

September 29, 2008

VIA E-MAIL AND HAND DELIVERY

Hon. Jaclyn Brilling
Secretary
State of New York Public
Service Commission
Three Empire State Plaza, 14th Floor
Albany, New York 12223-1350

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

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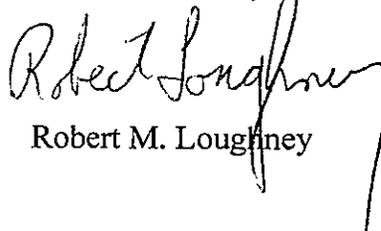
Dear Secretary Brilling:

Pursuant to your instructions, enclosed is the following for filing in the above-captioned proceeding: the Rebuttal Testimony and Exhibit of Dr. Alan Rosenberg filed on behalf of the City of New York and the Metropolitan Transportation Authority and The Port Authority of New York and New Jersey. Copies of the aforementioned Testimony and Exhibit are being served via e-mail and regular mail on all active parties.

Please have the extra copy of the testimony time-stamped and returned to our messenger. Please call me if you have any questions.

Very truly yours,

COUCH WHITE, LLP



Robert M. Loughney

RML/slg
Enclosures

cc: Hon. Howard A. Jack (via e-mail and hand delivery; w/enc.)
Hon. Gerald L. Lynch (via e-mail and hand delivery; w/enc.)
All Active Parties (via e-mail and U.S. Mail; w/enc.)

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Before the
New York Public Service Commission

Case No. 08-E-0539

**CONSOLIDATED EDISON COMPANY
OF NEW YORK**

Rebuttal Testimony of

Dr. Alan Rosenberg

On Behalf of

**The City of New York
and
The Metropolitan Transportation Authority
and
The Port Authority of New York and New Jersey**

September 29, 2008
Project 9000



BRUBAKER & ASSOCIATES, INC.
CHESTERFIELD, MO 63017

Before the
New York Public Service Commission

CONSOLIDATED EDISON COMPANY OF NEW YORK

Case No. 08-E-0539

Rebuttal Testimony of Dr. Alan Rosenberg

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Before the
New York Public Service Commission
CONSOLIDATED EDISON COMPANY OF NEW YORK
Case No. 08-E-0539

Rebuttal Testimony of Dr. Alan Rosenberg

1 Introduction/Summary

2 Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3 A My name is Dr. Alan Rosenberg. My business address is 16690 Swingley Ridge
4 Road, Suite 140, Chesterfield, MO 63017.

5 Q ARE YOU THE SAME DR. ALAN ROSENBERG THAT PROVIDED DIRECT
6 TESTIMONY IN THIS CASE?

7 A Yes, I am.

8 Q ON WHOSE BEHALF ARE YOU TESTIFYING?

9 A I have been retained by the City of New York (City or NYC), the Metropolitan
10 Transportation Authority (MTA) and The Port Authority of New York and New Jersey
11 (Port Authority) (collectively, "NYC Governmental Customers") to review certain
12 aspects of Consolidated Edison Company of New York's (Con Edison or the
13 Company) filing to raise electric rates, which is the subject of this proceeding.

1 **Q WHAT IS THE SUBJECT MATTER OF YOUR REBUTTAL TESTIMONY?**

2 A This testimony contests the proposal of Staff witness Liliya Randt to give the NYPA
3 class an increase that is greater than the system-average increase. I will also
4 respond to the recommendation of Messrs. Ronald Liberty and Frank Radigan,
5 witnesses for the County of Westchester (COW), to initiate a special study to
6 determine whether a separate delivery rate for Westchester is warranted. The
7 reasons given for this special study are not compelling, and I see little to gain from
8 such a study at the present time.

9 **Rebuttal of Staff Witness Randt**

10 **Q DO YOU TAKE EXCEPTION TO ANY OF MS. RANDT'S RECOMMENDATIONS?**

11 A Yes. While Ms. Randt's revenue allocation proposal is an improvement over Con
12 Edison's, she still proposes to add an extra \$6.7 million to NYPA revenues (and
13 subtract the same amount from Con Edison full service and retail access classes)
14 prior to spreading the T&D increase. As I noted in my direct testimony, because Ms.
15 Randt adopted Con Edison's methodology for allocating the revenues among the
16 classes, Staff's extra allocation to the NYPA class would exceed \$6.7 million.

17 **Q WHAT IS THE BASIS FOR MS. RANDT'S PROPOSAL?**

18 A As far as I can tell, Ms. Randt relies solely on the 2005 ECOS study filed by Con
19 Edison in the last case. Specifically, the Staff reasoning on this issue is as follows:

- 20 ➤ The 2005 ECOS (at rates prior to the currently effective rates) indicated that
21 the NYPA class had a \$21.8 million deficiency in revenues.
- 22 ➤ The 2008 Rate Order (which forms the basis for current rates) "recognized" a
23 deficiency of \$15.1 million.
- 24 ➤ \$21.8 million less \$15.1 million equals \$6.7 million.

