

PROPERTY TAX PANEL - REBUTTAL
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1 Q. Please state your names.

2 A. Joseph DePiano, William Talbot, and Charles D.
3 Hutcheson.

4 Q. Have you previously testified in this proceeding?

5 A. Yes, we jointly submitted testimony as the Property Tax
6 Panel.

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

8 A. Our testimony rebuts: (1) the Staff Accounting Panel's
9 proposal to eliminate or partially eliminate any
10 mechanism to reconcile property taxes, (2) the Staff
11 Policy Panel's proposal to subject the Company to a
12 penalty if the Company does not meet a new filing
13 requirement for the Company's future electric rate
14 filings, and (3) addresses the Staff Policy Panel's
15 proposal for a higher incentive for successful tax
16 reduction efforts.

17 REBUTTAL TO STAFF ACCOUNTING PANEL

18 Q. What are the Staff Accounting Panel's proposals
19 regarding incentives for the Company to control the
20 costs of rising property taxes?

21 A. The Staff Accounting Panel has advanced the following
22 alternatives they believe the Commission should
23 consider implementing to encourage the Company to
24 control property taxes:

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- 1 ▪ eliminate the existing mechanism to reconcile
- 2 property taxes; or
- 3 ▪ establish a partial reconciliation mechanism,
- 4 either:
 - 5 o placing a dead-band around the property tax
 - 6 forecast; or
 - 7 o putting the Company at risk for 20 percent of
 - 8 the missed forecast.

9 Q. Why does the Staff Accounting Panel recommend that the
10 Commission consider these alternatives?

11 A. The Panel is responding to the Commission's overall
12 concern with high property taxes, the Company's efforts
13 to control property taxes, and Commissioner Harris'
14 dissent in Case 08-E-0539, that "utilities have no
15 incentive to oppose these taxes since the Commission
16 merely flows these costs on to the ratepayer" (p. 88).
17 In addition, Staff argues that no reconciliation is
18 needed in the context of a one year case because there
19 is "really only a small portion of the expense that is
20 at risk" (p. 90).

21 Q. Do you have any general comments to Staff's
22 recommendations?

23 A. Yes. The Company has been and remains very concerned
24 with high property taxes in our service territory and

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1 their impact on customer bills. We have voiced and
2 demonstrated our concern through the pursuit of
3 litigation and legislation for decades. We have
4 demonstrated that public utilities have been singled-
5 out and discriminated against in their own tax class in
6 New York City, thereby subjecting the Company to
7 inequities not borne by other taxpayers, especially the
8 New York City (class 1) homeowners, who have
9 historically been protected from absorbing their fair
10 share of property taxes. We believe that this
11 inequitable property tax obligation, which is
12 recognized as being outside the Company's control, has
13 put undue pressure on parties and the Commission to
14 stray far from traditional and reasonable ratemaking in
15 an effort to hold down the cost of utility service in
16 our service territory. In fact, the Staff Policy Panel
17 states (p. 29)

18
19 Continual large increases in property taxes not
20 only cause significant customer bill impacts, but
21 also may discourage Commission authorization of
22 funding for other initiatives that may benefit
23 ratepayers in the long-term..

24 Q. Do you believe that eliminating or reducing the
25 property tax reconciliation will provide the Company an
26 incentive to hold down property taxes?

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1 A. No. The Company has a long and proven record of
2 undertaking efforts to reduce the Company's overall
3 property tax burden using various methods, including
4 challenges to unfair assessments; lobbying efforts to
5 seek favorable legislation; developing our own
6 proposals or vetting proposals from various consultants
7 for ideas to further challenge property taxes;
8 aggressively seeking Industrial and Commercial
9 Incentive Program benefits; seeking and applying for
10 reductions for functional and economic obsolescence in
11 our special franchise property; settling litigation
12 where appropriate; and most recently advocating an
13 initiative to merge classes 3 and 4 in New York City.
14 Our initial Property Tax Panel testimony in this case,
15 along with Mr. Hutcheson's own direct testimony on
16 property taxes, has demonstrated the Company puts
17 considerable effort into managing its property taxes
18 and attempting to ensure that it pays no more than its
19 fair share. Moreover, neither the Staff Accounting
20 Panel nor the Staff Policy Panel cites any deficiencies
21 with respect to these efforts. In fact, the Staff
22 Policy Panel reiterates at length and then supports the
23 efforts undertaken by the Company and encourages the
24 Company to continue its tax restructuring initiatives.

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1 And these efforts extend over a long period of time
2 during which a full property tax reconciliation was in
3 place.

4 Q. How has the Company communicated with Department of
5 Public Service Staff and the Commission regarding its
6 efforts to reduce property taxes?

7 A. The Company has filed a report we refer to as the "PSC
8 Showing" of our property tax efforts. We annually file
9 that report with senior Staff regarding all of our
10 efforts to hold the line on property taxes for the
11 calendar year.

12 Q. Do you have an exhibit containing such reports?

13 A. Yes, we have included an exhibit entitled "CONSOLIDATED
14 EDISON COMPANY OF NEW YORK, INC., ANNUAL PSC SHOWING ON
15 PROPERTY TAXES FOR THE YEARS 2002 THROUGH 2008".

16 MARK FOR IDENTIFICATION AS EXHIBIT ____ (PTP-6)

17 Q. How else have DPS Staff and the Commission become aware
18 of what the Company has accomplished on property taxes?

19 A. As noted, Mr. Hutcheson's testimony in each of the
20 Company's rate proceedings has included testimony
21 concerning efforts to control property taxes. In
22 addition, the Company has met with DPS Staff to inform
23 them of our efforts, particularly with regard to our
24 efforts on the class merger initiative. In addition,

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1 we file formal Section 89.3 Notifications with the
2 Commission on refunds when required to do so by
3 regulation, and those filings have included refunds we
4 have negotiated with various municipalities over the
5 years as well as a filing of our favorable court
6 decision in connection with litigation covering several
7 years related to overvaluation at the Arthur Kill
8 Generating Station.

9 Q. Has the Commission commented on the Company's efforts
10 recently?

11 A. Yes, the Commission recognized (2009 Rate Order, p.
12 106) that "the record in these cases shows that the
13 Company has aggressively sought to minimize its
14 property tax assessments. Indeed, there is no
15 assertion to the contrary."

16 Q. Can you provide a document that quantifies the
17 Company's recent successes to hold the line on property
18 taxes?

19 A. Yes. We have included an exhibit entitled
20 "CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., SUMMARY
21 OF ELECTRIC PROPERTY TAX MITIGATION EFFORTS FOR
22 BENEFITS EARNED BETWEEN 2003 THROUGH 2008" that
23 conservatively summarizes the estimated savings
24 produced as a result of efforts by the Company. The

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1 exhibit shows total property tax savings of
2 approximately \$514 million during that period.

3 MARK FOR IDENTIFICATION AS EXHIBIT ____ (PTP-7)

4 Q. Please describe what information is summarized on the
5 exhibit.

6 A. The exhibit summarizes tax savings produced from all
7 sources including those realized from settlement
8 agreements, court decisions, obsolescence filings, and
9 ICIP applications. The document was prepared to show
10 savings applicable to the electric department, but does
11 include some savings that get allocated to the gas
12 department because some of the agreements cover all
13 property in a municipality, some of which is gas.

14 Q. Are there additional tax savings achieved by the
15 Company that are not reflected in this exhibit?

16 A. Yes. The document does not reflect significant ICIP
17 savings on the Company's East River Repowering Project
18 amounting to \$286 million, as that is a steam plant, as
19 well as economic obsolescence on our steam special
20 franchise facilities and functional obsolescence on our
21 gas special franchise facilities, both of which have
22 been realized for many years. It additionally excludes
23 the ICIP benefits for projects that we have applied for
24 but not yet been approved. For instance, we have

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1 pending ICIP applications for the construction of the
2 Academy and Newtown substations, and for upgrades at
3 the Sherman Creek and Fresh Kills substations. We
4 estimate tax savings for those electric facilities to
5 amount to \$220 million over the course of the benefit
6 period, which ranges from 15 to 25 years depending on
7 the project. We also have an application pending for
8 the repowering project at Hudson Avenue, which is
9 expected to provide benefits to our steam customers.
10 All benefits received from the ICIP are passed back
11 directly to customers. Lastly, the exhibit does not
12 reflect tax benefits that may continue to be realized
13 from earlier agreements that have expired but have not
14 had their assessments increased.

15 Q. Why did you characterize the benefit dollars as
16 conservative estimates?

17 A. The dollars on the Exhibit assume tax rates are
18 estimated to be unchanged from the year the settlement
19 is made. Since it is reasonable to expect tax rates
20 will increase over time, especially over the long
21 periods relating to the ICIP benefits, the tax savings
22 will be greater in the future.

23 Q. What is the status of the ICIP program?

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1 A. At the request of the City of New York, the program was
2 allowed to expire as of June 30, 2008 and was replaced
3 by the Industrial and Commercial Abatement Program
4 ("ICAP"), which was sponsored by the City and drafted
5 to specifically exclude utility property from the ICAP
6 benefits. Nonetheless, Con Edison is eligible to
7 receive ICIP exemptions for all pending projects that
8 were grandfathered under the ICIP for the duration of
9 their tax exempt benefit period.

10 Q. Did the Company make efforts to reduce property taxes
11 prior to the 2003 data summarized on Exhibit ____ (PTP-
12 7)?

13 A. Yes, the data on the Exhibit was summarized as an
14 example of our recent efforts. The Company has been
15 active in attempts to pay only our fair share of
16 property taxes for many years, although the exact
17 period is difficult to quantify. For instance, we have
18 active tax certiorari petitions challenging the
19 assessments of our large real estate properties in the
20 City of New York going back to fiscal year 1994/95. We
21 finally had the Arthur Kill cases brought to trial and
22 won that case in the New York State Court of Appeals,
23 the State's highest court, in 2007. We are actively
24 attempting to use the valuation principles from the

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1 Arthur Kill case to settle open litigation on some of
2 the other power plants currently or formerly owned by
3 the Company. We also hope to globally settle all of
4 the open New York City cases to avoid years of
5 additional litigation.

6 Q. Please continue discussing real estate challenges in
7 New York City.

8 A. The reason all of the New York City cases have open tax
9 certiorari cases back to fiscal year 1994/95 is because
10 the prior years are all closed.

11 Q. Why are they closed?

12 A. They are closed as the result of a settlement on non-
13 special franchise property the Company entered into
14 with the City finalized in July 1993. That settlement
15 resulted in a \$50 million refund as well as forward-
16 looking benefits thereafter. As a condition of the
17 settlement, the Company withdrew all outstanding
18 litigation and agreed not to challenge the 1993/94
19 assessments.

20 Q. Was the Company active outside of New York City?

21 A. Yes, we have continually challenged over-assessments on
22 our properties outside of New York City for many years.
23 For instance, in addition to filing cases on various
24 properties in individual municipalities as we do today,

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1 we fought for many years to challenge property taxes on
2 our Indian Point nuclear power plant. Those challenges
3 resulted in a settlement in the late 1990's that
4 significantly reduced the station's assessments by
5 approximately 25 percent, thereby reducing the
6 Company's tax payments by \$9.6 million over the five-
7 year term of the agreement (the Company divested the
8 plant before the settlement expired).

9 Q. Have there been efforts to reduce special franchise
10 taxes?

11 A. We have often challenged these assessments and arrived
12 at a settlement of outstanding litigation covering
13 fiscal years 1995/96 through 2000/01 on all of our
14 special franchise facilities that benefited fiscal
15 years 2000/01 through 2004/05. That settlement
16 resulted in reductions to the Company's gas special
17 franchise facilities that directly led to the granting
18 of economic obsolescence in steam plant, and later in
19 electric plant, because we were able to secure separate
20 assessments for electric, gas, and steam facilities.
21 Prior to that, the Company was assessed on a company-
22 wide basis for all facilities, and our earnings on a
23 company-wide basis precluded us from realizing economic
24 obsolescence benefits. Steam's lower earnings,

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1 assessed separately, allowed this benefit to be
2 realized.

3 The Company entered into an even earlier special
4 franchise settlement covering proceedings spanning
5 fiscal years 1975/76 through 1987/88 which, among other
6 things, reduced the 1988/89 through 1990/91 assessments
7 by 18 percent each year. The assessment reductions
8 were the result of modifications to ORPS' assessment
9 calculations to allow for a greater depreciation
10 allowance that resulted in refunds and ongoing
11 assessment improvements that continue to be in place
12 today. In addition, the settlement approved certain
13 forward-looking "cost modifiers" to further lower the
14 Company's tax liability.

15 Over the years we have applied for and often been
16 granted various reductions for these modifiers, which
17 are attempts to seek reductions for a myriad of
18 opportunities, normally not extremely significant in
19 terms of dollars, but further proof of our commitment
20 to lower property taxes. For instance, we had sought
21 reductions for the capitalized cost of paving, joint
22 clamps, interference, and 25-cycle system costs to name
23 a few.

24 Q. Can you describe non-assessment challenges?

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1 A. Our initial testimony in this case included a letter to
2 Mayor Koch (see Exhibit ____ (PTP-5)) concerning the
3 discriminatory taxation of public utilities. Another
4 of our attempts included a position paper submitted in
5 1994 to the NYC Finance Commissioner that requested
6 recognition of electric generating facilities as
7 "industrial properties" as a matter of law under the
8 ICIP program. The City, in its continued opposition to
9 reducing utility property taxes, rejected our efforts
10 to get ICIP relief and forced other similarly situated
11 applicants to sue to obtain benefits. That suit was
12 successful, and we believe our early efforts helped to
13 pave the way for the successful ICIP applications in
14 the recent past.

15 One of the special franchise settlements discussed
16 earlier had also settled a provision in the Real
17 Property Tax Law commonly known as the "pegging law."
18 That settlement stopped the application of this
19 provision for a 10-year period, and when the settlement
20 expired, the Company filed suit to overturn the law.
21 In 2001, we sued ORPS challenging the constitutionality
22 of the pegging law. The pegging law assesses real
23 property placed in service prior to 1953 differently
24 than newer property in municipalities that have not

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1 performed a property revaluation since the law was
2 enacted. However, we were unsuccessful in our court
3 challenge to the pegging law. We later filed
4 administrative complaints with ORPS challenging the
5 valuation of property in municipalities where we were
6 subject to pegging, but ORPS denied those complaints on
7 the basis that they were following the law in applying
8 pegging to our facilities.

