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By: Fed Ex & E-Mail:
June 26, 2008

Hon. Jaclyn A. Brilling, Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case No. 07-S-1315 - Proceeding on the Motion of the Commission
as to the Rates, Charges, Rules and Regulations of Consolidated Edison
Company of New York, Inc. For Steam Service:

Dear Secretary Brilling:

Pursuant to the Ruling on Revised Schedule Issued June 17, 2008 enclosed please find an original and twenty-five copies of the County of Westchester's Comments in Opposition to the Joint Proposal.

If you have any questions, or require further information, please do not hesitate to contact me at (914) 995-3143 or at smg4@westchestergov.com.

Respectfully submitted,

Stewart M. Glass
Senior Assistant County Attorney

SMG:me
Encls.

cc: Hon. Michelle L. Phillips, Administrative Law Judge by Fed Ex & E-mail
All Active Parties by E-mail.

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Proceeding on Motion of the Commission as)
To the Rates, Charges, Rules and Regulations of)
Consolidated Edison Company of New York, Inc.) Case 07-S-1315
For Steam Service**

**COMMENTS IN OPPOSITION TO JOINT PROPOSAL
AS IT RELATES TO THE ALLOCATION
OF COSTS
BETWEEN THE STEAM SYSTEM & THE ELECTRIC SYSTEM**

June 26, 2008

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INTRODUCTION

The County of Westchester (the “County” or “Westchester”) submits these Comments in Opposition to the Joint Proposal (“JP”). The County specifically opposes those aspects of the JP relating to the “Allocation of ERRP Costs” (JP, D 6). This section of the JP calls for the continuation of the current allocation of costs of the East River Repowering Project (“ERRP”) between the Steam and Electric Systems through September 30, 2010. This aspect of the JP is not just, reasonable or in the public interest. The parties supporting the JP, and this provision in particular, consist mainly of entities that benefit¹ from the unjustified continued subsidy of the Steam System by the Electric System. It is uncontested, that each additional year this subsidy continues steam customers, including those entities that have signed and support this provision of the JP, benefit to the detriment of electric customers, including the businesses and residents in Westchester.

The key element considered by the Commission in its decision in Case 05-S-1376 as it related to this cost allocation issue was “ERRP’s limited operating experience”. An issue that the Commission expected would be able to be addressed “with the two additional years’ worth of data likely to be available when parties consider a new steam plan to take effect in October 2008”.² We now have the additional two years of data that the Commission wanted. It is incontrovertible that the data provides the parties and the Commission with a clear picture of the

¹ NYC benefits as a municipal customer – it uses approximately 10% of the Steam System’s output. The costs of ERRP that are collected from the Electric System are recovered through the MAC, Westchester customers pay approximately 12% of that cost while the City of New York itself does not pay any portion of the MAC, and therefore has every reason to argue for the continuation of the subsidy.

² Case 05-S-1376 – Proceeding on Motion of the Commission as to the .Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Steam Service, Order Determining Revenue Requirement and Rate Design, Issued and Effective September 22, 2006, pgs. 25-26.

inequities and impropriety of continuing the present system of “allocation of ERRP costs”.

Accordingly, there is no reason to delay consideration of this important issue and there is every reason to revise the cost allocation in this proceeding.

The County acknowledges that the JP does allow for a “detailed study” of the allocation of the ERRP costs between the Steam and Electric Systems. However, this is nothing more than window dressing to justify continuing the subsidy for a minimum of an additional two (2) years. In fact, it is not clear that the Company must recommend any changes consistent with the study and the parties to the JP reserve the right to contest any reallocation in the next rate case.

The facts, as demonstrated below, clearly show that there is a subsidy, that the subsidy has existed since ERRP started operations, the subsidy is not an anomaly or the result of “upfront” costs of operation, and there is sufficient evidence to justify the elimination or reduction of the subsidy without further delay.

The County also has concerns about the “Steam Resource Plan” (JP §L) as it appears to be forcing Con Edison to install a cogeneration plant at Hudson Avenue. The County does not want to see the same problems occur with such a plant as occurred with ERRP, costs substantially exceeding projections and the Electric System being forced to subsidize those costs.

BACKGROUND

It is uncontested that Con Edison’s electric customers, no matter where located, have been subsidizing steam rates since at least 1975, which increases the electric rates of those

customers. At various times, both the Commission and Con Edison have stated that the subsidy should be eliminated.

