REDACTED

BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

Consolidated Edison Company of New York, Inc.

Case 08-E-0539

September 2008

Prepared Testimony of:
Accounting Panel

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Public Utilities Auditor 2

Jane Wang
Public Utilities Auditor 2

Tim Canty
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Q. Would the members of the Staff Accounting Panel please state your names, employer, and business addresses.

A. Kristee Adkins, Jane Wang, Tim Canty, Claude Daniel, and Kevin Higgins. We are employed by the New York State Department of Public Service (DPS or the Department). Our business addresses are Three Empire State Plaza, Albany, New York 12223 and 90 Church Street, New York, New York 10007.

Q. Ms. Adkins, what is your position at the Department?

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

Q. Please describe your educational background and professional experience.

A. I graduated from the State University of New York Institute of Technology in Marcy, New York in 2002 with a Bachelor of Science degree in Accounting and Finance. I have been employed by the Department since June 2005. In the course of my employment, I examine accounts, records, documentation, policies and procedures of regulated utilities. I have participated in the rate proceedings in Case 07-E-1315, Con Edison - Steam Rates; Case 07-E-0523, Con Edison - Electric Rates; Case 06-G-1332, Con Edison - Gas Rates; Case 05-G-1494, Orange and Rockland Utilities, Inc. (Orange and Rockland or O&R); and Case 05-W-0802, Adrian's Acres West Water Company, Inc.

Q. Ms. Adkins, have you previously testified before the New York State Public Service Commission (the Commission)?

A. Yes, I have submitted testimony on revenue requirement, various other operating revenues and operation and maintenance (O&M) expense forecasts in Case 05-G-1494, Orange and Rockland - Gas Rates; Case 06-G-1332, Con Edison - Gas Rates; Case 07-E-0523, Con Edison - Electric Rates; and Case 07-S-1315, Con Edison - Steam Rates. I have testified in Case 07-E-0523, Con Edison - Electric Rates, and Case 07-S-1315, Con Edison - Steam Rates

Q. Ms. Wang, what is your position at 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 and professional experience.

A. I graduated from Tsinghua University, Beijing, China in 1985 with a Bachelor of Science degree in Electric Power Engineering. I also received a Master's degree in Electric Power Engineering from Tsinghua University in 1988. I received a Master's in Business Administration from Union College, Schenectady, New York in 1997. I have experience working as a cost engineer with General Electric and a Staff Accountant with Time Warner Cable. I have been employed by the Department since April 2005.

Q. Please briefly describe your responsibilities with the Department.

A. My responsibilities include examination of accounts, records, documentation, policies and procedures of regulated utilities. I have worked on Case 05-E-0553, Village of Bath Electric Rates; Case 05-S-1376, Con Edison - Steam Rates; Case 06-G-1332, Con Edison - Gas Rates; and Case 07-E-0523, Con Edison - Electric Rates; Case 07-S-1315, Con Edison - Steam Rates I worked on revenue requirement determinants and accounting examinations in these cases.

Q. Ms. Wang, have you previously testified before the Commission?

A. Yes, I have submitted testimony in rate proceedings in Case 05-S-1376, Con Edison - Steam Rates, Case 06-G-1332, Con Edison - Gas Rates, Case 07-E-0523, Con Edison - Electric Rates, and Case 07-S-1315 Con Edison - Steam Rates. I testified before the Commission in Con Edison electric rate proceedings in Case 07-E-0523 and Case 07-S-1315.

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

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

Q. Please describe your educational background and professional experience.

A. I graduated from St. Bonaventure University, in St. Bonaventure, New York in 1988 and have a B.B.A. degree with an Accounting major. I have been employed by the Department since 1988.

Q. Please briefly describe your responsibilities with the Department.

A. My responsibilities include examination of accounts, records, documentation, policies and procedures of regulated utilities. I have been involved in numerous rate and accounting examinations.

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

A. Yes, I have testified before the Commission proceedings on a variety of accounting and regulatory issues most recently in Con Edison's Steam rate proceeding in Case 07-S-1315.

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

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

Q. Please describe your educational background and professional experience.

A. I graduated from Hunter College of the City University of New York with a Bachelor degree in Accounting and joined the Department in 1986.

Q. Please describe your responsibilities with the Department.

A. I routinely examine accounts, records, documentation, policies, and procedures of regulated utilities. I have also reviewed numerous petitions filed by Con Edison seeking authority for asset transfers, deferrals, reconciliations and refunds.

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

A. Yes, I have prepared cost of service exhibits and offered testimony on various operating & maintenance (O&M) expense, taxes other than income taxes and rate base adjustments in previous Con Edison Electric, Gas and Steam Rate Cases including Cases 04-E-0572, 06-G-1332, 05-S-1576, 07-E-0523 and 07-S-1315. I also testified on rate base items in Case 90-C-0191 involving New York Telephone Company rates.

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

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

Q. Please describe your educational background and professional experience.

A. I am a graduate of the State University College of New York at Oneonta with a Bachelor of Arts degree in Business Economics. I have also earned an Associates degree in Accounting from

Morrisville State College. I joined the Department in June 1987.

Q. Please describe your responsibilities with the Department.

A. My work as a Public Utility Auditor has included the examination of accounts, records, documentation, policies and procedures of regulated utilities so as to develop issues for electric, gas, telecommunications and water rate proceedings, financing petitions, rate of return studies and other general accounting matters.

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

A. Yes, on numerous occasions.

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

A. Our testimony addresses accounting aspects of Con Edison Company of New York's (Con Edison or the Company) electric rate filing. We will discuss Con Edison's proposal to mitigate its rate request and summarize its request from a rate perspective after its mitigation proposals. We will also summarize DPS Staff's overall revenue requirement position.

In addition, we will discuss our

adjustments to the Company's rate year forecasts in the following areas:

Rate Mitigation

- Unbilled Revenues

Other Operating Revenues

- Rent from Electric Property
- Late Payment Charges
- Transmission Service Charges
- Purchase of Receivables (POR) Discount
- Gain on Sale of First Avenue Properties
- Carrying Charges on T & D Expenditures
- Property Tax Refunds
- Property Tax Deferral

Operating and Maintenance Expenses

- Administrative Exp. Transferred - Credit
- Collection Agency Fees
- Company Labor
- Consultants
- Contract Labor
- Corporate Fiscal
- Corrective Maintenance
- Employee Pensions and Other Post Employment Benefits (OPEBs)
- Employee Welfare

- Energy Efficiency Costs
- Facilities Maintenance
- Insurance
- Other Compensation
- Rents
- Research & Development
- Uncollectible Accounts
- Other O&M

Depreciation Expense

Taxes Other Than Income Taxes

- Property Taxes
- Revenue Taxes
- Payroll Taxes

New York State and Federal Income Taxes

Rate Base

- Plant in Service
- Working Capital
- Earnings Base Capitalization
- Business Incentive Rate (BIR) Discounts
- East River Repowering Project (ERRP) Major Maintenance
- Regulatory Deferrals
- Accumulated Deferred Income Taxes

Moreover, we will discuss Con Edison's proposal for a three-year rate plan as an alternative to a one-year case. Finally, we will discuss the Company's proposal for deferral accounting for a number of its cost elements and related proposal for netting regulatory deferrals on an annual basis.

Overview of Con Edison's Filing

Q. The Commission's Order in Case 07-E-0523, Con Edison - Electric Rates (2008 Rate Order), Ordering clause 9, page 180, required Con Edison to demonstrate that all reasonable means available for mitigating the size of any requested rate increase were considered in its next rate case filing, correct?

A. Yes.

Q. Did Con Edison make such a demonstration in this rate case filing?

A. The Company's Accounting Panel discusses what it views as rate mitigation efforts beginning on page 19 of its pre-filed testimony. The Company lists seven measures that mitigate its rate request from $1.08 billion to $654 million as filed, or $1.2 billion to $774 million as revised by way of its July 25, 2008 preliminary update filing.

Q. Do you have any concerns or comments regarding Con Edison's mitigation proposal?

A. Yes. The Company's filing presents its mitigation proposal as a "package" offering. The Company reserves its rights in the event the Commission decides to depart from one or more of the mitigation proposals, in whole or in part.

Q. Does the Panel have any concerns regarding the Company's position regarding its mitigation proposals?

A. We are concerned that we may be addressing a moving revenue requirement target. Therefore, we will address the merits of each of the Company's "mitigation" approaches and we reserve our rights to address any change in position that the Company may advance in the future.

Q. Please identify Con Edison's rate mitigation proposals.

A. The first mitigation effort is the reduction of the requested return on common equity from 11.3% to 10%. The second effort is to extend the recovery period of deferred charges. The third element is the Company's proposal to forgo or delay the recovery of its depreciation reserve deficiency. The forth item is the proposed use of unbilled revenue accrual as a rate moderator. The fifth item is the recovery of site investigation and remediation (SIR) cost over a ten year period. The sixth is the proposal to maintain the current recovery level for deferred world trade center (WTC) costs. Finally, the Company proposes to adjust the earnings base versus capitalization (EBCap) adjustment to eliminate a portion of the prepaid pension expense.

Q. Will you be addressing the Company's requested 10% return on common equity?

A. No. The Staff Finance Panel will be addressing the reasonable rate of return for Con Edison.

Q. Please comment on the remaining proposed mitigation items.

A. We have a different view than what the Company puts forth in its testimony regarding five of the remaining six mitigation proposals. Con Edison's proposals to: 1) extend the recovery period of deferred charges, 2) delay the recovery of its depreciation reserve deficiency, 3) recover SIR cost over ten years, 4) maintain the current recovery level for deferred WTC costs, and 5) adjust the EBCap to eliminate a portion of the prepaid pension expense represent nothing more than Con Edison's acceptance, with reservations, of the Commission's determinations in the 2008 Rate Order. As such, we do not view these items as rate mitigation efforts in that they are all reflected in current rates. The only way these items can be view as mitigation efforts is by way of comparison to the Company's unmitigated case which would seek to accelerate recovery and or inclusion of these items in the Company's revenue requirement.

Q. Do you have any concerns regarding the Company's proposed use of accrued unbilled revenues as a rate moderator?

A. Yes. We will discuss these concerns in more detail below.

Q. Would you summarize Con Edison's filing from a rates perspective after its mitigation proposals for the rate year ending March 31, 2010?

A. In its initial filing, Con Edison sought a revenue increase of approximately $654.1 million, or 5.8%, inclusive of projected supply costs and gross receipts tax, based on the estimated level of sales for the rate year.

Based on its preliminary update filing, the Company increased the amount of rate relief it originally sought; the Company is now seeking a rate increase of approximately $774.4 million. The percentage increase on a total bill basis assuming the updated increased revenue requirement and updated supply prices remains at 5.8% for the rate year. The relative (percentage) increase remained at 5.8% due to the fact that the Company also projected in its preliminary update a significant increase (19.8%) in commodity costs for the rate year.

The rate increase represents delivery rate increases, excluding supply costs, of approximately 20.7% to Con Edison classes, approximately 25.9% for New York Power Authority (NYPA) delivery service and approximately 21% for Economic Development Delivery Service (EDDS). Total bill impacts, inclusive of estimated supply revenues, are 5.7%, 6.6% and

4.4% for Con Edison customers, NYPA delivery service customers and EDDS delivery service customers, respectively.

It is important to note that the above percentage rate increases reflect the system average increase for all customers in all Con Edison customer classes. The increases for the various service classes and the customers within those service classes can vary significantly from the system average increases because of rate design and differing customer energy consumption considerations.

Overview of Staff's Position for Rates

Q. What is the effect of Staff's adjustments on rate of return?

A. The adjustments, as shown on Exhibit___(AP-1), Schedule 1, increase the electric rate of return before any proposed rates from 4.72% to 6.21%.

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

A. The Finance Panel recommends a 7.57% rate of return based in part on a 9.5% return on equity. As a result, the recommended change in electric revenue requirement is a $327.875 million increase for the rate year ending March 31, 2010.

Q. What are the major cost elements Staff is proposing to adjust?

A. The adjustments fall into seven major categories: sale revenues, unbilled revenues, other operating revenues, O&M expenses, depreciation expense, taxes other than income taxes and rate base.

Q. Would the Panel highlight the amount of the adjustments for each of categories?

A. Staff proposes that the Commission increase Con Edison's forecast of rate year sales revenues by $8.125 million.

We propose that the Commission decrease the amount of unbilled revenues Con Edison uses to mitigate rates by $31.270 million.

Staff proposes that the Commission increase Con Edison's forecast of rate year other operating revenues by $37.564 million. Staff's major adjustments are to transmission service charge revenues, transmission congestion credits, gain on sale of First Avenue properties and deferred property tax expense.

Staff proposes that the Commission decrease the Company's forecast of rate year O&M expense by $212.783 million. Staff's major adjustments are to Company labor, employee pension and OPEBs, employee welfare, insurance, interference, other compensation and rent expense.

Staff proposes that the Commission decrease the Company's forecast of rate year depreciation expense by $16.507 million. This adjustment tracks the proposed elimination of capital amounts from the Company's forecast of rate year plant in service and to eliminate depreciation of certain capital cost write-offs.

Our Panel proposes that the Commission decrease the Company's forecast of rate year taxes other than income taxes by $83.035 million. Our primary adjustment is to Con Edison's forecast of rate year property tax expense.

Staff proposes that the Commission decrease the Company's forecast of rate year rate base by $310.216 million. Staff's primary adjustment is to the Company's forecast of rate year plant in service. Staff's O&M expense adjustments also impact the calculation of working capital reflected in rate base.

Finally, Staff's proposed adjustments impact the calculations of New York State (NYS) and federal income taxes, primarily due to lower income resulting from the Staff Finance Panel's recommended return on equity.

Q. Is the Panel sponsoring any Exhibits?

A. Yes, we are sponsoring three Exhibits.

Q. Would you please describe your first Exhibit?

A. As previously mentioned, Exhibit___(AP-1), is Staff's cost of service presentation. Exhibit___(AP-1) contains nine schedules. Schedule 1 is Staff's projection of electric operating income, rate base and rate of return for the rate year ending March 31, 2010, and includes Staff's proposed revenue requirement. Schedule 1 is supported by Schedules 2 through 9.

