

NEW YORK STATE
PUBLIC SERVICE COMMISSION

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

Case 08-E-0539

DIRECT TESTIMONY AND EXHIBIT OF
HELMUTH W. SCHULTZ, III, CPA
ON BEHALF OF THE
NYS CONSUMER PROTECTION BOARD

Dated: September 8, 2008
Albany, New York

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1 INTRODUCTION

2 Q. What is your name, occupation and business address?

3 A. My name is Helmuth W. Schultz, III, I am a Certified Public Accountant
4 licensed in the State of Michigan and a senior regulatory analyst in the
5 firm Larkin & Associates, PLLC, Certified Public Accountants, with offices
6 at 15728 Farmington Road, Livonia, Michigan 48154.

7

8 Q. Please describe the firm Larkin & Associates, PLLC.

9 A. Larkin & Associates, PLLC, is a Certified Public Accounting and
10 Regulatory Consulting Firm. The firm performs independent regulatory
11 consulting primarily for public service/utility commission staffs and
12 consumer interest groups (public counsels, public advocates, consumer
13 counsels, attorneys general, etc.). Larkin & Associates, PLLC has
14 extensive experience in the utility regulatory field as expert witnesses in
15 over 600 regulatory proceedings, including numerous electric, water and
16 wastewater, gas and telephone utility cases.

17

18 Q. Have you previously filed testimony with the New York State Public
19 Service Commission ("PSC" or "Commission")?

20 A. Yes. I submitted testimony in 2007 in Case 06-G-1332, regarding
21 Consolidated Edison Company of New York, Inc.'s ("Con Edison" or
22 "Company") natural gas operations and in Case 07-E-0523, regarding Con
23 Edison's electric operations.

1 Q. Have you prepared attachments describing your qualifications and
2 experience?

3 A. Yes. I have included Attachment I, which is a summary of my regulatory
4 experience and qualifications.

5

6 Q. What is the subject of your testimony?

7 A. My testimony relates to selected operations and maintenance expenses in
8 Con Edison's 2008 rate filing for its electric operations.

9

10 Q. Do you have any exhibits supporting your testimony?

11 A. Yes. I have Exhibit__(LA-1), containing Schedules 1 through 12.
12 Schedule 1 presents the impact on revenue requirement resulting from
13 each of the adjustments I am recommending in this testimony. Schedules
14 2-12 support several of my proposed adjustments to the Company's filing.
15 Exhibit__(LA-2), Schedule 1 consists of a list of all information responses
16 that were referenced in this testimony and the corresponding page
17 number of my testimony. Exhibit__(LA-2), Schedule 2 consists of the
18 actual responses to those information requests.

19

20 Q. On whose behalf are you testifying?

21 A. Larkin & Associates, PLLC was retained by the New York State Consumer
22 Protection Board ("CPB").

1 GENERAL OVERVIEW

2 Q. Do you have any general observations regarding the Company's filing?

3 A. The Company's filing reflects significant increases in proposed spending
4 for numerous operations and maintenance programs. In several respects,
5 the filing is better organized and, along with the responses to information
6 requests, contains more supporting information than in Case 07-E-0523.
7 However, in many instances, the Company's filing and some of the
8 responses to discovery, provided limited information and inadequate
9 supporting documentation for the requested expenses in the rate year.

10

11 Q. What did you mean when you said that the filing provided limited
12 information?

13 A. This is best illustrated by the presentation of the Infrastructure Investment
14 Panel. This submission, despite 284 pages of testimony and 28 exhibits,
15 lacked sufficient detail for the reader or the Commission to readily identify
16 how the requested funding was determined. As shown on CPB
17 Exhibit__(LA-1), Schedule 12, that Panel is requesting an increase of
18 \$82.6 million over the test year O&M expense of \$80.7 million, for a total
19 request of \$163.3 million for the comparable programs identified in
20 Company Exhibit__(IIP-3), Exhibit__(IIP-5) and Exhibit__(IIP-7) . A 100%
21 increase is significant and any change requested should be adequately
22 supported with readily available documentation.

1 The least detailed portion of the Company's filing is the work
2 papers. It is expected that the work papers would provide a significant
3 amount of detail in support of the information being summarized in the
4 testimony and exhibits. In reviewing the work papers for the three exhibits
5 identified above, the only added detail was a breakout of labor dollars and
6 other dollars for the test year and the rate year. However, numbers on a
7 piece of paper are not supporting documentation.

8 Even with the information in the testimony, exhibits and the work
9 papers, it was not possible to readily determine how the rate year costs
10 were derived by the Company. For example, the Company in
11 Exhibit__(IIP-3), requested that SSO Staffing – New Facilities be
12 increased from \$315,000 in 2007 to \$5,212,000 in the rate year.
13 Exhibit__(IIP-10) and the work papers together indicated that the new cost
14 would reflect an increase of 37 employees at a labor cost of \$4,372,000
15 (\$118,162 per employee) and that the costs for operating supplies and
16 expenses at the facilities would be \$600,000 (\$150,000 per facility). There
17 is no explanation or calculation showing how the \$118,162 per employee
18 was determined and/or how the \$150,000 of expense per facility was
19 determined. The absence of any detailed explanation raises substantial
20 questions about the reasonableness of these unsupported assumptions.
21 The concern is particularly apparent since a total non-labor cost of
22 \$600,000 for each of the six new facilities, should have resulted in non-
23 labor expense per facilities of \$100,000.

1 Q. What did you mean when you said that some of the discovery responses
2 provided limited information?

3 A. In several instances, the Company was requested to provide specific
4 information and instead provided non-responsive answers. For example,
5 CPB IR 49 specifically requested the number of employees in the test year,
6 the number of employees reflected in the program changes and the
7 number of employees in the rate year included in the health care costs
8 shown on Exhibit__(HJR-1), Page 1. The response indicated that the
9 number of participants for the rate year was based on the February 2008
10 employee participant level of 13,377. The number for the test year was
11 not provided. Instead the response referred to the Company response to
12 CPB IR 55. The response to CPR IR 55 did provide the employee
13 complement for the test year but that is not the same as the number of
14 employee participants in the health care program. Not all employees
15 participate in the plan.

16

17 Q. Did you ask for additional information to explain how various costs and/or
18 quantities may have been determined?

19 A. Yes. Some requests were made, but even with the high number of
20 information requests made in this case by the CPB, Staff of the
21 Department of Public Service ("DPS Staff") and other parties, there are
22 still a great number of assumptions that are not supported by the
23 Company filing or information responses.

1 Q. Could you explain your statement that Con Edison failed to supply
2 supporting documentation?

3 A. Supporting documentation to an analyst, is a document that can
4 substantiate a claim and/or an expense. The Company's filing and the
5 responses to discovery often include a number of calculations using a
6 specific cost but there is a lack of supporting documentation within the
7 filing that details how that cost was developed. There is a difference
8 between supporting documentation (i.e., invoices, quotes, studies, etc.)
9 and numbers on a piece of paper and/or a calculation. A calculation in
10 many cases is helpful but does not constitute supporting documentation.
11 A prime example is CPB IR 101, which requested supporting
12 documentation for the insurance cost estimates made by the Company.
13 The response includes the previously provided insurance budget, but the
14 Company did not provide any supporting and objective documentation
15 such as letters from its insurance agent or any premium notices.

16

17 Q. Should Con Edison supply supporting documentation when requested?

18 A. Yes. While in some cases, supporting documentation was provided as
19 requested, in others it was not. The fact that some respondents supplied
20 the requested information or at least offered to make it available made it
21 obvious to us that there is no confusion as to what constitutes "supporting
22 documents." Documentation should be provided when requested by
23 parties, not subsequently through follow-up requests or motions to compel.

1 CPB Counsel advises me that since the Company is requesting an
2 increase in rates, it has the burden of proof. Failure to supply supporting
3 documentation means the Company failed to meet the burden of proof as
4 required. It should not be the responsibility of the CPB or other parties to
5 have to repeatedly request supporting documents or request the
6 Commission to order the Company to supply the documents because that
7 in essence shifts the burden of proof and delays the process. I note that
8 in the State of Vermont, if a Company fails to provide the requested
9 information when first asked, the Company is precluded from entering the
10 information into the record thereafter.

11

12 Q. Have you requested specific information to be supplied more than once?

13 A. Yes. To test the Company's position, I asked twice for supporting
14 documentation for manhole inspections, first in CPB IR 88 and then in
15 CPB IR 102. No supporting documentation was provided in response to
16 CPB IR 88. The Company's response to CPB IR 102 was "Refer to
17 response to CPB-11- 88 part b." Therefore, the Company did not comply
18 with my request for supporting information.

19 As detailed in my testimony later, on a case-by-case basis, where
20 information necessary to support the Company's request was not provided,
21 I often made adjustments to Con Edison's proposal to reflect that fact.

22

1 LABOR

2 Q. Are there concerns with the labor (payroll) expense reflected in the
3 Company's request?

4 A. Yes. The initial filing reflected \$570,410,000 of what has been identified
5 as "Company Labor" projected for the rate year. That reflects a net
6 increase of 18.5%, or \$89,113,000 over the test year payroll expense of
7 \$481,297,000. There is a concern with the Company's proposed
8 normalization adjustment, the amount of payroll added for program
9 changes, the escalation of payroll, the compensatory pay, test year
10 overtime and the variable pay.

11

12 Q. Why did you state the Company "identified" the payroll expense request
13 as "Company Labor"?

14 A. The Company has included contract labor dollars in the program changes
15 requested on the line identified as "Company Labor." Contract labor is not
16 actually Company labor.

17

18 Q. How did the Company determine its forecast of labor expense?

19 A. The Company began with the test year electric operations labor expense
20 of \$481,297,000. Then, the test year amount was increased to reflect the
21 impact of a normalization of \$7,307,000, representing the cost of
22 approximately 79 employees added during the year or expected to be
23 added subsequently, as well as a reclassification to operations expense,

1 of costs that were charged to capital in the test year. Next, a program
2 change adjustment of \$40,631,000 is proposed for 429 additional
3 employees, along with an increase in the cost of existing work crews, an
4 increase in overtime, a reclassification of payroll previously treated as
5 capital that is now being charged to operations expense, and payments
6 made for contract workers. The labor request was then increased another
7 \$41,175,000 for pay raises net of the Company's calculated productivity
8 savings.

9 The Company has made separate labor adjustments for the
10 savings associated with the Automated Meter Reading/Advanced Meter
11 Initiative ("AMR/AMI") Program that is a reduction to the Company's
12 additions described above. The Company has also filed an update that
13 increases its labor request by another \$5,032,000. Overall, the net update
14 request is not considered reasonable because the labor included in the
15 filing is considered excessive.

16
17 Normalization Adjustments

18 Q. What are your concerns with the normalization adjustments?

19 A. The normalization adjustments include an increase to test year labor for
20 positions filled during the year, for which a full year of compensation is
21 purportedly not reflected in the test year. It also represents compensation
22 for positions that are vacant as of the end of the test year. Finally, the
23 adjustment shifts \$1,748,000 of labor that was capital labor in the test year

1 to O&M expense in the rate year because the Company claims
2 maintenance in 2007 was essentially curtailed to shift labor dollars to high
3 priority capital projects. These adjustments have not been sufficiently
4 justified by the Company and are not considered to be appropriate.

5

6 Q. Why did you state that the Company has not sufficiently justified the
7 normalization adjustment?

8 A. The Company's testimony on this issue is limited and in some cases
9 questionable. In addition, the related exhibits provide a very broad
10 generalization and the workpapers only show numbers without any real
11 detail and/or justification. The testimony states, without any detail, that the
12 normalization dollars are for vacant positions, positions that were filled
13 during the test year, positions that were filled subsequent to the test year
14 and for a shifting of labor that was capitalized in the test year to O&M in
15 the rate year. The workpapers, in some cases, only show a description
16 and a dollar amount, and in other cases there is a summary of the jobs
17 that need to be filled with the associated dollar requirement.

18

19 Q. Why is the adjustment not considered to be appropriate?

20 A. First, the Company fails to reflect the fact that in the test year, vacancies
21 occurred and an adjustment wasn't made to remove the labor dollars for
22 employees that left during the test year that were not replaced. Next, the
23 Company assumes that all the normalized positions will in fact be filled for

1 an entire year. I reviewed the responses to CPB IR 58, CPB IR 59, CPB
2 IR 66 and DPS IR 45Rev, to determine whether the Company's
3 assumption had any merit. That analysis concluded that the Company
4 had not demonstrated that a number of positions had been filled or were
5 even listed as vacant as of June 30, 2008. Furthermore, CPB IR 61
6 requested supporting documentation for the calculated adjustment but the
7 response did not provide the requested detail. For example, the Company
8 failed to provide support for the annual salary for any of the various
9 positions listed in the calculation and there was no detail available to verify
10 the period of time that was being normalized. The problem with the
11 normalization as it was determined is compounded further by the labor
12 escalation adjustment which in effect duplicates the normalization.

13

14 Q. Why is it necessary to know whether a position was filled or not?

15 A. If the position is not filled, the Company should not be able to include
16 compensation in rates for the unfilled position. In an attempt to verify the
17 hiring of the positions being normalized, I reviewed listings of the hires and
18 transfers, provided in response to CPB IR 58 and 59, for 2007 and
19 through June 2008. A number of the positions could not be verified. For
20 example, the Accounting Panel testimony stated that for Finance, two
21 Senior Tax Accountant positions were filled in January 2008, and that a
22 Vice President, a Director and an Analyst were hired after the historic test
23 year 2007. Two tax accountants were hired (in March and May), as well

1 as an analyst, but the list of new hires provided by the Company did not
2 include a Vice President or Director. A Vice President was located in the
3 list of employee transfers, but that illustrates another problem because
4 that individual would have compensation in the rate year in two different
5 positions. This type of problem was common among the various
6 departments being normalized.

7 The Company's response to CPB IR 130 (DPS IR 45REV) included
8 a list of positions requested and allowed in Case 07-E-0523. It was noted
9 that a large number of the positions were not filled as of July 2008, despite
10 the fact that funding for those positions was included in rates that went
11 into effect on April 1, 2008.

12

13 Q. Do you have a concern with the Company's attempt to reclassify test year
14 labor from capital to O&M expense?

15 A. Yes. The Company's presentation changes the labor classification in the
16 amount of \$1.748 million, consisting of a calculation based on positions
17 totaling \$848,000 plus another \$900,000 labeled as "Non-recurring shift of
18 work from capital to O&M." Although supporting detail was requested in
19 CPB IR 61, it was not provided. Con Edison has attempted to justify this
20 shift in labor from capital to expense by cherry-picking a few programs,
21 despite the fact that the Company's requested increase in rates is driven,
22 in part, by its proposed increase in capital work. Overall, the Company's
23 proposed adjustment is not adequately supported and is not appropriate

1 because it attempts to reclassify some capital project costs on a
2 piecemeal basis. This selective reclassification of costs could be viewed
3 as an attempt by the Company to change the capitalization rate without
4 identifying it as a proposed change in the filing.

