

JOHN PERKINS - STEAM

1

2 Q. Please state your name and business address.

3 A. My name is John Perkins and my business address is 4

4 Irving Place, New York, NY 10003.

5 Q. By whom are you employed and in what capacity?

6 A. I am Director, Corporate Finance, for Consolidated

7 Edison Company of New York, Inc. ("Con Edison"

8 "CECONY" or the "Company").

9 Q. Briefly describe your educational background.

10 A. I graduated from MIT in 1972 and received B.S. degrees

11 in Economics and Civil Engineering. I received M.A.

12 and M.Phil. degrees in Economics from Yale University

13 in 1974 and 1975, respectively. I took several

14 additional graduate courses in Finance from New York

15 University.

16 Q. Please summarize your professional background.

17 A. I joined Con Edison in 1982. My previous positions

18 have been as Director, Financial Administration,

19 Director, Corporate Planning, Director, Financial

20 Services, and Manager, Financial Services. Prior to

21 joining Con Edison, I was employed by Chase

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1 Econometrics/Interactive Data from 1980-1982 and by
2 the Graduate School of Business of Columbia University
3 (1976-1979), where I taught courses in economics and
4 transportation.

5 Q. Please describe your current responsibilities.

6 A. My responsibilities include preparing the cash
7 forecast and planning and executing financing for
8 Consolidated Edison, Inc. ("CEI"), and its
9 subsidiaries, including Con Edison and Orange and
10 Rockland Utilities, Inc. ("Orange & Rockland"). In
11 addition, I manage the relationships with credit
12 rating agencies and undertake various financial
13 analyses.

14 Q. Have you previously sponsored testimony before
15 regulatory bodies?

16 A. Yes. I have sponsored testimony in Con Edison steam
17 (05-S-1376 and 07-S-1315) and gas (06-G-1332) base
18 rate cases.

19 I have also sponsored testimony on capitalization and
20 cost of capital for Orange & Rockland in Cases 06-E-
21 1433, 05-G-1494, 07-E-0949, and 08-G-1398, in the

1 matter of the securitization of certain deferred
2 balances and testimony on capital structure and rates
3 of return for Rockland Electric Company ("RECO") (a New
4 Jersey public utility subsidiary of Orange & Rockland)
5 before the New Jersey Board of Public Utilities, and on
6 rates of return and capital structure for Pike County
7 Light & Power Company ("Pike") (a Pennsylvania public
8 utility subsidiary of Orange & Rockland) before the
9 Pennsylvania Public Utility Commission.

10 Q. What is the purpose of your testimony?

11 A. My testimony discusses (1) the current financial
12 market environment, (2) the historic and projected
13 capital structure of CECONY and the cost of capital,
14 the current credit ratings of CECONY, the methodology
15 used by the rating agencies to determine these
16 ratings, the rating agencies' comments as to the
17 strength of key financial ratios of CECONY, and the
18 potential impact of reduced ratings. Finally, I
19 discuss the rate treatment of Directors' and Officers'
20 insurance costs.

21

1 notch rating changes over a very short period of
2 time.

3
4 In fact, in the same article (on page 8) Moody's is
5 less than sanguine about the future:

6
7 A second big risk stems from the sector's heavy
8 reliance on unfettered access to the capital
9 markets as a component of its liquidity. The
10 capital markets have accepted this reliance over
11 many decades, and many utility issuers have been
12 all but untouched by the recent and ongoing
13 turmoil in the financial markets. Even so, the
14 reliance on third-party financing remains a
15 critical risk factor—especially as numerous bank
16 credit facilities expire over 2011-2012. The
17 increasing burden on our overall liquidity
18 analysis may eventually stop us from assuming the
19 sector has unfettered access to the capital
20 markets. The dramatic changes in credit
21 availability and the financial institutions
22 require some caution. We believe utilities will
23 see their available borrowing capacity decrease,
24 possibly by as much as 25%-30%; that tenors will
25 shorten, with two-year facilities more widespread
26 than five-year; and that pricing will be
27 substantially higher than today.

28
29 We believe the turmoil impacting the financial
30 institutions will remove about 30% of the utility
31 industry's current available credit which will
32 drop overall liquidity capacity to roughly \$77
33 billion from about \$110 billion—a drop of about
34 \$30 billion. That is a lot of credit capacity
35 coming out of the system.

36
37 Q. Does this Moody's report reiterate its view of
38 the centrality of the regulator to its credit

1 determinations for the industry?

2 A. Yes. On page 5, it states:

3 Because the regulatory benefit is so critical
4 to our ratings, it tends to represent the most
5 important risk factor. While we continue to
6 consider regulatory risk a lower risk today,
7 we believe there are potential longer-term
8 regulatory risks that could emerge on two
9 fronts: Regulatory support for timely recovery
10 could erode; and

11 Regulators could reduce the authorized returns on
12 investments, based on the perception that utilities
13 have lower business risks than other industrial
14 sectors and will find it easier to compete for
15 capital.

16
17 Theoretically, regulators could attack the standard
18 cost of capital arguments that assert competitive
19 ROEs and other returns are necessary to attract
20 capital. Our concern is that regulators could
21 attempt to modify their views on the appropriate
22 returns, since the sector's leverage is already
23 benefited by regulation.

24
25 Q. Are there other markets needed by United States
26 utilities where the effect of the crisis persists?

27 A. Yes. As described by Moody's above the bank loan
28 market has significantly deteriorated, a condition
29 which is likely to persist for some time. Prior to the
30 crisis utilities such as Con Edison were able to
31 arrange a 5-year revolving credit facility with

1 minimal upfront fees (amortized at a basis point or so
2 a year) and annual facility fees in single digit basis
3 points.

4 Today, 5-year facilities are not available and 2-year
5 facilities have facility fees and upfront fees many
6 multiples of what they were. The penalty for having a
7 lower credit rating has also increased.

8 Q. Why are bank revolving-credit facilities important to
9 the Company's financing plan?

10 A. There are four purposes for bank credit facilities in
11 the funding of a utility company like Con Edison.
12 First, the facility directly or indirectly provides
13 the liquidity that allows the Company to raise long-
14 term financing when desirable, not when it has to.
15 This aspect of the facility saves customers money
16 because it eliminates the need to pre-fund spending
17 and reduces the likelihood of funding at the worst
18 times in the market. Second, the facilities allow the
19 Company to issue letters of credit, necessary for it
20 to manage the portfolio of electricity and natural gas
21 purchases made in the wholesale and financial markets

1 on behalf of customers and to keep low-cost variable
2 rate tax-exempt bonds outstanding. Third, the
3 facility is the source of liquidity that assures
4 purchasers of our commercial paper that they will be
5 repaid. This "back up" function permits the Company to
6 access a low-cost source of funds for the day-to-day
7 operation of the business. Finally, the facilities
8 assure the rating agencies that the Company can meet
9 its obligations even if it loses access to the capital
10 markets for a period of time (and thus factors into
11 the credit ratings for the Company).

12

13

14

CAPITALIZATION AND COST OF CAPITAL

15 Q. What capital structure do you recommend should be used
16 in this proceeding?

17 A. I recommend the use of the stand-alone capitalization
18 of CECONY in this proceeding.

19 Q. Please describe the stand-alone capitalization.

20 A. Stand-alone capitalization refers to the actual
21 capital structure of CECONY.

- 1 Q. Does this initial capital structure plus projected
2 financings represent the expected actual investment of
3 capital in the Company?
- 4 A. It does.
- 5 Q. Has the Company prepared a rate of return required
6 exhibit?
- 7 A. Yes. The document entitled "CONSOLIDATED EDISON
8 COMPANY OF NEW YORK, INC. - RATE OF RETURN REQUIRED
9 FOR THE RATE YEAR - TWELVE MONTHS ENDING SEPTEMBER 30,
10 2011," set forth as Exhibit __ (AP-10).
- 11 Q. Did you provide the interest rate forecasts used as a
12 basis for the cost of debt in this Exhibit?
- 13 A. Yes.
- 14 Q. What method have you used to develop interest rate
15 forecasts?
- 16 A. I used forecasts (based on the consensus of more than
17 fifty economists) of Treasury rates from the
18 publication Blue Chip Financial Forecasts, plus a
19 spread to Treasuries based on current spreads for a
20 new Con Edison issue as supplied by Citigroup, an
21 experienced underwriter of Con Edison debt. For the

1 period until the end of 2010, I applied the Treasury
2 rate forecasts from the November 2009 edition of the
3 Blue Chip Financial Forecasts. For 2011, I used the
4 forecasts from the June 2009 edition (the latest
5 available) of the Treasury rate longer-term forecast.

6
7 At the update stage of this proceeding, I will reflect
8 the most recent data available as well as any new debt
9 that the Company may have issued by that time.

10 Q. Do you have a recommendation for the treatment of
11 variable rate (variable rate demand notes and auction
12 rate notes) tax-exempt debt?

13 A. Yes. I recommend that the true-up of the debt costs
14 for these issues that was established in the 2008
15 electric rate case, and recommended by Staff in the
16 current electric rate case, be continued.

17 Q. If the Commission were to adopt a true-up, what should
18 be included in the true-up?

19 A. The difference between the rates actually prevailing
20 during the rate year and the interest costs set for
21 the tax-exempt debt in this case. The true-up would
22 also be applied to credit support costs such as

1 letters of credit or insurance. In addition, each of
2 the existing issues has associated unamortized
3 issuance costs (representing underwriting fees,
4 insurance premiums, and other costs from the time of
5 issuance). If CECONY decides that calling these
6 issues will reduce total costs or because of
7 government, legal or regulatory requirements to do so,
8 the issuance costs should be amortized over the
9 shorter of the remaining life of the refunded issues
10 or the life of the new issues. The actual cost of the
11 replacement debt issues (including issuance costs and
12 any credit support) and the new interest rate should
13 be trued-up as well.

14

15 **CAPITAL NEEDS AND INVESTOR CONCERNS**

16 Q. Please describe the financial challenges facing the
17 Company over the rate period.

18 A. The Company faces four inter-related financial
19 challenges (A) the capital intensive nature of its
20 business, (B) its unusually weak cash flows, (C) the
21 restrictions that regulation places on its ability to

1 respond to unfavorable developments in its
2 environment, and (D) its dependence on the market to
3 fund its capital needs.

4 Q. Please discuss the capital intensive nature of the
5 Company's business.

6 A. The Company's business requires significant capital
7 investment every year, its assets are long-lived and
8 the underlying technology, facilities and customer
9 base are mature.

10 Capital intensity is high for electric, gas and steam
11 utilities. According to a recent EEI report, the
12 electric utility industry is second only to railroads
13 in capital intensity. The Company's intensity is all
14 the greater because it serves an urban area. Its
15 capital intensity can be demonstrated by the fact that
16 its ratio of net plant per dollar of revenues is \$1.54
17 versus \$0.62 for the average S&P 500 company and \$.20
18 for the median company. Capital intensity creates
19 extra risk for investors because capital intensive
20 businesses have to recover much larger fixed costs
21 (interest and depreciation) before achieving a return.

1 CECONY also has extraordinarily long lives for its
2 assets. In fact, the United States Securities and
3 Exchange Commission ("SEC") recently questioned the
4 Company about the appropriateness of assuming such
5 long lives. Long-lived assets in the context of rate
6 regulation create two financial challenges for the
7 Company that are also risks for potential investors in
8 the Company's debt and shares. First, their
9 investment horizons for capital recovery must be much
10 longer. For debt investors, utility debt has much
11 longer average maturities than other companies.
12 Equity investors must wait for long-term repayment on
13 their investment. Second, there is a regulatory risk
14 in long-lived assets because U.S. rate regulation
15 limits returns to a fraction of historic tangible book
16 cost rather than replacement or current market value.
17 The Company's depreciation recoveries, which reflect
18 historic tangible net book values, are small relative
19 to its current capital costs, returning only 28% of
20 its capital expenditures in the form of depreciation.
21 Due to the long depreciation lives established in

1 rates, this dynamic is likely to continue for many
2 years. By way of comparison, the average S&P 500
3 company recovered 170% of its capital expenditures
4 through depreciation and amortization. This placed Con
5 Edison in the bottom 5% of companies in the S&P 500
6 that had meaningful recovery rates (placing 464th out
7 of 485 companies). It had the second-lowest recovery
8 rate among the 33 utilities in the S&P 500. The
9 average recovery rate for the S&P 500 utilities index
10 was 48%.

