

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:

Staff Municipal Infrastructure
Support Panel

Kin Eng
Utility Analyst 3

Michael J. Rieder
Utility Engineer 3

Qin Fei Shi
Utility Engineer 1

Jane Wang
Public Utilities Auditor 2

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Office of Electric, Gas, & Water
State of New York
Department of Public Service
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Albany, New York 12223-1350

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Department of Public Service
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1 Q. Please state your names, employer, and business
2 addresses.

3 A. Kin Eng, Michael J. Rieder, Qin Fei Shi, and
4 Jane Wang. We are employed by the New York
5 State Department of Public Service (Department).
6 Messrs. Eng and Shi are located at 90 Church
7 Street, New York, New York 10007. Mr. Rieder
8 and Ms. Wang are located at Three Empire State
9 Plaza, Albany, New York 12223.

10 Q. Mr. Eng, have you already discussed your
11 educational background, professional and
12 testimonial experience, and responsibilities?

13 A. Yes, I provided that information as part of the
14 Staff Infrastructure Investment Panel testimony
15 in this proceeding.

16 Q. Mr. Rieder have you already discussed your
17 educational background, professional and
18 testimonial experience, and responsibilities?

19 A. Yes, I provided that information in my
20 individual testimony in this proceeding.

21 Q. Mr. Shi, what is your position at the
22 Department.

23 A. I am a Utility Engineer 1 assigned to the

1 Electric Distribution Systems Section in the
2 Office of Electric, Gas, and Water.

3 Q. Please describe your educational background.

4 A. I graduated from the University at Buffalo with
5 a Bachelor of Science Degree in Civil
6 Engineering and a Bachelor of Arts Degree in
7 Mathematics in 2005.

8 Q. Please describe your responsibilities and
9 professional experience with the Department.

10 A. I joined the Department in 2007. My current
11 responsibilities include: monitoring and
12 assessing electric utility reliability issues;
13 monitoring electric utility field activities
14 including underground inspection, quality
15 assurance for inspections, overhead inspections,
16 and tree trimming. I also contribute to my
17 Section's responsibility for ensuring utility
18 compliance with Public Service Law and the
19 Commission's electric safety standards;
20 investigating customer complaints associated
21 with reliability issues; and responding to
22 electric emergency events.

23 Q. Have you previously testified before the

1 Commission?

2 A. No, I have not.

3 Q. Ms. Wang have you already discussed your
4 educational background, professional and
5 testimonial experience, and responsibilities?

6 A. Yes, I provided that information as part of the
7 Staff Accounting Panel testimony in this
8 proceeding.

9 Q. What is the purpose of the Staff Municipal
10 Infrastructure Support Panel testimony?

11 A. The purpose of this testimony is to address and
12 recommend changes to municipal infrastructure
13 support (interference) operation and maintenance
14 (O&M) expenses and capital costs as proposed by
15 Consolidated Edison Company of New York, Inc.
16 (Con Edison or the Company). In addition, we
17 will address and recommend changes to the
18 Company's proposal for a full reconciliation of
19 interference O&M expense.

20 Q. Please indicate if your analysis refers to, or
21 otherwise relies upon, any information produced
22 during the discovery phase of this proceeding.

23 A. We refer to, and have relied upon, the Company's

1 response to Staff Information Requests (IR) DPS-
2 169, 442, 443 and 571 which we are sponsoring as
3 Exhibit___(SMISP-1).

4 Q. Please summarize your recommendations.

5 A. We recommend that the rate year interference O&M
6 and capital expenditure (excluding Company
7 labor) forecasts related to the City of New
8 York's (the City) routine capital improvement
9 projects be set at \$56.6 million and \$22.1
10 million, respectively. In addition, we
11 recommend that the Company's reconciliation
12 proposal be rejected and that the current one-
13 way downward reconciliation of O&M expense be
14 continued. We further recommend a one-way
15 downward reconciliation mechanism for the
16 Company's interference related capital
17 expenditures be adopted as proposed by Staff
18 Witness Padula.

19 Q. What are interference costs?

20 A. Con Edison incurs costs to support and protect
21 its facilities when the City performs certain
22 work on its infrastructure, such as installation
23 and repair of water mains, sewers and drainage

1 facilities, reconstruction of roadways, curbs,
2 and sidewalks. This activity is required by New
3 York City Law and is referred to as interference
4 work.

