

ELECTRIC RATE PANEL - REBUTTAL
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1 Q. Please state your names.

2 A. Christine Colletti, Maureen Nihill and Denise De Rosa.

3 Q. Have you previously submitted testimony as members of the
4 Electric Rate Panel ("ERP") in this proceeding?

5 A. Yes, we have.

6 Q. What is the purpose of your rebuttal testimony?

7 A. We are responding to the direct testimony of the NYPA
8 Panel, the Staff Rate Panel, Alan Rosenberg and Steven J.
9 Galgano on behalf of the City of New York, Tariq N. Niazi
10 on behalf of the NYS Consumer Protection Board, Ruben S.
11 Brown on behalf of the E-Cubed Company, Catherine Luthin
12 on behalf of Consumer Power Advocates and Ronald J.
13 Liberty and Frank W. Radigan on behalf of County of
14 Westchester, with respect to the embedded cost of service
15 ("ECOS") study, unbundling of competitive services,
16 revenue allocation and rate design, the business
17 incentive rate, Monthly Adjustment Clause and Market
18 Supply Charge, and Real Time Pricing. Additionally, to be
19 consistent with the recently-adopted gas rate plan in
20 Case No.06-G-1332, the Company proposes changes to its
21 competitive rates and a new dispute resolution charge
22 applicable to ESCOs.

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1 **ECOS Study**

2 Q. Turning to NYPA's criticism of the Company's ECOS Study,
3 what are NYPA's specific concerns regarding the 2005
4 ECOS?

5 A. The NYPA Panel addressed six concerns regarding
6 allocations of costs to NYPA.

7 Q. Please begin with NYPA's first concern.

8 A. NYPA recommends using the allowed rate-of-return of 8.08%
9 from the current agreement, rather than the calculated
10 rate-of-return in the embedded study of 9.03%, to develop
11 surpluses and deficiencies. The 9.03% return is the
12 result of a 2005 embedded cost-of-service study where
13 sales, costs and class allocations are aligned. To
14 introduce the allowed return would require making pro-
15 forma adjustments to the study in order to align costs,
16 revenues and allocation factors.

17 Further, even if such a return adjustment were proper, to
18 be fair to all classes, it would be necessary to reduce
19 all class revenues to reflect the lower rate-of-return.
20 In adjusting to the allowed rate-of-return, NYPA left its
21 return at the filed ECOS level of 6.5% for NYPA and
22 compared it to the 8.08% allowed return, thus giving the

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1 appearance of a much lower NYPA deficiency. By properly
2 adjusting the NYPA revenues to reflect the overall lower
3 return, the NYPA deficiency would be lowered to \$28.6
4 million rather than the \$14.3 million shown on
5 Exhibit__(NYPA-4), page 1 of 15.

6 Q. Do you agree with NYPA's second concern relating to the
7 calculation of the coincidence factor for SC 65 HT and SC
8 85 HT?

9 A. No. NYPA fails to understand the coincidence factor
10 concept as presented in Exhibit___ (ERP-2), and further
11 explained in response to NYPA 65. The coincidence factor
12 numerator represents sample customer contributions at the
13 hour of the peak load of a customer grouping and the
14 denominator is the sum of the individual sample customer
15 peak demands. The denominator of this calculation is the
16 equivalent of the billing demands for the customer
17 grouping. When the coincidence factor is applied to
18 known population billing demands, the result is an
19 estimate of population level coincident demand at the
20 time of the peak of the particular customer grouping.
21 Note that the denominator in any coincidence factor
22 calculation should be similar in definition to the

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1 fashion in which customers are billed. For example,
2 Exhibit ____ (ERP-2), Summer page 31, Line 5, SC 9 - Group
3 E, Column 7, shows a non-coincident kW of 593.819 kW per
4 customer. Each of the 47 sample customers has a peak
5 demand that occurs at different hours and contributes to
6 the 593.819 kW average.

7 Q. How does this coincidence factor concept apply to SC 65
8 HT and SC 85 HT?

9 A. The coincidence factors for SC 65 HT and SC 85 HT should
10 be calculated in a similar fashion based on available
11 traction profile data. It is important to incorporate
12 the manner in which a class or group of customers is
13 billed into the coincidence factor calculation. For
14 example, Staten Island Rapid Transit Authority (SIRT)
15 high-tension SC 65 load is billed on the coincident
16 demand of its five stations. The fact that the Grant
17 City station might have a higher peak than its
18 contribution at the hour of the coincident SIRT peak does
19 not enter into the development of the billing demand and
20 similarly should not enter into the development of a
21 coincidence factor. In NYPA's recalculation of the
22 coincidence factor for SC 65 HT and SC 85 HT, they ignore

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1 the fact that traction loads are billed on a coincident
2 basis for each railroad system and that the individual
3 station loads are not treated like individual customers
4 for billing purposes as is the case for an individual SC
5 9 customer. Accordingly, contrary to NYPA's calculation,
6 SC 65 HT and SC 85 HT are already afforded the benefit of
7 coincident billing to the extent appropriate.

8 Q. Please continue.

9 A. NYPA's failure to recognize the coincident billing
10 concept creates an inflated denominator for the
11 coincidence factor by incorporating station peak loads
12 within a railroad into the equivalent of billing demands.
13 By definition, this tends to decrease the coincidence
14 factor and ultimately, and erroneously, decrease NYPA's
15 cost responsibility. NYPA's error is even further
16 highlighted in SC 85 HT when NYPA incorrectly assumes
17 that the individual peak demands of well over 200
18 stations are summed to estimate the SC 85 HT bill. This
19 is incorrect because SC 85 HT is instead billed on the
20 coincident demand of these 200-plus stations.

21 Q. How does NYPA's miscalculated coincidence factor for SC
22 65 HT and SC 85 HT impact its demand responsibility?

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1 A. This erroneous calculation arbitrarily reduces the SC 65
2 HT load by 30% and the SC 85 HT load by 20% at the time
3 of the system peak. In addition, this mis-calculation
4 introduces inconsistency in methodology, which ultimately
5 increases the cost burden to Con Edison classes.

6 Q. Do you agree with the NYPA Panel's third criticism (page
7 19) dealing with the allocation of high tension costs for
8 SC 7, SC 12 and SC 12-TOD heating classes based on summer
9 demands?

10 A. No. These classes of customers are 100% low tension and
11 their winter peaks far exceed their summer peaks.
12 Consequently, their low-tension allocators are based on
13 winter peaks. On the other hand, although these
14 customers are winter peaking, they are not isolated to
15 any particular high-tension geographic area so as to make
16 that area winter peaking. It is, therefore, reasonable
17 to allocate their high-tension costs, which serve a mix
18 of customer classes, on the basis of summer demands.

19 Q. Please describe NYPA's fourth concern regarding the
20 Company's 2005 ECOS Study.

21 A. NYPA takes issue with certain demand allocators used in
22 the ECOS study. Particularly, the Panel claims (page 24)

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1 that the averaging of individual customer maximum demands
2 (ICMD) and non-coincident peak demands (NCP) for
3 allocating low tension costs is inappropriate and should
4 instead be based entirely on ICMD.

5 Q. Is NYPA's criticism of the Company's allocation of low-
6 tension distribution demand costs valid?

7 A. No, it is not. The low-tension system is designed to
8 reflect peak demands on various parts of the low-tension
9 grid. The closer the grid equipment is to the customer,
10 the greater the importance of individual customer maximum
11 demands (ICMD) in sizing equipment. Likewise, the
12 further the equipment is from a customer, the greater the
13 importance of class non-coincident peak demands (NCP) in
14 designing equipment. Therefore, to reflect the fact that
15 both the NCP and the ICMD are considered in designing the
16 low-tension system, the average of these values is used
17 to allocate the cost of the low-tension grid among
18 customer classes.

19 Q. Has NYPA previously argued for the sole use of ICMDs in
20 allocating low-tension distribution costs?

21 A. Yes. This issue has been raised by NYPA in several
22 cases. Prior to Case 96-E-0897, Con Edison allocated

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1 low-tension costs solely on the basis of the NCP
2 allocator and NYPA argued that the allocation should be
3 based solely on ICMDs. In response to NYPA's position
4 and upon review of its cost-of-service methodologies, the
5 Company concluded that it would be appropriate to
6 allocate low-tension costs using an average of NCP and
7 ICMD. The 1994 ECOS Study submitted in Case 96-E-0897
8 incorporated the NCP/ICMD averaging, as did the 2002 ECOS
9 Study submitted in the Company's last case. The
10 currently effective electric rate plan, adopted by the
11 Commission, recognized the results of the 2002 ECOS
12 study, which incorporated this methodology and the
13 Company has continued this practice in the current
14 filing. In addition, NYPA offers no new theory to
15 support their position regarding the sole use of the
16 ICMDs to allocate low tension distribution costs.