11 The Company's large installed base of aging equipment
12 requires an unrelenting investment in replacement
13 assets. In other industries a much larger portion of
14 investment can be dedicated to new business
15 (generating offsetting revenues) or new technology
16 (lowering costs). Mature assets raise operating costs
17 and increase operating risks, particularly in an
18 environment which requires the highest level of
19 reliability and imposes regulatory penalties for
20 failing to achieve it with no corresponding
21 opportunities to earn rewards for better performance.

1 The technology of the business is also mature,
2 affording little opportunity to significantly reduce
3 invested capital in the business through technological
4 innovation. The need for continuous investment to
5 maintain and improve the system with slight
6 opportunities for demand growth and limited
7 depreciation cash flow means that the Company must
8 seek rate increases and raise new capital to maintain
9 its operations. Replacement capital needs alone
10 substantially exceed the cash generated through
11 depreciation recoveries for the Company. Over the next
12 three years, CECONY will spend well more than six
13 billion dollars in capital investment to replace or
14 upgrade existing facilities versus two and a half
15 billion dollars in depreciation recovery.
16 Investors perceive dependence on regulatory rate
17 increases and continuous access to the market as
18 significant risks, as discussed in the Moody's quote
19 above.

20 Q. Please describe how (B) the Company's unusually weak
21 cash flows present a financial challenge.

- 1 A. The Company is, and will continue to be, challenged by
2 its unusually weak cash flows as compared both to
3 other businesses and other utilities. Three factors
4 produce this outcome: (1) the Company receives low
5 depreciation recoveries relative to its capital
6 expenditures, (2) the Company has high capital
7 expenditure requirements relative to the modest growth
8 in its revenues, and (3) regulatory treatment of the
9 Company produces delays in recovering operating
10 expenses. In addition to the large capital needs and
11 modest sales growth, recoveries of operations and
12 maintenance expenses have been deferred over long
13 periods, which would not be possible without
14 regulatory treatment under SFAS 71. The \$1.6 billion
15 historic incurred capital expenditures now subject to
16 Commission review present a financial challenge to the
17 Company and a risk for potential investors in the
18 Company's debt and shares because they represent
19 significant earnings and cash flow risk for the
20 Company.
- 21 Q. Please describe how (C) restrictions on the Company's

1 business imposed by the Commission present a financial
2 challenge?

3 A. The Company is subject to several restrictions that
4 limit its ability to react to unfavorable
5 circumstances. It must provide service as demanded,
6 even if doing so entails significant investment upon
7 unfavorable terms. It cannot refuse to provide service
8 to new or unprofitable customers. It also cannot reach
9 beyond its franchised area to serve attractive new
10 customers. The Company's assets are immovable; unlike
11 those of most companies they cannot be used in a
12 different location or business, their usefulness and
13 profitability are tied to providing utility service in
14 New York. Also, unlike other companies, CECONY has no
15 meaningful ability to retain the advantages of its
16 efforts to improve its efficiency and thus lower its
17 costs of doing business for the benefit of its share
18 investors, as the Commission's rate orders remove a
19 fixed percentage upfront. Any additional efficiencies
20 achieved by management are fully allocated to
21 customers each time rates are reset.

- 1 Q. Please describe how (D) the fact that the Company must
2 continually raise capital increases risk for existing
3 and prospective investors.
- 4 A. The Company must approach the markets for additional
5 new capital on a frequent and recurring basis. Each
6 time, investors will assess the risks they would bear
7 upon investing in the Company due to the challenges
8 identified above. Their assessment of these risks is,
9 and will be, priced in the market each of the numerous
10 times that the Company seeks new capital in the years
11 ahead. To the extent that analysis of risk leads the
12 market to reduce stock price or raise interest rates,
13 the existing investors are disadvantaged and other
14 potential investors are made more wary.
- 15 Q. What is the implication of the above mentioned large
16 capital needs?
- 17 A. To raise this capital at a reasonable cost, CECONY and
18 CEI must remain attractive investments to both debt
19 and equity investors. To remain attractive to these
20 investors, CECONY must receive fair and reasonable
21 treatment from its regulators.

1 Q. How much debt does the Company have outstanding and
2 what type?

3 A. As of September 30, 2009 CECONY had \$9,465,900,000 in
4 long-term debt of which \$8,380,000,000 was unsecured
5 taxable debentures and \$1,085,900,000 was tax-exempt
6 debentures. CECONY had \$427 million of commercial
7 paper outstanding as of the date, and no balances
8 outstanding under its revolving credit facility. It
9 had letters of credit outstanding in an amount of \$339
10 million. Of this amount \$228 million consisted of
11 letters of credit backing the two CECONY tax-exempt
12 bonds.

13 Q. Who owns the debt owed by the Company?

14 A. Thousands of investment managers, insurance companies,
15 pension plans, hedge funds, banks, trust companies and
16 individuals.

17 Q. How do bond investors evaluate CECONY?

18 A. For most investors, the credit ratings assigned by the
19 SEC-recognized credit rating agencies are the
20 threshold basis for evaluating individual corporate
21 credits such as CECONY.

1 Q. What are the current ratings on CECONY debt?

2 A. The long-term debt ratings are A3, A-, and A- by
3 Moody's, Standard and Poor's ("S&P"), and Fitch,
4 respectively. The short-term debt is rated P-2, A-2,
5 and F2, respectively.

6 Q. How much consideration do the rating agencies give to
7 CECONY's regulatory environment when determining
8 credit ratings?

9 A. Because CEI and its subsidiaries are focused on the
10 energy delivery business the rating agencies' risk
11 assessment centers on the Company's regulatory
12 treatment, as stated recently by S&P:

13 For example, for a regulated transmission and
14 distribution company, regulation may account for
15 30% to 40% of the business profile score because
16 regulation can be the single-most important
17 credit driver for this type of company.
18 *Standard & Poor's New Business Profile Scores*
19 *Assigned for U.S. Utility and Power Companies;*
20 *Financial Guidelines Revised, page 6.*

21
22 Q. What led to the recent downgrades of the Company by
23 the ratings agencies?

24 A. Moody's recently downgraded the Company due to both
25 weakened financial metrics as well as a challenging
26 rate environment, as stated below:

1 The two notch downgrade reflects the financial
2 profiles of CEI, CECONY and O&R which are
3 considered weak for their previous ratings and
4 Moody's expectation that the companies are
5 unlikely to be able to significantly strengthen
6 their financial metrics in the near to medium
7 term." said Allan McLean, Moody's Vice President
8 / Senior Credit Officer. The downgrade also
9 reflects Moody's belief that CECONY and O&R will
10 continue to operate in challenging regulatory and
11 operating environments for the foreseeable
12 future. In the context of a weak economy, Moody's
13 believes that recent and future regulatory
14 decisions are unlikely to permit any significant
15 improvement in the companies' financial metrics
16 as regulators attempt to limit the impact of
17 rising cost pressures on ratepayers.
18 *Rating Action: Consolidated Edison Company of New*
19 *York, Inc. (June 29, 2009), page 1*
20

21 Q. How does Moody's view the current regulatory
22 environment for CECONY?

23 A. Moody's described the environment as challenging:

24 Moody's believes that CECONY's regulatory
25 environment has become more challenging in recent
26 years. Our view reflects the steady decline in
27 allowed ROEs as evidenced by the decline in the
28 allowed ROE in CECONY's electric business from
29 the 11.1% that existed through most of the 1990s
30 and the early part of this decade to the 9.1%
31 authorized for the 2009 rate year. While CECONY's
32 allowed electric ROE has increased to 10% for the
33 2010 rate year, the lower level relative to
34 periods prior to the 2006 rate year, will have a
35 negative impact on CECONY's cash flow generating
36 abilities all else being equal.
37 *Credit Opinion: Consolidated Edison Company of*
38 *New York, Inc. (June 30, 2009), page 2*
39

1 They also reacted adversely to the \$60 million
2 austerity program imposed on the Company by the
3 Commission in CECONY's latest electric rate case:

4 Moody's also considers the PSC's requirement that
5 CECONY implement a \$60 million austerity program
6 in connection with its electric rate decision for
7 the year ending March 31, 2010 to be symptomatic
8 of a less constructive regulatory environment.
9 *Credit Opinion: Consolidated Edison Company of*
10 *New York, Inc. (June 30, 2009), page 3*
11
12
13
14

15 Q. What did Moody's say would cause a downgrade to occur?

16 A. Moody's stated:

17 CECONY's ratings could be negatively pressured if
18 there is more deterioration in its financial
19 profile. *Credit Opinion: Consolidated Edison*
20 *Company of New York, Inc. (June 30, 2009), page*
21 *5.*
22
23

24 In the same article Moody's stated that they do not
25 consider it likely that ratings could be upgraded in
26 the near-term.

27 While Moody's does not consider it likely in the
28 near-term, an upgrade in CECONY's rating would
29 likely require evidence of a less challenging
30 regulatory environment combined with a
31 strengthening of CECONY's credit metrics
32
33

1 Q. What does Fitch say about the financial ratios and
2 ratings?

3 A. In their "Fitch Comments on NYPSC Rate Decision for
4 Con Edison Co of New York" (23 Apr 2009) Fitch states:

5
6
7 The good news for investors is the announced
8 return on equity (ROE) of 10%, which on the
9 surface appears to offer a boost from the
10 9.1% allowed a year earlier in a punitive
11 rate order. However, the base rate increase
12 allowed will not enable CECONY to earn a 10%
13 ROE unless the company can succeed in
14 reducing expenses by \$60 million from the
15 company's projected level. In Fitch's
16 estimate, if the company cannot deliver the
17 expense cut, the ROE might only equate to
18 around 9.5%.

19
20 and

21 In addition to the base rate increase, the
22 PSC authorized a temporary increase of \$198
23 million in order to compensate CECONY for
24 new assessments that the State of New York
25 has imposed on utilities in the state to
26 address state budget deficiencies. The
27 assessment is so recently imposed that it
28 was not factored into CECONY's original
29 request or subsequent September 2008 revised
30 application. While it is helpful that CECONY
31 will be able to recover this new and
32 unexpected tax, the bad news is that the
33 utility will collect revenues for New York
34 State rather than base rates that compensate
35 investors.

1

2 Q. Why are allowed returns on equity and allowed equity
3 as a proportion of the capital structure important to
4 debt investors as well as equity investors?

5 A. Debt investors are concerned about the amount of
6 equity subordinate to them in the capital structure
7 and the returns available for stockholders for two
8 primary reasons. First, if a company is able to
9 attract new stock investment, it increases the debt
10 investors' likelihood of being paid interest and
11 principal when due. Second, returns for stock
12 investors provide a cushion when the business is
13 struggling. In difficult times, cash payments to this
14 part of the Company's capital can be suspended until
15 the business improves.

16 Q. Are bond ratings the correct indicator of the risks to
17 shareholders?

18 A. No. Shareholders, unlike bondholders, only have a
19 residual claim to the resources and income of the
20 Company, and thus face risks even in well-rated
21 companies. If returns are inadequate, the bondholder

1 may suffer a loss from a credit downgrade. The
2 stockholder will suffer the loss directly. Efforts by
3 the Commission to limit the upside potential of the
4 shareholder through the elimination of incentives and
5 other opportunities, combined with the removal of
6 true-ups and implementation of enhanced penalties
7 exacerbate the effect of lowered allowed returns.

8
9 Q. Please comment on recent events and how they have
10 reinforced the need for a strong financial condition
11 at CECONY.

12 A. The recent turmoil in the financial markets, which has
13 no source in the operations of the Company or of the
14 utility industry, is indicative of the volatility of
15 the cost and availability of capital. Long-term bond
16 spreads had widened by as much as 400 basis points for
17 very good credits and many hundreds more for poorer
18 credits. On the short end of the maturity spectrum,
19 access to commercial paper markets became difficult or
20 sometimes impossible for all but prime borrowers, a
21 status that has become more tenuous for CECONY due to
22 its A-2/P-2 (Standard and Poor's/ Moody's) rating for

1 commercial paper. At the height of the crisis, A-2/P-2
2 borrowers generally did not have access to commercial
3 paper borrowings. The few that did paid rates more
4 than 300 basis points above those paid by A-1/P-1
5 borrowers.

6 The seizing up of the commercial paper market was
7 relieved by the Federal government's effective
8 backstop for the highest rated (A-1/P-1) commercial
9 paper issuers. This backstop—together with reduced
10 issuance by asset-backed vehicles and corporations—has
11 allowed the commercial paper market to improve over
12 the past several months. Today even a relatively small
13 and less well-rated issuer, such as Orange & Rockland
14 again has access to commercial paper borrowing. There
15 is a significant risk on the horizon for the
16 commercial paper market. Several large investment
17 managers asked the SEC to prohibit money market funds
18 from investing in commercial paper rated A-2 or P-2.
19 If the SEC were to institute this prohibition,
20 CECONY's access to the commercial paper market could
21 be compromised.