9 Many years ago, the Company filed suit against the City
10 on whether gas turbines located on barges were taxable
11 as real property because the barge floats. We lost
12 that case.

13 Q. Do you have any final comments on the Company's
14 efforts?

15 A. In addition to the specific efforts described above,
16 the Company has met both informally and formally over
17 the years with various officials in New York City to
18 discuss property tax issues. These issues have
19 included, but are not limited to, the taxability of
20 movable machinery and equipment; transformer vault fees
21 (a non property tax fee on equipment that is already
22 subject to property taxes); economic obsolescence on
23 steam power plants; personal property vs. real
24 property; the classification system; underwater

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1 property; ICIP applicability to utility property; the
2 taxability of Hudson Avenue Boiler 10/100; the
3 Reproduction Cost New Less Depreciation methodology;
4 and the timing of 626 credits.

5 Q. Why is a full property tax reconciliation appropriate?

6 A. A full property tax reconciliation protects the Company
7 from tax increases that are not under the Company's
8 control or subject to reasonable estimation, and also
9 allows the benefits of tax decreases obtained through
10 the Company's efforts or because a forecast was
11 overstated, to flow to customers.

12 Q. Has volatility been an issue with property taxes?

13 A. Yes, particularly with tax rates when considering the
14 City's classification system, fluctuations in the
15 Handy-Whitman Index as it relates to utility property,
16 and the use of the property tax to balance their
17 budget, which is required by the City's Tax Fixing
18 Resolution.

19 As a recent example of such volatility, the Company had
20 to absorb approximately \$14 million of incremental
21 property taxes, resulting from an unanticipated mid-
22 year tax rate increase, applicable to a rate year in
23 which there was no reconciliation of property taxes and
24 for which the Commission rejected a Company request to

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1 defer that amount. Moreover, the \$14.6 million at
2 issue amounted to only 25 percent of the annual impact
3 (or approximately \$58 million), as the Company's
4 Deferral Petition was limited to the three months from
5 January 2009 through March 2009 to coincide with the
6 end of the rate year in that case.

7 Q. Have there been even larger impacts?

8 A. Yes. New York City raised taxes for all taxpayers on
9 January 1, 2003, by 18.5 percent, with little advance
10 warning. It is not reasonable for the Company to be
11 subject to such significant risk for something outside
12 of its ability to control.

13 Q. Can you provide an example of the impact of changing
14 property tax rates?

15 A. Yes. The impact of increasing tax rates by just 1
16 percent raises rate year property taxes by a
17 significant amount. In order to determine the impact,
18 we increased the tax rates used in the New York City
19 forecast in the Company's July Preliminary Update by 1
20 percent. For example, we increased the class 3 rate
21 from 12.743 percent to 12.870 percent and the class 4
22 rate from 10.426 percent to 10.530 percent. That very
23 small rate change resulted in a rate year increase in
24 property taxes of approximately \$10 million in New York

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1 City. An 18.5 percent increase like the one
2 experienced in 2002/03 would therefore amount to a
3 substantial additional liability.

4 Q. Doesn't the Staff Accounting Panel argue that the
5 Company may file a deferral petition in the event of an
6 extraordinary tax increase beyond the forecast?

7 A. They do. However, as demonstrated by the Commission's
8 recent rejection of the Company's request for deferral
9 of property taxes (i.e., reducing the amount eligible
10 for deferral from approximately \$75 million to \$61
11 million), and by the nature of the Commission's
12 deferral policy, such petitions are not reasonable
13 equivalents to getting the forecast right up front or
14 reconciling the difference between forecasted and
15 actual amounts.

16 Q. Please explain.

17 A. First, the Company's Accounting Panel has explained to
18 us that the Commission's deferral policy has a
19 materiality threshold, which exposes the Company to
20 absorbing a significant level of such taxes.

21 Q. What level of taxes would the Company be exposed to
22 under the materiality threshold?

23 A. The Company's Accounting Panel has indicated the
24 threshold amount could be as much as 5 percent of net

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1 income, or approximately \$35 million. That dollar
2 level cannot reasonably be considered immaterial in the
3 context of Staff's concerns regarding the rate impact
4 of a myriad of much smaller Company program
5 expenditures in this case.

6 The Accounting Panel has also indicated to us that the
7 Company is not entitled to deferral if it is earning at
8 or above its authorized return. Accordingly, all else
9 being equal, cost reduction efforts achieved by the
10 Company could negate the Company's opportunity to defer
11 property taxes that were materially understated.

12 Q. Did the Commission approve a full property tax
13 reconciliation in the 2009 Rate Order?

14 A. Yes. The Judges recommended a full reconciliation and
15 the Commission adopted their recommendation. In their
16 discussion, the Commission discussed both volatility
17 and the need for incentives in that Order. The
18 Commission stated (at 106-107)

19
20 Property tax expense is clearly one of the largest
21 elements of the Company's cost of providing
22 electric delivery service. Accordingly, the
23 implications of being wrong in a forecast for this
24 expense are likewise greater relative to other
25 elements of revenue requirements, both for
26 ratepayers and shareholders. Given the economic
27 downturn, and relatively greater uncertainty about
28 how long the downturn will last and how municipal

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1 taxing authorities will respond, full or bilateral
2 reconciliation of property tax expense makes more
3 sense in these cases than most.
4

5 Q. Does the Staff Accounting Panel believe the lack of a
6 reconciliation puts too much at risk for the Company?

7 A. No, they state (at 90) their belief that

8
9 Once the Company provides all of its property tax
10 updates in this proceeding, there is really only a
11 small portion of the expense that is at risk. For
12 one quarter of the rate year, all of the data will
13 be known. For the last three-quarters of the rate
14 year, we will know some of the assessed values and
15 should have a very good forecast on the unknown
16 assessed values. The biggest unknown is the tax
17 rate that will be in effect for three-quarters of
18 the rate year.
19

20 Q. Will the Company provide future updates to property
21 taxes in this case?

22 A. Mr. Hutcheson has proposed the Company be allowed to
23 provide updates throughout the case to allow rates to
24 be set using the latest known data.

25 Q. Do you agree with the Staff Accounting Panel's
26 conclusions that, as a result, "there is really only a
27 small portion of the expense that is at risk?"

28 A. No. Tax rates are only known for one-quarter of the
29 rate year and, as we have already discussed, the impact
30 of unknown tax rates can certainly be a substantial

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1 risk to the Company. There are also other unknown
2 items that could present significant risks.

3 Q. Please discuss them.

4 A. Even if the Commission permits updates in this case, it
5 is possible that special franchise tentative values,
6 which represent approximately two-thirds of the
7 Company's electric property, would not be known in time
8 to include them. For instance, in order to have them
9 in time, it will require the Office of Real Property
10 Services to provide initial estimates on a preliminary
11 basis, as they did last year, for the Commission to
12 rely on those estimates, and for the final special
13 franchise values to equal the preliminary values.

14 Q. Please now discuss the Staff Accounting Panel's
15 alternative recommendation.

16 A. Staff recommended that the Commission consider as an
17 alternative to no reconciliation of property taxes,
18 imposing a partial reconciliation, by either placing a
19 dead-band around the property tax forecast or putting
20 the Company at risk for 20 percent of a missed
21 forecast.

22 Q. Do you oppose the use of partial reconciliations?

23 A. Yes, we oppose limiting the property tax reconciliation
24 in any way. As indicated earlier, the Commission

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1 currently allows a full reconciliation for many good
2 reasons and we believe that current policy should
3 continue. As discussed above, Staff argues against a
4 full reconciliation, or for a partial reconciliation,
5 in order to provide the Company an incentive to
6 minimize taxes and we have fully demonstrated that the
7 Company does not need such an "incentive" to continue
8 its aggressive approach to minimizing these costs to
9 the extent practicable. We have also demonstrated
10 there is a significant amount of money that the Company
11 could be at risk for, even during a single year filing.
12 For example, if the recent 7.5 percent mid-year tax
13 rate increase fell in a single year, the Company could
14 be required to absorb all or part of it depending upon
15 the size of the dead band, or more than \$10 million
16 under Staff's proposed 20 percent sharing mechanism.

17 Q. Has the Company operated under a dead-band in the past?

18 A. Yes it has, but the dead band did not (and as a
19 practical matter, could not) result in the Company
20 working any harder toward reducing property taxes than
21 when the Company had no reconciliation for the rate
22 year ending March 2009. As noted in Exhibit ____ (PTP-
23 6), the Company's extensive tax reduction efforts are
24 set forth in the annual reports to the Commission. In

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1 addition, past practice, whether agreed to in a
2 settlement or ordered by the Commission, does not
3 change the fact that current Commission policy is to
4 allow for full reconciliation of property taxes.

5 Q. Do you have any other comments regarding the partial
6 reconciliation proposal?

7 A. Yes. The Accounting Panel informs us that such a
8 mechanism can and has resulted in customers paying more
9 for property taxes than would have been the case had
10 full reconciliation without a dead band been in effect.
11 In the Company's initial brief in Case 08-E-0539 (at
12 85, footnote 54) the Company noted this occurred during
13 the three-year rate plan adopted in Case 04-E-0572 and
14 was a reason the Company's earnings exceeded the
15 allowed return.

16 REBUTTAL TO STAFF POLICY PANEL

17 Q. What are the Staff Policy Panel's proposals regarding
18 property taxes?

19 A. The Staff Policy Panel recommends that the Company be
20 required to submit in each rate filing, testimony
21 regarding the actions it has taken to control or reduce
22 property taxes, and if the Company fails to make such a
23 demonstration, that the Company be subject to a five
24 basis point negative rate adjustment based on

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- 1 regulatory judgment. In addition, Staff recommends
2 that the Commission establish an aggressive incentive
3 mechanism to encourage the Company to minimize property
4 tax costs.
- 5 Q. Please comment on Staff's rate case demonstration
6 proposal.
- 7 A. As discussed above, the Company already provides to the
8 Staff annually a comprehensive demonstration of the
9 Company's tax reduction efforts (see Exhibit ____ (PTP-
10 6)).
- 11 Q. Is the Staff Policy Panel seeking information not
12 already covered by these reports?
- 13 A. Yes, in some minor respects.
- 14 Q. Would you agree to provide in the PSC Showing the
15 additional information being requested by the Staff
16 Policy Panel?
- 17 A. Yes, the Company would agree to provide the additional
18 minor information as part of the annual reports or in
19 its next rate proceeding.
- 20 Q. Please comment on their recommendation to subject the
21 Company to a five basis point negative rate adjustment
22 should the Company fail to make such a demonstration.
- 23 A. Staff has provided no basis whatsoever for recommending
24 that a penalty be associated with the filing

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1 requirement, including no evidence or allegation of a
2 failure by the Company to respond to a Staff request
3 for property tax information or to file its annual
4 reports. We believe the demonstration is already made
5 annually and we recommend the Commission reject Staff's
6 request for this penalty.

7 Q. Do you have comments on the Policy Panel's other
8 recommendation regarding establishment of an aggressive
9 incentive mechanism to encourage the Company to
10 minimize property taxes?

11 A. The Company would naturally accept a greater reward for
12 our efforts, but, in good faith and consistent with our
13 opposition to Staff's other proposals, we must state
14 that it is not necessary in order to provide an
15 incentive to Con Edison to continue its aggressive tax
16 reduction efforts. That said, the Company reserves the
17 right to request a larger incentive for extraordinary
18 efforts, which existing regulations allow.

19 Q. Do you have any other comments as to Staff's position
20 on incentives?

21 A. While Staff argues for incentives to encourage the
22 Company to continue its aggressive efforts to minimize
23 its tax burden for the benefit of customers, including
24 literally and figuratively "fighting City Hall," Staff

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1 apparently gives no credit for Company time or effort
2 in such endeavors, categorically opposing Company
3 recovery of even extraordinary costs should such
4 efforts prove unsuccessful. Staff's response to Con
5 Edison-60, where the Company asked Staff:

6
7 Given the cost of extensive litigation that may be
8 necessary to reduce property taxes, would a
9 deferral mechanism for those costs that would
10 provide for recovery of those costs regardless of
11 the outcome of the litigation be a proposal the
12 Panel would support?

13 to which the Panel simply responded "No."

14 Q. Have you attached Con Edison-60 as an exhibit?

15 A. Yes.

16 MARK FOR IDENTIFICATION AS EXHIBIT ____ (PTP-8)

17 Q. Do you have any comments regarding the Commission's
18 expressed interest in further evaluating and
19 understanding NYC tax policies considering its impact
20 on the Company's rates?

21 A. In an effort to elicit the drivers of the City's policy
22 in order to enlighten the record in this proceeding,
23 the Company issued NYC, a party to this case, a series
24 of interrogatories regarding their tax policies and
25 procedures.

26 Q. Please summarize the City's response.

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1 A. Notwithstanding that NYC has been one of the most
2 active participants in the Company's rate request
3 filings, and that NYC property tax increases have been
4 a primary driver of these filings, NYC categorically
5 refused to answer these interrogatories. The Company
6 plans to pursue all of its rights to obtain this
7 information.

8 Q. Does that conclude your rebuttal testimony?

9 A. Yes, it does.

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

**ANNUAL PSC SHOWING ON PROPERTY TAXES
FOR THE YEARS 2002 THROUGH 2008**

SEPTEMBER 2009



Joseph C. DePiano
Vice President, Tax

March 30, 2009

Ms. Doris Stout
Acting Director of Accounting and Finance
NYS Department of Public Service
3 Empire State Plaza - 6th Floor
Albany, New York 12223

Re: Consolidated Edison Company of New York, Inc.
Orange & Rockland Utilities, Inc.
PSC Showing on Property Taxes – Year 2008

Dear Ms. Stout:

Enclosed please find the annual showing of the ongoing efforts made by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. to reduce their property tax obligations.

We plan to continue filing such reports each year. If you have any questions, please do not hesitate to contact me at (212) 460-2689.