17 Q. Have you reviewed how other utilities allocate the demand
18 component of secondary distribution costs to customer
19 classes?

20 A. Yes. A 2002 survey conducted by Foster Associates, Inc.
21 for the Edison Electric Institute indicates that 11 out
22 of 13 U.S. utilities surveyed allocate these costs on the

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1 basis of NCPs. The Company's use of an allocator based
2 on 50% of the ICMDs is already an historical concession
3 to NYPA and to include any additional emphasis on ICMDs
4 would only further deviate from industry practice and
5 further increase costs to other customers.

6 Q. NYPA also argues (page 19) against the additional
7 adjustment for residential classes that is used in
8 calculating the low-tension distribution demand
9 allocator. Please explain this calculation.

10 A. As addressed above, the ICMD is included in the low-
11 tension allocator under the assumption that individual
12 customer loads are actually experienced at the customer's
13 connection point to the grid. While this is a valid
14 assumption for commercial classes of customers, it is not
15 valid for individually metered residential customers
16 living in apartment buildings. Simply adding the
17 individual peak loads of all customers in an apartment
18 building would ignore the diversity of load within the
19 building and would overstate the actual demand
20 experienced on the building's connection to the grid. To
21 account for this diversity in residential classes, the
22 NCP is first averaged with the ICMD to estimate demand at

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1 the connection to the low-tension system. The resultant
2 demand is then averaged with the NCP to determine the
3 overall residential low-tension demand allocator.

4 Q. Please explain the basis for the 50%/50% allocation of
5 NCP and ICMD for non-residential classes and the 75%/25%
6 allocation for residential classes.

7 A. The 50%/50% allocation of NCP and ICMD recognizes that
8 each component, as described previously, is considered in
9 the design of the secondary distribution system.

10 Further, using equal weights recognizes that one
11 component is no more or less important than the other.
12 The 75%/25% weighting of these demands for residential
13 classes follows from the original 50%/50% weighting, but
14 further recognizes that for residential classes ICMDs do
15 not address the diversity of loads within apartment
16 buildings. We would also note that NYPA Residential
17 Housing Authority customers are master-metered and thus
18 automatically receive the benefit of residential customer
19 diversity. Accordingly, the averaging that was done for
20 Con Edison's direct-metered residential class would not
21 be appropriate for NYPA's residential class.

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1 Q. NYPA Panel's testimony recommends (page 26) a reduction
2 in the ECOS revenue deficiency of \$3.1 million for R&D
3 costs because NYPA has its own R&D program and because
4 significant portions of Con Edison's R&D expenditures are
5 paid to the same organizations (EPRI and NYSERDA) to
6 which NYPA contributes. Do you agree with NYPA's fifth
7 recommendation?

8 A. No. This recommendation should be rejected. As advised
9 by Company witness Kressner, the benefits that customers
10 on Con Edison's system derive from the Company's
11 contributions to these organizations is the same for
12 customers in the Con Edison and NYPA classes, as is the
13 case for the Company's R&D activities. Con Edison
14 customers should not bear a greater proportion of these
15 expenses because NYPA may choose, from time to time, to
16 engage in its own R&D and/or contribute to these
17 organizations. NYPA customers should not get a "free
18 ride" on the Company's expenditures in this area as they
19 will enjoy the same benefits of these efforts even if
20 they made a lower or no contribution. Moreover, it would
21 be administratively impractical at the outset to measure,
22 for purposes of allocation, and thereafter track, the

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1 extent of NYPA's ongoing actual expenditures for R&D.
2 Furthermore, because of the significant difference
3 between the two entities (NYPA is mostly overhead
4 transmission with no distribution and some generation,
5 while Con Edison is underground transmission and
6 distribution with virtually no generation), the companies
7 have different research agendas. Moreover, NYPA
8 specifically relies on Con Edison's T&D system to deliver
9 power and energy to its customers. Accordingly, Con
10 Edison's contributions to research and development help
11 reduce costs and improve reliability, which benefit all
12 customers, including NYPA.

13 Q. Do you agree with NYPA's sixth concern relating to
14 costing NYPA at 2005 functional relationships, which may
15 be disproportionate to future investment that is more
16 heavily earmarked for distribution?

17 A. No. The total revenue requirement is not based on
18 incremental investment but on return on total rate base
19 plus total expenses. The relative relationships between
20 total transmission and total distribution will not vary
21 significantly from the 2005 ECOS period to the rate year.

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1 Q. Let us now turn to City of New York witness Rosenberg's
2 criticism of the Company's ECOS Study.

3 A. Mr. Rosenberg presents four what he claims are
4 "untenable" assumptions used in developing the Company's
5 2005 ECOS Study. First, he indicates that transmission
6 plant should be allocated on the basis of a four-hour
7 window for a single day (or even a single peak hour), as
8 opposed to the Company's use of a five-day, four-hour
9 average. Second, Mr. Rosenberg proposes to treat NYPA as
10 a single class for cost allocation purposes, as opposed
11 to the Company's recognition of the unique
12 characteristics of the underlying end-use categories.
13 His next concern deals with the Company's allocation of
14 line transformers solely to the demand component of the
15 distribution system. Lastly, Mr. Rosenberg disagrees
16 with the Company's weighting of ICMD and NCP demands used
17 in allocating low tension distribution demand costs to
18 customer classes.

19 Q. Do you agree with Mr. Rosenberg's criticism of the use of
20 the five-day, four-hour average and his recommendation to
21 use a single peak day to allocate transmission costs?

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1 A. No. Transmission costs are incurred to meet system
2 loading conditions over longer periods of time than one
3 system peak day. The Company's use of a 20-hour average
4 is a reasonable measure of peak loading conditions. This
5 methodology has been presented in Con Edison's cost
6 studies previously accepted by the Commission.

7 Q. Did you review Mr. Rosenberg's calculation of the five-
8 day, one-hour average for transmission allocation and
9 develop the resulting impact on the overall NYPA
10 deficiency?

11 A. Yes, we determined that Mr. Rosenberg developed the five-
12 day, one-hour average incorrectly. He averaged half
13 hours ending 4:00pm and 4:30pm to determine a 5:00pm
14 transmission allocator. His calculation shown on Exhibit
15 AR-1, Schedule 1, results in a 13.587% allocation factor
16 for NYPA, as opposed to the Company's 13.713% allocation
17 factor. Mr. Rosenberg's calculation serves to
18 incorrectly reduce the NYPA deficiency from \$30.2M to
19 \$29.6M.

20 Q. Did you develop the correct 5:00pm allocation factor?

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1 A. Yes, averaging half hours ending 4:30pm and 5:00pm yields
2 a NYPA transmission allocation factor of 13.747%,
3 resulting in a \$30.4M NYPA deficiency.

4 Q. Do you have any other comments on Mr. Rosenberg's
5 suggestion regarding transmission allocation?

6 A. Yes, Mr. Rosenberg states that for the purposes of
7 allocating transmission plant, the Company should use a
8 four-hour window for a single day. Assuming his use of a
9 four-hour average on a single day, Mr. Rosenberg makes no
10 argument as to why this allocator would be reserved for
11 transmission only. His proposed analysis would add
12 further complexity to the allocators by basing
13 transmission on the single peak day, while maintaining
14 distribution allocators across five days.

15 Q. Please address Mr. Rosenberg's recommendation to treat
16 NYPA as a single class for cost allocation purposes.

17 A. Mr. Rosenberg claims that the Company's use of multiple
18 NYPA categories denies "the NYPA class the benefit of
19 diversity that was afforded to the other classes" in the
20 development of NCP demands. The Company strongly
21 disagrees with this criticism because NYPA's position
22 destroys the foundation upon which customer classes are

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1 determined. Classes evolve over time based on
2 aggregation of customers that exhibit homogeneous usage
3 characteristics. For example, residential customers
4 exhibit similar usage patterns that are unlike the usage
5 characteristics of commercial customers.

6 Q. Did you analyze Mr. Rosenberg's suggestion to treat NYPA
7 as a single class for the purposes of high tension
8 allocation?

