BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

ORANGE AND ROCKLAND UTILITIES, INC.

Case 07-E-0949

DECEMBER 2007

Prepared Testimony of:

ACCOUNTING PANEL

Robert Burke
Public Utilities Auditor 3

Solomon Okusanya
Senior Auditor

William Romaine
Public Utilities Auditor 2

Office of Accounting, Finance
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State of New York
Department of Public Service
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Q. Please state your names, employer and business addresses.

A. We are Robert Burke, Solomon Okusanya, and William Romaine. We are employed by the New York State Department of Public Service (Department). Our business addresses are Three Empire State Plaza, Albany, New York 12223 and 90 Church Street, New York, New York 10007.

Q. Mr. Burke, what is your position at the Department?

A. I am employed as a Public Utilities Auditor 3 in the Office of Accounting, Finance and Economics.

Q. Please describe your educational background and professional experience.

A. I graduated from Siena College, Loudonville, New York in 1972 and have a B.B.A. degree with an Accounting major. I have been employed by the Department since 1974. I have worked on various rate proceedings, financings and general accounting examinations.

Q. Mr. Burke, have you previously testified before the Commission?

A. Yes. I have testified in numerous proceedings before the Commission on a variety of regulatory issues, ensuring that the filings adhere to Commission Policy Statements, e.g., on pension and other post-employment (OPEBs) and/or practices, productivity and medical benefits expenses forecasts. I have also testified to Income Taxes and the Earnings Base/Capitalization (EBCAP) Adjustment. Furthermore, I have participated in the review of petitions and the sale of electric generating plants. With specific reference to Orange and Rockland, I submitted testimony in the Company's last two gas rate cases and the last electric rate case. I have general responsibility for accounting and ratemaking matters related to Orange and Rockland.

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

A. I am employed as a Senior Auditor in the Office of Accounting, Finance and Economics.

Q. Please describe your educational background and professional experience.

A. In 1986 I graduated from Baruch College of City University of New York, where I earned a Bachelor of Business Administration degree, with a major in Accounting. In 2000, I graduated from Adelphi University, Garden City, New York with a Master of Business Administration degree in Business Management. After I graduated from Baruch College, I worked for New York State Housing Finance Agency as an Assistant Accountant. I joined the New York State Department of Public Service in 1988.

Q. Mr. Okusanya, have you previously testified before the Commission?

A. Yes, I have testified in Case 90-C-0191, a New York Telephone Company rate case, Case 99-G-1695, an Orange and Rockland gas rate case, as well as other cases.

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

A. I am employed as a Public Utilities Auditor 2 in the Office of Accounting, Finance and Economics.

Q. Please describe your educational background, professional experience, and responsibilities.

A. I am a graduate of Williams College (B.A. cum laude, 1970) and of Cornell Law School (J.D., 1973). I have taken additional accounting courses which qualified me for my present position. Since joining the Department of Public Service in 1981, I have worked on various rate proceedings and accounting examinations. As a Public Utilities Auditor 2, I routinely examine accounts and records, documentation, policies and procedures of regulated utilities.

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

A. Yes, I testified in a New York Telephone Company rate proceeding, Case 28961, regarding antitrust expense. I testified in Orange and Rockland Utilities, Inc.'s rate proceedings, Cases 28278 and 28279, regarding research and development expense and in Port Chester Water Works, Inc.'s rate proceeding, Case 28589, regarding distribution center rental expense. I submitted testimony in Consolidated Edison Company of New York, Inc.'s steam rate proceedings, Cases 96-S-1065 and 03-S-1671, and an electric rate proceeding 04-E-0572.

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

A. Our testimony addresses accounting aspects of Orange and Rockland's electric rate filing and we will discuss and recommend adjustments in the following areas:

- Direct Labor
- Employee and Other Insurance Costs
- Regulatory Costs and Amortizations
- Pensions and OPEBs
- Uncollectible Accounts
- MGP Environmental Remediation Costs
- Other O&M Costs
- Taxes Other Than Income Taxes
- State and Federal Income Taxes
- Rate Base
- Earnings Base Capitalization Adjustment
- Deferred Accounting Requests

We also summarize Staff's overall Operating Income, Rate Base and Rate of Return for the rate year ending June 30, 2009.

Q. Is the panel sponsoring any exhibits?

A. Yes. We are sponsoring two exhibits. Our first exhibit, Exhibit ___ (AP-1) is comprised of Company responses to Staff information requests, upon which we rely and will reference throughout our testimony.

Q. Please describe your other exhibit.

A. Exhibit ___ (AP-2) contains eight schedules.

Schedule 1 is Staff's projection of electric operating income, rate base and rate of return for the rate year, twelve months ending June 30, 2009 and includes Staff's proposed revenue requirement. Schedule 1 is supported by Schedules 2 through 8.

Q. Please describe the format of Schedule 1.

A. Column 1 of Schedule 1 contains income statement, rate base and rate of return figures as originally filed by the Company. Column 2 contains the Company's November 15, 2007 updates to its original filing. Column 3 reflects the income statement, rate base and rate of return figures as updated by the Company. Column 4 contains references to the supporting schedules that present the Staff adjustments set forth in Column 5. Column 6 presents Staff's projected rate year figures unadjusted for a revenue increase. Column 7 contains Staff's proposed changes in revenues and Column 8 is the projected rate year income, rate base and rate of return after this revenue increase.