Very truly yours,

Enclosure

cc: John Scherer
Robert Burke
Timothy Canty
Robert Hoglund
Edward Rasmussen
Richard Kane
William Talbot
Charles Hutcheson

Annual Report on
Property Tax Reduction Efforts - 2008

Introduction

This report documents the efforts taken in 2008 by Consolidated Edison Company of New York, Inc. ("Con Edison") and Orange and Rockland Utilities, Inc. ("Orange and Rockland") to reduce their property tax obligations.¹ The property taxes paid by Con Edison and Orange and Rockland are based on the "value" of property and include taxes on land and the structures erected or affixed to the land. In New York State, utilities also pay property taxes on utility equipment located on land we own. In addition, we pay property taxes on our equipment located on, under, or above the public streets and highways, known as special franchise taxes.

We challenge our property tax assessments through complaints, and, if necessary, full litigation when we determine that our property is valued by tax assessors above a range of reasonableness. We determine what a reasonable range is by independently computing value and comparing it to the actual market value of the property included on the assessment roll. We also compute the estimated taxes on the computed market value and compare that to the amount billed. Based on these analyses, the Companies determine whether to challenge the property tax assessments by commencing litigation against the taxing authority.

In New York State, public utility property is valued under a method known as the "Cost Approach." Historically, New York State Real Property Tax Law and the courts have held that utility property should be valued under this approach. The New York City Assessor, the Office of Real Property Services ("ORPS"), and some, but not all other assessors in the State, determine value by using an assessment methodology known as Reproduction Cost New Less Depreciation, or RCNLD, for utility property. RCNLD calculates what it would cost to reproduce property at current construction costs, subtracts an allowance for depreciation and obsolescence, if any, and adds-in the value of land to arrive at a "value" for the entire property. RCNLD is used only to value certain of our structures and all of our equipment. The value of land is determined by comparable sales data.

¹ The filing of this annual showing is required by Con Edison's current gas and steam rate plans, Case 06-G-1332, Joint Proposal, Section E.3 and Case 07-S-1315, Joint Proposal, Section F.5. Information is, however, also provided in this report regarding the property tax reduction efforts by Orange and Rockland as well as by Con Edison to reduce its property tax liability for electric service.

Annual Report on
Property Tax Reduction Efforts - 2008

Property Tax Settlements in 2008

Although some still require final court approval, Con Edison negotiated four new property tax settlements with the City of New Rochelle, and the Towns of East Fishkill, Ossining, and Harrison. Discussions with other municipalities remain active, but negotiations with the Town of Pleasant Valley have ceased and the Company is awaiting a trial date with the Town.

In New Rochelle, the settlement covered the Company's Cedar Street substation and various distribution equipment located on private property throughout the city. Litigation had been commenced for years 2004 through 2007. The settlement will provide cash refunds of approximately \$1.4 million and will immediately reduce assessments for years 2008 through 2010 by 44%. Based on information available at the time of the settlement, the annual tax savings for those three years will amount to approximately \$575,000 or \$1.725 million over the life of the agreement.

Con Edison has reached agreement with East Fishkill on a settlement currently pending approval by the court. The East Fishkill settlement was the result of litigation on the East Fishkill substation and the Company's D and K transmission lines running through the town. Years 2004 through 2006 were in litigation and the settlement included a partial refund of those years totaling \$1.5 million. The school district asked and we agreed to allow it to pay its share of the refund over two years. For 2007, the town had previously agreed to value our property under RCNLD, in fact using the assessments provided by ORPS via an advisory opinion which the town had requested as a result of a town-wide revaluation.

In the Town of Ossining, our litigation was in connection with overvaluations on the Ossining substation. Since the town assesses the substation for the Village of Ossining, the benefits also apply to our tax liability for the Village. The settlement included refunds of approximately \$430,000 for the contested assessment years 2005 through 2007 along with future assessment reductions that cut the existing assessment in half. The immediate annual tax savings for years 2008 through 2010, based on information known at the time of the settlement, total \$363,000, or about \$1.1 million over the course of the three-year agreement.

Con Edison has also reached agreement with the Town of Harrison on a settlement currently pending approval by the court. This settlement resolves litigation with the Town of Harrison on the Harrison substation and various other distribution equipment located on private property in the town. The settlement includes a refund of approximately \$1.1 million as well as assessment reductions

**Annual Report on
Property Tax Reduction Efforts - 2008**

totaling 44% on the properties covering years beginning in assessment year 2009 and frozen through 2012. The annual property tax savings due to the lower assessments will total approximately \$500,000 based on rates in effect at the time of the agreement. Therefore, savings over the course of the agreement will total over \$2 million in addition to the cash refund. Due to requests from the school district and the Town, we have agreed to allow the refunds to be delayed until their budgets for next year are finalized to allow them to fund the cash refunds.

On Con Edison's special franchise property, we have again filed for certain tax benefits on steam plant facilities regarding economic obsolescence, functional obsolescence on gas plant, and valuation adjustments on all of our facilities in the vicinity of the World Trade Center site. We were again approved for assessment reductions for each of the three applications. New for 2008 was notification of an approval for economic obsolescence on our electric facilities.

Regarding economic obsolescence, steam facilities were approved for a 25% reduction, a decrease of 1% from last year's benefit. This benefit will be effective for fiscal year 2009/2010 and is estimated to provide a tax benefit of \$9 million, assuming no change in tax rates. The benefit for electric facilities was approved at 1%, and is estimated to provide tax savings of \$6.7 million for 2009/2010, again assuming no change in tax rates.

The Company again received a functional obsolescence benefit for excess capacity in the gas system in certain areas of Manhattan, Bronx, and Queens. This reduction is based on a study that Con Edison submits to ORPS every five years that will need to be updated again in 2010. We estimate that this benefit will result in estimated tax savings of approximately \$4.4 million based on existing tax rates.

The tax benefits regarding the facilities surrounding the World Trade Center are expected to save approximately \$2.4 million in taxes for 2009/2010. That benefit is from a filing we make annually to ORPS related to our efforts to hold the line on taxes related to the installation of new facilities made necessary by the attack. Because the market value of the new facilities has been higher than the market value of the facilities that were destroyed in the attack, the Company's taxes increased when such new equipment was installed because the new facilities do not have the benefit of a significant depreciation allowance. Our annual filing requests that the replacement facilities be taxed at the same value as the destroyed facilities since we believe our taxes should not be increased as a result of the attack. ORPS has approved our requests each year since we first filed for them.

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Industrial and Commercial Incentive Program

Industrial and Commercial Incentive Program ("ICIP") benefits were created to encourage the development, expansion, and preservation of commercial and industrial real estate in the City of New York. The ICIP grants a property tax exemption of the additional real property taxes that would otherwise be payable as a result of eligible industrial and commercial construction work. Capital projects in Regular Exemption Areas are entitled to a 15 year exemption, while projects in Special Exemption Areas are entitled to a 25 year tax exemption, and projects in Renovation Exemption Areas are entitled to a 12 year tax exemption.

The ICIP expired as of June 30, 2008, and a replacement program, the Industrial and Commercial Abatement Program, was created. This new program specifically excludes utility companies from eligibility. The Company and other groups had vigorously opposed the new legislation that allowed the ICIP program to expire, but were unsuccessful. Nonetheless, the Company is eligible to receive ICIP exemptions for all pending projects that were grandfathered under the ICIP for the duration of their tax exemption period, and, in the days before the program expired, the Company filed a new application in an effort to secure benefits for a repowering project at the Hudson Avenue station.

During 2008, three Con Edison projects that had applications pending received approval for ICIP tax benefits including the construction of the new Parkview substation as well as substation upgrade projects at Woodrow and Fox Hills. To date Con Edison has eleven projects currently receiving ICIP benefits that will provide an estimated tax benefit, based on current rates, totaling more than \$55 million for fiscal year 2009/2010 alone. For all projects that we have applied for before the program had expired, the potential property tax savings over the duration of the exemption period amounts to more than \$1.3 billion.

Current Activities

Con Edison has active administrative complaints with the cities of New York and White Plains and the towns of Greenburgh, LaGrange, and Wappinger. O&R has active complaints against the towns of Middletown and Monroe and the Village of Hillburn.

Settlement discussions are at various stages with most of those municipalities and our goal is to avoid litigation by arriving at a settlement of our differences before a trial is considered. During 2008, in addition to continuing

Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.

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actions against municipalities with open complaints, we filed new actions on Company facilities protesting our assessments in Greenburgh and Peekskill.

In addition to challenges to overassessments, during the year the Company has pursued other activities in an attempt to ease our property tax burden in the longer term. A short description of those activities follows:

- In New York City, the Company has proceedings pending in the Supreme Court of various counties challenging the assessments on certain of the Company's non special franchise properties for the years 1994/1995 through 2008/2009. Shortly after the conclusion of successful litigation covering the Arthur Kill Generating Station, we met with the City in an effort to reach a global settlement of all of the Company's outstanding litigation. Those discussions have and continue to progress. Notwithstanding pursuit of a settlement, cases for three of the Company's former or current stations – Ravenswood, Astoria, and Hudson Avenue - are on the court calendar, while the Queens cases have had appraisal exchange and trial dates set.
- We have been pursuing a strategy to merge the utility class, class 3 which contains most of the Company's property, with class 4, the general class that includes all property except utility property and homes and condominiums, in the hope of lowering our tax liability. We have approached various officials and legislators in City and State government, in addition to seeking support from other interested business groups. We have explained the benefits to the City's economics by pointing out the benefits of lower utility bills to attract and keep business while demonstrating to the City that our proposal is revenue neutral.

Before attempting this initiative, we reviewed whether we have a litigation opportunity to contest the constitutionality of the class system, but were advised by outside counsel from a legal standpoint it was not likely we could succeed in such a challenge. We briefed key staff at DPS of the issue as well. If successful in this effort, the Company and our customers could benefit by way of significant tax reductions in the short-term since the tax rates are currently beneficial to us for a merger. In addition, we would have the benefit of protection from being part of a much larger class since we currently make up such a large share of the utility class. We could also benefit from transition assessments, which we currently do not receive in the utility class. Transition assessments allow large increases to be phased-in over a five-year period to soften the impact of a sudden spike in values.

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- Recently there was a significant increase in the Company's New York City electric property tax assessments caused principally by unanticipated increases in commodity prices, particularly copper, as well as higher transformer costs that directly affected an index known as the Handy-Whitman Index ("HWI") that is often used to compute assessments. This increase affected the Company's tax liability beginning in fiscal 2008/2009. In an effort to investigate the causes, we met with representatives of the Handy-Whitman Company to discuss the composition and drivers of their published indexes. Because our higher property taxes were also driven by tax rate increases, we also met with representatives from the New York City Council staff to discuss the City's annual Tax Fixing Resolution, a process that determines the tax rate to be assigned to each of the four property classes. Lastly, we filed a complaint with the State Board of Real Property Services challenging the special franchise portion of the assessment increase, but the Board ruled that ORPS properly applied their existing procedures to value our property, which included applying the HWI, which is viewed as the authoritative tool for trending electric utility property.
- The Company elected to prepay its full year's New York City property tax liability at the beginning of the 2008/2009 fiscal year in order to take advantage of a discount for doing so. As a result, our tax payment to New York City was reduced by \$13.9 million for the discount.

Continuing Benefits from Earlier Agreements

Because it is difficult to obtain cash refunds from cash strapped municipalities during the settlement process, we often structure our settlements to secure a partial refund as well as future assessment reductions. Therefore, benefits from past settlements often continue into the future, and prior settlements for Con Edison with Carmel, Cortlandt, Elmsford, Greenburgh, Mt. Kisco, Mt. Pleasant, Mt. Vernon, New Castle, Ramapo, Stony Point, Yonkers, and Yorktown continue to provide tax savings in 2008. For Orange and Rockland, past settlements in Clarkstown, Forestburgh, Hillburn, Haverstraw, Orangetown, Ramapo, and Wawayanda also continue to provide current benefits. All of these settlements were previously described in detail in prior annual reports on our efforts. Even after a settlement runs its course, the municipalities have historically kept the lower negotiated assessments in place thereby continuing to provide property tax benefits for many years. We continue to monitor assessments even after the end of an agreement to ensure that assessments remain fair.



Joseph C. DePiano
Vice President, Tax

March 31, 2008

Charles M. Dickson
Director – Accounting & Finance
Department of Public Service
Three Empire State Plaza – 6th Floor
Albany, New York 12223-1350

Re: Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.
PSC Showing on Property Taxes – Year 2007

Dear Mr. Dickson:

Enclosed please find the annual showing of the ongoing efforts made by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. to reduce their property tax obligations.

We plan to continue filing such reports each year. If you have any questions, please do not hesitate to contact me at (212) 460-2689.

Very truly yours,

Enclosures

cc: John Scherer
Robert Burke
Robert Hوجلund
Edward Rasmussen
Richard Muzikar
William Talbot
Charles Hutcheson

**Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.**

**Annual Report on
Property Tax Reduction Efforts - 2007**

Introduction

The property taxes paid by Con Edison and Orange and Rockland are based on the "value" of property and include taxes on land and the structures erected or affixed to the land. In New York State, utilities also pay property taxes on utility equipment located on land we own. In addition, we pay property taxes on our equipment located on, under, or above the public streets and highways, known as special franchise taxes.

In New York State, public utility property is valued under a method known as the "Cost Approach." Historically, New York State Real Property Tax Law and the courts have held that utility property should be valued under this approach. The New York City Assessor, the Office of Real Property Services ("ORPS"), and some, but not all other assessors in the State determine value by using a Reproduction Cost New Less Depreciation ("RCNLD") methodology for utility property. RCNLD calculates what it would cost to reproduce property at current construction costs, subtracts an allowance for depreciation and obsolescence, (if any), and adds-in the value of land to arrive at a "value" for the entire property. RCNLD is used only to value certain of our structures and all of our equipment. The value of land is determined by comparable sales data. Annually, we review our property assessments to determine if they fall within a range of reasonableness when calculated under RCNLD. If the actual assessments substantially vary from our RCNLD calculations, we file complaints to formally protect our rights and those of our customers.

Property Tax Settlements and Decisions

Con Edison:

The proceedings covering the Arthur Kill Generating Station for 1994/95 through 1998/99 were finally culminated after many years of effort. The proceedings were originally tried in February 2004 followed by two additional appeals in the ensuing years. In June 2007 the final appeal was decided in the Company's favor and after some additional court appearances, which were needed to try to collect the judgment, the refund was finally secured in February 2008 in the amount of \$13.462 million, including statutory interest. A Notification of Property Tax Refund and Proposed Disposition of Benefits was filed with the Commission in

**Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.**

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August 2007 that more fully describes the Arthur Kill litigation. In March 2008, the Company also notified the Commission of the receipt of the property tax refund with the proposed final accounting for the disposition to customers.

