

BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

Case 09-E-0428

August 2009

Prepared Exhibits of:
Staff Policy Panel

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Consolidated Edison Company of New York, Inc.
Electric Rate Case 09-E-0428

Exhibit__ (SPP-1)

Responses to Information Requests

On a monthly basis from January 1, 2005 to the present, provide the actual number of new employees hired, the number employees who left the Company and the resulting net change, by union and management group, **including temporary employees**. Update the Company's response on a monthly basis during the course of the proceeding.

<u>Yr Begin</u>	<u>Month</u>	<u>Hires</u>	<u>Rehires</u>	<u>Promotions</u> ⁽¹⁾	<u>Attrition</u>	<u>Net Change</u>
2005	January	105	-	(2)	(56)	47
	February	87	-	(6)	(73)	8
	March	132	-	(5)	(48)	79
	April	119	-	(8)	(59)	52
	May	72	-	(7)	(68)	(3)
	June	149	-	(13)	(41)	95
	July	69	-	(9)	(76)	(16)
	August	56	-	(26)	(87)	(57)
	September	102	-	(13)	(58)	31
	October	96	-	(13)	(53)	30
	November	97	-	(23)	(49)	25
	December	89	-	(18)	(72)	(1)
Total 2005 Activity		1,173	-	(143)	(740)	290
2006	January	121	-	(6)	(65)	50
	February	67	-	(13)	(55)	(1)
	March	61	-	(16)	(43)	2
	April	81	-	(11)	(55)	15
	May	72	-	(16)	(59)	(3)
	June	154	-	(16)	(72)	66
	July	68	-	(10)	(64)	(6)
	August	35	-	(16)	(100)	(81)
	September	80	-	(18)	(58)	4
	October	100	-	(15)	(52)	33
	November	51	-	(11)	(42)	(2)
	December	84	-	(18)	(61)	5
Total 2006 Activity		974	-	(166)	(726)	82
2007	January	108	-	(19)	(52)	37
	February	66	-	(28)	(54)	(16)
	March	85	-	(9)	(49)	27
	April	110	-	(10)	(62)	38
	May	62	-	(17)	(62)	(17)
	June	121	-	(8)	(61)	52
	July	123	-	(18)	(65)	40
	August	57	-	(13)	(116)	(72)
	September	114	-	(10)	(49)	55
	October	69	-	(7)	(63)	(1)
	November	102	-	(10)	(61)	31
	December	69	-	(9)	(86)	(26)
Total 2007 Activity		1,086	-	(158)	(780)	148
2008	January	98	-	(15)	(54)	29
	February	56	-	(18)	(48)	(10)
	March	83	-	(19)	(42)	22

On a monthly basis from January 1, 2005 to the present, provide the actual number of new employees hired, the number employees who left the Company and the resulting net change, by union and management group, **including temporary employees**. Update the Company's response on a monthly basis during the course of the proceeding.

<u>Yr Begin</u>	<u>Month</u>	<u>Hires</u>	<u>Rehires</u>	<u>Promotions</u> ⁽¹⁾	<u>Attrition</u>	<u>Net Change</u>
	April	69		(12)	(56)	1
	May	88		(20)	(52)	16
	June	101		(20)	(104)	(23)
	July	98		(6)	(66)	26
	August	77		(11)	(48)	18
	September	167		(8)	(39)	120
	October	121		(19)	(57)	45
	November	44		(5)	(60)	(21)
	December	87	-	(18)	(37)	32
Total 2008 Activity		1,089	-	(171)	(663)	255
2009	January	107	2	(11)	(32)	66
	February	32	3	(9)	(31)	(5)
	March	43	-	(9)	(44)	(10)
	April	19	2	(10)	(23)	(12)
	May	33	1	(3)	(31)	
	June	11	1	(12)	(25)	(25)
Total 2009 Activity		245	9	(54)	(186)	14

⁽¹⁾ Refers to employees promoted from a union to mgmt position

On a monthly basis from January 1, 2005 to the present, provide the actual number of new employees hired, the number employees who left the Company and the resulting net change, by union and management group, **including temporary employees**. Update the Company's response on a monthly basis during the course of the proceeding.