Q. What information is shown on Schedules 2 and 3?

A. Schedule 2 projects operation and maintenance or

O&M expense elements for the rate year. Schedule 3 projects taxes other than income taxes.

Q. What information is shown on the remaining schedules?

A. Schedule 4 and 5 project New York State and federal income tax expenses, respectively. The adjustments in these schedules correspond primarily to adjustments set forth in other schedules. Schedule 6 projects rate base for the rate year ending June 30, 2009. Schedule 7 projects an allowance for cash working capital, which is a component of rate base and Schedule 8 lists Staff's adjustments.

Revenue Requirement Recommendation

Q. What is Staff's overall recommendation for the rate year twelve months ending June 30, 2009?

A. The adjustments as shown on Exhibit ___ (AP-2), Schedule 1, increase the electric rate of return before any revenue increase from 3.78% to 5.40%.

Q. What is the rate of return recommended by Staff's Finance Panel?

A. The Finance Panel recommends a 7.45% rate of return based on an 8.90% return on equity. As a result, the indicated rate change in electric revenue requirements is a $17.497 million increase.

Three Year Rate Plan

Q. The Company has proposed a three year rate plan as an alternative to a one year proposal. Does the Panel address this proposal?

A. No. Witness Kane states in his pre-filed testimony at page 39, lines 9 through 13, that the Company does not waive its rights to file for new rates immediately following the conclusion of this case should it determine that the rates set by the Commission in its Rate Order for the first rate year are inadequate or if the Company determines that the terms set by the Commission for the additional rate years are unreasonable. Given the Company's position, the statutory rate case schedule and the need to have a solid set of numbers for the rate year ending June 30, 2009, our testimony only addresses a traditional one year case.

Income Statement, Rate Base and Return

Q. Do you have any comments concerning sales?

A. For clarification purposes we note that the

Company Update of November 15, 2007 decreased Sales to the Public by $1.193 million. The change in forecast was based on actual sales data through June 30, 2007 and the latest economic indicators.

Sales for Resale, related to inter-company billings for the return on jointly used transmission and distribution facilities, was decreased by $144,000 to reflect a 9.1% return on equity authorized by the Commission in Case 06-E-1433. This revenue should be updated to reflect the return on equity ultimately authorized by the Commission in this proceeding.

Other Revenue was decreased by $3.380 million. These changes reflect a $6,000 decrease to late payment charges. This change tracks the change in Sales to the Public. Inter-company Joint Use Rents, related to charges for jointly used general property, was decreased by $44,000 to reflect a 9.1% return on equity authorized by the Commission in Case 06-E-1433. The Pass-back of deferred Energy Cost Adjustment (ECA) recoveries for above market Non-Utility Generator costs over three years was decreased by \$3.330 million. This update reflects the use of additional available credits used by the Commission in Case 06-E-1433, i.e. ECA over-recoveries, to offset deferred costs. In Cases 06-E-1433 and 06-E-1547 the Commission's Order Setting Permanent Rates, Reconciling Overpayments During Temporary Rate Period and Establishing Disposition of Property Tax Refunds issued October 18, 2007 (the October 2007 Order) addressed the netting of deferred credits and debits. On page 23 of the Order, the Commission stated that there was an ideal opportunity to "clean up" the Company's outstanding deferred balances without any adverse ratepayer impact by using all available credits to offset deferred charges. As a result, the amount of available deferred credits in this case and the resulting amortization of those credits have been reduced.

Q. Please explain your proposed adjustments to operating income, rate base and taxes for the rate year ending June 30, 2009.

A. Our first series of adjustments relates to the Company's projection of direct labor.

Direct Labor

Q. Please describe how the Company projected its labor expense.

A. As noted in Mr. Kosior's pre-filed testimony, pages 4 through 12, the Company's labor expense component includes normalizing adjustments to reflect the impact of certain employee additions that the Company and Staff agreed-to in Case 06-E-1433, an adjustment to eliminate the Officer's portion of the Company's Annual Team Incentive Program, program changes that include an additional 18 employees and labor escalation adjusted to impute a 1% productivity adjustment.

On November 15, 2007, Orange and Rockland submitted revised exhibits and schedules for updates and corrections. As a result of these proposed updates and corrections, direct labor expense for the rate year increased by $316,000 from $43.500 million to $43.816 million. A review of work papers indicate that the increase reflects two corrections, which resulted in a decrease of $151,000, and 13 new employee positions at an additional cost of $467,000. The first Company correction adjusts the allocation of monthly payroll charged to expense to fully reflect the Company's elimination of the Officer's Annual Team Incentive Program, a reduction of $259,000 to labor expense. We will address the Company's other correction and the request for additional employees in our discussion of adjustments.

Q. Please discuss your adjustments concerning direct labor.

A. As discussed, the Company's normalizing adjustment is to reflect the impact of certain employee additions addressed in Case 06-E-1433. These agreed to additions include the annualized costs of personnel positions to implement the circuit reliability program and an emergency management and preparedness initiative. The Company's direct testimony in this case also included a normalizing adjustment to reflect its position, as contrasted to Staff's, for staffing the Electric Operations Department's linemen attrition program. As noted in response to Staff Information Request 82, page 11 of Exhibit ___ (AP-1), the Company's direct testimony indicated that the full employment level for the

Electric Operations was forecasted at 210 employees. However, the number approved in the Commission's Order issued October 18, 2007 in Case 06-E-1433 was 213. The Company's update includes a correction increasing its direct labor expense by $108,000 for the three additional employees. Our first adjustment decreasing direct labor by $72,000 eliminates 2 of the three additional requested employees.