In 2007 Con Edison reached agreements with the Towns of Stony Point, Carmel, Mt. Kisco, Mt. Pleasant, and the City of Mt. Vernon.

The Stony Point settlement was approved by the Town Board in November 2007 and was approved by court judgment in January 2008. The settlement will result in a refund of \$1.46 million for the 2004 to 2006 assessment rolls as well as estimated cumulative tax savings over the term of the agreement totaling \$9.7 million. A detailed discussion of the Company's efforts to arrive at this settlement as well as a description of the estimated benefits may be found in the Notification of Property Tax Refund and Proposed Disposition of Benefits filed with the Commission in March 2008.

Con Edison reached an agreement with the Town of Carmel in October 2007 on transmission lines located in the Town. Pursuant to the settlement terms, the Company will receive a refund of \$235,750 for the 2004 to 2006 assessment rolls. The 2007 assessments will be reduced from \$7,537,905 to \$3,155,905 and remain frozen at that level through the 2010 roll. The estimated cumulative tax savings on this agreement total \$1.078 million. At this time, the Company is awaiting the Court's approval of the Stipulation and Order of Settlement.

Regarding the Town of Mt. Pleasant, the agreement is a result of our attempts to lower the assessment on the Company's Pleasantville Substation. We negotiated a reduction from \$776,500 to \$389,200 that will be frozen at that level through the 2010 assessment roll. In addition the Company negotiated a refund of \$433,760 for the 2004 to 2006 assessment rolls. The estimated cumulative tax savings based on current tax rates is \$2.3 million for this agreement. This agreement was approved by the Company in November 2007 but we have not yet received the court's approval.

Our settlement with the Town of Mt. Kisco relates to over-assessments of various distribution equipment located on private property and resulted in a partial refund amounting to \$40,140 applicable to the 2005 and 2006 assessment rolls. On a going forward basis, the assessments will be reduced for the 2007 roll from \$914,087 to \$190,000 and will remain frozen for three years thereafter. The

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estimated future tax benefits for 2007-2010 amount to \$220,000. The Company is awaiting final court approval.

The City of Mt. Vernon agreement was the result of a tax proceeding initiated to reduce assessments on the Washington Street Substation and various distribution equipment located on private property throughout the City. The assessments will be reduced from a combined total of \$1,048,519 to \$482,423 for the 2007 assessment roll. That lower assessment level will remain for three years. In addition to those lower assessments, we negotiated a partial refund of the back years (2004 through 2006) that yield a cash refund of approximately \$1.4 million. The refund plus forward-looking tax reductions will combine to produce savings over the term of this agreement of approximately \$3.68 million. Although the Company approved this settlement in November, it was only recently approved by the Mt. Vernon City Council in March 2008 and still requires approval by the Court. Upon final approval, the Company will determine if the agreement meets the reporting thresholds for a formal Notification to the Commission.

In 2007, as in the recent past, we filed for tax benefits on the Company's New York City special franchise property due to economic obsolescence on Steam Plant, functional obsolescence on Gas Plant, and valuation adjustments on expenditures made in connection with the restoration at the World Trade Center site. In November 2007 we received notice from ORPS that their review of the Company's submissions for tax relief was completed.

ORPS approved our request for a reduction due to economic obsolescence in connection with Con Edison's steam plant facilities as a result of a provision that allows the company to file when the overall steam return is judged to be inadequate under the economic obsolescence rules. Con Edison received an obsolescence factor on the steam plant of 26% for the 2008/09 fiscal year. This benefit is less than the 30% reduction we received last year. We estimate the 2008/09 tax benefit to Con Edison's customers will amount to \$8.25 million based on current tax rates. The benefit is based on a 5-year average rate of return (achieved vs. required).

Con Edison received a tax benefit for functional obsolescence for excess capacity in the gas system in certain areas of Manhattan, Bronx, and Queens. This reduction is based on a study that Con Edison submits to ORPS every five years. This was the study's third year of usage. The 2008/09 assessment reductions will

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result in an estimated tax benefit of approximately \$3.6 million based on existing tax rates.

The third benefit received from our ORPS filing is related to our efforts to hold the line on taxes related to the installation of new facilities made necessary by the World Trade Center attack. Because the market value of the new facilities is higher than the market value of the facilities that were destroyed in the attack, the Company's taxes increased when such new equipment was installed. This is because the new facilities do not have the benefit of a depreciation allowance that lowers market value. We filed with ORPS requesting that taxes on these facilities be held at the previous level. ORPS approved reductions in the form of cost modifiers that are applied to various accounts covering assets in the electric, gas, and steam departments. As we have now for the years since the attack, Con Edison was approved for a benefit for 2008/09 that we estimate is approximately \$4.5 million based on current rates.

Orange and Rockland:

During 2007, O&R signed a settlement agreement with the Town of Wawayanda in Orange County. The agreement, which was signed in January 2007, resulted in assessment reductions phased-in over two years. The assessment will be reduced from \$9.7 million on the 2006 roll to \$5.0 million by the 2008 roll. The agreement also freezes that reduced assessment through the 2011 roll. The estimated tax savings over the five years of the agreement will amount to approximately \$628,000 based on current rates.

Continued Benefits from Previous Agreements

The settlements we make usually are forward-looking and cover a number of years. Therefore, both Companies and our customers continue to benefit from past agreements. Several settlement agreements that were made in previous years that remain in effect and continued to provide benefits during 2007 include Cortlandt, Elmsford, Yonkers, New Castle, Yorktown, Greenburgh, Hillburn, Forestburgh, Ramapo, Haverstraw, Orangetown, and Clarkstown. All of these settlements were described in greater detail in previous annual reports on our efforts. Even though settlements are no longer in effect, they can still continue to provide current benefits because our assessments remain lower than they would have been had they not been reduced. Most of our expired agreements fall under this category.

Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.

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Industrial and Commercial Incentive Program ("ICIP")

Con Edison has applied for tax exemptions under the New York City ICIP, a program created to encourage the development, expansion, and preservation of commercial and industrial real estate in the City of New York. The ICIP grants a property tax exemption of the additional real property taxes that would otherwise be payable as a result of eligible industrial and commercial construction work. Projects are entitled to exemptions ranging up to 25 years depending on their location.

During the year 2007, applications for several projects were approved for the tax exemption. Approved projects included the construction of the new Mott Haven Substation as well as upgrades at the Water Street, Hudson Avenue East, Glendale, Goethals, and Jamaica substations. Due to the timing of construction expenditures as well as the approval of the ICIP benefits, only the Mott Haven Substation had realized tax benefits during 2007. Those benefits amounted to \$3.3 million for the City's fiscal year 2007/08. The Mott Haven benefits will continue to increase in future tax years as the assessment benefits become fully phased-in.

The same is true for each of the other substations approved during 2007. In early 2008, the Company received notification that the ICIP benefit was approved for the Parkview Substation which will receive substantial benefits in fiscal year 2009/10.

ICIP benefits have been previously approved for the East River Repowering Project and the 3rd Avenue Yard project. We also have pending applications on the Academy, Newtown, Woodrow, Fresh Kills, Corona, Sherman Creek, and Fox Hills substations.



March 29, 2007

Charles M. Dickson
Director – Accounting & Finance
Department of Public Service
Three Empire State Plaza – 6th Floor
Albany, New York 12223-1350

Re: Consolidated Edison Company of New York, Inc.
Orange & Rockland Utilities, Inc.
PSC Showing on Property Taxes – Year 2006

Dear Mr. Dickson:

Enclosed please find the annual showing of the ongoing efforts made by Consolidated Edison Company of New York, Inc., and Orange and Rockland Utilities, Inc., to reduce their property tax obligations.

We plan to continue filing such reports each year. If you have any questions, please do not hesitate to contact me at (212) 460-2689.

Very truly yours,

Joseph C. DePiano
Vice President, Tax

cc: John Scherer
Robert Burke
Edward Rasmussen
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**Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.**

**Annual Report on
Property Tax Reduction Efforts - 2006**

Introduction

The property taxes paid by Con Edison and Orange and Rockland are based on the "value" of property and include taxes on land and the structures erected or affixed to the land. In New York State, utilities also pay property taxes on utility equipment located on land we own. In addition, we pay property taxes on our equipment located on, under, or above the public streets and highways, known as special franchise taxes.

In New York State, public utility property is valued under a method known as the "Cost Approach". Historically, New York State Real Property Tax Law and the courts have held that utility property should be valued under this approach. The New York City Assessor, the Office of Real Property Services ("ORPS"), and some, but not all other assessors in the State determine value by using a Reproduction Cost New Less Depreciation ("RCNLD") methodology for utility property. RCNLD calculates what it would cost to reproduce property at current construction costs, subtracts an allowance for depreciation and obsolescence, (if any), and adds-in the value of land to arrive at a "value" for the entire property. RCNLD is used only to value certain of our structures and all of our equipment. The value of land is determined by comparable sales data.

Annually, we review our property assessments to determine if they fall within a range of reasonableness when calculated under RCNLD. If the actual assessments substantially vary from our RCNLD calculations, we file complaints to formally protect our rights and those of our customers. Often we settle our complaints after considering the uncertainties of litigation and whether a settlement is a more cost effective way of reducing our tax burden than prolonged and risky litigation. We resort to litigation only when our efforts to reach what we believe to be a fair compromise with a municipality fail.

In order to reach a settlement we consider fair, we encourage Towns that are not currently utilizing RCNLD to utilize an RCNLD valuation methodology because it is based on the cost of our assets currently serving customers, can be applied uniformly to all of our properties by the appropriate taxing jurisdictions, and assessing us in this manner provides some stability in predicting future tax increases.

The process of arriving at a fair settlement is difficult in that the refunds we seek often comprise a large portion of the Town and School District annual budgets. Because the Towns and School Districts are reluctant or find it difficult to raise cash

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to pay for refunds, the Company often structures its settlements to allow a municipality to provide no cash refund, or a lesser cash refund, in exchange for forward-looking, multi-year assessment reductions. By substituting prospective tax benefits for refund requests, we lessen the immediate "tax shock" to the municipality while still realizing tax savings for our customers.

Property Tax Settlements and Decisions

During 2006 the Companies entered into a number of settlements with various municipalities to lower our property taxes.

Orange and Rockland:

During 2006, we signed settlement agreements with the Towns of Orangetown, Haverstraw, Clarkstown, and Forestburgh for O&R. We also completed an agreement with the Town of Waywayanda but did not formally sign with them until January 2007.

The settlement agreements with Orangetown, Haverstraw, and Clarkstown resulted in rather significant reductions for O&R, and all were reported in detail to the Public Service Commission pursuant to Section 89.3 of the Commission's regulations. Since those Notifications contained a summary of our efforts to reach those agreements and a detailed analysis of the resulting tax savings, this report will not include that information again.

In Forestburgh, our annual analysis indicated that a single transmission line running through the town was overvalued and we filed a complaint and a tax certiorari against the Town on the 2005 assessment roll. Our settlement resulted in a phased-in reduction over three years that will reduce the assessment from its original assessed value of \$271,500 down to \$10,400 for the 2008 roll (96% reduction). Based on current tax rates, the agreement will result in cumulative tax benefits amounting to approximately \$68,000 during its term. In consideration of the future benefits, we waived the refund from the 2005 tax certiorari.

The Waywayanda agreement signed in January 2007 results in forward-looking assessment reductions phased-in over two years from \$9.7 million on the 2006 roll to \$5.0 million (48% reduction) by the 2008 roll. The agreement also freezes that reduced assessment through the 2011 roll. The estimated tax savings over the five years of the agreement will amount to approximately \$617,000 based on current rates.

**Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.**

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Property Tax Reduction Efforts - 2006**

Con Edison:

For Con Edison, new settlements were signed with the Towns of Chester and Tuxedo. The Chester settlement was signed by the parties in March 2006, although the terms were agreed to in principle during 2005. That settlement reduced assessments for the 2005 through 2007 tax rolls, reducing the subject property from an assessed value of \$5.4 million to \$1.9 million (65%). The tax savings over the three years of the agreement will amount to approximately \$360,000.

The Tuxedo settlement reduced assessments on most of the Company's property in the town significantly. The settlement covered only properties that were part of our judicial proceedings, but, based on assessed value, those properties comprise approximately 94% of all of our property in the Town. The assessments on those three properties were reduced in total from \$4,741,000 down to \$742,000 (84% reduction) over a two year phase in. We expect the Town will continue to value the Company's property on the RCNLD methodology we negotiated. The estimated tax savings valued over the first two years of this agreement are approximately \$800,000.

As we have done annually in recent years, we have filed for tax benefits on the Companies' special franchise property. Each year we must file for the benefits, and we again did so in 2006 seeking relief in the three areas described below.

For the sixth year, ORPS has approved our request for a reduction due to economic obsolescence in connection with Con Edison's steam plant facilities as a result of a provision that allows the company to file when the overall steam return is judged to be inadequate under the economic obsolescence rules. In January 2007, ORPS informed Con Edison that steam facilities would be approved for a 30% reduction. The benefit dropped from 38% last year because the steam system's achieved rate of return has increased. The benefit is based on a 5-year average rate of return (achieved vs. required) and the higher 2005 returns replaced lower 2000 returns resulting in the lower benefit. We estimate the 2007/08 tax benefit to Con Edison's customers will amount to \$10.3 million.

In gas, as long as we file each year and complete an updated study every five years, Con Edison receives a tax benefit for functional obsolescence for excess capacity in certain areas of Manhattan, Bronx, and Queens. We petitioned ORPS to change their rules requiring an annual study be conducted and were successful in getting the study changed to a 5-year cycle. The 2007/08 assessment reductions will result in an estimated tax benefit of approximately \$3.3 million based on existing tax rates.

**Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.**

**Annual Report on
Property Tax Reduction Efforts - 2006**

The third benefit received from our ORPS filing is in connection with an application we made to hold the line on taxes related to the installation of new facilities made necessary by the World Trade Center attack. Because the market value of the new facilities is higher than the market value of the facilities that were destroyed in the attack, the Company's taxes increased when such new equipment was installed. This is because the new facilities do not have the benefit of a depreciation allowance that lowers market value. We filed with ORPS requesting that taxes on these facilities be held at the previous level. ORPS agreed with our request and approved reductions in various accounts covering assets in the electric, gas, and steam departments. As we have now for the years since the attack, Con Edison was approved for a benefit for 2007/08 that we estimate is approximately \$3.5 million.

Continued Benefits from Previous Agreements

As mentioned earlier, the settlements we make usually are forward-looking and cover a number of years. Therefore, both Companies and their ratepayers continue to benefit from these past agreements. Several settlement agreements made in previous years that are still formally in effect that continue to provide benefits to the Companies and their customers during 2006 include agreements in Cortlandt, Elmsford, LaGrange, Yonkers, New Castle, Yorktown, Greenburgh, Hillburn, Ramapo, and Lumberland. There are times however, especially after rates are reset via rate proceedings or when settlements expire, they continue to save money for ratepayers because rates are reset on the already lower assessments. Included in this category are settlements made in Ossining, White Plains, Mt. Vernon, Lumberland, and Rye.

Industrial and Commercial Incentive Program ("ICIP")

Con Edison applies for benefits under this New York City program when we feel the property being constructed will be eligible for benefits under the program's requirements. The ICIP grants a property tax exemption of the additional real property taxes that would otherwise be payable as a result of eligible commercial construction work. Due to the construction process and the compliance requirements, the process may take quite some time before benefits are realized. During 2006, our list of applications grew for projects to be completed at Con Edison's Jamaica Substation, Sherman Creek facility, and, in early 2007, Fox Hills Substation.

**Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.**

**Annual Report on
Property Tax Reduction Efforts - 2006**

During 2006 we received notification from the City that the application on the 3rd Avenue Yard project was approved and our tax benefits will be determined and implemented for the upcoming 2007/08 fiscal year. We believe the full tax increase on the project will qualify for a 25-year tax exemption.

The City issued a Notice of Approval on our Mott Haven Substation application approving the Company's application without exception. We will be working with the City in 2007 to ensure that the exemption is reflected in the upcoming 2007/08 fiscal year. When the benefit is determined it will be in effect for 25 years.

For our East River Repowering Project application, we worked throughout the year to provide substantial amounts of supporting data to our already approved final application and we are requesting that the City retroactively implement the ICIP exemption beginning with the first tax year there was a physical increase in assessment attributable to eligible construction work.

Pending Judicial Actions

Proceedings are pending in various counties of the Supreme Court in New York City challenging the assessments on certain of the company's non special franchise properties for the years 1994/95 through 2006/07. The proceedings covering the Arthur Kill Generating Station for 1994/95 through 1998/99 were tried in the Supreme Court in February 2004. In a decision filed in October 2004, the court credited most of the company's valuation theories and reduced the assessments for all years by an aggregate of \$91 million. The City appealed, and in an order entered in October 2006, the Appellate Division affirmed the trial court by a 3-2 vote. Because there were two dissents, the City was able to appeal to the Court of Appeals by right. Briefs for both the City and the Company have been served and ORPS has submitted an amicus brief. We believe that another favorable decision, if received, will have encouraging ramifications beyond the instant proceeding on other pending judicial proceedings in New York City.

Current Efforts

We also have several ongoing efforts to reach settlements which to date have not been successful. During 2006, as in prior years, we have attempted to pursue agreements with the municipalities where we have open tax certiorari proceedings. For instance, in White Plains, we reached what we thought was an agreement to lower that assessment although the assessor never allowed us to

**Consolidated Edison Company of New York, Inc.
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**Annual Report on
Property Tax Reduction Efforts - 2006**

finalize that agreement. We have hired an outside attorney to represent Con Edison in White Plains as well as in Mt. Vernon, New Rochelle, Stony Point, Harrison, Ossining, Mt. Kisco, Mt. Pleasant, Carmel, Pleasant Valley, Wappinger, and East Fishkill but will be working concurrently to settle each of the proceedings.



April 6, 2006

Charles M. Dickson
Director – Accounting & Finance
Department of Public Service
Three Empire State Plaza – 6th Floor
Albany, New York 12223-1350

Re: Consolidated Edison Company of New York, Inc.
Orange & Rockland Utilities, Inc.
PSC Showing on Property Taxes – Year 2005

Dear Mr. Dickson:

Enclosed please find the annual showing of the ongoing efforts made by Consolidated Edison Company of New York, Inc., and Orange and Rockland Utilities, Inc., to reduce their property tax obligations.

We plan to continue filing such reports each year. If you have any questions, please do not hesitate to contact me at (212) 460-4683.

Very truly yours,

William Talbot
Director-Corporate Accounting

cc: John Stewart
John Scherer
Robert Burke
Edward Rasmussen
Robert Muccilo
Charles Hutcheson

**Consolidated Edison Company of New York, Inc.
Orange & Rockland Utilities, Inc.**

Property Taxes

Introduction

The property taxes paid by Con Edison and Orange and Rockland are based on the "value" of property and include taxes on land and the structures erected or affixed to the land. In New York State, utilities also pay property taxes on utility equipment located on land we own. In addition, we pay property taxes on our equipment located on, under, or above the public streets and highways, known as special franchise taxes.

In New York State, public utility property is valued under a method known as the 'Cost Approach'. Historically, New York State Real Property Tax Law and the courts have held that utility property should be valued under this approach. The New York City Assessor, the Office of Real Property Services ("ORPS"), and some, but not all other assessors in the State determine value by using a Reproduction Cost New less Depreciation ("RCNLD") methodology for utility property. RCNLD calculates what it would cost to reproduce property at current construction costs, subtracts an allowance for depreciation and obsolescence, (if any) and adds-in the value of land to arrive at a "value" for the entire property. RCNLD is used only to value certain of our structures and all of our equipment. The value of land is determined by comparable sales data.

Annually, we review our property assessments to determine if they fall within a range of reasonableness when calculated under RCNLD. If the actual assessments substantially vary from our RCNLD calculations, we file complaints to formally protect our rights and those of our customers. Often we settle our complaints after considering the hazards of litigation and whether a settlement is a more cost effective way of reducing our tax burden than prolonged and risky litigation. We resort to litigation only when our efforts to reach what we believe to be a fair compromise with a municipality fail.

Property Tax Settlements and Decisions

We have entered into a number of agreements with various municipalities to settle litigation during the year where we believed the Company was being unfairly assessed.

During the year 2005, both Con Edison and O&R negotiated settlements with various towns. Agreements with the towns of New Castle, Yorktown, and Cortlandt for Con Edison and Clarkstown for O&R were filed with the Commission pursuant to section 89.3 of the Commission's regulations. Those agreements and the applicable tax savings resulting from them were explained in the Commission Notification.

**Consolidated Edison Company of New York, Inc.
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Property Taxes

Con Edison reached an oral agreement during 2005 with the Town of Chester to settle litigation in the Town covering the years 2004 and 2005. The agreement was executed by the parties in early 2006. Assessment reductions for tax rolls 2005 through 2007 covering all property owned by Con Edison will result in cumulative estimated tax savings of approximately \$400 thousand. The agreement results in an immediate assessment reduction of 58% and includes language that it is the intent of the parties to continue with an RCNLD based assessment for future assessments.

As reported last year, we have made what amounts to a handshake agreement with the Town of LaGrange in Dutchess County which resulted in assessment reductions on certain of our property. The Town refused to be bound to a formal settlement. We had agreed to phase-in assessment reductions over a three-year period. We have filed a complaint each year, and each year the Town has reduced our assessments to the amount we had agreed to. During 2005, our assessment was reduced a total of \$1 million, on top of the \$2 million reduction from the previous year. The reductions have resulted in tax savings of approximately \$96 thousand to date. We will again complain next year to attempt to realize the third year of the original, anticipated reductions.

Con Edison filed with ORPS for various reductions to the Company's special franchise assessments during 2005. As of the filing date of this showing, we have not yet received notification from ORPS on any of the items identified below.

As we have done in the past, we filed for an economic obsolescence reduction in our steam plant. This significant reduction is allowed because steam has not earned an adequate rate of return. We have filed for this benefit annually since we asked ORPS for a separate steam assessment certificate, which allowed us to apply for a targeted benefit for steam and have realized total savings of approximately \$32 million over the last 5 years. If approved at a level similar to last year, where we were allowed a 34% assessment reduction, we expect the tax benefit would be slightly above \$8 million for the 2006/07 fiscal year.

In gas, we filed for functional obsolescence in certain areas of Manhattan, Bronx, and Queens. In order to obtain this reduction, an annual study to determine which pipes are eligible is performed by our Gas Engineering Department, which requires approximately 500 man-hours to prepare. After identification of the equipment, our Property Record personnel then analyze it to determine the historical book cost data which accompanies our filing. The current filing includes a first-time filing for Queens. In order to alleviate the large amount of work to make this filing, we asked ORPS to grant the benefit for a 5-year period, on the basis that our gas

Consolidated Edison Company of New York, Inc.
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Property Taxes

system does not change materially from year-to-year. ORPS agreed with our request, and we will therefore file only a letter indicating that we believe the system has not changed materially for our next filing, due April 30, 2006. As noted, we have not received notification of whether the adjustment will be allowed for 2006/07. Our benefit for 2005/06 was approximately \$3.4 million and, as noted, did not include the filing on Queens.

We again filed for an assessment reduction on the equipment being added in the World Trade Center area for new capital expenditures in excess of the reproduction cost new of amounts forced to be retired as a result of 9/11. If our 2005 filing is approved, we expect the benefits to be equal to or greater than last year's benefits. For the 2005/06 fiscal year, we received cost modifiers of 37% on electric underground conduit, 42% on electric underground conductors, 6% on electric services, and 42% on gas mains amounting to a realized tax benefit of approximately \$6 million.

Continued Benefits from Previous Agreements

We continue to benefit from various agreements we made in prior years where we successfully reduced the Company's property tax burden. Some of the settlements remain in effect, as they were negotiated to be in effect for a number of years. For settlement agreements where the agreement is no longer in force, oftentimes the Company and our customers continue to benefit because the assessment remains at the negotiated level after expiration of the agreement.

The following are settlements made in previous years that remained in effect during 2005.

In 2005, we remain under a settlement on all properties owned by both Con Edison and O&R in the Town of Ramapo. The estimated tax savings during 2005 were \$2.8 million for Con Edison and \$2.7 million for O&R. All parties to the settlement have agreed to continue the RCNLD methodology into the future. To accomplish that, we supply the Town's assessor with annual calculations reflecting updated RCNLD calculations.

Our agreement with the Town of Greenburgh on our Eastview and Elmsford substations, extends through 2007. In 2005, the tax savings amounted to \$527 thousand. Soon after the settlement with the Town, we also settled with the Village of Elmsford on our substation located there. Our tax savings last year on this property were \$63 thousand.

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In 2004, we reached an agreement with the Village of Hillburn on transmission property owned by both companies. During 2005, O&R savings amounted to \$13 thousand and savings for Con Edison were \$4 thousand.

The following are settlements made in previous years that are inactive, but where the Company and our customers still receive tax benefits because of assessments that have remained below their pre-settlement levels.

The assessment reductions from our previous settlement with the City of Yonkers remained in effect during 2005 on 48 of our properties. The original settlement resulted in a three-year assessment phase-down to RCNLD. This settlement has expired but our assessments have remained unchanged and we continue to realize benefits from those reductions. Although the assessments are unchanged, we have again contested our assessments on certain properties in the City.

Our settlement with the Town of Ossining for the Ossining substation took effect for the 2000 assessment roll. This settlement included a phase down toward an agreed upon assessed value, which, after the phase-in, will stay frozen for three more years. The settlement has expired but our assessments have not changed and our analysis indicates they are still acceptable under RCNLD. Our 2005 estimated savings were \$41 thousand.

Our previous agreement with the City of White Plains, which we negotiated in 1999 in connection with the assessment on our White Plains substation for the years 2000 through 2002, continues to provide tax savings today. Our tax savings in 2005 from these reduced assessments amounted to \$338 thousand. We have a new challenge in White Plains for much of the property in the City excluding the substation.

Con Edison's previous settlement with Mt. Vernon to reduce the assessment at the Washington Street Substation was reflected on the 2000 assessment roll. We continue to benefit from this past reduction and our savings during 2005 were approximately \$197 thousand. We currently have additional challenges filed with the City as even with the past settlement, we have again determined that the substation is over-valued.

For O&R, we continue to benefit from a reduction in the Town of Lumberland that expired last year. That settlement reduced taxes by more than sixty percent.

**Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.**

Property Taxes

Pending Actions

Proceedings are pending in various counties of the Supreme Court in New York City challenging the assessments on certain of the Company's REUC properties for the years 1994/95 through 2005/06. The proceedings covering the Arthur Kill Generating Station for 1994/95 through 1998/99 were tried in the Supreme Court, Richmond County in February 2004. In a decision filed on October 5, 2004, the court credited most of the Company's valuation theories and reduced the assessments for all years by an aggregate of \$90,731,132. The City appealed, the appeal has been perfected, and we are waiting for the scheduling of oral argument. The New York State Conference of Mayors and Municipal Officials and the County of Nassau were granted permission to submit friend of the court briefs.

If upheld on appeal, this decision will have favorable ramifications on the proceedings covering other generating stations. We have met with representatives of the City's Law and Finance departments to explore possible global resolution of the proceedings. We intend to meet again after some preliminary analyses have been completed. It appears likely, however, that no final resolution will be possible until the appeal has been decided.

O&R's efforts to settle with the Town of Orangetown have broken-off and the Company is preparing for trial. Proceedings challenging the assessments on certain properties in the years 2001 through 2005 are to be tried. The Company has hired an appraiser and the appraisal report must be exchanged April 21, 2006. The trial is scheduled to begin June 7, 2006.

Proceedings were commenced by O&R challenging the assessments on certain properties in the Town of Haverstraw for 1995 through 2005 and in the Village of West Haverstraw for 1996 through 2002. We have been actively trying to settle our differences with the municipalities; however, we have rejected their latest offer and are now preparing for trial. In preparation for trial, O&R has hired an appraiser and the appraisal exchange date is set for August 30, 2006. The trial is scheduled to begin October 16, 2006.