Q. Please describe the format of Schedule 1.

A. Column 1 of Schedule 1 contains the income statement, rate base and rate of return figures as filed by the Company for the rate year, before any required revenue increase. Column 2 contains the Company's preliminary updates as of July 25, 2008. 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 Staff's adjustments set forth in Column 5. Column 6 presents Staff's projected rate year figures before any required revenue increase. Column 7 contains Staff's proposed changes in revenues, and Column 8 is Staff's forecasted rate year income, rate base and rate of return after its recommended revenue increase.

Q. What information is shown on Schedules 2, 3, 3A and 4?

A. Schedule 2 shows the forecast of rate year other operating revenues. Schedule 3 shows the forecast of rate year O&M expense by cost element. Schedule 3A shows the cost elements of other O&M expense. Schedule 4 shows the forecast of rate year taxes other than income taxes.

Q. What information is shown on the remaining schedules?

A. Schedules 5 and 6 calculate New York State and federal income tax expenses, respectively. The adjustments in these schedules correspond primarily to adjustments set forth in other schedules. Schedule 7 shows the forecast of rate base for the rate year. Schedule 8 shows the details of the allowance for working capital, which is a component of rate base. Schedule 9 is a summary of Staff's adjustments.

Q. Would you please describe your second Exhibit?

A. Exhibit___(AP-2) provides various information concerning the eight property tax refunds that the Company is proposing to refund to customers in this case.

Q. Would you please describe your final Exhibit?

A. Exhibit___(AP-3) contains a number of responses to Staff Information Requests (IR) and Company supplied supporting information that we refer to, or otherwise rely upon, that were produced during the discovery phase of this proceeding.

Proposed Three-Year Rate Plan

Q. Con Edison sponsored a three-year rate proposal in its filing. Will the Panel address this proposal?

A. No. Con Edison's Accounting Panel, beginning on page 120 line 4 of its testimony, discusses their proposal for a three-year rate plan as an alternative to a single-year rate case. On page 121, lines 10 though 17, the Panel states that by proposing a three-year rate plan in the alternative, the Company does not waive its rights to file for new rates immediately after the conclusion of this case, if the Company views: 1) the rate change granted by the Commission for rate year one to be inadequate; or, 2) the terms for an additional rate years(s) under a multi-year plan to unreasonable. Given the Company's position, our testimony only addresses the issues necessary for the Commission to determine rates for a single rate year, or until the Company files its next rate case and the Commission makes a determination on that request.

Rate Mitigation Proposal

Unbilled Revenues

Q. What are unbilled revenues?

A. At the conclusion of every accounting period there are utility services that have been rendered to customers for which those customers have not been billed. The revenues related to the rendered but not yet billed service are known as unbilled revenues.

Q. Does Con Edison currently accrue unbilled revenues on its books for financial reporting purposes?

A. No. The Company currently recognizes revenues on an as billed basis.

Q. What is Con Edison proposing in this case concerning unbilled revenues?

A. First, the Company proposes to change its accounting for revenues and begin accruing unbilled revenues. The initial recognition of unbilled revenues will result in an earnings enhancement for the Company. The Commission has traditionally captured this benefit for ratepayers. Con Edison estimates the ratepayer benefit to be $91 million for electric operations. In its testimony, the Con Edison Accounting Panel indicates that this change would require Commission approval and that the Company will file a petition with the Commission seeking authorization to make this accounting change for all of its utility services. We note that, to date, the Company has not filed a petition with Commission.

Second, Con Edison proposes to use $45.270 million of the estimated $91 million of electric unbilled revenues in the rate year to mitigate its rate request.

Q. In the past, most notably in Case 29465, the Company objected to financial recognition of unbilled revenues as book revenues. Why is the Company now proposing a change in accounting for unbilled revenues?

A. In its response to Staff IR DPS-323, the Company indicates that it opposed recognition of unbilled revenues as revenue in Case 29465 because while it produces short term benefits for customers in terms of lower rates as the unbilled revenue accrual is phased in, it does require customers to pay carrying charges on the net unbilled revenue balance that is passed back to customers, since the Company must finance the cost of this rate mitigation item. The response further states that the Company proposed using unbilled revenues of $45.270 million to mitigate its rate request in this filing, because of the short term benefits that it provides.

Q. What are the benefits and detriments of using unbilled revenues in setting base rates as proposed by the Company?

A. In its response to Staff IR DPS-323, the Company states that the benefit is short-term mitigation of a rate increase offset in the long term by incremental carrying charges to be borne by customers. Con Edison maintains that it would be required to finance the cost of unbilled revenue credits passed back to customers. Once the unbilled revenue credit of $45.270 million is passed back to customers, base rates would increase by approximately $3 million per year, in perpetuity, assuming a pretax rate of return of 11% and an effective income tax rates totaling 40%.

Although not discussed by the Company in its response, the unbilled revenue credit is a one-time benefit that, once used, will have to be made up in its entirety by customers in the following rate period. The effect of expiring credits in subsequent rate periods is often referred to as a rate "hockey stick" effect. Meaning rates temporarily go down then jump back up after the credits are no longer available to mitigate rates.

Q. Do you agree that unbilled revenues could or should be used to mitigate the Company's current rate request?

A. Yes. However, we would like to offer the Commission an alternative ratemaking approach in using unbilled revenues to mitigate its rate request.

Q. Please explain your alternative approach.

A. As of June 30, 2008, Con Edison has approximately $97 million of electric deferred World Trade Center (WTC) O&M costs on its books. It is accruing carrying charges of approximately $0.900 million a month on the deferred balance.

As noted above, in order to mitigate its rate request, the Company is proposing to continue the recovery of deferred WTC-related expenditures and accrued interest as provided for in its last electric rate case. Specifically, the Company proposes to recover $14 million of deferred WTC related costs in the rate year and would continue to accrue carrying charges on the unamortized deferred balance (approximately $83 million) at its pre-tax rate allowance for funds used during construction.

We propose to use $14 million of unbilled revenues to offset the $14 million of deferred WTC costs, which the Company is proposing recovery of in its current rate request, and to use the remaining $77 million of unbilled revenues to offset the balance of $83 million of deferred WTC costs subject to reconciliation in accordance with the Commission's decision in Case 01-M-1958, Petition of Consolidated Edison Company of New York, Inc. for Permission to, Defer the Costs Related to Emergency Response and the Restoration of Service Related to the World Trade Center Disaster, filed in C.9187.

In 2001, the Company filed a petition with the Commission, Case 01-M-1958, seeking authority to defer and recovery its WTC-related costs. The Commission found it premature to consider the petition because other avenues of recovery of these costs had not yet been exhausted. We understand that there is still potential for further recovery of WTC-related costs. Once those other reimbursement options are ultimately exhausted, the Commission will address the final disposition of WTC related costs in that proceeding.

Q. Why is the Panel's approach for unbilled revenues preferable for customers?

A. While this approach will not offer the same short term mitigation of rates in this case due to the long term recovery period of deferred WTC costs as the Company proposes, it will, however, benefit customers in the long run. First, and most importantly, our approach eliminates the cash make-up required from customers under the Company's approach in the rate year following the use of the unbilled revenue credit. The use of one-time benefits to offset a one-time deferred charge eliminates the hockey stick effect that the Company's proposal would result in. Second, customers would not have to bear the WTC related costs that the Commission ultimately decides that the Company can defer. Rather, customers will effectively bear only carrying charges on the deferred cost by offsetting the existing deferred WTC balance with unbilled revenues.

Other Operating Revenues

Rent from Electric Property

Q. Is Staff proposing to adjust Con Edison's forecast of rate year rent revenues from electric property?

A. Yes, Staff is proposing one adjustment to the Company's rate year forecast.

Q. Please explain the Panel's adjustment?

A. In Case 08-M-0772, Joint Petition of Con Edison and Orange and Rockland - Authority Under Section 70 of the PSL to Enter into a Lease, Con Edison and Orange and Rockland Utilities, Inc. (O&R) requested Commission authority to enter into a lease agreement which would allow O&R to construct, operate and run "Transmission Line 28" along the northwest edge of the Ramapo 345 kV station. The initial term of the lease agreement was set to commence April 2008 and the payment to Con Edison under the lease is projected to be $0.141 million annually. We are proposing to reflect this additional revenue in the Company's forecast.

Late Payment Charges

Q. In its preliminary update, did Con Edison make any adjustments to its forecast of rate year late payment charge (LPC) revenue?

A. Yes. The Company reduced its rate year forecast by $.408 million.

Q. What was the reason for the reduction?

A. In its initial filing, the Company forecasted LPC revenues based on the ratio of historical total LPC revenues to total sales revenues. In its preliminary update, the Company separately forecast LPC revenues for residential and non-residential classes of customers.

Q. Do you agree with the Company's revised methodology?

A. Yes. In the Company's last electric rate case, Staff demonstrated and the Commission determined in the 2008 Rate Order that LPC revenues should be forecast separately for residential and non-residential customers.

Q. In its preliminary update, did Con Edison make an adjustment increasing its forecast of rate year LPC revenue to account for the increase in its forecasted sales revenues?

A. No. Had the Company made the adjustment, its forecast of rate year LPC revenues would have been approximately $2.4 million higher.

Q. Are you adjusting the Company's forecast of rate year LPC revenues?

A. Yes. We are increasing the Company's forecast from $25.342 million to $27.774 million, or by $2.432 million based on Staff's forecast of rate year sales revenues.

Transmission Service Charges

Q. What are transmission service charges (TSC)?

A. In its testimony, the Con Edison Accounting Panel indicates that they represent daily transmission wheeling transactions scheduled through the New York Independent System Operator (NYISO).

Q. Please explain the accounting for TSC?

A. With the exception of TSC revenues received from non-firm transmission contracts, TSC revenues are flowed back to customers via the Company's Monthly Adjustment Clause (MAC). Effective April 1, 2008, TSC revenues received from non-firm transmission contracts are deferred for future customer benefit.

Q. How much did the Company reflect in its forecast of rate year other operating revenue for TSC revenues received from non-firm transmission contracts?

A. The Company did not reflect any TSC revenues in its other operating revenue forecast.

Q. Would you explain why?

A. In its response to Staff IR DPS-568, the Company states that as it is currently deferring such revenues and proposes to continue to do so there is no need to forecast transmission service charges.

Q. Do you agree?

A. No. The Company actually received TSC revenues from non-firm transmission contracts of approximately $12.4 and $24.8 million in calendar years 2006 and 2007, respectively.

Further, for the first three months of the current rate year (April - June) the Company received and deferred $7.772 million of TSC revenues from non-firm transmission contracts for future customer benefit.

Q. What is the Panel proposing to address this issue?

A. First, in the rate year forecast of other operating revenues we propose to reflect a two-year historic average (2006 - 2007) of actual of TSC revenues received from non-firm transmission contracts, or $18.6 million.

Second, we propose to pass back, over a three year period, the deferred TSC revenues from non-firm transmission contracts of $7.772 million, or $2.591 million on an annual basis. A concomitant adjustment is also required decreasing the Company's rate year rate base by $3.911 million to reflect the unamortized deferred TSC revenue balance. We propose that the pass back of this deferral be updated to reflect any additional revenues the Company receives before the Commission makes its decision in this proceeding.

Q. Does Staff propose that deferral accounting for TSC revenues received from non-firm transmission contracts continue?

A. Yes.

POR Discount

Q. Is Staff proposing to adjust Con Edison's forecast of rate year Purchase of Receivable Program (POR) discount revenues.

A. Yes.

Q. Please explain your adjustment?

A. In its testimony beginning on page 46, Con Edison's Accounting Panel indicates that the Company intends to continue its purchase of receivables program and projects the POR discount revenues at the historic test year level.

We except to the Company's use of the historic test year POR revenues as the rate year level. A review of these revenues shows a steady increase since they began in April 2005.

Q. Please continue.

A. For the years 2005 (9 months), 2006, and 2007, POR discount rate revenues amounted to $2.722 million, $4.346 million, and $6.880 million, respectively. Further, for the first six months of 2008, the Company has recorded $5.994 million of POR discount revenues.

Q. How is the Panel proposing to project rate year POR revenues?

A. We are proposing to annualize the 2008 year-to date revenues actually booked by the Company and use it as a proxy to forecast rate year revenues.

Q. What is the impact of your proposal on the Company's rate year forecast?

A. It increases the Company's forecast by $0.730 million. The POR program revenues are subject to an uncollectible rate as well as a financial risk rate that the actual uncollectible rate for the purchased receivable may be higher than the uncollectible rate. Our proposed adjustment is net of those two factors.

Gain on Sale of First Avenue Properties

Q. Would you please explain your adjustment to the gain on sale of First Avenue properties?

A. By Order issued August 22, 2008, the Commission approved, with modifications, the Company's petition concerning the accounting and ratemaking treatment for the proceeds from the sale of four properties located on First Avenue in Manhattan (Case 01-E-0377 - Joint Petition of Con Edison and FSM East River Associated LLC - Transfer of Certain Real Property located at 616 First Avenue, a Portion of 685 First Avenue, 708 First Avenue and for Related Relief). In its Order, the Commission adjusted the Company's proposed accounting related to the sale which resulted in, among other things, additional proceeds for the benefit of electric customers. Con Edison proposed to use one-half the remaining deferred proceeds as a rate moderator in this case. As a result of the Commission's August 22, 2008 Order, we are increasing the Company's proposed pass back from $30.812 million to $43.890 million, or by $13.078 million to reflect one-half of the pre-tax additional proceeds. A concomitant adjustment is also required decreasing rate year rate base by $11.846 million to reflect the additional proceeds.

In its August 22, 2008 Order, the Commission also indicated that an adjustment increasing Con Edison's electric rate base by $8 million was warranted due to the shifting of costs from expense to capital. Accordingly, Staff witness Randt has reflected this amount in her forecast of rate year plant in service.