9 A. Yes. Mr. Rosenberg chooses to combine internally
10 homogeneous groups (e.g., Traction load and New York
11 Housing Authority) into one heterogeneous NYPA grouping
12 for purposes of determining an NCP allocation factor.
13 The creation of a coincident NYPA load shape for high
14 tension allocation purposes tends to dilute the cost
15 responsibility for certain subgroups, such as Traction,
16 where investment in high tension equipment is
17 specifically made to meet the loads of these customers.
18 Traction loads peak during the evening rush-hour, while
19 the NYPA peak occurs during morning hours. A coincident
20 NYPA load would tend to under-allocate high tension costs
21 to this group of customers.

22 Q. Please continue.

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1 A. Mr. Rosenberg's development of a coincident load shape
2 for only NYPA customers and allocation of high tension
3 costs on the basis of a single allocator results in an
4 arbitrary 47% reduction to the NYPA deficiency (from
5 \$30.2M to \$15.9M).

6 Q. Do you have any further comments on the use of a single
7 NYPA load shape for cost allocation purposes?

8 A. Yes. If the City chooses to combine homogeneous groups
9 to develop one measure for NYPA cost responsibility, then
10 the same should be done for the development of Con
11 Edison's cost responsibility. Homogeneous Con Edison
12 classes, such as SC 1 Residential, SC 9 TOD Large and SC
13 8 Multiple Dwellings should all be combined to form one
14 aggregate Con Edison load shape.

15 Q. Have you developed this aggregate Con Edison load shape?

16 A. Yes. Taking the Company's filed five-day, four-hour
17 methodology and aggregating all Con Edison classes vs.
18 NYPA vs. EDDS for high tension allocation purposes
19 results in Con Edison and EDDS being average and NYPA
20 being \$26.5M deficient. This \$3.7M reduction from the
21 Company's filed \$30.2M NYPA deficiency is in stark
22 contrast to the City's proposal, which reduces NYPA's

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1 deficiency to \$15.9M due to its inconsistent application
2 of a hypothetical aggregation rule. Clearly Mr.
3 Rosenberg seeks to benefit NYPA by arbitrarily
4 maintaining unique Con Edison classes, while presenting
5 NYPA load on a coincident basis.

6 Q. Please address Mr. Rosenberg's testimony regarding the
7 Company's allocation of line transformer costs.

8 A. Mr. Rosenberg proposes to categorize underground
9 transformers below 50 kVa and overhead transformers below
10 7.5 kVa as customer related. He calculates a percentage
11 split between customer and demand based on per unit
12 replacement cost of overhead and underground line
13 transformers. He then applies that 13.7% to the entire
14 book cost of \$1.6 billion to develop a \$200 million plus
15 customer component. This calculation is wrong in that
16 Mr. Rosenberg uses replacement costs to develop a
17 customer component percentage that is applied to
18 historical book cost, thus creating an apples-and-oranges
19 calculation.

20 Q. Why didn't the Electric Rate Panel allocate Line
21 Transformers to the Customer Component and rather
22 allocated those costs to the Demand Component?

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1 A. The cost associated with line transformers that covers
2 sizes up to and including 50 KVA equates to less than 1%
3 of total book cost of Account 368. The account is
4 essentially composed of much larger transformers, whose
5 costs are considered to be related to demand.

6 Q. Do you have any comments on Mr. Rosenberg's criticism of
7 the Company's 50%/50% weighting of ICMDs and NCPs in the
8 development of the low-tension allocator?

9 A. The arguments we presented earlier in this rebuttal, in
10 response to the direct testimony of NYPA's Rate Panel,
11 are equally applicable here. Additionally, we have
12 further comments on Mr. Rosenberg's recommendation to
13 weight ICMDs by 60% and NCPs by 40%. Mr. Rosenberg
14 provides no study to substantiate his suggested
15 weighting. While the Company's 50%/50% methodology is
16 not founded in a particular study, it at least recognizes
17 that each variable is of equal importance. It should
18 also be noted that in using the 60%/40% methodology, Mr.
19 Rosenberg weights allocation percentages instead of
20 weighting the ICMD and NCP demand values. This serves to
21 further reduce NYPA's low tension allocation factor.

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1 Q. Mr. Rosenberg claims that the net result of his three
2 changes to the ECOS Study, i.e., treat NYPA as a single
3 class, classify 13.7% of line transformers as customer
4 related and weigh ICMDs and NCPs using a 60%/40% split,
5 is to reduce the NYPA deficiency from \$30.2M to \$6.8M.
6 Do you agree with his net result?

7 A. No. Even if the 13.7% for line transformers and the
8 60%/40% weighting are assumed for argument purposes, Mr.
9 Rosenberg's analysis is flawed because he does not treat
10 Con Edison as one class in the fashion that he treats
11 NYPA as one class. Correcting his calculations to
12 reflect a single Con Edison load shape yields a NYPA
13 deficiency of \$20.1 million, which is substantially above
14 Mr. Rosenberg's \$6.8 million recalculated deficiency.

15 Q. What other ECOS issues did Mr. Rosenberg address in his
16 testimony?

17 A. Mr. Rosenberg criticizes the Company's use of the same
18 demand allocator for underground and overhead low tension
19 lines. He further attempts to discredit the Company's
20 approach by disaggregating demand allocation factors by
21 borough and then compares results by borough to known
22 booked costs. This approach is invalid in that it fails

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1 to recognize that demand allocators are intended to be
2 representative of an entire rate class and not boroughs.

3 Q. Please continue.

4 A. The Company uses the same low tension demand allocators
5 for the overhead and underground cost categories because
6 on the customer level, there is no clear separation of
7 the nature of their service. That is, it is not uncommon
8 to find an overhead customer being supplied from an
9 underground network, or an underground customer being
10 served radially.

11 Q. Please comment on Mr. Rosenberg's criticism of the
12 Company's Working Capital allocation in the ECOS study.

13 A. In Table 3 of his testimony, Mr. Rosenberg provides a
14 comparison of working capital to total revenues for each
15 of the Company's three major customer classes and claims
16 that NYPA is allocated a significantly disproportionate
17 share of working capital, compared to other customer
18 classes. While the amount allocated to working capital
19 on Table 3 agrees with the figures in the ECOS study, the
20 revenues do not represent ECOS revenues and it is
21 therefore an invalid comparison to make. By restating
22 the revenues to agree with the revenues provided in the

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1 ECOS study, the percent of working capital to total
2 revenues is much more closely aligned amongst the
3 customer classes.

4 Q. Why is his comparison invalid?

5 A. The ECOS study is a T&D study and excludes commodity
6 revenues as well as commodity costs. Mr. Rosenberg uses
7 Company Exhibit __ (FP-3), page 3 of 5, as a source of
8 total revenues. This exhibit includes commodity revenues
9 for full-service customers, but no commodity revenues for
10 Retail Access, NYPA or EDDS customers. Comparing working
11 capital associated with T&D to Con Edison revenues that
12 include commodity revenues, while comparing NYPA T&D
13 working capital to NYPA T&D revenues creates a distorted
14 comparison between Con Edison and NYPA.

15 Q. Please respond to Mr. Rosenberg's claim that the Company
16 has improperly functionalized working capital costs to
17 the procurement functions in the ECOS (p. 22 of his
18 testimony).

19 A. As mentioned earlier, the Company's ECOS study is a pure
20 T&D study and excludes commodity costs as well as
21 revenues. The \$7.9 million of working capital allocated
22 to the procurement function is based on Company labor

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1 associated with the purchase of commodity, as well as
2 customer care related activities associated with
3 commodity. However, it excludes the actual cost of
4 commodity and as such, would not be allocated a large
5 portion of working capital.

6 Q. Please continue.

7 A. It is also important to note that Mr. Rosenberg's
8 recommendation to allocate additional costs to the
9 procurement function serves to decrease NYPA's cost
10 responsibility as NYPA does not receive an allocation of
11 procurement costs.

12 Q. Do you agree with Mr. Rosenberg's assessment that
13 Administrative & General (A&G) expenses in the ECOS study
14 were improperly assigned?

15 A. No. Mr. Rosenberg contends that the Company's method of
16 functionalizing A&G expenses is not consistent with
17 accepted practice. He chooses to ignore the fact that
18 the ECOS uses a detailed study to allocate A&G expenses
19 following the methodology stated in the National
20 Association of Regulatory Utility Commissioners Electric
21 Utility Cost Allocation Manual (NARUC) (page 106).

22 Q. Please describe the detailed study.

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1 A. The study is based on an analysis of PSC Accounts that
2 comprise the Company's A&G expenses. Since the majority
3 of accounts are labor related, a labor ratio is
4 calculated for each function based on total Company labor
5 and applied to individual A&G PSC Accounts in order to
6 determine their functional components.