1 If CECONY lost access to the commercial paper market
2 borrowing costs would increase as the Company relied
3 more upon long-term debt, which is more expensive. In
4 addition, the Company would more often issue debt on
5 less attractive terms because it lacked the
6 flexibility to postpone issuance. The recent past has
7 demonstrated how important maintaining a strong credit
8 rating and investor confidence can be.

9 Q. In the Company's 2007 electric rate case (Case 07-E-
10 0523) did the Staff Finance Panel make assertions
11 concerning the ability of the Company to maintain
12 its credit ratings in the face of that Panel's
13 recommendations?

14 A. Yes, they did. In their testimony (p. 66) they
15 asserted that the credit metrics would continue to
16 support an A rating. In fact, they speculated that
17 the addition of a regulatory decoupling mechanism
18 ("RDM") for the electric business might even lead to
19 an upgrade. Of course no such mechanism has been
20 granted to the highly weather-dependent steam
21 business.

1 Q. Were they correct in their assertion?

2 A. They were not. Standard and Poor's dropped the entire
3 CEI group by one notch and Fitch by two notches.
4 Moody's placed the entire CEI group on Negative
5 Outlook. So while CEI and the competitive businesses
6 have never reduced the utilities' credit quality, the
7 Commission's rate decisions for CECONY have
8 demonstrably hurt CEI and the competitive businesses'
9 credit quality.

10 Q. Did the Staff' Finance Panel make assertions
11 concerning the ability of the Company to maintain its
12 then-current credit ratings in the 2008 electric
13 case?

14 A. Yes, they stated (p. 45):

15 We believe that our capital structure
16 recommendations should be adequate to maintain
17 ratings for its senior unsecured debt
18 obligations within their respective "A"
19 categories.

20

21 Q. Were they correct in their assertion?

1 A. No. In June 2009, on the heels of the Commission's
2 rate order for CECONY's electric service, Moody's
3 dropped the ratings of the Company and its
4 affiliates by two notches.

5 Q. Is the Company in danger of further ratings
6 decreases, with correspondingly higher debt costs at
7 all times and reduced access to markets in time of
8 crisis?

9 A. Yes. Low allowed rates of return and a reduction in
10 the ability to actually earn those rates of return
11 place continued pressure on cash flow coverages of
12 interest and debt, already cited as weaknesses by
13 the credit rating agencies. In addition, the
14 agencies perceive such actions as signs of a
15 deteriorating regulatory environment and are less
16 tolerant of the Company's mediocre cash flow ratios.

17 Q. Please discuss how Moody's now views the New York
18 regulatory environment.

1 A. On pages 2 and 3 of Credit Opinion - Consolidated
2 Edison Company of New York, Inc." (June 30, 2009)
3 Moody's states:

4
5 Moody's believes that CECONY's regulatory
6 environment has become more challenging in recent
7 years. Our view reflects the steady decline in
8 allowed ROEs as evidenced by the decline in the
9 allowed ROE in CECONY's electric business from
10 the 11.1% that existed through most of the 1990s
11 and the early part of this decade to the 9.1%
12 authorized for the 2009 rate year. While CECONY's
13 allowed electric ROE has increased to 10% for the
14 2010 rate year, the lower level relative to
15 periods prior to the 2006 rate year, will have a
16 negative impact on CECONY's cash flow generating
17 abilities all else being equal.

18
19 Moody's views the PSC's ongoing audit of
20 approximately \$1.6 billion of CECONY's
21 electricity capital spending during the 2006-2008
22 rate years as evidence of a potentially more
23 challenging regulatory environment. Moody's notes
24 that while the PSC has approved the collection of
25 approximately \$237 million of revenue for the
26 rate year ended March 31, 2009 and \$254 million
27 for the current rate year in connection with
28 these expenditures, those revenues are subject to
29 refund in the event that the PSC concludes that
30 all or a portion of the capital spending was
31 imprudent. If any portion of these revenues is
32 ultimately clawed back, CECONY's financial
33 profile would be adversely impacted and, more
34 importantly, Moody's would view this as further
35 evidence of less constructive relations with the
36 company's key regulator. Should this occur,
37 Moody's expects that negative rating actions for
38 CECONY, CEI and O&R could follow.

- 1
2 Q. Has Moody's quantified its view of New York
3 regulation?
- 4 A. Yes. In its August 2009 rating methodology
5 publication "Regulated Electric and Gas Utilities"
6 it breaks down the ratings factors contributing to a
7 particular company. For each factor it assigns a
8 letter rating with the same scale as its corporate
9 debt ratings. Among the factors it analyzes is
10 Regulatory Supportiveness.
- 11 Q. What rating does it give to Regulatory
12 Supportiveness for CECONY?
- 13 A. It gives a Baa rating, which, along with the
14 relatively weak CECONY financial ratios, puts
15 pressure on the maintenance or improvement of
16 CECONY's debt ratings.
- 17 Q. Please explain why it is important for Con Edison to
18 maintain its current debt ratings.

1 A. First, the Company has a significant continuing
2 construction program which must be met in large part
3 by debt financing. As witness Hevert discusses, the
4 cost differences between companies with different
5 credit ratings remain wide. More important, the risk
6 remains that access to credit markets will be
7 restricted for lower quality credits.

8 In addition, a part of Con Edison's financing
9 program is made up of short-term borrowing through
10 its commercial paper program. Such borrowing is
11 highly sensitive to credit quality and credit market
12 conditions.

13 Q. Have there been any other impacts from the drop in
14 Con Edison's debt ratings besides increases in
15 financing costs?

16 A. Yes. Under current NYSERDA rules, Con Edison cannot
17 issue or remarket tax-exempt debt unless either the
18 Company or a credit support provider is rated at
19 least A, by S&P, A2 by Moody's, or A by Fitch, or
20 the debt is supported by a letter of credit or

1 insurance that has one of these ratings. Con Edison
2 does not qualify due to its current ratings. In
3 turn, the traditional bond insurers have suffered
4 drastic ratings reductions or are unable to insure
5 Con Edison debt. Letters of credit are very
6 difficult to arrange at reasonable prices, and make
7 tax-exempts uneconomic.

8 Q. Who owns the Company?

9 A. CECONY has one shareholder, CEI. CEI in turn is owned
10 by 72,000 registered shareholders. Registered
11 shareholders are the individuals or businesses whose
12 names are listed on the shareholder register of CEI.

13 Q. What are the characteristics of the registered
14 shareholders?

15 A. Institutional investors owned approximately 43% of
16 CEI's 275 million shares outstanding as of September
17 30, 2009, while individuals owned 57%. Institutional
18 investors often own shares for the benefit of others.
19 These investors purchase CEI shares for the benefit of
20 their investors who, in turn, may be pension funds and
21 individual investors. Since pension funds exist for

1 the benefit of the individual participants in their
2 plans, it makes sense to think of the ultimate
3 beneficiaries of share ownership in CEI and
4 derivatively in CECONY of being millions of
5 individuals who may own shares directly, invest in
6 U.S. stock mutual funds, or receive or expect benefits
7 from pension plans or life insurance policies.

8 Q. What do these people who own the Company provide to
9 it?

10 A. They provide the capital that the Company needs above
11 and beyond what debt investors are willing to provide.
12 Their capital allows the Company to use the goods,
13 wages, services and borrowings that bring safe,
14 reliable energy utility service to the Company's
15 customers. Without these share investors, the
16 Company's customers would have to pay currently for
17 all of the costs of the services they receive.
18 Instead, customers can delay payment effectively by
19 promising to pay these investors a greater amount in
20 the future. Therefore, instead of paying for a new
21 substation as it is constructed, for example,

1 customers can plan to pay for that asset over the
2 subsequent decades during the time they benefit from
3 its operation.

4 Q. What do these share investors expect in return for the
5 benefit customers receive from their capital
6 investment?

7 A. They expect compensation either in the form of a
8 periodic payment (or dividend) or in an increase in
9 the value of the business, or both.

10 Q. How do share investors in regulated utilities set
11 their expectations for compensation?

12 A. The return expectations of share investors in rate-
13 regulated energy utilities are grounded in the bargain
14 termed "the regulatory compact." The regulatory
15 compact's essence is that share investors forgo the
16 monopoly rents they would otherwise enjoy in return
17 for the institutionalization of their monopoly in an
18 exclusive franchise, and a fair and equitable return
19 on the capital they have invested.

1 Q. What standards exist to help share investors and
2 regulators determine whether a rate-regulated utility
3 offers a fair and equitable return?

4 A. The general standards for a fair and equitable
5 return for investors in utility shares are well-
6 established in the United States. The underlying
7 requirement for fair treatment for share
8 investors has been recognized for years. It dates
9 back to the Bluefield and Hope cases.

10 The key point is that in neither case is there a
11 specific limitation to looking only to the financial
12 health of utilities when looking at enterprises with
13 "similar risks." And, as has been pointed out many
14 times in prior New York rate proceedings, comparisons
15 to other utilities introduces an incurable circularity
16 to the assessment of an appropriate level of returns.

17 Q. How would a potential share investor evaluate the
18 return limitations on New York utilities as to their
19 magnitude, timing and probability?

20 A. There are four significant factors in an equity
21 investor's assessment of New York utility regulation:

1 (1) headline rate of return on equity, (2) the
2 likelihood of earning that return, (3) the symmetry of
3 potential earned equity returns, and (4) the
4 restrictions the regulator places on the scope of the
5 business. To make this assessment, a potential share
6 investor will start with the basic parameters of the
7 rate orders from the state.

8 Q. How is the first identified return consideration
9 addressed by New York rate orders?

10 A. The first factor, the level of returns on equity, is
11 important for an equity investor because it provides
12 the most visible indication in the rate order of the
13 regulator's willingness to balance the needs of
14 investors and customers.

15 Q. Can investors readily measure the degree to which a
16 regulatory regime fairly rewards share investors?

17 A. In New York, yes. The Commission has a clear and long-
18 standing policy of setting returns relative to the
19 historic tangible book value of the investors' shares.
20 Information about returns on share book values for
21 publicly-traded United States companies is readily

1 available to investors from public sources as a basis
2 for comparison.

3 Q. How does Con Edison compare to this universe of
4 alternative investments?

5 A. Con Edison does not fare well in the comparison. When
6 looking at historical performance over a five-year
7 period, CEI had a return on book equity that placed it
8 in the bottom 27% of S&P companies.

9 Q. Have you prepared an exhibit to show this?

10 A. Yes, please refer to my Exhibit ___ (JEP-1).

11 Q. Are companies typically valued by investors at their
12 tangible book value?

13 A. No. Exhibit ___ (JEP-2) shows the current market
14 to tangible book ratios for those S&P companies
15 with positive book equity. CEI's market to book
16 is in the bottom 8% of this universe for this
17 important measure of investor perception of
18 prospects, even after a massive financial crisis
19 which most severely affected the financial sector
20 and other industries

21 Q. How would an investor assess the second factor: the

1 likelihood of actually earning the headline equity
2 return?

3 A. The investor would analyze the adjustments made to
4 actual Company costs that are allowed to be recovered,
5 imputed productivity that may or may not be achieved,
6 and any arbitrary "austerity" adjustments.

7 To the extent that such adjustments to real costs are
8 made, the headline rate of return is unlikely to be
9 achieved.

10 Q. How would an investor assess the third factor: the
11 symmetry of potential returns?

12 A. There is ample opportunity through penalty-only
13 performance mechanisms, an absence of any meaningful
14 positive incentives, and one-way true-ups of costs--
15 burdens which have increasingly been imposed in New
16 York rate decisions--to realize significantly worse
17 returns than the headline authorized return. All of
18 these aspects of New York rate orders create asymmetry
19 in expected returns, which a rational potential share
20 investor would judge as reducing his or her expected
21 return. We have not found evidence that these burdens

1 are common in other jurisdictions in the country,
2 where the peers that are the basis for the
3 Commission's DCF and CAPM results operate.

4 Q. Have equity investor concerns about New York
5 regulation been quantified?

6 A. Yes. New York State regulation has been ranked as
7 43rd out of 48 in terms of support for equity
8 investors (Barclay's Capital "Utilities - Capital
9 Management", July 16, 2009).

10

11

SUMMARY

12 Q. Please summarize your testimony on the financial
13 challenges for the Company.

14 A. Witness Hevert has presented the Company's case
15 calculation of a required equity return for Com
16 Edison. My testimony concerns the financial
17 challenges and the need to maintain access to
18 financial markets at reasonable cost. There is a
19 perception on the part of both equity and debt

1 investors that the New York regulatory environment
2 has become a difficult one in which to operate. Such
3 a perception, if it continues, will make financing
4 needed expenditures more expensive in normal times
5 and less certain in times of financial crises.