<u>Yr Begin</u>	<u>Month</u>	<u>Hires</u>	<u>Rehires</u>	<u>Promotions</u> ⁽¹⁾	<u>Attrition</u>	<u>Net Change</u>
2005	January	27	-	2	(28)	1
	February	12	-	6	(33)	(15)
	March	25	-	5	(11)	19
	April	35	-	8	(14)	29
	May	20	-	7	(31)	(4)
	June	91	-	13	(29)	75
	July	22	-	9	(24)	7
	August	30	-	26	(24)	32
	September	20	-	13	(18)	15
	October	18	-	13	(18)	13
	November	8	-	23	(19)	12
	December	20	-	18	(33)	5
Total 2005 Activity		328	-	143	(282)	189
2006	January	20	-	6	(32)	(6)
	February	21	-	13	(19)	15
	March	24	-	16	(11)	29
	April	19	-	11	(19)	11
	May	42	-	16	(31)	27
	June	92	-	16	(25)	83
	July	20	-	10	(31)	(1)
	August	16	-	16	(22)	10
	September	32	-	18	(26)	24
	October	15	-	15	(22)	8
	November	24	-	11	(19)	16
	December	15	-	18	(44)	(11)
Total 2006 Activity		340	-	166	(301)	205
2007	January	22	-	19	(26)	15
	February	14	-	28	(14)	28
	March	15	-	9	(19)	5
	April	17	-	10	(9)	18
	May	18	-	17	(30)	5
	June	76	-	8	(29)	55
	July	41	-	18	(31)	28
	August	21	-	13	(28)	6
	September	35	-	10	(21)	24
	October	13	-	7	(24)	(4)
	November	8	-	10	(18)	
	December	18	-	9	(38)	(11)
Total 2007 Activity		298	-	158	(287)	169
2008	January	39	-	15	(28)	26
	February	28	-	18	(26)	20
	March	24	-	19	(23)	20

On a monthly basis from January 1, 2005 to the present, provide the actual number of new employees hired, the number employees who left the Company and the resulting net change, by union and management group, including temporary employees. Update the Company's response on a monthly basis during the course of the proceeding.

<u>Yr Begin</u>	<u>Month</u>	<u>Hires</u>	<u>Rehires</u>	<u>Promotions</u> ⁽¹⁾	<u>Attrition</u>	<u>Net Change</u>
	April	17	-	12	(19)	10
	May	129	-	20	(47)	102
	June	78	-	20	(29)	69
	July	36	-	6	(33)	9
	August	26	-	11	(114)	(77)
	September	49	-	8	(38)	19
	October	16	-	19	(26)	9
	November	18	-	5	(31)	(8)
	December	32	-	18	(26)	24
Total 2008 Activity		492	-	171	(440)	223
2009	January	21	-	11	(30)	2
	February	35	3	9	(12)	35
	March	34	-	9	(5)	38
	April	12	-	10	(12)	10
	May	15	1	3	(40)	(21)
	June	21	1	12	(41)	(7)
Total 2009 Activity		138	5	54	(140)	57

Notes

⁽¹⁾ Refers to employees promoted from a union to mgmt position

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS8
Date of Response: 06/15/2009
Responding Witness: Accounting Panel/Mueller

Question No. :56

Subject: Company Labor – Attrition Level - In Case 07-S-1315 (Tr. Page 979 Line 11-17) and in Case 08-E-0539 (Tr. Page 370 Line 24 through Page 371 Line 1), the Company testified that “The Company has been experiencing high attrition levels as its workforce ages and new employee opt not to stay with the company. Employees are leaving at the rate of 1,000 employees annually (approximately 700 union and 300 management position each year). Given its age, the attrition rate of Con Edison’s workforce is expected to continue at this level for the foreseeable future.” 1. Explain whether the Company expects that the high attrition levels experienced over the last several years will continue. If not, fully explain why not and what level of attrition the Company is anticipating and / or planning for. 2. Explain how and clearly show where employee attrition was reflected in the Company’s \$855 million revenue requirement request for the rate year ending March 31, 2011. If no attrition was reflected, fully explain why not. 3. On annual basis from 2004 to 2007 and on a monthly basis from January 2007 to the present, provide the actual attrition levels the Company experienced (i.e. the actual number of employees that left the Company).