Q. If the Commission Order reflected 213 employees, please explain why you have reduced the level of employees by two.

A. While the Commission approved the number of linemen sought by the Company, it also indicated that the reasonableness of that level should be reassessed in the future. In the last case, we asserted that the staffing level of 213 as of December 31, 2006 was unusually high because it included new trainees from the recently completed "overhead line training program". Since the purpose of the training program is to maintain adequate staffing levels by assuring new staff will be in place as anticipated retirements occur, it is reasonable to anticipate a decline from December 31, 2006 staffing levels resulting from retirements. Our analysis of the Electric Operations Department's actual staffing levels for the twelve months ending August 31, 2006 indicates that 211 employees were sufficient (levels were adjusted to account for other new programs not contested and funded for in rates). Given a full year's of experience since the program was implemented, we propose to reduce the staffing level by 2 employees.

Q. Please continue.

A. Our second adjustment reduces direct labor by $29,000 to remove a Meter Specialist. We have eliminated the cost of this position to track the Staff Infrastructure Panel's recommended treatment of the AMI program.

Our third adjustment reduces direct labor by $167,000 to defer the implementation of the Company's proposed Career Development program. Company witness Regan discusses this program on pages 38 and 39 of his testimony. The program would have three electrical engineers participate in rotational assignments in various positions to allow them to develop and follow a career path that would prepare them for future technical and managerial challenges. The Company's response to Staff Information Request 124, page 20 of Exhibit ___ (AP-1), indicates that there are 34 electrical engineers in the electrical and electric operations organizations that the attrition program is addressing. It also indicates that the average age of those engineers is 41.8 years old and that there are two engineers that are currently eligible for retirement and another eight who are within five years of being eligible for retirement. Given the magnitude of the rate increase being sought and the number of new positions already reflected in Staff's filing, we believe that the Company should defer implementation of this new attrition program into the future.

Our next adjustment removes 13 new positions, or $467,000 from the direct labor expense included in the Company's November 15, 2007 update. The Company has offered no supporting testimony related to these new positions. Moreover, this request does not constitute either an update for known changes or a correction.

Q. Has the Company's filing addressed the Commission's requirement concerning productivity?

A. Yes, to a degree. Mr. Kosior's pre-filed direct testimony, on pages 11 and 12, indicates that both the weekly and monthly wage increase rates were reduced by 1% beginning July 1, 2008, the start of the rate year, to reflect a productivity adjustment. We estimate that this approach produces a productivity adjustment of $483,000.

Q. How does the Company's adjustment compare to the Commission's usual practice concerning productivity?

A. The Commission's usual practice is to apply a 1% productivity adjustment to a broader base than that used by the Company, i.e., 1% of rate year labor costs, fringe benefits and payroll taxes. This practice indicates an expected savings of $768,000. We have, therefore, reduced labor expense by an additional $285,000 to reflect the Commission's surrogate determination method for expected overall productivity gains.

Q. Do you have any further adjustments regarding direct labor?

A. Yes. We have one final adjustment, increasing direct labor by $226,000, which is the result of our estimate of Stray Voltage program costs. We will address this adjustment when we discuss Regulatory Costs and Amortizations.

Employee and Other Insurance Costs

Q. Please describe how the Company projected Employee and Other Insurance Costs.

A. The Company's as filed forecast of Employee and Other Insurance Costs totals $9.141 million and is set forth on Exhibit E-5, Schedule 4. The cost component consists of health and life insurance costs, other employee benefits, property insurance, General Liability and Workers' Compensation costs. Mr. Kane's pre-filed testimony, pages 23 through 28, describes how these costs were projected.

Generally, health and life insurance costs reflect a program change for benefit costs associated with additional staffing. Actual benefit costs were also escalated using a cumulative medical cost rate. Other Benefit costs were escalated by the general inflation factor. General Liability and Workers' Compensation reflect a three year average of claims paid.

As a result of the Company's November 15, 2007 update, Employee and Other Insurance Costs decreased by $577,000, from $9.141 million to $8.564 million. A review of the Company's work papers indicate that the overall decrease reflects an increase to health and life insurance costs and decreases to general liability and workers' compensation costs. The net increase to insurance costs of $91,000 (resulting from an increase of $178,000 offset by additional capitalized and recovered benefit costs of $87,000), tracks benefit costs associated with the Company's additional staffing requests discussed in direct labor. The decrease to general liability costs of $431,000 reflects both an update and a correction to the Company's three year average of claims to project costs. The update reflects a three year average of claims paid through

September 2007 and the correction excludes labor costs from that average. The update is consistent with the Company responses to Staff Information Requests 71 and 104, which we have included as pages 7 and 15 of our Exhibit ___ (AP-1). The update also decreases workers' compensation costs by a net of $327,000. The decrease, like the general liability costs, results from an update of the Company's three year average of claims paid through September 2007 and a correction to exclude labor costs from that average. This update is consistent with the Company responses to Staff Information Requests 70 and 105, pages 5 and 16 of Exhibit ___ (AP-1).