5 Q. What is the Company's forecast of the rate year
6 interference expense?

7 A. The Company projected rate year interference
8 expense of \$93.466 million, including \$78.233
9 million related to the City's infrastructure
10 improvement projects and \$15.234 million related
11 to World Trade Center reconstruction in Lower
12 Manhattan (WTC).

13 Q. Why did the Company include a separate
14 interference request for Lower Manhattan?

15 A. Con Edison recorded WTC interference
16 expenditures in separate accounts for the
17 purpose of pursuing recovery from a federal
18 utility reimbursement program and other
19 potential sources. Costs eligible for
20 reimbursement from the federal program had to be
21 incurred prior to December 31, 2007. Since
22 there is no longer an opportunity to seek
23 reimbursement from the federal program, the

1 Company proposes to recover the WTC interference
2 expenditures in the same manner as other
3 interference expenditures.

4 Q. Is the Panel proposing any adjustments to the
5 Company's rate year forecast of interference
6 expense?

7 A. Yes, we propose an adjustment to the electric
8 interference expense related to the City's
9 infrastructure improvement projects. Our
10 adjustment reduces the Company's interference
11 expense forecast by \$21.648 million, or from
12 \$78.233 million to \$56.585 million.

13 Q. Please explain the Panel's adjustment.

14 A. Our forecast of rate year interference expense
15 related to the City's infrastructure
16 improvements is developed using a different
17 methodology than the Company uses. As a result,
18 our rate year interference expense forecast is
19 \$21.648 million lower than the Company's updated
20 forecast.

21 Q. Please explain the process used by the Company
22 to develop its rate year interference expense
23 forecast related to the City's infrastructure

1 improvement projects.

2 A. As provided in the pre-filed testimony of the
3 Company's Municipal Infrastructure Support Panel
4 (MISP), Con Edison developed the rate year
5 interference expense forecast based on the
6 City's five-year capital commitment plan (CCP)
7 published in January 2008. The City publishes
8 its CCP three times a year - in April,
9 September, and January. The CCP identifies the
10 infrastructure improvement projects the City
11 plans to implement in its current fiscal year
12 (FY), which covers the period July through June,
13 and four years beyond. The CCP also sets a
14 commitment target (target) because the City
15 realizes that not all projects included in the
16 CCP will actually proceed as planned. The
17 Company's forecast begins with the City's
18 commitments in the broad categories of water
19 mains (WM-1 and WM-6 categories), sewer, highway
20 (excluding WTC projects), and highway bridges,
21 as well certain projects in the waterway bridges
22 category, derived from the January 2008 CCP.
23 The City commitments in these areas are then

1 multiplied by a 64% average commitment target
2 ratio, developed by the commitment target ratios
3 reflected in the January CCPs from 2003 to 2007.
4 The Company further determined that on average
5 99% of the City commitment targets, as derived
6 from the January publications, have resulted in
7 expenditures in the following fiscal year. The
8 Company then multiplies the expected City
9 capital expenditures by 11.6% to determine the
10 Company's total interference expense for the
11 year. This resulting total level of expense is
12 allocated to the electric department by
13 multiplying the total Company interference
14 expense by 75% in order to arrive at the
15 electric department's share of the total
16 interference expense. The 11.6% and 75% ratios
17 were developed by the Company's based on its
18 actual experience from 2003 to 2007.

19 Q. Why do you think this forecasting methodology is
20 problematic?

21 A. Our analysis indicates that the City's capital
22 commitment plan is not a reliable data set for
23 the purpose of forecasting the Company's future

1 interference expenditures.