Con Edison, in compliance with a P. S. C. directive issued a report entitled "STEAM SYSTEM PLAN" dated April 15, 1998 in which it stated:

"While this cost allocation policy (referring to the policy adopted in Opinion 78-27) may be justifiable in a fully regulated environment it is not sustainable in a competitive environment. When electric production is fully deregulated, the revenues that any plant receives from electricity will be determined by the competitive market. Thus, costs now being charged to electric customers that are in excess of the prevailing market price of electricity would have to be reallocated to steam." STEAM SYSTEM PLAN dated April 15, 1998 p. 21

That plan, under a section entitled "Planning Objectives", listed as the first objective: "**Eliminating** the disproportionate cost allocation to electric ratepayers, (the "Subsidy") for the cost of steam-electric production." (*emphasis added*) STEAM SYSTEM PLAN dated April 15, 1998 p. 21

The current subsidy of ERRP, and therefore of the Steam System, by the Electric System should be discontinued. Steps should also be taken to assure that Con Edison does not repeat at other facilities, the mistakes it made at ERRP at the expense of the Electric System.

Prior to 1975, steam generation at steam-electric plants were treated as "incremental" to electric generation for ratemaking purposes due to the fact that cogeneration facilities were originally installed to permit steam sendout as a by-product of electric generation. By 1975, the Commission determined that a more equal sharing of costs between the two products was justified because steam had become the primary output, rather than the by-product. Accordingly, the Commission adopted a "proportional sharing" method of sharing of costs between the two systems in proportion to the cost of supplying each of the services separately. The Commission abandoned the proportional method to the detriment of the Electric System.

The Commission acknowledged as early as November 25, 1975 that the Steam System has changed “from a byproduct ... to a commodity which must be priced independently.” (Con Edison – Steam Rates, 14 NY PSC 1026, 1029) and restated in Case 26794 (Order dated November 25, 1975, p.2236) In the [1975] steam case, the Commission instituted a mechanism that proportionately shared the savings because “[i]n light of the change in steam from a byproduct to the primary output of the combined steam and electric stations, and the higher cost of future steam production, we find a more equal sharing of fuel and processing charges between the two products is required” (Case 26794, Consolidated Edison Company of New York, Inc., 15 NY PSC 2220) (Opinion 78-27, p.6)

Con Edison itself, previously acknowledged that steam is not a by-product but an independent commodity that must be priced independently.

The Steam Department’s rapid growth in net plant does not arise because of growth in load. Instead, it represents the natural result of **steam’s change from a by-product of electric generation to a commodity which must be produced and priced independently.** (*emphasis added*) (Case No. 26794, Petition of Con Edison, March 13, 1975, p.5)

When the Commission went back to the incremental approach it stated it was the safer approach to follow **in the short-run.** (*emphasis added*) (Opinion 78-27, p. 8) Sufficient time has elapsed and the subsidy must end now that we are in a competitive electric market. (Steam System Plan, April 15, 1998, p. 21)

Westchester’s concerns relate to the current and potential cross subsidization of the steam and electric departments in the semi-regulated environment. The term semi-regulated is used with care because even though Con Edison was directed to exit the generation business it was

allowed to re-power the East River station as a steam station with some electric generation. However, the primary purpose of ERRP, as shown by how it was designed, is to generate steam.

ALLOCATION OF COSTS
It is Time to Reallocate the Costs at ERRP

The current subsidy is larger than originally projected by Con Edison, which projection was relied upon by the Commission in reaching its original decision in Case 03-S-1672. Westchester raised the issue of the subsidy in Con Edison's last steam case, Case 05-S-1376. In that case, Westchester proved that the Electric System was subsidizing the Steam System by at least \$80 million per year due to the manner in which costs were allocated at ERRP. With this proof, Westchester urged the Commission to change the way ERRP costs were allocated between the two systems. It is important to note that if Con Edison didn't happen to own both the Steam and Electric systems there never would have been a subsidy, each system would have paid its own costs with the Steam System selling the electric output of ERRP at market rates.

In Case 03-S-1672, Westchester asserted that if there were to be any efficiencies or savings from the joint production of steam and electricity at ERRP they were not of the level that was being claimed and allocated to steam. Also in that case, the County challenged the cost allocations set forth in that JP, the same cost allocations that are being advocated in this case. Westchester challenged the allocation of costs because they transferred excessive costs to the Electric System; because they were not based on principals of cost causation; ignored the fact that production of steam was the controlling factor in siting and designing ERRP and challenged the assertion that an electric load pocket required the construction of ERRP at that precise location. Whether East River constitutes a load pocket or not is irrelevant to the allocation of

ERRP costs and does not justify continuing the present cost allocations. As shown below, it is necessary to adjust the cost allocations.

The subsidy of ERRP is larger than projected by Con Edison. In fact, it is substantially larger than the Commission was led to believe when it issued its decision in Case 03-S-1672. In fact, steam is provided from ERRP to the Steam System at a cost far below its cost at any other Con Edison facility and far below the cost that steam can be produced at any other steam plant.

