits to other customers on the system. Therefore, a methodology would need to be developed that could be used to determine an appropriate cost allocation methodology among the beneficiaries.

Q. Does the Company support such an approach?

A. In its response to DPS-433, the Company identified several reasons why such an approach is unreasonable at this time. The first is that it believes such a method may create a barrier to economic development, thereby reducing the base of customers from which fixed costs can be recovered and in turn negatively affecting the area job growth. The Company claims that it sizes infrastructure additions needed to serve new load to also accommodate future nearby growth. It also recognizes that if all the upgrade costs are assigned to a specific load, then that load could be paying for reliability improvements that other customers benefit from. Con Edison states that such an allocation methodology would be subjective and could result in an unfair allocation. The Company also mentions that if a customer provides a CIAC, it is unable to book the investment and therefore unable to receive a return on that investment.

Q. Do you have any comment on the issues identified by the Company?

A. Yes. I would agree that the issues identified by the Company should be considered in determining a CIAC methodology but I do not think that they are absolute barriers.

Q. Do you have a specific recommendation to the Commission on this issue?

A. Yes. I recommend that the Commission require the utility to modify its tariff adding language that would allow the Company to require a customer or developer to make a reasonable contribution toward the cost of the facility reinforcements if significant expenditures become necessary to supply a proposed new or added load. At the same time, the Company should develop a CIAC methodology proposal that would be submitted to the Commission and issued for public comment. That proposed methodology could apply a revenue test approach, an engineering analysis approach or some other method to be determined.

Q. Should such a methodology be applied to all new or added load requests?

A. No, the Company should propose a system reinforcement investment level that would trigger the CIAC methodology. For example, all new or added load requests that require system reinforcements of $5 million or more.

Q. Did Con Edison identify other options that could address the issue of mitigating infrastructure costs other than the application of a CIAC as I have defined it above?

A. Yes. In response to Staff IR DPS-433, the Company states that infrastructure costs related to new developments could be mitigated by requiring each development to be treated as a single entity regardless of how the property may be subdivided in the future. According to the Company, this would result in it having to serve the entire premises at only one point instead of multiple points. In addition, the Company recommends that if it is allowed to require a customer to take high tension service, where appropriate for engineering and system reasons, and less expensive to the Company, it could avoid low tension distribution infrastructure within the parcel.

Q. Do have any comments related to these options identified by the Company?

A. Yes. I think that they are valid options that warrant further review. In response to Staff IR DPS-462, the Company further described the existing tariff language that governs its single service line obligation. The critical part of the language that I think impacts the Company's concerns of having to supply a development via multiple service points is the use of the word "premises" in the tariff language that states "electric service will be supplied to each building or premises through a single service line, except where, for reasons of Company economy, conditions on the Company's distribution system, improvement of service conditions, or magnitude of the Customer's load, the Company elects to install more than one service line." To my knowledge, the Company's tariff does not contain a definition of "premises". I recommend that a definition of premises be added to the tariff for clarification. I offer the following definition from the Niagara Mohawk Power

Corporation P.S.C. No. 207 Electricity, Fourth Revised Leaf No. 21 for reference. In that tariff, the term premise is defined as "a unified, undivided parcel of real property under the customer or applicant's control through ownership or lease which is not separated by public road, right of way, or property belonging to another entity. A premise may or may not contain buildings or structures within the real property."

Q. Do you have any comments regarding the Company's proposed option that it be given the authority to require a customer to take high tension service when it is less expensive to the utility?

A. As a standard practice, I recommend the Company work closely with the customer to reach a mutually beneficial solution. In these and similar instances, the Company may in fact be able to demonstrate to the customer some additional benefits of taking service at a high tension such as a more economic rate structure.

REVENUE DECOUPLING MECHANISM

Q. Is the Company proposing changes in regard to the existing Revenue Decoupling Mechanism (RDM)?

A. No. The Company's Accounting Panel explains that it continues to have concerns as to the relationship of economic development and hot weather related costs to the RDM in general, but it has not proposed any changes to the RDM mechanism in its direct case. It does, however, state that it would like to evaluate the mechanism after the 2008 summer period and possibly propose modifications later in this proceeding.

Q. Do you have a concern with this position?

A. Yes. The concern is with the potentially limited amount of time that parties would have to complete discovery of any major changes the Company may propose. In addition, it may be more beneficial to examine and evaluate the RDM mechanism over a longer period of time than just one summer, to determine if modifications to the mechanism are appropriate. Therefore, I recommend that the current mechanism remain in place for the rate year at a minimum and possibly longer if this proceeding were to ultimately cover more than a one year period. That said, the Company retains the right to petition the Commission to modify the mechanism at any time if in fact it experiences unforeseen outcomes that could materially impact customers and/or shareholders.

CAPITAL BUDGET RECONCILIATION MECHANISM

Q. Does a capital budget reconciliation mechanism currently exist for Con Edison?

A. Yes, the 2008 Rate Order required Con Edison to implement a one-way T&D reconciliation mechanism that ensures that any unspent funds will be credited to customers, as measured by the revenue requirement effect of any reductions in T&D plant in service from the level authorized in the Order.

Q. What has the Company proposed in regard to the existing T&D reconciliation mechanism?

A. To my knowledge, the Company did not address the existing mechanism, but it did propose a mechanism that would apply to carrying charges related to plant additions included in the Company's second and third rate year proposals.

Q. Please describe that proposal.

A. The Company's Accounting Panel proposed that as an alternative to the Commission accepting the forecast of plant additions related to the infrastructure investment program for the second and third rate year, it proposed the use of a surcharge mechanism to collect the revenue requirement associated with those investments.