Response:

1. For the twelve months ended May of this year, the Company experienced attrition rates that were 33% lower than a comparable period a year ago. The Company’s original expectation for 2009 was that we would have attrition totaling 1,000 with approximately half consisting of retirees and the other half made up of terminations, employees leaving for other jobs and deaths. Due to the current economic conditions (which include a large devaluation of retirement savings and high unemployment), we now project that we will have 30% less, or 700, for 2009. Going forward, it is the Company’s expectation that attrition will increase once the economy begins to improve. The uncertainty is when that will occur. It is the Company’s expectation that it will lose approximately 1,000 employees annually when the economy stabilizes.
2. The Company generally needs to refill positions vacated through attrition. In this case, it was assumed that the actual number of employees as of December 2008 would be retained through the rate year. This assumption factors in that there were a number of positions that had vacancies as of December 2008 that will be filled in the future. All increases to the staffing level as of December 2008 were presented in this proceeding as program changes.

3. The attached file provides on an annual basis from 2004 to 2006 and also on a monthly basis from January 2007 to present the actual attrition levels the Company experienced. This attrition data does not include temporary workers.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS22
Date of Response: 07/02/2009
Responding Witness: Hutcheson

Question No. :222.1

Subject: Property Taxes – What steps has the Company taken to raise customer awareness of the property tax burden (e.g. bill inserts, press releases, etc.)?

Response:

Please see various informational items attached, including a newspaper article published as a result of the release of Company information. In addition, in August 2008, the Company held a forum for elected officials and community boards on “Understanding Your Con Edison Bill.” Part of that forum included a discussion on taxes that are itemized on a customer’s bill and those that are not. The forum was hosted by representatives of the Company’s Customer Outreach as well as Rate Engineering personnel.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS22
Date of Response: 07/02/2009
Responding Witness: Hutcheson

Question No. :222.2

Subject: Property Taxes – As a percent of revenue and net plant, how does Con Edison's property tax burden compare to other electric companies in New York State?

Response:

The information needed to make the comparison to other electric companies in New York State is not readily available to the Company.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS22
Date of Response: 07/02/2009
Responding Witness: Hutcheson

Question No. :222.3

Subject: Property Taxes – As a percent of revenue and net plant, how does Con Edison's property tax burden compare to other comparable sized electric companies in the United States?

Response:

The information needed to make the comparison to other comparable sized electric companies in the United States is not readily available to the Company.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS22
Date of Response: 07/02/2009
Responding Witness: Hutcheson

Question No. :222.4

Subject: Property Taxes – On page 32 of its testimony the Panel states that: “the Company currently comprises 77 percent of Class 3”. a. What percent of the total Class 3 property is Con Edison’s electric division? b. How has Con Edison’s share of Class 3 property changed since 1989? c. How has the Con Edison electric division’s share of Class 3 property changed since 1989?

Response:

See attached. The attachment includes responses for parts a, b, and c. However, parts b and c request information back to 1988/89. The attachment responds to the question back only as far as 1999/00, as the information required for the response is not readily available that far back.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS22
Date of Response: 07/02/2009
Responding Witness: Hutcheson

Question No. :222.5

Subject: Property Taxes – On page 26, the Panel states: "However, as discussed earlier, inter-class rates within New York City are highly disproportionate and require the non-residential classes and Class 3 in particular, to bear a disproportionately large share of the overall property tax burden. It is this inequity that the Company has been pursuing with the City." Disclose all contacts and/or meetings with NYC officials concerning this inequity? Provide copies of any handouts and/or agendas used at these meetings.

Response:

The Property Tax Panel's testimony (pp. 34-38) discusses the contacts and/or meetings with NYC and other officials since October 2008 concerning the Company's efforts to merge classes 3 and 4, which is the basis as to how the Company has been pursuing this inequity.

In addition to that effort, the Company has been pursuing this inequity for quite some time. Following is a brief history of various efforts in this regard.