The parties in support of the JP argue that all of the fuel consumed in the gas turbines should be allocated to electric production since, they argue, the gas turbines would have to be operated even if no steam were produced. However, they fail to take into account the issue of whether ERRP was designed to produce electricity as its primary product or whether it was designed with an unusually high heat rate to provide sufficient heat to produce steam, they also fail to consider whether it is necessary or appropriate to operate ERRP to produce electricity at certain times of the year, especially when the fuel costs allocated to the Electric System to produce that electricity substantially exceed the economic value of that electric output.

It is uncontested that there is sufficient electric capacity in the winter and therefore ERRP would not be required to run in the winter but to serve the Steam System. Therefore, it is hard for Con Edison to honestly state that ERRP is operating as an electric plant in the winter and it just happens to generate “free heat” for the Steam System. The question is, at what cost to the Electric System, a system that is seeing tremendous cost increases both in delivery and in

commodity. This fact should not and can not be ignored by Con Edison and the other parties, especially in light of the recently concluded electric case and the current electric case.

The direct testimony of Mr. Frank Radigan of the Hudson River Energy clearly demonstrated that the current method of allocating costs between Con Edison's Steam and Electric Systems results in the Electric System paying a disproportionate share of costs related to the operation of ERRP and therefore its customers end up subsidizing the Steam System.

In Case 05-S-1376, Westchester proved that the Electric System was subsidizing the Steam System by at least \$80 million per year because of the determination to allocate costs on a supposedly "incremental basis". However, the Commission determined to delay a decision on the issue of cost allocation at ERRP until the present case.

In this instance a major evidentiary deficiency is ERRP's limited operating experience (as compared, for example, with the two additional years' worth of data likely to be available when parties consider a new steam plan to take effect in October 2008). Moreover, the Joint Proposal's proponents have presented valid reasons to doubt that ERRP's brief operating experience to date is sufficiently representative to support a policy reappraisal, considering for example that a plant's start-up costs in the first year are likely to be atypical and that the market cost of fuel during the year in question was likely aberrant. Thus, even if Westchester's proposals might have merit in the abstract, on this record we can only conclude that they are premature because they cannot be evaluated adequately on the basis of ERRP's limited experience at this time.³

The parties now have the benefit of those two additional years and the facts as presented support the arguments of the County as they relate to the allocation of ERRP costs. As suggested

³ Case 05-S-1376 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Steam Service, Order Determining Revenue Requirement and Rate Design, Issued and Effective September 22, 2006, pgs. 25-26

by the Commission, Westchester analyzed almost two additional years worth of data from ERRP. A review of that information – even after adjusting for unsupported claims by Con Edison that some of the figures used by Westchester may contain some minor errors, establishes that the subsidy must be discontinued or, at the least, reduced. In fact, the figures used by Westchester’s witness were all Con Edison numbers [Tr. 2018, ll. 18-20] and even if there were any such “errors” they did not change the ultimate fact, that the fuel costs alone charged to the Electric System for the production of electricity at ERRP exceed the market value of the electricity produced. The facts in this case clearly demonstrates that the findings of the County in the last case were not premature, that the costs of fuel were not an aberration, and that the prior operating experience of ERRP was not atypical but rather an indication of the problems inherent in the policy decision to allocate costs in a supposedly “incremental” approach based on the claim that the steam produced⁴ was a by-product of the production of electricity. In truth, the plant was designed with an exceptionally high heat rate for an electric plant so that there was sufficient “free” heat for the production of steam.

The data provided by approximately two years of additional operating experience at ERRP clearly confirms the findings established by Westchester in the last Steam Case, that decisions were made to the detriment of the Electric System in the selection of the design for ERRP and allocation of costs. The design of the plant made it uneconomic in the competitive retail electric market place. It has been clearly demonstrated in the electric marketplace that new

⁴ Even Con Edison’s own witness could not determine why the line losses were higher than average. Con Edison may try to confuse the issues by arguing that line losses were shown to be 13% and may actually be closer to 6 or 7% but that does not change the fact that those figures were supplied by Con Edison, nor does it change the end result, that ERRP was designed for and is being run for the benefit of the steam system at a detrimental cost to the electric system.