Carrying Charges on T & D Expenditures

Q. Would the Panel please explain its adjustment to the deferred carrying charges on T&D expenditures?

A. In its responses to Staff IRs DPS-397 and DPS-398, the Company acknowledges that adjustments reducing the transmission and distribution (T&D) carrying charge deferral balance are warranted to account for administrative and supervisory (A&S) overheads and remote monitoring replacement (RMS) costs that were initially capitalized and by default captured in the carrying charge deferral, but that were subsequently reversed out of capital accounts and charged to expense. The Company indicates that the T&D carrying charge deferral should be reduced by $1.464 million, which is net of $1.026 million to account for excess earnings previously passed back to customers as a result of the underlying accounting error. However, the excess earnings effects for which Con Edison accounts for here were fully accounted for in the Company's May 30, 2006 regulatory deferral netting petition. Consequently, to avoid a double count, we are adjusting the deferred carrying charge balance by $2.490 million. Since the Company is proposing to recover the deferred T&D carrying charge deferral over a nine-year period, we are reducing the Company's forecast by $0.114 million. A concomitant adjustment is also required decreasing the rate year rate base by $0.585 million to reflect the removal of these amounts.

Property Tax Refunds

Q. How much is the Company proposing to pass back related to property tax refunds?

A. In its initial filing, the Company reflected a pass back of $1.4 million in its forecast of other operating revenues. In its preliminary update, the Company proposed to pass back seven additional tax refunds, either recently received or expected to be received, totaling $2.543 million.

Q. Are you proposing to adjust the Company's rate year forecast of property tax refunds?

A. Yes. In reviewing its workpapers supporting the seven additional tax refunds we discovered that the total customer share of these refunds should be $3.943 million, or $1.4 million more than what the Company reflected in its preliminary update. Consequently, we are increasing the Company's forecast from $3.943 million to $5.361 million, or by $1.419 million, to account for the incremental amount. A concomitant adjustment is also required increasing rate year rate base by $0.429 million to reflect the additional refund amounts.

Q. Are you aware of the Public Service Law (PSL) provisions regarding tax refunds?

A. On the advice of counsel, we are informed that under PSL §113(2), the Commission has the power, after hearing, to determine whether refunds should be passed on, in whole or in part, to customers. The Company can file a petition for a refund determination, or the Commission may institute a tax refund proceeding on its own initiative.

Q. Has the Commission made a determination regarding any of the eight refunds reflected in the Company's filing?

A. Yes, the Commission issued an Order directing the disposition regarding one of the eight refunds, from the Town of Stony Point, on June 23, 2008 in Case 08-M-0281. The remaining portion of this refund available is $1.419 million and this amount was reflected in the Company's initial filing.

Q. Has the Company filed any petitions with the Commission for disposition of any of seven refunds it reflected in its preliminary update?

A. Yes. On May 23, 2008, the Company filed a petition, Case 08-M-0901, regarding the refund received from the Town of Mount Pleasant. The Company has not yet filed petitions for disposition of the six other refunds. However, we recommend that the Commission address these refunds in this proceeding.

Q. Which six property tax refunds has the Company not filed petitions for?

A. They are property tax refunds from the Town of Mount Kisco, Town of Ossining, City of Mt.

Vernon, City of New Rochelle, Town of Carmel, and NYC. Exhibit__ (AP-2) provides a list of the municipalities providing the refunds, the amount of refund and other data.

Q. Why does it make sense to process the seven refunds in this proceeding, as opposed to individual Commission actions?

A. It is more efficient to address the tax refunds here since evidentiary hearings are scheduled for the rate case and all interested parties will be participating. It also allows customers to receive the benefits of these refunds in a timely fashion and offsets the Company's significant rate increase.

Q. Is there a sharing mechanism for tax refunds?

A. Traditionally, the Commission has allowed the Company to retain 14% of tax refunds, net of the cost to achieve, if the Company can demonstrate that the refunds were a result of its actions. This sharing mechanism is an incentive to the Company to help ensure it is not over-charged for property taxes. Despite the fact that the 2008 Rate Order did not explicitly provide for such sharing, we are recommending the Company share in the refunds since it offers a valuable incentive for Con Edison to dispute its property tax assessment. Without such sharing, there would be no reason for the Company to dispute its property tax bills since shareholders are not paying for these costs.

Q. What is the value of the eight property tax refunds that is reflected in this case?

A. As noted above, the customer's share of property tax refunds are currently estimated to be $5.362 million and only $1.419 million of this amount has been addressed by Commission Order. A completed list of the refunds proposed to be refunded in this proceeding is presented in Exhibit___(AP-2).

Q. Have you completed your review the remaining seven property tax refunds?

A. No. Because of the timing of the update, we have not had adequate time to exam the details of the refunds. We will continue to examine the details of the refunds and if we have any issues whatsoever we will provide notice to the parties as soon as possible and raise them at the hearing.

Property Tax Deferral

Q. Please explain Con Edison's request to recover an increase in its current property tax expense.

A. In its initial filing, Con Edison proposed to recover, over a three-year period, an estimated increase in its special franchise taxes for the period July 1, 2008 through March 31, 2009 as compared to the rate allowance in the 2008 Rate Order. The Company estimated the increment to be $46 million based upon tentative assessments received from the New York State Office of Real Property Services (ORPS).

The Company increased the amount of property tax expense under-collection in its preliminary update filing. Con Edison now seeks recovery of $53.265 million, or $17.775 annually over a three-year period. Workpapers provided in support of the update indicate that this amount was based upon actual payments made by the Company in July 2008.

Q. Did the Commission provide for a reconciliation of property tax expense in the 2008 Rate Order?

A. No, it did not.

Q. Did Con Edison file with the Commission a petition for authorization to defer property tax expense resulting from increases in its NYS special franchise taxes?

A. Yes. On August 4, 2008, the Company filed a petition seeking authority to defer approximately $61.8 million related primarily to this increase (Case 08-M-0901, Deferral of Property Tax Expense Resulting from Increased Property Tax Assessments by ORPS.

Q. Does the Panel support Con Edison's request to commence recovery of this deferred property tax expense in this proceeding?

A. No. A thorough evaluation of the merits of Company's request for deferral will be performed in Case 08-M-0901. Accordingly, since the Commission has yet to authorize the deferral the Company seeks, it is premature for us to recommend that the Company commence recovery. Consequently, we are removing the proposed recovery of $17.775 million related to this deferral from the Company's forecast of other operating revenues. A concomitant adjustment is also required decreasing rate year rate base by $26.804 million to remove this deferral.

Operation and Maintenance Expenses

Administrative and General Expense Transferred - Credit

Q. What is the nature of the administrative and general (A&G) expense transferred credit?

A. The credit represents the A&G overhead costs that are related to the Company's construction expenditures. They include corporate accounting, purchasing, and information resources costs. According to the Company's general accounting procedures, costs that are directly related to Con Edison labor are allocated to construction in the same proportion as the ratio of the Company's direct construction labor costs to total labor costs (i.e., the labor capitalization rate). Costs that are related to construction projects in a manner not directly proportional to labor expenditures are allocated on the basis of a time study of each department involved. In a period of increasing construction activity, the labor capitalization rate and the administrative expenditures applied to construction are both expected to increase.

Q. Did the Company forecast any change in the capitalization of A&G overhead costs in the rate year?

A. Yes, but only partially.

Q. Would you please explain?

A. The normalized A&G overhead expense transferred to construction in historic test year was $28.105 million for electric operations. Of this total, $20.178 million was related to labor expense. The Company projects a 26% increase in rate year construction expenditures from the historic period. Con Edison applies this 26% increase only to the labor portion of historic test year A&G transferred, not the entire historic test year balance. In its response to Staff IR DPS-251, the Company agrees that the 26% increase should be applied to the remaining balance of $7.927 million as well.

Q. Is Staff proposing to adjust the Company's rate year forecast of A&G expense transferred credit?

A. Yes. We first apply the 26% construction expenditure increase to the normalized historic test year A&G expense of $28.105 million to reflect the increase in the Company's construction expenditures. We then apply our 3.04% labor escalation factor to the labor portion of A&G overhead expenses and a 5.19% general escalation factor to the non-labor portion of A&G overhead expenses to reflect the projected increase in the underlying overhead costs. Our adjustment increases the Company's forecast of rate year A&G expense transferred by $1.444 million.

Q. Is the Panel proposing any other adjustment to the Company's forecast of rate year A&G expense transferred credit?

A. Yes. In its filing, the Company's reflects the labor portion of the A&G expense transferred credit of $25.808 million in its rate year forecast of Company labor expense. We are reclassifying this amount from Company labor expense to A&G expense transferred credit to improve the presentation of capitalized A&G overhead expenses and Company labor expense. Moreover, this accounting presentation is consistent with the ratemaking for the Company's gas and steam businesses. The reclassification does not impact our revenue requirement calculation.

<u>Collection Agency Fees</u>

Q. Does the Panel agree with the Con Edison's forecast of rate year collection agency fees?

A. No, we do not agree with the Company's forecast.

Q. Please explain.

A. In its initial filing, the Company forecasted this expense by applying an escalation factor to the amount actually incurred in the historic test year. This was the identical methodology historically used by the Commission for collection agency fees for Con Edison.

Q. Please continue.

A. In its preliminary update filing, however, the Company changed its forecasting methodology. This new method consists of determining a ratio of rate year revenues to historic year revenues then applying the resultant growth rate to the historic collection agency expense.

Q. What was the basis for this change?

A. The Company offered no explanation as to why a change in methodology should be considered or why it would be appropriate.

Q. What is the Panel proposing?

A. Since there is no basis to support the Company's revised change in methodology, Staff proposes to use the forecast of collection agency fees as initially filed. Consequently, we are decreasing the Company's forecast from $2.274 million to $2.045 million, or by $0.229 million.

Company Labor

Q. Would the Panel please explain how Con Edison developed its forecast of rate year labor expense?

A. Yes. Con Edison started with the labor expense actually booked for electric operations in the historic test year. The Company then normalized the historic test year amount upward by $7.307 million to account for positions vacant or partially vacant and labor expense shifted to construction expenditures during the test year. It then increased that amount by $40.631 million to account for incremental labor expense related to new, or the expansion of existing, programs which are referred to as program changes. The Company then applied a labor escalation rate of 7.78% to that amount to arrive at a rate year forecast of $570.410 million.

In its preliminary update filing, the Company increased its forecast of rate year labor expense from $570.410 million to $575.442 million, or by $5.032 million, to reflect an additional labor program change that it claims to have overlooked in its original filing.

Q. Did the Company reflect a productivity adjustment in its forecast of rate year labor expense?

A. Yes. In developing its labor escalation rate, the Company reflected a 1% annual reduction to its December 2007 employee headcount which reduced its labor escalation rate from 9.78% to 7.78%. This reduction reduced the Company's forecast of rate year labor expense by approximately $10.6 million.

Q. Is the Panel proposing to adjust Con Edison's forecast of rate year labor expense?

A. Yes. We are proposing several adjustments to the Company's forecast.

Q. Please explain your first adjustment concerning Con Edison's labor normalization adjustment.

A. In its forecast, the Company normalizes it historic test year labor expense to reflect additional labor expense for positions that were vacant or partially vacant during the period. It also normalizes the historic test year expense for a return of maintenance and operations labor from capital work. Through these normalizing adjustments, the Company increases its historic test year labor expense to reflect a full staff complement before consideration of its labor program change requests and labor escalation increases.

Q. Do you support Con Edison's labor normalization adjustment for positions that were vacant of partially vacant during the historic test year?

A. No. The Company's labor normalization adjustment is defective in that it fails to recognize the fact that many positions will be vacant, or partially vacant, in rate year due to the high level of attrition the Company is experiencing. On page 78 of its testimony, the Company's Shared Service Panel (SSP) reveals that the Company's attrition rate is 1,000 employees annually. Further, on page 79, SSP points out that "given its age, the attrition rate of Con Edison's workforce is expected to continue at this level for the foreseeable future". The Company's proposal to adjust to reflect normalization of vacant positions during the historic year without consideration of attrition in the rate year should be denied by the Commission.

Q. Do you agree with Con Edison's labor normalization adjustment to Company labor for a return of maintenance and operations labor from capital work?

A. No. As noted above, the Company projects a 26% increase in rate year construction expenditures from the historic period. It is unimaginable that the Company would be experiencing a shift back to maintenance and operations expense work in the same time period that it is undertaking a significantly larger capital construction program. Furthermore, the Company does not reflect any reduction in its forecast of capital expenditures to account for this proposed shift. Accordingly, this normalizing adjustment should also be rejected by the Commission.

Q. What is the Panel proposing?

A. We are reducing the Company's forecast of rate year labor expense by $7.875 million ($7.307 million normalizations escalated for inflation) to remove its labor normalization adjustments. The historic year reflects the effects of employee attrition that Con Edison has and continues to experience. Therefore, the Company's labor normalization adjustment is unwarranted and Staff's adjustment should be adopted.

Q. Would you please explain your second adjustment concerning Con Edison's variable pay plan.

A. Yes. The Company's variable pay plan provides for additional compensation to non-officer management employees based on achieving certain targets related to the Company's net income, operating budgets, operating objectives and the individual employee obtaining at least a "satisfactory" performance rating during the review period. Simply put, it is an incentive compensation plan.

Q. Why is variable pay for management employees incentive compensation?

A. In his testimony, Company witness Tai details the criteria used to determine the Company's variable pay awards. Each year, a target fund is determined by multiplying the year-end salaries of eligible employees by a percentage ranging from 4.5% to 15% for management employees at varying levels. An award fund is then established by adjusting the target fund based on the Company's actual performance in three areas which are weighted as follows: 1) achievement of a predetermined level of "Consolidated Edison Company of New York (CECONY) Adjusted Net Income (50%), 2) Performance within an "Operating Budget" (20%), and 3) Achievement of specific safety, reliability, customer satisfaction and operating performance indicators (30%). However, if adjusted net income is less than or equal to 90% of the target, no variable pay awards are made. There are other individual performance indicators used in the determination of actual variable pay amounts awarded to individual employees. Employees receiving a satisfactory rating are eligible to receive 60% of their awards based on achieving Company and specific organization performance goals. The remaining

40% is based on individual performance in four areas which are weighted as follows: Adjusted CECONY Net Income (10%), Organization Budget (15%), Organization performance indicators (35%), and individual performance (40%).