With the implementation of the market value survey results over the years 1991-1994, the class 3 share declined significantly reflecting the relative decline during the 1980's of utility real property versus other New York City real property. This decline in the class 3 share, combined with the application of a 45% equalization standard resulted in a 1993/94 class 3 tax rate of 7.404% as compared with a 1993/94 class 4 tax rate of 10.724%. Thus, if class 3 properties were transferred to class 4 during that period the effective tax rate on class 3 property would increase significantly. The advantage in class three tax rates declined until fiscal year 2000/01. See the attached history of property tax rates since 1982. At that time, the class 3 tax rate was 10.540% as compared with a class 4 tax rate of 9.768. As early as 1999, we began talking to the staff of the City Council concerning the merger of class 3 and 4. In June 2002, we sent a letter to the NYC Commissioner of Finance where we proposed merging class 3 and 4. Proposed legislation accompanied that request. In February 2005, we met with the NYC Commissioner of Finance and the Assistant Commissioner for Tax Policy where the merger of classes was discussed (agenda attached). On March 15, 2005, we attended the first meeting of the NYC Dept of Finance telecommunications taxation working group. There was also a brief discussion at the meeting about property taxes and classes 3 vs. 4. The agenda from the April 20, 2005, Commissioner's Advisory Group meeting is attached where the merger of classes is shown to be discussed. Also attached is the September 28, 2005 Commissioner's Advisory Board meeting agenda where "property tax reform proposals-continued discussion" is an agenda item but merger of class 3 and 4 was not specifically addressed on the agenda.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS22
Date of Response: 07/02/2009
Responding Witness: Hutcheson

Question No. :222.6

Subject: Property Taxes – On page 28, the Panel states: "there is a bill pending in the legislature that would transfer the responsibility for assessing property currently assessed by NYC assessors to ORPS." a. What is the bill number and who are the sponsors of the proposed legislation? b. The Panel states that the Company "has supported" this bill. Explain in detail what the Company has done to support the introduction and passage of this bill. Provide copies of letters or other documents generated by the Company in support of this bill. c. Does NYC support the measure?

Response:

- a) The bill numbers and sponsors are A.8030 (Galef) and S.5302 (Little).
- b) During the 2008 legislative session, Con Edison Government Affairs actively supported A.8030 and S.5302 through discussions and meetings with the sponsors in both the Senate and Assembly, other members of the Senate and Assembly Energy Committees, other lawmakers, as well as legislative staff. The Company, as well as the Energy Association of New York State, was in the process of drafting a memo in support of the bill when the Assembly version was amended to extend access to local governments of utility infrastructure assessments data through the state's FOIL laws. The Company could not support the amended version: A.8030D. The bill has not yet been reintroduced in 2009.
- c) The former Commissioner of Finance indicated her support at a meeting with the Company. However, the Company does not have any written documentation detailing that support. The Company is unaware of whether any other City officials support the bill.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS22
Date of Response: 07/02/2009
Responding Witness: Hutcheson

Question No. :222.7

Subject: Property Taxes – On page 34 of its testimony, the Panel states: "We note also that in 1988, the then chairmen of Con Edison, Brooklyn Union, and New York Telephone wrote a letter to Mayor Koch complaining about the discriminatory taxation policy of the City of New York." a. What has Con Edison done in the years since 1988 to address the "discriminatory taxation policies?" b. What steps has the Company taken or considered taking to protest or publicize its opposition to these policies?

Response:

Please see the response to Staff 222.5 and also the Property Tax Panel's testimony.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS22
Date of Response: 07/02/2009
Responding Witness: Hutcheson

Question No. :222.8

Subject: Property Taxes – On page 39 of its testimony, the Panel states: "Our understanding is the City has concluded it cannot support our effort to merge classes 3 & 4, at this time, but may consider overall real property tax law reform next year." a. What is the basis for this statement? Provide copies of all documents supporting this statement. b. Who within the City would possibly initiate overall real property tax reform next year (e.g., City Council, Mayor's Office, City Council's Finance Division, the Speaker, members of the Finance Committee, etc.)? Briefly describe any property tax reform plans that Con Edison is aware of, and the process required before the tax reform would be implemented.

