

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 08-E-0539 – Proceeding on Motion of the Commission as to
the Rates, Charges, Rules and Regulations of Consolidated Edison
Company of New York, Inc. for Electric Service.

**Rebuttal Testimony of a Panel Consisting Of
Dr. John Chamberlin, Don Bennett and Brian Hedman**

On Behalf Of the New York Power Authority

September 29, 2008

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1 I. INTRODUCTION AND PURPOSE OF TESTIMONY

2 Q. **Has the Panel previously filed testimony on behalf of NYPA in this case?**

3 A. Yes.

4 Q. **What is the purpose of the Panel’s rebuttal testimony?**

5 A. The purpose of our testimony is to address several proposals presented by the
6 Department of Public Service Staff (“DPS Staff” or “Staff”) in its direct testimony.
7 Specifically, we address DPS Staff Witness Randt’s reliance upon the 2005
8 embedded cost-of-service model (“ECOS”) and acceptance of Con Edison’s
9 revenue allocation. We also address DPS Staff Witness Padula’s proposal
10 regarding the allocation of excess transmission congestion revenues.

11 II. SUMMARY OF FINDINGS AND RECOMMENDATIONS

12 Q. **Please discuss the impact of DPS Staff’s proposal regarding the reliance on**
13 **the 2005 ECOS.**

14 A. The 2005 ECOS purported to demonstrate a \$30.2 million revenue deficiency for the
15 NYPA class. In its order in Case 07-E-0523 (“2007 Case”) the Commission directed
16 Con Edison to include half of that amount – that is, a \$15.1 million revenue
17 deficiency for NYPA in its revenue increase allocation. Staff Witness Randt relies on
18 the 2005 ECOS and the Commission order in her determination that Con Edison
19 should assign an additional \$6.7 million revenue deficiency to NYPA in the current

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1 case. In response to the New York City interrogatory number 10 to the DPS Staff,
2 Ms. Randt indicates that the assignment of an additional \$6.7 million revenue
3 deficiency to NYPA will result in an additional overall increase that is more than \$6.7
4 million. See Exhibit __ (NYPA-26). This is the same "multiplicative" impact that
5 arises due to the addition of the deficiency to the forecasted revenues used to
6 allocate the revenue requirement increase to NYPA that we described on page 10 of
7 our direct testimony.

8 **Q. Please discuss the impact of DPS Staff's analysis on NYPA with respect to the**
9 **treatment of transmission congestion revenues.**

10 A. Staff witness Mr. Padula compares the congestion reimbursement received by
11 NYPA to a proportion of the total transmission congestion revenues based on the
12 transmission allocator and concludes that NYPA receives an amount in excess of its
13 appropriate share. Staff's analysis fails to recognize that the underlying congestion
14 costs are not allocated on the basis of the transmission allocator, and erroneously
15 recommends that NYPA not be permitted to share in the transmission congestion
16 revenues in excess of total congestion costs of NYPA and Con Edison's Native Load
17 customers.

18 **Q. What are your specific recommendations regarding Staff's proposals?**

19 A. Our specific recommendations are:

- 20 1. Reject Staff's acceptance of the 2005 ECOS and require Con Edison to provide
21 an updated ECOS.

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- 1 2. In the absence of an updated ECOS acknowledge that due to the age of the
2 ECOS and the significantly increased expenditures since 2005, it is not possible
3 to demonstrate that NYPA continues to exhibit a revenue deficiency.
4 Consequently, no additional revenue deficiency should be assigned to NYPA in
5 this case. In fact, our updated ECOS shows that NYPA does not produce a
6 deficiency in either the 2006 test year or the rate effective periods.
- 7 3. If the Commission relies upon the 2005 ECOS, expand the tolerance band to +/-
8 20% to reflect the age of the ECOS and the subsequent increased uncertainty
9 that the study reflects the allocation of costs that will occur during the rate period.
- 10 4. Reject Con Edison's revenue based allocation of the proposed increase in favor
11 of a cost based allocation or alternatively, allocate the rate increase on an equal
12 percentage basis to all classes.
- 13 5. Recognize that excess transmission congestion revenues are appropriately
14 assigned to all rate classes in proportion to their allocated transmission system
15 costs.