2 Q. Please explain.

3 A. First, the capital commitments published in
4 April, September and January for the same City
5 fiscal year (FY, July through June) vary
6 significantly from publication to publication.
7 The City's fiscal year 2008 commitments as
8 reflected in its January and April 2008
9 publications are instructive in this regard.
10 The January 2008 CCP shows expected City
11 commitments in the water (WM-1 & WM-6
12 categories), sewer, highway (excluding WTC
13 related commitments), and highway bridges
14 categories totaling \$1.199 billion. The
15 commitment target for projects in the waterway
16 bridges category that would impact the Company's
17 interference expenditures total \$64 million,
18 which when combined with the \$1.199 billion,
19 totals to the \$1.263 billion used by the Company
20 to forecast its interference expenditures. The
21 April 2008 publication shows the City's expected
22 commitments for the same projects in the
23 waterway bridge category at a reduced level of

1 \$55.3 million, and the expected commitments for
2 the other relevant categories at a reduced level
3 of \$953 million, which translates to a revised
4 total of \$1.008 billion. Applying the April
5 2008 commitment level to the Company's
6 forecasting methodology results in a \$14 million
7 reduction to the Company's forecasted electric
8 interference expenditures in calendar year 2009.

9 Q. Did the City's fiscal year 2009 commitments
10 change from fiscal year 2008?

11 A. Yes. The Company's pre-filed Exhibit___(MISP-2-
12 Revised), provided by Con Edison in its
13 preliminary update, provides the forecast of the
14 City's fiscal year 2009 commitments. The
15 expected commitments in the categories impacting
16 Con Edison total \$1.868 billion for fiscal year
17 2009, a 55% increase from the \$1.263 billion for
18 fiscal year 2008. The increase in 2009 is
19 driven largely by a significant increase in the
20 highway bridge category. In light of current
21 economic conditions, we believe these dramatic
22 changes are questionable.

23 Q. Please explain.

- 1 A. On May 1, 2008, a news release from Mayor
2 Bloomberg's office indicates that the City is
3 stretching four years of City-funded capital
4 program commitments to five years, and thereby
5 reducing the City-funded portion of the capital
6 commitment program by 20% annually for the
7 fiscal years 2009 through 2012. The City's
8 planned reductions to its capital commitments
9 for fiscal years 2009 through 2012 are not
10 reflected in the Company's rate year forecast.
- 11 Q. Why are the City's projected commitments in FY
12 2009 important to Con Edison's rate year
13 forecast of interference expense?
- 14 A. Con Edison's rate year ends on March 31, 2010.
15 Using the Company's forecast methodology, one
16 quarter of Con Edison's rate year interference
17 expense will be affected by the City's
18 expenditures in FY 2010, which is determined by
19 the City's commitments in FY 2009.
- 20 Q. How does the Panel propose to forecast the rate
21 year interference expense in light of its
22 concerns with the Company's forecasting
23 methodology and the City's recent disclosure

1 concerning its capital program commitments over
2 the next several years?

3 A. We analyzed the City's actual historic
4 expenditures in the water mains (WM-1 and WM-6
5 only), sewer, highway (excluding WTC), and
6 highway bridges categories. Between 2000 and
7 2006, we observed a total increase of
8 approximately 15.5%. The general rate of
9 inflation calculated using the GDP deflator for
10 that period of time was approximately 16%. Our
11 analysis indicates that over time, the City's
12 actual expenditures, on average, increased at a
13 rate comparable to general inflation.

14 Q. What is your proposal?

15 A. We propose using a five-year average of the
16 City's actual expenditures in the four broad
17 categories previously mentioned, excluding the
18 waterway bridge category, during the years 2003
19 - 2007, adjusted for inflation, to estimate the
20 City's expenditures for 2009 and 2010. The
21 five-year average from 2003 to 2007 is \$662.8
22 million. We apply a 2.33% and 2.20% general
23 escalation factor for 2008 and 2009,

1 respectively. These escalation factors are
2 developed using the Company provided GDP
3 indices. We then apply 11.6%, which represents
4 the Company's estimated interference expense as
5 a percentage of the City's expenditures, and
6 allocate 75% of that amount to the Company's
7 electric department. Our methodology results in
8 a rate year electric interference expense
9 allowance of \$56.6 million (excluding Company
10 labor), which reduces the Company's forecast of
11 non-WTC interference expense by \$21.648 million.

12 Q. Why do you think your proposal is reasonable as
13 compared to the Company's approach, which
14 includes in its forecast the City's commitments
15 for some specific projects in the waterway
16 bridges category?