Response:

- a) The basis for the statement was a discussion at a meeting the Company had with a high ranking City official. There are no documents that have been received from the City that support the statement.
- b) The Company is not aware of any specific tax reform plans being considered by New York City at this time but we will continue to advocate the class 3 and 4 merger. Overall tax reform, including the class 3 and 4 merger, would require state legislation to be passed in order for it to be implemented.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS22
Date of Response: 07/02/2009
Responding Witness: Hutcheson

Question No. :222.9

Subject: Property Taxes – On page 40, the Panel states: "However, we would note that we have been advised by counsel that the classification system has been challenged in the past and upheld" a. Identify all legal challenges pursued by the Company within the last 10 years. Provide the legal bases used to support such claims, and the entities before which the Company brought these challenges. b. What analyses of the litigation risks and the costs and benefits of pursuing particular legal challenges to the classification system have been completed by the Company or on its behalf? Provide copies of any such analyses.

Response:

- a) The Company has not pursued any legal challenges within the last 10 years regarding the classification system.
- b) Legal analyses were performed on the Company's behalf by outside counsel. This legal analyses is subject to attorney/client privilege and work product and cannot be provided to a third party otherwise the privilege is waived as to all parties.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS22

Date of Response: 08/21/2009

Responding Witness:

Question No. :222.9R

Subject: Property Taxes – On page 40, the Panel states: "However, we would note that we have been advised by counsel that the classification system has been challenged in the past and upheld" a. Identify all legal challenges pursued by the Company within the last 10 years. Provide the legal bases used to support such claims, and the entities before which the Company brought these challenges. b. What analyses of the litigation risks and the costs and benefits of pursuing particular legal challenges to the classification system have been completed by the Company or on its behalf? Provide copies of any such analyses.

Response:

Clarifying response

- c) The Company has not pursued any legal challenges within the last 10 years regarding the classification system.
- d) One legal analysis was performed on the Company's behalf by outside counsel regarding a challenge to the classification system. That analysis was performed in December 2008 and is currently under consideration by the Company. Accordingly, the Company's analysis is not complete. The Property Tax Panel explains in its testimony (pp. 38-40) that the implementation of the class system has not always been adverse to Class 3 compared to Class 4 and the reasons why the Company recently decided to evaluate a legal challenge to the classification system. The legal analysis provided by outside counsel in December 2008 is subject to attorney/client privilege and work product and cannot be provided to a third party otherwise the privilege is waived as to all parties.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS22
Date of Response: 07/02/2009
Responding Witness: Hutcheson

Question No. :222.10

On page 43, the Panel states: "... we are attempting to use those same valuation principles to settle existing litigation covering, at a minimum, our current and formerly owned production facilities, but also to settle all of our outstanding litigation with the City." Provide a description of all outstanding litigation including the property involved, date filed, the amount of money at issue and the current status of the case.

Response:

Attached is a schedule which lists all of the active tax certiorari cases against the City of New York.

Beginning with fiscal year 1994/95, the Company has annually filed proceedings under article 7 of the Real Property Tax Law to challenge the assessed valuation of various production and distribution facilities in each of the five counties of New York City. The proceedings were filed in October of each year prior to the October 24 statute of limitations. The proceedings assert claims in excess of \$250 million although the actual potential recovery cannot be determined without a full trial appraisal of each of the properties at issue. The proceedings are pending and those concerning the formerly-owned Astoria and Ravenswood generating stations are presently scheduled for trial on September 15, 2009. All the other cases are on the various Court calendars but have not been scheduled for trial.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS32
Date of Response: 08/03/2009
Responding Witness: Muccilo

Question No. :291

Subject: Supplemental Testimony – Ed Rasmussen - 1. In his Supplemental Testimony, Con Edison witness Rasmussen notes that the Company's testimony and exhibits in this proceeding detail steps that the Company has taken to mitigate its rate request through ongoing programs of strict cost controls, cost avoidance and productivity efforts. a. Identify the programs producing these benefits and the related impact on the Company's rate request. b. In addition, explain the productivity gains realized as result of the Company adding several thousand employees to its workforce over the last five years. c. Furthermore, describe the reductions in O&M expense realized as result of the Company's significant capital expenditure program over that same period of time. 2. Witness Rasmussen indicates that with minor exceptions, the Company's austerity or cost reduction measures will be in effect from July 1, 2009 to June 30, 2010. In light of the fact that the economic recession may continue in the Company's service territory beyond June 30, 2010, explain why the Company's proposed austerity measures should expire June 30, 2010. Provide any current evidence in support of a change of the weak economy in the Company's service territory.