16 III. Embedded Cost of Service Study

17 Q. **What is your understanding of Staff's proposed assignment of an additional**
18 **\$6.7 revenue deficiency to NYPA?**

19 A. Ms. Randt bases her adjustment on the 2005 ECOS that Con Edison filed in support
20 of the current case. She reiterates Staff's position in the 2007 Case that a 15%

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1 tolerance band should be used to reflect additional uncertainty in the ECOS results
2 due to Con Edison's lack of a study supporting the development of the low-tension
3 distribution cost allocators (D08/D09).

4 Q. **Do you agree with Ms. Randt's analysis and conclusion?**

5 A. No. We have two disagreements with Ms. Randt's analysis and conclusion. The first
6 area of disagreement is the apparent interpretation that there remains a residual
7 revenue deficiency from the 2007 Case final order. The Commission ordered that
8 one-half of the calculated deficiency be implemented in the 2007 Case without
9 prejudice to subsequent rate periods. In so doing, the Commission indicated that
10 NYPA would be subject to additional revenue deficiency in future rate periods should
11 such a deficiency exist. However, there is no foundation for the view that the
12 Commission anticipated that rates in future periods would be based on the same
13 cost-of-service study as was used in the 2007 Case and that the remaining one-half
14 of the revenue deficiency calculated by the 2005 ECOS would be applied to future
15 rate periods without a demonstration that such a deficiency remains.

16 Q. **Did you update the 2005 ECOS to determine whether a revenue deficiency**
17 **remains for NYPA?**

18 A. Yes. As we indicate on page 14, lines 3-11 of our direct testimony, we updated the
19 2005 ECOS for both 2006 and 2007. Our analysis indicates that NYPA does not
20 have a revenue deficiency in either year, nor would we expect a deficiency in the
21 rate period.

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1 **Q. Please explain your second area of disagreement with Ms. Randt's analysis**
2 **and conclusions.**

3 A. Our second area of disagreement is with the application of a 15% tolerance band in
4 the 2005 ECOS. While we applaud Ms. Randt for recognizing that the uncertainty
5 introduced in the 2005 ECOS by Con Edison's use of an unsupported diversity
6 adjustment in the D08/D09 allocators warrants a broader tolerance band, we are
7 concerned that she is recommending the same band that Staff recommended a year
8 ago when the 2005 ECOS was first filed. The purpose of the tolerance band is to
9 recognize that assumptions about the costs and underlying drivers in an embedded
10 cost-of-service study cannot be known for certain and that those costs are a proxy
11 for the costs that are expected to occur during the rate year. It stands to reason that
12 the further apart in time the ECOS and the period in which the rates will be in effect
13 are, the less certainty one has that the costs in the ECOS represent the costs in the
14 rate period. Consequently, if Staff observed enough uncertainty in the 2007 Case to
15 recommend a 15% tolerance band, we would expect Ms. Randt to recommend a
16 tolerance band in excess of 15% in the current case.

17 **Q. What tolerance band do you recommend?**

18 A. We recommend a 20% tolerance band. We believe that the passage of time and the
19 subsequent changes in load growth, capital expenditures and expenses warrant a
20 conservative application of the 2005 ECOS.