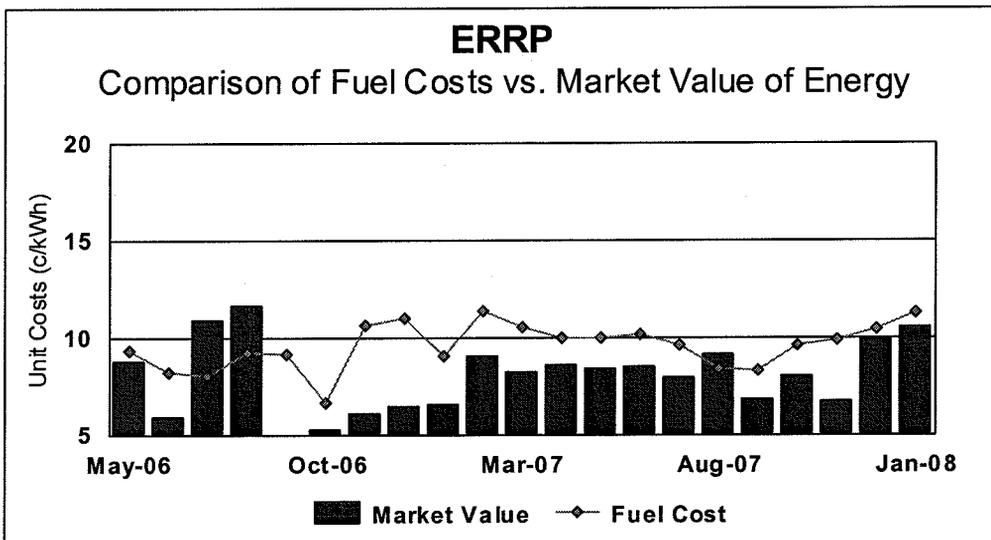
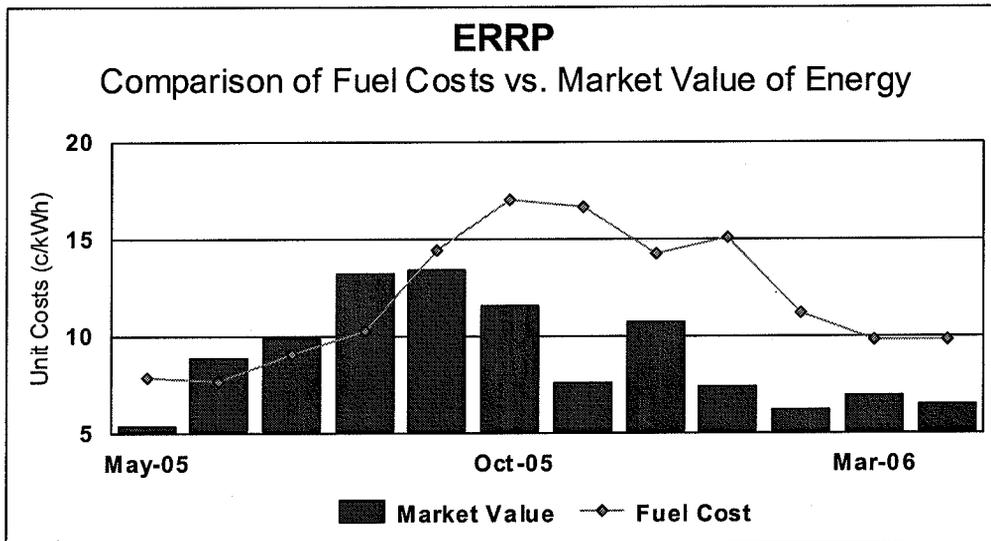
gas-fired combined cycle plants with heat rates of approximately 7,000 BTU/kWh are preferred for new capacity. [Tr. 2065, ll. 13-15]

If viewed as an electric generating plant, ERRP is just a gas fired combustion turbine with a heat rate of approximately 10,700 BTU/kWh. Compared to other new plants, ERRP produces electricity at a cost almost 50% above the marketplace. However, in the competitive market place combustion turbines only operate at 3-5% of their capacity on an annual basis. ERRP on the other hand operates at an 87% capacity factor. Thus, electric ratepayers are burdened with the worst of both worlds; a plant with a design that is uncompetitive in the deregulated electric marketplace and one that operates almost all the time. Only in an attempt to provide subsidized production of the Steam System would such a situation exist. [Tr. 2065, ll. 17-23 – Tr. 2066, ll. 1-2] Con Edison, in an attempt to justify the allocation of costs at ERRP to the Electric System goes so far as to argue that ERRP's electric capacity should be valued the same as a peaking plant. However, Con Edison does not operate ERRP as a peaking plant and instead operates it all year round. In fact, Con Edison dispatches ERRP **first** in both the winter and the summer (*emphasis added*). [Tr. 1797, ll. 16-24].⁵

Con Edison assumes a heat rate of zero for the combustion turbines for the steam heat rate [Tr. 1355, ll. 8-16] Therefore, treating the up front costs of running those turbines as 'free heat' for the Steam System. No wonder Con Edison chooses to dispatch ERRP first during all seasons, no matter the cost or benefit to the Electric System.