The Company's variable pay plan is clearly incentive in nature and its primary goal is to reward increased returns for equity investors. Accordingly, shareholders should bear the costs of such an incentive plan. Where the performance indicators promote corporate goals such as safety, environmental, reliability, and customer service, etc. there should be cost savings associated with the enhanced employee performance.

Q. Does the Commission have a long-standing policy concerning incentive compensation costs?

A. On advice of counsel, yes. We have been advised regarding the following precedent: In the 2003 Rate Order for Rochester Gas & Electric Corporation (RG&E), the Commission found, "[t]here is no precedent for recovery of executive incentive payments in a litigated rate case. They have been approved only twice in settlements, with associated productivity offsets. This is an expense that should not be charged to customers." Furthermore, the Commission found in the 1991 National Fuel Gas Distribution Corporation Rate Order (Case 90-G-0734, et al., Opinion 91-16 (issued July 19, 1991)) that "[s]ince, in this case, the goals are related to financial parameters, it is only reasonable to expect that, if those goals are met, there will be cost savings, which have not been reflected in the revenue requirement. In that case, the savings would offset the costs of the plan, and the plan would be self-supporting. Failure to reflect those savings would provide the Company a windfall at the ratepayer expense."

Moreover, in the Company's last electric rate case, the Commission disallowed the recovery of variable pay, indicating in the 2008 Rate Order that "Incentive compensation and base pay should not be confused with each other, and we will require that both be adequately justified for inclusion in rates".

The long-standing precedents regarding

incentive compensation are still reasonable and logical today. Incentive plans should be self-supporting and must be matched with associated efficiency gains. Consistent with Commission practice, the incentive compensation amounts should be offset with associated productivity.

Q. Has the Company proposed any efficiency or productivity offsets specifically related to the incentive plans in its filing?

A. No, it has not.

Q. What adjustment is necessary to remove variable pay from the Company's forecast of rate year labor expense.

A. An adjustment reducing the Company's forecast by $15.879 million is required.

Q. Are you proposing to adjust the Company's labor escalation rate?

A. Yes. Staff is proposing several changes to the Company's labor escalation rate that reduce it from 7.78% to 3.04%.

Q. Please explain the first change.

A. Consistent with our variable pay expense proposal, we are removing variable pay from the Company's labor escalation rate.

Q. Please continue with the next change.

A. We are also eliminating the wage progression increases included in the Company's labor escalation rate.

Q. Please explain why.

A. The Company's wage progression plans apply only to Union employees and are part of the collective bargaining contracts. They are designed to assist employee progress from the minimum to the maximum rate of pay for his or her job title. In the latest labor contracts, the increment for Local Union No. 3 of the International Brotherhood of Electrical Workers (Local 3) is 56 cents per hour, and the increment for Utility Workers Union of America AFL-CIO and its Local No. 1-2 (Local 1-2) is 52 cents per hour. Wage progression increases are awarded semi-annually. The employees continue to receive these stepped-increases until they reach the maximum rate of pay for their respective job title.

The stepped increases are not an incremental cost to the Company. The increases are included in the historic test year labor expense and over time should not result in incremental costs.

Q. Please continue.

A. As noted above, Con Edison is experiencing a large turnover in employees each year. When employees leave the Company, for retirement or other reasons, they are generally replaced by new hires or newly promoted employees. On page 79 of its testimony, the SSP testified that: "approximately 33 percent of our employees are retirement eligible and the Company will need to hire new employees to replace these employees as they leave." Logically, employees who retire are almost always higher along the progression plan than the employees who replace them, who generally start at the bottom of the pay grade and begin working their way up, one step at a time. In fact, there is usually a net savings to the Company when employees retire and their positions are filled by new employees who are lower on wage progression scale.

Over time, with the natural turnover of employees, the progressive steps are averaged into any given year. In years when there is a large turnover, the costs would be less than an average year. In years when turnover is low, the progressive increments may cost more than in an average year. Over time, the savings from seasoned employees at higher pay levels leaving should more than offset the cost on step increases for new employees

Q. Please continue with the next change.

A. The Company developed its rate year labor escalation rate based on the number of employees in December 2007 (13,797). We use the average number of employees in calendar year 2007 (13,621) which is a fairer representation of an average, or normal, year.

Q. Please continue with the next change.

A. The payroll records provided by the Company in its response to Staff IR DPS-421 indicates that costs for summer temporary employees of $1.21 million was double counted in the development of its labor escalation rate. Accordingly, we correct for this error.

Q. Please explain the final adjustment to the Company's labor growth rate.

A. Based on the Staff Infrastructure Panel's proposal to increase the level of productivity savings reflected by the Company in its filing, we are increasing the productivity imputation included in the Company's labor escalation rate from 1% to 2%.

Q. Would you please explain the Panel's final adjustment to Con Edison's forecast of rate year labor expense concerning three of its labor program changes?

A. Yes. In its case, the Company seeks $45.300 million for various labor program change requests. We will discuss the labor program change requests in the areas of law, public improvement and New York System Independent Operator (NYISO). Other Staff witnesses or Panels discuss adjustments to a number of the Company's other labor program change requests.

Q. Would you explain your adjustment concerning the Company's program change request for new positions within its law department?

A. In its initial filing, the Company sought a program change request of $0.654 million for ten new positions within its law department. In its preliminary update, the Company increased its request to $0.922 million representing the expense for 14 new positions.

In its last electric rate case, Con Edison proposed and the Commission approved, nine new law department positions, including five positions approved in the Company's 2006 gas rate case (Case 06-G-1332) with the planned hiring dates before October 1, 2007. However, as indicated in its response to Staff IR DPS-45 Revised, the Company, as of July 28, 2008, has only filled two of the nine positions allowed in its current rates. Consequently, we take exception to the Company's program change request for 14 new law department positions. The Company's track record of requesting positions for its law department and not filling them as intended speaks for itself.

Q. Are you proposing to adjust the Company's forecast of rate year labor expense?

A. Yes. We are proposing to reduce the Company's forecast by $0.818 million to reflect only the incremental costs associated with the two law department positions currently filled.

Q. Are you also proposing to adjust the Company's labor program change request for 15 new positions within its public improvement department?

A. Yes. We are proposing to reduce the request by $0.652 million to allow only 40% of the proposed new employees labor cost, or six new employees at an incremental rate year cost of $0.434 million.

Q. Please explain the basis of your adjustment?

A. Even though these new positions maybe necessary to meet the anticipated increase of workload, the Company's estimate of costs and timing to fill these positions are questionable.

Q. Why do you believe the Company's cost estimates questionable?

A. The Company proposes to hire an additional ten inspectors, three supervisors, and two engineering design technicians within its Public Improvement Department, in anticipation of various Metropolitan Transportation Authority (MTA) projects, including the 2nd Ave Subway, #7 Line Extension, East Side Access and the Transportation Hub in Lower Manhattan. The Company's Municipality Infrastructure Support

Panel (MISP) claims that these projects are in addition to the MTA's routine projects supported by its public improvement department (Response to Staff IR DPS-246).

The labor program change request of $1.069 million is for projected salaries as well as overtime pay for these new positions. The Company applied an average salary level of $38.40 per hour for twelve (12) union employees and $48.99 per hour for three (3) management employees in determining the salary levels of the new positions. Also, the labor cost for the 12 union employees are loaded with 251 hours of overtime per employee at one and half times straight time pay, or $57.60 per overtime hour. The job titles for the 12 union employees are Inspector and Junior Designer with associated hourly pay rates (Minimum - Maximum) of $26.42 - $38.60 and $19.76 - $31.79 respectively as specified in the collective bargaining contracts. The Company's estimate of costs associated with these 12 new union employees assumes the maximum pay rate for the Inspectors and above maximum pay rate for the Junior

Designers. Clearly, the pay rates and the overtime pay are both over-estimated.

Q. Do you have other issues with the Company's estimate of incremental costs associated with the new positions?

A. Yes. In its response to Staff IR DPS-504, the Company indicates that it usually hires Inspectors including a Chief Construction Inspector (a supervisor, management position) from within the Company. We requested that the Company provide us the specific job postings for these Inspector positions with job titles, pay rates and planned starting dates. The Company provided a sample of job postings, but not the actual specific postings for the proposed new hires as requested. In addition, in its response to Staff IR DPS-504, the Company did not indicate when the vacated positions will be filled, either from within or outside the Company. If the Company fills the positions through internal transfers in the rate year, there is no incremental cost to the Company, or at least a lower incremental cost if employees are transferred to new positions with higher pay rates.

Q. Why do you believe the Company's plan to hire these new employees within its Public Improvement is questionable?

A. In its response to Staff IR DPS 45 - Revised , the Company provides the current status of filling new positions which the Commission approved in the Company's last electric rate case. According to its response, the Commission approved 102 management positions and 244 union employees, or a total of 346 new positions in establishing rates for the Company for the rate year ending March 31, 2009. However, as of July 28, 2008, four months into the current rate year, the Company shows it has only filled 96 of the approved, customer funded, positions. Among the 96 filled positions, 22 were filled from within the Company and, it should be noted that only three of the 22 vacated positions have been back-filled. Therefore, the estimated incremental cost to the company is only for 77 positions (96 less 22 plus 3). If we assume that Con Edison hires the additional employees at the same pace, it will only fill 231, or 67%

of the positions approved by the Commission by the end of the rate year (March 31, 2009). The average costs of the filled positions should be half of the 67% over the one-year period. The 40% ratio Staff applied is conservative because actual salary levels of many of the filled positions are much lower than the levels approved and funded by rate payers.

Q. Please explain your proposed adjustment to Company program change request related to the NYISO billing change?

A. In its preliminary update, Con Edison increased its rate year labor forecast by $0.291 million, ($0.270 million program change escalated by inflation) for three new positions, in anticipation of a billing change from monthly to weekly by the New York Independent System Operators (NYISO).

Q. When will NYISO implement the weekly billing change?

A. Although the NYISO released its proposal for weekly billing on June 28, 2008, the Company has yet to provide an expected start date for the change.

Q. Are you proposing to adjust the Company's request for additional labor for this program change?

A. Yes. As discussed previously, Staff observes consistent slippage in the Company's planned hiring of new employees. We believe that only 40% of the Company's request, or $0.108 million, is warranted. Our adjustment reduces the Company's labor program change by $0.162 million, or $0.175 million in rate year labor expense.

Q. Would you please summarize your adjustments to the Company's forecast of rate year labor expense?

A. Yes. We are decreasing the Company's forecast by: (1) $7.875 million to eliminate its labor normalization adjustment; (2) $15.879 million to eliminate variable pay; (3) by $23.276 million to reflect a labor escalation rate of 3.04%; and(4) by $1.632 million to reduce the Company's requests for program changes in the areas of law, public improvement and NYISO.

As noted earlier in our testimony, we reclassified $25.808 million of A&G expense transferred credit that was reflected in the Company's rate year forecast. Reclassifying this amount increases the Company's labor forecast by $25.808 million.

Also, other Staff witnesses or panels are proposing adjustments to the Company's rate year labor forecast. The impact of reflecting those proposed adjustments as well as ours decrease the Company's forecast of rate year labor expense forecast from $575.442 to $530.132 million, or by $45.310 million.

Finally, we note that increasing the productivity savings reflected in Con Edison's labor escalation rate from 1% to 2%, as proposed by the Staff Infrastructure Panel, decreased the Company's rate year labor expense by approximately $9.5 million.

Consultants

Q. Do you have any adjustments to the Company's forecast of rate year consultant expense?

A. Yes. Included in the forecast are consulting fees associated with the July 2007 Steam Pipe Rupture (the Steam Incident). In its response to Staff IR DPS-523(5), the Company indicates that these fees should be removed from its forecast. Accordingly, we are reducing the Company's forecast of rate year consultant expense by $1.787 million.

Contract Labor

Q. How much contract labor expense did the Company actually incur in the historic test year ending December 31, 2007?

A. The Company incurred contract labor expense of $6.048 million in the historic test year. When compared to the expense levels actually incurred in the three preceding fiscal years of $1.099, $2.823 and $1.454 million, the historic test year expense appears unusually high.

Q. What does the Company's attribute the significant increase in historic test year contract labor expense to?

A. In its response to Staff IR DPS-448, Con Edison claims increased use of contract labor in programs associated with emergency response to overhead storms, structural repairs associated with underground transformers, manholes, and 4KV substation inspections and contractor related support for mobile testing of underground structures including clean and flush.

Q. How much is the Company requesting for contract labor expense in the rate year.

A. In its initial filing, the Company sought a rate allowance of $6.689 million. In its preliminary update filing, the Company increased its initial request for a contract labor program change of $0.879 million. Con Edison claims that it failed to include the program change in its initial filing. As a result, the Company seeks a rate allowance for contract labor expense of $7.568 million. The Company's rate request is approximately 25% more than the amount it actually incurred in the historic test year.

Q. Do you support the Company's rate year forecast?

A. No.

Q. Please explain why not.

A. The Company proposed incremental labor program changes of $45.300 million in almost every area of its electric operations. Even after Staff's adjustments to Con Edison's labor program change requests, its rate year labor expense is still increasing 8.09% over the amount actually incurred in historic test year, excluding variable pay, and is well above the Company's historic 3.60% annual increase in Company labor expense over the last three fiscal years.

It is our position that the Company should be able to manage its work requirements through a re-prioritization with its existing and incremental workforce in the rate year and avoid the incurrence of a portion of contact labor expense it projects.

Q. Are you proposing to adjust the Company's forecast of rate year contract labor expense?

A Yes, we are proposing to reduce the Company's forecast from $7.568 million to $3.648 million, or by $3.920 million, to reflect a three-year historic average (2005 to 2007) of contract labor expense adjusted for inflation.

Corporate and Fiscal Expense

Q. Please describe the nature of the costs the Company seeks to recover through its corporate and fiscal expense line item.

A. The costs included in this expense category relate to the Board of Director, the annual shareholder meeting and shareholder publications.

Q. How much is the Company seeking for rate year corporate and fiscal expense?

A. The Company forecasts corporate and fiscal expense to be $4.328 million in the rate year.

Q. Do you have any adjustments to this expense?

A. Yes. Included in the Company's forecast is the cost of stock options awarded to the Board of Directors. In order to be consistent with the our positions concerning variable pay and other compensation expense and Commission precedent regarding incentive pay we are eliminating this cost from the Company's forecast.