Response:

Response Question 1:

- a. See the Company's response to NYC2-220 and DPS32-298 regarding productivity savings reflected in the revenue requirement. See also the testimonies of various Company witnesses that explain the steps the Company takes to reduce costs on an ongoing basis and steps the Company has taken to mitigate the rate request in this case (Infrastructure Investment Panel pp. 13-30, 41-43, 237-243; Customer Operations Panel pp. 8-12, 25-26, 61-62, 68; Municipal Infrastructure Support Panel pp. 30-36; Electric Production Panel pp. 6-7, 19-20, 33; Hutcheson pp. 40-53; Kimball pp. 4-5, 19-23; Shared Services Panel pp. 23, 29-31, 34, 41-42, 58-59, 64-65, 67-70, 78-79, 85-87, 93-94, 114-115, 149-150, 169-174; Reyes pp. 7-17, 26, 28-34; Price pp. 47-59).
- b. The implication of the question is not clear as adding employees does not in and of itself result in productivity savings. Productivity is achieved in different ways, labor reductions (e.g., in connection with AMR) and performing additional functions without increasing labor (e.g., meeting FACTA requirements with existing staff) being two opportunities to achieve productivity. For the most part, the Company has added employees during the past five years because the workforce has been reduced due to

- retirements (over 2,500 retirements in the last five years), terminations, and to meet the requirements of new capital and O&M programs, which have been identified in the Company rate requests and reflected in the rate increases granted by the Commission. In addition, the Company has approximately 37%, or 5,300, employees with less than five years of service. The 2,500 retirements represent a significant loss of experience that is not replaced easily or quickly. The newer employees are going through a career path training process in order to raise their skill level to become proficient in carrying out the activities of their job. This training takes multiple years. Although the Company has not tracked the productivity savings achieved during the past five years, savings achieved through the end of the historic year and those which the Company is projecting through the linking period and the rate years (see response to "a" above), in addition to a one percent productivity imputation, make the rate request lower than it would otherwise be.
- c. See testimony of the Company's Infrastructure Investment Panel in Case 08-E-0539 (see Tr. 4156-79). The Panel explains the nature of the capital investments it has been making in the Company's system and why it is incorrect to assume that such investments (e.g., building new substations) should or have resulted in reduced O&M expenditures and why, in some cases, these critical investments necessarily result in increased O&M expenses.

Response Question 2:

Contrary to the implications of the question, the Company's cost reduction measures will not terminate in June 2010. As explained in response to 1.a, the Company's cost reduction measures have been and will continue to be ongoing. Moreover, as further indicated by Mr. Rasmussen's testimony and outlined in the Company's July 10th update, the rate request assumes that approximately \$23 million of cost reduction and/or deferral measures undertaken by the Company in response to the *Order Setting Electric Rates* in Case 08-E-0539 will continue beyond June 2010. See also the Company's rehearing petition filed in Case 08-E-0539, which further explains the cost-cutting measures the Company undertakes, and the Company's views as to actions that are necessary and appropriate under current economic conditions.