⁵ ERRP operates year round, but Con Edison admits that, when looking at electric capacity, it did not consider the winter capacity of ERRP but only the summer capacity since there is usually adequate capacity in the winter months. [Tr. 1797, ll. 11-15]

ERRP was designed to serve the Steam System, at the cost of the Electric System. The two graphs below clearly prove that the re-allocation of fuel costs at ERRP must not be delayed. There is sufficient information available at this time to justify the re-allocation so that the Steam System pays its appropriate share. This fact is clearly illustrated when you compare the market value of the electricity produced at ERRP to the fuel costs allocated to the Electric System. Accordingly, there is no justification for the delay advocated by the parties to the JP. The first graph shows ERRP's first year of operation. The second graph picks up where the first graph left off and continues through January 2008, the latest data provided by the Company.



[above charts at Tr. 2066, ll 6-9]

As shown on the graphs, due to the bad design and excessive operation of ERRP, the revenues or value of the electricity produced, as measured in the competitive electric market place, do not even cover the fuel costs allocated to the Electric System. In twenty-seven (27) of the thirty-three (33) months of ERRP's commercial operation (April 2005 through January 2008), the market value of the electricity produced did not even cover the cost of fuel. If operations and maintenance expenses are added in with the price of fuel, the plant lost money in 27 of 33 months and the out of pocket losses have totaled almost \$121 million. Thus, even if the plant were given to someone for free, it simply would not operate as an electric plant because it is so uneconomic. [Tr. 2067, ll. 1-10]

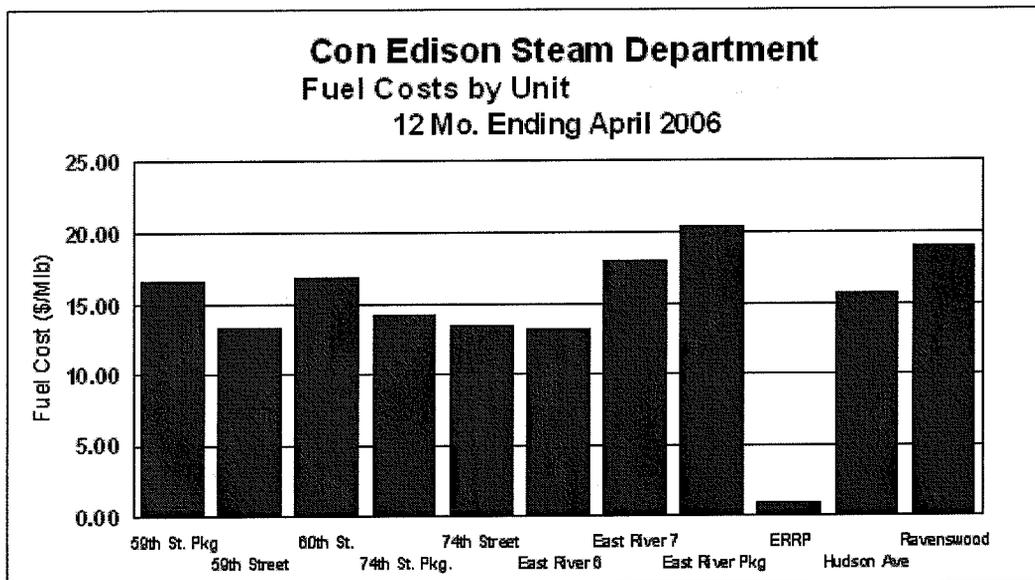
The allocation of 66.4% of the plant's fixed costs to the Electric System only exacerbates the situation. When you consider both the fuel costs and the fixed costs at ERRP the results are even more disturbing, the costs allocated to the Electric System have exceeded the value of the electricity generated for 30 of its 33 months of operation. In all, since the start of commercial operation the plant has cost electric ratepayers \$290 million with annual losses just under \$105 million per year. [See Exhibit 200] [Tr. 2067, ll. 12-16]

Evidence of the subsidy is also clearly evident by looking at the charges to the Steam System for steam itself. As Westchester reported in the last rate case, in 2005, the Steam System was charged \$1.23 per Mlb⁶ for the 5.2 million Mlbs of steam produced by ERRP. This compares to \$12.24 per Mlb for the production of steam by the Steam System as a whole

⁶ During 2005 the average amount charged to the Steam System for steam production at Waterside, which was replaced by ERRP, was \$9.74 per Mlb.