Q. What is the amount of your adjustment?

A. We propose to reduce the Company's rate year forecast of corporate and fiscal expense from $4.328 million to $3.637 million, or by $0.690 million to remove the costs associated with Board of Director stock options.

Corrective Maintenance

Q. How much is the Company requesting for a rate allowance for corrective maintenance expense?

A. The Company is requesting a rate allowance of $4.029 million.

Q. Please explain how Con Edison projected its rate year corrective maintenance expense.

A. The Company normalized the actual historic test year expense and increased that amount for inflation.

Q. Are you proposing to adjust the Company's rate year forecast?

A. Yes. We take exception to the Company's adjustment to normalize the historic test year level of corrective maintenance expense.

Q. Please explain why.

A. On page 137 of its testimony, Con Edison's Infrastructure Panel claims that the historic test year expense level was understated by $1.4 million related to a shift from this activity of maintenance labor and material costs required to support higher priority capital work.

As noted above, the Company projects a 26% increase in rate year construction expenditures from the historic period. As discussed above, it is inconceivable that the Company is experiencing a shift back to expense work in the same time period that it is undertaking an appreciably larger capital construction program.

Q. What is the impact of your adjustment on the

Company's forecast of rate year corrective maintenance expense?

A. In its responses to Staff IRs DPS-388 and DPS-474, the Company indicates that this normalizing adjustment is comprised of two parts: $0.559 related to material and vendor costs for O&M included in its forecast of rate year related corrective maintenance, and $0.848 million of corrective maintenance incremental labor included in the Company's forecast of rate year labor work representing return of maintenance labor from capital work.

Consequently, we are decreasing the rate year forecast of corrective maintenance expense by $0.580 million ($0.559 million escalated for inflation). Earlier in our testimony, we discussed our proposal to remove the labor portion of this normalizing adjustment from the Company's forecast of rate year labor expense.

Employees Pension and OPEB Expense

Q. What is Con Edison's projected rate year expense for employee pension and OPEBs?

A. In its initial filing, the Company projected rate year employee pension and OPEBs expense of

$112.179 million. The forecast was based on studies performed by the Company's actuary, Buck Consultants, dated April 3, 2008.

In its preliminary update filing, the Company increased its initial forecast by $42.836 million, to $155.015 million, due to revisions in its forecast of pension expense. We note that the Company offered no updated information related to OPEB costs. The pension expense increase is based in part on a letter from its actuary dated July 1, 2008 and in part on a revised actuarial report dated July 21, 2008.

Q. Please explain the first part of Con Edison's update for pension expense.

A. Based on the actuary's letter dated July 1, 2008, the Company increased its forecast of rate year electric pension expense by $2.809 million to reflect the estimated of the now-ratified contract between Utility Workers Union of America Local 1-2 and Con Edison.

Q. Does the Panel agree with this update?

A. Yes, since the contract was ratified on July 28, 2008, we recommend that the Commission accept the update as a known change.

Q. Continue with the second part of the Company's update for pension expense.

A. Based on the actuarial report dated July 21, 2008, the Company increased its forecast of pension expense by $40.027 million to account for an assumed negative 7% return on plan assets for 2008. By way of comparison, the Company's original forecast assumed an 8.5% positive return on plan assets for 2008.

Q. Have you reviewed the workpapers supporting the Company's proposed update to rate year pension expense?

A. Yes. We reviewed the Company's workpapers and observed a mechanical error the Company made in developing the revised rate year forecast. Con Edison acknowledged the error in an e-mail addendum to its preliminary update dated August 14, 2008. Con Edison indicates that its update should have only been approximately $30.2 million or approximately $9.8 million less than the amount reflected in its preliminary update. The Company indicates that it will correct this error in its September rebuttal filing.

Q. Does the Panel agree with this update?

A. No, we do not. Con Edison's update presents a hypothetical scenario in which a significant decline (negative 7%) in the market value of pension plan assets in 2008 would require the Company to record additional expenses in the future. However, this hypothetical scenario is has no basis in reality. The Company accounts for its pension (and OPEB) cost in compliance with the Commission's Policy Statement on Pensions and OPEBs, (Case 91-M-0890, <u>In the Matter of the Development of a Statement of Policy Concerning the Accounting and Ratemaking Treatment for Pensions and Postretirement Benefits Other than Pensions</u>, Statement of Policy and Order Concerning the Accounting and Ratemaking Treatment for Pensions and Postretirement Benefits Other than Pensions (issued September 7, 1993) (Policy Statement) which fully protects the Company from differences between the actual and expected return on plan assets since the rate allowance for pension expense is subject to full true-up. Moreover, the Policy Statement has a systematic method for treating differences between actual verses expected market returns which are known as actuarial gains and losses once the gains and losses are known. However, since the actual return on plan assets is not known, we cannot support the update.

Q. How does the Policy Statement treat actuarial gains and losses that Con Edison may experience?

A. Con Edison's pension costs are determined annually based on a number of actuarial assumptions. One such assumption is the expected return on plan assets which the Company has assumed to be 8.5% for 2006, 2007 and 2008. Each year the expected return on plan assets is reflected in the determination of the pension expense. The difference between the actual and expected return on the plan assets is referred to as an actuarial gain or loss. Actuarial gains and losses are not recognized immediately because accounting rules contained in the Policy Statement allow companies to amortize actuarial gains and losses to its pension expense over 15 years. This long-term amortization is a smoothing technique that minimizes the immediate impact of gains and losses on annual pension expense levels. The amortization of past gains and losses is a component of the annual pension cost determination.

Q. Why is this important?

A. The Company currently utilizes accounting procedures that provide a full recognition of such losses and potentially offsetting gains over an extended period of time (15 years). Because of this, should Con Edison experience a significant loss such as the hypothetical scenario of a negative 7% return on its pension plan assets, the loss would not have a significant impact on its current year pension expense, but its effect would be spread out over an extended period of time.

Q. Is the Company's update of any value to the Commission?

A. Yes, the update provides the Commission notice that pension and OPEB expense could be on the rise if financial market values continue to fall.

Q. Is the Panel proposing to adjust the Company's forecast of rate year employee of pension and

OPEBs expense to remove this update?

A. Yes, we are proposing to reduce the Company's forecast from $155.015 million to $114.988 million, or by $40.027 million, to remove this speculative and unnecessary update.

Q. How does the Panel address the Company's request to true up the pension and OPEB costs?

A. We recommend that the Company continue to reconcile its actual pension and OPEB expenses and tax benefits related to the Medicare Part D subsidies to the level allowed in rates, pursuant to the Policy Statement.

Employee Welfare Expenses

Q. How much did the Company request for a rate year rate allowance for employee welfare expense?

A. The Company requested a rate allowance of $111.417 million which is comprised of $76.28 million for health insurance expense, $30.677 million for employee benefit program expense other than health insurance and $4.46 million for employee welfare expense for new employees.

Q. How did the Company forecast its rate year health insurance expense?

A. For its medical, hospitalization, and dental plans (excluding the dental plan with Jardine), the Company's starts with February 2008 actual premium levels and number of participants and then escalates the plans costs by an annual growth rate of 8%, or an overall rate of 10.2%, to project rate year costs.

For its other health insurance plans, specifically: prescription drugs, vision, retired officers' medical, long term disability and the Jardine dental plan, the Company begins with the actual expenses for the historic test year and then escalates those amounts by a growth rate of 8% to determine the rate year cost.

The Company then offset the projected plan costs by an estimate for employee contributions. For health plans other than long term disability, the Company used the February 2008 employee contribution levels. For long-term disability, the Company used a projected rate year employee contribution level.

The Company's forecast also reflects the expected capitalization of approximately 32.8% of its projected electric health insurance cost associated with capitalized labor costs in the rate year.

Q. Does the Panel agree with the growth rates the Company uses in its forecast of rate year health insurance costs?

A. No, we do not. The gross domestic product (GDP) inflation index reflects a basket of goods and services, including health care services. On the advice of counsel, the application of a separate escalation factor in projecting health care costs, other than the general inflation factor, is inconsistent with the Commission's practice, contained in Commission Opinion No. 84-27 issued October 12, 1985. Our adjustment reflects the Company's latest known health insurance costs plus general inflation.

Q. How did the Commission make a determination on this issue in the 2008 Rate Order?

A. In the 2008 Rate Order, the Commission upheld the application of the general inflation factor in the projecting rate year health insurance costs for Con Edison.

Q. Are you proposing to adjust the Company's forecast of rate year employee contributions?

A. Yes. For health plans other than long term disability, we are proposing to apply the general inflation factor to the known 2008 level of employee contributions in the rate year forecast, consistent with our forecast of the underlying costs.

For employee contributions to long term disability insurance plan, we apply our labor escalation rate of 3.04% rather than the Company's rate of 7.78%.

Q. Do you have any other concerns regarding the Company's forecast of employee benefits expense?

A. Yes. Based on our review it appears that the Company may have mistakenly included approximately $0.796 million of employer contributions with its forecast of rate year employee contributions related to its long-term disability plans. However, at this time we do not have enough information to make that determination with any degree of certainty. We have informally inquired about this with the Company and have not yet received a response. Should a correction to the Company's forecast be warranted, we ask that the Company provide supporting evidence in its rebuttal filing.

Q. What is the impact of your proposed changes to Company's rate year forecast of health insurance costs?

A. The proposed changes reduce the Company's forecast of rate year health insurance from \$76.28 million to \$69.695 million, or by \$6.585 million.

Q. How did the Con Edison forecast its rate year employee welfare expense other than health insurance expense?

A. The Company started with the book electric expense in the historic test year. It then normalizes that amount downward by \$4.238 million to account for the removal of executive incentive plan payments (\$4.344 million) and for an increase to group life insurance (\$0.106 million). The Company then adjusted upward by \$1.160 million to account for four program change requests associated with new or expanded employee benefit programs. Finally, the Company then applied escalation factors for labor related components at 7.78% (its labor escalation rate) and non-labor related of 5.19%

(its general escalation rate) to arrive at a rate year forecast of $30.677 million.

Q. Is the Panel proposing any adjustments to the Company's rate year forecast of employee welfare expense other than health insurance?

A. Yes, we are proposing several adjustments to the Company's forecast of employee welfare expense other than health insurance expense.

Q. Please explain your first adjustment.

A. Con Edison seeks employee welfare expense program change requests associated with a number of new or expanded Company employee benefit programs. Specifically, the requests are: occupational supplement totaling $0.265 million; child and elder care consulting services totaling $0.026 million; and, work home wellness program totaling $0.517 million. The projected expenses represent the electric department's allocated share of these three new or expanded Company-wide programs. We are proposing to eliminate or reduce three of these requests from the Company's rate year forecast of employee welfare expenses.

Q. Would you explain why you are proposing to remove the program change request of $0.265 million related to the Company's occupational supplement employee benefit program?

A. Con Edison expects to introduce a new asbestos screening program through New York University's Lung Cancer Screening Program and proposes to extend its lead screening program, currently offered only to WTC workers, to all employees. The Company also plans to expand the existing programs for ear, nose, throat screening and hearing conservation. These new and expanded programs are either preventive or will actually reduce employee sick absences. The cost savings associated with these new and expanded programs should at least offset the costs. Con Edison has not performed a cost versus benefit analysis, nor has it reflected any costs savings related to these new or expanded programs in its rate filing. Accordingly, the program change request should not be allowed.

Q. Why are you proposing to remove the program change request of $0.026 million related to the Company's child care and elder care consulting services employee benefit program?

A. The Company expects increases for the child care and elder care consulting services due to increases in service fees as well as and the number of participants. However, the costs actually incurred by the Company for childcare and elder care services have not shown an increasing trend during the period from fiscal year 2004 to 2007 (Company response to DPS-419). On the other hand, increased usage of this employee benefit program should reduce employee absences caused by their child care and elder care needs. The savings accruing from this program should at least offset the program change costs requested.

Q. Why is the Panel proposing to remove the program change request of $0.517 million related to the Company's work home wellness employee benefit program?

A. The program change request is associated with new initiatives under the Con Edison's workplace health promotion program, including distribution of newsletters to employees to promote healthy living, retaining the service of a nutritionist to provide direct counseling to obese and overweight employees, and hiring a physical therapist to provide direct services and referrals to employees to reduce work time losses. The Company also expects to introduce a new stress management program to reduce sick leave absences. The increased funding requests include expansion of the existing smoke cessation program, work home wellness, mental health services and flu campaign. All these new and expanded programs should improve employee moral, enhance productivity and reduce employee work time loss. The costs savings derived from these programs should at least offset the requested program change cost. Absent a cost versus benefit analysis, we propose to remove the program change.

Q. Please explain your adjustment to Con Edison's rate year forecast of group life insurance.

A. The Company projects rate year group insurance costs based on actual premiums and the number of participants in 2007. Premiums were escalated to the rate year and then offset by employee contributions and estimated dividends that the Company routinely receives. The Company used a five-year average of dividends to estimate the rate year dividends. Con Edison used actual dividends for the period 2003 through 2006 and an estimate of dividends for 2007 for the average. Since actual dividends for 2007 were received and are therefore known, we reflected that amount in the Company's rate year projection.

Q. Are you proposing to adjust the labor escalation rate the Company uses to project rate year employee welfare expenses other than health insurance cost?

A. Yes. As noted above, in forecasting rate year employee welfare expenses other than health insurance cost, the Company applies its labor escalation rate of 7.78%. Based on our adjustments to the Company's labor escalation rate, discussed earlier in our testimony, we propose to apply Staff's labor escalation rate of 3.04%.

Q. What is the impact of your adjustments on the Company's forecast of employee welfare other health insurance expense.

A. Our adjustments reduce the Company's forecast from $30.677 million to $29.144 million, or by $1.533 million.

Q. Are you proposing any other adjustments to the Company's rate year forecast of employee welfare expense?

A. Yes. Our final adjustment updates the Company's program change request for additional employee welfare expense associated with proposed new employees.