Q. Please describe your adjustments to Employee and Other Insurance Costs.

A. Our first adjustment reduces the Company's program change for benefit costs associated with our adjustments to the Company's request for additional staffing. The net adjustment to Benefit Insurance costs is $93,000, resulting from a reduction to benefit costs of $181,000 offset by lower capitalized and recovered benefit costs of $88,000.

Q. Please continue.

A. As noted in Mr. Kane's pre-filed testimony, page 25, the Company projected benefit costs for the twelve months ended June 30, 2009 by applying a medical escalation factor to the historic test year level of health and insurance costs. The use of a separate escalation factor for benefit costs, other than the general inflation factor is inconsistent with the Commission's practice regarding the projection of this cost element as outlined in Commission Opinion No. 84-27, issued in Case 28695 on October 12, 1984. The difference between the Company's escalation rate and inflation is a net reduction to health and insurance costs of $681,000; a reduction to benefit costs of $1.322 million offset by lower capitalized and recovered benefits of $641,000. We recommend that these adjustments be updated to reflect actual 2007 calendar year results.

Q. Please describe your additional adjustments to Other Employee Benefit Costs.

A. As indicated on page 27 of Mr. Kane's pre-filed testimony, the rate year level of Other Employee

Benefit costs was based on the Test Year level escalated by general inflation. Testimony states that these costs consist of such items as employee training, safety shoes and personnel administration. However, as indicated by the Company's response to Staff Information Request 63, or page 1 of Exhibit ___ (AP-1), rate year costs also include $387,000 related to its restricted stock program. As noted in the Company's response to Staff Information Request 111, page 19 of Exhibit ___ (AP-1), such costs were eliminated in the prior rate case, Case 06-E-1433.

The Company states that these expenditures are incurred to attract and retain senior management. The restricted stock program provides officers of Orange and Rockland with stock-equivalents based on the achievement of certain predefined goals. The Company explained in response to Staff Information Request 110 that performance measures are based on the Company's total shareholder return compared to a peer group and on the performance relating to goals in the Company's "Annual Team Incentive

Plan" for a three year period. The annual team incentive goals include an earnings goal, an operating budget goal and a customer service/safety goal. Consistent with Commission practice, eliminating recovery from customers, of such incentive payments, we have eliminated these costs.

Q. Please explain your adjustments to asbestos workers' compensation claims.

A. The Company's forecast of net asbestos workers' compensation claims of $516,000 includes both an amortization of deferred asbestos claims related to divested generation plants of $283,000, and an estimate for future payments of $443,000, based on a three year average of past claims, offset by $210,000 of capitalized and recovered costs (This is shown on page 28 of Mr. Kane's pre-filed testimony).

The Commission in Case 06-E-1433, by Order issued October 18, 2007, approved the use of reserve accounting for this item in order to protect the interests of both the Company and ratepayers. We recommend that this accounting continue. To provide for the recovery of any asbestos claim payments occurring in the rate year and for the recovery of deferred past claims, we recommend a net allowance for asbestos related claims of $260,000 or $256,000 lower than the Company's request.

Q. Please explain how you arrived at your allowance.

A. Our allowance provides for an equivalent of a five year amortization recovery of the existing deferred claims balance, or $170,000. For prospective claims, based on information contained in the Company's response to Information Request 64, which is included as page 2 of Exhibit __ (AP-1), we provide an equivalent prospective claim allowance of $195,000 or 20% of the Company's estimate of Orange and Rockland's remaining liability for injury claims of former generation employees. The net offset related to Capitalized and Recovered Workers Compensation is reduced by $105,000.

Regulatory Costs and Amortizations

Q. Please describe what cost items are included in the Company's forecast of Regulatory Costs and

Amortizations and how the November 15, 2007 update impacted this estimate.

A. The cost items included in this component are shown on Company Exhibit E-5, Schedule 5, page 2 and total $10.785 million. Included in this component are individual items such as research and development, the system benefit charge, stray voltage program costs and storm expense. These items are described in Mr. Kane's testimony on pages 28 through 31. The Company's update of November 15, 2007 reduces the as-filed request of $10.785 million by $977,000 to $9.788 million.

The update also reduced the $340,000 amortization of research and development by $317,000 to $113,000 and eliminated the stray voltage amortization of $680,000. The adjusted research and development amortization reflects a three year amortization of deferred R&D costs of $340,000. The deferred balance of $340,000 reflects the actual book balance as of June 30, 2007, net of the deferred credits utilized by the Commission to offset deferred charges in its October 18, 2007 Order in Case 06-E-1433. The update also acknowledges that the Commission utilized sufficient deferred credits in Case 06-E-1433 to eliminate stray voltage deferrals. As a result the $680,000 amortization for such costs was eliminated.

Q. Does the panel propose any adjustments to Regulatory Costs and Amortizations?

A. Yes. Mr. Kane's testimony, on page 30, states that expenses associated with the Stray Voltage Program are estimated to be $1.8 million for the rate, year based on historical spending levels. We are proposing two adjustments to the forecast of Stray Voltage Program costs.