5

6 Q. How is the normalization adjustment duplicated by the labor escalation
7 adjustment?

8 A. The normalization adjustment reflects a full year of compensation for
9 employees added during the test year and after the test year. However,
10 the adjustment does not remove compensation in the test year for
11 employees who left before the test year ended. The escalation
12 adjustment duplicates the normalization adjustment by using end-of-year
13 employee counts.

14 As shown on Con Edison's Exhibit__(AP-5), Schedule 2, Page 1,
15 the Company calculates the effective escalation rate based on December
16 31, 2007 compensation, which reflects the compensation of the average
17 number of employees during 2007. The projected March 31, 2010, payroll
18 in the calculation uses the end-of-year employee counts. Because the
19 number of employees increases throughout the year, the number of
20 employees used in the escalation calculation is greater than the average
21 for the test year. This effectively factors in a normalization of employees
22 into the escalation factor (i.e. the use of a higher number of employees
23 inflates the rate year dollars and that in turn increase the percentage

1 change in compensation). Therefore, the escalation factor is double
2 counting the Company normalization adjustment. On CPB Exhibit__ (LA-
3 1), Schedule 3, I have recalculated the escalation factor to determine the
4 approximate impact on expenses from including a normalizing factor in the
5 escalation factor, leaving everything else the same. Using the
6 approximate electric O&M expense in relation to Total Company Payroll,
7 the Company's use of the year-end employee levels overstates electric
8 operations expense by approximately \$5.3 million.

9
10 Q. Are you recommending an adjustment to the labor normalization?

11 A. Yes. First there is no justification and/or support for the reclassification of
12 the \$1.748 million from capital to O&M. I also recommend that \$5.3
13 million of the remaining \$5.559 million of the normalization be disallowed
14 to avoid a duplication of the impact of the escalation adjustment. Overall, I
15 recommend that the Company's labor normalization be reduced by \$7.048
16 million.

17
18 Program Change

19 Q. Would you explain your concerns with the Company's proposed program
20 change adjustment?

21 A. Yes. The Company has requested the addition of approximately 429
22 positions to accommodate its proposed changes in operations. The
23 proposed program changes would affect 16 different organizational groups.

1 There is a concern whether the increase in employees is justified. In
2 addition, there are concerns regarding the Company's proposals to
3 increase payroll expense for additional work for existing crews, increase
4 overtime, reclassify costs not previously expensed, and improperly classify
5 payments to contractors as "Company Labor."

6

7 Q. What do you mean the Company increased payroll for additional work for
8 existing crews?

9 A. The response to CPB IR 66 (DPS IR 165) provided a detailed listing of the
10 components of the labor program change adjustment of \$40,631,000.
11 Included in this listing are three lines totaling \$2,970,000 which indicate
12 that the additional dollars are for work "by existing crews". The Company
13 testimony regarding the adjustment, referenced in the response, provides
14 no explanation as to why additional dollars are included in the program
15 change adjustment. In fact, some of the pages referenced discuss capital
16 projects. The Company does not classify the additional dollars for existing
17 crews as overtime or as capital dollars being reclassified. Overall, the
18 adjustment for additional dollars is not supported and therefore, the
19 \$2,970,000 should be disallowed.

20

21 Q. Please explain your concerns regarding the overtime dollars included in
22 the program change adjustment?

1 A. The Company has increased its test year overtime for electric operations
2 by \$2,345,000 before applying the escalation factor. This proposal has
3 two components, neither of which is adequately supported. First, the
4 Company has only provided a reference to testimony for \$1,158,000 of the
5 requested extra overtime in the Company response to CPB IR 66.
6 However, the pages referenced make no mention of the fact that the
7 Company is increasing overtime to perform the program changes
8 identified. The other \$1,187,000 requested, has "N/A" as a reference to
9 testimony, so there is no testimony justifying this change.

10 The next concern with this request is that the Company, according
11 to the response to CPB IR 67, cannot provide any information regarding
12 the level of overtime in any year for electric operations. That concern is
13 compounded by the fact that overtime for the whole Company in the 2007
14 test year is higher than the 2006 overtime, which in turn was significantly
15 greater than in 2005 due to storm-related work.

16 The final concern is that overtime has consistently increased
17 despite a continued increase in the number of employees. At some point
18 in time, the Company has to stop increasing employees and/or stop
19 increasing overtime. There has to be some efficiency gains from one or
20 the other.

21 Overall, the proposed increase in overtime is not supported by
22 testimony and is therefore not justified given the significant increase in

1 employees requested. Accordingly, an adjustment of \$2,345,000 should
2 be made to remove this unsupported change.

3

4 Q. Is your concern about the reclassification of payroll from capital to O&M
5 expense for program changes the same as the concern you previously
6 articulated regarding the reclassification of dollars in the normalization
7 adjustment?

8 A. Yes. The response to CPB IR 66 states that \$955,000 of payroll dollars is
9 being reclassified to O&M expense. Once again, the referenced testimony
10 discusses the program in general and does not mention that the dollars
11 reflected are being reclassified to O&M from "capital" or "other." The
12 response describes the reclassification as additional cost for emergency
13 personnel to address the anticipated increase in stray voltage work
14 (\$490,000), a change in accounting allocation (\$190,000) and a change
15 from capital expense program (\$271,000). Given the increase in capital
16 work and the Company's failure to specifically address the reason for this
17 proposal, there is no justification for reclassifying the dollars from capital to
18 expense. Accordingly, the program change adjustment should be reduced
19 by \$955,000.

20

21 Q. Did the Company's program change adjustment include contract labor in
22 the "Company Labor" category for the rate year?

1 A. Yes. The response to CPB IR 66 specifically identifies \$3,446,000 of
2 contract labor as part of the \$40,631,000 program change adjustment to
3 "Company Labor." However, the testimony referenced does not mention
4 the use of contractors to perform the work requested. Contract Labor is a
5 separate cost and has separate adjustments as shown on line 19 of
6 Company Exhibit__(AP -5), Schedule 1, Page 3. If the cost for contract
7 labor was justified by the Company, which I believe it was not, then the
8 request should have been shown under the heading of "contract labor" on
9 line 19. The Company failed to properly identify the requested \$3,446,000
10 in testimony or its work papers, and its exhibits provide only a reference to
11 contractors performing some inspections. Therefore, the program change
12 adjustment to "Company Labor" should be reduced by \$3,446,000 to
13 remove the unsupported contract labor dollars.

14

15 Q. Does the Company's testimony provide sufficient information about the
16 429 added positions?

17 A. No. The Company's testimony generally describes a number of positions,
18 the various exhibits provide some additional information, and discovery
19 responses provide further detail. In its testimony and discovery responses,
20 the Company refers to the PSC's decision in Case 07-E-0523 for
21 justification of employee additions. The problem is that while the
22 Commission's decision authorized additional positions either specifically or
23 in general, there is no evidence in this case that the Company is actually

1 hiring the positions it contends were authorized in the PSC's Order.
2 Between December 2006, which is the end of the test year in Case 07-E-
3 0523, and December 2007, the end of the current test year, the Company
4 added a net of 379 positions. Based on the response to CPB IR 66, Con
5 Edison is requesting compensation for 429 positions in addition to
6 approximately 45 normalized positions that were purportedly hired after
7 the end of 2007. That means the Company is proposing to add
8 approximately 853 positions since December 2006. Since a significant
9 portion of the information included in this filing is a carryover from the last
10 case and a number of the positions requested were purportedly approved
11 in the last case, I question how the number of additional positions
12 authorized in Case 07-E-0523 does not encompass a significant portion of
13 the 379 positions added during 2007.

14

15 Q. Why is it a problem if the Company hires positions that were not requested
16 and/or allowed in a previous case?

17 A. If the Company has authorization to fill specific positions and instead fills
18 other positions, ratepayers will pay for positions that were not authorized
19 and/or whose necessity was not evaluated. In addition, ratepayers will
20 continue to pay for positions that are supposed to be filled but have not yet
21 been filled.

22

1 Q. Could you provide an example of where you have a concern regarding the
2 carryover of labor dollars for program changes for employee additions?

3 A. Yes. In Case 07-E-0523, the Customer Operations Panel requested 36
4 Customer Service Representatives ("CSRs"). The PSC's Order allowed
5 18 CSRs. The Company's Customer Operations Panel in this case is
6 requesting an additional 24 CSRs. Based on the response to CPB IRs
7 58 and 59, the Company in 2007 hired 112 CSRs and through June of
8 2008, the Company hired another 68 CSRs. The significant number of
9 CSRs hired raises a concern as to whether the Company is
10 supplementing its allowed positions with other positions. Although I do not
11 believe that all of the CSRs hired are still employed, the net increase in
12 the number of CSRs cannot be determined because the Company stated
13 in its response to CPB IRs 58 and 59, that it cannot provide vacancy
14 information.

15 Another example concerns Customer Field Representatives
16 ("CFRs"). The Company requested, and was allowed, 15 CFRs in Case
17 07-E-0523. In this case, the Company is requesting a program change for
18 the same 15 CFRs as well as normalization of 27 who were on the payroll
19 for a portion of 2007. Yet in 2007, the Company hired 174 CFRs and
20 through June of 2008, it had hired an additional 67 CFRs. Con Edison
21 admittedly has hired in excess of the 15 authorized positions by
22 normalizing 27 positions and has still requested the same 15 positions
23 again in this case. The Company also seeks funding for whatever added

1 compensation is included for the net remaining CFRs from the 174 who
2 were hired during 2007. Arguably, there should be a reduction to 2007
3 labor expense for the CFRs who left during 2007.

4 Additionally, the response to CPB IR 130 (DPS IR 45REV), lists
5 numerous positions allowed in rates effective April 1, 2008, that had not
6 been filled as of July 2008. It is not appropriate for ratepayers to pay for
7 employees that do not exist because the Company employee projections
8 are overly optimistic.

9
10 Q. What is the total reduction for labor for program changes that you are
11 recommending?

12 A. The Company has requested an increase of \$40.631 million for program
13 changes. I previously recommended a \$9.716 million reduction to the
14 Company's proposal for program changes, and will recommend an
15 additional \$14.549 million reduction to other program changes for payroll-
16 related expenses later on in my testimony. My recommendation would
17 allow an increase of \$16.366 million for program changes, which is still
18 significant and considered reasonable, particularly when the escalation
19 adjustment is considered.

20

21 Labor Escalation

22 Q. What is your concern with the labor escalation adjustment made by the
23 Company?

1 A. Con Edison applies the escalation rate to all payroll expense, as if there is
2 no variability to the different components of compensation. In fact,
3 however, overtime fluctuates from year to year as does variable pay. It is
4 not appropriate to assume the historical compensation for various
5 components of compensation will increase at the same percentage as
6 base pay. In addition, the Company calculation of the escalation rate
7 used a different year end employee count than what was identified in the
8 responses to CPB IR 54 and 55. As discussed previously, the employee
9 count used is also based on year-end levels instead of the average for the
10 year and incorporating variable pay in the escalation calculation
11 overstates the escalation adjustment.

12

13 Q. What is the difference in the employee count that you found?

14 A. The responses to CPB IR 55 and DPS IR 431 show the December
15 employee count for weekly and management employees to be 9,109 and
16 4,675, respectively. The Company in its calculation on Exhibit__(AP-5),
17 Schedule 2, Page 2, reflected a weekly and management count of 9,127
18 and 4,670, respectively. Under the assumption that that everything else
19 was acceptable, which I do not support, this variance in the employee
20 count alone would overstate labor expense in the rate year by \$610,000.

21

22 Q. How does the inclusion of variable pay in the escalation calculation
23 overstate the escalation rate?

1 A. The variable pay reflected in the Company's calculation, net of productivity,
2 is \$29.1 million (DPS IR 505), representing an increase of approximately
3 55% over the level in the test year of \$18.759 million (DPS IR 421).
4 Reflecting the impact of an increase of 55% as the Company has done on
5 Exhibit__(AP-5), Schedule 2, Page 1, significantly impacts the labor
6 escalation rate. On CPB Exhibit__(LA-1), Schedule 4, I have recalculated
7 the escalation rate, again under the assumption that everything else was
8 not adjusted. The result as seen on Schedule 4, is a .75% difference. If
9 this were the only change to the Company's request, it would reduce the
10 Company's request by \$3.967 million.

11

12 Q. What adjustment are you recommending?

13 A. The Company's escalation adjustment should be reduced \$3.967 to
14 properly reflect the productivity savings when calculated without the
15 variable pay component. This properly and effectively reduces the
16 Company escalation/normalization rate including productivity, from 7.78%
17 to 7.03%.

18

19 Compensatory Time

20 Q. Why is compensatory time a concern?

21 A. Compensatory time is authorized overtime for non-union personnel
22 including management. It includes emergency overtime but the Company
23 cannot quantify the amount of emergency overtime incurred in each year.

1 In 2004, compensatory pay was \$23.316 million; in the 2006 test year, it
2 was \$33.233 million and in 2007, it increased by 2.4% to \$34.017 million.
3 The 42.5% increase in the three-year period 2004 to 2006 is significant.
4 In addition, the 2.4% increase from 2006 to 2007 is substantial with
5 respect to the Company's use of a 7.78% escalation rate for this cost.

6 The Company did not adequately justify this large increase in Case
7 07-E-0523. In response to CPB IR 1(k) in that proceeding, it stated: "The
8 Company does not maintain data identifying compensatory time for
9 electric, gas or steam operations individually." If the Company cannot
10 separate the overtime among its different operations, there is virtually no
11 way for the Company, or the Commission, to assess whether the
12 compensatory time is attributable to non-recurring events, whether it is
13 reasonable and/or justified and what level should be paid by electric
14 ratepayers.

15

16 Q. Did you raise this issue in Case 07-E-0523?

17 A. Yes. The Administrative Law Judge (ALJ) disagreed with my assertion
18 noting that the Company stated that the increase in the number of
19 employees will not impact overtime, that compensatory overtime will be
20 required and new employees need to be up to speed. In addition, the ALJ
21 indicated that I made my recommendation without knowing what steps the
22 Company would take to analyze overtime. The Company's testimony
23 references these statements by the ALJ, but does not address the fact

1 that the Company attributed the increase in compensatory time in 2006
2 overtime to storms.