Q. Please explain your adjustment?

A. We are simply tracking various Staff adjustments to the Company's request for labor program changes. Consequently, we are reducing the Company's request for additional new employee benefits from $4.46 million to $2.251 million, or by $2.207 million.

Energy Efficiency Costs

Q. Is the Panel aware that since the Company circulated its preliminary update, it has withdrawn from consideration in this case its proposed extension of its Targeted Energy Efficiency Program and its proposal to submit its non-targeted programs in this proceeding?

A. Yes. In light of the Commission's Order

Establishing Energy Efficiency Portfolio Standard And Approving Programs, issued June 23, 2008 in Case 07-M-0548, Energy Efficiency Portfolio Standard (EEPS), the Company indicated that it would pursue those programs and cost recovery in the EEPS proceeding. However, Con Edison still requests funding for capital projects related to the development of an information technology system, enhancements to the Area Profile System and O&M changes associated with the Company's administration and implementation of energy efficiency programs in this rate case.

Q. Do you agree that those administrative costs should be recovered in this proceeding?

A. No, we do not. Since the targeted and non-targeted programs are not known at this time, it is not possible to determine whether the administrative costs are appropriate or not.

Q. Where in the Company's testimony are these administrative costs requested?

A. They are requested in the Company's Infrastructure Investment Panel testimony. Exhibit___(IIP-7) summarizes the Company's funding request for O&M programs described as: SMART Electric Technologies; 500 MW DSM Monitoring & Verification; 500 MW DSM Market Research Support; 500 MW DSM Program Administration; 500 MW DSM Training; and, 500 MW DSM Website Development. These programs total $2.341 million for the rate year. In addition, the panel's Exhibit___(IIP-28) summarizes the Company's request for IT Systems Development and Area Profile System capital projects totaling $2.3 million in 2009 and $1.3 million in 2010.

Q. Do you have a proposal to ensure the Company recovers the appropriate level of such administrative costs?

A. Yes. We believe the Company should seek recovery of its administrative costs in the EEPS proceeding, since it is in that proceeding that its energy efficiency programs will be determined. Since these costs do not have to be recovered in base rates, we recommend that the decision on whether these costs should be recovered be deferred for consideration in the EEPS proceeding. Therefore, we have adjusted $2.341 million out of Con Edison's rate year O&M

expenses.

Q. Are there any other energy efficiency or demand response forecasts for the rate year in this case that the Company has not proposed to be pursued in the EEPS proceeding?

A. Yes. As indicated in Company witness Kressner's pre-filed testimony and pre-filed Exhibit___(AK-1), page 2, Con Edison forecasts expenditures for Research and Development (R&D) related to energy efficiency projects of approximately $400,000 for the rate year ending March 31, 2010. As with the Company's projected energy efficiency administrative expenditures, consideration of these energy efficiency R&D expenditures and their recovery should be deferred to the EEPS case. Therefore, we have adjusted $0.400 million out of the Company's rate year R&D expense.

Facilities Maintenance

Q. Panel, please explain what Con Edison's facilities maintenance line item expense represents?

A. Facilities maintenance is activity which is performed on structures, structural components and infrastructure that keep the facilities in an acceptable state of repair. It includes repair and maintenance performed to comply with New York City Local Law 11 (Local Law 11).

Q. What is Local Law 11?

A. According to the Company's Electric Production Panel, in the interest of public safety, Local Law 11 mandates the periodic inspection of the exterior walls and appurtenances of building greater than six stories in height. The Panel states that these examinations are completed on a five-year cycle, with a two-year window to report findings and to establish the necessary repairs required to comply with the mandate. They note that the last inspection and report filing was completed in February 2007 and that it was recommended that the repairs be made within a two-year time frame.

Q. How much did Con Edison request for a rate allowance for facilities maintenance expense?

A. The Company is requesting $4.911 million of which $1.725 million ($1.64 million escalated for inflation) is for Local Law 11 expenses relating to the 2007 through 2011 five-year cycle. In its testimony, the Company's Electric Production Panel claims that the request reflects the repairs identified in the report, and includes such items as repairing cracked masonry and spalled stone, brick pointing, replacement of cracked bricks, and repairing deteriorated window and door sills and lintels and the partial rebuilding of parapet walls.

Q. Are you proposing to adjust Con Edison's request for a rate allowance of $1.725 million for Local Law 11 expenditures relating to the 2007 through 2011 repair and maintenance cycle?

A. Yes.

Q. Please explain.

A. First, the consultants report, provided by Con Edison in response to Staff IR DPS-343, discloses cost estimates for repairs at East River Units 6 & 7 only totaling $1.028 million. This figure includes $0.828 million for repair work and an additional $0.200 million for "mobilization" and "overhead/profit".

Second, in the recent Steam rate case (Case 07-S-1315 -Con Edison - Steam Rates, the Company based its rate request for Local Law 11 costs at

East River South Steam Station on the same consultants report used here to support the repair work to be undertaken at the East River Units 6 & 7. In that proceeding, in response to a Staff IR DPS-179, which questioned the relationship between the consultant's reports and the Company's rate requests for Local Law 11 costs at its four steam generating stations including the East River South Steam Station, the Company maintained that the estimates contained in the reports are higher than its rate request for these projects and that it revised those estimates downward based on similar past repairs completed during previous repair cycles.

Now, a few months after this response in the steam rate case, the Company is claiming the opposite of what it stated in the steam case. That is, the estimate contained in the consultants report is lower than what is needed to carry out the repair work and that a revision of those estimates upward is appropriate.

Q. What are you proposing?

A. We are proposing that Con Edison be allowed to recover $0.828 million of Local Law 11 expenditures for the 2007 through 2011 cycle over a two-year period, or $0.414 million per year, based on the cost estimates for repairs contained in the consulting report supporting the Company's request. The Company would be allowed to accrue carrying charges on the deferred net of tax balance, not to exceed $0.250 million at the Commission authorized other customer capital rate.

Q. Why are you recommending recovery of Local Law 111 expenditures over two-years as opposed to reflecting the Company's entire request in the rate year?

A. Local Law 11 costs are intended to cover repair and maintenance work over a five-year cycle, in this instance from 2007 to 2011. Local Law 11 expenditures are clearly not an annual recurring expense requirement. Accordingly, it would not be reasonable to build this intermittent cost into base rates as if the Local Law 11 expenditures are to be incurred on an annual basis as the Company has.

Q. Please explain the effect of your proposal on the Company's rate year forecast of facilities maintenance expense.

A. We are reducing Con Edison's forecast of rate year facilities maintenance from $4.911 million to $3.600 million, or by $1.311 million, to reflect the recovery of our estimate of Local Law 11 expenditures over a two-year period.

Insurance Expense

Q. Please describe your adjustments to the Company's forecast of rate year insurance expense.

A. We have three adjustments to the Company's forecast. The first adjustment relates to the escalation rate for insurance that was included in the Company's filing as a program change. The second adjustment relates to the increase in liability insurance premiums related to the 2007 Steam Pipe Rupture (the Steam Incident) and the third adjustment relates to directors and officers (D&O) insurance.

Q. How did the Company forecast insurance expense from the historic test year to the rate year?

A. Con Edison developed an escalation factor by comparing the 2007 projected expense to the 2008 forecasted expense. By using this method, the Company arrived at an annual average escalation factor of 7.7%. It then applied that factor whenever any of the thirty insurance policies were scheduled to be renewed between July 2008 and March 2010.

Q. What is the effect of using a 7.7% escalation factor?

A. In the historic test year the Company incurred approximately $21.9 million in insurance expenses. Using its escalation methodology, Con Edison forecasted a rate year expense of $29.7 million, which represents a 36% increase from the historic test year.

Q. What has been the historical trend in insurance expense for Con Edison?

A. Con Edison's insurance expense for the years 2005 through 2007 was approximately $24.8 million, $24.1 million and $21.9 million respectively. Clearly, indicating a declining trend.

Q. How would you propose to forecast insurance expense in the rate year?

A. We propose to use an annual GDP deflator of 2.7%

to escalate current premiums as they are renewed between July 2008 and March 2010. The effect of using this methodology decreases the amount of rate year insurance expense by $1.844 million. We recommend that this item be updated throughout this case, as actual premium costs become known.

Q. Given that insurance expense has shown a declining trend, please explain why you are not recommending a negative escalation rate or at least recommending that the expense be held constant at the historic level?

A. Insurance rates are difficult to forecast because the premiums are based on many factors. In the last few Con Edison rate cases, Staff has recommended reasonable escalation factors and the actual premiums paid have actually gone down. In some years premiums may go down, and in other years they may go up more than inflation. It is difficult to predict. By consistently using latest known premiums and applying inflation we believe that over time insurance costs allowed in rates will be close to those actually incurred.

Q. Could you explain your second adjustment to the Company's rate year forecast of insurance expense?

A. Yes. This adjustment relates to the Joint Proposal filed with the Commission in Case 08-S-0153, the Steam Pipe Rupture Prudence Review. In the Joint Proposal, the signatory parties proposed to the Commission that Con Edison not seek to recover excess liability insurance in an amount greater than $11.260 million through 2010. Con Edison's electric operation's allocation of that cap is $7.847 million. Using Staff's escalation method described above, the excess liability insurance premiums in the rate year equals $10.702 million, so a $2.855 million adjustment is required under the terms of the Joint Proposal.

Q. Has the Joint Proposal been acted on and adopted by the Commission?

A. No, the Commission has not rendered a decision on the Joint Proposal. However, we still believe this adjustment is appropriate even if the Commission does not adopt the Joint Proposal terms. We believe the recent increase in premiums is related to the steam event.

Q. Why do you believe the increase is related to the steam event?

A. The steam event was very costly for Con Edison's liability insurance carriers. The most recent estimate shows that Con Edison has received over $21 million in reimbursements related to the event. We expect that it will be much more $21 million when all claims are settled.

We observed a significant increase in excess liability insurance premiums of $2.5 million per year from the premium level prior to the pipe rupture event. This premium increase was net of the impact of the Company's election to increase its deductible from $5 million to $7.5 million per event.

Q. What is the Panel's third adjustment to the Company's forecast of rate year insurance expense?

A. The third adjustment relates to D&O insurance.

Q. Did the Commission address this issue in the 2008 Rate Order?

A. Yes. On pages 51 and 52, the Commission stated: "The judges are correct that a review of past cases shows that the Commission has not previously made an adjustment like the one CPB has proposed here. For this reason, we will accept the judges' recommendation. However, the parties are on notice that if adequate, detailed support for such an adjustment is provided by CPB, or any other party interested in this matter, we will entertain a cap on the amount of basic liability insurance that ratepayers would be expected to cover in the rates they pay."

Q. What is your proposed adjustment to D&O insurance costs?

A. We are proposing that the shareholders pay for most of the cost of D&O insurance.

Q. What is D&O insurance?

A. D&O insurance indemnifies the Company and its directors and officers for "wrongful acts" in performing their respective corporate capacities.

Q. Could you further explain "wrongful acts"?

A. In response to CPB IR-1, Con Edison defined "wrongful acts" as: "Actual or alleged breach of duty, neglect, error, misstatement, misleading statement or omission actually or allegedly caused, committed or attempted by any Director or Officer while acting individually or collectively in their capacity as such, or claimed against them solely by reason of their being Directors or Officers."

Q. If the Company had no D&O insurance, would customers normally pay for the costs of judgments resulting from shareholder suits in cases where directors or officers were found to have committed a "wrongful act"?

A. No. Generally, the Commission protects ratepayers from bearing costs resulting from unreasonable and imprudent utility actions.

Q. If in the normal course of ratemaking, the Commission would disallow rate recovery of costs associated with "wrongful acts", why should ratepayers pay insurance premiums to protect the shareholders from the financial consequences of "wrongful acts"?

A. The ratepayers should not be paying to protect shareholders from "wrongful acts".

Q. Is there a portion of D&O insurance that should be allowed in rates in your opinion?

A. Yes. D&O insurance is comprised of three parts:

Coverage A covers claims and litigation against Directors and Officers; Coverage B covers all sums to indemnify its Directors and Officers; and, Coverage C is for security claims.

We believe that the ratepayers should provide for Coverage A costs, since they cover the costs of litigation. Plaintiffs may bring lawsuits whether or not the claims and alleged wrongful acts have any basis. Defense costs can be significant, even in instances where the underlying claim is without merit.

Q. Please explain how your adjustment to D&O insurance was calculated.

A. In response to Staff IR DPS-378, the Company indicated that Coverage A has historically been approximately 10% of the total D&O insurance costs. We estimate that the rate year cost of D&O insurance for Con Edison's electric division will be $4.957 million. We propose to make an adjustment to eliminate 90% of those costs, or $4.137 million.

Q. Is there a concomitant adjustment to rate year rate base as a result of the Panel's adjustments to the Company's rate year forecast of insurance expense?

A. Yes. Con Edison's forecast assumes 45% of insurance premiums are prepaid in the rate year. So our adjustment to prepaid insurance of $3.977 million, tracks our adjustments to rate year insurance expense.

Other Compensation

Q. What is other compensation expense?

A. Other compensation is incentive compensation for the Company's officers and non-officer management employees. Specifically, costs associated with Con Edison's long-term incentive plan (LTIP). According to Company witness Tai, the LTIP rewards achievement of financial and operations goals as well as total shareholder return.

The LTIP provides for awards of restricted stock units. The stock units provide for the right to receive one share of Con Edison common stock, the cash value of one share of common stock, or a combination thereof, for each stock unit granted.

Witness Tai's testimony indicates that Officers eligibility is based on various factors including recommendations from the Chief Executive Officer (CEO) and a general assessment of each officer's performance. Non-officer management employees are eligible to receive stock unit awards based on a number of factors including recommendations from their respective senior officer.

Q. How much is the Con Edison requesting for other compensation?

A. The Company is requesting a rate allowance of $6.021 million.

Q. Have the benefits of achieving the financial and operational goals that, in part, determine the incentive compensation awards been reflected in the Company's rate year operating projections?

A. In its response to Staff IR DPS-411, the Company indicates that the benefits of achieving financial and operating goals were reflected in its budgets and hence are reflected in its revenue requirement. It notes the revenue requirement was determined by starting with a historic period of time, that is, the twelve months ended December 31, 2007, and all benefits achieved to that point in time are reflected in the starting point for setting new rates.