17 A. There are two reasons to base the forecast on
18 the City's actual expenditures in the four broad
19 categories and not specifically include
20 individual projects. First, the Company
21 develops the 11.6% ratio of its interference
22 expense to the City's actual expenditures in the
23 categories of water mains (WM-1 and WM-6),

1 sewer, highway (excluding WTC), and highway
2 bridges, and not by any individual projects.
3 Second, the Company's actual electric
4 interference expenses, as provided in its
5 response to DPS-571, show a consistent
6 relationship with the City's actual expenditures
7 in the four broad categories we previously
8 mentioned, even though Con Edison's actual
9 interference expenses have been affected by some
10 specific waterway bridge projects.

11 Q. Please describe the correlation between Con
12 Edison's actual electric interference expenses
13 and the City's actual expenditures in the four
14 broad categories previously discussed.

15 A. We compared the data provided in the Company's
16 response to IR DPS-571 with the City's actual
17 expenditures during 2003 through 2007, as
18 provided by Con Edison in its pre-filed
19 Exhibit___(MISP-2). The ratios of the Company's
20 electric interference expenses to the City's
21 actual expenditures were 8.98%, 8.08%, 9.73%,
22 8.50%, and 8.38% for 2003 through 2007,
23 respectively, or an average of 8.73% over that

1 time period.

2 Q. Based on this correlation, why is your
3 recommended methodology reasonable?

4 A. Our methodology, which is based on the four
5 broad categories and does not include waterway
6 bridge projects, closely reflects the
7 relationship between the City's actual
8 expenditures and the Company's actual
9 interference expense. Con Edison's actual
10 interference expenses used in our comparison
11 were affected by waterway bridge projects, but
12 those interference expenses still maintain a
13 good relationship with the City' actual
14 expenditures in the four broad categories.

15 Q. Did you examine the Company's actual
16 interference expense for 2008?

17 A. Yes. The Company's response to DPS-571 provided
18 the actual electric interference expense of
19 \$34.977 million for the seven-month period
20 ending July 2008, including labor. Annualized,
21 2008 costs are estimated to be \$59.961 million,
22 which is in line with our forecast of \$56.6
23 million, or \$59.3 million including labor.

1 Q. Please describe the Company's forecast of WTC
2 related interference expenditures.

3 A. Con Edison uses a different methodology to
4 forecast the WTC related interference costs.
5 Based on the City's listing of projects with
6 potential start dates affecting the rate year
7 and the types of projects in the Lower Manhattan
8 area, the Company develops order of magnitude
9 estimates for O&M and capital work for each
10 project based on past experience of similar jobs
11 in the Lower Manhattan area.

12 Q. Why does the Company use different methodologies
13 to forecast WTC interference and non-WTC
14 interference?

15 A. The Company's MISP offers a few reasons in its
16 pre-filed testimony. First, the Company claims
17 that interference work in Lower Manhattan
18 requires extensive removal work in order for the
19 City to meet federal Department of
20 Transportation (DOT) specifications, thereby
21 causing interference work to generally cost
22 more, compared to areas outside Lower Manhattan.
23 Second, interference work in Lower Manhattan is

1 being implemented under a recently introduced
2 "Joint Bid" protocol, which is different from
3 the section "U" protocol for areas outside Lower
4 Manhattan. Finally, the Company claims that the
5 complexity in performing utility interference
6 work in Lower Manhattan due to higher levels of
7 underground congestion and narrower than normal
8 roadways precludes the development of a
9 mathematical formula to forecast future
10 expenditures. As a result, the Company
11 estimates its future WTC interference costs on
12 an individual project basis.

13 Q. What is the significance of the Joint Bid
14 protocol in the Company's forecast?

15 A. Under the Joint Bid protocol, the utility's
16 interference work is included in the City's bid
17 document and is competitively bid by the
18 contractors bidding the City's projects. This
19 protocol was introduced specifically for Lower
20 Manhattan and was accepted by the City and all
21 major utility companies operating in the City.
22 According to the Company's MISP pre-filed
23 testimony, the first project under this protocol

1 was bid in late 2007. Thus, there is no
2 historic data available to develop a methodology
3 to forecast future interference expenditures as
4 a percentage of the City's forecast.

5 Q. Does the Panel have any concerns with the
6 Company's forecast of its interference
7 expenditures in Lower Manhattan?