In our ongoing efforts to reduce our City taxes, Con Edison filed complaints on 76 parcels in New York City during 2005 for a claimed over-assessment of more than \$500 million dollars. These claims are unresolved.

During 2005 for property outside of New York City, Con Edison's assessment review determined that it needed to challenge over-assessments in a number of municipalities. In Westchester, we have filed suit during the year against Yonkers, Mt. Vernon, New Rochelle, Cortlandt, Harrison, Mr. Pleasant, Mr. Kisco, New Castle,

**Consolidated Edison Company of New York, Inc.
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Property Taxes

Ossining, and Yorktown. In our upstate counties, we filed in Carmel, Stony Point, Tuxedo, Chester, Wappinger, Pleasant Valley, La Grange, and East Fishkill. In connection with the petitions described above, some have been settled as described earlier and we have initiated discussions with each of the others. We are at various stages of progress with individual municipalities on attempts to settle our differences.

For O&R we filed grievances during 2005 for property in the Towns of Haverstraw, Orangetown, Clarkstown, Monroe, Wawayanda, and Forestburgh, and in the Village of Hillburn. All of these actions relate to valuation issues and we have actively tried to settle each of the municipalities. Clarkstown was settled as described earlier. We have a tentative agreement with Forestburgh that we hope will be formally completed in 2006.

Industrial and Commercial Incentive Program ("ICIP")

Con Edison applies for benefits under this New York City program when we feel the property being constructed will be eligible for benefits under the program's requirements. The ICIP grants a property tax exemption of the additional real property taxes that would otherwise be payable as a result of eligible industrial and commercial construction work. Due to the construction process and the compliance requirements, the process may take quite some time before benefits are realized. The Company has filed, or plans to file for benefits on the following projects:

Substations & Transmission

- Mott Haven – establish substation
- Parkview - establish substation
- Woodrow – transformer & feeder
- Fresh Kills – station expansion
- Water Street – transformer installation & feeder
- Astoria East – phase angle regulator
- Corona – series reactor
- Sherman Creek "M29" – feeder
- Glendale – transformer installation
- Goethals - phase angle regulator

Production

- East River Repowering Project

Other

- Hunts Point – (Iroquois project)
- 3rd Ave Yard – workout center & garage



April 29, 2005

Charles M. Dickson
Director – Accounting & Finance
Department of Public Service
Three Empire State Plaza –6th Floor
Albany, New York 12223-1350

Re: Consolidated Edison Company of New York, Inc.
PSC Showing on Property Taxes – Year 2004

Dear Mr. Dickson:

Enclosed please find the annual showing of the ongoing efforts made by Consolidated Edison Company of New York, Inc., and Orange and Rockland Utilities, Inc., to reduce their property tax obligations.

We plan to continue filing such reports each year. If you have any questions, please do not hesitate to contact me at (212) 460-4683.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'William Talbot'.

William Talbot
Director-Corporate Accounting

cc: John Stewart
John Scherer
Robert Burke
Edward Rasmussen
Robert Muccilo
Charles Hutcheson

Consolidated Edison Company of New York, Inc.
Orange & Rockland Utilities, Inc.
Property Tax Showing

Introduction

The property taxes we pay are based assessments that equates to the "value" of the property we own. We pay property taxes on our land, the structures erected or affixed to the land, and on utility equipment located on our land. In addition, we pay property taxes on our equipment which is located on, under, or above the public streets and highways, known as special franchise taxes.

In New York State, the "Cost Approach" determines public utility property "value". Historically the courts have held that utility property should be valued this way. The New York City Assessor, the Office of Real Property Services ("ORPS"), and some, but not all other assessors in the State determine value or cost by using Reproduction Cost New less Depreciation ("RCNLD") for utility property. RCNLD calculates what it would cost to reproduce property at current construction costs, subtracts an allowance for depreciation and obsolescence, (if any) and adds in the value of land to arrive at a "value" for the entire property. RCNLD is used only to value certain of our structures and all of our equipment. The value of land is determined by comparable sales data.

Annually, we review our property assessments to determine if they fall within a range of reasonableness when calculated under RCNLD. If the municipalities or assessing body's determination of actual assessments substantially varies from our RCNLD calculations, we file complaints to formally protect our rights and those of our customers. Often we settle our complaints when we believe our hazards of litigation are great and that a settlement is a more cost effective way of reducing our property tax burden than prolonged and risky litigation.

Property Tax Settlements and Decisions

In our 2004 filing with ORPS for functional and economic obsolescence, we received an assessment reduction due to our application for economic obsolescence in our Steam Plant special franchise property, which will result in a substantial reduction in property taxes during the 2005/2006 fiscal year. The assessed value will be reduced by 34%. The tax savings from this reduction in calendar year 2004 were \$8.3 million. We expect a slightly higher tax benefit in the coming year because of increases in tax rates. We have filed for this benefit annually since we asked ORPS for a separate steam assessment certificate which allowed us to apply for a targeted benefit for steam and have realized total savings of approximately \$24 million over the last 4 years.

In the same 2004 ORPS filing for gas special franchise assessments, we asked for recognition of obsolescence for excess capacity and were granted relief in Manhattan (16% of the gas main account), and Bronx (8% of the gas main account).

Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.
Property Tax Showing

The savings will be realized for the fiscal year starting July 2005 but we are not able to estimate the amount, as we have not yet received our tentative special franchise values from ORPS.

Also in that filing, we asked for relief at the World Trade Center site for new capital expenditures in excess of the reproduction cost new of amounts retired. We were granted assessment reductions on certain of our special franchise property at the site. Again, the tax benefits will be realized starting in July 2005, but it is too early to quantify the benefits since we have not yet received our tentative special franchise assessments.

We filed an administrative complaint in the Town of LaGrange, Dutchess County, which resulted in negotiations that reduced our assessment on some of our transmission equipment in the Town by \$2 million resulting in an annual tax savings of approximately \$68 thousand. Although the Town had agreed verbally to reduce the next two year's assessments by \$1 million and \$542 thousand respectively, we have been unsuccessful in formalizing these later year reductions despite our repeated efforts to do so. Without the additional \$1.5 million assessment reductions, we believe that we will need to file another complaint on LaGrange next year.

O&R & CECONY entered into a settlement agreement with the Village of Hillburn in Rockland County on two transmission properties. The agreement is a three-year phase down of assessments on each property beginning with the 2004/05 village taxes. This agreement resulted in a combined total annual savings for both companies of \$10,000 for the tax year 2004. Similar savings will be realized over the following two years.

We were successful in having New York City reduce our assessment at the North 1st Street Oil Terminal due to the facility's physical retirement. We are experiencing an annual estimated property tax savings of \$450 thousand because of our efforts.

Continued Benefits from Previous Agreements

We continue to benefit from various agreements we made in prior years where we successfully reduced the Company's property tax burden.

In 2004, we realized an \$11.6 million tax benefit resulting from our multi-year settlement with ORPS on our special franchise gas plant. That settlement was negotiated in January 2001 and expires at the end of this fiscal year. For the 5-year period, our cumulative savings resulting from this agreement total nearly \$60 million.

Consolidated Edison Company of New York, Inc.
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Property Tax Showing

We remain under a settlement agreement on all of our properties owned by both Con Edison and O&R in the Town of Ramapo. Due to the timing of the agreement, we received several refunds in early 2004 that were the result of an agreement settled prior to 2004. The refunds are summarized later in this document. The estimated tax savings in connection with the assessment reductions realized in the prior settlement for the 2004 calendar year amount to approximately \$4.1 million. CECONY's share of that benefit was \$2.3 million and \$1.8 million was realized by O&R. In 2005, additional savings will be realized as even more properties transition to a lower assessment computed under RCNLD negotiated under the prior agreement. The transition to RCNLD for all of our properties will be completed by 2006 and all parties intend to continue the RCNLD assessment methodology into the future.

In our agreement with the Town of Greenburgh on our Eastview and Elmsford substations, our savings for 2004 amount to approximately \$490 thousand. The agreement extends through the 2007 assessment roll and phases-down the assessment of the substations over three years.

Our agreement with the Village of Elmsford on our substation, negotiated in 2003 following the agreement reached with the Town of Greenburgh (the Village is within the Town) continues. In 2004, our tax savings amounted to approximately \$21 thousand.

We continued to benefit from an assessment reduction we requested from New York City to grant a tax reduction for the equipment restored at our Hudson Avenue Generating Station site. Due to power concerns in the City, the Company restored Boiler 10/100 to service and asked for a tax reduction due to the unusual circumstances surrounding the restart of this boiler. As planned, the Company retired this equipment at year-end 2004 and notified the city, but we will continue to receive a tax benefit until June 2005, the end of the city's fiscal year. The 2004 tax benefit was \$1.1 million.

The assessment reductions from our previous settlement with the City of Yonkers remained in effect during 2004 on 48 of our properties. The original settlement resulted in a three-year assessment phase-down to RCNLD. This settlement has expired but our assessments have remained unchanged and we continue to realize benefits from those reductions.

Our settlement with the Town of Ossining for the Ossining substation took effect for the 2000 assessment roll. This settlement included a phase down toward an agreed upon assessed value, which, after the phase-in, will stay frozen for three more years. The settlement has expired but our assessments have not changed

Consolidated Edison Company of New York, Inc.
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Property Tax Showing

and our analysis indicates they are still acceptable under RCNLD. Our 2004 estimated savings were \$38 thousand.

Our previous agreement with the City of White Plains, which we negotiated in 1999 in connection with the assessment on our White Plains substation for the years 2000 through 2002, continues to provide tax savings today. Our tax savings in 2004 from these reduced assessments amounted to \$315 thousand.

Con Edison's previous settlement with Mt. Vernon to reduce the assessment at the Washington Street Substation was reflected in the 2000 assessment roll and resulted in reduced 2001 taxes. We continue to benefit from this past reduction and our savings during 2004 were approximately \$183 thousand. Even with this past reduction, we again have determined that the substation is over-valued and filed a complaint and petition on this parcel in 2004.

Our previous settlement in the Town of New Castle, which was settled in relation to the Millwood substation in 2000 for assessment years 1999 to 2002, continues to provide benefits as that assessment has not increased after the expiration of the agreement as of 2002/2003.

For O&R, we are in the final year of a three-year settlement to reduce property taxes in the Town of Lumberland in Sullivan County. The settlement reduced taxes by more than sixty percent. The actual tax reduction began with the 2002 school taxes that were paid in September 2002 and we have continued to benefit from this reduction.

Pending Actions

Proceedings are pending in various counties of the Supreme Court in New York City challenging certain of the Company's property tax assessments for the years 1994/95 through 2004/05. Some of these property tax claims relate to properties that were divested.

The proceedings covering the Arthur Kill Generating Station were tried in the Supreme Court, Richmond County on February 17 and 18, 2004. In a decision filed on October 5, 2004, the court accepted most of the Company's valuation theories and reduced the assessments for 1994/95 through 1998/99 by an aggregate of \$90,731,132. The City has appealed. The deadline to perfect the appeal is currently May 1, 2005 but is expected to be extended to June 30, 2005. Once the appeal is perfected, the Company will have 30 days to file a brief in response. Oral argument of the appeal will likely be held at the end of this year.

Consolidated Edison Company of New York, Inc.
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Property Tax Showing

If upheld on appeal, this decision could have favorable ramifications on the other pending tax certiorari proceedings covering various other Con Edison properties. We have met with representatives from the City's Law and Finance departments to explore possible global resolution of the proceedings but the City continues to refuse to settle any of these cases.

Among the assets transferred to Mirant by O&R as part of the generation divestiture were O&R's pending tax certiorari cases against the Town of Haverstraw and North Rockland School District. Mirant had reached a tentative settlement which included a payment of \$1 million to O&R for agreeing to settle its portion of the case. However, the Town and School District backed out of their agreement with Mirant indicating that no agreement existed. The withdrawal of the settlement offer has been litigated in the courts but the court finally ruled in 2003 that no agreement was in existence. Mirant has since filed bankruptcy and failed to pay over \$100 million in property taxes. The valuation issue will now be decided in court. During 2004, O&R severed its cases from those of Mirant and now is pursuing its own settlement with the Town of Haverstraw.

In our ongoing efforts to reduce our City taxes, Con Edison filed complaints on 61 parcels in New York City during 2004 for a claimed over-assessment of \$32 million. These claims are still unresolved.

During 2004, Con Edison's assessment review determined that it needed to challenge over-assessments in seven municipalities in Westchester; Mt. Vernon, New Rochelle, Cortlandt, Harrison, Mt. Pleasant, New Castle, and Yorktown. In our upstate counties, we filed grievances in Kent, Carmel, Stony Point, Tuxedo, Chester, Wappinger, Pleasant Valley, and East Fishkill. In connection with the petitions described above, we have attempted to initiate discussions with these municipalities about our tax assessments and, in certain cases, these efforts have been successful. During the year and continuing into 2005, we have ongoing negotiations with the Towns of Yorktown, Mt. Pleasant, Cortlandt, and New Castle. We continue to pursue efforts with all of the unresolved municipalities.

We filed grievances during 2004 for property owned by O&R in the Towns of Haverstraw, Orangetown, and Clarkstown and in the Village of West Haverstraw. All of these actions relate to valuation issues and all of them include earlier years as well. We have been successful in making contact with officials from the Town of Haverstraw and are actively pursuing a settlement.

We also recently met with officials of the Town of Clarkstown in an attempt to settle those outstanding grievances, but the discussions are in their very early stages.

**Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.
Property Tax Showing**

In 2004, O&R received an assessment reduction in Orangetown relating to propane tanks that were retired and removed. We had been attempting to get a reduction on that parcel since 2003 when the retirements and removals had begun.

Property Tax Refund Claims

We have received several refund claims in connection with the settlements described earlier or certain miscellaneous, small refunds due to errors made by the taxing authorities. The refunds received during 2004 were:

Con Edison	Ramapo settlement:	
	Town	\$295,000
	County	115,000
	New York City (clerical error)	19,000
O&R	Ramapo settlement:	
	Village of Sloatsburg	27,000
	Village of Suffern	35,000
	Town of Ramapo	231,000
	County	90,000
	Clarkstown (clerical error)	5,000
Total Refunds Received		\$817,000

Industrial and Commercial Incentive Program ("ICIP")

The company applied for and received a preliminary certificate of exemption - "Commercial Renovation" - for the East River Repowering Project which may provide benefits for eligible property for a total of eight years of exemption at 100% plus an additional 4 more years of benefits reduced by 20% each year. To date we have not received any benefits even though we have been assessed on much of the construction costs. We have paid the tax on these assessments under protest.