Q. Did the Company show precisely where those costs reductions are reflected and/or captured for customers?

A. No.

Q. Does the Panel support the recovery of long-term incentive plan compensation in rates?

A. No. Because those cost reductions cannot be accurately identified and unconditionally captured for customers, allowing the cost of the program would impose an economic burden on customers without providing them the benefits. Counsel advises that, consistent with past Commission practice, the cost of such a plan should be recovered through the resulting operating efficiencies rather than a separate rate allowance. Our adjustment reflects the elimination of $6.021 million of incentive compensation costs from the Company's forecast of rate year expense.

Regulatory Commission Expense

Q. How much is the Company requesting for rate year regulatory commission expense?

A. The Company is requesting a rate allowance of $30.277 million which includes $26.9 million for Public Service Commission (PSC) assessments, $3.377 million for what it describes as rate case costs and $0.277 million related to an allocation of miscellaneous common costs.

Q. Does the Panel have any concerns with the Company's rate year forecast?

A. Yes, we have two concerns. First, the Company forecast includes non-recurring costs. Second, spent nuclear fuel (SNF) litigation costs are included within the forecast.

Q. Please explain the Panel's concern regarding the recovery of non-recurring costs.

A. Con Edison based its rate year forecast of rate case costs on a three-year historic average (2005 - 2007) of such costs, and then increased that amount by inflation (5.19%). In its response to Staff IR DPS-465, the Company provides a complete breakout of rate case costs included in the three year historic average.

The Company's average cost includes costs related to the 2007 independent audit of the Company's Electric Emergency Outage Response

Program in Case 06-M-1078 and to its 2004 electric rate case. Since these costs will not recur in rate year they should be removed from the Company's rate year forecast of regulatory commission expense. Accordingly, we are reducing the Company's forecast of regulatory commission expense $0.701 million.

Q. Please explain the Panel's concern regarding the SNF litigation costs.

A. In its response to Staff IR DPS-577, the Company indicates that this case is currently pending in the Court of Federal Claims in Washington, that discovery should end later this year and that the Company expects to go to trail in 2009, but no firm date has been set by the Court. According to the Company, the case involves a claim by Con Edison concerning the Department of Energy (DOE) disregard of a 1982 statue and breach of a 1983 contract with Con Edison. Under the statue and contract, in exchange for the payment of fees by Con Edison that exceeded $115 million, DOE was required to commence disposal of spent nuclear fuel from the Con

Edison's Indian Point (IP) nuclear power plant beginning in January beginning in 1998.

Con Edison sold IP to the Entergy Corporation (Entergy) in 2001, when DOE was already in breach of the contract. According to the Company, Entergy assumed ownership and the disposal responsibility for all of the spent fuel, knowing that further costly on-site storage would be necessary, and without any understanding as to when, if ever, DOE would relieve Entergy of its disposal responsibility by commencing performance of its disposal obligations. The Company states that the IP sale documents specified that Con Edison retained its pre-sales claims against DOE (for the benefit of customers).

In the litigation, Con Edison seeks to recover its pre-sale incurred costs of anticipatorily mitigating the costs from DOE's breach, and also the diminution of the sale value of Indian Point, as occurred upon its sale in 2001, measured by the difference between the actual terms for the sale and those which would have occurred had DOE performed the under the contact. The Company notes that earlier this year, another trial court awarded damages in a similar claim of diminished value upon the sale of a nuclear facility, brought by another utility. The government's appeal in that case is now pending.

In its response to IR NYECC-63, the Company indicated that the maximum amount that it seeks to recover in this case is approximately $138 million.

Q. Does the Panel agree with the Company's request for SNF litigation costs?

A. Yes. We agree with Con Edison's request to recover these costs on the condition that all proceeds resulting from the litigation benefit customers.

Research & Development

Q. How are research and development (R&D) costs accounted for?

A. Generally, R&D costs are expensed at the time they are incurred, except when projects turn out to be successful, then certain costs are capitalized.

Q. Does Con Edison know which R&D projects will be successful?

A. No. It is impossible to know in advance which projects will be successful. The Company claims that, historically, approximately 40% of their R&D projects are successful.

Q. In its filing, did the Company forecast that any of its R&D projects would be successful and therefore capitalized?

A. No.

Q. Did the Commission adjust R&D expense for successful projects in the 2008 Rate Order?

A. Yes. The Commission stated on page 59 of the 2008 Rate Order: "… Staff explains the rationale for its $19 million estimate which takes into account the success of the Company's projects and the credits that the R&D program receives whenever successful projects are capitalized. Staff projects a continuation of such credits and it sees no need to provide any reconciliation mechanism for this expense category. We adopt Staff's estimate of R&D expenses for the rate year which includes proper recognition of the credits that the program receives for successful efforts."

Q. Does Staff propose a similar treatment in this case?

A. Yes. Although we don't know in advance which current projects will be successful, we have to assume some of them will be successful, or the Company would not be spending valuable resources on them. We propose to use the same expense-to-capitalization ratio used in the 2008 Rate Order, which results in the capitalization of $2.731 million worth of R&D expenses. Consequently, we are reducing the Company forecast of rate year R&D expense from $20.025 million to $17.294 million.

Rents

Q. The Company's forecast of rate year rent expense shows a significant increase from rent expense actually incurred in the historic test year. Has the Panel determined the reasons for the increase?

A. Yes. [redacted] year. In a **CONFIDENTIAL WHITE PAPER** attached to Staff IR DPS-488, [redacted]

[redacted]

Q. Does the Panel have any concern with this lease expense?

A. Yes. There is a great deal of uncertainty surrounding this project as clearly indicated in the **CONFIDENTIAL WHITE PAPER** supporting the request. [redacted] Clearly, there is nothing definite regarding this project and what the Company will ultimately decide, should it arise. [redacted] total rate year forecast of $52.072 million.

Q. Did Con Edison propose any changes in its preliminary update filing?

A. Yes, the Company increased its rate year uncollectible accounts forecast by $7.597 million, from $52.072 million to $59.669 million, to reflect increased sales revenues resulting primarily from increased forecast purchase power costs. However, this amount is overstated by approximately $3.5 million due to an error in the Company's calculation. It is important to note that although this update increases the Company's forecast of rate year uncollectible accounts it does not impact revenue requirement due to the fact that the Company would recover the increase resulting from increases in commodity costs via its Market Supply Charge rates.

Q. Is the Company's forecast approach consistent with its historic forecast method for uncollectible accounts expense?

A. No. Traditionally, a three-year average of uncollectible write-offs has been used to project the rate year rate allowance.

Q. Why is Con Edison now proposing a change in this long established approach for the determining rate year rate allowance for uncollectible accounts expense?

A. In its testimony, Con Edison's Accounting Panel points to escalating energy costs and the worsening economy as the basis for using a two-year average of uncollectible write-offs.

Q. Do you agree with Con Edison's proposed methodology change?

A. No.

Q. Please explain.

A. We believe that the use of the three-year average for this expense should be applied consistently. Using an unadjusted three-year average consistently from case to case avoids the need to litigate this issue in every case. More importantly, it would, over time, make the Company whole for economic ups and downs.

Q. Are you proposing to adjust Con Edison's forecast of rate year uncollectibles accounts expense?

A. Yes. We are proposing to reduce the Company's forecast of rate year uncollectibles from

$59.669 million to $53.485 million, or by $6.184 million to: 1) to reflect our proposal to use a three-year average ratio of write-offs of .59% to forecast rate year uncollectible accounts expense ($2.701 million) and, 2) correct for the error in the Company's preliminary update ($3.483 million). A concomitant adjustment is also required decreasing rate year sales revenues by $4.713 million to reflect the portion of uncollectible accounts expense associated with commodity costs the Company recovers through its Market Supply Charge.

Other O&M Expense

Vehicle Fuel Costs

Q. Please explain Con Edison's forecast of vehicle fuel costs.

A. In its initial filing, the Company forecasted that it would incur $12.282 million for fuel to operate its fleet of 4,100 vehicles during the rate year. Of this amount, $4.788 million was allocated to the electric O&M expense. The Company's forecast was based on consumption of 3.6 million gallons of gasoline and diesel fuel. The rate year expense was derived using the actual average per gallon fuel costs for the month of January 2008 which were $3.677 for diesel fuel and $3.137 for gasoline.

Q. Did Con Edison's preliminary update include a revised forecast for vehicle fuel expense?

A. Yes. The Company increased the electric rate year vehicle fuel expense forecast by $1.358 million or 23%, to $6.147 million. The revised forecast was based on forecast fuel costs of $4.79 per gallon for diesel fuel and $4.07 per gallon for gasoline. The Company's forecast of fuel is based on the DOE's April 8, 2008 release of "Short-Term Energy and Summer Fuels Outlook" report.

Q. Does the Panel have any concerns or issues regarding the DOE April 2008 report?

A. Yes. First, the forecast fuel price data upon which the Company relied is not comparable to the cost Con Edison actually pays for fuel. The fuel prices referenced in the DOE report are retail estimates, which include commodity, taxes, fees and delivery costs. However, the testimony of the Company's Shared Service Panel, at page 55 line 22 states that "the Company operates its own private-fill fuel stations at many of its service centers. Our vehicle fuel supply contracts allow us to buy fuel in bulk at prices closer to what would be seen in the wholesale market as opposed to the retail market." Therefore, we conclude that Con Edison's forecast of fuel prices is not reliable for determining the rate allowance. Second, the Company's preliminary update is based the DOE report dated April 8, 2008 which predates the Company's rate filing. As such, counsel advises that it is not a known change pursuant to the Commission's Statement on Policy on Test Periods in Major Rate Proceedings, Case 26821, issued November 23, 1977 (Test Period Policy Statement). The Test Period Policy Statement states on page 9 that "revisions for changes in estimate will only be entertained when they are based on data which were not available at the time of the original filing." The DOE report dated April 8, 2008 was available to the Company for its May 9, 2008 rate filing.

Q. What does the Panel propose for vehicle fuel expense?

A. We do not take issue with the Company's forecast of rate year fuel consumption for its fleet of vehicles. However, we recommend that the average price of fuel for the period January to June 2008 be used to determine the rate allowance. Con Edison actual costs for this period was $4.125 per gallon for diesel fuel and $3.428 per gallon for gasoline. Using our recommended fuel prices produces rate year vehicle fuel expense of $5.045 million or $1.102 million less than the level in the Company's preliminary update filing.

Correction of Error

Q. Would you please explain your correction of error adjustment?

A. In an August 20, 2008 e-mail, the Company indicated that in its preliminary update, it inadvertently included an expense update twice in its filing. Accordingly, we are decreasing the Company's forecast of other O&M expense by $1.072 million to remove the double counting of the requested expense.

Other O&M Reclassification

Q. Are you proposing a non-revenue requirement reclassification of certain expenses reflected in the Company's forecast of Other O&M expense to various other elements of O&M expense?

A. Yes, we are simply proposing to reclassify $5.968 million of other O&M expense to enhance the presentation of the Company's rate year O&M expenses. These reclassifications have no impact on Staff's revenue requirement calculation.

Depreciation Expense

Long Island City Outage Disallowance

Q. The Commission's Order in Case 06-E-0894, et al., Proceeding to Investigate the Electric Power Outages in Con Edison's Long Island City Electric Network - Prudence Phase, requires a $40 million disallowance of plant costs and $6 million of accrued carrying charges incurred by the Company to replace and repair electricity delivery facilities in the Long island City network associated with the July 2006 power outages. In its filing, did Con Edison remove $46 million of Long Island City (LIC) plant costs and associated accrued carrying charges from its earnings base?

A. Yes.

Q. Did the Company make an adjustment to remove the depreciation expense associated with the $40 million disallowance?

A. We found no evidence that the Company adjusted its rate year depreciation expense to exclude recovery of the disallowed $40 million investment. Accordingly, we are reducing rate year depreciation expense by $1.112 million as required under the Commission's Order.

Taxes Other Than Income Taxes

Property Tax Expense

Q. What is the rate year forecast for property taxes?

A. In calendar year 2007, the test year, property taxes were approximately $767 million. In its July 25, 2008 preliminary update, the Company projects property taxes to be slightly over $1 billion, or roughly a $255 million increase. Property taxes are a major driver of the Company's rate request.

Q. Would you generally describe how property taxes are forecast for the rate year?

A. There are two primary components used in developing property tax expenses. They are the tax rates charged by the taxing authority and the assessed value of the utility's property.

Q. Please discuss how the Company forecasted the tax rates in its original filing?

A. In its initial filing, witness Hutcheson computes a five-year average, but then he modifies the results by stating: "I used judgment as to whether those tax rates should change over the next few tax periods based on that five year history." For "NYC-Class 3 property" the five-year average was -0.46%, but the Company decided to use 0%. For "NYC-Class 4 property" the five-year average was -2.9%, but the Company decided to use -2.5%. For Westchester the five-year average was 2.59%, which the Company used in its original forecast.

Q. Does using a five-year average to forecast the escalation for property tax rates have any Commission precedent?

A. Yes. In the past few Con Edison rate cases, a five year average was used to develop the property tax rate escalation.

Q. Did the Company change its escalation rate in its preliminary update?

A. Yes. The property tax escalation rates were significantly modified in the Company's update. For NYC Class 3 and 4, the Company changed its annual estimate from 0% to 7% and -2.5% to 7%, respectively. For Westchester rates, the Company forecast changed from 2.59% to 4% annually.

Q. Did Con Edison file any supplemental testimony to justify such a significant change from the original filing and past Commission precedent?

A. No, it did not.

Q. Do you propose to make an adjustment to the Company's preliminary update regarding the property tax rate escalation?

A. Yes. We propose to remain consistent with past Con Edison rate determinations and Commission precedent, and continue the use of a five-year average to develop the property tax rate escalation rate.

Q. Using the Commission's five-year-average methodology, how much of an adjustment do you propose to make to property tax expense in the rate year?

A. For New York City property taxes, it results in a $57.235 million adjustment. For Westchester property taxes, it results in $1.551 million adjustment.