(excluding ERRP) and \$11.67 per Mlb at the most efficient cogeneration station, East River 6. For the first ten months of operation ERRP produced 6,104,533 Mlb or 7,325,440 Mlb per year. If you just compare the average cost of production at that time at all plants for steam of \$12.24 per Mlb (\$89,663,385) with the charges to the Steam System from ERRP of \$1.23 per Mlb (\$9,010,291) at the same time you end up with a yearly subsidy by the Electric System of the Steam System of over \$81 million per year. If the Steam System were charged for the cost of production at ERRP consistent with what it is charged for production at other steam facilities, it would reduce, but not eliminate, the cost of the fuel subsidy by the Electric System by at least \$80 million per year. The disparity in steam costs between plants is shown in the chart below.

[Tr. 2066, ll. 18-22 – Tr. 2067, ll. 1-10]



[Tr. 2068, ll. 11-12]

The key element in the Commission’s decision in the last steam rate case was “ERRP’s limited operating experience. We now have the additional two years of data that the Commission wanted and that data provides the Commission with a clear view of ERRP at this

time. For the period May 2006 through January 2008, the Electric System paid on average 94% of the total costs of ERP. [See Exhibit 203] [Tr. 2076, ll. 6-9]

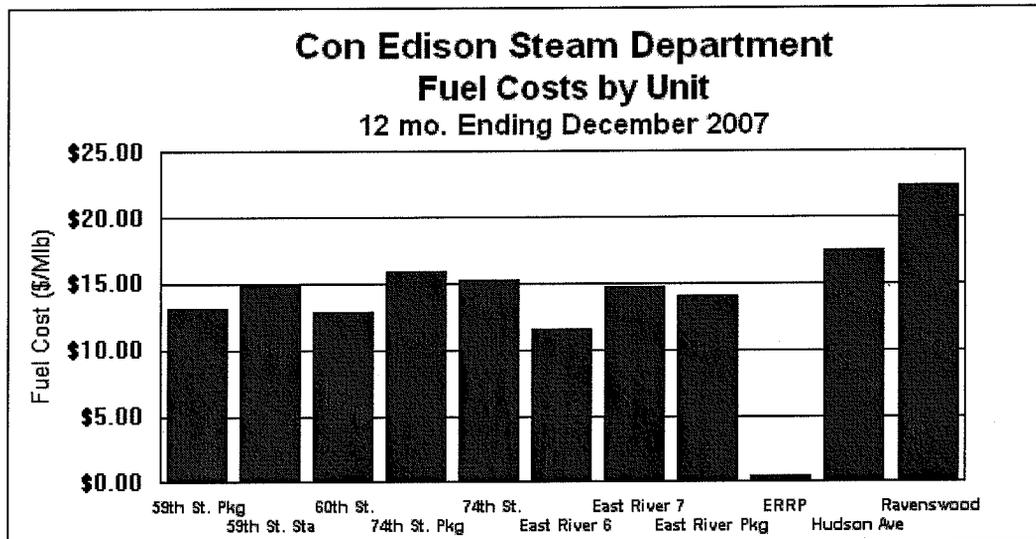
The single largest factor causing the excessive subsidy is the fact that the fuel costs allocated to the production of electricity at ERRP far exceeds the value of that electricity. [See Exhibit 201] The question is what is done with the information. The answer is simple, the ERRP allocation must be changed and changed now, especially in light of the approximately 18% increase in delivery rates in the recently completed Electric Rate Case (Case 07-E-0523) and Con Edison's proposed one-year rate increase of 15.4 percent in delivery rates in the current electric case (08-E-0539) as well as the continuing and substantial increase in commodity costs for electricity.

The additional operating experience at ERRP over the last two years has only confirmed the fact that the costs at ERRP must be reallocated. For calendar year 2007 the Steam System was charged \$0.45 per Mlb for the 10.0 million Mlbs of steam produced by ERRP.⁷ This compares to \$15.13 per Mlb⁸ for the production of steam by the rest of the Steam System, if you do not include the artificially low "cost" of steam as provided by ERRP. This compares to \$9.39 per Mlb for the production of steam by the Steam System as a whole (including ERRP) and \$11.60 per Mlb at the other cogeneration station, East River 6. If you compare the average system cost with the current charge for the steam produced at ERRP you end up with a yearly subsidy of the Steam System of over \$90 million per year. If the Steam System were charged for the cost of production at ERRP consistent with what it is charged for production at other

⁷ During 2005 the average amount charged to the Steam System for steam produced at Waterside was \$9.74 per Mlb.