3 A proper analysis of overtime is not possible in the absence of data
4 that identifies the extent to which overtime is attributable to each of the
5 Company's operations. In response to CPB IR 67 in this proceeding, Con
6 Edison again stated that the overtime and compensatory time for electric
7 operations is not available. Since the Company cannot properly identify
8 what overtime was incurred by what operation, it cannot adequately
9 analyze that expense.

10

11 Q. Does a similar problem exist with union overtime?

12 A. Yes. In Case 07-E-0523, the response to CPB IR 1(aa) indicated that
13 union overtime in 2004 was \$92.181 million and \$127.753 million in 2006,
14 an increase of 38.6% over a two-year period. The response to CPB IR 67
15 in this proceeding shows that the 2007 overtime increased 1.6% since
16 2006. It is not appropriate to build into rates, an increase in overtime that
17 has been attributed to storms, nor is it appropriate to escalate overtime at
18 the Company's calculated escalation rate when the dollar impact of the
19 increase in overtime in 2007 was less than the dollar impact of the
20 increase in compensation. Such escalation is even less appropriate
21 because the Company has increased the test year overtime as part of the
22 Company's program changes.

1 As explained previously, the Company cannot specifically identify
2 how much overtime is actually attributable to electric operations (See
3 response to CPB IR 131), and therefore, has not met its burden of proof.
4 If overtime is justified, it should be attributable to a specific cause and/or
5 event. If that cause and/or event can be identified, the cost should be
6 directly assigned to the operation that created the need for the overtime.
7 Further, based on 2007 data, there is no justification for increasing
8 overtime expense at the Company's proposed escalation rate.

9 Overtime is an expected cost of operations but the level of overtime
10 should not be simply accepted as part of normal operations and should be
11 subject to review and control. The Company's inability to separate
12 overtime among the various operations means it is essentially unable to
13 know the cause and effect of any event on the cost of operations. The
14 Company's request for compensatory overtime and union overtime has
15 not been substantiated with any evidence and therefore an adjustment is
16 recommended.

17

18 Q. Did you inquire as to why the overtime increased?

19 A. Yes. The Company's response to CPB IR 122 stated that the increase
20 from 2005 to 2006 was due to emergencies and weather. The
21 explanations indicated that the test year overtime for stray voltage testing
22 and repairs declined and no other detail was provided.

23

1 Q. Are you recommending an adjustment to projected compensatory time
2 and overtime costs for the rate year?

3 A. Yes. Removing the 7.03% escalation applied to the \$65.361 million of
4 estimated electric operations compensatory time and overtime expense in
5 the test year, reduces the Company's projected compensatory time and
6 overtime costs by \$4.595 million. The estimated electric operations
7 compensatory time and overtime of \$65.361 million is based on the 2007
8 total cost for compensatory time and overtime of \$163.821 million
9 (response to CPB IR 67), multiplied by the ratio of test year electric O&M
10 expense of \$481.297 million, to the total Company test year payroll of
11 \$1,206.333 million as shown on Company Exhibit__ (AP-5), Schedule 2,
12 Page 1. The adjustment is necessary because overtime and
13 compensatory time is not specifically identifiable to electric operations and
14 the application of a variable amount is not supported by the record.

15

16 Q. Is another adjustment for electric operations compensatory time and
17 overtime required?

18 A. A second adjustment may be justified but because the Company cannot
19 identify the compensatory time and overtime associated with electric
20 operations and neither the Company, interested parties nor the
21 Commission are able to evaluate the reasonableness of the estimated
22 \$65.361 million of overtime included in the test year. This is an area

1 requiring further research and investigation by the Commission to ensure
2 that rates are just and reasonable.

3 Variable Pay

4 Q. What is your concern with the Company's proposal regarding variable
5 pay?

6 A. The Company's filing includes the cost of its variable pay program despite
7 the fact that the Commission specifically disallowed that cost in Case 07-
8 E-0523. The Management Variable Pay program allows for payment of
9 additional compensation to non-officer management employees on the
10 presumption that it enhances corporate financial and operational results.
11 The problem is that the Company has no real historical measurements
12 and the most recent goals were not sufficient to justify ratepayer funding of
13 incentive compensation.

14

15 Q. Why do you contend that the Company goals do not justify including the
16 cost of incentive compensation in rates?

17 A. The Company requested a rate increase last year and is requesting an
18 additional substantial increase this year. That suggests that the Company
19 was unable to achieve goals including an improvement in performance.
20 However, that is not reflected in the Company's payment of Variable
21 Compensation, according to the response to CPB IR 47. Variable
22 Compensation for Con Edison's electric operations was \$8.083 million in
23 2006 and increased to \$14.733 million in 2007. Apparently, the Company

1 feels it achieved more than its target because its incentive compensation
2 reward increased by 82%.

3 However, the goals that were set for 2006 and 2007 were not
4 sufficient since the income target was well below the income required to
5 meet the Company's allowed return on equity. In 2006, the Company
6 achieved ten of twelve Key Indicators of its Performance Measures. In
7 2007, the target for nine of the ten Key Indicators remained the same and
8 even though the tenth indicator target was increased, it was not raised
9 above the level achieved in 2006. It is noteworthy that according to the
10 response to CPB IR 37, before 2006, the Company did not use specific
11 financial and operating objectives or goals for its variable pay program.

12 Another real concern is that some major performance benchmarks
13 of interest to ratepayers are not incorporated in the incentive plan goals.
14 Items such SAIDI, CAIDI and SAIFI are not reflected in the goals, nor are
15 costs-per-customer. Incentive compensation is compensation that is paid
16 for achievement of goals providing financial and operating benefits. To be
17 even considered for partial inclusion in rates, the incentive compensation
18 must have goals that require a true incentive for improvement and/or
19 achievement on measures that benefit ratepayers.

20

21 Q. Are there other concerns with the Company's design of this program?

22 A. Yes. The first concern is that according to the response to CPB IR 1(h) in
23 Case 07-E-0523, the program awards "management employees with at

1 least satisfactory performance.” According to CPB IR 54 and 55 there
2 were an average of 4,622 management employees at the Company in
3 2007 and according to CPB IR 46 only 87, less than 2%, did not receive
4 incentive compensation. That would mean that 98.1% of Company
5 management performed satisfactorily and were eligible for variable
6 (incentive) compensation.

7 However, base compensation for management employees should
8 assume satisfactory performance. Variable pay, bonus pay, or incentive
9 compensation should be only awarded for performance that is over and
10 above the satisfactory performance that should be expected of an
11 employee and that results in a benefit to shareholders and ratepayers
12 alike.

13 Therefore, it would not be appropriate to include in the Company's
14 compensation request for electric operations, \$14,733,000 for its variable
15 pay program and it is not appropriate to escalate that amount on the
16 assumption that a similar payment will occur in the rate year.

17

18 Q. Is the information supplied by Company witness' McCullough sufficient to
19 justify some incentive compensation in rates?

20 A. No. Mr. McCullough provided a very limited analysis of selective
21 employee's compensation levels. His comparison of total compensation
22 ignores the fact that total compensation in other jurisdictions may include
23 incentive compensation, but the incentive compensation paid may be

1 partially or completely excluded from rates (See the response to CPB IR
2 29). Also, in response to CPB IR 27Rev, Mr. McCullough indicated that
3 the analysis did not take into consideration the other benefits provided to
4 employees. In fact, the revised response added that the overwhelming
5 majority of cash compensation analyses do not include an associated
6 analysis of benefit plans. In my opinion, a proper comparison and
7 determination of the reasonableness of employee compensation and/or
8 the appropriateness of ratepayer funding of such compensation, must
9 include consideration of the full spectrum of employee benefits. Talented
10 managers can be attracted and retained by a strong benefit package
11 including retirement plans and/or health care options, as well as through
12 cash compensation.

13
14 Q. What adjustment are you recommending for variable pay?

15 A. According to the response to CPB IR 47, the test year includes actual
16 payments under the variable pay program of \$14,733,000. The payout
17 was \$18.759 million for Con Edison as a whole, including \$14.733 million
18 for electric operations. I recommend that the entire \$14.733 million be
19 disallowed because the Company has not provided sufficient justification
20 for charging ratepayers this compensation and there is no clear evidence
21 that provides any indication that ratepayers benefited from the goals
22 underlying the program. I also recommend that the 7.03% adjusted
23 escalation of the \$14.733 million, or \$1.076 million, be disallowed. The

1 removal of variable pay requires removal of all escalation associated with
2 variable pay.

3

4 Q. Please summarize your recommended adjustments to the Company's
5 projection of payroll expense.

6 A. As shown on CBP Exhibit__(LA-1), Schedules 1 and 2, the Company's
7 payroll request should be reduced \$7.048 million for unjustified
8 normalization costs, \$24.265 million for unsupported program changes,
9 unsupported escalation of \$11.344, and \$14.733 million for unsupported
10 variable pay, for a total reduction of \$57.390 million.

11

12 OTHER COMPENSATION EXPENSE

13 Q. What concerns have you identified with the Company's request regarding
14 "Other compensation"?

15 A. "Other Compensation" expense of \$6.021 million results from the
16 allocation of \$5.724 million of Long Term Incentive Plan costs to electric
17 operations plus \$297,000 of escalation. This cost was not allowed by the
18 Commission in Case 07-E-0523 because it is compensation that has not
19 been supported by a showing that the performance of management has
20 produced specific benefits for ratepayers. I support the Commission's
21 decision to remove this incentive compensation from rates for the same
22 reason that I recommended the disallowance of the Variable Pay. For the
23 same reasons found by the Commission in Case 07-E-0523, the \$6.021

1 million costs of "other compensation" should not be recovered from
2 ratepayers in this case.

3 I note that even if the Company, in the future, were able to provide
4 sufficient evidence of a quantifiable benefit and show that customer
5 service had improved, the cost of this added compensation should not be
6 the sole responsibility of ratepayers because the benefit that is derived will
7 flow through to shareholders as well.

8

9 EMPLOYEE WELFARE EXPENSE

10 Q. Are there concerns that you have identified with the Company's request
11 regarding employee benefits?

12 A. Yes. To the extent an adjustment is made to remove payroll dollars, a
13 commensurate adjustment should be made to reduce employee benefits.
14 In addition, I have concerns with the Company's capitalization of costs,
15 and the significant increase in health care costs including the fact that the
16 employee contribution was not proportionately increased.

17

18 Q. Please explain your concern with the capitalization of costs.

19 A. The Company's response to DPS IR 178 states that the only costs subject
20 to capitalization are group life insurance and health care costs. Thus, the
21 Company proposes to expense \$29.848 million of employee benefit costs
22 in their entirety. Generally accepted accounting principles state that the
23 cost of an asset includes direct and indirect costs incurred by an entity in

1 constructing its own assets. The FERC Uniform Systems of Accounts in
2 identifying components of construction costs states, that labor includes the
3 pay and expenses of employees of the utility engaged in construction work,
4 and related workmen's compensation insurance, payroll taxes and similar
5 items of expense. Capitalization of health insurance and group life
6 insurance costs by the Company along with payroll taxes is appropriate
7 because each of these costs has a direct relationship to the capitalized
8 payroll. The Company has recognized this direct relationship in
9 projecting rate year employee welfare expense, by its use of the labor
10 escalation rate for many of the benefits that are not capitalized. For
11 example, the work papers for employee welfare expense specifically
12 identify a direct relationship to payroll for the Thrift Savings Plan and have
13 identified a partial labor relationship for the Stock Purchase Plan,
14 Employee Publications and Communications and Occupational
15 Supplement.

16

17 Q. Is it appropriate to exclude expenses directly related to payroll from
18 capitalization?

19 A. No. In fact, even indirect expenses could also be capitalized. There is no
20 question that the Thrift Savings Plan expense should be subject to
21 capitalization. The contributions to the plan have a direct connection to
22 payroll, since if there was no payroll there would not be an expense for the
23 Thrift Savings Plan.

1 Q. Are you aware of why the Company is not capitalizing the Thrift Savings
2 Plan costs?

3 A. No, and based on the response to CPB IR 72, neither is the Company's
4 Accounting Panel.

5

6 Q. Should an adjustment be made to the rate year employee welfare
7 expense?

8 A. Yes. The electric operations' cost in total should be reduced \$5,121,491
9 (\$15,614,303 x 32.8%, the effective Company capitalization rate) to reflect
10 the appropriate capitalization of the Thrift Savings Plan expense.
11 Although I have not made an adjustment for the \$14.234 million of
12 remaining benefits not capitalized, I recommend that the Commission
13 consider doing so.

14

15 Q. Please explain your concern with the projected increase in health care
16 costs.

17 A. The Company has reflected an increase of 24.8% for medical costs over a
18 27-month period. I do not dispute the fact that health care costs typically
19 increase at a rate in excess of general inflation. However, I do have a
20 concern regarding the percentage increase reflected by the Company and
21 the fact that the increase is not proportionally offset by employee
22 contributions. Another concern is that while the Company has projected
23 an increase in costs, including an increase in the number of participants,

1 the Company did not factor in any savings from changes to the health care
2 program.

3

4 Q. Should plan changes and some savings be considered?

5 A. Yes. In response to CPB IR 50, Con Edison contends that the savings
6 resulting from any new changes to the health care program would be long
7 term and not experienced in the rate year. This response ignores the fact
8 that it is reasonable to expect savings in the rate year from changes in the
9 health care programs that were implemented in previous years, unless the
10 Company has not taken any action in recent years to reduce the cost of
11 healthcare. Since the implementation of cost savings is an ongoing
12 process, it is reasonable to expect some impact on rate year costs from
13 changes implemented in 2007 and planned for 2008.

14

15 Q. Would you discuss your concerns with the 24.8% increase in health care
16 costs that was projected by the Company?

17 A. Yes. First, Company witness Mr. Hector Reyes states on page 4 of his
18 testimony that the Company is using a trend inflation rate of 8%. The use
19 of an 8% annual inflation rate over a 27-month period would increase
20 costs by 19% not 24.8%. The reason that the increase projected by the
21 Company exceeds 19%, is because other factors have been included in
22 the Company's calculation, such as an increase in the number of
23 employees as of February 2008. This is potentially problematic because

1 the Company also has a separate "health care and other" benefit
2 adjustment for program changes that technically captures the increase in
3 the number of employees. Therefore, by using the February 2008
4 employee participant number in projecting health care costs, the Company
5 appears to be double-counting some costs.

6 Next, while health care costs are projected to increase 24.8%, the
7 employee contributions are forecast to increase only 15.9%. Employee
8 contributions should be based on a percentage sharing and unless the
9 Company plan has reduced that sharing or doesn't follow that standard,
10 the projected employee contributions for the rate year are understated.