Q. Please continue.

A. The proposed mechanism would include annual filings detailing the projected capital spending expected during the next rate year and the associated revenue requirement to be collected through the surcharge. The proposed surcharge mechanism would include an annual reconciliation that would compare actual expenditures to forecast expenditures to determine if there was an over or under collection of carrying charges.

Q. Do you support such a mechanism?

A. No. In the Company's last rate case, the Commission recognized that the size of the Company's recent construction budgets emphasizes the need for the Company to control its spending. The Company's proposal would enable situations where the Company could overspend its capital budget and recover its expenditures via the proposed surcharge mechanism without a cap, resulting in the possibility of significant bill impacts.

Q. Do you propose that the current T&D capital reconciliation mechanism be continued?

A. Yes, with modifications. First, I propose that the current one-way reconciliation mechanism be modified so that it applies to all capital additions related to Transmission and Distribution, Production, Shared Services and Municipal Interference. As stated by the Commission in the 2008 Rate Order, the interests of customers requires a reconciliation mechanism to insure that any unspent funds will be credited to them. Second, when determining if there is a carrying charge credit, I recommend that the actual net plant, which is to be compared with the net plant target, be calculated by using the actual book cost of plant for each category and subtracting an amount for accrued depreciation that is determined by using the Company's proposed composite monthly depreciation rates. This approach will isolate the effect on the reconciliation mechanism to changes in the book cost of plant only and not the effect that the actual cost of removal may have on the mechanism.

Q. Does the one-way reconciliation mechanism completely satisfy the interests of customers in regard to the Company's capital investments for which they are being asked to fund?

A. No not completely. Under such a mechanism, a situation could arise where the Company closes to plant an amount of dollars equal to the Commission approved level, but only completes a portion of the specific projects that it forecasted it would complete.

Q. Are situations like this typically readily transparent to the Commission?

A. No. There are no existing reporting requirements that demonstrate how well the Company's actual capital expenditures and project activities match up to its projected forecasts. In addition, the Company's rate requests are developed based on a historic test year and the associated net plant per book as a starting point. Consequently, there is usually no detailed analysis of how that net plant per book compares to the level of net plant or specific projects that rates were set upon for that year.

Q. What do you recommend to improve the transparency of such a situation?

A. I recommend that the Commission require Con Edison to submit detailed quarterly reports on its actual capital expenditures and specific project and/or program activities detailing how they differ from the projected forecasts. This report should identify and provide detailed explanations for variations in cost of +/- 10% by project and/or program. The report should also contain justification for new capital projects the Company has developed that have not been presented in this proceeding, as well as projects that were abandoned or materially altered in terms of scope. This same information should be provided in testimony by the Company in its next rate filing which should also include a complete justification of the then-current book cost of plant which forms the basis of the rate request. The Commission and Staff can then use this information to determine the reasonableness of the Company's actual book cost of plant at that time and determine whether or not an adjustment is warranted.

Q. Could your capital additions reconciliation proposal and reporting requirement be applicable under a multi-year settlement agreement?

A. Yes. The Commission could adopt such an approach by applying it to the net plant levels being proposed by the Staff Infrastructure Investment Panel, the Staff Production Panel, the Staff Shared Services Panel and the Staff Municipal Infrastructure Support Panel. Such an approach would result in an annual cap on carrying charges associated with the Company's capital additions, by area, and provide customers with the protections related to the effects of under spending. The reporting requirement could be used to track actual expenditures by area throughout the rate period aiding in Staff's continued monitoring of the Company's capital expenditure programs.

Mandatory Hourly Pricing

Q. What is the current status of Mandatory Hourly Pricing (MHP) in the Company's territory?

A. The Company is currently in the process of extending MHP down to customers whose maximum demand is 500 kilowatts (kW) in any month. In approving the current expansion, the Commission recognized that these efforts comport with its goals expressed in its April 24, 2006 Order in Case 03-E-0641, Proceeding on Motion of the Commission Regarding Expedited Implementation of Mandatory Hourly Pricing for Commodity Service.

Q. Do you have a specific recommendation related to the current MHP expansion underway?

A. No, but I recommend that the Company be required to perform an evaluation of the current expansion of MHP to customers with demands greater than 500 kW. This should include an evaluation of the of load responsiveness, customer satisfaction and lessons learned. Based on that evaluation the

Company should develop a plan and schedule to extend MHP to customers with demands less than 500 kW.

<u>Reactive Power / Line Losses Issue</u>

Q. Has the Commission instituted a proceeding to address system losses and reactive power issues?

A. Yes. On June 23, 2008, in its Order Establishing Energy Efficiency Portfolio Standard and Approving Programs, in Case 07-M-0548, the Commission recognized that these issues should be considered in a separate proceeding. The Commission also recognized that the funding for solutions related to reducing system losses is best provided through individual rate case proceedings. Each electric utility was directed to submit a report, within six months of the June 23, 2008 Order, that identifies measures to reduce system losses and/or optimize system operations. In addition the report should include an analysis of reactive power provisions and charges contained in utilities' tariffs, and recommendations for any changes to the rates charged and the classes to which the rates should apply.

Q. Has the Company addressed these issues in its direct testimony?

A. No. In the Company's response to Staff IR DPS-202, it did provide an explanation of the derivation its existing reactive power charges and a brief history of the development of such. In addition, the Company stated that it is willing to develop a scope of work for a study of both transmission and distribution losses and could include consideration of power factor adjustment charges for other service classes other than those that already have them.

Q. Do you have a specific recommendation regarding this issue?

A. I recommend that the Company follow through on its proposal to complete a study and abide by the Commission's Order in Case 07-M-0548. Furthermore, it may be beneficial for the Company to provide parties with an update on the status of its efforts in this regard in its formal rebuttal / update in this proceeding.

Q. Does this conclude your testimony at this time?

A. Yes.