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1 IV. T&D Revenue Increase Allocation

2 **Q. Ms. Randt indicates that Con Edison allocated the proposed T&D revenue**
3 **increase based on “the proportion of each class’ respective re-aligned rate**
4 **year delivery revenues to the total rate year delivery revenues” (Randt Direct,**
5 **page 11, lines 3-6). She then indicates that she agrees with this approach**
6 **(page 11, line 10). Do you agree with Ms. Randt?**

7 A. No. While Ms. Randt correctly describes the process by which Con Edison allocates
8 the T&D revenue increase, we do not agree that this approach “balances the rate
9 increase to all classes” (Randt Direct, page 11, lines 12-13). The rate increase
10 should be based on the underlying costs of each customer class. Allocating the
11 increase on the basis of forecasted revenues does not meet this criteria. Indeed,
12 allocating the increase on the basis of forecasted revenues presumes that the
13 forecasted sales are accurate. Both Con Edison and NYPA are aggressively
14 pursuing programs to manage load growth. While Con Edison has adjusted the
15 forecasted loads to reflect the projected impacts of the Con Edison programs, the
16 actual impact is uncertain and the impact of NYPA’s programs is not accounted for.
17 Consequently, we would say that rather than balancing the increase to all classes,
18 the methodology capriciously assigns the increase to all classes. In the absence of a
19 cost based allocation, we suggest an equal percentage applied to all classes would
20 better balance the rate increase.

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1 V. Transmission Congestion Revenues

2 **Q. Did Staff provide an analysis of the reasonableness of the current treatment**
3 **afforded NYPA with respect to Transmission Congestion Revenues?**

4 A. Yes, Staff witness Mr. Padula sought to determine whether it was reasonable to
5 continue to exclude NYPA from recovery of Transmission Congestion Contract
6 (“TCC”) auction revenues and congestion rents (collectively “Transmission
7 Congestion Revenues”). Mr. Padula concluded that, over the period from January
8 2005 through June 2008, NYPA had received more than its proportionate share of
9 Con Edison’s total Transmission Congestion Revenues, by virtue of its congestion
10 payments that were reimbursed by Con Edison.

11 **Q. How does Mr. Padula define Transmission Congestion Revenues?**

12 A. Just as we did in our direct testimony, Mr. Padula adds the two components of TCC
13 auction revenues, and rents from NYPA’s grandfathered TCCs.

14 **Q. Please describe Mr. Padula’s analysis.**

15 A. Mr. Padula described the test for a reasonable recovery of congestion revenues as
16 follows: “TCC revenues should be allocated to rate classes in the same manner that
17 those classes are contributing to the costs of transmission facilities.” Specifically,
18 with respect to NYPA, he sought to compare the total of congestion revenues paid to
19 “an allocation based on cost contribution to the transmission facilities to determine
20 the reasonableness of the current allocation.” (Padula direct, page 12, lines 12-15).

21 **Q. Do you agree with the standard for reasonableness proposed by Mr. Padula?**

22 A. Yes, it is the same standard we suggested in our direct testimony.

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1 **Q. Do you agree with the results of Mr. Padula's analysis?**

2 A. No. Mr. Padula ignored a critical component of the allocation of cost. While NYPA,
3 and the Con Edison Native Load rate classes each pay for the transmission system
4 in proportion to their respective transmission allocators, each pay 100% of their
5 respective congestion costs. NYPA's costs are reimbursed via a 2000 Agreement
6 with Con Edison in which NYPA's grandfathered TCCs were turned over to Con
7 Edison. Con Edison's Native Load customers are reimbursed via TCC auction
8 revenues, and the congestion rent surplus. The total transmission-related cost is the
9 sum of the allocation of the transmission revenue requirement, plus congestion
10 costs. Thus, the net allocators must be adjusted to reflect both components: the
11 ECOS transmission allocator, and the 100% share of individual congestion costs.