1 ➤ Ergo, NYPA revenues should be increased by \$6.7 million before allocating
2 the increased revenue requirement in a uniform manner.

3 **Q WHAT IS THE BASIS FOR YOUR OBJECTION?**

4 A First, implicit in the Staff recommendation is the premise that a 15% tolerance band is
5 still appropriate to use in conjunction with a 2005 ECOS. I do not believe that is
6 reasonable. Second, Staff appears to implicitly assume that, under current rates
7 (which are not the rates in the 2005 ECOS that Staff relies upon), the NYPA class
8 would still exhibit a \$6.7 million deficiency at a 15% tolerance band. That is an
9 incorrect assumption. Third, Staff's proposal will result in more than a shift of \$6.7
10 million in revenues to the NYPA class.

11 **Q WHY IS A 15% TOLERANCE BAND NOT APPROPRIATE FOR USE IN**
12 **CONJUNCTION WITH THE 2005 ECOS?**

13 A In the last rate case, Staff recommended the use of a 15% tolerance band for the
14 2005 ECOS because of concerns with the low tension demand allocator. However,
15 the 2005 ECOS has even less relevance to the rate year in question in this
16 proceeding. Ms. Randt seemed to recognize the problems:

17 In this case, the Company did not submit a new ECOS. The Staff
18 concerns that were identified in the last electric case still exist. **In**
19 **addition, the Company's 2005 ECOS study is now a year older, it**
20 **does not reflect the significant capital expenditures that the**
21 **Company has made over the last three years since the study was**
22 **conducted; and it relies upon a dated class demand study.**

23 (Randt Testimony, page 9, emphasis added). Despite this, Ms. Randt
24 recommends the use of a 15% tolerance band again.

25 As I explained in my direct testimony, the less reliable a cost of service study
26 is, the wider should be the tolerance band that is used. If the Staff thought that a

1 15% band was appropriate in the last case, given the increasingly outdated nature of
2 the 2005 ECOS that is used again here, a tolerance band larger than 15% should be
3 used in this proceeding.

4 **Q IS IT CORRECT TO ASSUME, AS MS. RANDT DID, THAT, UNDER CURRENT**
5 **RATES THE NYPA CLASS WOULD STILL EXHIBIT A \$6.7 MILLION DEFICIENCY**
6 **AT A 15% TOLERANCE BAND?**

7 A That is an incorrect assumption because the evidence in this case shows that not to
8 be true. Based on the ECOS submitted by Con Edison in response to Staff IR DPS-
9 245, which updated the 2005 ECOS for current rates, but nothing else, when a 15%
10 tolerance band was applied to that study the NYPA "deficiency" was reduced to only
11 \$5.5 million (Ms. Randt concedes this point in response to Information Request No. 7
12 from the City, which I have attached hereto as Ex. AR-2). Moreover, as I showed in
13 my direct testimony (pages 11-12), even if we only updated the study provided in
14 response Staff IR DPS-245 for changes in projected class-by-class sales (i.e., leaving
15 aside the remarkable increases in rate base and O&M that have not been reflected
16 anywhere), the "deficiency" ceases to exist.

17 **Q WHAT REVENUE SHIFT WILL RESULT FROM STAFF'S PROPOSAL?**

18 A Ms. Randt's proposal would result in the NYPA class receiving an revenue shift of
19 greater than \$6.7 million increase, or \$7.9 million in Rate Year 1 (assuming full rate
20 relief for Con Edison). This is because Ms. Randt uses the same flawed method that
21 Con Edison used to allocate to revenues among the classes (see my direct testimony
22 at pages 3-4).

1 Q THERE IS A DIFFERENCE OF OPINION ON WHETHER THE NYPA CLASS
2 SHOULD PARTICIPATE IN THE TCC OFFSETS TO TRANSMISSION COSTS. IF
3 THE NYPA CLASS SHOULD PREVAIL IN ITS POSITION, HOW WOULD THAT
4 IMPACT THE REVENUE ALLOCATION IN THIS CASE?

5 A If the Commission were to decide that issue in NYPA's favor, the NYPA class should
6 receive a commensurately smaller increase in comparison to a uniform
7 across-the-board increase.

8 **Rebuttal of COW Witnesses**

9 Q TO WHICH COW PROPOSAL DOES YOUR REBUTTAL TESTIMONY RESPOND?

10 A This testimony rebuts the suggestion of COW witnesses Radigan and Liberty that the
11 PSC direct that a special study be instituted with the purpose of establishing separate
12 and distinct rates for the County of Westchester.