6 **VI. DIRECTORS AND OFFICERS INSURANCE**

7 Q. What is Directors and Officers ("D&O") insurance?

8 A. D&O insurance protects, consistent with New York State
9 law, the Company and its directors and officers from
10 claims and litigation brought against them for good
11 faith decisions made by directors and officers in
12 their corporate capacities.

13 Q. Why does Con Edison need D&O insurance?

14 A. The Company has maintained D&O insurance since 1966 to
15 transfer significant potential risk of loss from the
16 Company to stable insurers. This insurance is
17 important to the Company's effort to recruit and
18 retain qualified officers and directors to manage the
19 Company. Potential officers and directors expect D&O
20 insurance to protect against the litigation exposure
21 that attends the responsibility of boards and

1 management of companies, especially large, public
2 utility companies.

3 Q. Is D&O insurance a customary business expense for U.S.
4 public companies?

5 A. Yes. D&O insurance is essentially universal among
6 U.S. public companies. The Commission did not disturb
7 the finding by administrative law judges in the
8 Company's last electric case that more than 99% of all
9 types of companies buy this insurance.

10 Q. Is the purchase of D&O insurance a legitimate business
11 expense of the Company?

12 A. Yes. D&O insurance protects the Company and its
13 ability to provide utility service to its customers,
14 by transferring the litigation risk to its officers
15 and directors for good faith decisions to a third-
16 party carrier. The Company also purchases this
17 insurance to attract and retain qualified individuals
18 to manage the Company. There is no doubt that our
19 customers benefit from a well-managed company. The
20 universality of corporate indemnification of directors
21 and offices, and of D&O insurance to redistribute the

1 risk of such indemnity to better bearers of the risk,
2 make this type of insurance a threshold requirement to
3 the Company's ability to attract and retain qualified
4 directors and officers.

5 Q. Are there other reasons supporting the purchase of D&O
6 insurance?

7 A. Yes. Shifting this risk insulates the financial
8 stability of the Company and its ability to provide
9 utility service to its customers. If the Company
10 lacked D&O insurance, the investment community would
11 view the Company as having greater risk which would
12 increase the Company's cost of capital. That cost
13 would be reflected in higher utility rates. Though a
14 key purpose of D&O insurance is to protect the Company
15 from litigation risk, in the long run the appropriate
16 coverage level of D&O insurance keeps utility rates at
17 a level lower than they otherwise would be.

18 Q. Does the Commission recognize D&O insurance as a
19 reasonable business expense?

20 A. While the Commission adjusted recovery of this expense
21 in the last electric rate case, which the Company has

1 challenged, as discussed below, the Commission does
2 accept that D&O insurance is a reasonable business
3 expense.

4 Q. Please describe the coverage under the Company's D&O
5 insurance.

6 A. The Company purchases \$300 million of total D&O
7 insurance, which is comprised of \$250 million of
8 standard ABC coverage supplemented by \$50 million of
9 stand-alone Side A coverage. The standard policy
10 coverage contains three coverage components. Coverage
11 A protects and defends individual officers and
12 directors for claims against them should the Company
13 fail to provide indemnification. In such a case a \$0
14 deductible applies. Coverage B of the policy
15 reimburses Con Edison for all amounts incurred to
16 indemnify our directors and officers as required or
17 permitted by applicable common or statutory law, or
18 under our charter or by-laws, in which case a \$5
19 million deductible applies. Coverage C of the
20 standard policy covers Con Edison for securities
21 claims against it. A \$5 million deductible also

1 applies to Coverage C.

2 Q. Please address the types of activities covered by D&O
3 insurance.

4 A. D&O insurance protects the Company and its directors
5 and officers from claims arising from decisions and
6 actions by the directors and officers. I emphasize
7 that, under New York State law and the Company's
8 bylaws, the Company can only indemnify an officer or
9 director for an act committed in "good faith."
10 Therefore, the Company would not, as a matter of law
11 and adherence to its own bylaws, indemnify an officer
12 or director for an act not committed in good faith.
13 In other words, no claim can even be made to an
14 insurance company by the Company for reimbursement for
15 indemnification of an act not committed in good faith.

16 Q. What claims are excluded from D&O coverage?

17 A. D&O policies typically exclude claims arising out of
18 deliberate, fraudulent, criminal or malicious acts,
19 claims in which the director or officer has gained a
20 personal profit to which the director or officer was
21 not legally entitled, and claims involving any profit

1 from illegal insider trading. The policies typically
2 do not cover dishonest, inappropriate, or willful
3 criminal acts committed by directors and officers.

4 Q. What claims does D&O insurance cover?

5 A. These policies cover the typical daily good faith
6 business decisions, made by officers and directors
7 related to management and operation of the business.

8 Q. Have you prepared or caused to be prepared under your
9 direction an exhibit entitled "Consolidated Edison
10 Company of New York, Inc. - Cost for Levels of D&O
11 Insurance" which shows the cost of the Company's
12 insurance?

13 A. Yes. It is attached as Exhibit__ (JEP-3)

14 Q. Please describe this exhibit.

15 A. The exhibit shows the specific cost for each level of
16 coverage. For example, the exhibit shows that the
17 first \$235 million of coverage above the applicable
18 deductible is the sum of the first five layers of
19 coverage or \$3,536,005.

20 Q. Please describe how companies determine the
21 appropriate amount of D&O insurance coverage.

1 A. The appropriate amount of D&O insurance coverage for
2 any company is a function of many factors such as the
3 riskiness of its operations, the location of its
4 operations, the volatility of its cash flows and share
5 price, its industry sector, and the D&O loss trends in
6 that industry. Another critical factor is whether a
7 Company is a public or private company. If the
8 company is public, the size of its market
9 capitalization is a factor. An individual company's
10 evaluation of these factors determines a prudent level
11 of coverage. That evaluation cannot be reduced to a
12 simple comparison of that company's coverage with the
13 average amount of coverage maintained by companies in
14 a particular industry or with a particular market
15 capitalization.

16 Q. What steps has Con Edison taken to determine its
17 appropriate amount of D&O insurance coverage?

18 A. To make decisions as to amounts of coverage, the
19 Company obtained the advice of professionals in the
20 field. In 2005 our D&O insurance program was reviewed
21 by outside counsel (Dickstein-Shapiro-Morin) with

1 insurance expertise. Based on that firm's review, Con
2 Edison increased its overall coverage to \$300 million,
3 the level of coverage it still has today. In
4 addition, we reconfirm with our insurance brokers
5 (Willis and Marsh) that our D&O insurance costs and
6 policies are reasonable and in line with similar
7 companies.

8 Q. Do Willis and Marsh provide written confirmation of
9 this advice?

10 A. Yes. I have attached as Exhibit ___ (JEP-4) letters
11 from Willis and Marsh.

12 Q. Please describe these letters.

13 A. We asked Willis and Marsh, firms with expertise and
14 knowledge of these decisions by other companies, their
15 view of our amounts of coverage. They stated that in
16 view of the Company's size, market capitalization and
17 potential exposure to D&O claims, coverage of \$300
18 million is appropriate.

19 Q. What steps does the Company take to control the cost
20 of this insurance?

21 A. Prior to each renewal the Insurance Department and

1 Senior Management review with our broker: a) the
2 current D&O market conditions; b) lists of insurance
3 carriers, those with which the Company currently works
4 and those not, which may offer a competitive choice;
5 c) the financial stability and claims-paying
6 reputation of each of these insurance carriers; d) our
7 goals for the renewal; e) other possible program
8 structures; f) coverage specifics and g) and the
9 marketing process itself. Our goal is appropriate
10 coverage terms and conditions at a fair and equitable
11 market premium from table and secure insurers. We
12 work closely with carriers to secure the most
13 competitive pricing for each level of insurance.

14 Q. What other steps does Con Edison take to test the
15 reasonableness of the financial limits of its D&O
16 coverage?

17 A. Con Edison compares its coverage with other utilities
18 to test whether our amount of coverage is within the
19 range of coverage of other American utilities roughly
20 similar to Con Edison in size.

21 Q. Does the Company's survey support its level of

1 coverage?

2 A. Yes. In 2004, the Company first gathered confidential
3 information from other large utilities on their D&O
4 coverage limits and has since repeated this survey
5 periodically. The Company's survey of large utilities
6 has the benefit of capturing two of the several
7 factors indentified as more important in determining
8 the appropriate amount of coverage for a company,
9 namely industry sector and size. I caution that
10 although these factors are important to the
11 determination of the appropriate amount of coverage,
12 they are not the basis for setting our coverage
13 limits. The survey merely tests our amount of
14 coverage. We set our coverage limits instead in
15 consultation with the professional expertise of
16 insurance brokers and outside counsel specializing in
17 the field.

18 Q. What were the results of the Company's most recent
19 survey?

20 A. In our 2009 survey, Exhibit __ (JEP-5), we found that
21 half of the fourteen utility companies—with market

1 capitalization of approximately \$10 billion or more -
2 the Company's size - secured total D&O limits of \$300
3 million or more. Our 2009 survey shows that two
4 utilities increased their coverage limits to \$300
5 million or more since the previous survey in 2006.
6 The survey also shows that the trend for utilities has
7 been to increase D&O coverage. The average coverage
8 amount in our latest survey for the fourteen utilities
9 with current market capitalization of over \$10 billion
10 is \$271 million. The median limit in our 2009 survey
11 of the fourteen utilities with a market cap about \$10
12 billion amounts to \$275 million and the mode, or most
13 frequent, limit of the fourteen in this group was \$300
14 million. The average company in the survey increased
15 its coverage by 3.9% per year from 2004 to 2009, and
16 the utilities with approximately \$10 billion or more
17 in market capitalization increased their coverage
18 limits by 4.3% per year over the same period. Growing
19 the average, median and modal coverage limits from the
20 calendar year to the rate year at the compound annual
21 growth rate of 4.3% produces implied coverage limits

1 of \$286 million, \$290 million and \$316 million.

2 Q. Please explain why you provide these figures when you
3 testify that these calculations do not form the basis
4 for the Company's decision as to what amount of
5 coverage is appropriate.

6 A. The various algebraic comparisons, which do not form
7 the basis for the Company's decision on coverage
8 limits, do tell us that our decision comports
9 generally with our peer group.

10 Q. The Company did not conduct a D&O insurance survey
11 every year since 2004. Can you comment?

12 A. Yes. The Company does not believe that an annual
13 survey is necessary. Further, the Company is unaware
14 of any industry event(s) that would have indicated
15 that survey would have been a worthwhile use of
16 resources in either 2007 or 2008.

17 Q. Please summarize the result of the steps taken to
18 assess the Company's amount of D&O insurance.

19 A. Our experts recommended and reconfirmed the amount of
20 insurance for the Company, taking all of the
21 individual characteristics of Con Edison into

1 consideration. Next, our survey shows that our
2 coverage limits are very close to the average amount
3 for large utilities. The survey also shows that of
4 the utilities in our size range, half have \$300
5 million or more in coverage. We believe it reasonable
6 that the insurance coverage for the largest American
7 distribution utility, serving the largest, most urban
8 city in the United States, should be no lower than the
9 midpoint of other large utilities.

10 Q. You mention Con Edison's characteristics. Are there
11 others you have not listed?

12 A. Yes. We also take into account the following facts
13 about the Company: a higher portion of its assets are
14 proximate to the general public, its capital needs are
15 large and ongoing, its customers and Commission hold
16 it to unequalled standards, it serves the nation's
17 financial center and it has a significant base of
18 customers in high-rise buildings for whom reliable
19 electricity service is especially critical for daily
20 life.