7 Q. Do you have any comments on the parties' recommendations
8 regarding the use of a +10% tolerance band?

9 A. Yes. Both Mr. Rosenberg and the NYPA Panel recommend the
10 use of a 20% tolerance band to alleviate the volatility
11 associated with different allocation methodologies. The
12 Company would agree that different methodologies produce
13 different ECOS results but the Company's current and
14 previous filings are consistent and are not the source of
15 this claimed volatility. Also, we would note that this
16 alleged volatility is driven by the nature of their
17 assumptions, which in general move cost responsibility
18 away from NYPA customers.

19 Q. Did you review NYPA's calculation of the impact of
20 changing the tolerance band from 10% to 20%?

21 A. Yes. NYPA's claim, on page 29, that a 20% tolerance band
22 would reduce their "deficiency" by \$23 million is

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1 incorrect. The \$23 million is the net impact of a \$17
2 million decrease in their deficiency associated with
3 application of a 20% tolerance band and a \$6 million
4 reduction in NYPA's rate increase resulting from a
5 revenue allocation which recognizes the revised
6 deficiency.

7 Q. Please address the PSC Staff's recommendation to apply a
8 15% tolerance band.

9 A. Staff supports an incremental 5% adjustment to the
10 tolerance band as a means of addressing its criticism of
11 the weighting of ICMDs and NCPs used in allocating low
12 tension distribution demand costs to residential classes.

13 Q. Do you agree with this recommendation?

14 A. No. This adjustment is arbitrary in nature. The fact
15 that Staff does not agree with the Company's methodology
16 of weighting ICMDs and NCPs should not equate to a 5%
17 adjustment to the tolerance band.

18 Q. Do you have any other comments on the use of a 10%
19 tolerance band?

20 A. The Company has implemented increases based on the use of
21 a +/-10% tolerance band in the 1997 Settlement and
22 Agreement adopted by the Commission in Case 96-E-0897 (¶

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1 31, p. 29), and the +/-10% tolerance band is reflected in
2 Appendix M of the Joint Proposal in the current
3 agreement.

4 Q. Turning to the testimony of the County of Westchester
5 Panel, do you have any comments on their criticisms of
6 the ECOS study?

7 A. The Westchester Panel adjusts the transmission system
8 peak allocator to reflect the one-hour peak demand by
9 holding certain classes constant and increasing others in
10 proportion to the growth in their respective ECOS
11 transmission allocators between the 2002 and 2005
12 studies. In other words, for classes where the filed
13 2005 ECOS transmission allocator decreased from the 2002
14 study, no adjustment was made to convert their five-day,
15 four-hour transmission allocator to a one-day, one-hour
16 allocator. Using this methodology, which erroneously
17 assumes no growth in NYPA's transmission allocator,
18 results in an unwarranted reduction in transmission costs
19 allocated to NYPA.

20 Q. Do you have any other comments on the Westchester Panel's
21 adjustments to the ECOS study?

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1 A. Yes. Besides developing an incorrect transmission
2 allocator, the Panel arbitrarily uses this same allocator
3 to assign high tension costs to customer classes. This
4 is simply unacceptable costing methodology. The
5 aforementioned 2002 survey conducted by Foster
6 Associates, Inc. for the Edison Electric Institute
7 indicates that 12 out of 13 U.S. utilities surveyed
8 allocate primary distribution equipment on the basis of
9 NCPs as opposed to the coincident peak allocator proposed
10 by the Westchester Panel.

11 Q. Do you have any further concerns regarding the
12 Westchester Panel's recommendations?

13 A. Yes.
14 The Westchester Panel indicates that there should be a
15 "second cost of service study collaborative to examine
16 alternate methods of allocating demand related plant."
17 The Company spent significant time and resources
18 dedicated to the last collaborative and parties had ample
19 opportunity to present their allocation proposals at that
20 time. The parties did not present any studies that would
21 warrant a change to the Company's demand allocation
22 methodologies.

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1 Q. Do you have any comments on Mr. Rosenberg's objection to
2 the Company's proposed facilities charge?

3 A. Yes. Mr. Rosenberg (p. 31 of his testimony) objects to
4 the proposal to increase the street light facilities
5 charge from its current value of \$5.86 to \$12.51 per
6 month. The \$12.51 is the result of a two-step procedure.
7 The first step is to increase the facilities charge to
8 its current cost-based rate of \$9.14 per month based on
9 the ECOS study. The next step is to increase this cost-
10 based rate by the overall system rate increase.

11 Q. Please explain why the cost-based rate increased so
12 significantly from 2002 to 2005.

13 A. A significant driver behind the increase in the NYC
14 street light facilities charge stems from a \$778,000 or
15 336% increase in street lighting and signal systems
16 operations costs, which reside in PSC account 585. The
17 \$567,000 or 258% of this increase is the direct result of
18 the stray voltage inspection program that was established
19 in 2004 as an annual recurring program and was not in
20 existence in 2002. These costs are expected to continue
21 and must therefore be recaptured as part of the NYC
22 street light facilities charge.

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1 Q. Please comment on Mr. Rosenberg's claim that the \$12.51
2 per month facilities charge is not justified based on
3 appropriate rate design principles because the plant-in-
4 service for NYC Street Lighting in the ECOS is only 21%
5 more than in the prior ECOS study, or approximately the
6 same increment as plant-in-service for the entire system
7 (p. 31 of his testimony).

8 A. The revenue requirement, which serves as the basis for
9 the monthly street light facilities charge, is comprised
10 of operating expenses and return on plant. An increase
11 in street light plant-in-service is not the only driver
12 behind the increase in the facilities charge. Operating
13 expenses (O&M, depreciation, and property taxes) weigh
14 more heavily in determining the monthly facilities
15 charge.

16 Q. Please respond to Mr. Rosenberg's and Mr. Galgano's claim
17 that 2005 is an aberration in terms of street lighting
18 expenses because of the abnormally high number of street
19 light repairs made in that year (p. 32-33 of Mr.
20 Rosenberg's testimony and p. 5 of Mr. Galgano's
21 testimony).

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1 A. Street light repairs are charged to PSC account 596,
2 street light and signal systems maintenance. A review of
3 this account shows indeed a 39% increase in repairs from
4 2002 to 2005. However, a look forward to 2006 and 2007
5 to date points to maintenance expenses remaining
6 relatively flat at the 2005 level. It is reasonable to
7 surmise that the advent of a stray voltage inspection
8 program will affect an increased baseline level of
9 repairs from prior years when such a program did not
10 exist. The "aberration" claimed by Mr. Rosenberg and Mr.
11 Galgano in their testimony is not substantiated by the
12 books of account.

13 Q. Are there any further comments related to NYC street
14 light facilities charges?

15 A. Yes. It should be noted that the \$5.86 cost-based NYC
16 street light facilities charge is based on the 2002 ECOS
17 study. This value was not escalated for any rate
18 increase and was only established in rates as recently as
19 the current year 2007 (year three of our three-year rate
20 plan). Prior to 2007, the Company was recovering NYC
21 street light facilities charges at \$5.54. The Company

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1 has been under-recovering NYC street light facilities
2 costs for a number of years.

3 Q. Do you have any other comments regarding Mr. Rosenberg's
4 criticism of the proposed facilities charge?

5 A. Yes. Mr. Rosenberg argues for removal of \$687,670 of
6 miscellaneous expenses and capping the A&G assignment to
7 the street lighting function at 30%. The Company
8 allocated these costs to street lighting in the same
9 fashion that they were allocated to all other
10 distribution functions. The miscellaneous distribution
11 expenses were allocated on the basis of total
12 distribution plant book cost, while A&G expenses were
13 allocated as previously explained in this testimony.
14 Finally, Mr. Rosenberg's suggestion to limit the working
15 capital adder to 1/8th of O&M expenses does not fully
16 represent the Company's total working capital costs.

17 **Unbundling of Competitive Services**

18 Q. Do you agree with the Staff Rate Panel's proposal to
19 recover the commodity related credit and collection costs
20 attributable to customers receiving consolidated utility
21 billing under the Purchase of Receivables Program ("POR")

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1 through the POR discount rate as opposed to a Merchant
2 Function Charge ("MFC") assessed to POR customers?

3 A. Yes. As explained in the Company's response to Staff
4 410.1, the Company is amenable to Staff's proposal since
5 this would conform the design of the MFC applicable to
6 electric service to the MFC design that was recently
7 adopted by the Commission in the Company's gas rate case,
8 Case No. 06-G-1332.