⁸ This figure is the result of a simple calculation based on the above facts as presented at the hearing.

cogeneration facilities the subsidy by the Electric System is \$112 million per year. [See Exhibit 201]⁹ [Tr. 2068, ll. 14-16 – Tr. 2069, ll. 1-9] This information is shown in the chart below:



[Tr. 2069, l. 10]

Presently, as noted above, the cost of fuel allocated to the Electric System substantially exceeds the market value of the electricity produced at ERRP. Based on 2007 costs, without any other changes, if the cost of fuel allocated to the Electric System equaled the market value of the electricity generated at ERRP, the steam generated at ERRP would still be provided to the Steam System at \$4.20 per Mlb, which is approximately 45% of the average cost of production of steam by the Steam System as a whole (including ERRP) or approximately 28% of the average cost of the rest of the Steam System, not including ERRP.¹⁰ ERRP would still provide a saving of almost 75% as compared to the cost of steam produced by the rest of the system. [Tr. 2070, ll. 1-7]

⁹ The subsidy is in fact substantially larger when compared to the \$15.13 average cost of production by the rest of the Steam System, not including ERRP.

¹⁰ \$4.20 divided by \$15.13 = 27.8%

If the Electric System's subsidy of ERRP's O&M costs was eliminated and the cost of fuel allocated to the Electric System did not exceed the market value of the electricity generated at ERRP, the steam generated at ERRP could still be provided to the Steam System at a cost of \$5.62 per Mlb, which is still less than 60% of the average cost of production of steam by the Steam System as a whole (including ERRP). This equates to approximately 37% of the cost of the rest of the Steam System, not including ERRP.¹¹ ERRP would still provide a saving of over 60% as compared to the cost of steam produced by the rest of the system. [Tr. 2070, ll. 9-13]

If the Electric System's total subsidy of the Steam System at ERRP were eliminated (the allocation of fuel costs and O&M costs adjusted as noted above) and the fixed costs not subsidized, then the steam generated at ERRP would be provided to the Steam System at a cost of approximately \$10.10 per Mlb, which is only 11% more than the Steam System's current average cost of production, which average is artificially low because of the cost allocations/subsidy at ERRP and is still less than the \$11.60 per Mlb at the other cogeneration station, East River 6. [Tr. 2070, ll. 15-22] This would still be \$5.03 less than the average cost of the rest of the system (not including ERRP). In fact, it is apparent that the \$10.10 per Mlb is less than the current cost of production at any other plant. This equates to approximately two-thirds of the average cost of providing steam by the rest of the Steam System, excluding ERRP¹² or a saving of one-third as compared to the cost of steam produced by the rest of the system.

Con Edison argues that "its not uncommon for new plant cost to exceed the prevailing market value of capacity" [Tr. 1796, ll. 14-24] but the cost of ERRP's electric output is

¹¹ \$5.62 divided by \$15.13 = 37%

¹² \$10.10 divided by \$15.13 = 66.7%

exceeding the prevailing market value of capacity only because it is subsidizing the steam output. Because of this subsidy the steam output of ERRP is being provided at \$.45 per Mlb as compared to the rest of the system's average cost of \$15.13. Simple math proves that the ERRP output is being provided at a cost that equates to approximately **three percent (3%)** of the average cost of the rest of the Steam System's production.

Contrary to arguments put forth by those parties seeking to continue the subsidy, there is no justification for Con Edison to have constructed an electric generating facility at the location of ERRP. (Tr. 2077, ll. 25-32 – Tr. 2078, ll. 1-22) Con Edison is basically out of the electric generating business except as a by-product of another product [Tr. 1792, ll. 8-13] Con Edison's construction of electric generating facilities could be seen as a form of competition with other potential suppliers. [Tr. 1795, ll. 2-12] In fact, other entities are constructing electric generating plants [Tr. 1795, ll. 13-19] The ISO, not Con Edison, has the lead responsibility for constructing generation [Tr. 1792, ll. 12-23] The NYISO did not direct Con Edison to build any electric capacity [Tr. 1796, ll. 2-4] nor did the ISO ask Con Edison to build ERRP [Tr. 1792, l. 24 – Tr. 1793, l.1] Nor has the ISO asked Con Edison to run ERRP at any particular time to serve electric loads. [Tr. 1793, ll. 2-6] ERRP's location was selected to serve the Steam System.

Con Edison proposed the construction of ERRP [Tr. 1793, ll. 21-23] Con Edison admits that Waterside's steam production capabilities would have been replaced sooner or later [Tr. 1793, ll. 23-24 – Tr. 1794, ll. 1-5] and if Waterside had been replaced by a steam-only facility the costs would have been recovered through steam rates. [Tr. 1794, ll. 6-19].

Irrespective of the reasons given for construction of ERRP, the time has come for the elimination, or at least the reduction, of the subsidy by the Electric System of ERRP.