Q. Please explain.

A. As noted by the Company, the Commission required Orange and Rockland to perform stray voltage testing pursuant to the Orders it issued in Case 04-M-0159. During the period from June 2005 through October 2006, the Company deferred such costs. Since November 1, 2006, however, all stray voltage costs are now expensed. As a result the twelve months ended March 31, 2007, the historic test year, reflected only five months of expense. The Company, therefore, proposes a program change to annualize the cost of the program based on utilizing historical expenditures from June 2005 through October 2006. These historical expenditures reflect Company labor as well as outside vendor costs.

We propose to annualize stray voltage program costs by utilizing the test year data for the twelve months ended March 31, 2007. Expenditures during this time period totaled $1.420 million consisting of $365,000 of labor and $1.055 million of outside vendor costs. Of this amount $997,000 of costs were deferred, $212,000 of labor and $785,000 of outside vendor costs. We therefore propose to increase direct labor by $226,000 ($212,000 adjusted for wage increases) to fully annualize Company labor costs associated with the Stray Voltage Program. We also decrease Stray Voltage Program costs by $678,000 to reflect our forecast of stray voltage outside vendor costs of $1.112 million (test year vendor costs of $1.055 million adjusted for inflation).

Pension and OPEBs

Q. What is the basis of the Company's pension and other post employment benefits (OPEB) accounting costs for the rate year?

A. The Company's as filed pension and OPEB costs total $31.334 million for the rate year and are reflected on Schedule 6, page 2 of Exhibit E-5. The Company's rate year pension costs total $20.655 million and consist of $12.231 million of pension costs based on actuarial studies, $5.660 million reflecting a three year amortization of deferred pension costs and $2.764 million of supplemental pension costs and 401 K costs.

The Company's rate year OPEB costs total $10.679 million and consist of $4.347 million in costs that are actuarially determined, $1.817 million reflects the amortization of the unamortized transitional obligation which is being recovered through 2012, and $6.098 reflects a three year amortization of deferred OPEB costs. The three year amortization of deferred Medicare Part D tax Benefits of $1.583 million reduces OPEB costs.

Q. How did the Company's update of November 15, 2007 impact the Pension and OPEB cost estimates for the rate year?

A. As noted in Mr. Kane's pre-filed direct testimony, pages 4 through 6, the Company made several assumptions as to how Case 06-E-1433 would impact the rate increase that the Company is seeking in this proceeding. As a result the Company's update reflects several adjustments to its projected deferred pension and OPEB balances. Deferred balances were adjusted downward to reflect the Commission's actual increase in the pension expense allowance included in base rates, the Commission's use of all available credits to offset deferred charges to the extent possible and the application of earnings deemed as excess during the temporary rate period against deferred pension balances. Reflecting the reduced deferred pension and OPEB balances reduced the Company's requested three year amortization amount for pensions by $2.192 million, from $5.660 million to $3.468 million and the OPEB amortization amount by $67,000, from $2.821 million to $2.823 million. Minor corrections reducing the OPEB expense amount of $5,000 were also made.

Q. Do you have any proposed changes to the Company's updated pension and OPEB costs?

A. Yes. We recommend a five year amortization period instead of the three years proposed by the Company. Even with the significant increase to the pension and OPEB expense allowance included in Case 06-E-1433, current funding levels remain insufficient to provide for any amortization recovery of past deferred under-recoveries. The Company projects that the deferred balances of under recovered pension and OPEB costs will be $10.4 million and $18.1 million, respectively, at the start of the rate year. Its proposed three year recovery period for both items increases rate year pension and OPEB expense by $9.5 million. In light of this substantial increase and in an effort to mitigate the overall rate increase impact, we propose to extend the amortization period to five years. Extending the amortization period to five years decreases the pension amortization expense amount by $1.387 million and the OPEB amortization expense amount by $2.413 million.

Uncollectible Accounts

Q. Please address the Company's Uncollectible Costs.

A. Exhibit E-5, Schedule 7, presents the Company's projected uncollectible accounts expense as filed. The forecast of $2.293 million consists of customer uncollectible expense of $2.015 million and sundry uncollectible costs of $278,000. Page 34 of Mr. Kane's pre-filed testimony states that the projection of customer uncollectible account expense is based on the ratio of bad debt customer account write-offs, net of collections, to sales to customers for the three-year period ended March 31, 2007. The resultant ratio of 0.47% is then applied to projected revenues from sales to customers during the rate year. The Company's November 15, 2007 update, which decreases customer uncollectible expense by $6,000, tracks its adjustment to sales. However, here is no direct testimony addressing the sundry uncollectible account expense program change of $202,000, which increases the March 31, 2007 per book expense of $76,000 to $278,000.

Q. What are sundry uncollectible accounts?

A. Sundry uncollectible accounts are related to billings invoiced for goods and services other than the sale and delivery of electricity. This could include billings for pole damages, accommodation billings and or the sale of material. A pole damage billing can occur when a driver damages a Company electric pole. The Company would repair the damaged pole and later bill the liable driver of the vehicle for these costs. The driver may or may not make payment. A portion of these types of bills normally proves to be uncollectible.