21 Q. Can the appropriate amount of the Company's coverage

- 1 be properly determined based on an average of other
2 utilities' coverage limits?
- 3 A. No. Using an average assumes that operating
4 circumstances, location and the numerous other
5 differences among companies have no bearing on the
6 appropriate level of D&O coverage. Such an approach
7 contravenes a ratemaking process based on each
8 utility's characteristics. Use of an average fails to
9 reflect the real costs to the Company for any expense,
10 just as using an average here fails to capture the
11 Company's reasonable costs for D&O insurance.
12 Reducing the amount of D&O insurance to a numerical
13 formula represents too simplistic an approach to a
14 more complicated undertaking.
- 15 Q. Are other elements of the Company's rates set based on
16 average costs of other utilities?
- 17 A. No, they are not.
- 18 Q. The Towers Perrin D&O survey has attracted comment in
19 the Company's recent electric cases. Could you
20 address its usefulness?
- 21 A. Interest in this survey is probably unavoidable

1 because it appears to be the only public report on
2 U.S. corporate D&O insurance practices. The report,
3 however, provides little useful information for this
4 proceeding beyond the undisputed fact of the
5 universality of this insurance. In fact, in the most
6 recent survey, issued on September 9, 2009, of the
7 2,599 participants in the survey, only 12 were
8 publicly-traded utilities, and only 6 of the 2,599 had
9 more than 2,500 employees. As to asset size, at year
10 end 2008, Con Edison had assets of \$33.5 billion, in
11 contrast to the threshold amount of \$10 billion.
12 Towers Perrin provides no information on the types of
13 assets of the participants, which could be financial
14 or intangible in nature in contrast to the Company's
15 assets physically employed in energy generation,
16 transmission and distribution in densely populated
17 urban and suburban areas. Comparing the coverage
18 limits for phantom companies, with essentially no
19 known shared qualities with Con Edison, simply cannot
20 be the means to judge the coverage limits appropriate
21 for this particular company.

1 Q. Are there any other factors which contribute to the
2 limited utility of the Towers Perrin survey to this
3 case?

4 A. Yes. Towers Perrin lacks sufficiently clear cross
5 sections of the self-selected participants in the
6 survey to link any company's coverage limits to that
7 of Con Edison. We do not know, for example, whether a
8 participant is a public or private company, whether a
9 participant is in an industry with greater or lesser
10 D&O risk or whether a participant's cash flow or share
11 price is subject to volatility. Only one participant
12 falls into the survey category of between 10,001 and
13 25,000 employees. As noted above, only twelve of the
14 companies are publicly traded utilities.

15 Q. Did the Commission in Con Edison's last electric base
16 rate case permit full recovery of D&O insurance
17 expenses?

18 A. No, as I will discuss further below. The Commission
19 authorized recovery of half of the costs of what it
20 found to be the reasonable coverage level. The
21 Company has petitioned for rehearing on this issue, as

1 has Central Hudson in its case. For the reasons
2 stated in our petition, as well as my testimony here,
3 we believe the decisions are in error and that
4 reliance on them is misplaced.

5 Q. In the Company's last electric base rate case, the
6 Commission determined that D&O coverage for Con Edison
7 should be \$200 million. Do you agree with that
8 finding?

9 A. No. That finding appears to have been based on a
10 superficial comparison of our coverage limits with
11 information misapplied from a 2007 Towers Perrin
12 survey and our survey. The Commission otherwise
13 distinguishes the operations and capital costs of the
14 State's various utilities. Individual utilities
15 should be able to consider their own circumstances
16 when determining the coverage limit for an insurance
17 policy. As described above, based on professional
18 guidance, supported by appropriate benchmarking and
19 taking into account the particular nature of this
20 Company, the limits maintained by the Company are
21 appropriate and reasonable.

1 Q. The Company was permitted recovery of 50% of the cost
2 of D&O insurance that the Commission deemed reasonable
3 (i.e., the cost of \$200 million of coverage. Do you
4 agree with this determination?

5 A. No. In its order in the Company's last electric rate
6 case, the Commission continued to recognize D&O
7 insurance as reasonable business expense. Contrary to
8 that finding, the Commission accepted arguments that
9 such an expense should be divided between customers
10 and shareholders. Consistent with the absence of a
11 rational basis for such analysis, the Commission
12 stated "no particularly good way to distinguish or
13 quantify the benefits of D&O insurance to ratepayers
14 from the benefits to shareholders."

15 Q. Is there a basis in regulatory practice for this
16 approach?

17 A. No. We are unaware of any basis in regulatory
18 practice for creating this sort of distinction between
19 the beneficiaries of insurance a utility purchases to
20 protect itself, its balance sheet and its customers.
21 The Commission's suggestion (Order, pp. 91-92) that

1 customers should bear less than the full amount of the
2 cost of D&O insurance because shareholders, not
3 customers, elect directors and officers, leads to the
4 troubling premise that rates can only reflect the
5 costs of doing utility business if customers make the
6 decision to incur them. The flaw in this approach is
7 fundamental. Customers neither manage the Company nor
8 make its decisions. There is no rational basis for
9 customers to receive service at rates that do not
10 reflect all of the costs prudently incurred by the
11 Company in providing that service. Customers and
12 shareholders benefit equally from all costs incurred
13 by the Company in order to provide safe and reliable
14 service, maintain financial health, and retain and
15 attract talented directors and officers to make the
16 decisions necessary to continue the operation of the
17 business. The Commission could not articulate a basis
18 to differentiate between these benefits because the
19 interests of customers and shareholders are
20 inextricably intertwined in this respect.

21 Q. Does this conclude your testimony?

JOHN PERKINS - STEAM

1 A. Yes, it does.

Exhibit__(JEP-1)

Name	5 Year Average Return On Book Equity
1 COLGATE-PALMOLIVE CO	123.04
2 AVON PRODUCTS INC	96.49
3 CAMPBELL SOUP CO	66.65
4 DELL INC	62.55
5 APOLLO GROUP INC-CL A	62.36
6 FREEPORT-MCMORAN COPPER	59.87
7 HERSHEY CO/THE	52.8
8 WINDSTREAM CORP	52.38
9 WATERS CORP	50.86
10 EXPRESS SCRIPTS INC	47.96
11 KELLOGG CO	47.94
12 CONSOL ENERGY INC	45.13
13 MEMC ELECTRONIC MATERIALS	44.81
14 COACH INC	42.21
15 SUNOCO INC	41.3
16 HJ HEINZ CO	41.27
17 CATERPILLAR INC	40.94
18 ROCKWELL AUTOMATION INC	40.76
19 ROCKWELL COLLINS INC.	40.18
20 FEDERATED INVESTORS INC-CL B	39.19
21 VENTAS INC	39.12
22 MCGRAW-HILL COMPANIES INC	37.61
23 TJX COMPANIES INC	37.28
24 ALLEGHENY TECHNOLOGIES INC	36.46
25 MICROSOFT CORP	35.78
26 ALTRIA GROUP INC	35.37
27 INTL BUSINESS MACHINES CORP	35.16
28 AMPHENOL CORP-CL A	34.52
29 PEPSICO INC	34.15
30 3M CO	34.06
31 WESTERN DIGITAL CORP	34
32 BLACK & DECKER CORP	33.98
33 SCHLUMBERGER LTD	33.79
34 NUCOR CORP	33.77
35 EXXON MOBIL CORP	33.69
36 UNITED STATES STEEL CORP	33.55
37 EQUIFAX INC	33.35
38 PAYCHEX INC	33.27
39 LOCKHEED MARTIN CORP	32.86
40 SHERWIN-WILLIAMS CO/THE	32.4
41 NORDSTROM INC	32.25
42 SYSCO CORP	32.21
43 HARLEY-DAVIDSON INC	32.11
44 DAVITA INC	32.08
45 AUTODESK INC	31.29
46 VARIAN MEDICAL SYSTEMS INC	30.78
47 TITANIUM METALS CORP	30.39
48 COCA-COLA CO/THE	30.29

Exhibit__(JEP-1)

Name	5 Year Average Return On Book Equity
49 ABERCROMBIE & FITCH CO-CL A	30.17
50 C.H. ROBINSON WORLDWIDE INC	30.04
51 AGILENT TECHNOLOGIES INC	29.63
52 EQT CORP	29.61
53 KIMBERLY-CLARK CORP	29.54
54 MERCK & CO. INC.	29.46
55 OCCIDENTAL PETROLEUM CORP	29.31
56 AMERICAN EXPRESS CO	29.23
57 FMC TECHNOLOGIES INC	29.07
58 RADIOSHACK CORP	28.91
59 JOHNSON & JOHNSON	28.33
60 BALL CORP	28.24
61 INTL FLAVORS & FRAGRANCES	28.16
62 CUMMINS INC	28.13
63 CHEVRON CORP	27.94
64 FLIR SYSTEMS INC	27.66
65 NATIONAL SEMICONDUCTOR CORP	27.63
66 PACCAR INC	27.56
67 XTO ENERGY INC	27.07
68 SCHWAB (CHARLES) CORP	27
69 BAKER HUGHES INC	26.97
70 COGNIZANT TECH SOLUTIONS-A	26.94
71 EOG RESOURCES INC	26.91
72 ORACLE CORP	26.89
73 ALTERA CORPORATION	26.87
74 BRISTOL-MYERS SQUIBB CO	26.79
75 INTL GAME TECHNOLOGY	26.25
76 AES CORP	26.06
77 GILEAD SCIENCES INC	25.89
78 MARATHON OIL CORP	25.78
79 NASDAQ OMX GROUP/THE	25.74
80 ANADARKO PETROLEUM CORP	25.63
81 DEERE & CO	25.48
82 LEXMARK INTERNATIONAL INC-A	25.45
83 TESORO CORP	25.18
84 DU PONT (E.I.) DE NEMOURS	24.97
85 INTERCONTINENTALEXCHANGE INC	24.97
86 ROBERT HALF INTL INC	24.92
87 BROWN-FORMAN CORP-CLASS B	24.79
88 BJ SERVICES CO	24.67
89 APPLE INC	24.63
90 DIAMOND OFFSHORE DRILLING	24.62
91 DARDEN RESTAURANTS INC	24.58
92 CABOT OIL & GAS CORP	24.52
93 MURPHY OIL CORP	24.51
94 P G & E CORP	24.42
95 MCCORMICK & CO-NON VTG SHRS	24.31
96 BEST BUY CO INC	24.17

Exhibit__(JEP-1)

Name	5 Year Average Return On Book Equity
97 ADOBE SYSTEMS INC	24.16
98 HALLIBURTON CO	23.94
99 NOBLE ENERGY INC	23.72
100 BAXTER INTERNATIONAL INC	23.56
101 PROCTER & GAMBLE CO/THE	23.5
102 EXPEDITORS INTL WASH INC	23.45
103 FASTENAL CO	23.38
104 ESTEE LAUDER COMPANIES-CL A	23.35
105 TEXAS INSTRUMENTS INC	23.12
106 CIGNA CORP	23.1
107 AUTOMATIC DATA PROCESSING	23.07
108 CISCO SYSTEMS INC	22.98
109 FOREST LABORATORIES INC	22.95
110 PRAXAIR INC	22.85
111 MARRIOTT INTERNATIONAL-CL A	22.84
112 LABORATORY CRP OF AMER HLDGS	22.77
113 EMERSON ELECTRIC CO	22.74
114 STANLEY WORKS/THE	22.7
115 T ROWE PRICE GROUP INC	22.7
116 UNITEDHEALTH GROUP INC	22.63
117 VALERO ENERGY CORP	22.62
118 NIKE INC -CL B	22.47
119 TOTAL SYSTEM SERVICES INC	22.44
120 MATTEL INC	22.42
121 SLM CORP	22.42
122 FIDELITY NATIONAL INFORMATIO	22.41
123 SMITH INTERNATIONAL INC	22.4
124 INTUIT INC	22.37
125 OMNICOM GROUP	22.35
126 EASTMAN CHEMICAL COMPANY	22.24
127 DEAN FOODS CO	22.21
128 ECOLAB INC	22.2
129 BED BATH & BEYOND INC	22.16
130 GOODRICH CORP	22.12
131 LIMITED BRANDS INC	22.08
132 CR BARD INC	22
133 COVENTRY HEALTH CARE INC	21.96
134 ABBOTT LABORATORIES	21.9
135 GOLDMAN SACHS GROUP INC	21.88
136 DENBURY RESOURCES INC	21.87
137 MEDTRONIC INC	21.86
138 UNITED TECHNOLOGIES CORP	21.8
139 CME GROUP INC	21.75
140 STARBUCKS CORP	21.59
141 GENERAL MILLS INC	21.55
142 GOOGLE INC-CL A	21.55
143 HONEYWELL INTERNATIONAL INC	21.34
144 PEABODY ENERGY CORP	21.32

Exhibit__(JEP-1)