11

12 Q. What is your recommendation regarding healthcare costs?

13 A. Given today's challenging economy and the fact that there is undoubtedly
14 a large number of ratepayers who do not even have health insurance, it is
15 only appropriate that the net cost be limited to the 8% increase that Mr.
16 Reyes stated the Company was requesting. As shown on CPB
17 Exhibit__(LA-1), Schedule 5, the use of an annual rate of 8% over the 27-
18 month period results in a net cost of \$76,755,572. The Company's net
19 request of \$83,195,886 should be reduced \$6,440,314. This adjustment
20 would reduce my concerns regarding the potential double count for
21 employee additions, the Company's failure to recognize any impact for
22 cost savings implemented that had not yet been reflected in the test year

1 costs and the disparity between the increase in costs and the insufficient
2 increase in employee contributions.

3 INSURANCE

4 Q. Are you recommending an adjustment to the Company's request for
5 insurance expense?

6 A. Yes. I am recommending two adjustments. First, the Company has
7 assumed that there will be a net increase of approximately 41% in
8 insurance expense. That increase is not supported by the historical trend
9 and the Company failed to supply supporting documentation to show that
10 there will be an increase in premiums. Therefore, I recommend that the
11 \$8.975 million added as a program change by the Company be disallowed.
12 The second adjustment removes \$5.0 million of insurance for protecting
13 directors and officers from any claims for actions and/or decisions that
14 they have made or failed to make. The protection that is provided to
15 directors and officers from this insurance is of no direct benefit to
16 ratepayers and therefore, the cost for this coverage should not be charged
17 to ratepayers. Thus, the Company's rate year insurance expense should
18 be reduced a total of \$13.978 million.

19

20 Q. What do you mean the historical trend does not support an increase in
21 insurance expense?

22 A. In Case 07-E-0523, the CPB and DPS Staff opposed the Company's
23 request for an increase in insurance expense because during the period

1 2004 – 2006, the cost of property insurance and liability insurance
2 declined. In response to DPS IR 374, the Company supplied the historical
3 costs for 2005 – 2007, which once again showed that a decline occurred
4 in 2007. The DPS Staff request also asked for source documents
5 supporting the escalation rates used by the Company and the response
6 simply referred to the Company's work papers for insurance. The only
7 documentation in the work papers was the budget numbers for 2008.
8 Numbers alone are not supporting documentation. The Company has
9 failed to justify an increase in premiums for insurance. Costs have
10 declined each year since 2004 so it evident that that a downward
11 adjustment to the test year expense is warranted, rather than the increase
12 as proposed by the Company.

13
14 Q. Is it possible that the Company received notices that its premiums were
15 increasing?

16 A. That is possible. However, the Company was requested in CPB IR 101 to
17 provide supporting documentation to verify the cost increase reflected in
18 the filing and the response provided only budgeted numbers, essentially
19 the estimated costs being requested. The Company did not provide the
20 supporting documentation for the cost estimates as they were specifically
21 requested to do. Con Edison had the opportunity to prove its case and
22 failed to do so. Accordingly, an adjustment to reduce the cost back to the
23 test year level should be made.

1 Q. Could you explain further why the cost of directors and officers' liability
2 insurance should be disallowed?

3 A. Yes. Directors and officers liability ("DOL") insurance represents 16.2% of
4 the total insurance expense for electric operations. This insurance is
5 designed to protect directors and officers from actions deemed as
6 inappropriate that they may have participated in and/or from decisions that
7 they made. Essentially, the cost of this insurance protects shareholders
8 from their decision in appointing directors who are in turn responsible for
9 hiring the officers of the Company. Generally, it is shareholders who will
10 make a claim against the directors and/or officers, therefore, the insurance
11 ultimately will provide protection to the shareholder. If a claim was to be
12 made and a liability determined, the most significant payment would be
13 paid to shareholders, with ratepayers receiving nothing. Further, the
14 ratepayer does not decide who is in charge at the Company, the
15 shareholder does. Therefore, the shareholder should be responsible for
16 costs associated with mitigating the risk of their decision.

17 Next, the Company has not provided any justification for ratepayers
18 to be responsible for 100% of the cost of DOL insurance. In fact, the
19 information that has been supplied suggests that the coverage is
20 excessive and that the benefit, if any, to ratepayers is minimal at best.

21 Finally, the fact that this expense represents 16.2% of the total cost
22 of corporate insurance (i.e. excluding employee health & welfare
23 insurance) cannot be ignored. The significance of the cost of this

1 coverage in relation to the insurance that covers plant and public liability,
2 should be a concern to the Commission.

3

4 Q. Did you recommend an adjustment in for DOL insurance in Case 07-E-
5 0523?

6 A. Yes. The Commission did not adopt my recommendation, although it
7 stated that if adequate support for such an adjustment was provided, the
8 Commission would entertain capping the cost that ratepayers would be
9 expected to pay. As I demonstrate herein, there is more than sufficient
10 support to cap and/or remove the cost of DOL insurance from rates in its
11 entirety.

12

13 Q. Please summarize the Company's justification for ratepayers to fund DOL
14 insurance.

15 A. The Company claims the cost of DOL insurance is necessary to attract
16 and retain directors and officers. In response to CPB IR 17, it stated that
17 support for this assertion is in the testimony of Robert Hoglund and the
18 Towers Perrin Study provided in response to CPB IR 6. Also, the
19 Company in response to CPB IR 13 provided a list of recent settlements
20 as justification for the level of coverage that was obtained.

21 Q. Is DOL insurance necessary to attract competent individuals?

22 A. Directors and officers are compensated for their time, and they receive
23 generous benefit packages, including generous stock options. If they are

1 being paid by ratepayers for their competence, it is unreasonable for
2 ratepayers to pay again, to insulate these individuals from their personal
3 responsibility for inappropriate actions, negligence, errors and/or
4 omissions. If Directors and Officers provide the performance for which
5 ratepayers are paying, the level of insurance coverage should be
6 minimized.

7 Even if DOL insurance is determined to be necessary to attract
8 excellent employees, the benefit of the insurance goes to shareholders not
9 ratepayers. I am not aware of any settlement ever being paid directly to
10 ratepayers. Ratepayers should not be required to pay for something that
11 does not provide a benefit to them, especially when the real beneficiary is
12 the shareholders. In fact, in CPB IR 12, the Company was asked if they
13 would continue the insurance coverage if some or all of the cost was not
14 borne by ratepayers. The response stated the Company would continue
15 the coverage.

16
17 Q. Does the list of recent settlements justify the level of insurance maintained
18 by the Company?

19 A. No. Since ratepayers have no control over who is appointed as directors
20 and officers, it is reasonable to conclude that stockholders have made
21 their decision based on the integrity of the directors and officers. This
22 listing that identifies the various settlements is headed up by Enron
23 Corporation, WorldCom, Inc., Tyco International, etc. I would like to think

1 that the shareholders of Consolidated Edison have more confidence in the
2 directors and officers that they have appointed, than the directors and
3 officers from a number of the companies on this list that contributed to the
4 high level of settlements identified. This list does not provide justification
5 for \$300 million of coverage purchased by the Company for what
6 ratepayers have to assume are competent directors and officers.

7

8 Q. Does the Towers Perrin Study justify the level of insurance maintained by
9 the Company or ratepayers funding the cost?

10 A. No. The study on page 16 indicates that the median DOL coverage for
11 companies with over \$10 billion of assets is \$105 million. On page 18, the
12 median DOL coverage for utilities is quantified as \$70 million. On page 36,
13 the study shows the average premium for utilities in 2006 was \$1.718
14 million. That information suggests that the \$300 million coverage is
15 excessive for the Company. In fact, in an email from Marsh USA Inc. to
16 the Company provided in response to CPB IR 15, the median coverage for
17 comparable companies and Fortune 500 Utility Companies was identified
18 as \$140 million and \$187 million, respectively.

19 The Towers Perrin Study also included important information
20 regarding the claims filed and the settlement of those claims. On page 53
21 of the study, it indicates that 49% of claims against public companies were
22 made by shareholders and 21% of claims were made by employees. In
23 settling the claims, shareholder claims were settled at an average of \$24

1 million while employee settlements averaged \$130,494 (page 55). The
2 study also indicated that defense costs for shareholder claims were more
3 than double any of the other possible claimants. Thus, the preponderance
4 of claims are shareholder related, which means that most, if not all the
5 costs should be borne by shareholders.

6 For all of these reasons, the \$5 million of costs for DOL insurance
7 included in the Company's request should be disallowed.

8

9 SUBSTATION OPERATIONS O&M PROGRAMS

10 Q. What changes are being requested for substation operations O&M?

11 A. The Company, on Exhibit__ (IIP-3), is requesting an increase for
12 normalization and program changes of \$12.712 million. As shown on CPB
13 Exhibit__(LA-1), Schedule 6, the increase consists of \$8.022 million for
14 labor and \$4.69 million of other costs. General explanations of the cost
15 and increases can be found in the Infrastructure Investment Panel's
16 testimony, the exhibits (referred to as white papers) and to a very limited
17 degree the work papers.

18

19 Q. Did the white paper exhibits and work papers provide sufficient detail to
20 justify the program requests?

21 A. No. The white paper exhibits and/or the work papers included general
22 descriptions of the various programs, often very similar to the testimony,

1 and numbers, respectively. There was no detail indicating how the costs
2 were derived or supporting documentation for cost estimates.

3

4 Q. Did you ask for more information?

5 A. Yes. The Company was requested in CPB IR 78 and CPB IR 79 to
6 provide additional information for the various programs within the
7 Substation Operations O&M Program category. The response to CPB IR
8 78 provided the information requested. The response to CPB IR 79,
9 despite requesting supporting documentation for costs, provided only
10 descriptions and/or calculations. Supporting documentation for the cost
11 estimates for four of the programs was requested. One program
12 consisted entirely of labor, so no support was available. However, the
13 other three programs included \$3.267 million of added non-labor costs
14 and no supporting documentation was provided. Supporting
15 documentation is not just numbers on paper or a company explanation.
16 Instead, it is a document that supports the unit cost of the new cost
17 requested.

18 DPS Staff also posed a number of requests for internal
19 documentation. The responses, again, did not provide any internal
20 documents to justify the cost and/or the program.

21

22 Q. Could you discuss some specific concerns regarding the requested
23 increase in Substation Operations O&M Program costs?

1 A. Yes. A total of 53 new positions are requested for projects entitled “SSO
2 Staffing – New Facilities” and “Operator Staff Augmentation for Existing
3 Facilities.” The majority (\$5.749 million) of the \$6.132 million in labor
4 being requested for these projects was included in the current 2009 rate
5 year. Based on what is included in rates that were effective April 1, 2008,
6 the majority of the 53 positions should have been filled already. However,
7 based on a review of the Company response to CPB IRs 58 and 59, it
8 appears that only 5 of the 33 requested operator positions were filled. I
9 have to use the term “appears” because there are no “operators” identified
10 in the list of 2008 hires, only “operator mechanics” and none of the five
11 were at the stations identified in the SSO Staffing program. I also point
12 out that despite a number of new hires referred to as general utility
13 workers, I could not locate any description that would suggest those
14 positions could be “operators.” In addition, the Field Operation Trainers
15 for the Substation Operations projects that are included in rate year 2009
16 costs to be paid by ratepayers, have not been hired based on the
17 response to CPB IR 58 and 59. Finally, the response to CPB IR 130 (DPS
18 IR 45REV) indicates that 58 positions for Substation Operations allowed in
19 rates effective April 1, 2008, have not been filled as of July 2008.

20 In addition, no supporting documentation for the Bus Enclosure,
21 Corrective Maintenance Normalization and Structural/Integrity cost
22 estimates was provided as requested. In fact, the response to CPB IR 79
23 stated that the cost estimates are based on “Supervisor station

1 inspections.” The Company wouldn’t pay a vendor on a best guess and it
2 is not appropriate for ratepayers to have to pay costs based on a best
3 guess. The Company could obtain quotes, estimate or even retrieve
4 previous invoice to support the costs being requested but they have not
5 done so.

6

7 Q. Are you recommending an adjustment to Substation Operations O&M
8 Program costs?

9 A. Yes. I am recommending that the Company’s projection of substation
10 operations non-labor O&M costs be reduced by \$1.634 million due to the
11 Company’s failure to properly substantiate these costs. The adjustment
12 removes 50% of the non-labor costs for three programs. The specific
13 programs, as shown on Exhibit__ (LA-1), Schedule 5, are Bus Enclosure,
14 Corrective Maintenance Normalization and Structural Integrity/Station
15 Betterment. An adjustment may also be justified for the Dynamic Feeder
16 Rating System, Flame Retardant Clothing and Advanced Control Systems
17 program costs, because of the Company’s failure to provide the internal
18 documentation requested by DPS Staff as justification for the costs
19 requested.

20

21 Q. Are you recommending a labor adjustment to Substation Operations O&M
22 Program costs?

1 A. Yes. As discussed previously, the \$848,000 Correction Maintenance
2 Normalization should be disallowed. I am also recommending that \$3.143
3 million (50%) of the labor costs previously allowed in rates, be disallowed
4 in the rate year because the Company has not filled the positions as of
5 July 2008, and there are concerns that these positions will continue to be
6 vacant.

7

8 SYSTEM & TRANSMISSION O&M PROGRAMS

9 Q. Does the Company request changes for its System and Transmission
10 Operations?

11 A. Yes. The Company, on Exhibit__ (IIP-5), is requesting an increase of
12 \$11.597 million. The increase consists of \$6.365 million for labor and
13 \$5.232 million for other costs. Again, general explanations of the cost and
14 the increases could be found in the Infrastructure Investment Panel's
15 testimony for most of the programs, the exhibits and the work papers. No
16 specific testimony was provided for a number of the programs.

17

18 Q. Are there specific programs about which you have concerns?

19 A. Yes. The Company indicated in response to DPS IR 469 and CPB IR 85
20 that the Sequence and Scheduling position was filled. However, despite
21 claiming that the position would result in savings in overtime expense,
22 such savings was not reflected in the filing. It is not appropriate for
23 ratepayers to fund a position based in part on a claim that it will result in

1 savings, without also reflecting the savings in rates. The response to CPB
2 IR 130 (DPS IR 45REV) identifies this position as being filled in May 2008,
3 one month after ratepayers began paying for this position.

4 I also have a concern regarding the Company's proposed costs for
5 Coating Refurbishment, which is based on an average cost of \$2,000 per
6 foot and 750 feet. The response to CPB IR 86a states that the costs of
7 this project is not driven by a footage target and that the average O&M
8 program trenching of 503 feet per year was performed over the last three
9 years at an average cost for the O&M program of \$1,582 per foot. In 2007
10 though, the O&M Program average was \$1,061 per foot. The Company
11 has not provided justification for the use of a rate of \$2,000 per foot and it
12 has not provided any justification for the 750 feet estimate in the rate year.
13 I recommend a cost of \$800,000 be allowed based on the O&M Program
14 average trenching cost per foot of \$1,582 and the O&M Program average
15 trenching of 503 feet. This reduces the non-labor cost request by
16 \$700,000.