Con Edison entered into a joint project with Iroquois Gas Transmission at our Hunts Point Gas facility in which a \$25 million capital project was constructed. The company was a co-applicant with Iroquois for an ICIP exemption and the project was awarded an ICIP for a 25-year special exemption of property taxes on 100% of the investment. The estimated annual tax liability of \$1.3 million has been fully abated. Under the terms of the agreement with Iroquois Gas, Iroquois will benefit in

Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.
Property Tax Showing

the early years but will turn over most of the facilities to Con Edison at which time we will be the beneficiary of the abatements.

April 29, 2005



Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York NY 10003
www.conEd.com

Exhibit ___ (PTP-6)
Page 37 of 51

April 15, 2004

John Scherer
Public Utility Auditor 3
Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

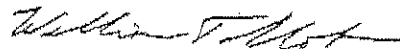
Re: Consolidated Edison Company of New York, Inc.
PSC Showing on Property Taxes – Year 2003

Dear Mr. Scherer:

Pursuant to Con Edison's Electric Settlement Agreement dated October 2, 2000, the Company is to supply "...an annual showing by the Company to the Staff of the ongoing efforts to reduce its property tax burden." Therefore, we have developed the attached report to describe our efforts and bring the Staff up to date on where we stand with each of our municipalities.

We intend to file an update with you each April. If you have any questions, please do not hesitate to contact me at (212) 460-4683 or Charlie Hutcheson at (212) 460-6762.

Very truly yours,



William Talbot
Director – Corporate Accounting

cc: Edward Rasmussen
Robert Muccilo
Charles Hutcheson
Claude Daniel

Consolidated Edison Company of New York, Inc.
Orange & Rockland Utilities, Inc.

Property Taxes

Introduction

The property taxes we pay are based on the "value" of property and include taxes on our land and the structures erected or affixed to the land. In New York State, utilities also pay property taxes on utility equipment located on our land. In addition, we pay property taxes on our equipment which is located on, under, or above the public streets and highways, known as special franchise taxes.

In New York State, public utility property is valued under a method known as the 'Cost Approach'. Historically, New York State Real Property Tax Law and the courts have held that utility property should be valued under this approach. The New York City Assessor, the Office of Real Property Services ("ORPS"), and some, but not all other assessors in the State determine value by using a Reproduction Cost New less Depreciation ("RCNLD") methodology for utility property. RCNLD calculates what it would cost to reproduce property at current construction costs, subtracts an allowance for depreciation and obsolescence, (if any) and adds in the value of land to arrive at a "value" for the entire property. RCNLD is used only to value certain of our structures and all of our equipment. The value of land is determined by comparable sales data.

Annually, we review our property assessments to determine if they fall within a range of reasonableness when calculated under RCNLD. If the actual assessments substantially vary from our RCNLD calculations, we file complaints to formally protect our rights and those of our customers. Often we settle our complaints when we believe our hazards of litigation are great and that a settlement is a more cost effective way of reducing our tax burden than prolonged and risky litigation. We resort to litigation only when our efforts to reach what we believe to be a fair compromise with a municipality fail.

Property Tax Settlements and Decisions

We negotiated a settlement agreement on all of our properties owned by both Con Edison and O&R in the Town of Ramapo. In connection with this agreement, we received a \$3 million refund that was distributed to the benefit of CECONY in the amount of \$1.6 million and to the benefit of O&R amounting to \$1.4 million. The refund covers claims we made back to 1999. Most of our benefits from this agreement will occur in the future due to assessment reductions that will eventually result in all of our assessments computed on an RCNLD basis. The estimated tax savings for the 2003/2004 fiscal year amounts to approximately \$2.5 million and future years will reflect additional savings as more and more properties become assessed under RCNLD. Under terms of the agreement, the transition to full RCNLD for all of our properties will be completed by 2006.

**Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.**

Property Taxes

We executed a settlement agreement with the Town of Greenburgh for our Eastview and Elmsford substations. The agreement extends through the 2007 assessment roll and phases-down the assessment of the substations over three years. As part of the agreement, we also received a refund from the Town for \$242 thousand. The 2003 savings amount to \$310 thousand, but the full impact of this settlement will not be felt until 2004.

Using the Greenburgh agreement as a precedent, we negotiated an assessment reduction in the Village of Elmsford (which is located within the Town of Greenburgh). The cumulative savings over the life of this agreement amount to approximately \$200 thousand.

Continued Benefits from Previous Agreements

We continue to benefit from various agreements we have made before 2003 where we successfully reduced the Company's property tax burden.

We again received an assessment reduction in property taxes due to our application for economic obsolescence in our Steam Plant special franchise property, which resulted in a substantial reduction in property taxes applicable to the 2003/04 fiscal year. The assessed value reduction amounted to \$65 million, a 34% reduction. The tax savings from this reduction were \$8.1 million for the year. We will continue to file for economic obsolescence in our Steam Plant as long as our Steam business continues to earn an inadequate rate of return.

We again benefited from an assessment reduction we requested from New York City to grant a tax reduction for the equipment restored at our Hudson Avenue Generating Station site. Due to power concerns in the City, the Company restored Boiler 10/100 to service and asked for a tax reduction due to the unusual circumstances surrounding the restart of this boiler. During 2004, the Company plans to re-retire this equipment.

In 2003, we realized a \$14 million benefit resulting from our multi-year settlement with ORPS on our special franchise gas plant. The settlement was negotiated in January 2001 but absent another agreement, will expire effective with the 2004/2005 tax year.

Our previous settlement with the City of Yonkers remained in effect during 2003 on 48 of our properties there. Our original settlement resulted in a three-year assessment phase-down to RCNLD. This settlement expired in 2002/2003 but the assessor has not increased our

Consolidated Edison Company of New York, Inc.
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Property Taxes

negotiated assessments. We did not file formal complaints on these assessments because our analysis indicated they are still within an acceptable range based on RCNLD.

Our settlement with the Town of Ossining, for the Ossining substation, took effect for the 2000 assessment roll. This settlement also included a phase down toward an agreed upon assessed value, which, when fully phased in will stay frozen for three consecutive years. As is true with Yonkers, the settlement has now expired but our assessments have not changed and our analysis indicates they are acceptable under RCNLD so we have not attempted to contact the Town during 2003.

Our previous agreement with the City of White Plains, which we negotiated in 1999 in connection with the assessment on our White Plains substation for the years 2000 through 2002, continues to provide tax savings today. In 2002, we successfully extended the agreement for another year which will now run through 2003.

Our previous settlement in the Town of New Castle which was settled in relation to the Millwood substation in 2000 for assessment years 1999 to 2002 continues to provide benefits as that assessment has not increased after the expiration of the agreement as of 2002/2003.

Con Edison had previously reached a settlement with Mt. Vernon to reduce the assessment at the Washington Street Substation which was reflected in the 2000 assessment roll and resulted in reduced 2001 taxes. The assessor has not increased the subsequent assessment rolls and we therefore continue to experience tax savings.

For O&R, we agreed in December 2001 to a three-year settlement to reduce property taxes in the Town of Lumberland in Sullivan County. The settlement reduces taxes by more than sixty percent. The actual tax reduction began with the 2002 school taxes that were paid in September 2002 and we will continue to benefit from this reduction for another three years.

Pending Actions

Proceedings are pending in various counties of the Supreme Court in New York City challenging certain of the Company's property tax assessments for the years 1994/95 through 2003/04. Some of these property tax claims relate to properties that were divested. The proceedings covering the Arthur Kill Generating Station went to trial in early 2004. The trial centered on the appraisals of both parties which were far apart and the proper amount of obsolescence to be recognized for a plant that did not operate as a base load generating

Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.

Property Taxes

station. Immediately before trial, the Judge attempted to have the parties settle at the mid-point of the appraisal differences but the City refused to accept. If we are successful in this case, we hope to advance certain valuation theories, particularly economic and functional obsolescence, for the other New York City properties still awaiting trial.

In October 1994, the Company commenced an action for declaratory judgment in the Supreme Court, New York County, against the State Office of Real Property Services. The complaint alleged that in conducting its periodic market value surveys, ORPS overvalues the Company's generating stations by failing to account for economic and functional obsolescence. As a result, the share of the property tax allocated to class three, of which the Company's property comprises the majority, is excessive. It is questionable whether the Company has standing to challenge ORPS' market value survey methodology. Moreover, since 1996, ORPS has not been performing market value surveys for the City, having switched to a different methodology for computing equalization rates. This case has been on hold pending resolution on the obsolescence issues raised in the real property proceedings listed above.

Among the assets transferred to Mirant by O&R as part of the generation divestiture were O&R's pending tax certiorari cases against the Town of Haverstraw and North Rockland School District ("the parties"). Mirant had reached a tentative settlement which included a payment of \$1 million to O&R for agreeing to settle its portion of the case. However, the Town and School District have since backed out of their agreement with Mirant indicating that no agreement existed. The issue has been back and forth in the courts until the courts finally ruled in 2003 that no agreement was in existence. Mirant has since filed bankruptcy and failed to pay \$50 million in 2003/04 school taxes. The valuation issue will now be decided in a bankruptcy court.

We submitted a letter to the Assessor in Charge at the New York City Department of Finance REUC Property Unit stating Con Ed's position on the exclusion of movable machinery and equipment from the property tax base. The Company believes that transformers and certain miscellaneous power plant equipment meet the criteria test for the exclusion. Our request for exclusion was denied. If we are eventually successful in convincing the City to allow this, we estimate the annual tax savings to be \$2.2 million. The movable machinery exclusion is being phased in over several years so future savings would be more substantial since the \$2.2 million represents only 20% of the potential total impact annually. We are still awaiting a response from the City's Law Department on why we were denied.

Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.

Property Taxes

In our ongoing efforts to reduce our City taxes, we filed complaints on 16 parcels in New York City during 2003 for a claimed over-assessment of \$ 32 million.

We continue to have outstanding grievances pending for property owned by O&R in the Towns of Haverstraw, Orangetown, and Clarkstown and in the Villages of West Haverstraw in Rockland County. All of these actions relate to valuation issues. The Town of Haverstraw and the Village of West Haverstraw are being handled by outside counsel and in all probability, settlement discussions will not take place until the conclusion of the Mirant case described earlier. In a related matter, in early 2004 we have agreed in principle to a reduction in Orangetown relating to propane tanks that were retired and which were in the process of being removed. We have been attempting to get a reduction on these properties for some time now since we are entitled to tax relief upon the retirement of the assets.

In Orange County, we have an outstanding grievance in the Town of Wawayanda. The grievance covers the years 1997 through 2000 and is for the Shoemaker GT property. Part of this property was sold to Mirant and therefore they have a claim on any agreement we may come to.

Property Tax Refund Claims

We have been involved in various appropriations of our properties by City and State authorities which have necessitated the filing of refund claims; billing of property tax to the parties appropriating the property; and excluding payments made to the City for taxes related to these properties. These actions were necessary to recover our prepaid taxes made before the time the properties were appropriated. The following paragraphs describe our efforts in these matters.

We received a refund for \$109,177 in 2003 for property appropriated by the New York City School Construction Authority. This claim was based on several parcels located in Queens. The refund was for property tax paid by the Company through June 30, 2001 and covered the period from the date the property was appropriated by the City through June 30, 2001. The City originally denied this claim on the grounds that their record keeping did not show an overpayment of tax. This necessitated our submission of the claim to the Office of Legal Affairs for review.

In 2003 we received full payment of \$148 thousand for our claim against the City relating to the New York State Department of Transportation's appropriation of property in Manhattan.

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Orange and Rockland Utilities, Inc.

Property Taxes

The initial condemnation was for approximately 77% of the property. Effective June 30, 2002, the State appropriated 100% of this property.

April 4, 2003

John Scherer
Public Utility Auditor 3
Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

Dear Mr. Scherer:

Re: Consolidated Edison Company of New York, Inc.
PSC Showing on Property Taxes

Pursuant to Con Edison's Electric Settlement Agreement dated October 2, 2000, the Company is to supply "...an annual showing by the Company to the Staff of the ongoing efforts to reduce its property tax burden." Therefore, we have developed the attached report to describe our efforts and bring the Staff up to date on where we stand with each of our municipalities.

We intend to file an update with you each April. If you have any questions, please do not hesitate to contact me at (212) 460-4683 or our property tax manager, Charlie Hutcheson at (212) 460-6762.

Very truly yours,

William Talbot
Director - Taxes

cc: Robert Muccilo
Charles Hutcheson
Claude Daniel

Consolidated Edison Company of New York, Inc.
Orange & Rockland Utilities, Inc.

Property Taxes

Introduction

The property taxes we pay are based on the "value" of property and include taxes on our land and the structures erected or affixed to the land. In New York State, utilities also pay property taxes on utility equipment located on our land. In addition, we pay property taxes on our equipment which is located on, under, or above the public streets and highways, known as special franchise taxes.

In New York State, public utility property is valued under a method known as the 'Cost Approach'. Historically, New York State Real Property Tax Law and the courts have held that utility property should be valued under this approach. The New York City Assessor, the Office of Real Property Services ("ORPS"), and some, but not all other assessors in the State determine value by using a Reproduction Cost New less Depreciation ("RCNLD") methodology for utility property. RCNLD calculates what it would cost to reproduce property at current construction costs, subtracts an allowance for depreciation and obsolescence (if any) and adds in the value of land to arrive at a "value" for the entire property. RCNLD is used only to value certain of our structures and all of our equipment. The value of land is determined by comparable sales data.

Annually, we review our property assessments to determine if they fall within a range of reasonableness when calculated under RCNLD. If the actual assessments substantially vary from our RCNLD calculations, we file complaints to formally protect our rights and those of our customers. Often we settle our complaints when we believe our hazards of litigation are great and that a settlement is a more cost effective way of reducing our tax burden than prolonged and risky litigation. We resort to litigation only when our efforts to reach what we believe to be a fair compromise with a municipality fail.