8 A. Yes, we do. We observed a declining trend in
9 the actual WTC interference expenses provided by
10 the Company in its response to Staff IR DPS-169.
11 The amounts for electric operations for 2004
12 through 2007 were \$17.609 million, \$14.395
13 million, \$12.607 million, and \$5.886 million,
14 respectively. In its response to DPS-443, the
15 Company cited delay in implementing the Joint
16 Bid protocol projects as the cause of the
17 decline. However, we believe such delays could
18 occur in the rate year, as well. Furthermore,
19 the Joint Bid protocol should actually reduce
20 the Company's costs through the potentially more
21 efficient bidding process. Since there is
22 inadequate experience with the Joint Bid process
23 and its effect on the Company's interference

1 expense, we do not propose an adjustment to the
2 WTC interference expense. However, any over
3 estimate in the Company's forecast should be
4 captured through the one-way true up proposal
5 that we will discuss.

6 Q. Do you agree with the Company's proposal of a
7 full reconciliation of its interference expense?

8 A. No. We recommend continuance of the one-way
9 true up of rate year interference expense that
10 was approved by the Commission in Case 07-E-
11 0523, the 2008 Rate Order. That is, the Company
12 should be required to defer any over-collection
13 if the actual interference expense falls below
14 the rate allowance. If the actual interference
15 expense exceeds the rate allowance, the Company
16 should absorb the increase. This one-way true
17 up is proposed to continue to encourage the
18 Company to coordinate its interference work
19 closely with the City in order to ensure
20 efficient use of Company resources. In
21 addition, the City's construction plans may not
22 fully materialize, delays may arise due to
23 design changes, suspensions, changes in

1 priorities for funding, and other modifications
2 to the City's infrastructure projects. Our
3 proposed one-way reconciliation protects
4 customers should these circumstances arise.

5 Q. How much has Con Edison deferred in over-
6 recoveries of interference expense during the
7 current rate year?

8 A. Based on information provided in its response to
9 DPS-442, the Company has over-collected \$5.72
10 million in the first quarter (April 1 through
11 June 30, 2008) of the current rate year. The
12 Company's current over-recovery of its estimated
13 interference costs is offered as additional
14 evidence of the need to continue the one-way
15 true up in order to protect customers' interest.

16 Q. Have you estimated of the expected over-recovery
17 for the rate year ending March 31, 2009?

18 A. No. However, if the current trend continues, a
19 significant customer credit could result. The
20 Commission should consider passing back, as a
21 rate moderator, any available customer credit at
22 the time of its rate decision in this
23 proceeding.

1 Q. Please discuss your concerns related to the
2 Company's interference capital budget associated
3 with the City's capital improvement projects.

4 A. Unlike the O&M expense projection, capital
5 interference costs are estimated based on a
6 review of individual projects. To determine if
7 the Company's forecast for the rate year is
8 reasonable, we started by comparing it to the
9 Company's historic interference capital costs,
10 as provided by the Company in its response to
11 DPS-571. This comparison revealed that the
12 Company's proposed level of \$33.65 million for
13 the rate year is almost 30% more than its 2007
14 actual level. Furthermore, comparing the
15 Company's 2003-2007 budgeted amounts to actual
16 amounts in that same period reveals significant
17 variations, ranging from under-spending by 16%
18 to over spending by 30%. Based on this
19 comparison, we have concluded that the Company's
20 budget has not been a reasonable indicator of
21 what actual expenditures turn out to be. A more
22 reasonable approach is to base the rate year
23 forecast upon recent actual levels. As such, we

1 recommend that the rate year forecast be
2 calculated by using the five-year average of
3 actual expenditures for the period 2003 through
4 2007. This results in our recommended capital
5 budget of \$22.125 million. The Company's
6 response to DPS-571 provides the actual electric
7 interference capital expenditure of \$11.794
8 million in the seven-month period ending July
9 2008. Comparing our rate year forecast to the
10 annualized equivalent of \$20.218 million for
11 2008 further demonstrates the reasonableness of
12 our recommendation.

13 Q. Does the Panel recommend a true-up mechanism be
14 applied to your forecast of capital
15 expenditures?

16 A. Yes. We recommend a one-way downward true-up
17 mechanism be applied to our forecasted
18 interference capital budget as proposed by Staff
19 Witness Padula.

20 Q. Does this conclude your testimony at this time?

21 A. Yes, it does.