Name	5 Year Average Return On Book Equity
145 SIGMA-ALDRICH	21.3
146 QUESTAR CORP	21.29
147 HESS CORP	21.22
148 BECTON DICKINSON AND CO	21.14
149 EATON CORP	21.01
150 UNITED PARCEL SERVICE-CL B	21
151 WAL-MART STORES INC	20.89
152 MCDONALD'S CORP	20.8
153 STRYKER CORP	20.71
154 US BANCORP	20.68
155 PEPSI BOTTLING GROUP INC	20.67
156 FRANKLIN RESOURCES INC	20.49
157 FLUOR CORP	20.44
158 QUALCOMM INC	20.4
159 DOW CHEMICAL	20.23
160 PROGRESSIVE CORP	20.22
161 EXELON CORP	20.07
162 WHIRLPOOL CORP	20.04
163 GAP INC/THE	20.03
164 GENERAL DYNAMICS CORP	20.03
165 ITT CORP	20.02
166 HOME DEPOT INC	19.97
167 FRONTIER COMMUNICATIONS CORP	19.96
168 PACTIV CORPORATION	19.94
169 SOUTHWESTERN ENERGY CO	19.94
170 ENSCO INTERNATIONAL INC	19.88
171 PPG INDUSTRIES INC	19.67
172 J.C. PENNEY CO INC	19.57
173 APACHE CORP	19.4
174 TARGET CORP	19.32
175 BOSTON PROPERTIES INC	19.2
176 ILLINOIS TOOL WORKS	19.19
177 CHESAPEAKE ENERGY CORP	19.12
178 PRECISION CASTPARTS CORP	19.08
179 ALLERGAN INC	19.05
180 FISERV INC	19.04
181 AETNA INC	18.92
182 PPL CORPORATION	18.81
183 KROGER CO	18.78
184 NABORS INDUSTRIES LTD	18.73
185 MICROCHIP TECHNOLOGY INC	18.72
186 ANALOG DEVICES INC	18.57
187 LOWE'S COS INC	18.52
188 WASTE MANAGEMENT INC	18.48
189 CAMERON INTERNATIONAL CORP	18.43
190 VF CORP	18.39
191 FAMILY DOLLAR STORES	18.35
192 FMC CORP	18.33

Exhibit__(JEP-1)

Name	5 Year Average Return On Book Equity
193 PATTERSON COS INC	18.16
194 QUEST DIAGNOSTICS	18.15
195 AFLAC INC	18.1
196 NVIDIA CORP	18.09
197 WW GRAINGER INC	18.08
198 QLOGIC CORP	18
199 HOSPIRA INC	17.97
200 STAPLES INC	17.95
201 GENUINE PARTS CO	17.84
202 BMC SOFTWARE INC	17.76
203 WALGREEN CO	17.72
204 AVERY DENNISON CORP	17.65
205 STERICYCLE INC	17.61
206 INTEL CORP	17.43
207 DANAHER CORP	17.41
208 GENERAL ELECTRIC CO	17.39
209 REYNOLDS AMERICAN INC	17.33
210 MASTERCARD INC-CLASS A	17.24
211 ST JUDE MEDICAL INC	17.21
212 FORTUNE BRANDS INC	17.14
213 INTUITIVE SURGICAL INC	17.05
214 SEMPRA ENERGY	17.04
215 PARKER HANNIFIN CORP	17.03
216 CHUBB CORP	16.97
217 XILINX INC	16.91
218 AMGEN INC	16.9
219 APPLIED MATERIALS INC	16.9
220 HASBRO INC	16.9
221 NORTHERN TRUST CORP	16.87
222 SEALED AIR CORP	16.53
223 PFIZER INC	16.52
224 TEXTRON INC	16.52
225 HORMEL FOODS CORP	16.46
226 PIONEER NATURAL RESOURCES CO	16.45
227 KOHLS CORP	16.43
228 STARWOOD HOTELS & RESORTS	16.32
229 LOEWS CORP	16.23
230 AIR PRODUCTS & CHEMICALS INC	16.21
231 POLO RALPH LAUREN CORP	16.15
232 WELLS FARGO & CO	16.15
233 VERIZON COMMUNICATIONS INC	16.07
234 HARRIS CORP	16.05
235 BURLINGTON NORTHERN SANTA FE	15.98
236 CARDINAL HEALTH INC	15.98
237 ZIMMER HOLDINGS INC	15.97
238 AON CORP	15.9
239 JACOBS ENGINEERING GROUP INC	15.89
240 CONAGRA FOODS INC	15.86

Exhibit__(JEP-1)

Name	5 Year Average Return On Book Equity
241 TIFFANY & CO	15.86
242 SARA LEE CORP	15.77
243 VIACOM INC-CLASS B	15.71
244 DOVER CORP	15.59
245 DENTSPLY INTERNATIONAL INC	15.56
246 NATIONAL OILWELL VARCO INC	15.53
247 EDISON INTERNATIONAL	15.52
248 PNC FINANCIAL SERVICES GROUP	15.41
249 METLIFE INC	15.28
250 AIRGAS INC	15.25
251 MONSANTO CO	15.18
252 NORFOLK SOUTHERN CORP	15.14
253 TORCHMARK CORP	15.09
254 RANGE RESOURCES CORP	15.04
255 ARCHER-DANIELS-MIDLAND CO	15.02
256 BANK OF NEW YORK MELLON CORP	14.89
257 DOMINION RESOURCES INC/VA	14.85
258 PLUM CREEK TIMBER CO	14.81
259 EQUITY RESIDENTIAL	14.8
260 ROWAN COMPANIES INC	14.66
261 SOUTHERN CO	14.6
262 STATE STREET CORP	14.55
263 HEWLETT-PACKARD CO	14.52
264 GAMESTOP CORP-CLASS A	14.51
265 FLOWSERVE CORP	14.5
266 MORGAN STANLEY	14.5
267 HCP INC	14.44
268 VULCAN MATERIALS CO	14.42
269 RYDER SYSTEM INC	14.36
270 SAFEWAY INC	14.28
271 ASSURANT INC	14.26
272 CINTAS CORP	14.23
273 PUBLIC SERVICE ENTERPRISE GP	14.09
274 NICOR INC	14.01
275 BB&T CORP	13.86
276 AFFILIATED COMPUTER SVCS-A	13.84
277 O'REILLY AUTOMOTIVE INC	13.75
278 REPUBLIC SERVICES INC	13.73
279 CVS CAREMARK CORP	13.71
280 CITRIX SYSTEMS INC	13.55
281 PALL CORP	13.55
282 CSX CORP	13.52
283 MILLIPORE CORP	13.34
284 NETAPP INC	13.34
285 SIMON PROPERTY GROUP INC	13.33
286 COMERICA INC	13.29
287 XEROX CORP	13.23
288 CORNING INC	13.18

Exhibit__(JEP-1)

Name	5 Year Average Return On Book Equity
289 BANK OF AMERICA CORP	13.17
290 ENTERGY CORP	13.13
291 MEREDITH CORP	12.95
292 FPL GROUP INC	12.92
293 L-3 COMMUNICATIONS HOLDINGS	12.89
294 MARSH & MCLENNAN COS	12.81
295 FIRSTENERGY CORP	12.79
296 CARNIVAL CORP	12.78
297 ELI LILLY & CO	12.77
298 SEARS HOLDINGS CORP	12.73
299 KIMCO REALTY CORP	12.64
300 COSTCO WHOLESALE CORP	12.6
301 BEMIS COMPANY	12.57
302 DEVON ENERGY CORPORATION	12.57
303 CONOCOPHILLIPS	12.54
304 WHOLE FOODS MARKET INC	12.45
305 DEVRY INC	12.33
306 RAYTHEON COMPANY	12.29
307 SNAP-ON INC	12.21
308 TRAVELERS COS INC/THE	12.04
309 WALT DISNEY CO/THE	11.95
310 MCAFEE INC	11.91
311 FEDEX CORP	11.84
312 M & T BANK CORP	11.78
313 AVALONBAY COMMUNITIES INC	11.74
314 ALLSTATE CORP	11.73
315 PRINCIPAL FINANCIAL GROUP	11.73
316 VORNADO REALTY TRUST	11.71
317 COMPUTER SCIENCES CORP	11.69
318 YAHOO! INC	11.69
319 WISCONSIN ENERGY CORP	11.66
320 AMERICAN ELECTRIC POWER	11.57
321 SCANA CORP	11.5
322 CENTURYTEL INC	11.3
323 WELLPOINT INC	11.28
324 RED HAT INC	11.27
325 AT&T INC	11.23
326 MEDCO HEALTH SOLUTIONS INC	11.21
327 CAPITAL ONE FINANCIAL CORP	11.15
328 EBAY INC	11.15
329 CINCINNATI FINANCIAL CORP	11.1
330 MCKESSON CORP	10.95
331 COMPUWARE CORP	10.92
332 JOHNSON CONTROLS INC	10.78
333 EMC CORP/MASS	10.69
334 APARTMENT INVT & MGMT CO -A	10.47
335 INTEGRYS ENERGY GROUP INC	10.4
336 MONSTER WORLDWIDE INC	10.4

Exhibit__(JEP-1)

Name	5 Year Average Return On Book Equity
337 ALCOA INC	10.39
338 BIG LOTS INC	10.37
339 CONSOLIDATED EDISON INC	10.24
340 PRUDENTIAL FINANCIAL INC	10.24
341 UNION PACIFIC CORP	10.15
342 DTE ENERGY COMPANY	10.14
343 DIRECTV GROUP INC/THE	10.13
344 SUNTRUST BANKS INC	10.06
345 NEWELL RUBBERMAID INC	10.05
346 WILLIAMS COS INC	10.02
347 AMERISOURCEBERGEN CORP	10.01
348 LINCOLN NATIONAL CORP	9.99
349 KRAFT FOODS INC-CLASS A	9.9
350 WASHINGTON POST -CL B	9.82
351 HUNTINGTON BANCSHARES INC	9.63
352 PERKINELMER INC	9.58
353 H&R BLOCK INC	9.52
354 HUDSON CITY BANCORP INC	9.42
355 AMEREN CORPORATION	9.35
356 PEOPLE'S UNITED FINANCIAL	9.34
357 HOST HOTELS & RESORTS INC	9.2
358 ZIONS BANCORPORATION	9.15
359 FIRST HORIZON NATIONAL CORP	9.14
360 XCEL ENERGY INC	9.13
361 WYNN RESORTS LTD	8.87
362 HARTFORD FINANCIAL SVCS GRP	8.78
363 JM SMUCKER CO/THE	8.72
364 JPMORGAN CHASE & CO	8.7
365 BROADCOM CORP-CL A	8.69
366 MASCO CORP	8.58
367 DUKE ENERGY CORP	8.48
368 LEGGETT & PLATT INC	8.4
369 PEPCO HOLDINGS INC	8.38
370 PROLOGIS	8.35
371 PROGRESS ENERGY INC	8.34
372 HARMAN INTERNATIONAL	8.1
373 PUBLIC STORAGE	7.91
374 IRON MOUNTAIN INC	7.87
375 PINNACLE WEST CAPITAL	7.84
376 MOLSON COORS BREWING CO -B	7.53
377 CA INC	7.47
378 AMERIPRISE FINANCIAL INC	7.44
379 THERMO FISHER SCIENTIFIC INC	7.33
380 HEALTH CARE REIT INC	7.07
381 CENTERPOINT ENERGY INC	7.02
382 CONVERGYS CORP	6.95
383 KEYCORP	6.94
384 SOUTHWEST AIRLINES CO	6.82

Exhibit__(JEP-1)

Name	5 Year Average Return On Book Equity
385 KLA-TENCOR CORPORATION	6.51
386 NOVELL INC	6.42
387 FIFTH THIRD BANCORP	6.4
388 ALLEGHENY ENERGY INC	6.39
389 NEWS CORP-CL A	6.33
390 GENWORTH FINANCIAL INC-CL A	6.27
391 MARSHALL & ILSLEY CORP	6.11
392 CONSTELLATION ENERGY GROUP	6.08
393 NORTHEAST UTILITIES	5.96
394 BIOGEN IDEC INC	5.93
395 MOTOROLA INC	5.93
396 NISOURCE INC	5.89
397 JANUS CAPITAL GROUP INC	5.8
398 NOVELLUS SYSTEMS INC	5.78
399 CITIGROUP INC	5.75
400 LEGG MASON INC	5.73
401 NYSE EURONEXT	5.64
402 TECO ENERGY INC	5.36
403 NORTHROP GRUMMAN CORP	5.23
404 GENZYME CORP	5.04
405 UNUM GROUP	4.92
406 COMCAST CORP-CL A	4.67
407 MOLEX INC	4.53
408 QUANTA SERVICES INC	4.32
409 TYSON FOODS INC-CL A	4.28
410 INTERNATIONAL PAPER CO	3.95
411 WEYERHAEUSER CO	3.81
412 LEUCADIA NATIONAL CORP	3.13
413 RR DONNELLEY & SONS CO	2.72
414 MASSEY ENERGY CO	2.69
415 LIFE TECHNOLOGIES CORP	2.14
416 WATSON PHARMACEUTICALS INC	1.97
417 JUNIPER NETWORKS INC	1.83
418 NEW YORK TIMES CO -CL A	1.25
419 MEADWESTVACO CORP	1.24
420 DR HORTON INC	1.19
421 SCHERING-PLOUGH CORP	1.07
422 KING PHARMACEUTICALS INC	0.98
423 TERADYNE INC	0.73
424 REGIONS FINANCIAL CORP	0.29
425 TIME WARNER INC	0.25
426 CMS ENERGY CORP	-0.11
427 CONSTELLATION BRANDS INC-A	-0.24
428 DYNEGY INC-CL A	-0.49
429 VERISIGN INC	-0.74
430 AUTONATION INC	-1.37
431 SANDISK CORP	-1.56
432 NEWMONT MINING CORP	-1.63