Company Name: Con Edison
Case Description: 2009 Electric Rate Filing
Case: 09-E-0428

Response to DPS Interrogatories – Set DPS46
Date of Response: 08/25/2009
Responding Witness: Property Tax Panel

Question No. :445

Subject: Property Taxes - 1. Identify all challenges made by the Company concerning its special franchise [right-of-way] property in New York City in the past 7 years. Also provide the basis used to support the challenges as well as the status and/or outcome of those challenges. 2. Identify all challenges made by the Company concerning its non-right of way property in New York City in the past 7 years. In addition, provide the basis used to support the challenges as well as the status and/or outcome of those challenges. 3. Describe the internal process Con Edison uses to determine when to initiate a property tax challenge. For example, who (at what corporate level) decides what assessments or tax rates the Company should protest? What analysis is performed to make these determinations? How frequently is this analysis performed? 4. In the past 7 years, has the Company utilized outside counsel and/or consultants to evaluate the basis for challenging the company's property tax burdens? If so, when were such services retained and what were the results of those analyses? 5. In the past 7 years, has the Company utilized outside counsel and/or consultants to pursue property tax claims or challenges in either New York City or other taxing jurisdictions? If so, provide the status or outcome of those cases. Also, explain the payment terms for services provided by the counsel and/or the consultants. 6. Is Con Edison aware of any legal challenges concerning the legality of New York City's four class property tax system, pursued in the past 7 years by other utilities? If so, identify the utility, provide the legal basis on which the claim was made and the status of the proceeding and/or outcome of those claims. 7. Is Con Edison aware of any utility successfully having its property reclassified from class 3 to any of the other classes under New York City's four class system? If so, identify the company and the basis by which it was successful.

Response:

1. A proceeding has been filed to challenge the 2009 full valuation of the Company's special franchise property for fiscal year 2009/10. The basis for the challenge is a dispute with the manner in which the Office of Real Property Services calculates value using the Reproduction Cost New Less Depreciation ("RCNLD") methodology. The proceedings were commenced on August 7, 2009. Additionally, an administrative complaint challenging the 2008 full valuation on the Company's electric special franchise properties for fiscal year 2008/09 was filed against the State Board of Real Property Services on April 3, 2008. The challenge, which placed particular focus on two of the Company's accounts that had significant changes in value between that fiscal year and the previous year due to the volatility of the Handy-Whitman Index, disputed the manner in which the Office of Real Property Services calculated value using RCNLD. The Board ruled against the Company's complaint in June 2008. The Company appeared before the

- Board for each of the complaints to defend our positions. The City also appeared to oppose the 2009 complaint, arguing that not only were our claimed values too low, but the actual values determined by ORPS were far too low because of a depreciation allowance that was too beneficial to the Company
2. Proceedings have been filed to challenge the assessment of various parcels of the Company's non-right-of-way property in New York City for fiscal years 1994/95 through 2008/09. Attached hereto (Attachment 445 (2)- Active Tax Certiorari Cases NYC) is a listing of all the pending tax certiorari proceedings that the Company has filed against New York City on our non-right-of-way property dating back to 1994. It is important to note that each docket number is used to designate all of the parcels in that county for which the Company challenged the assessment for that fiscal year (see also response to part 5 below regarding the status/outcomes to these challenges). A proceeding for 2009/10 is to be filed within the next month. The basis for the challenges is a dispute with the City concerning the manner in which it calculates value using the RCNLD methodology, particularly as it relates to depreciation. To date, the Company's challenges have provided benefits applicable to the proceedings covering the Arthur Kill Generating Station for 1994/95 through 1998/99. That case was finally culminated after many years of effort. The proceedings were originally tried in February 2004 followed by two additional appeals in the ensuing years. In June 2007 the final appeal was decided in the Company's favor and after some additional court appearances, which were needed to try to collect the judgment, the refund was finally secured in February 2008 in the amount of \$13.462 million, including statutory interest. The Company is using the Arthur Kill case as the basis for ongoing settlement discussions with the City Law Department regarding the rest of our open petitions regarding generating stations.
 3. The internal process the Company uses to determine when to initiate a property tax challenge is covered under the attached procedure (DPS-445(3) - part 1). A second workpaper (DPS-445(3) - part 2) providing an example of the analysis performed is also attached. The analysis is performed each year soon after tentative assessments are received from the taxing jurisdiction. Although the procedure does not require authorization by the Vice President of Tax to initiate tax challenges, the Vice President of Tax is consulted on the proposed tax challenges developed for each year in advance of filing the tax challenges.
 4. The Company has used outside counsel and consultants to evaluate the basis for challenging the Company's property taxes during the time period referenced. Those efforts and their outcomes are more fully described in the response to (5) below. In addition, please refer to the response to DPS22-222.9 for additional information related to the retention of outside counsel.
 5. The Company has used outside counsel to pursue property tax claims and challenges in New York City, Westchester, and Upstate counties during the seven year time period requested. During the time period 2003-2007, the Company has realized estimated tax savings of nearly \$80 million. An exhibit from the Company's 2008 electric rate filing (Case 08-E-539) is attached summarizing those benefits. Also attached are "PSC Showing" documents covering years 2002-2008 to further explain the status of those cases. The Company's outside counsel and consultants are paid on an hourly basis plus expenses (upon request, current hourly rates will be provided on a confidential basis). In addition, the Company has used consultants to support our efforts to secure Industrial and