9 Q. What changes would have to be made to the MFC rate design
10 to implement Staff's proposal?

11 A. Because the commodity-related credit and collections
12 costs for POR would not be recovered through the MFC
13 under this proposal, the credit and collections component
14 of the MFC has to be recalculated to exclude from the
15 formula the commodity related credit and collection costs
16 attributable to POR customers receiving consolidated
17 utility billing. With this change and the assignment of
18 these costs to the POR discount, retail access customers
19 would not be charged the MFC, regardless of billing
20 option. The MFC, which would be applicable only to full
21 service customers, would continue to include a supply-
22 related component, including a purchased power working

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1 capital component, and a credit and collections ("C&C")-
2 related component. Also, as noted on page 38 of Staff's
3 testimony, the MFC would be revised to reflect the final
4 rate year revenue requirement approved by the Commission
5 at the conclusion of this proceeding.

6 Q. How would you propose to reconcile C&C related costs that
7 would now be recovered through the POR discount?

8 A. Consistent with the recently-adopted gas rate plan in
9 Case No. 06-G-1332, we propose that the Transition
10 Adjustment for Competitive Services ("Transition
11 Adjustment") include a full reconciliation of the actual
12 revenue received from the C&C related component for POR
13 customers included in the discount rate with the amount
14 reflected in the design target for the rate year. Also,
15 consistent with our initial testimony in this proceeding,
16 we would true up the difference between the rate year MFC
17 targets reflected in rates for full service customers and
18 the revenues actually received through the MFC via the
19 operation of the Transition Adjustment. Similarly,
20 reconciliations associated with Billing and Payment
21 Processing ("BPP") charges and competitive metering

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1 charges would also be performed through the Transition
2 Adjustment as set forth in our direct testimony.

3 Q. The Staff Accounting Panel has agreed with the Company's
4 proposal to revise the way uncollectible expenses related
5 to the Market Supply Charge ("MSC") and Monthly
6 Adjustment Clause ("MAC") are recovered from customers.
7 How will this impact the design of the MFC rates?

8 A. As explained in the initial testimony of Mr. Rasmussen,
9 the Company's base revenue requirement would first be
10 reduced by the uncollectible (UB) expense allowance for
11 the MSC and MAC for Rate Year 1 to reflect the removal of
12 UBs associated with the MSC and MAC from base rates. As
13 set forth on page 89 of our initial testimony, the
14 supply-related MFC cost component would then be reduced
15 to remove the fixed UB expense allowance for the MSC
16 reflected in the MFC rates initially filed by the
17 Company.

18 Q. Is the Company still proposing to collect all
19 uncollectibles associated with the MSC and MAC through
20 the MSC and MAC rates, respectively, as in the initial
21 testimonies of Company witness Rasmussen and the Electric
22 Rate Panel?

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1 A. No. To provide consistency with the approach taken in
2 the gas case, we propose that UB expenses related to the
3 MSC be reflected as a monthly adder to the MFC applicable
4 to full service customers as opposed to recovering such
5 expenses through the MSC mechanism. The monthly adder
6 would be computed by applying the UB factor to actual
7 monthly MSC revenue collections. Consistent with page 24
8 of our initial testimony and the recently adopted gas
9 rate plan, the UBs associated with the MSC revenues will
10 be allocated to reflect the comparative relationship
11 between residential and commercial UB rates. The UBs
12 associated with MAC revenues would be recovered through
13 the MAC and computed by applying the UB factor to actual
14 monthly MAC revenue collections.

15 Q. Do you have any concerns related to Staff's comments on
16 BPP charges?

17 A. Yes. In its testimony, Staff takes issue with our
18 proposed application of the BPP charge for dual service
19 customers being served under a consolidated billing
20 option.

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1 Q. Please describe the Company's proposed treatment of BPP
2 for dual service customers taking a utility consolidated
3 billing option.

4 A. In recognition of the fact that the Company still needs
5 to render a bill for one service in instances where a
6 customer is taking only the other service competitively
7 and is under the utility consolidated bill option, we
8 proposed that the billing and payment processing charge
9 related to the full service portion of the customer's
10 bill be one-half of the billing and payment processing
11 cost. The ESCO providing competitive supply on the other
12 service would pay the other one-half of the billing and
13 payment processing cost. Through this combination of
14 payments, the Company would be made whole for its billing
15 and payment processing costs and the customer's bill
16 would indicate that in fact the utility still incurred a
17 cost associated with the billing for the "full-service"
18 service.

19 Q. Are there any other billing scenarios where the Staff is
20 in disagreement with the Company?

21 A. Yes. Staff and the Company are in disagreement about the
22 treatment of the BPP charge in instances where a dual

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1 service customer takes competitive supply for both
2 services but receives a utility consolidated bill for one
3 service that includes the utility's delivery charges for
4 the other service. This is most likely to occur when the
5 customer purchases commodity from different ESCOs but is
6 possible even when one ESCO provides both commodities.
7 In that instance, one ESCO issues its own commodity bill
8 for one service. We refer to that scenario as "separate
9 bills".

10 Q. Please explain the Company's proposal with respect to
11 this billing scenario.

12 A. Under the Company's proposal, a dual service customer
13 taking competitive supply for both services and receiving
14 a utility consolidated bill for one service but a
15 separate commodity bill for the other service would be
16 charged one-half of the total BPP charge in recognition
17 that the utility continues to be responsible for billing
18 the customer for delivery of that other commodity.

19 Likewise, the ESCO providing competitive supply for the
20 other service for which a customer is receiving a utility
21 consolidated bill would be charged the other half of the
22 billing and payment processing charge.

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1 Q. Please describe how Staff's proposal differs from the
2 Company's with respect to the two billing scenarios noted
3 above.

4 A. In the instances described above, Staff's proposal would
5 charge an ESCO the full BPP charge and charge the
6 customer nothing.

7 Q. In your opinion, does Staff's proposal treat the BPP
8 charges consistently?

9 A. No. When there are two ESCOs serving a dual service
10 account under the utility consolidated billing option,
11 Staff recognizes that the BPP charge should be split
12 between the two ESCOs. However, in the circumstances
13 noted above, Staff proposes to charge the entire BPP to
14 the ESCO served under the consolidated billing option
15 ignoring the customer's responsibility for its share of
16 the BPP charge associated with the other service. These
17 two approaches are inconsistent with one another.

18 Q. Are there other reasons why you disagree with Staff's
19 proposal to charge an ESCO the full BPP charge in the
20 instances described above?

21 A. Yes. Staff's approach creates an adverse incentive to a
22 customer who remains with the utility for one of its

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1 services, i.e., there is no BPP-related incentive for a
2 customer to take the other service competitively since no
3 additional savings would result with respect to billing
4 and payment processing. This approach also seems
5 inherently unfair to an ESCO. If a single ESCO were to
6 issue a commodity-only bill for one service and arrange
7 for the utility to issue a consolidated bill for the
8 other commodity, the ESCO would be billed for the full
9 BPP charge even though it would be incurring costs for
10 its own billing activity.

11 Q. What basis does Staff give for their proposal?

12 A. In defense of their proposal, they refer to Commission
13 orders issued in Case No. 00-M-0504 where the Commission
14 indicates that all consolidated billing customers should
15 receive a backout credit, whether consolidated bills are
16 issued by the utility or by the ESCO.

17 Q. Did the Company propose a charge or a credit for BPP?

18 A. The Company proposed an unbundled competitive service
19 rate in lieu of a backout credit. This comports with the
20 Commission's directive to utilities to develop an
21 embedded-cost-based rate for each competitive service

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1 that a customer may avoid by taking that service from an
2 alternative provider.

3 Q. Under the Company's proposal will all consolidated
4 billing customers, whether consolidated bills are issued
5 by the utility or by an ESCO, avoid the BPP charge?

6 A. All consolidated billing customers will avoid paying
7 either all or one-half of the BPP charge.

8 Q. Is Staff's approach consistent with other Commission
9 decisions?

10 A. No. Staff's approach is inconsistent with the
11 Commission's position throughout the unbundling
12 proceeding that unbundled rates for competitive services
13 be cost based. Staff's proposal to charge an ESCO the
14 full BPP charge provides the Customer with the
15 misconception that there are no costs associated with the
16 Company's rendering a bill in the instances previously
17 described. Additionally, Staff's approach is not
18 consistent with the treatment of billing and payment
19 processing costs included in the gas and electric revenue
20 requirements and reflected in our electric and gas rates.

21 Q. How are billing and payment processing costs reflected in
22 the gas and electric revenue requirements for dual

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1 service customers with respect to the instances described
2 above?