17 In addition, the Feeder Emergencies request is considered
18 excessive. Based on the response to CPB IR 86d, the five-year average
19 cost for this program is \$7,276,519. The Company is requesting
20 \$7,826,000 in the rate year, instead of the test year 2007 costs, which
21 were only \$4,808,461. Interestingly, the Company did not request an
22 adjustment in Case 07-E-0523 because the test year 2006 cost of \$11.444
23 million was considered "adequate." The 2006 and 2007 costs were

1 significantly different than the previous three years, which averaged
2 \$6,710,030. It is not appropriate for the Company to include in rates,
3 expenses for an extraordinarily high year and not adjust that amount until
4 the experience of the test year reveals low costs, at which time it seeks to
5 base its request on an estimate that exceeds average costs over a
6 multiple year period. Ratepayers are now paying for Feeder Emergencies
7 based on \$11,444,044 plus escalation. An adjustment to the Company's
8 request is necessary. I recommend a reduction of \$550,000 to the non-
9 labor increase of \$1.257 million. The adjustment reduces the rate year
10 cost to the \$7.276 million five-year average.

11

12 Q. Would you please explain any concerns that you have with the labor
13 requested in the Company's projected System & Transmission Operations
14 O&M Program costs?

15 A. As discussed in my testimony regarding labor expense, I recommend the
16 removal of the Normalized Human Resource request of \$2.322 million
17 (included in the \$5.3 million normalization adjustment) because the
18 Company escalation calculations use of year-end employee counts
19 effectively normalizes the test year, thereby resulting in a duplication of
20 payroll costs. In addition to the justification for that adjustment that I
21 previously provided, I would add that the response to CPB IR 61 and 62
22 showing how the Company arrived at the requested \$2.322 million, is a
23 concern. The Company's request essentially says that since employees

1 left during 2007 and it plans to fill the positions in 2008, compensation
2 should be provided beyond that reflected in the test year, and an extra
3 \$900,000 should be provided for money charged to capital work in 2007
4 that it wants charged to O&M expense in 2008. This request is very one-
5 sided. As previously discussed, the Company has not removed the cost
6 of any employee who is no longer employed by Con Edison and will not be
7 replaced, and it is shifting capitalized costs to expense, despite the
8 requested increase in capital work, without providing proper justification.

9 In addition to the normalization cost disallowance, I am also
10 recommending that the labor costs for the Manhole Inspections and the
11 Perfluorocarbon Tracer (PFT) Patrols be reduced based on discrepancies
12 between the information supplied in discovery responses and the
13 Company's filing. The Company has requested \$500,000 of labor for
14 each program. The response to CPB IR 130 (DPS IR 45Rev) indicates
15 that all the positions requested were filled on April 25, 2008. However, the
16 pay rate identified in that document is substantially less than that in the
17 Company's request. In addition, there is concern that the supporting
18 information is inconsistent because the responses to CPB IR 58 and 59
19 indicate that mechanics hired in 2008 were not hired on April 25, 2008,
20 and were not System and Transmission Operations employees. The
21 response shows that general utility workers were hired on April 25, 2008,
22 for System and Transmission Operations, which may explain the
23 discrepancy in compensation. Based on the pay rate identified in the

1 response to CPB IR 130, I am recommending that the Company's labor
2 request for Manhole Inspections and PFT Patrols each be reduced
3 \$350,000 for a total reduction of \$700,000.

4

5 Q. Are there any other concerns that you identified with the Company's
6 System and Transmission Operations Labor request?

7 A. Yes. I question the proposed NYISO employee addition and the
8 Conductor Repair additions. The costs for these positions were approved
9 in Case 07-E-0523 and included in rates as of April 1, 2008, yet the
10 positions have not been filled as of July 2008. While I have not
11 recommended an adjustment for this labor, the Commission may want to
12 consider one since it is not appropriate for the Company to include
13 employee compensation in rates unless it is known that the positions will
14 in fact be filled as requested.

15

16 Q. Please summarize your recommendation regarding the Company's
17 projected System & Transmission Operations O&M Program costs?

18 A. I am recommending that that the Company's projections for non-labor
19 costs be reduced by \$1.250 million because justification for the costs of
20 the Coating Refurbishment Program and the Feeder Emergencies
21 program projects was insufficient. The specific program recommendations
22 are shown on CPB Exhibit__ (LA-1), Schedule 7. The adjustment for

1 normalized labor and program change labor costs are \$2.322 million and
2 \$700,000, respectively.

3

4 ELECTRIC OPERATIONS O&M PROGRAMS

5 Q. Did you review the Company's request for the costs of its Electric
6 Operations O&M Programs?

7 A. I reviewed the various programs with a focus on the most significant
8 proposed cost increases. Con Edison has requested an increase of
9 \$58.245 million for Electric Operations O&M Programs. This significant
10 increase consists of \$23.292 million in labor and \$34.953 of non-labor
11 costs are summarized on CPB Exhibit__(LA-1), Schedule 8.

12 In an attempt to evaluate these programs, a specific request was
13 made in CPB IR 74 for the historical costs over the last five years and for
14 a quantification of the labor cost included in the test year and the rate year
15 for the specific programs identified on Company Exhibit__(IIP-7). The
16 Company response to the inquiries regarding historical costs and labor
17 costs was significantly different despite the fact that the requests were
18 worded the same. The request relating to historical costs was not
19 responded to as requested. Instead, a broad general cost comparison
20 was provided making it impossible to evaluate the Company's request for
21 the specific programs that were detailed on Company Exhibit__(IIP-7). In
22 contrast, the request regarding labor costs was responded to exactly as
23 requested and provided the respective labor dollars by the respective

1 programs on Company Exhibit__(IIP-7). The Company should not be
2 permitted to benefit from its failure to properly respond to information
3 requests.

4

5 Support Economic Growth

6 Q. Did you review the Company's request for costs for programs supporting
7 economic growth?

8 A. Yes. The Company's request for a \$2.655 million increase was reviewed
9 with the focus on specific programs, with cost being the primary concern.
10 One program of concern is the SMART Electric Technologies program.
11 CPB IR 80 requested a breakdown of the cost and an explanation as to
12 why the Company feels it is required to encourage economic growth in
13 commercial refrigeration. The response stated that a breakdown of
14 program costs is not available and no decision has been made on the
15 commercial refrigeration program. Simply said, the cost request for this
16 program is a guess. Thus, the requested \$92,000 of labor and \$500,000
17 of non-labor costs should not be allowed.

18 The other program of concern is the Company's request for the
19 Customer Focused Service Ruling Program. This program seeks 12 new
20 engineers, and based on the response to CPB IR 80, two were filled in
21 2007 and five in 2008. The concern is that this program is one of many
22 that required additional engineers and that were to begin in the rate year
23 that began April 1, 2008. Based on the response to CPB IR 58 and 59,

1 the Company has hired four associate engineers, six engineers and five
2 senior engineers as of June 30, 2008, for a total of 15 engineers. With the
3 significant number required to be hired and only 15 hired to date,
4 ratepayers are paying for engineers currently that are not on the payroll
5 and there is doubt that the full complement of engineers being requested
6 in the various programs will in fact be hired when rate year 2010 begins on
7 April 1, 2009. As discussed in the labor section, this does not appear to
8 be an isolated problem.

9

10 Q. Are there any other adjustments to the Support Economic Growth
11 programs?

12 A. At this time, the only adjustment I propose is to reduce the Company's
13 request by \$592,000 for the SMART Electric Technologies program.

14

15 System and Component Performance

16 Q. What program costs is the Company requesting for System and
17 Component Performance?

18 A. The Company is requesting an increase of \$7.671 million, consisting of
19 \$6.245 million of labor and \$1.426 million of non-labor costs.

20

21 Q. Are there concerns with the cost requested?

22 A. Yes. First, the Remote Monitoring System (RMS) Response Group
23 requests the addition of 14 inspectors and based on the response to CPB

1 IR 81, none have been hired yet. The Electrical Engineering Support
2 Program is planning on adding three supervisors and 12 engineering
3 technicians and the exhibit suggest that an additional supervisor and four
4 engineering technicians will be required for field engineering and quality
5 assurance. The response to CPB IR 81 states none have been hired.
6 There is not evidence that the Vault Repair mechanics that are purportedly
7 required were hired and the increase in non-labor costs is questionable.

8

9 Q. Please elaborate on your concerns.

10 A. Based on the Company's failure to fill the positions allowed in rates
11 effective April 1, 2008, I am concerned that the labor requests for the RMS
12 Response Group, the Electrical Engineering Support Program and the
13 Vault Program may be overly optimistic.

14 There is an additional concern regarding the proposed increase in
15 expense for the Electrical Engineering Support Program. The justification
16 provided by the Company in response to DPS IR 260, suggests that the
17 driving factor for the increase in employees is the capital program.
18 However, capitalized labor for this project is increasing by only \$308,000
19 while the O&M expense is projected to increase by \$1.896 million. The
20 response to CPB IR 100 questioned how the increase in employees was
21 justified. The Company's response stated that the supervisors and
22 engineers along with added overtime was required "for its new and

1 incremental Capital programs." Thus, if the increase occurs, it should be
2 classified as capital costs and not O&M expense.

3 Finally, the Company performed 37 vault repairs in 2007, at a cost
4 of \$2.591 million (response to CPB IR 81). The Company expects to
5 complete an additional 28 repairs in the rate year, for a total of 65 repairs.
6 In my opinion, the Company has not supported the expectation that 65
7 repairs will be performed in the rate year. The Company's projected
8 increase should be reduced by at least 50% or 14 repairs.

9

10 Q. What adjustment are you recommending to the rate year for the System
11 and Component Performance?

12 A. I am recommending that the new labor costs for the RMS Response
13 Group and the Electrical Engineering Support programs be reduced by
14 50% or \$910,000 and \$948,000, respectively. The Vault Repairs labor
15 and non-labor increase should also be reduced by 50% or \$636,000 and
16 \$343,000, respectively. This reduces the System and Component
17 Performance request for labor by \$2.494 million and non-labor \$343,000,
18 for a grand total of \$2.837 million.

19

20 Public Safety and Environmental

21 Q. What change is being requested for the Public Safety and Environmental
22 program?

1 A. The Company is requesting an increase of \$37.627 million above the
2 comparable test year expense level of \$35.073 million. The primary
3 drivers are overhead inspections, underground inspections, mobile stray
4 voltage testing, vault cleaning and central quality assurance. I will discuss
5 the individual programs that are primarily responsible for this significant
6 increase.

7

8 Five-Year Overhead ("OH") Inspection Program

9 Q. Is the Company's request for an increase of \$3.226 million for overhead
10 inspections reasonable?

11 A. The Company's request for this program in Case 07-E-0523 was \$5.443
12 million and was determined by the Commission to be unsupported. An
13 allowance of \$1.089 million was granted. The reason the cost is
14 significantly less in this case is that the Company identified certain cost
15 components that were originally overestimated (CPB IR 82a). An
16 additional concern is that the Company did not incur any costs in 2006 or
17 2007 for overhead inspections.

18 According to the Company Exhibit__(IIP-18), the Company must
19 conduct 282,000 pole inspections at a cost of \$53 per pole over five years.
20 That equates to \$14.946 million or \$2.989 million a year. This is less than
21 the exhibit amount of \$3.226 million a year. The Company has provided
22 no information to substantiate its new cost estimate and there is concern
23 that the cost may be overstated as it was in Case 07-E-0523.

1 Q. Are you recommending an adjustment to the OH Inspection request?

2 A. Yes. Even though the Commission took notice of the Company's failure to
3 support its costs in Case 07-E-0523, the Company has again prepared its
4 request without including supporting documentation for its proposed unit
5 cost. The Company should not be allowed to arbitrarily insert costs in the
6 rate year without supplying adequate information as to how the cost was
7 developed.

8 The Company's requested increase consists of \$2.916 million in
9 labor and \$310,000 of non-labor costs. The arbitrary use of a \$53 per
10 pole cost is not supported by the Company. The response to CPB IR 82b
11 refers to a contract and identifies a cost-per-inspection that explains the
12 non-labor cost component. However, no detail is provided for the labor
13 costs. Additionally, the response to DPS IR 46, that provides details on
14 the incremental labor being requested in this case, does not identify any
15 labor for overhead inspections. Accordingly, the Company's estimate for
16 labor for this project is not sufficiently supported.

17

18 Q. What is your recommended adjustment to the OH Inspection request?

19 A. I am recommending that the projected rate year labor cost increase of
20 \$2.916 million be reduced by \$1.458 million or 50% because of Con
21 Edison's failure to adequately supply information that could be utilized to
22 determine the reasonableness of the Company's estimate.

23

1 5-Year Underground Structure Inspection Program

2 Q. What did you determine from your review of the underground inspection
3 cost request?

4 A. The Company is requesting \$23.829 million in costs in the rate year
5 compared to the indicated \$12.347 million of test year costs. The
6 Company's request is based on the estimated 59,000 remaining
7 inspections of a five-year inspection program. According to the response
8 to CPB IR 2(d) in Case 07-E-0523, the Company spent \$0 in 2004, \$8.5
9 million in 2005 and \$6.8 million in 2006 for underground inspections.
10 Company Exhibit__(IIP-7) and Exhibit__(IIP-18) indicate that in 2007, the
11 Company expensed either \$12.347 million or \$12.322 million to perform
12 36,300 inspections. Company Exhibit__(IIP-18) also indicated that there
13 are a total of 272,027 inspections to be performed in the five-year cycle
14 and at the end of 2007, 126,000 had been completed. Using that
15 information along with the Commission's decision that 75,447 were to be
16 performed in rate year 2009, I would agree with the Company's estimate
17 that there would be a need to perform approximately 59,000 inspections to
18 complete the current five-year cycle and proportionately begin the next
19 five-year cycle.

20

21 Q. Does that mean that you agree with the Company's estimate of the cost
22 for underground inspections in the rate year?

1 A. No. The requested rate year expense of \$23.829 million assumes an
2 average inspection cost of \$403.88, compared to a 2007 average of
3 \$340.14. There is no justification for the Company to increase the cost
4 per inspection especially given the fact that the Company is escalating its
5 labor and the non-labor expense. The Company projected the program
6 costs in determining its program change adjustments, so in essence, the
7 Company's use of a projected cost rate along with the escalation would
8 result in a double dip.

9

10 Q. What adjustment are you recommending?

11 A. The Company's request for \$23.829 million should be reduced \$3.761
12 million to \$20.068 million.

13

14 Q. How did you determine your adjustment?

15 A. I determined the average cost for inspections for 2007 to be \$340.14
16 instead of the \$403.88 assumed by the Company, and then multiplied that
17 unit cost by 59,000 inspections, resulting in a total cost of \$20.068 million.