Exhibit__(JEP-1)

Name	5 Year Average Return On Book Equity	
433 BOSTON SCIENTIFIC CORP	-1.65	
434 AMERICAN TOWER CORP-CL A	-1.68	
435 CELGENE CORP	-1.85	
436 LENNAR CORP-CL A	-1.87	
437 E*TRADE FINANCIAL CORP	-1.94	
438 OFFICE DEPOT INC	-2.66	
439 ELECTRONIC ARTS INC	-2.95	
440 XL CAPITAL LTD -CLASS A	-3.22	
441 CEPHALON INC	-3.48	
442 PULTE HOMES INC	-3.67	
443 SUPERVALU INC	-4.12	
444 MACY'S INC	-4.91	
445 TELLABS INC	-5.01	
446 EL PASO CORP	-5.16	
447 JABIL CIRCUIT INC	-6.03	
448 KB HOME	-6.92	
449 INTERPUBLIC GROUP OF COS INC	-8.77	
450 EASTMAN KODAK CO	-9.99	
451 SUN MICROSYSTEMS INC	-10.37	
452 MICRON TECHNOLOGY INC	-10.41	
453 SYMANTEC CORP	-12.72	
454 CB RICHARD ELLIS GROUP INC-A	-13.72	
455 GANNETT CO	-14.72	
456 SPRINT NEXTEL CORP	-18.26	
457 MYLAN INC	-18.91	
458 CIENA CORP	-19.01	
459 JDS UNIPHASE CORP	-19.18	
460 MBIA INC	-22.89	
461 AMERICAN INTERNATIONAL GROUP	-27.2	
462 LSI CORP	-32.26	
463 TENET HEALTHCARE CORP	-58.99	
	Average	16.57
	Median	16.15

Exhibit__(JEP-2)

Name	Price To Tangible Book Value Per Share
1 HARRIS CORP	211.20
2 AMPHENOL CORP-CL A	118.34
3 CIGNA CORP	106.41
4 SHERWIN-WILLIAMS CO/THE	81.71
5 PARKER HANNIFIN CORP	78.70
6 WASTE MANAGEMENT INC	53.98
7 CONVERGYS CORP	44.88
8 MACY'S INC	41.75
9 H&R BLOCK INC	37.18
10 HOSPIRA INC	35.52
11 ABBOTT LABORATORIES	34.36
12 AVON PRODUCTS INC	32.91
13 ALLERGAN INC	31.20
14 NATIONAL SEMICONDUCTOR CORP	26.84
15 KIMBERLY-CLARK CORP	25.20
16 MCAFEE INC	25.14
17 DENTSPLY INTERNATIONAL INC	24.46
18 CONAGRA FOODS INC	24.00
19 MASTERCARD INC-CLASS A	23.84
20 AMAZON.COM INC	23.48
21 WATERS CORP	23.34
22 GOODRICH CORP	23.00
23 INTUIT INC	22.04
24 GAMESTOP CORP-CLASS A	21.16
25 ST JUDE MEDICAL INC	21.00
26 LORILLARD INC	20.78
27 APOLLO GROUP INC-CL A	20.76
28 3M CO	19.21
29 MONSTER WORLDWIDE INC	18.80
30 PEPSICO INC	18.77
31 DEVRY INC	18.73
32 FREEPORT-MCMORAN COPPER	17.65
33 GOODYEAR TIRE & RUBBER CO	17.57
34 ILLINOIS TOOL WORKS	16.88
35 SCRIPPS NETWORKS INTER-CL A	16.84
36 COVENTRY HEALTH CARE INC	16.34
37 BROWN-FORMAN CORP-CLASS B	16.08
38 DELL INC	16.06
39 COCA-COLA CO/THE	15.68
40 GENERAL ELECTRIC CO	15.17
41 STAPLES INC	14.75
42 PATTERSON COS INC	14.65
43 DU PONT (E.I.) DE NEMOURS	14.59
44 ELI LILLY & CO	14.47
45 LIMITED BRANDS INC	14.03
46 FMC TECHNOLOGIES INC	13.97
47 FLOWSERVE CORP	13.64
48 ROCKWELL COLLINS INC.	13.60

Exhibit__(JEP-2)

Name	Price To Tangible Book Value Per Share
49 CITRIX SYSTEMS INC	13.20
50 SNAP-ON INC	12.97
51 NETAPP INC	12.94
52 CENTERPOINT ENERGY INC	12.85
53 AIRGAS INC	12.82
54 UNITED PARCEL SERVICE-CL B	12.78
55 PRAXAIR INC	12.77
56 C.H. ROBINSON WORLDWIDE INC	12.55
57 PAYCHEX INC	12.47
58 SALESFORCE.COM INC	12.28
59 MOLSON COORS BREWING CO -B	11.97
60 EMERSON ELECTRIC CO	11.89
61 ROCKWELL AUTOMATION INC	11.76
62 JOHNSON & JOHNSON	11.19
63 ESTEE LAUDER COMPANIES-CL A	11.09
64 HASBRO INC	11.00
65 PRINCIPAL FINANCIAL GROUP	11.00
66 CATERPILLAR INC	10.39
67 MICROSOFT CORP	9.95
68 CELGENE CORP	9.54
69 AMGEN INC	9.39
70 RED HAT INC	9.29
71 TEXTRON INC	9.23
72 BANK OF NEW YORK MELLON CORP	9.19
73 TERADATA CORP	9.17
74 LSI CORP	9.14
75 JOHNSON CONTROLS INC	9.11
76 INTUITIVE SURGICAL INC	9.05
77 VF CORP	8.99
78 MCKESSON CORP	8.95
79 AUTODESK INC	8.95
80 SYSCO CORP	8.90
81 EBAY INC	8.88
82 MEDTRONIC INC	8.78
83 ADOBE SYSTEMS INC	8.57
84 BEST BUY CO INC	8.56
85 AUTOMATIC DATA PROCESSING	8.52
86 CEPHALON INC	8.33
87 TJX COMPANIES INC	8.11
88 BAXTER INTERNATIONAL INC	7.97
89 GOOGLE INC-CL A	7.76
90 COACH INC	7.45
91 FLIR SYSTEMS INC	7.23
92 T ROWE PRICE GROUP INC	7.17
93 SCHLUMBERGER LTD	7.13
94 SMITH INTERNATIONAL INC	7.13
95 DARDEN RESTAURANTS INC	7.10
96 BRISTOL-MYERS SQUIBB CO	7.00

Exhibit__(JEP-2)

Name	Price To Tangible Book Value Per Share
97 MONSANTO CO	6.97
98 FIRST SOLAR INC	6.97
99 WALT DISNEY CO/THE	6.73
100 STARBUCKS CORP	6.66
101 COGNIZANT TECH SOLUTIONS-A	6.64
102 SIGMA-ALDRICH	6.62
103 VARIAN MEDICAL SYSTEMS INC	6.57
104 EMC CORP/MASS	6.56
105 CR BARD INC	6.52
106 APPLE INC	6.49
107 PFIZER INC	6.48
108 MATTEL INC	6.45
109 SIMON PROPERTY GROUP INC	6.43
110 SOUTHWESTERN ENERGY CO	6.29
111 WHOLE FOODS MARKET INC	6.05
112 NORDSTROM INC	5.99
113 ZIMMER HOLDINGS INC	5.98
114 JUNIPER NETWORKS INC	5.92
115 MCDONALD'S CORP	5.91
116 SCHWAB (CHARLES) CORP	5.91
117 BROADCOM CORP-CL A	5.81
118 NATIONAL OILWELL VARCO INC	5.78
119 SUN MICROSYSTEMS INC	5.74
120 PRECISION CASTPARTS CORP	5.72
121 CISCO SYSTEMS INC	5.68
122 CONSOL ENERGY INC	5.66
123 PALL CORP	5.65
124 SPECTRA ENERGY CORP	5.54
125 FMC CORP	5.42
126 AGILENT TECHNOLOGIES INC	5.35
127 WATSON PHARMACEUTICALS INC	5.31
128 LEGGETT & PLATT INC	5.31
129 POLO RALPH LAUREN CORP	5.31
130 CAMERON INTERNATIONAL CORP	5.27
131 QUALCOMM INC	5.26
132 KROGER CO	5.25
133 EXPEDITORS INTL WASH INC	5.21
134 US BANCORP	5.21
135 TOTAL SYSTEM SERVICES INC	5.21
136 AES CORP	5.13
137 BIOGEN IDEC INC	5.11
138 NISOURCE INC	5.06
139 WASHINGTON POST -CL B	5.03
140 CAREFUSION CORP	5.01
141 AETNA INC	5.00
142 FIRSTENERGY CORP	5.00
143 FRANKLIN RESOURCES INC	4.95
144 MICROCHIP TECHNOLOGY INC	4.89

Exhibit__(JEP-2)

Name	Price To Tangible Book Value Per Share
145 AMERICAN EXPRESS CO	4.79
146 AIR PRODUCTS & CHEMICALS INC	4.65
147 INTERNATIONAL PAPER CO	4.64
148 ROBERT HALF INTL INC	4.60
149 QLOGIC CORP	4.45
150 BECTON DICKINSON AND CO	4.43
151 STRYKER CORP	4.19
152 WW GRAINGER INC	4.18
153 CINTAS CORP	4.15
154 JACOBS ENGINEERING GROUP INC	4.10
155 DIAMOND OFFSHORE DRILLING	4.10
156 WYNN RESORTS LTD	4.09
157 HALLIBURTON CO	4.08
158 WELLS FARGO & CO	4.08
159 HORMEL FOODS CORP	4.03
160 AUTONATION INC	4.02
161 BEMIS COMPANY	4.00
162 WAL-MART STORES INC	3.95
163 CARDINAL HEALTH INC	3.93
164 MERCK & CO. INC.	3.93
165 DEERE & CO	3.90
166 STATE STREET CORP	3.86
167 NIKE INC -CL B	3.85
168 PEABODY ENERGY CORP	3.83
169 XILINX INC	3.82
170 EXELON CORP	3.74
171 AKAMAI TECHNOLOGIES	3.74
172 QUANTA SERVICES INC	3.73
173 TEXAS INSTRUMENTS INC	3.72
174 ANALOG DEVICES INC	3.66
175 NVIDIA CORP	3.59
176 COMPUWARE CORP	3.56
177 GAP INC/THE	3.50
178 MOTOROLA INC	3.43
179 KLA-TENCOR CORPORATION	3.42
180 DOMINION RESOURCES INC/VA	3.41
181 CUMMINS INC	3.41
182 PLUM CREEK TIMBER CO	3.37
183 BED BATH & BEYOND INC	3.37
184 RANGE RESOURCES CORP	3.35
185 FLUOR CORP	3.30
186 E*TRADE FINANCIAL CORP	3.30
187 GENZYME CORP	3.28
188 EASTMAN CHEMICAL COMPANY	3.27
189 O'REILLY AUTOMOTIVE INC	3.26
190 TIFFANY & CO	3.23
191 NOVELL INC	3.22
192 KING PHARMACEUTICALS INC	3.20

Exhibit__(JEP-2)