12 **Q. Why is this important?**

13 A. It is important because NYPA incurs a much higher proportion of congestion costs,
14 in comparison with its allocation of the transmission revenue requirement, than does
15 Con Edison's Native Load. For example, while NYPA is responsible for 13.7% of
16 total transmission revenue requirement in 2006, it incurred approximately 52% of
17 total 2006 congestion costs on the Con Edison system. Thus, the respective
18 contribution to the total transmission revenue requirement of both NYPA and the
19 Con Edison Native Load is the weighted average of the ECOS transmission
20 allocation plus the incurred congestion costs for each. As we pointed out in our
21 direct testimony, the correct test for reasonableness of the allocation of
22 Transmission Congestion Revenues is whether the net congestion revenues equals

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1 the share of the transmission cost paid by each rate class. That is exactly what our
2 proposed allocator does – we propose to first subtract the Native Load congestion
3 costs from the total of TCC auction revenues and net congestion rents, then allocate
4 the remaining “surplus” to both NYPA and Native Load in proportion to the ECOS
5 allocator (which, of course, is the proportion of the transmission revenue
6 requirement allocated to each rate class). Our test meets the definition of
7 reasonableness suggested by Mr. Padula.

8 **Q. How do you respond to Mr. Padula’s testimony that NYPA already receives a**
9 **disproportionate share of Transmission Congestion Revenues?**

10 A. Mr. Padula argues that NYPA received approximately 27% of the Company’s
11 Transmission Congestion Revenues over the period January 2007 through June
12 2008. (Padula direct, pages 12-13). He compares that 27% with NYPA’s
13 transmission allocator of 13.7%, and bases his conclusion on that comparison. But,
14 since NYPA’s congestion costs are greater than those of Con Edison Native Load,
15 that conclusion is erroneous.

16 **Q. Are you able to determine the correct weighted average of transmission**
17 **allocator and congestion costs?**

18 A. No, because Con Edison does not provide an updated ECOS that would allow such
19 a calculation. We do not know, for example, what the transmission portion of the
20 revenue requirement is for the 2006 test year.

21 **Q. Does this prevent an appropriate comparison of the congestion revenues?**

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1 A. No, the test we proposed in our direct testimony is the appropriate comparison. We
2 simply propose that both NYPA, and Con Edison Native Load customers be first
3 compensated for congestion costs, and the excess be shared in proportion to the
4 manner in which the transmission system is paid for. The transmission allocator is
5 the correct basis for the allocation of the surplus congestion revenues.

6 **Q. On page 11 of his testimony, Mr. Padula supports his claim that NYPA**
7 **receives a disproportionate share of Transmission Congestion Revenues by**
8 **referring to NYPA’s grandfathered agreement with Con Edison which he**
9 **describes as an agreement that “no other customer class” has with respect to**
10 **congestion costs. Do you have any comment?**

11 A: Yes. The claim is totally irrelevant to a sound analysis of this issue. NYPA’s
12 grandfathered transmission agreement that was used for deliveries to NYPA’s
13 governmental and economic development customers has no bearing on the
14 Transmission Congestion Revenue analysis. First, NYPA’s grandfathered
15 agreement with Con Edison, like all such pre-existing transmission agreements, was
16 accorded “grandfathered” status at the creation of the NYISO. NYPA subsequently
17 converted this agreement to TCCs in accordance with NYISO rules. *But the same is*
18 *true of Con Edison:* because of its status as a New York transmission owner (“TO”),
19 Con Edison, since the creation of the NYISO, receives TCCs for its Native Load (i.e.
20 Existing Transmission Capacity for Native Load or ETCNL) like other New York TOs
21 with native load responsibilities which are auctioned per NYISO rules.

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1 Second, just as NYPA's grandfathered agreement serves to reimburse NYPA for
2 congestion costs incurred based on scheduled imports into the Con Edison service
3 territory, Con Edison's Native Load TCCs shield its Native Load customers from
4 congestion costs.¹ There is no special treatment for NYPA customers as compared
5 to Con Edison's Native Load customers. Each customer group was afforded the
6 same protections.

7 **Q. Does this conclude your rebuttal testimony?**

8 A. Yes.

¹ Also offsetting Native Load congestion costs are auction revenues from Residual Transmission Capacity ("RTC") TCCs and the surplus congestion rents from the NYPA grandfathered TCCs as Mr. Padula acknowledges in his analysis on page 13 of his Direct Testimony.