3 A. For dual service customers, one-half of the BPP cost is
4 included in the electric revenue requirement and the
5 other half, as applicable, is included in the gas revenue
6 requirement.

7 Q. Is the Company's approach for billing and payment
8 processing consistent with what was recently adopted in
9 the Company's gas case?

10 A. Yes. Our proposal in this case was modeled following
11 exactly what was adopted in the Company's Gas Rate Plan.
12 As set forth in Appendix D of the Gas Joint Proposal,
13 "Dual service customers will pay no more than \$0.47 for
14 gas BPP", i.e., zero or \$0.47. Table 4 of Appendix D to
15 the Gas Joint Proposal unequivocally lays out the gas BPP
16 charges for both single service and dual service gas
17 customers upon which the Company's proposed electric
18 tariffs were based.

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1 Q. Please provide your comments on Staff's proposal.

2 A. Generally, we should keep working towards parity for all
3 classes, i.e., all classes should approximate our overall
4 system rate of return. To the extent that such a proposal
5 would cause us to significantly diverge from achieving
6 this objective, we would be opposed to such a proposal.
7 However, the Company would consider this proposal in the
8 context of a multi-year settlement where parity can be
9 gradually phased-in over the term of the rate plan.

10 Q. Do you agree with Mr. Niazi's proposal that the SC 1 and
11 7 customer charge be maintained at its current rate level
12 or, alternatively, be set no higher than the current SC 1
13 embedded customer cost?

14 A. No. Both of Mr. Niazi's proposals should be rejected
15 because they would result in rates that are below rate
16 year costs. As shown in the 2005 ECOS on Exhibit__ (ERP-
17 1), Table 6, page 2, SC 1 and 7 customer costs are \$12.20
18 and \$17.37, respectively, as compared to the current SC 1
19 and 7 customer charge of \$11.78. These customer costs
20 are based on 2005 costs and current revenue levels prior
21 to any proposed increase. Under the Company's proposal,
22 the current SC 1 and SC 7 customer charges of \$11.78 were

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1 increased by the overall base rate increase assigned to
2 SC 1 (\$11.78 multiplied by 29.15% or \$15.21) to bring the
3 customer charge more in line with costs and revenues in
4 the rate year.

5 Q. Mr. Brown, representing the E-Cubed Company, recommends
6 that the Company support extending the exemption from
7 standby rates (SC 14-RA) until the end of the three-year
8 rate plan as proposed by the Company for customers with
9 designated technologies. Does the Company agree?

10 A. No. Although the Commission approved the standby rates
11 because they were designed to be cost-based, the
12 Commission also concluded that it was appropriate to
13 encourage the use of certain types of distributed
14 generation (DG) by permitting customers with designated
15 technologies to be exempted from standby rates or to pay
16 the standby rates on a phase-in basis. The Commission
17 initially established a deadline of May 31, 2006, and
18 later established a deadline of May 31, 2009, for
19 commencement of operation of the DG designated
20 technologies. These deadlines for the qualification for
21 the standby rate exemption have provided developers with
22 generous notice. Additionally, since standby rates for

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1 designated technology DG customers will not be fully
2 phased-in until February 1, 2011, customers with
3 designated technologies commencing operation of their
4 facility between June 1, 2009 and January 31, 2011 will
5 still receive the benefit of the rate phase-in as it is
6 in effect when the qualifying unit becomes operational.

7 Q. Do you agree with Mr. Brown's statement on page 16 of his
8 testimony that the current standby rates "impose what
9 amounts to an excessive ratchet charge as well as
10 potentially highly costly surcharges for exceeding the
11 Contract Demand"?

12 A. No. The Commission already rejected this argument when
13 it approved Con Edison's standby rates. The purpose of
14 the Commission-approved ratchet charge is to provide a
15 cost-based rate that also provides an incentive for
16 customers to estimate their demand correctly and
17 therefore pay for costs they impose on the system. With
18 respect to the surcharge, it is only applicable to
19 customers who establish their own contract demand; thus,
20 customers can avoid any possibility of incurring the
21 surcharges by agreeing to have the Company set the level
22 of the contract demand. In addition, customers incur the

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1 surcharge only if they exceed their contract demand by
2 more than ten percent, thereby providing those customers
3 who choose to do so considerable leeway in establishing
4 their contract demand.

5 Q. Must a customer who exceeds its contract demand by more
6 than ten percent continue to pay for the higher contract
7 demand indefinitely?

8 A. If a customer can demonstrate that electricity consuming
9 equipment is removed or abandoned or that permanent
10 energy efficiency or load limiting equipment has been
11 installed, it may request a reduction in its contract
12 demand.

13 Q. Do you agree with Mr. Brown's proposal to build a "redo"
14 into standby rates whereby one incident of exceeding the
15 contract demand would not result in any more cost to the
16 facility than would have the open NYISO market at the
17 time of the event?

18 A. No. Mr. Brown is suggesting that the customer not be
19 responsible for paying a ratchet charge the first time
20 his maximum monthly demand exceeds his contract demand by
21 more than ten percent. This proposal is in conflict with
22 the standby rate guidelines reflected in the Commission's

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1 Opinion No. 01-04, Opinion and Order Approving Guidelines
2 for the Design of Standby Service Rates, issued and
3 effective October 26, 2001, in Case No. 99-E-1470, and
4 should be rejected. As specified in the Guidelines,
5 "Contract (Fixed) Demand Charges should apply to the
6 customer's maximum potential annual metered demand or
7 connected load." At page 16 of the Opinion and Order,
8 the Commission noted that the Guidelines reflect its
9 agreement with the utilities' position that the contract
10 demand "should be the total connected or 'potential'
11 load, as this is more readily determined, and also is
12 representative of the size and type of facilities put in
13 place to serve each customer." When a customer exceeds
14 the demand on which past charges were based, the Company
15 must conclude that either the customer's initial contract
16 demand was improperly established at the outset or the
17 customer's maximum monthly demand and/or connected load
18 has increased and a new contract demand must be
19 established.

20 Q. Does Mr. Brown provide a valid justification for this
21 proposed change in policy?

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1 A. No. Mr. Brown states as follows: "Through lack of clear
2 information on the standby rates, and as a result of
3 poorly design [sic] CHP jobs resulting in a loss of some
4 certainty about reliability, and as a result of our own
5 (the DG/CHP community) pronouncements about how dire the
6 standby rates are to live with, there is more fear of
7 them than is necessary." In other words, Mr. Brown is
8 suggesting that the Commission should change its policy
9 because his clients and their advocates make mistakes and
10 improperly characterize standby charges.

11 Q. Turning to the allocation of DSM costs to NYPA, please
12 comment on NYPA's suggestion on page 42 of its testimony
13 that these costs be allocated to NYPA using a demand
14 based allocator as opposed to a per kWhr basis?

15 A. NYPA contends that the use of a demand allocator is more
16 appropriate in allocating DSM program to NYPA because
17 such programs are designed to reduce demand and thus will
18 reduce demands based costs. As explained throughout the
19 initial testimony of Company witness Craft, the Company's
20 DSM programs are designed to achieve demand reduction
21 through permanent energy efficiency measures. Therefore,
22 a demand allocator is no more appropriate than one based

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1 on "kWhrs" for allocating DSM program costs. In
2 addition, the Commission has traditionally allowed
3 recovery of public policy costs on a kWhr basis.

4 **Business Incentive Rate**

5 Q. Do you agree with Ms. Luthin's proposal to expand the
6 allocation set aside for bio-medical research customers
7 under the Company's Business Incentive Rate ("BIR")
8 program from 20 MW to 77 MW?

9 A. No. Ms. Luthin has shown no basis for establishing an
10 allocation for bio-medical research customers that is
11 almost four times the current allocation of 20 megawatts.

12 Q. Please explain the BIR allocations, including the bio-
13 medical category.

14 A. Con Edison's BIR, contained in Rider J to the Company's
15 Schedule for Electricity Service ("tariff"), provides a
16 discount on delivery charges for eligible customers for the
17 purpose of retaining and attracting commercial and industrial
18 customers in order to promote economic development in the
19 Company's service territory. The BIR is available to non-
20 governmental customers meeting one of three sets of
21 requirements:

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- 1 • "Customers receiving a comprehensive package of economic
2 incentives"... "conferred by the local municipality or state
3 authorities" The package of economic incentives may
4 include "substantial tax or similar incentives designed to
5 maintain or increase employment levels in the service
6 area" or a grant of funding from a World Trade Center
7 recovery program to promote business recovery and economic
8 development in lower Manhattan following September 11,
9 2001.
- 10
- 11 • "Customers served in new or vacant premises receiving a
12 substantial real property tax incentive or energy rebates
13 under the New York City Energy Cost Savings Program."
14
- 15 • "Not-for-profit institutions occupying newly constructed
16 or converted laboratory space ... where such space is solely
17 or predominately used for biomedical research ... upon a
18 showing of expected economic development benefits,
19 including new jobs, as a result of the provision of this
20 Rider over the long term and a showing that National
21 Institute of Health grants will not contribute towards the
22 cost of electric service covered by this Rider J."