18

19 Annual Stray Voltage Program

20 Q. Are there concerns with the Company's request for \$8.892 million for the
21 Annual Stray Voltage Program?

22 A. Yes, there is some concern with the cost projection. The Company's
23 testimony states that an increase of \$1.538 million (20.9%) is being sought

1 but that the Company is seeking approval to substitute mobile stray
2 voltage testing for manual stray voltage testing. In addition, the
3 Company's response to CPB IR 82e stated that the cost of the Annual
4 Stray Voltage Program in this proceeding is less than in Case 07-E-0523
5 because "the awarded contracts for stray voltage testing were lower than
6 initially expected." As was noted in my earlier discussion of the overhead
7 inspection program, the annual stray voltage program is another instance
8 where the Company has presented a different unit cost than in the last
9 case. This further illustrates the importance of supporting documents for
10 the cost estimates.

11 Another concern with the Company's request is the apparent
12 inconsistency in the information supplied. The Company Exhibit__(IIP-18)
13 states that the cost increase is attributable to the increased detection rate
14 of stray voltage events. In contrast, the response to CPB IR 82e states
15 that the annual stray voltage testing program costs have decreased
16 because "the historical numbers of stray voltage found through the Annual
17 program have decreased by over 25%."

18 I am also concerned that once again the Company has double
19 dipped in their request. The projected cost of the program change is not
20 based on historical cost-per-unit, but instead on a new contract rate for
21 2008. The escalation factor according to Company testimony, increases
22 the historic year costs through the rate year. By increasing the contract
23 rate beyond the test year and then applying an escalation factor that is

1 intended to be applied to the historic year, Con Edison has essentially
2 double counted the increase in costs since the test year.

3 Finally, I am concerned that the Company may conduct far less
4 manual stray voltage testing in the rate year than it projects in its filing. By
5 Petition dated March 25, 2008 in Case 04-M-0159 (Investigation of the
6 Safety of Con Edison's Transmission and Distribution Systems), Con
7 Edison asked the Commission for permission to use mobile stray voltage
8 diction in lieu of manual stray voltage testing. If the Commission approves
9 this request, Con Edison is expected to substantially reduce the volume of
10 its stray voltage testing, thereby obviating the need for ratepayers to fund
11 the amount requested.

12

13 Q. Should the escalation applied to the new Company estimate be removed?

14 A. No. While that may be easier, it would not be equitable, because the use
15 of only the contract escalation would deprive the Company of any allowed
16 escalation for 2009 and the first part of 2010.

17

18 Q. Are you recommending an adjustment to the Company's request for
19 \$8.892 million?

20 A. Yes. No cost justification has been provided for a \$1.538 million increase
21 over the test year level of \$7.354 million for Stray Voltage testing,
22 especially considering the facts that the same level of testing is assumed
23 in both periods and that the increase is attributable to double counting the

1 2008 escalation in the cost-per-unit. Since escalation is intended to be
2 applied to test year costs and the same 742,002 structures are assumed
3 to be tested in the rate year as in the test year, no program change
4 adjustment should be made. Accordingly, I recommend that the \$1.538
5 million increase be disallowed, thereby reducing labor \$271,000 and non-
6 labor costs \$1.267 million.

7 I also recommend that the Commission ensure that any shortfall of
8 actual spending on the manual stray voltage program from the amount
9 provided in rates in this proceeding, be returned for the benefit of
10 ratepayers. This protection is necessary since the PSC is currently
11 considering Con Edison's request to substitute mobile stray voltage testing
12 for manual testing.

13 14 Mobile Stray Voltage Testing

15 Q. Do you have any concerns about the Company's proposed Mobile Stray
16 Voltage Testing Program?

17 A. Yes. The Company has requested an increase of \$9.753 million over the
18 test year expense of \$11.321 million for a total request of \$21.074 million
19 plus escalation. The growth is attributed to increasing the number of
20 annual scans performed from 5.5 to 12. In Case 07-E-0523, the Company
21 was allowed \$14.883 million plus escalation to perform 12 system scans.
22 The Company is requesting an increase of \$6.191 million (\$21.074-
23 \$14.883) or 41.6%, for what is essentially one year of inflation. Again,

1 there is the concern that the Company has increased the cost-per-scan
2 and then applied escalation, effectively double counting the impact of
3 increasing per-unit costs.

4

5 Q. What did you determine from your review of the mobile stray voltage
6 detection program cost request?

7 A. The Company is increasing the cost-per-scan for contractors and support
8 management while reflecting a cost decrease per scan for electricians,
9 site-safety, emergency response and contractor support. Essentially, the
10 Company is offsetting the cost savings, derived from the program's
11 increased inspections that in turn reduced the number of shocks and the
12 required costs to correct the stray voltage sites detected. The Company
13 has indicated that a decline in shocks has occurred. With a decline in
14 shocks it would be anticipated that there could be a decline in cost for
15 repairs and standby charges. Therefore, the reduction in costs reflected
16 by the Company for making repairs is considered appropriate. The
17 problem is that the Company has offset the reduction in costs for making
18 repairs by increasing the average contractor cost-per-scan cost from
19 \$681,000 per scan ($\$3,748,000/5.5$ scans) to \$872,000 per scan
20 ($\$10,460,000/12$ scans). Con Edison has also increased its labor to
21 manage the increased number of scans. In 2007, the cost to manage 5.5
22 scans was \$32,000, but the cost in the rate year is projected to be

1 \$225,000 for 12 scans. The increase in oversight cost appears excessive
2 considering the perceived success of the program.

3 Q. Does the Company have any explanation for the significant increase in
4 costs for the mobile stray voltage detection program?

5 A. Based on the response to CPB IR 82e, the Company is increasing the
6 cost-per-scan for contractors because the costs to run the mobile voltage
7 detection vehicles was underestimated and the contract that was awarded
8 to operate the vehicles had a significantly higher cost than expected.

9
10 Q. What adjustment are you recommending to the Company's request for
11 \$21.074 million?

12 A. My initial recommendation would be to reduce the Company's contractor
13 cost for mobile testing and ultimately the total request by \$2.282 million.
14 This was determined by multiplying the 2007 cost per scan of \$681,460 by
15 12 scans for a total contractor cost of \$8.178 million. That \$8.178 million
16 cost estimate is \$2.282 million less than the Company's requested amount
17 for contractor mobile testing of \$10.46 million. Because the Company did
18 not include any supporting documents in their filing to justify the increase
19 requested and because using a 2008 cost would result in a duplication of
20 part of the escalation application, my recommended adjustment is
21 considered to be conservative in comparison to the alternative adjustment.

22

23 Q. What alternative adjustment are you referring to?

1 A. As an alternative, I would recommend that the cost increase for this
2 program for the rate year be limited to what the Commission allowed for
3 the current 2009 rate year plus one year of inflation. The per-scan amount
4 that the Commission found to be reasonable in Case 07-E-0523, was
5 essentially a 2006 expense level that was then inflated to the expected
6 2009 expense level by the approved labor and non-labor escalation
7 factors. Similarly, the 2010 rate year amount could be established at the
8 approved amount for the 2009 rate year inflated by approximately 3%.
9 This approach would result in a recommended base cost of \$15.329
10 million (\$14.883 million x 1.03) resulting in a recommended reduction of
11 \$5.745 million to the Company's request of \$21.074 million. As I stated
12 previously, my primary recommendation is conservative in comparison to
13 this alternative.

14

15 Network Transformer Vault Cleaning Program

16 Q. Did you review the cost request for the Network Transformer Vault
17 Cleaning Program?

18 A. Yes. The Company is requesting \$6.951 million plus escalation for the
19 rate year to fund this cleaning program which would be performed on a
20 five-year cycle. This represents an increase of \$6.836 million over the test
21 year expense of \$115,000. The cost proposal assumes that seven
22 contractor crews at a cost of \$2,000 per day per crew, will be required to
23 clean approximately 5,064 structures. In addition to the seven contractor

1 crews, the Company is requesting labor to support the crews at an annual
2 cost of \$707,000. The Company was allowed \$4.357 million for this
3 project in Case 07-E-0523 based on the costs that could be determined
4 through a calculation.

5

6 Q. What are your concerns with the Company's request?

7 A. The Company was requested in CPB IR 82f to provide supporting
8 documentation for the vault cleaning costs. A calculation was provided,
9 but once again no supporting documentation was submitted and the
10 numbers in the calculation differ from the numbers in the Exhibit__(IIP-18).

11 Also, as with many other program costs, the response to DPS IR
12 45REV indicates that the 10 positions allowed in Case 07-E-0523 have
13 not been filled as of July 2008.

14

15 Q. Are you recommending an adjustment to the Company's request for
16 \$6.951 million?

17 A. Yes. Because the Company has failed to support its cost estimate with
18 documentation, as requested, the proposed costs are considered to be
19 unsupported guesses. In addition, the low level of spending on this
20 project in 2007 and the fact that the Company has not yet filled the
21 associated positions although they are being funded by ratepayers,
22 demonstrates that this project is not a priority for the Company. The
23 Company's request should be reduced to what is known and measurable

1 and that is the \$115,000 expensed in 2007. I recommend that the entire
2 increase of \$6.836 million (\$826,000 of labor and \$6,010,000 of non-labor
3 costs) be disallowed for failure to provide supporting documentation for
4 the cost estimate and based on the level of historical spending (none in
5 2006 and \$115,000 in 2007).

6

7 Central Quality Assurance Program

8 Q. Did you review the cost request for the Central Quality Assurance
9 Program?

10 A. Yes. The Company is requesting \$4.587 million plus escalation for the
11 rate year for Quality Assurance. This request represents an increase of
12 \$4.397 million over the test year expense of \$190,000. The increase
13 consists of \$3.646 million of labor costs and \$751,000 of non-labor. The
14 increase in cost is attributed to an expansion of an existing program.

15

16 Q. Do you have concerns with the cost requested for the Central Quality
17 Assurance Program?

18 A. Yes. The Company's request is identified as Phase Two of a program
19 implemented in the first quarter of 2007. The second phase provides for
20 an almost doubling of the employees participating in the program from 21
21 in 2007 to 41 in 2008. In addition to this substantial increase in personnel,
22 the Company proposes to change its accounting for these costs.
23 According to the response to CPB IR 82a and 82h, in the test year,

1 approximately 15% of the cost was expensed and the remaining 85% was
2 charged to capital projects. Now, however, the Company proposes to
3 expense 100% of the cost. Company testimony and exhibits did not
4 provide any support for this change in accounting, therefore no justification
5 has been provided.

6 In addition, I did not find evidence that any of the 40 positions
7 referred to as Quality Assurance positions in CPB IR 82h had been filled
8 during the first six months of 2008. There is no justification for increasing
9 the cost of this program for new employees that have not yet been hired.
10 Finally, the Company was requested in CPB IR 82h to provide supporting
11 documentation for the non-labor costs requested and no information was
12 provided. Thus, no justification for the non-labor cost increase has been
13 submitted.

14

15 Q. Should the Company's request for \$4.587 million be adjusted?

16 A. Yes. The Company has failed to support its cost estimate and to justify a
17 change in accounting for Quality Assurance costs. As a result, the
18 \$751,000 of new non-labor costs should be disallowed. Also, there is no
19 evidence justifying the increase in employees so the employee costs
20 should be limited to the 21 currently on staff. Finally, I recommend that
21 the cost included in the rate year be limited to the 15% previously
22 expensed. Therefore, the Company's program change adjustment of
23 \$4.397 million should be reduced by the \$751,000 of unsupported non-

1 labor costs and the labor increase should be reduced by \$3.373 million.
2 The labor adjustment allows the 21 positions filled using the historic 15%
3 expense rate for a total expense of \$273,000 ($\$3.545 \text{ million} \times 50\% \times$
4 15%)

5

6 Q. What is your total proposed adjustment to the Company's request for
7 Public Safety & Environmental cost?

8 A. I recommend that the Company's cost projection for these projects be
9 reduced by \$14.071 million for non-labor and \$5.928 million for labor.

10

11 Storm Hardening & Response

12 Q. What increase in cost is being requested for the Storm Hardening and
13 Response program?

14 A. The Company is requesting that the test year expense of \$15.715 million
15 be increased by \$5.337 million to \$21.052 million. The major reasons for
16 this increase are the proposed initiation of programs for customer
17 response, danger tree removal, overhead planning and a rear lot pole
18 removal program. In addition, there is a 14% increase in line clearance
19 and a 26% increase in the double wood program costs. The specific
20 program costs of greatest concern will be discussed separately.

21

1 Customer Service Response Program

2 Q. What are your concerns with the Customer Service Response request?

3 A. The Company's explanation of the costs of this program is confusing and
4 inconsistent, and therefore raises serious questions regarding the
5 appropriateness of this request. For example, in response to CPB IR 83a,
6 the Company indicates that this new program for which \$418,000 of cost
7 plus escalation was approved in Case 07-E-0523, has not filled 3 of the 6
8 positions currently in rates. However, the response to DPS IR 45REV
9 indicates that all 6 positions have been filled.

10 Similarly, in Exhibit__ IIP 20, the Company says that the requested
11 \$388,000 cost for this program is based on 6 full-time employees and 11
12 Equivalent Employees (EOT) and non-labor costs. The response to CPB
13 IR 83b, confirms that the cost calculation is based on 6 CSR's and 11
14 EOTs but provides no indication of non-labor costs.

15 In addition, the response to CPB IR 83b indicates that the salary of
16 each CSR is \$73,000, whereas the response to CPB IR 66 (DPS IR 165)
17 shows that the labor for the Customer Response Program is based on 6
18 CSR's each with an annual salary several times larger than the salary
19 above. The response to CPB IR 66 makes no reference to any portion of
20 the cost being overtime-related in contrast to what was indicated in
21 Exhibit__ IIP 20 and CPB IR 83b. These numerous inconsistencies raise
22 uncertainty about the appropriateness of this request.

23

1 Q. Are you recommending an adjustment to the Customer Service Response
2 requested increase of \$388,000?

3 A. Yes. I accept the Company's representation that 6 CSRs have been hired
4 for this program but disagree with its proposed annual compensation rate
5 and the overtime request. Based on the response to CPB IR 83b, the
6 CSR salary is \$73,000 and 25.8% of the associated costs should be
7 allocated to electric operations. Therefore, the cost of 6 CSRs would be
8 \$113,004 ($\$73,000 \times 6 \times 25.8\%$). Thus, an adjustment of \$275,000 is
9 required to reduce the Company's request of \$388,000 to \$113,000.