Name	Price To Tangible Book Value Per Share
193 CF INDUSTRIES HOLDINGS INC	3.11
194 HARLEY-DAVIDSON INC	3.11
195 INTEL CORP	3.11
196 PPL CORPORATION	3.04
197 PNC FINANCIAL SERVICES GROUP	3.01
198 HUMANA INC	2.98
199 TERADYNE INC	2.97
200 WALGREEN CO	2.94
201 NUCOR CORP	2.94
202 YAHOO! INC	2.93
203 ELECTRONIC ARTS INC	2.86
204 NEWMONT MINING CORP	2.83
205 EQT CORP	2.83
206 RADIOSHACK CORP	2.78
207 FAMILY DOLLAR STORES	2.78
208 TARGET CORP	2.77
209 XEROX CORP	2.72
210 KOHLS CORP	2.72
211 BIG LOTS INC	2.71
212 APPLIED MATERIALS INC	2.67
213 WESTERN DIGITAL CORP	2.66
214 PROGRESSIVE CORP	2.65
215 HOME DEPOT INC	2.64
216 GENUINE PARTS CO	2.62
217 DEVON ENERGY CORPORATION	2.62
218 BAKER HUGHES INC	2.62
219 NORTHERN TRUST CORP	2.59
220 OCCIDENTAL PETROLEUM CORP	2.58
221 HARMAN INTERNATIONAL	2.56
222 M & T BANK CORP	2.55
223 LEXMARK INTERNATIONAL INC-A	2.55
224 COSTCO WHOLESALE CORP	2.54
225 MASSEY ENERGY CO	2.52
226 DOW CHEMICAL	2.51
227 PUBLIC STORAGE	2.48
228 CIENA CORP	2.46
229 BJ SERVICES CO	2.40
230 EOG RESOURCES INC	2.38
231 JDS UNIPHASE CORP	2.37
232 SLM CORP	2.36
233 BURLINGTON NORTHERN SANTA FE	2.34
234 FOREST LABORATORIES INC	2.34
235 JABIL CIRCUIT INC	2.32
236 VORNADO REALTY TRUST	2.25
237 ANADARKO PETROLEUM CORP	2.22
238 SAFEWAY INC	2.22
239 CONSTELLATION ENERGY GROUP	2.21
240 EL PASO CORP	2.20

Exhibit__(JEP-2)

Name	Price To Tangible Book Value Per Share
241 QUESTAR CORP	2.18
242 LEUCADIA NATIONAL CORP	2.17
243 NOBLE ENERGY INC	2.14
244 CSX CORP	2.11
245 RYDER SYSTEM INC	2.09
246 FEDEX CORP	2.07
247 TYSON FOODS INC-CL A	2.07
248 DENBURY RESOURCES INC	2.07
249 BB&T CORP	2.05
250 TORCHMARK CORP	2.04
251 JPMORGAN CHASE & CO	2.04
252 GOLDMAN SACHS GROUP INC	2.03
253 PUBLIC SERVICE ENTERPRISE GP	2.01
254 APACHE CORP	2.00
255 AK STEEL HOLDING CORP	2.00
256 PROGRESS ENERGY INC	1.98
257 ENTERGY CORP	1.96
258 MURPHY OIL CORP	1.94
259 CHEVRON CORP	1.90
260 NOVELLUS SYSTEMS INC	1.88
261 MEADWESTVACO CORP	1.87
262 ALCOA INC	1.87
263 SOUTHERN CO	1.86
264 UNION PACIFIC CORP	1.84
265 SEARS HOLDINGS CORP	1.83
266 NORFOLK SOUTHERN CORP	1.80
267 WISCONSIN ENERGY CORP	1.79
268 FPL GROUP INC	1.79
269 CORNING INC	1.78
270 METLIFE INC	1.76
271 NICOR INC	1.74
272 HCP INC	1.74
273 ALLEGHENY TECHNOLOGIES INC	1.74
274 MOLEX INC	1.73
275 HEALTH CARE REIT INC	1.71
276 SEMPRA ENERGY	1.71
277 HESS CORP	1.66
278 WEYERHAEUSER CO	1.66
279 CARNIVAL CORP	1.66
280 ALLEGHENY ENERGY INC	1.64
281 ABERCROMBIE & FITCH CO-CL A	1.63
282 BANK OF AMERICA CORP	1.61
283 DTE ENERGY COMPANY	1.61
284 LINCOLN NATIONAL CORP	1.61
285 PRUDENTIAL FINANCIAL INC	1.60
286 SANDISK CORP	1.59
287 XTO ENERGY INC	1.58
288 ENSCO INTERNATIONAL INC	1.57

Exhibit__(JEP-2)

Name	Price To Tangible Book Value Per Share
289 NABORS INDUSTRIES LTD	1.54
290 PIONEER NATURAL RESOURCES CO	1.54
291 TECO ENERGY INC	1.54
292 TITANIUM METALS CORP	1.53
293 ARCHER-DANIELS-MIDLAND CO	1.53
294 WILLIAMS COS INC	1.52
295 PEOPLE'S UNITED FINANCIAL	1.51
296 CONOCOPHILLIPS	1.50
297 P G & E CORP	1.48
298 TELLABS INC	1.46
299 TRAVELERS COS INC/THE	1.43
300 CAPITAL ONE FINANCIAL CORP	1.43
301 MICRON TECHNOLOGY INC	1.43
302 MEMC ELECTRONIC MATERIALS	1.43
303 UNITED STATES STEEL CORP	1.42
304 ALLSTATE CORP	1.40
305 ASSURANT INC	1.39
306 HUDSON CITY BANCORP INC	1.39
307 KB HOME	1.37
308 CHUBB CORP	1.37
309 OFFICE DEPOT INC	1.35
310 XL CAPITAL LTD -CLASS A	1.35
311 SCANA CORP	1.32
312 NORTHEAST UTILITIES	1.32
313 DISCOVER FINANCIAL SERVICES	1.32
314 DUKE ENERGY CORP	1.32
315 SUNOCO INC	1.31
316 MARATHON OIL CORP	1.28
317 DR HORTON INC	1.28
318 SOUTHWEST AIRLINES CO	1.27
319 AMERIPRISE FINANCIAL INC	1.24
320 XCEL ENERGY INC	1.24
321 INTEGRYS ENERGY GROUP INC	1.24
322 MORGAN STANLEY	1.24
323 LOEWS CORP	1.22
324 CONSOLIDATED EDISON INC	1.22
325 AMERICAN ELECTRIC POWER	1.18
326 FIRST HORIZON NATIONAL CORP	1.17
327 PEPCO HOLDINGS INC	1.14
328 UNUM GROUP	1.13
329 EDISON INTERNATIONAL	1.10
330 ROWAN COMPANIES INC	1.07
331 FIFTH THIRD BANCORP	1.06
332 MBIA INC	1.01
333 CHESAPEAKE ENERGY CORP	1.00
334 CINCINNATI FINANCIAL CORP	0.99
335 PINNACLE WEST CAPITAL	0.97
336 HARTFORD FINANCIAL SVCS GRP	0.94

Exhibit__(JEP-2)

Name	Price To Tangible Book Value Per Share
337 AMEREN CORPORATION	0.90
338 PULTE HOMES INC	0.88
339 COMERICA INC	0.88
340 LENNAR CORP-CL A	0.80
341 CITIGROUP INC	0.79
342 HUNTINGTON BANCSHARES INC	0.77
343 TESORO CORP	0.75
344 SUNTRUST BANKS INC	0.70
345 GENWORTH FINANCIAL INC-CL A	0.68
346 VALERO ENERGY CORP	0.64
347 ZIONS BANCORPORATION	0.56
348 REGIONS FINANCIAL CORP	0.49
349 DYNEGY INC-CL A	0.49
350 KEYCORP	0.46
351 MARSHALL & ILSLEY CORP	0.41
Average	7.95
Median	3.56

Consolidated Edison Company of New York, Inc.
 Directors & Officers Insurance Costs
 Policy Year December 2, 2008 - December 2, 2009

First	\$35 Million	*	\$1,290,506
Next	\$25 Million	*	\$746,569
Next	\$25 Million	*	\$600,415
Next	\$25 Million	*	\$492,340
Next	\$25 Million	*	\$406,175
Next	\$25 Million	*	\$335,099
Next	\$25 Million	*	\$276,450
Next	\$15 Million	*	\$165,870
Next	\$25 Million	*	\$270,750
Next	\$25 Million	*	\$243,834
Next	\$25 Million	**	\$277,970
Next	\$25 Million	**	\$250,173
Total	\$300 Million		\$5,356,151

* - Standard ABC Coverage

** - Side A Coverage

Willis

April 17, 2009

Telephone: 973-410-1022
Fax: 973-410-4600
Website: www.willis.com
Direct Line: 973-410-4847
E-mail: Seto_da@willis.com

Mr. Joseph Lynch,
Director of Insurance
Consolidated Edison, Inc.
4 Irving Place
New York, NY 10003-3502

Re: **Consolidated Edison, Inc.**
Directors & Officers Liability
Policy Term: December 2, 2008 – December 2, 2009

Dear Joseph:

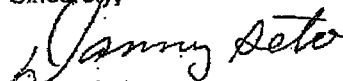
As your broker, it is Willis' opinion that your D&O insurance costs and Self-Insured Retentions are reflective of the market and are in line with what other companies pay for D&O Insurance.

Our opinion is based on information from about 63 companies/clients – comprising of 25 utilities/clients, 29 energy companies/clients and 9 Fortune 500 companies/clients - all comparable to Con Edison in size based on revenues.

In view of Consolidated Edison's market capitalization and potential exposure to D&O Claims/litigation, we are also of the opinion that its current \$300 million corporate D&O insurance program, coverage terms and conditions, and limits are appropriate and prudent.

Please feel free to call me if you have any questions.

Sincerely,



Danny Seto
Vice President
Willis HRH Executive Risks

Cathy Cummins
Managing Director

MARSH



MARSH MERCER KROLL
GUY CARPENTER OLIVER WYMAN

Marsh USA Inc.
1166 Avenue of the Americas
New York, NY 10036-2774
212 345 8707 Fax 212 345 1587
www.marsh.com

April 17, 2009

Mr. Joseph Lynch
Director, Risk Management
Consolidated Edison, Inc.
4 Irving Place
New York, NY 10003

RE: Directors and Officers Liability Insurance

Dear Mr. Lynch

We have reviewed the summary of Con Edison's Corporate D & O Insurance Program submitted. It is our opinion that your current D&O costs and Self-Insured Retention are reflective of the market and in line with what other similar companies pay for D & O Insurance. In view of your size, market cap and potential exposure to D & O claims/litigation we are also of the opinion that your current \$300 million program is an appropriate limit of liability.

Should you have any questions, please do not hesitate to call.

Sincerely,



Cathy Cummins
Managing Director

CLC/me

D&O Limits & Market Caps of Other Large Utilities - 2009

Utility Respondent	Limit (\$, in millions)	Market Cap (\$, in billions)	Limit as a % of Market Cap
Utility U	140	2.8	5.00%
Utility J	200	4.9	4.08%
Utility L	185	5.0	3.70%
Utility P	125	3.7	3.38%
Utility G	300	9.7	3.09%
Utility B	340	12.6	2.70%
Utility M	210	8.3	2.53%
Utility R	250	11.6	2.16%
Utility W	200	9.5	2.11%
Utility F	350	20.8	1.68%
Utility A	300	18.0	1.67%
Utility I	225	13.7	1.64%
Utility C	300	18.5	1.62%
Utility Q	250	15.6	1.60%
Utility T	175	11.6	1.51%
Utility V	200	13.7	1.46%
Utility S	175	12.8	1.37%
Utility E	300	22.4	1.34%
Utility D	400	31.1	1.29%
Utility K	225	23.3	0.97%
Utility N	*	*	
Utility O	*	*	
Utility H	200	**	
Con Edison	300	10.2	2.94%

* Acquired

** Private Company

SUMMARY - FOUR D&O LIMIT SURVEYS
2004 - 2005 - 2006 - 2009

Utility Respondent	2004	2005	2006	2007	2008	2009	CAGR
	(in millions)						
A	\$350	\$350	\$350			\$300	-3.0%
B	\$325	\$325	\$325			\$340	0.9%
C	\$300	\$300	\$300			\$300	0.0%
D	\$300	\$350	\$350			\$400	5.9%
E	\$300	\$300	\$300			\$300	0.0%
F	\$250	\$250	\$250			\$350	7.0%
G	\$250	\$280	\$280			\$300	3.7%
I	\$225	\$225	\$225			\$225	0.0%
J	\$200	\$200	\$200			\$200	0.0%
K	\$170	\$170	\$170			\$225	5.8%
L	\$165	\$185	\$185			\$185	2.3%
M	\$160	\$160	\$160			\$210	5.6%
P	\$150	\$150	\$125			\$125	-3.6%
Q	\$150	\$150	\$150			\$250	10.8%
R	\$150	\$200	\$200			\$250	10.8%
S	\$100	\$175	\$175			\$175	11.8%
T	\$100	\$150	\$150			\$175	11.8%
U	\$100	\$100	\$100			\$140	7.0%
V	\$100	\$150	\$200			\$200	14.9%
H	\$250	\$325	*			*	
N	\$150	\$150	\$150			**	
O	\$150	\$150	\$150			**	
W	-	-	-			\$200	

Average for all '04/'09 Participants	202					245	3.9%
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Average for 2004/9 Participants with Market Caps of \$10 bn or more	219					271	4.3%
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Con Edison	\$250	\$300	\$300			\$300	3.7%
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* - Information not provided due to confidentiality concerns.

** - Acquired.