Commercial Incentive Program (“ICIP”) benefits, also explained in the attached “PSC Showing” documents. These benefits were created to encourage the development, expansion, and preservation of commercial and industrial real estate in the City of New York. The ICIP grants a property tax exemption of the additional real property taxes that would otherwise be payable as a result of eligible industrial and commercial construction work. To date Con Edison has eleven projects currently receiving ICIP benefits that will provide an estimated company-wide tax benefits totaling more than \$55 million for fiscal year 2009/2010 alone. For all projects that we have applied for, the potential property tax savings over the duration of the exemption period amounts to more than \$1.3 billion. In each of the “PSC Showing” documents you will find information on the property tax cases settled in the current year and pending cases and activities being pursued.

6. The Company is not aware of any case specifically addressing the constitutionality of separately classifying utility property for property tax purposes within the last seven years by other utilities.
7. In 2006, Astoria Gas Turbine Power, LLC successfully argued before the NYS Court of Appeals that its utility property should be moved from class three to class four because it was lightly regulated by the PSC (a copy of the court decision is attached as DPS-445(7)). Upon information and belief, subsequent to this decision, all non-PSC regulated utility property was moved from class three to class four but the actual information and detail is in the possession of the City of New York.

Consolidated Edison Company of New York, Inc.
Electric Rate Case 09-E-0428

Exhibit__ (SPP-2)

New York City Gross City Product in Nominal \$ and Real (\$2000)

Year	Nominal GCP (\$bil)	% Chg	Real GCP (\$bil)	% Chg
1979	104.54		220.13	
1980	114.28	9.3%	224.93	2.2%
1981	129.45	13.3%	234.10	4.1%
1982	139.63	7.9%	238.67	2.0%
1983	153.87	10.2%	249.53	4.5%
1984	168.47	9.5%	261.65	4.9%
1985	181.89	8.0%	273.68	4.6%
1986	197.72	8.7%	287.38	5.0%
1987	212.15	7.3%	296.10	3.0%
1988	226.65	6.8%	303.49	2.5%
1989	240.63	6.2%	308.14	1.5%
1990	252.31	4.9%	309.10	0.3%
1991	254.76	1.0%	300.65	-2.7%
1992	269.46	5.8%	309.14	2.8%
1993	281.95	4.6%	316.13	2.3%
1994	294.17	4.3%	323.66	2.4%
1995	306.85	4.3%	331.75	2.5%
1996	331.67	8.1%	351.96	6.1%
1997	355.97	7.3%	371.56	5.6%
1998	366.20	2.9%	377.72	1.7%
1999	401.55	9.7%	409.25	8.3%
2000	445.64	11.0%	445.77	8.9%
2001	432.42	-3.0%	423.53	-5.0%
2002	427.73	-1.1%	407.87	-3.7%
2003	453.29	6.0%	420.03	3.0%
2004	488.53	7.8%	436.49	3.9%
2005	536.16	9.8%	461.53	5.7%
2006	590.04	10.0%	489.60	6.1%
2007	629.30	6.7%	508.87	3.9%
2008			486.20	-4.50%
2009			427.80	-12.00%
2010			419.80	-1.90%
2011			447.60	3.40%

Actual (1979-2007) and Forecast (2008-2011) Data Provided by The City of New York,
Office of Management and Budget