10

11 Danger Tree Removal

12 Q. What are your concerns with the danger tree removal request?

13 A. The Company, on Exhibit__(IIP 7), under the program caption "Storm
14 Hardening and Response," is requesting \$634,000 plus escalation for
15 danger tree removal. This request, based on Company Exhibit__(IIP-20)
16 assumes a "2010 cost per unit" for various size trees with the overall
17 average cost-per-tree being \$704. The use of a 2010 cost is inappropriate
18 since the Company also applies an escalation factor to its cost estimate.

19

20 Q. What adjustment are you recommending for the danger tree removal
21 request?

22 A. The Company in response to DPS IR 138.1, provided the year-to-date
23 costs for 2008 and an estimate of the costs of trees identified for removal.

1 The average cost of tree removal thus far in 2008 is \$526 per tree.
2 Including the cost of removing those trees that have been targeted for
3 removal, reduces the overall average cost to \$435 per tree. Both rates
4 are significantly less than the 2010 rate of \$704 identified in Exhibit__ (IIP-
5 20). I recommend use of the average cost of \$435 per tree to offset the
6 possible double count from the escalation application. Accepting the 900
7 tree count proposed by the Company at a rate of \$435 per tree, results in
8 a rate year expense of \$391,500. That requires a reduction of \$242,500
9 to the Company's request of \$634,000.

10
11 Distribution Line Clearance

12 Q. What are your concerns with the line clearance request?

13 A. The Company, on Exhibit__(IIP 7), under the program caption "Storm
14 Hardening and Response," has reflected a program change adjustment of
15 \$1.904 million for distribution line clearance, thereby increasing the test
16 year cost from \$13.529 million to \$15.433 million plus escalation.
17 Company Exhibit__(IIP-20) provides a detailed summary that enables the
18 reader to determine how the rate year amount was determined. However,
19 I have several concerns with the Company's cost projection.

20 First, the Company's cost calculation states that the rate year costs
21 are based on "2010 Dollars." As explained previously, this approach
22 coupled with an escalation adjustment results in a double count. Next,
23 information supplied in the response to CPB IR 83e indicates that the

1 costs used by the Company in its calculation are excessive. That
2 response provides three quotes that on a weighted basis had an average
3 cost of approximately \$4,000 per trim-mile. This indicates that the \$5,361
4 cost per trim-mile used by the Company is overstated. In addition, the
5 Time and Equipment cost estimate of \$2.109 million is 7.3% more than the
6 three-year average of \$1.966 million that was purportedly used to set the
7 projected rate. This confirms my concern that some escalation was
8 factored into the original estimate, so the application of an escalation rate
9 would lead to ratepayers paying twice for the same cost.

10

11 Q. Why was the Company's cost per mile estimate for trimming overstated?

12 A. The Company's response to CPB IR 83c provided supporting
13 documentation for the danger tree rates used by the Company. The
14 quotes provided were different than the ones provided as justification for
15 the estimate of line clearance costs. In reviewing the two sets of quotes, I
16 noted that the per-mile cost for clearance used in developing the cost
17 estimate was greater than the per-mile cost in the support provided for line
18 clearance. It would not be appropriate to ignore this information even
19 though the Company did not provide it as justification for the line
20 clearance rate per mile. By adding in the extra two quotes in the
21 weighted average, I determined that the Company's estimated rate per
22 mile of \$5,361 for line clearance is overstated by \$323 per mile. The \$323

1 difference multiplied by 1,600 miles suggests that Con Edison's 2010
2 estimate is overstated by \$516,800.

3

4 Q. Do you have a recommendation regarding Con Edison's proposed
5 spending for line clearance?

6 A. Yes. I am recommending a two step adjustment. First, the Company's
7 2010 cost estimate should be reduced by \$500,000 for the excess per-
8 mile cost included in the 2010 projection. Next, to avoid any double count
9 with escalation, I am recommending as part of the escalation adjustment
10 that the escalation be reduced \$801,000 ($\$15.433 \text{ million} \times 5.19\%$, the
11 Company escalation rate). That is a conservative adjustment given the
12 fact that any labor dollars included in the \$15.433 million request have
13 been increased by 7.78% escalation and accounts for the overstatement
14 of the Time and Equipment cost estimate.

15

16 Double Wood Program

17 Q. Do you have concerns with the Double Wood Program cost request?

18 A. Yes. The Company has requested \$2.648 million for the rate year.
19 Company Exhibit__(IIP-7) shows that this represents an increase of
20 \$540,000 over the 2007 test year expense of \$2.108 million. In reviewing
21 the decision in Case 07-E-0523, at page 79, I noted that on exceptions to
22 the Recommended Decision, the Company claimed to have spent over \$4
23 million to remove double wood in 2007. This significant difference in the

1 Company's representation of the amount of expense in 2007 has not been
2 explained.

3 Another concern is that the Company's justification in Company
4 Exhibit__(IIP-18), states in two paragraphs that it is subject to fines from
5 municipalities for not promptly removing the double poles. Other
6 information in the exhibit, including that there are more than 3,600 poles
7 which have Company attachments and that 280 additional double poles
8 are placed annually, suggests that this has been a cumulative problem
9 that has developed over a number of years. According to the response to
10 CPB IR 83j, no fines have been paid by the Company from 2003 to date.
11 The threat of fines is possible, but the fact that no fines have been paid in
12 more than five years, suggests that the Company's concern should be
13 discounted.

14 Additionally, I still contend as I did in Case 07-E-0523, that the
15 costs for this program are capital in nature and should not be expensed.

16 Finally, I am concerned with the Company's response to CPB IR
17 83I, in which the Company essentially says that if it doesn't receive
18 funding for a program, it won't perform the work. The response also
19 states that double poles were allowed to accumulate because the 2004
20 rate case did not provide funding for the transfer of equipment to a new
21 pole.

22

1 Q. Are you recommending an adjustment to projected expense for the
2 Double Wood Program?

3 A. Yes. Because there appears to be uncertainty as to what the real test
4 year cost is and because the Company allowed the double pole problem
5 to occur and grow, I am recommending that the Company be provided the
6 \$2.108 million that they have represented to be the 2007 test year
7 expense. A reduction of \$540,000 is recommended.

8

9 Q. What is the total adjustment to the Company's request for Storm
10 Hardening & Response cost?

11 A. The total adjustment for the programs discussed above is a reduction of
12 \$1.283 million of non-labor costs, \$801,000 of escalation and \$275,000 of
13 labor costs.

14

15 Process Improvement

16 Q. Are there any concerns with the Process Improvement program request?

17 A. The Company is requesting an increase of \$4.955 million above the
18 comparable test year expense of \$9.131 million for the fourteen programs
19 listed on Exhibit__(IIP-7). I will identify some concerns that were noted.
20 The Engineering Contractor – Vendor Layouts program includes an
21 increase of \$221,000 for non-labor costs associated with the addition of 12
22 engineering technicians. The projected expense is the same that was
23 requested and allowed in Case 07-E-0523. However, the Company has

1 not filled all the positions that were planned. That means the associated
2 cost increase is not justified.

3 Another concern is with the Enhanced Project Planning program.
4 The Company is requesting an increase of \$1.536 million over the test
5 year expense of \$7.822 million. The program requirements provided by
6 the Company on Exhibit__(IIP-25) suggest that eight additional positions
7 are required. The response to CPB IR 84f shows that since December
8 2007, the employee count has declined by two positions.

9 Finally, another concern is that the Technical Support /NYC
10 Regulatory Liaison Program and the Field Auditing & Quality Control
11 Program were approved for \$376,000 and \$563,000, respectively in Case
12 07-E-0523. The respective costs were projected to continue at the level
13 beyond rate year 2009. Now the Company is estimating that the costs for
14 rate year 2010 for the Technical Support /NYC Regulatory Liaison
15 Program and the Field Auditing & Quality Control Program will be
16 \$220,000 and \$394,000, respectively. To the extent that the new
17 estimates represent the true cost of the programs, ratepayers are currently
18 paying in excess of what is required for those programs. The point is that
19 the Company's filing is overly optimistic throughout. It assumes that
20 employees will be added and vacancies won't occur. It asks for non-labor
21 funding without substantiating the estimates with supporting
22 documentation.

23

1 Q. Are you recommending an adjustment to the Company's Process
2 Improvement program request?

3 A. Yes. The Company is requesting an increase of \$4.955 million above the
4 test year expense, with \$3.287 million of the increase attributed to labor.
5 Because the Company has failed to fill the positions allowed in Case 07-E-
6 0523 and has assumed there are no vacancies, I am recommending that
7 the labor request be reduced by 50% or \$1.643 million.

8

9 FACILITIES EXPENSE

10 Q. Please summarize the Company's request regarding projected facilities
11 expense.

12 A. The Company's Shared Services Panel has reflected the proposed rate
13 year O&M expenses for facilities and security on Exhibit__ (SSP-2),
14 Exhibit__ (SSP-3), Exhibit__ (SSP-4) and Exhibit__ (SSP-5). The test
15 year costs for the various programs are \$9.295 million and the requested
16 expense level is \$33.167 million. The increase of \$23.872 million is
17 significant.

18

19 Q. What is driving the increase in costs for facilities?

20 A. The Company is having to undergo significant renovations of its facilities
21 to comply with local building requirements. While some costs are being
22 capitalized, others are being expensed. Based on the Company's
23 arguments in Case 07-E-0523 and the information supplied in this case,

1 there are differences of opinion on whether some of the costs the
2 Company is expensing could instead be capitalized. For example, the
3 DPS Staff in DPS IR 343 asked for an explanation as to why Local Law 11
4 costs could not be spread over more than a single rate year. The
5 response suggested that in accordance with Generally Accepted
6 Accounting Principles ("GAAP") the amounts expended are expensed as
7 they are incurred. The response continues by stating that in rate filings,
8 the Company "expects" to record these costs in the year when they are
9 incurred. I believe the operative word is "expects." There are a number of
10 factors that apply when asserting that something is done in accordance
11 with GAAP. One factor is the Company's expectations. Judgment is also
12 part of GAAP and may, of course, differ among parties.

13 In my opinion, a significant portion of the facility costs could be
14 capitalized under two different scenarios. First, a basic concept of GAAP
15 is that when a significant amount of expenditures are made that will
16 extend the life of an asset and/or provide a benefit over future periods, the
17 cost should be capitalized. My opinion is the costs should be capitalized
18 and amortized over the periods in which the benefits occur.

19 Second, Con Edison and the Commission can make use of the
20 special rules of Financial Accounting Standard 71 ("FAS 71"), which is
21 specific to regulated industries and has been utilized by utilities and
22 regulatory agencies for years to account for costs differently than in
23 unregulated operations. Utilities often use FAS 71 to recover unusual

1 costs incurred between rate cases that otherwise would be expensed.
2 Prime examples are unusual storm costs and recovery of accounting
3 changes that unregulated entities would be required to write-off
4 immediately. The Commission could use tools made available under FAS
5 71 to require facility costs to be deferred for recovery and amortized to
6 ratepayers over a period of time.

7

8 Q. Are there other concerns with the Company's request?

9 A. Yes. The increase in projected expense is for costs incurred as the result
10 of capital projects that will provide improvements to facilities that will be
11 used over a period of time. Some costs are for improvements to the
12 property that one would expect to be capital costs. It is not appropriate to
13 establish rates with one-time costs. If rates are set that include the costs
14 in question and they are not adjusted after the year the project is
15 completed, ratepayers will continue to pay costs that the Company is no
16 longer incurring. This is a significant consideration when the projected
17 expense requested is three and one-half the times the historical expense
18 level.

19

20 Q. What is your recommendation regarding Exhibit__ (SSP-2)?

21 A. The \$10.610 million of program change cost identified on Exhibit__ (SSP-
22 2) that are associated with the work performed at Corporate Headquarters

1 includes costs that should either be capitalized, or deferred and written off
2 over an extended period of time.

3 The first concern is with the Air Quality Improvements of \$924,000.
4 The increase of \$763,000 over the test year is significant and includes the
5 removal of mold and insulation. Under EITF No. 90-8, costs to mitigate or
6 prevent environmental contamination that improve the property should be
7 capitalized. The Company in response to CPB IR 113 confirmed that
8 environmental containment is a part of this project; however, since
9 sufficient information is not available, I am not adjusting the Company's
10 request for Air Quality Improvements at this time.

11 Next, Local Law 10-11 includes environmental costs (i.e. caulk
12 removal) that will mitigate or prevent contamination. As stated above, the
13 Company could defer these costs and amortize them over the future
14 periods in which benefits from the project will be received. I am
15 recommending that the costs for Local Law 10-11 be deferred, including
16 the projected costs for the next two years, and that the current year's
17 costs be amortized over a five-year period. This would reduce the current
18 years expense \$800,000 ($\$1 \text{ million} / 5 = \$200,000$ allowed). An
19 adjustment of \$649,000 ($\$800,000 \times 81.14\%$) million is required for electric
20 operations.

21 The cost of the Building Infrastructure Restoration Programs total
22 \$1.288 million in the rate year. The Company testifies that the life
23 expectancy of assets is being approached and that upgrading the assets

1 will ensure continual operation and use of the facilities. If the costs
2 increase the life expectancy of the assets, the costs should be capitalized.
3 I am only recommending that the Cooling Towers Restoration cost of
4 \$630,000 be amortized over five years, reducing the Company's request
5 \$504,000. An adjustment of \$408,946 ($\$504,000 \times 81.14\%$) million is
6 required for electric operations.

7 I also recommend an adjustment to the cost projection for floor
8 renovations. The cost associated with the relocation of employees in the
9 rate year is \$7.655 million compared to \$226,000 in the test year 2007. In
10 reviewing the response to CPB IR 113, I am of the opinion that the \$4.895
11 million ($\$5.76 \text{ million} - \0.865 million) of construction costs and furniture
12 are capital costs and should be excluded from O&M expense. An
13 adjustment of \$3.972 million ($\$4.895 \text{ million} \times 81.14\%$) is required for
14 electric operations.

15

16 Q. What is your recommendation for Exhibit__ (SSP-3)?

17 A. The \$11.761 million of program change cost identified on Exhibit__ (SSP-
18 3) is associated with other capital work performed at other locations. I
19 have the same concerns regarding the various programs but my primary
20 concern is the rent increase from \$6.75 million in the test year to \$16.317
21 million in the rate year. First, the white paper for the rent and tax increase
22 shown on Exhibit__ (SSP-3), page 8 of 9, indicates that the cost is \$8.317
23 million not the \$16.317 million included in the Company adjustment. The

1 response to CPB IR 114 requested detail on the \$8.317 million on
2 Exhibit__ (SSP-3), page 8 of 9, and the information supplied suggests that
3 the \$8.317 million amount is correct. The additional \$8 million is not
4 supported by the filing and should be adjusted. An adjustment of \$6.491
5 million ($\$8.0 \times 81.14\%$) is required for electric operations.