Property Tax Settlements and Decisions

We successfully argued for economic obsolescence in our Steam Plant special franchise property which resulted in a substantial reduction in property taxes applicable to the 2002/03 fiscal year. The assessed value reduction amounted to \$64 million, a 36% reduction. The tax savings from this reduction were \$7.5 million for the year based on current tax rates. We will continue to file for economic obsolescence in our Steam Plant special franchise property annually now that we have set the precedent for approval as long as our Steam business continues to earn an inadequate rate of return.

We successfully petitioned New York City to grant a substantial reduction in tax for the 2002/03 fiscal year for the equipment restored at the Hudson Avenue site. Due to power

Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.

Property Taxes

concerns, the Company restored Boiler 10/100 to service and asked for a tax reduction due to the unusual circumstances surrounding the restart of this boiler.

Among the assets transferred to Mirant by O&R as part of the generation divestiture were O&R's pending tax certiorari cases against the Town of Haverstraw and North Rockland School District ("the parties"). In December 1999, Mirant had reached a tentative settlement of its portion of the cases against the parties. Mirant's settlement was contingent upon O&R agreeing to dismiss its claim. In January 2000, as an inducement to have the Company agree to settle its portion of the tax certiorari case against the parties, they agreed to pay \$1 million to O&R. However, they backed out of their agreement with Mirant. Mirant and O&R challenged the parties' breach in court. In December 2001, the court reinstated the settlement agreement between Mirant and the parties, stating that a settlement agreement was in existence and the parties had to abide by it. On January 30, 2002, the Town and School District appealed the decision and oral arguments on the case were made on February 4, 2003 before the Appellate Division, 2nd Department. We hope to have a decision by the end of this year.

We continue to benefit from various agreements we have made prior to 2002 where we successfully reduced the Company's property tax burden.

In 2002, we realized nearly a \$10 million benefit resulting from our multi-year settlement with ORPS on our special franchise gas plant. The settlement was negotiated in January 2001.

Our previous settlement with the City of Yonkers remains in effect on 48 of our properties there. The settlement called for a 50% phase down in the first year, a 30% phase down in the second year and the remainder in the third year. We agreed to a phase down to lessen the impact on the City. As part of this agreement, we were successful in getting all of our properties valued on an RCNLD basis.

Our settlement with the Town of Ossining, for the Ossining substation, took effect for the 2000 assessment roll. This settlement also included a phase down toward an agreed upon assessed value, which, when fully phased in will stay frozen for three consecutive years.

We are under agreements with the City of White Plains and the Town of New Castle. The White Plains settlement was negotiated in 1999 and is in connection with the assessment on the White Plains substation for the years 2000 through 2002. In 2002, we successfully

**Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.**

Property Taxes

extended the previous agreement for another year. The Town of New Castle was settled in relation to the Millwood substation in 2000 for assessment years 1999 to 2002.

Con Edison had previously reached a settlement with Mt. Vernon to reduce the assessment at the Washington Street Substation which was reflected in the 2000 assessment roll and resulted in reduced 2001 taxes. The assessor has not increased the subsequent assessment rolls and we therefore continue to experience tax savings in 2002.

For O&R, we agreed in December 2001 to a three-year settlement to reduce property taxes in the Town of Lumberland in Sullivan County. Four of the five parcels included in the settlement were transferred from Clove Development to ORU. The settlement reduces taxes on these five parcels by more than sixty percent. The actual tax reduction began with the 2002 school taxes that were paid in September 2002.

Pending Actions

NYC Real Property

Proceedings are pending in various counties of the Supreme Court in New York City challenging certain of the Company's property tax assessments for the years 1994/95 through 2002/03. Some of these property tax claims relate to properties that were divested. The proceedings covering the Arthur Kill Generating Station have been placed on the trial calendar as a test case in advancing certain valuation theories, particularly economic and functional obsolescence.

After extended legal skirmishing with the City over the proper extent of discovery, the Company has produced various items of information pursuant to a stipulation that was agreed to with the court. A preliminary letter appraisal of the station has been prepared by our Appraiser, which must be upgraded to a full, trial-ready report. In addition, if it appears that a trial is likely, it will also be necessary to hire an appraiser to value the land. At a recent court conference, the City indicated that it has finally hired an appraiser. The next court conference is scheduled for April 10, 2003. In previous conferences, the City has indicated a willingness to discuss possible settlement of the proceedings but no talks are presently scheduled.

In October 1994, the Company commenced an action for declaratory judgment in the Supreme Court, New York County, against the State Office of Real Property Services. The

Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.

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complaint alleged that in conducting its periodic market value surveys, ORPS overvalues the Company's generating stations by failing to account for economic and functional obsolescence. As a result, the share of the property tax allocated to class three, of which the Company's property comprises the majority, is excessive. It is questionable whether the Company has standing to challenge ORPS' market value survey methodology. Moreover, since 1996, ORPS has not been performing market value surveys for the City, having switched to a different methodology for computing equalization rates. This case has been on hold pending resolution on the obsolescence issues raised in the real property proceedings listed above.

We submitted a letter to the Assessor in Charge at the New York City Department of Finance REUC Property Unit stating Con Ed's position on the exclusion of movable machinery and equipment from the property tax base. The Company believes that transformers and certain miscellaneous power plant equipment meet the criteria test for the exclusion. Our request for exclusion was denied. If we are eventually successful in convincing the City to allow this, we estimate the annual tax savings to be \$2.2 million. The movable machinery exclusion is being phased in over several years so future savings would be more substantial since the \$2.2 million represents only 20% of the potential total impact annually.

In our ongoing efforts to reduce our City taxes, we filed complaints on 66 parcels in New York City during 2002 for a claimed over-assessment of \$332 million. Effective January 1, 2003, the City enacted one of the largest property tax rate increases in its history that will cost our customers nearly an addition \$100 million annually.

Westchester Special Franchise

We continued to file complaints against ORPS which protect our rights until our suit is heard concerning implementation of the so-called "Pegging Law", a law that unfairly taxes certain of our older special franchise property.

Westchester & Upstate Real Property

We have grievances pending for property owned by Con Edison in the Town of Ramapo in Rockland County, the Town of Greenburgh and the Village of Elmsford in Westchester County, and for the Town of Putnam Valley in Putnam County challenging assessed valuations of various parcels of property. Early in the year, we had active discussions with the Town of Ramapo concerning a possible settlement, however, the Town backed out of

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those discussions. Later in 2002, due to a change in Town personnel, we again met with them to discuss our differences. We have made excellent progress in our negotiations and are hopeful that we can work to reach an agreement that will be acceptable to both sides in the near future. However, we were extremely close to taking this matter to court.

We had extensive negotiations with the Town of Greenburgh during 2002 in the hope of reaching a settlement with them. Early in 2003, we reached a tentative agreement with the parties involved and are awaiting the execution of settlement documents by the Town.

For Putnam Valley, we have been in contact with them but the case remains unresolved.

We have grievances pending for property owned by O&R in the Towns of Haverstraw, Ramapo, Orangetown, and Clarkstown and in the Villages of West Haverstraw in Rockland County. All of these actions relate to valuation issues. The Town of Haverstraw and the Village of West Haverstraw are being handled by outside counsel and in all probability, settlement discussions will not take place until the conclusion of the Mirant case described earlier.

In May, we had another meeting with the Town of Ramapo in the hopes of coming to an agreement on our O&R properties. Unfortunately, the meeting became quite hostile. As mentioned earlier, CECONY also has property in the Town which we are also contesting but the Town had always avoided having us combine the two companies in our dealings with them. We submitted a settlement proposal but have not heard back from them.

In Orange County, we have outstanding grievances in the Town of Wawayanda. The grievance covers the years 1997 through 2000 and is for the Shoemaker GT property. Part of this property was sold to Mirant and therefore they have a claim on any agreement we may come to.

Property Tax Refund Claims

We received a refund for \$825,000 directly from Orion Power related to property taxes paid on assets sold to them in 1999 as part of the Astoria divestiture. This claim arose from a clerical error made by City personnel when subdividing the properties at the time of sale. The company instructed the City to transfer assets sold to Orion with a market value of \$22.7 million effective with the second half 1999/2000 billing. Had this transaction occurred on a

Consolidated Edison Company of New York, Inc.
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timely basis, Orion would have paid the second half tax on this transfer. We aggressively pursued collection from Orion since they were the beneficiaries of the City error.

We have been involved in various appropriations of our properties by City and State authorities which have necessitated the filing of refund claims; billing of property tax to the parties appropriating the property; and excluding payments made to the City for taxes related to these properties. These actions were necessary to recover our prepaid taxes made prior to the time the properties were appropriated. The following paragraphs describe our efforts in these matters.

For property appropriated by the New York City School Construction Authority, we have a pending refund claim for \$109,177. This claim involves several parcels located in Queens. The refund claimed is for property tax paid by the Company through June 30, 2001 and covers the period from the date the property was appropriated by the City through June 30, 2001. The City has denied this claim on the grounds that their record keeping does not show an overpayment of tax. This has necessitated our submission of this claim to the Office of Legal Affairs for review. A recent follow-up on this issue has been made and we were informed that a status update will be provided in the near future. We expect to have this resolved in our favor in the near future.

The New York State Department of Transportation was billed \$148 thousand for property they appropriated in Manhattan. The initial condemnation was for approximately 77% of the property. Effective June 30, 2002, the State appropriated 100% of this property and has indicated that they will be vouchering a refund for approximately \$180 thousand which we anticipate receipt by the end of April 2003.

After going through the lengthy refund process on the above property appropriations, we made an attempt to accelerate that process by deducting \$271 thousand from our second half 2001/02 and our first half 2002/03 payments to the City for parcels located in Manhattan and Queens. The amount deducted was an estimate of the property taxes that we felt was appropriate to the condemned portion of the property. The Queens condemnation has been completed and is now accurately reflected in the tax bills. The Manhattan property condemned by the NYS Department of Transportation has not reached the sub-division process yet. However, we are currently withholding 100% of the tax on this parcel.

We received a refund from the Department of Finance for \$154 thousand for interest and property tax resulting from a payment we made to the City for resolution of several liens that

Consolidated Edison Company of New York, Inc.
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Property Taxes

were placed on property that did not belong to the Company. The major portion of the claim is interest charged to the Company on a misapplication and subsequent correction of our Richmond Special Franchise and Real Estate second half 1999/2000 payment. After an initial denial by the City, we followed up with the Office of Legal Affairs to prove our case. This resulted in the satisfaction of our claim.

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
SUMMARY OF ELECTRIC PROPERTY TAX MITIGATION EFFORTS
FOR BENEFITS EARNED BETWEEN 2003 THROUGH 2008

(dollars)

Year Settled	Municipality	AV Roll Effected	Total Refund & Tax Savings
<u>Tax Controversy*</u>			
2008	Town of Ossining	2007- 2010	1,530,000
	Town of East Fishkill	2007- 2010	1,500,000
	City of New Rochelle	2007- 2010	3,125,000
	WTC - NYC (ORPS)	2009/10	2,400,000
	Town of Harrison	2008-2012	3,100,000
			<u>11,655,000</u>
2007	Arthur Kill - NYC	1994/95 - 1998/99	13,462,000
	WTC - NYC (ORPS)	2008/09	4,500,000
	Town of Mt. Kisco	2007- 2010	259,000
	Town of Mt. Pleasant	2007- 2010	2,754,000
	City of Mt. Vernon	2007- 2010	3,682,000
	Town of Carmel	2007- 2010	1,078,000
	Town of Stony Point	2007- 2010	11,208,000
			<u>36,943,000</u>
2006	Town of Tuxedo	2006-2007	800,000
	WTC - NYC (ORPS)	2007/08	3,500,000
			<u>4,300,000</u>
2005	Town of Cortlandt	2005-2007	1,744,000
	Town of New Castle	2005-2007	3,728,000
	Town of Yorktown	2005-2007	1,830,000
	Town of Chester	2005-2007	360,000
	City of Yonkers	2005-2007	2,600,000
	WTC - NYC (ORPS)	2006/07	6,200,000
			<u>16,462,000</u>
2004	North First Street Terminal - NYC	2004/05	450,000
	Hudson Ave. Boiler 10/100 - NYC	2004/05	1,100,000
	Village of Hillburn	2004-2006	17,000
	LaGrange	2004-2006	354,000
			<u>1,921,000</u>
2003	Town of Greenburgh	2003-2007	2,974,000
	Village of Elmsford	2003-2007	325,000
	Town of Ramapo	2003-2006	12,226,000
			<u>15,525,000</u>
	Total Tax Controversy		<u>86,806,000</u>

* Tax controversy includes savings on a company-wide basis

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
 SUMMARY OF ELECTRIC PROPERTY TAX MITIGATION EFFORTS
FOR BENEFITS EARNED BETWEEN 2003 THROUGH 2008
 (dollars)

Year Approved	Projects	AV Roll Effected	Total ICIP Tax Savings
<u>Approved ICIP Benefits</u>			
2007	Mott Haven Substation construction	2007/08	3,305,000
		2008/09	14,690,000
		2009/10 - 2031/32	<u>232,248,000</u>
			250,243,000
2007	Various Substation Upgrades	2008/09	3,961,000
		2009/10 - 2032/33	<u>34,749,845</u>
			49,884,000
2007	3rd Avenue Yard (Common Plant)	2007/08	1,214,000
		2008/09	1,708,000
		2009/10 - 2031/32	<u>33,147,000</u>
			36,069,000
2008	Parkview Substation construction	2008/09	743,000
		2009/10 - 2032/33	<u>99,111,000</u>
			99,854,000
2008	Fox Hills Substation Upgrade	2008/09	164,000
		2009/10 - 2022/23	<u>2,009,000</u>
			2,173,000
	Total Approved ICIP Benefits		<u>427,049,845</u>
	Total Property Tax Mitigation		<u><u>513,855,845</u></u>

Case No. 09-E-0428
Consolidated Edison Company of New York, Inc. Electric Rate Case

Con Edison Information Request to DPS Staff (Set 2)

60. On page 30, the Panel recommends "an aggressive incentive mechanism that will allow the Company to minimize these costs." Given the cost of extensive litigation that may be necessary to reduce property taxes, would a deferral mechanism for those costs that would provide for recovery of those costs regardless of the outcome of the litigation be a proposal the Panel would support?

Response:

No.