The Company has attempted to justify the subsidy of ERRP by the Electric System using various “constructed” arguments about environmental benefits that they conveniently alleged correspond to the extra costs foisted on the Electric System. The Company does not conduct any analysis as to which system, steam or electric, should pay for the purported environmental benefits of ERRP but under the incremental costing umbrella, many of these costs at ERRP are arbitrarily assigned to and paid for by the Electric System. [Tr. 1794, ll. 1-13] Con Edison then attempts to claim that all of the extra costs at ERRP assigned to the Electric System are a “clean air premium” without quantification, substantiation or other analysis as to how the amount of that clean air premium was derived or how or why all of those costs were allocated to the Electric System. [Tr. 1803, ll 7-24, Tr. 1804-1805]

Con Edison, without substantiation, claims at various points that there are benefits that will eventually inure to the benefit of the Electric System either now or in the foreseeable future. Upon further cross-examination, Con Edison’s witness admits there will be no monetary benefit. [Tr. 1806, ll.13-24] Con Edison, in one of its many attempts to justify why ERRP is primarily for the benefit of the Electric System, even attempted to argue that ERRP would generate funds or “uplift costs” but when questioned about this admitted that ERRP does not get paid uplift costs. [Tr. 1800, ll. 13-16]

In fact, when dispatching ERRP Con Edison did not consider the cost to the Electric System. [Tr. 1333, ll. 8-18] Nor did Con Edison conduct any study or analysis before allocating costs between the Steam System and the Electric System. [Tr. 1333, ll. 19-22] No analysis was done to allocate costs [Tr. 1338, ll. 15-24]. Con Edison relied on a prior decision of the Commission, which the present Commission is entitled, in fact obligated, to review, as the Commission promised it would in its decision in the Case # 05-S-1672.

The Company's arguments are just a series of "after the fact" attempts to justify the subsidy of the Steam System by electric customers. The other parties to the JP have a financial stake in having electric ratepayers continue the subsidy of ERRP and therefore the steam customers. As previously noted, NYC benefits as a municipal customer as it uses approximately 10% of the Steam System's output. The costs of ERRP that are collected from the Electric System are recovered through the MAC. Westchester customers pay approximately 12% of that cost while the City of New York itself does not pay any portion of the MAC, and therefore has every reason to argue for the continuation of the subsidy. Westchester's businesses and residents, who derive no quantitative benefit from the steam output of ERRP, should not be subsidizing the taxpayers of the City of New York.

STEAM RESOURCE PLAN
The Other Parties Desire for Another Co-Generation Facility
is a Thinly Veiled Attempt for Further Subsidies

The County has only one word of caution as it relates to the Steam Resource Plan contained in Section L of the JP. That section calls for a study of a cogeneration plant of up to 500 MW at the Hudson Avenue Station as well as the consideration to various other cogeneration plant designs. This is after a prior study determined that the proper result for

Hudson Avenue was the replacement of the steam boilers. Westchester would not have any concern about the plans for Hudson Avenue if the plan was to focus on steam generation. However, the County is concerned that the parties will strive to “game” the results so that a combined steam and electric generating facility is constructed with an allocation of the vast majority of costs to the Electric System.

The JP requires the Company “to select an option that meets its reliability and capacity needs and considers cost-effectiveness and statewide and **NYC-wide energy planning objectives.**” (*emphasis added*) The County is concerned that such a plant will result in the same type of cost overruns and unjustified subsidy by electric ratepayers of the Steam System as is presently experienced at ERRP.

At a minimum, the Resource Plan, any resultant steam production study or Hudson Avenue repowering option should not be allowed to just transfer costs from the Steam System to the Electric System by designing a plant for the benefit of the Steam System. The Commission should require that any joint production facility that is considered must take into account the costs to the Electric System and must allow full participation of Westchester.

CONCLUSION

The time to end, or at least reduce, the subsidy of the Steam System by the Electric System has arrived. It should not be put off any further. The data necessary to make such an adjustment is before us. No additional study is needed to demonstrate that the subsidy should, at a minimum, be reduced. The call for a study is just a thinly veiled attempt to postpone the

inevitable, a fair sharing of costs, based on a comparative or proportional allocation of costs consistent with the benefits derived from the end products, recognizing that steam is the primary product and electricity the by-product. Any legitimate study will produce the same results. The numbers and costs used in the County's analysis were provided by Con Edison. If there is still a perceived need for a study it should be used to fine tune any adjustment but it should not delay the fair allocation of costs at this time.

The study of a cogeneration plant at the Hudson Avenue Station should not open the door to additional subsidies of the Steam System by the Electric System, which will only add costs to the most expensive electric system in the continental United States.

For the above reasons, the terms of the Joint Proposal as they relate to the allocation of costs between the Steam and Electric Systems should be revised and the lessons learned from ERRP should not be ignored when considering the Hudson Avenue Station.

Respectfully submitted,

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