23

24 In the "Comprehensive Package "Program," the BIR is a
25 component of the package of economic benefits, such as
26 relocation benefits, rent abatement, and tax exemptions,
27 that the City of New York ("City") and the County of
28 Westchester ("County") can offer to businesses as they
29 compete with neighboring states to attract and retain
30 businesses and encourage expansion of existing
31 businesses. In the "New and Vacant Buildings Program,"
32 customers receive the BIR to encourage occupancy in new

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1 or vacant premises that qualify for real estate tax
2 rebates or energy rebates provided by New York City for
3 economic development purposes. In the "Biomedical
4 Research Program", not-for-profit institutions ("NFPs")
5 receive the BIR to promote the expansion of the
6 biomedical research industry in New York City and
7 Westchester.

8 Q. Please explain the aggregate BIR allocations provided for
9 under Con Edison's Schedule for Electricity Service.

10 A. A total of 452 MW of low cost BIR power is available for
11 allocation in 4 categories:

- 12 • 240 MW for allocation by the City of New York in
13 the Comprehensive Package Program,
- 14 • 35 MW for allocation by the County of Westchester
15 in the Comprehensive Package Program,
- 16 • 157 MW available for allocation by Con Edison in
17 the New and Vacant Buildings Program, and
- 18 • 20 MW available for allocation by Con Edison in
19 the Biomedical Research Program.

20 Q. Please explain the history of the availability of the BIR
21 for NFP's conducting biomedical research.

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1 A. The October 2, 2000 Settlement Agreement approved by the
2 Commission in Case No. 00-M-0095 increased the total
3 amount of BIR power available for allocation by 210 MW,
4 i.e., from 230 MW to 440 MW. Of this increase, Con
5 Edison's "New and Vacant Building Program" was increased
6 by 50 MW, i.e., from 115 MW to 157 MW; New York City's
7 Comprehensive Package Program was increased by 140 MW,
8 i.e., from 100 MW to 240 MW; and Westchester County's
9 Comprehensive Package Program was increased by 20 MW,
10 i.e., from 15 MW to 35 MW. The October 2, 2000
11 Settlement Agreement also provided for the reservation of
12 8 MW from the New and Vacant Building Program for
13 allocation to "not-for-profit institutions, or affiliates
14 of not-for-profit institutions, occupying newly
15 constructed or converted laboratory space contained
16 within newly-constructed buildings, additions to or
17 renovations in existing buildings, or buildings newly
18 converted to laboratory space, that is solely or
19 predominantly used for Biomedical Research and/or
20 occupied by Biotechnology companies."

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1 Con Edison's tariff was amended effective April 1, 2001
2 to establish the Biomedical Research Program and made 8
3 MW available for this program.

4 The December 2, 2004 Joint Proposal approved by the
5 Commission in Case 04-E-0572 increased the amount of
6 power available for allocation through the BIR program by
7 12 MW, bringing the total allocation to 452 MW, where it
8 stands today. The 12 MW was allocated to the "New and
9 Vacant Buildings Program" and was reserved for not-for-
10 profit institutions utilizing laboratory space for
11 biomedical research under the existing criteria for such
12 allocations. The 12 MW was to be phased-in as follows: 5
13 MW effective as of April 1, 2005, 2 MW effective as of
14 April 1, 2006, and 5 MW effective as of April 1, 2007.

15 This increased the total BIR MWs available in the
16 Biomedical Research Program to 20 MW. Con Edison's
17 tariff was amended effective April 1, 2005 to effect
18 these changes to the BIR Program.

19 Q. Have these allotments been allocated or committed to
20 customers?

21 A. At the present time, 102 MW are allocated or committed
22 and 138 MW are available in the City of New York's

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1 Comprehensive Package Program; 22.2 MW are allocated or
2 committed and 12.8 MW are available in the County of
3 Westchester's Comprehensive Package Program; 145 MW are
4 allocated or committed and 12 MW are available in the New
5 and Vacant Buildings Program. Within the New and Vacant
6 Building Program 19 MW are allocated or committed and 1
7 MW is available in the Biomedical Research Program.

8 Q. What is the basis for Ms. Luthin's recommendation to
9 expand the BIR allocation for the Biomedical Research
10 Program?

11 A. Ms. Luthin addresses the positive economic and social
12 impact of NFP health and educational institutions in New
13 York City, the stressed economic situation of these
14 institutions, and the effect of increasing energy costs
15 on these institutions. Ms. Luthin states, "The need for
16 low cost power as an economic incentive for large non-
17 profit hospitals and universities located in New York
18 City remains critical." Luthin, p. 12.

19 Ms. Luthin asserts that biomedical research facilities
20 are a sub-sector of New York City's NFP health and
21 educational institutions and "contribute[s] significantly
22 to the economic growth of the NYC region." Luthin, p. 4.

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1 Citing the example of Memorial Sloane Kettering Cancer
2 Center ("MSKCC"), Ms. Luthin states that NFP biomedical
3 research institutions in Con Edison's service area must
4 construct and maintain state-of-the-art laboratory and
5 research facilities in order to expand research programs,
6 attract the best biomedical researchers, and create new
7 professional staff jobs. Luthin, pp. 19-20, 21-22. Ms.
8 Luthin cites a study indicating that "New York bio-
9 technology facilities have the highest, by a wide margin,
10 ratio of electric costs as a percentage of total
11 operating costs exclusive of salaries." Luthin, p. 7.

12 Q. What is the basis for Ms. Luthin's recommendation to
13 increase the Biomedical Research Program allocation from
14 20 MW to 77 MW?

15 A. Ms. Luthin recommends that the amount of BIR power
16 available in the Biomedical Research Program should be
17 based on the number of jobs in the entire NFP non-profit,
18 health and education sector. She develops a ratio
19 representing the amount of power available under the BIR
20 program relative to the total number of jobs in the non-
21 agricultural sector vs. the non-profit, health and
22 education sectors. Luthin, pp. 13-14.

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1 Q. Do you agree that the amount of BIR power available to
2 biomedical facilities should be based on the number of
3 jobs in a particular sector of the economy?

4 A. No. BIR power is provided on the basis of new, expanded,
5 or retained load. Thus, the availability of BIR power
6 should be based on the amount of power required to
7 accommodate eligible load.

8 Q. Has Ms. Luthin provided any data that would demonstrate
9 the need for increasing the allocation for the Biomedical
10 Research Program, by a factor of almost four times the
11 existing allocation, for new load that may be eligible
12 under current program criteria?

13 A. No, she has not. The only data provided by Ms. Luthin
14 with respect to potentially eligible new load is a
15 reference to construction of an 8-story biomedical
16 research facility by MSKCC (which load is included in the
17 Company's projection). As discussed above, Ms. Luthin's
18 77 MW proposal is in fact based on a proposal to change
19 the criteria for qualifying for the BIR program, from
20 economic development criteria to criteria based upon the
21 number of jobs in the overall health and education
22 economic sector. As explained above, BIR power

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1 availability should continue to be based on the amount
2 needed to accommodate new, expanded, or retained load,
3 that is for projects where the customer is considering
4 leaving the service territory or to entice a new customer
5 to come into the service area or to entice a new or
6 existing customer to expand electric use within the
7 service area. Generally established, non-profit health
8 and educational facilities do not meet this criteria and
9 should not be eligible for BIR power.

10 Q. Are there opportunities for low cost power for bio-
11 medical research facilities under other provisions of the
12 current BIR program?

13 A. Yes. Bio-medical facilities could qualify for low-cost
14 power under the BIR as a New or Vacant Building Program
15 if they receive energy rebates under the New York City
16 Energy Cost Savings Program or under the Comprehensive
17 Package Program if they receive a comprehensive package
18 of incentives that customer negotiates with New York City
19 or Westchester County. In fact, recently a bio-medical
20 project received an allocation from the City of New York.