13 Q HAVE THE COW WITNESSES EXPLAINED HOW THEY PROPOSE TO GO
14 ABOUT ESTABLISHING A SEPARATE DELIVERY RATE FOR WESTCHESTER
15 AS OPPOSED TO THE FIVE BOROUGHES?

16 A No, they do not explain how the study should be performed. Presumably, they would
17 want to partition Westchester as a distinct class in the Cost of Service Study. If that is
18 the goal of the "special study," it is not clear why the County could not perform such a
19 cost study itself. In any event, the witnesses give no indication of how to go about
20 analyzing the perceived inaccuracies in the present cost study.

21 Furthermore, I would note that Mr. Radigan was a member of the recent
22 collaborative effort to modify Con Edison's ECOS methodology, and made a
23 presentation to the group. However, Mr. Radigan made no specific recommendations

1 on why or how the ECOS should be modified to establish a separate and distinct rate
2 for Westchester.

3 **Q WHAT IS COW'S STATED RATIONALE FOR ESTABLISHING A SEPARATE**
4 **DELIVERY RATE FOR WESTCHESTER?**

5 A The COW witnesses cite several random differences between the Westchester
6 service territory and the NYC territory as alleged support for their request.

7 First, they claim that Con Edison's Low Tension distribution system is really
8 two systems, an underground system and an overhead system. They point out that
9 Westchester is served more heavily by the overhead system, while NYC is allegedly
10 served more heavily by the underground system.

11 Second, they note that NYC has a higher population density, per square mile,
12 than Westchester. They then note that Orange & Rockland (O&R) counties have
13 lower population densities than Westchester. They also note that O&R have lower
14 bills than Westchester. From this sparse "analysis" they "conclude" that Westchester
15 must be less costly to serve than NYC.

16 Third, they claim that "much" of the investment incurred by Con Edison is
17 attributable to the double contingency criteria established in the early 1960s. They
18 also claim that a larger proportion of NYC, as compared to Westchester, is in need of
19 new investment to meet reliability criteria.

20 Finally, they claim that a large portion of Con Edison's request for an increase
21 is attributable to NYC property taxes. They then assert that the Westchester
22 customers are paying more in property taxes (in their electric rates) than Westchester
23 is receiving in property taxes from Con Edison.

1 Q WHY DO YOU DISAGREE WITH COW'S RECOMMENDATION FOR A SPECIAL
2 STUDY?

3 A First, if we accept COW's rationale, then the Commission would need to consider
4 establishing separate rates for each of the five boroughs. In other words, many of the
5 same parameters (such as density or relative proportion of underground versus
6 overhead lines) that COW asserts distinguish Westchester from NYC also might
7 distinguish one borough from another. In other words, why stop at two separate Con
8 Edison rate zones when we could have six? Indeed, the same principles could be
9 applied to establish innumerable separate "rate zones" in other utility service
10 territories.

11 Second, the COW witnesses conveniently ignore other service characteristics
12 that may (or may not) demonstrate that Westchester is more expensive to serve than
13 NYC. I am referring to service characteristics such as service voltage level, load
14 factor, coincidence factor, and size of customer.

15 Third, several of the "distinguishing characteristics" noted by the COW
16 witnesses are not even recognized as cost-causative influences. In other words, it is
17 not even clear that the four factors that they do cite would support the conclusion that
18 there is a significant cost differential between Westchester and the City, at least
19 based on conventional cost of service methodology. I address each of the four
20 factors below.

21

22 Q PLEASE EXPLAIN THE FLAWS WITH THE FIRST FACTOR TO WHICH THE COW
23 WITNESSES CITE FOR SUPPORT FOR THEIR SPECIAL STUDY.

24 A COW alleges that Westchester is served by less underground service and more
25 overhead service, in comparison with NYC (page 30). COW has not demonstrated

1 that underground lines, per kW of capacity, are more costly than overhead lines.
2 Moreover, even if that were true, the Company employs the same allocator for both
3 overhead and underground low tension plant, on the grounds that the Con Edison
4 system is totally integrated. Thus, in order for COW's point to have any relevance, it
5 would first be necessary for the Commission to reject the Con Edison position on this
6 issue and require it to revise its allocation factors.

7 **Q PLEASE EXPLAIN THE FLAWS WITH THE SECOND FACTOR TO WHICH THE**
8 **COW WITNESSES CITE FOR SUPPORT FOR THEIR SPECIAL STUDY.**

9 A The witnesses cite to the fact that the Orange and Rockland (O&R) counties have a
10 lower density than either NYC or Westchester, and that O&R have significantly lower
11 rates than Con Edison (page 31). They then "conclude" that these purported
12 "statistics" demonstrate that lower density implies lower cost of service. Of course,
13 this loose comparison of two markedly different utility service territories does not
14 constitute anything close to a valid statistical analysis. While I agree with the COW
15 witnesses that "normally" higher density of customers would result in cost savings
16 (page 31), I do not agree that they have "statistically" demonstrated that not to be the
17 case here.