Q. Does the Panel propose an adjustment to sundry uncollectible accounts?

A. Yes. Based on our review of Company work papers it is unclear what the program change of $202,000 represents and how that change relates to rate year conditions. The Company, for example, projects customer account uncollectible expense by utilizing and developing a historical ratio of bad debt customer accounts write-offs, net of collections to sales to customers. The historical ratio is then applied to projected rate year revenues to forecast customer account uncollectible expense. However, the projection for sundry uncollectible expense appears to be only directed at the past with no correlation to the rate year. To the extent that the historical analysis, i.e. the program change, includes historical write-offs of any past accommodation billings or sale of material, those write-offs would appear to be inconsistent with the rate year forecast which does not anticipate such revenue. We have, therefore, removed the program change of $202,000 from expense. The Company has not demonstrated that the historical expense amount of $76,000 is insufficient for the rate year.

MGP Sites and Other Environmental Costs

Q. Please explain the Company's proposal for the treatment and recovery of MGP Sites and Other Environmental costs.

A. The Company's as-filed MGP Sites and Other Environmental Costs total $13.385 million and are reflected on Schedule 8, page 2 of Exhibit E-5. The Company is authorized the use of deferral accounting for these costs and proposes to continue that treatment. As noted by Mr. Kane on page 43 of his pre-filed testimony, the Company is currently not recovering any environmental remediation costs in base rates. The forecast is therefore represented as a program change on Schedule 8 of Exhibit E-5 and consists of a three year amortization of deferred costs of $20.537 million as of June 30, 2007 and of projected deferred expenditures of $19.617 million from July 1, 2007 through June 30, 2009, the end of the rate year. The resulting amortization is $13.385 million.

Q. Did the Company's update of November 15, 2007 impact the amortization level of MGP Sites and Other Environmental costs being requested for the rate year?

A. Yes. The Company's indicated deferred balances as of June 30, 2007 were adjusted downward $19.028 million for a correction, as can be seen on the Company's response to Staff Information Request 72, page 10 of Exhibit ___ AP-1), and, for an update to reflect the Commission's use of available credits in Case 06-E-1433 to offset all deferred environmental balances as of December 31, 2006. Additionally, expenditures were adjusted downward by $571,000 which also reduced projected deferred balances subject to future recovery. These reductions to the projected deferred environmental balances reduced the Company's requested amortization expense level by $6.533 million, from $13.385 to $6.852 million.

Q. Does the Panel propose any adjustment to the Company's proposed amortization of MGP Sites and Other Environmental costs?

A. Yes. We recommend a five year amortization period instead of the three years proposed by the Company. Although there is no current funding reflected in base rates for environmental remediation, as a result of the Commission's use of available customer credits all environmental expenditures through December 31, 2006 have been recovered. As a result, deferred environmental expenditures total only $1.5 million as of June 30, 2007. Given that the amortization level of environmental costs authorized to be recovered in this case is to be based largely on projected expenditures from July 1, 2007 through June 30, 2009, a five year recovery is reasonable and also mitigates the impact of the increase on customers. Our amortization period of five years decreases environmental expense by $2.741 million.

Other O&M Costs-Information Technology

Q. Does the Panel have any issues with Orange and Rockland's forecast of any costs included in Other O&M Expenses, Schedule 11 of Exhibit E-5?

A. Yes. Page 15 of Mr. Kosior's pre-filed direct testimony and Schedule 11 of Exhibit E-5 identifies which costs are included in Other O&M Expenses. All costs are based on the actual expenditures for the Test Year, which is the twelve months ending March 31, 2007, and were escalated by the general inflation factor. We do not take issue with these costs. However, the Company's November 15, 2007 submittal of revised exhibits and schedules for updates and corrections includes new costs of $377,000 to the Information and Technology Solutions cost element for "Mobile Workforce Initiatives". Because these costs do not represent an update of a known change or a correction, we have removed these unsupported costs.

Depreciation and Amortization Expense

Q. Does the Panel have any comments related to Depreciation and Amortization Expense?

A. Although our Panel is not sponsoring any adjustments to depreciation we do have some clarification/comments for the purpose of tracking both the Company's, and Staff witness Rieder's, adjustments.

Schedule 6, page 3 of Exhibit E-4 shows the Company's as filed monthly calculation of depreciation expense for electric ($23.357 million) and common plant ($3.384 million) for the rate year at the depreciation rates proposed by Mr. Hutcheson totaling $26.741 million. The Company's November 15, 2007 submittal of revised exhibits and schedules for updates and corrections decreased depreciation and amortization expense by $153,000, to $26.588 million. The change reflects an increase of $386,000 to depreciation expense for electric plant (to $23.743 million and a decrease of $539,000 to depreciation expense for common plant (to $2.845 million). The increase in electric plant depreciation is mainly attributable to schedule acceleration, expansion of project scope, or changes in price of several projects. The decrease in common plant depreciation is attributable to a correction. As noted in the Company's response to Staff Information Request 103, page 14 of Exhibit ___ (AP-1), the proposed amortization of the common plant excess reserve of $11.4 million over a 15 year period was not reflected in the Company's initial filing. The reduction reflects the electric allocation of this oversight.

Staff's depreciation expense level is based on rates proposed by Mr. Rieder, resulting in a reduction of $971,000, and on his recommendation to pass back the common plant excess reserve over a five year period, versus the Company's fifteen years, as a means to mitigate the amount of the rate increase. The recommended five year pass back results in an additional reduction to depreciation expense of $1.074 million.