21 Q. Are there any other additional issues associated with Ms.
22 Luthin's Proposal?

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1 A. Yes. The Staff RDM panel opposes the Company's RARIM
2 proposal, which is based upon revenue per customer
3 approach, and instead recommends adoption of a true-up to
4 the rate case forecast. If Staff's proposal is adopted,
5 Ms. Luthin's proposal could result in the Company
6 incurring additional costs for this new load without
7 receiving the benefit of any additional revenues, absent
8 an appropriate adjustment to the sales forecast.

9 **Monthly Adjustment Clause and Market Supply Price Charge**

10 Q. Please explain Staff's proposals with respect to
11 modifying the MSC and MAC mechanisms.

12 A. Staff is proposing that the Company file a plan within 60
13 days of a Commission order in this proceeding to revise
14 its MSC charge so that it reflects actual day-ahead
15 market prices that were in effect during each customer's
16 billing period. Such plan would include identification
17 of specific issues that will need to be resolved and
18 include a proposed schedule of implementation. However,
19 in the interim, Staff would continue the Company's
20 current practice of forecasting and posting the MSC for
21 three months in advance.

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1 Q. Do you concur with Staff's recommendation that the
2 Company file a plan within 60 days of a Commission order
3 in this proceeding to revise its MSC mechanism so that it
4 reflects actual day-ahead market prices during the
5 customer's specific billing period?

6 A. Yes. The Company is willing to consider an MSC mechanism
7 that takes into account actual day-ahead market prices.

8 Q. Has the Staff proposed other changes to the MSC and MAC
9 mechanism during the interim period prior to
10 implementation of an MSC reflective of day-ahead market
11 prices?

12 A. Yes. Staff proposes that the MSC estimate continue to
13 reflect the market value of supply and the Adjustment
14 Factor-MSC be modified to include the non-market supply
15 related costs that the Electric Rate Panel proposed to
16 move from the MAC to MSC as set forth in its direct
17 testimony on pages 65-66. The Company generally agrees
18 with Staff's proposal. However, we would propose to
19 modify Staff's proposal by establishing a second
20 Adjustment Factor-MSC component that would reflect the
21 recovery of non-market supply related costs being moved
22 from the MAC to the MSC. The current Adjustment Factor-

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1 MSC would continue to reconcile the difference between
2 estimated and actual market costs.

3 Q. Why does the Company believe there is a need for two
4 Adjustment Factors - MSCs?

5 A. Including non-market supply related costs in the
6 Adjustment Factor - MSC would mix the normal
7 reconciliation of the market price estimate with non-
8 market supply related costs.

9 Q. Turning to the MAC, the Westchester Panel objects to the
10 Company's proposal to convert the recovery of the MAC
11 from a demand and energy charge to an energy charge only.
12 They argue that the cost components of the MAC are
13 primarily demand-related and, as a general principle of
14 rate design, should be recovered in demand rates. Do you
15 agree with this statement?

16 A. We agree that the MAC components are primarily demand-
17 related and that as a general principle rates should be
18 designed to reflect costs. We note however, that the
19 Commission often adopts per kWh charges for the recovery
20 of public policy costs, even if demand-related and that
21 recovery of the MAC costs on a per kWhr basis would
22 greatly simplify rates. The contract capacity costs that

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1 are recovered in the MAC are public policy costs, because
2 Con Edison was required to execute those contracts
3 pursuant to the Commission's implementation of the Public
4 Utility Regulatory Policies Act.

5 Q. Please provide examples of cases where the PSC has
6 approved recovery of public policy demand-related costs
7 through per kWh charges.

8 A. The System Benefits Charge and the stranded cost recovery
9 mechanisms of the other New York State electric utilities
10 are examples of cases where the PSC has approved recovery
11 of demand-related costs through per kWh charges.

12 Q. Have you analyzed the impact of allocating MAC costs on a
13 demand basis?

14 A. Yes. If MAC costs are allocated to classes based upon
15 contribution to peak demand as represented by the
16 transmission allocator used in the 2005 ECOS study,
17 adjusted to exclude NYPA and EDDS customers, 34.9% of
18 total Company MAC costs would be allocated to SC 1 as
19 compared to the Company proposed methodology, which would
20 have allocated 29.3% of MAC costs to SC 1 for the 12
21 months ended April 2007. Clearly this approach would have

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1 a worst impact on the very customers that Westchester
2 wants to protect.

3 Q. Do you agree with the Westchester Panel's
4 characterization that the Company proposal will result in
5 a significant additional cost burden on customers billed
6 on the Company's energy only rates?

7 A. No. Based on the Company's study, which showed the
8 effects of converting the demand and energy MAC rate
9 structure into an energy only rate in response to Staff
10 data request 249.5, a typical Westchester County
11 residential customer using 500 kWhrs per month would have
12 seen an average bill increase of only \$0.55 per month for
13 the 24-month period ended April 1, 2007. For a typical
14 New York City residential customer using 300 kWhrs per
15 month, the proposed change would have resulted in an
16 average bill increase of \$0.34 per month for the same
17 period.

18 As demonstrated by these bill changes, the effect of the
19 Company's proposal cannot be characterized as significant
20 when considered in terms of the impact on total customer
21 bills.

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1 Secondly, it is not true as Westchester County contends
2 that all energy only classes will experience increases.
3 The SC 2 class billed under the energy only MAC rate
4 proposed by the Company would actually have seen a small
5 revenue decrease in 2005 and a revenue decrease of \$10
6 million in 2006. The SC 12 energy-only class would have
7 seen small revenue increases in both years. The SC 7 and
8 the SC 9 maximum rate classes would have experienced
9 decreases in revenues in at least one of the two years
10 studied.

11 Q. Were there any other objections to the Electric Rate
12 Panel's proposal with respect to the design of the
13 MSC/MAC rates?

14 A. Yes and they are addressed in Company witness Holtman's
15 rebuttal testimony.

16 **Hourly Pricing**

17 Q. Please explain Mr. Rosenberg's position on real time
18 pricing ("RTP").

19 A. Mr. Rosenberg supports RTP (which is actually day-ahead
20 hourly pricing under the Company's tariff) and recommends
21 that the Company be directed to convene a working
22 collaborative within 60 days of an order issued in this

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1 case to further investigate RTP and to draft a report for
2 submission to the Commission with specific
3 recommendations to ameliorate rate design disincentives
4 to wider participation in RTP.

5 Q. Do you agree with this recommendation?

6 A. No, we do not. Mr. Rosenberg cautions that as between
7 customers that go on the RTP rate and customers that
8 remain on conventional rates, "care must be taken that
9 the MSC / MAC mechanism does not over or under collect
10 from either group of customers." (p. 38) Mr. Rosenberg
11 then states, "Being on RTP should not mean that a
12 customer is disadvantaged as compared to a customer on a
13 conventional rate design." (p. 38) Finally, Mr. Rosenberg
14 states, "Given the overall complexity and the potential
15 implications of reconfiguring the elements of the MSC and
16 MAC, great care should be taken to ensure that RTP tariff
17 rates are just and reasonable, and fairly reconciled with
18 conventional rates."

19 These general remarks provide no basis whatsoever for
20 convening a collaborative to further examine the
21 Company's RTP rate structure. Mr. Rosenberg does not
22 provide a single example of any aspect of the Company's

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1 current rates that disadvantage RTP customers as compared
2 to conventional rate customers. Nor does he provide a
3 single example of how or why the Company's proposal
4 regarding the MAC/MSR may result in such a disadvantage.
5 Accordingly, the City has not established any basis for
6 the Company, Staff, and other parties expending material
7 time, expense and effort to investigate this issue. For
8 these reasons, the Commission should not adopt Mr.
9 Rosenberg's recommendation.

10 Q. Do you have any comments on the positions taken by other
11 parties in this proceeding related to Real Time Pricing
12 or Mandatory Hourly pricing?

13 A. We do not but the Customer Operations Panel testifies
14 with respect to the other parties' comments on this
15 subject.

16 **Miscellaneous Tariff Changes**

17 Q. In view of the recently adopted gas rate plan, are there
18 any additional changes that you are proposing to make to
19 the Company's electric tariffs to conform with the gas
20 tariffs?

21 A. Yes. The retail access tariff will be revised to assess a
22 charge to an ESCO for failure to settle a dispute in

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1 accordance with the dispute resolution procedure as set
2 forth in Appendix K of the Gas Joint Proposal and
3 approved in the gas rate order issued September 25, 2007
4 in Case No. 06-G-1332. A dispute for the purpose of this
5 procedure is a "customer claim related to an amount of
6 ESCO charges billed and purchased by Con Edison." The
7 charge assessed the ESCO will be equal to the amount
8 disputed by the customer.

9 Q. Does this conclude your rebuttal testimony?

10 A. Yes, it does.