6

7 CUSTOMER OPERATIONS

8 Q. Did you review the Company's request regarding Customer Operations?

9 A. Yes. A review was made of the testimony, exhibits and workpapers of the
10 Customer Operations ("CO") Panel, as well as the Panel's responses to
11 information requests. Based on my analysis, I am recommending an
12 adjustment of \$447,169 to the Company's proposal (\$274,000 for CSRs
13 and \$173,169 of escalation). The requested increase of \$5.524 million, as
14 shown on CPB Exhibit__(LA-1), Schedule 9, is driven by the requested
15 increase for Customer Service Representatives (Exhibit__ (CO-10)),
16 Customer Field Representatives (Exhibit__ (CO-18)), the Competitive
17 Market Customer Service System (Exhibit__ (CO-14)) and the Bill
18 Redesign (Exhibit__ (CO-16)).

19

20 Q. Are there some concerns that you have identified from your review?

21 A. Yes. As I indicated previously in this testimony, Con Edison's proposal to
22 add 18 Customer Service Representatives ("CSRs") has been eclipsed.
23 The Company was provided funding for an additional 18 CSRs in Case

1 07-E-0523 and has hired those 18 plus at least another 29 CSRs since
2 January 2007. Based on the response to CPB IR 92b, the 2006 test year
3 in Case 07-E-0523 included an average of 549 CSRs, and the 2007 test
4 year had an average of 557 CSRs, indicating an average addition of 8
5 CSRs. The Company now requests full ratepayer funding for 18 CFR's as
6 if none were added after the 2006 test year. In my opinion, the request
7 duplicates approximately 8 positions that were added positions since 2006.
8 Proportionately, the Company's request should be reduced at least
9 \$274,000 ($\$651,000/19$ requested including a supervisor, yields a per
10 CSR cost of \$34,263. Therefore, the total cost of the 8 CSRs added in
11 2007 is \$274,000.)

12 I also recommend an adjustment to the Company's Bill Redesign
13 request. Based on the supporting documentation supplied in response to
14 CPB IR 93, the increase in costs reflects projected dollars using
15 forecasted costs per unit. Since the Company also escalates the cost of
16 this project for projected inflation, it has essentially double-counted the
17 effects of inflation. To be appropriate, an escalation factor should be
18 applied to 2007 costs. Based on the Company's response to the
19 information request, the approximate increase in the cost of envelopes is
20 15.7% over the "current cost" per unit. Therefore, I am recommending
21 that the escalation of 5.19% or \$173,169 ($\$3,336,594 \times 5.195\%$) not be
22 allowed.

23

1 STEAM OPERATIONS

2 Q. Did you review the Electric Production Panel's testimony and exhibits?

3 A. Yes. The Electric Production Panel has requested an increase of \$10.898
4 million for steam operations. This includes the following major cost
5 increases: \$2.6 million for major maintenance; \$2.5 million for Unit 6
6 turbine rewind; \$350,000 for boiler cleaning; \$2.244 million for gas turbine
7 inspections and repairs; and, \$2.94 million for facilities maintenance, stack
8 painting and repair.

9

10 Q. Do you have any concerns with the Company's request?

11 A. Yes. Con Edison was requested in CPB IR 91 to provide supporting
12 documentation for the boiler cleaning, the gas turbine maintenance and
13 the facilities maintenance, but did not provide the requested support.
14 Instead, an explanation was provided that the estimate was based on
15 experience and a contract estimate; however, that contract estimate was
16 not provided.

17 Another concern is that the request appears inconsistent with the
18 Company's actual spending in the current rate year. In Case 07-E-0523,
19 Con Edison requested and was allowed a total of \$585,000 for boiler
20 cleaning and \$2.969 million for gas turbine work, an increase over the test
21 year of \$350,000 and \$2.244 million, respectively. The problem is that
22 Con Edison's 2008 budget, which encompasses 75% of the rate year
23 ending March 31, 2009, has only \$200,000 budgeted for boiler cleaning

1 and \$1.689 million budgeted for the gas turbine work. One would expect,
2 that based on what the Company requested, there should be a higher
3 expense budget for 2008. Therefore, it appears the Company's estimates
4 in Case 07-E-0523 were overstated or there is no longer a plan to expend
5 the money at the level intended. In the current rate case, the Company
6 has asked for the same increases, although Con Edison claims that the
7 \$350,000 for cleaning is for a different unit and the \$2.244 million for gas
8 turbine repairs is for the second year of a three-year maintenance plan.
9 The problem is that there is no evidence that the Company will spend the
10 amounts requested.

11 In addition, the cost requested is not reflective of historical
12 spending. The 2010 boiler cleaning request of \$474,000 exceeds the
13 \$359,000 that was spent in 2006 and 2007, combined. The \$4.225 million
14 requested for overhauls in 2010 exceeds the \$2.939 million that was the
15 total actual expense for 2006 and 2007, combined. The same concern
16 applies to the requests for gas turbine maintenance and facilities
17 maintenance.

18 One other concern is that the Company's filing is either inconsistent
19 with the purported supporting exhibits or the filing includes incorrect
20 amounts. For example the Exhibit__(EEP-2) pages 2, 3, 4 and 6 rate year
21 funding amounts match the Company's request. But Exhibit__(EEP-2)
22 pages 5, 7 and 8 match the increases requested and not the total rate
23 year funding requested.

1 Q. Did you voice similar concerns with the projected costs in Case 07-E-
2 0523?

3 A. Yes. The ALJ and the Commission stated that the Company's testimony
4 adequately supported its request. I recommend that the Commission
5 require hard evidence in this case and not rely solely on the Company's
6 unsupported testimony.

7 On CPB Exhibit__(LA-1), Schedule 10, I have summarized some
8 relevant historical and budget information. The response to CPB IR 13a in
9 Case 07-E-0523 provides three years of historical costs and the 2007
10 budget for seven of the major program costs. The 2007 actual amounts
11 and the requested amounts on my exhibit are from the Company's filing.
12 These data demonstrate that the boiler cleaning request of \$474,000 has
13 not been achieved in any of the previous four years. Similarly, the gas
14 turbine maintenance request of \$2.889 million has not been achieved in
15 any of the previous four years. The Company's request for six of the
16 seven programs exceeds the four-year average expense for that program.
17 Overall, in 2007, Con Edison budgeted \$16.03 million for the seven major
18 programs and expended \$12.602 million, with only one program being
19 over budget.

20 The other fact that the Commission should consider is that the
21 Company was requested in CPB IR 91 to provide supporting
22 documentation for three of the programs, identified earlier, with a

1 projected total cost of \$7.358 million, yet no supporting documentation
2 was provided.

3

4 Q. Are you recommending an adjustment to the requested increase in
5 expense for Electric Operations by the Electric Production Panel?

6 A. Yes. The facilities maintenance request of \$3.995 million is considered
7 excessive. As shown on CPB Exhibit__(LA-1), Schedule 10, the four-year
8 average amount expended was \$2.494 million. I am recommending that
9 the Company's request be reduced \$1.501 million to the historical average
10 of \$2.494 million, due to the absence of supporting documentation that
11 would justify an expenditure level in excess of the historical spending.

12 I am also recommending that the boiler cleaning request of
13 \$474,000 million be reduced \$274,000 to the amount budgeted for each of
14 the years 2007 and 2008. That \$200,000 is approximately the four-year
15 average expense of \$209,000. This adjustment is warranted since the
16 Company failed to provide the requested supporting documentation for the
17 expense and there is no evidence that Company will spend in excess of
18 what is budgeted and/or historically spent.

19 The request for \$7.293 million for major maintenance is considered
20 questionable. The Company requested \$7.442 million in the last case and
21 budgeted \$7.5 million for 2008 which suggests that the estimate may be
22 reasonable. However, the Company budgeted \$7.5 million in 2007 but
23 only spent \$4.693 million. Based on the facts that over the last four years

1 the average expended for major maintenance was \$4.44 million and the
2 Company only spent \$4.693 million in 2007 when \$7.5 million was
3 budgeted, I am recommending a reduction of \$2.293 million to the
4 Company's request of \$7.293 million, resulting in a recommended
5 expense of \$5.000 million. That recommended expense exceeds both the
6 2007 spending and the four-year historical average expense.

7 Finally, the increase of \$2.500 million to a total request of \$4.225
8 million for scheduled overhauls should be reduced. Historically, the
9 Company has spent on average \$2.012 million for scheduled overhauls.
10 In 2007, the Company budgeted \$3.675 million but only expended \$1.725
11 million. The 2008 budget is \$1.605 million. The historical average is
12 representative of spending for scheduled overhauls and an adjustment of
13 \$2 million would reduce the request to \$2.225 million, an amount that
14 exceeds the 2007 spending and the average spending but is more
15 reasonable than an unsupported \$4.225 million.

16 Overall, the Electric Production Panel's request for Steam
17 Operations should be reduced a total of \$6.068 million.

18

19 INTERFERENCE COSTS

20 Q. What is the Company requesting for Interference O&M costs in the rate
21 year?

22 A. The Company originally requested that the test year non-labor expense of
23 \$51.482 million be increased by \$44.748 million for a total request of

1 \$96.230 million, an increase of approximately 87%. The Company's
2 update reduced that request by \$2.764 million, to \$93.466 million,
3 resulting in an increase of approximately 82% over spending in the test
4 year.

5

6 Q. How was the Company's estimate determined?

7 A. Con Edison estimated interference costs of \$77.663 million excluding
8 Lower Manhattan, and for \$13.849 million for Lower Manhattan, and then
9 escalated those costs by \$4.747 million for projected inflation. The
10 Company's estimate for interference costs, excluding Lower Manhattan, is
11 based on a formula and New York City's Commitment Plan for capital
12 expenditures. The formula in this case is the same as used in Case 07-E-
13 0523, but the methodology for some of the factors within the formula have
14 been modified. One modification is the use of the City's January
15 Commitment Plan instead of its Capital Commitment Plan as explained in
16 the response to CPB IR 75. The use of the different commitment plan
17 resulted in an increase in the Company's cost estimate. The Company
18 increased this factor even more as explained in the response to DPS IR
19 249.

20

21 Q. What are your concerns with this estimate?

22 A. The City's Commitment Plan for capital expenditures is
23 uncharacteristically high in comparison to historical levels. Based on a

1 comparison of the annual commitment amounts for a specific time period,
2 the passage of time can impact the estimated commitment significantly.
3 For example, the City Commitment Plan for 2009 increased from \$1.337
4 billion in Case 07-E-0523 to \$1.91 billion in this case. Another concern,
5 which I also voiced in Case 07-E-0523, is that the initial request of \$96.23
6 million for the rate year is significantly higher than the five-year average
7 actual cost of \$57.958 million.

8 The amounts requested by Con Edison are based on an estimate
9 of costs by New York City and assume that the City will complete a far
10 larger number of projects than it has historically. This concern is
11 compounded by the fact that in 2006 and 2007, actual expenditures on a
12 percentage basis were significantly less than the budgeted amount based
13 on the City's Commitment Plan.

14

15 Q. What was decided in Case 07-E-0523 with respect to your concerns?

16 A. The ALJ and the Commission both stated my reliance on historical results
17 was not sufficient. However, the ALJ made reference to the fact that the
18 2006 results were out of line with previous periods and absent a
19 demonstration that my recommendation was more reasonable, the DPS
20 Staff/Company estimate should be used.

21

22 Q. Why should the Commission give your recommendation further
23 consideration in this proceeding?

1 A. The projected increase in interference cost is again significant. As shown
2 on CPB Exhibit__(LA-1), Schedule 11, the 2002-2005 actual expenditures
3 by the Company ranged from 91.06% to 122.33% of the budgeted amount
4 that was based on the City's Commitment. In 2006, that actual expense
5 as a percentage of budget decreased significantly to 74.16%. In 2007,
6 actual expenditures were 78.16% of budget. For 2008, data through June
7 30 show that spending is 38.66% of the annual budget, which is
8 equivalent to 77.32% at an annualized rate. The significant deviations
9 from projected expenditures for the years 2006-2008 year to date should
10 not be ignored.

11

12 Q. What about the Commission's decision to return for the benefit of
13 ratepayers, any portion of the approved amount that is not spent for
14 interference projects?

15 A. I am in full agreement with that determination. However, rates should not
16 be established based on inflated costs, particularly in consideration of the
17 magnitude of the requested rate increase, the price of electricity and
18 today's challenging economy. Further, ratepayers should not be
19 responsible for providing working capital to the Company in advance
20 without receiving any credit for the advance of funds. The increase in
21 projected interference expense is significant and until the Company can
22 show that interference expenses will in fact increase to the level requested,
23 a lower, more realistic amount should be reflected in rates. In Case 07-E-

1 0523, the Company was allowed \$92 million and in the first 3 months of
2 that rate year April 1, 2008 through June 30, 2008, Con Edison spent
3 \$17.276 million (DPS IR 442), \$69.104 million at an annualized rate, or
4 \$22.896 million less than what was authorized.

5

6 Q. What adjustment should be made to the Company's request for
7 interference costs?

8 A. I recommend that the initial Interference cost request of \$96.23 million be
9 reduced \$22.66 million to \$73.57 million, based on the average of the
10 2006 and 2007 actual-to-budget data. The \$73.57 million amount is
11 approximately 27% more than the Company's average actual interference
12 expense of \$57.958 million for the years 2003-2007.

13

14 ESCALATION

15 Q. Are you taking exception to the escalation applied by the Company in
16 projecting its rate year costs?

17 A. Yes. Some costs should be escalated to reflect projected inflation.
18 However, some projected costs should not be escalated. In addition,
19 some costs may be subject to inflation, but because the costs fluctuate
20 from year to year, the application of an escalation factor is not appropriate.

21

22 Q. What costs should not be escalated?

1 A. Interference costs are based on projections, and escalating those
2 projections would effectively double-count inflation. My Interference
3 adjustment already removed 23.5% of the \$4.747 million projected
4 escalation for interference, or \$1.116 million. The remaining \$3.631
5 million should also be excluded from cost of service.

6 Next, I question the appropriateness of escalation on injuries and
7 damages expense. Injuries and damages fluctuate from year to year and
8 there is no evidence that the costs vary from year to year based on
9 inflation. That expense is not tied to inflation like materials and supplies.
10 No justification exists for escalating that projected expense. A reduction of
11 \$2.069 million to the Company's projection should be made.

12 As shown on CPB Exhibit (LA-1), Schedule 1, that would result in a total
13 reduction for escalation of \$6.674 million.

14

15 Q. Does this complete your prefiled testimony?

16 A. Yes, it does.