Taxes Other Than Income

Q. Please identify what items are included in the forecast of taxes other than income.

A. Schedule 7 of Orange and Rockland's Exhibit E-4 presents electric taxes other than income taxes for the rate year which total $22.507 million. Taxes other than income include net property taxes of $15.804 million (projected property tax expense of $17.067 million offset by an amortization of property tax refunds of $1.263 million), payroll taxes of $2.628 million and revenue taxes of $4.075 million.

As described in Mr. Kane's pre-filed testimony, page 20, payroll taxes are determined utilizing effective payroll tax rates to forecasted direct labor expense. Revenue taxes are determined based on estimated revenue multiplied by current tax rates. Property tax refunds represent previously deferred refunds, net of incentives, from the Towns of Ramapo, Clarkstown, Orangetown, and Haverstraw. Property taxes are forecasted by Mr. Hutcheson, on pages 20 and 21 of his pre-filed testimony. The forecast utilizes an average escalation factor with certain normalizing adjustments.

Q. Did the Company's update of November 15, 2007 impact the rate year forecast of taxes other than income?

A. Yes. The Company's update increased net property taxes by $2.133 million and payroll taxes by $23,000. The update to property taxes reflects the impact of known 2007 school taxes on the rate year forecast, an increase of $1.098 million, and reflects the use of additional available credits pursuant to the Commission's October 2007 Order in Case 06-E-1433, to offset deferred costs. As a result, the amount of available deferred refunds and the resulting amortization of those credits have been reduced by $1.035 million. The payroll tax increase of $23,000 tracks the company's direct labor changes.

Q. Does the Panel propose any adjustment to the Company's forecast of taxes other than income?

A. Yes. We propose an adjustment to reduce the property tax forecast of $18.165 million by $358,000 to $17.807 million and we have reduced $22,000 of the Company's $23,000 payroll tax adjustment.

Q. Please explain your adjustment to property taxes.

A. As discussed by Mr. Hutcheson, the Company's forecast methodology starts with the development of an average escalation factor to apply to the latest known tax information and is apportioned over the appropriate tax year to determine the projected property tax expense in the rate year. The escalation factor of .31% was increased to 1.27% on update. The Company makes a normalizing adjustment to remove the impact of certain assessment reductions resulting from various tax litigation settlements in the development of the escalation factor, assertedly so that it will be more representative of the future. Given the size of the assessment reductions we believe that this adjustment is appropriate since similar reductions appear unlikely in the near future.

Q. Please continue.

A. The Company in response to Staff Information Request 134, page 21 of Exhibit ___ (AP-1), acknowledges that the average escalation factor used in the forecast of property taxes recognizes both assessment and rate changes, as it is developed based on actual tax payments for the last five years. Even so, the Company makes an additional normalizing adjustment of $358,000 in the rate year for additional assessment tax changes in connection with the construction of Transmission Line 60 and improvements to the Tallman Substation in the Town of Ramapo, as well as additional taxes estimated for the new Little Tor and New Hartley Road substations. Other than the statement that this normalizing adjustment was made, there is no explanation/analysis as to why the escalation factor, which already includes an allowance for assessment changes, is inadequate to the amount of $358,000. We have therefore eliminated this normalizing adjustment.

Q. Please explain the reduction in payroll taxes.

A. Our adjustment of $22,000 tracks our staffing adjustments to direct labor.

State and Federal Income Tax

Q. Would you please explain your adjustments to State and Federal Income Taxes?

A. Exhibit ___ (AP-2), Schedule 4 and 5 shows the computation of State and Federal Income Tax for the rate year. Our calculation of interest expense uses Staff's rate base plus interest bearing construction work in progress and is subject to the pro-forma cost component of debt and customer deposits as determined by the Finance Panel.

Q. Please continue.

A. Our adjustments to book depreciation, flow thru tax depreciation and tax depreciation normalized track the tax ramifications of Staff witness Rieder's depreciation rate changes and the Staff Infrastructure Panel's capital project changes. The adjustments to Post Employment Benefits and Pension Expense track our amortization proposal for those items.

Rate Base

Q. Please discuss Rate Base.

A. The Summary Schedule of Exhibit E-2 details the Company's rate year Rate Base of $564.450 million that is described on pages 11 and 12 of Mr. Kane's pre-filed direct testimony. The Company's November 15, 2007 update decreased rate base by $9.779 million to $554.672 million. The decrease to net plant is attributable to schedule acceleration, expansion of project scope as well as related changes to the depreciation reserve. Working capital tracks O&M expenditure updates, and corrections and prepayments track the update to property taxes. The changes to Regulatory Assets/Liabilities track several adjustments in order to reflect the Commission's use of all available credits to offset deferred charges to the extent possible in Case 06-E-1433 and their related impacts, as well as a correction to deferred purchased power. Changes to deferred income taxes track changes to net plant. The Company's update also made several minor corrections totaling $34,000 which increased their Earnings Base Capitalization Adjustment to rate base from $35.835 million (See Exhibit E-2, Schedule 3) to $35.869 million.

Rate Base - Working Capital

Q. Please describe your adjustments to working Capital.

A. Our adjustment to the Cash Working Capital

Allowance is set forth in our Exhibit ___ (AP-2, Schedule 7). The adjustment reflects the impact of Staff's operation and maintenance expense adjustments on cash working capital allowance.