Q. How does New York City assess the value of utility property?

A. Generally, NYC applies the replacement cost new less depreciation approach to assess the value of utility property.

Q. How is the replacement cost estimated?

A. NYC uses the Handy Whitman Index (HWI), which is a utility industry index that tracks historical costs by Federal Energy Regulatory Commission (FERC) account number. NYC takes the original cost divided by the year installed index, multiplied by the price level index, as set forth in the HWI.

Q. Did the Company use the HWI to estimate its proposed assessed values in the rate year?

A. Yes. In previous rate cases, when forecasting the assessed value of their property, the Company used the assessment from the previous year, added net plant additions and subtracted plant retirements. In this proceeding, the

Company, for the first time proposes to escalate the assessed value of existing plant by the HWI.

Q. Do you take exception to using the HWI to forecast the assessed values in the Rate Year?

A. We do not take exception to using the HWI when the data is known for the rate year, as it is for special franchise property, but we do take exception to how the Company escalated the HWI to project the rate year assessed value of "Real Estate Utility Company" (REUC) Class 3 and 4 properties.

Q. How did the Company escalate the HWI to forecast the rate year assessed value for REUC Class 3 and 4 properties?

A. Con Edison used a "linear-trend" methodology, using the last five years of percentage increases in the HWI. The percentage increases of the HWI, as applied to Con Edison plant, from 2003 to 2007 were 2%, 12%, 6%, 9% and 8%, respectively. Using the linear trend methodology, the Company projects a 9.5% increase in the rate year for REUC Class 3 and 4 property assessments.

Q. What is driving the HWI rates to increase at such a rapid pace in recent years?

A. For REUC class 3 and 4 property, the main driver is transmission and distribution transformer station plant. Transformer plant accounts for 78% of the book value of all the REUC class 3 and 4 properties. A major raw material in transformer plants is copper. The price of copper has increased dramatically in the last few years. Company witness Hutcheson stated on page 26 of his testimony that: "The indices were primarily affected by increases in copper prices as well as an increase in the cost of new transformers."

Q. Do you believe it is proper to use a trend line to predict the future price of copper?

A. No. The prices of commodities, such as copper, are notoriously volatile and cyclical in nature. Just because copper prices have increased substantially in recent years is not an indicator that they will continue to do so. They could very well go down in price. It is extremely difficult to predict the future price of a commodity with any certainty.

Q. What escalation rate would you recommend using?

A. All the known information on the supply and demand for copper is factored into today's future prices. Currently, the average future copper contract price for the next 24 months shows a 3.2% decrease from the most recent August 2008 contract price. Given the difficulty of accurately predicting commodity prices and the fact that the current future contract shows a small decrease, we believe the best escalation rate would be zero.

Q. What is the amount of your adjustment factoring in no escalation for the HWI?

A. The adjustment equals $14.298 million.

Q. Has the Company further updated its property tax estimate since its preliminary update?

A. Yes. In the August 14, 2008 e-mail addendum to the preliminary update, Con Edison estimates a New York City property tax reduction of approximately $3.8 million related to its Parkview substation.

Q. Do you have any other adjustments related to the assessed value of the property?

A. Yes. In its initial filing, Con Edison included non-operating property as part of its property tax forecast. The Company has since agreed that non-operating property taxes should not be included in rates.

Q. How much are the adjustments related to non-operating property taxes?

A. The adjustment is $0.119 million related to Westchester property taxes and $0.573 related to New York City property taxes.

Q. Is there a concomitant adjustment to prepaid property taxes related to Staff's adjustments to rate year property tax expense?

A. Yes. Based on our adjustments to the Company's forecast of rate year property tax expense, prepaid property taxes reflected in rate year rate base should be adjusted down by $16.5 million. This adjustment was calculated by taking the expense-to-prepayment ratio of 21.5% implicit in the Company's update and applying it to Staff's adjusted rate year property tax expense.

Q. In their testimony, Con Edison's Accounting Panel proposes a full true-up of property tax expense variances between its actual tax expense and its rate allowance. Do you support the

Company's proposal?

A. No. It is our opinion that reconciliation is not necessary in the context of establishing rates for a single rate year. The property tax forecast can be updated throughout this case for all known changes. When this case goes before the Commission for determination in March 2009, most of the property tax data for the rate year will be known, and known property tax data can be incorporated into the forecast.

Q. Regarding the treatment of property tax refunds, do you agree with the Company's proposal to continue the current 86%/14% Customer/Company sharing mechanism?

A. Yes we do, so long as the Company continues to report its efforts in pursuit of property tax reductions and can demonstrate that refunds received are a direct result of the Company's actions.

Revenue Taxes

Q. Please explain your proposed adjustment.

A. We are reducing the Company's forecast of rate year revenue taxes from $203.870 million to $205.062 million, of by $1.192 million tracking the effects of Staff's revenue adjustments.

Payroll Taxes

Q. Are you making any adjustments to the Company's forecast for rate year payroll taxes?

A. Yes, we are reducing the Company forecast from $53.365 million to $46.714 million, or by $6.651 million, tracking Staff's labor expense adjustments.

New York State Income Taxes

Q. Did the Panel prepare a schedule showing the rate year forecast of New York State (NYS) income tax expense?

A. Yes. Schedule 1, page 5 of our Exhibit____(AP-1) presents our calculation of rate year NYS income tax expense.

Federal Income Taxes

Q. Did the Panel prepare a schedule showing the rate year forecast of federal income tax expense?

A. Yes. Schedule 1, page 6 of our Exhibit____(AP-1) presents our calculation of rate year federal income tax expense.

Rate Base

Plant in Service

Steam Incident - Capital Costs

Q. Do you have a capital cost adjustment related to the July 2007 Steam Incident?

A. Yes. We have an adjustment related to the Joint Proposal (JP) filed with the Commission in Case 08-S-0153 on August 6, 2008. The JP recommends permanently adjusting Con Edison's rate base by $5.06 million; comprised of $4.7 million of electric plant and $0.360 million in related carrying charges. The carrying charges were eliminated in the Company's preliminary update. Consequently, we are removing $4.7 million of capital costs from the Company's rate year rate base. The adjustment is reflected in Staff witness Randt's forecast of rate year plant in service. If the Commission modifies the Joint Proposal in the Case 08-S-0153, we will reflect those changes on update.

Q. Is there a depreciation expense adjustment related to this disallowed plant?

A. Yes. The depreciation expense adjustment is approximately $0.131 million and is reflected in the depreciation adjustment proposed by Staff witness Randt.

Capitalized Variable Pay

Q. Is Staff proposing to eliminate capitalized variable pay from the Company's rate base?

A. Yes. Our adjustment removes capitalized variable pay from the Company's rate base, consistent with our position to remove variable pay from the Company's forecast of labor expense.

In its 2008 authority letter on administrative and supervisory (A&S) costs applicable to plant construction costs (ARP 1-016) Con Edison shows an estimate of $11.085 million of capitalized variable pay in 2008. We use that amount as a proxy for capitalized variable pay in fiscal years 2009 and 2010. Accordingly, we are adjusting the Company's forecast of rate year rate base to remove the electric allocation of capitalized variable pay. The adjustment is reflected in Staff witness Randt's forecast of rate year plant in service.

Working Capital

Prepaid Interference Expense

Q. What is basis of including prepaid interference expense in working capital?

A. New York State and New York City sometimes serve as agents for the Company in awarding contracts for certain types of interference work such as bridgework, resurfacing of streets and the installation of catch-basins. According to the Company's response to Staff IR DPS-350, upon their acceptance of a bid from a contractor NYS and NYC require advance payment for the Company's share of the work. The Company's accounting procedures (Con Edison Accounting Opinion No. 277) require that any material advance payments, defined as payments in excess of $100,000, be recorded as prepayment. The prepayment balance is reduced by actual costs incurred, either expensed or capitalized.

Q. Does Staff have any concerns with the Company's forecast of rate year prepaid interference expense?

A. Yes, we are concerned with the unusually large average balance in the historic test period, which the Company simply escalates by the general rate of inflation in determining the rate year forecast.

Q. Why do you think the average historic test year balance of the prepaid interference expenditures is unusual?

A. We calculated the average balances of prepaid interference expenditures for the fiscal years ending December 31, 2005 and 2006, based on the Company's accounting records. The average balances were $1.420 million and $2.056 million for 2005 and 2006, respectively. However, the average balance for the historic test year was $9.725 million, of which $7.630 million was allocated to the electric business and reflected in the historic test year working capital.

Q. Did the Company explain the increase in the historic test year prepayment for interference expenditures?

A. In its response to Staff IR DPS-350, the Company indicated that it made a prepayment in the amount of $9.5 million to the NYS Department of Transportation for the Route 9A project in conjunction with the rebuilding of Lower Manhattan in March 2007.

Q. Did the Company explain why the historic level of prepaid interference expenditures will continue in the rate year and beyond?

A. The Company indicated that it can not predict the level of such expenditures in future years.

Q. Are you proposing to adjust the Company's forecast of prepaid interference expense?

A. Yes. Absent any proof that the same level of prepayments will recur in rate year, we propose to use a three-year historic average (2005 - 2007) to reflect a normalized level of prepaid interference expense. Our adjustment reduces the working capital in rate base by $4.271 million.

Q. Do you any further comments concerning this issue.

A. Yes. In its response to Staff IR DPS-350, Con Edison noted that, historically, all other prepayments (i.e., insurance, property taxes, etc.) are projected starting with the average test year balances. Furthermore, it claims that this methodology has been followed on a consistent basis in prior Rate Orders in Cases 04-E-0572 and 07-E-0523. We take exception to the Company's statement.

No rule or precedent has been set regarding the forecasting methodology in the previous rate cases. When the historic year data indicates an unusually nature, a normalization should be made.

ERRP Major Maintenance

Q. Please explain the Panel adjustment.

A. According to the Company's Exhibit AP-15, schedule 1, there will be deferred funds in the reserve for East River Major Maintenance expenses during the rate year. Accordingly we are decreasing rate year rate base by $1.325 million to reflect the average net-of-tax balance of deferred East River Major Maintenance costs.

Q. Do agree with the Company that deferral accounting should continue for ERRP major maintenance expenditures?

A. Yes.

BIR Discount - Recovery

Q. What is the nature of the business incentive rate discount balance reflected in the Company's rate base?

A. Con Edison claims this item reflects discounts provided to customers taking service under the Company's business incentive rate (Rider J). The Company, between November 2003 and August 2005, deferred for future recovery lost revenues resulting from BIR discounts. The line item reflected in rate base represents the unamortized net-of-tax balance of the deferred lost revenues.

Q. Is the Company seeking recovery of the lost revenues in this case?

A. No, the Company did not propose amortization of the deferred balance. Rather, the Company included the entire net-of-tax balance in rate base.

Q. Do you think the Company's approach appropriate?

A. No. As Staff testified in the Company's last electric rate case, Case 07-E-0723, the distinction between new business and retention discounts is of critical importance to determine the level of lost revenues pursuant to the Rate Order in Cases 00-M-0095, 96-E-0897, 99-E-1020 (issued November 30, 2000). Until the Commission determines that the BIR additions were 'retention' and verifies the amount of associated lost revenues, inclusion of the deferred lost revenue in rate base is inappropriate. Staff recommends removal of the entire balance of $3.339 million from the rate base.

Q. Did the Commission's 2008 Rate Order adopt Staff's position in Case 07-E-0723?

A. Yes.

Earnings Base Capitalization (EBCap)

Q. Would the Panel explain this adjustment?

A. In it preliminary update filing, Con Edison revised its initially filed EBCap adjustment to correct for a minor error that we discovered and informally pointed out to them. However, in its efforts to correct the original error, the Company mistakenly included historic working capital amounts into its revised EBCap adjustment. Consequently, we are reducing the Company's forecast of rate year EBCap adjustment from $200.846 million to $192.957 million, or by $7.889 million to remove the working capital amounts from its EBCap adjustment. The Company has indicated that it concurs with our finding.

Regulatory Deferrals

Pension Deferral April 2008 - March 2009

Q. Would the Panel explain its adjustment to the Company's deferred pension cost balance in rate base?

A. Yes. Based on the Company's response to Staff IR DPS-401, we are removing the $9.704 million reflected in the Company's rate year rate base related to this item. The response indicated that Con Edison will not fully fund its 2008 book pension expense (accrual) and therefore there is no cash flow associated with the deferred under recovery. As such, there is no basis for including the deferral in the Company's rate year rate base.

Unbilled Revenues

Q. Would the Panel please explain its unbilled revenue adjustment?

A. Our adjustment updates the Company's forecast to reflect our proposed use of unbilled revenues at a net of tax amount. Consequently, we are increasing the average rate year rate base related to unbilled revenues from $22.635 million to $54.950 million, or by $32.315 million.

Accumulated Deferred Income Taxes

ADR/ACRS/MACRS Deductions

Q. Would you please explain your accumulated deferred income taxes adjustment?

A. We decreased the average rate year forecast (increasing rate year rate base) by $1.210 million to account for Staff's recommendations to the level of rate year depreciation expense.

Deferred State Income Tax

Q. Would you please explain the Panel's deferred State Income Tax adjustment?

A. We increased the average rate year forecast (decreasing rate year rate base) by $7.725 million to account for various revenue requirement recommendations made by Staff

Deferral Accounting

Q. On pages 130 through 139 of their testimony, the Con Edison Accounting Panel seeks to employ the use of deferral accounting to true-up a number of cost elements and to net outstanding regulatory deferral on an annual basis. Does the Panel support the Company's requests?

A. The Panel's recommendations on deferred accounting for pension and OPEB expenses, property taxes and ERRP have already been addressed by us. We concur with the Company that deferral accounting for storm costs should continue. Staff witness Powell discusses the Company's request for deferral accounting concerning SIR program costs and SO2 allowances. The Staff Municipal Infrastructure Panel discusses the Company's request for deferral accounting regarding interference expenditures.

We object to the Company's request to any netting of regulatory deferrals in a one-year rate plan. The Commission should determine the disposition of any deferred balances in the Company's next rate case.

Q. Does this conclude your testimony at this time?

A. Yes.