18
19 **Q PLEASE EXPLAIN THE FLAWS WITH THE THIRD FACTOR TO WHICH THE COW**
20 **WITNESSES CITE FOR SUPPORT FOR THEIR SPECIAL STUDY.**

21 A The third factor deals with the need for supposed greater reliability need in the NYC
22 area, because of the double contingency area, and thus the supposed greater
23 investment this necessitates (page 32). However, other than distinguishing between
24 firm and interruptible customers, I have never seen "reliability" play any role in a cost

1 of service study. The COW witnesses seem to be implying that some kilowatts of
2 demand should be counted more heavily than others. If so, I believe that would be a
3 novelty in cost of service analysis.

4 Moreover, as the witnesses note, the double contingency criterion was
5 established almost 50 years ago. In fact, it was in place in 1982, when a geography-
6 based cost of service analysis concluded that it cost more to serve Westchester than
7 NYC (see below). Clearly, other factors, such as customer density, can negate any
8 cost impact that may be attributable to the double contingency criterion.
9 Consequently, it is unclear why the witnesses are advocating this change now.

10 Finally, if we were to accept the concept of reliability as a pertinent parameter
11 in cost of service studies, we would have to extend that concept to differences
12 between classes of customers, and not just to differences between one location and
13 another.

14 **Q PLEASE EXPLAIN THE FLAWS WITH THE FOURTH FACTOR TO WHICH THE**
15 **COW WITNESSES CITE FOR SUPPORT FOR THEIR SPECIAL STUDY.**

16 **A** The witnesses claim that Westchester is being charged an inordinately high
17 proportion of property taxes in comparison with the amount of property tax that Con
18 Edison pays to Westchester (page 33). This observation, even if true, is totally
19 devoid of any relevance to cost of service. Electric rates are not intended to be a
20 "revenue" neutral mechanism with regard to property taxes. Property taxes, in every
21 cost of service study that I can recall, are always allocated to the various service
22 classes in proportion to the total book cost of plant allocated to each class. In other
23 words, property taxes are allocated in proportion to the value of the property being
24 taxed, the investment that is driving the taxes. That is the basis of a cost-causation

1 study. If you follow the COW witnesses' logic to its conclusion, no non-governmental
2 customer should be allocated property taxes because they do not receive any
3 property taxes. In addition, the County's argument ignores the strong likelihood that
4 there are more Con Edison common facilities (Irving Place; Energy Control Center;
5 etc.) located in the City that should be allocated to Westchester than the other way
6 around.

7 **Q IS THERE ANYTHING ELSE YOU WISH TO ADD ON THE SUBJECT?**

8 A Yes. The topic of possible differences in the cost of T&D between COW and the City
9 has been examined before. My understanding is that, as recently as 2003, the
10 Commission re-affirmed the conclusion from a 1982 DPS Staff cost study that
11 compared the cost of serving Westchester and the City and concluded that the
12 differences in T&D costs were too insignificant to warrant the creation of separate
13 distribution rate districts (Case 00-E-1208; Order Adopting Staff Proposal; dated
14 November 25, 2003). The COW witnesses in this case do not raise any new
15 evidence that could be expected to lead to a different conclusion.

16 **Q PLEASE SUMMARIZE YOUR RECOMMENDATION ON THE REQUEST FOR A**
17 **SPECIAL STUDY ON THE RELATIVE COST OF SERVING WESTCHESTER**
18 **VERSUS NYC.**

19 A I find that there is no basis in the record that the proposed study would lead to a
20 better alignment of rates and cost of service. Consequently, I urge the Commission
21 to reject the proposal of COW in this regard.

1 Q DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

2 A Yes.

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Case 08-E-0539- Con Edison Electric Rates

Staff Response to Interrogatory/Document Request

Request No.: 7
Requested By: NYC
Date of Request: September 16, 2008
Reply Date: September 19, 2009
Responding Witness: Liliya Randt
Subject:

Question 7:

Is it Ms. Randt's position that at current rates (i.e. the rates pursuant to the 2008 Rate Order), and based upon the 2005 ECOS allocation of rate base and expenses, that the NYPA class would exhibit a \$6.7 million deficiency at a 15% tolerance band. If so, please explain.

Answer:

No. Based on Company's response to Staff IR DPS-245, which provided the 2005 ECOS allocation of rate base and expenses at 2008 revenue levels and applying a 15 % tolerance band, the NYPA class exhibits a \$ 5.5 million deficiency.