Q. Please explain the Panel's adjustment to Prepayments.

A. The Company's average balances for prepayments are set forth on Company Exhibit E-2, Schedule 9. Our adjustment relates to Local Property Taxes. The average balance for the twelve months ended March 31, 2007 was $3.997 million. The Company's average balance for the twelve months ended June 30, 2009 is projected to increase to $9.083 million (updated from the as filed $8.534 million) or an increase of over 200% from the historic year amount. The Company's growth rate to forecast property taxes is only 1.27%. Thus, we do not find the projected increase in prepaid property taxes to be reasonable. To forecast the rate year level of prepaid property taxes we have applied the annual growth rate of 1.27% to the average book balance at March 31, 2007 to forecast the rate year level of $4.112 million, which is a decrease of $4.971 from the Company's forecast.

Deferred Environmental Expenditures

Q. Please explain your adjustments to Deferred MGP and West Nyack Environmental Expenditures.

A. Our adjustment to Deferred MGP Environmental Expenditures decreases rate base by $3.606 million. Our adjustment includes a correction to the Company's deferred balance that results in a decrease of $4.779 million, offset by the effect of our five year recovery period versus the Company's three year period, which results in an overall increase of $1.173 million.

Our adjustment increasing Deferred West Nyack Environmental Expenditures by $14,000 reflects our amortization period of five year versus the Company's three year period.

Q. Please continue.

A. Our adjustment increasing Deferred Workers Compensation Expense by $37,000 reflects the effect of our five year amortization period versus the Company's three year period.

Earnings Base Capitalization Adjustment

Q. What is the Earnings Base Capitalization Adjustment?

A. On pages 12 and 13 of Mr. Kane's pre-filed testimony he correctly notes that the earnings base capitalization comparison is made to ensure that the authorized return is only applied to investor supplied capital. The adjustment addresses, in part, the concern that the standard working capital allowance formula does not accurately measure the working capital devoted to the provision of utility service.

Q. Did the Company's study indicate a difference between capitalization and earnings base for the test period?

A. Yes. The Company performed a study which found that the average rate base, as adjusted, exceeded capitalization by $64.583 million and that the amount attributable to electric operations was $35.869 million. The Company therefore reduced electric rate base by that amount.

Q. Please explain your adjustment to the earnings base capitalization adjustment.

A. The earnings base capitalization adjustment is computed from known historic data, including the cash working capital allowance. In response to

Staff Information Request 66, page 4 of Exhibit ___ (AP-1), the Company acknowledges that the test year level for working capital related to purchased power, shown on Exhibit E-2, Schedule 8, was omitted in error. Correcting for the omission increases historic working capital by $4.269 million. We have made the corresponding adjustment increasing the earnings base capitalization adjustment. The electric portion is $2.371 million. This results in a larger credit to rate base.

Deferred Accounting

Q. What expense items is the Company currently allowed deferred accounting for?

A. The Company has been and is currently allowed reconciliation or deferral accounting for research and development costs, major storm costs, pensions, OPEBs and MGP site investigation and remediation costs. The authorization for this accounting should continue.

In Case 06-E-1433, the Company proposed to expand its transmission and distribution danger tree programs. The expansion was an increase of

$500,000 annually for each program. Additional costs of $150,000 were also included to address new regulations. The Commission accepted both the Company's budgeted amounts and a Company offer to defer any shortfall between budgeted and actual expenditures for customer benefit. As discussed in Company witness Regan's pre-filed direct testimony, pages 34 through 36, the Company is continuing to forecast this expansion into the rate year. Given the newness of the program, and recognizing that the program has not yet fully ramped up, we recommend the continued deferral of any shortfalls.

Q. Where there any other new reconciliations authorized by the Commission in Case 06-E-1433.

A. Yes. In Case 06-E-1433 it was noted by the parties that the Company was using the "simplified service cost method" to determine the level of overheads capitalized for tax purposes. This permitted the Company to obtain expense deductions for costs that would have otherwise been capitalized and depreciated over a 15 to 20-year period. These tax benefits are normalized and reduce rate base.

The accounting changes were made under Section 263A of the Internal Revenue Code. The IRS, however, disputed the deduction. As a result, a true up of the actual deferred tax benefit to the level reflected in rates was authorized. In response to Staff Information Request 101, page 12 of Exhibit ___ (AP-1), the Company indicates that it has entered into a tentative settlement agreement with the IRS on this issue for tax years 2002 through 2004. With regards to the 2005 and 2006 tax years, the IRS has disallowed the 263A tax deduction claimed by the Company. The Company will contest this disallowance. The Company states and we concur, that the true up procedure should continue until this issue is resolved with the IRS and the mechanics for calculating the deduction are known and reflected in rates.

Q. Does the Panel have any other comments?

A. Yes. The Company proposes that the Commission grant advance authorization to the Company to retain 14% of any benefits achieved through the challenges to tax assessments, as noted on page 43 of Mr. Kane's pre-filed testimony. In Cases

06-E-1433 and 06-E-1547 the Commission's October 2007 Order addressed this same request. On page 24 of that Order, the Commission stated that there was no need or basis to anticipate future property tax disputes or their resolution and that it will address any property tax benefits only when they occur and are presented. Therefore, we disagree with the Company's request.

Q. Does this conclude your testimony at this time?

A. Yes.