

PAUL M. SHAFER

ELECTRIC - REBUTTAL

1 Q. Please state your name and business address.

2 A. My name is Paul Shafer. My business address is: 45

3 Glover Avenue, Norwalk, CT 06850.

4 Q. Have you previously submitted testimony in this  
5 proceeding?

6 A. Yes.

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

8 A. My testimony responds to testimony presented by Helmuth  
9 Schultz ("Mr. Schultz") on behalf of the Consumer  
10 Protection Board ("CPB"), and the Accounting Panel for  
11 the Office of Accounting and Finance ("Staff Accounting  
12 Panel").

13 Q. The Staff Accounting Panel stated on page 29, lines 7-  
14 9, "Con Edison's Variable Pay Plan provides for  
15 additional compensation to non-officer management  
16 employees..." Do you agree with this statement?

17 A. No. Con Edison's variable pay program is a part of a  
18 total compensation program that strives to deliver a  
19 competitive compensation program to its employees,

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1           rather than delivering additional compensation to  
2           employees that are already being paid at competitive  
3           levels. Without the variable pay program, Con Edison's  
4           compensation programs would become severely under-  
5           competitive and would certainly restrict the Company  
6           from attracting and retaining its employees.

7    Q.    Mr. Schultz suggests that the December 2008 Salary  
8           Increase Survey Hewitt cited in previous testimony did  
9           not accurately reflect actual salary increases for 2009  
10          because some companies had not finalized increases at  
11          that time. Is the December 2008 Salary Increase Survey  
12          the most recent survey Hewitt has regarding 2009 salary  
13          increases?

14   A.    No. Hewitt has recently released another salary  
15          increase survey that reports the actual 2009 salary  
16          increases and projected 2010 salary increases for  
17          utility companies. Per Staff's earlier request, we  
18          have provided a copy of this survey to Con Edison.

19   Q.    What do the results of this survey conclude?

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1 A. This survey calculated a couple of data points for 2009  
2 actual salary increases at utility companies (listed as  
3 energy (power/gas) in the survey): (1) average 2009  
4 actuals including zeroes; and (2) average 2009 actuals  
5 excluding zeroes. The average 2009 salary increase for  
6 utility companies including zeroes was 2.8%. The  
7 average 2009 salary increase for utility companies  
8 excluding zeroes was 3.3%.

9 Q. Did any of the utility companies participating in the  
10 survey cut pay in 2009?

11 A. No. Of the 99 utility companies that participated in  
12 our survey, none of them cut pay and only 15 companies  
13 froze pay. In fact, 85% of utility companies in the  
14 survey increased salaries in 2009 by an average of 3.3%

15 Q. Were these 15 companies that froze pay located  
16 primarily in one geographic area?

17 A. No. Utility companies that froze pay were not located  
18 in any specific geographic area.

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1 Q. Does this survey take into account how competitive pay  
2 levels are at utility companies that froze pay in 2009?

3 A. No. Competitiveness of pay is not evaluated in our  
4 salary increase survey. Therefore, we do not know  
5 whether the utility companies that froze pay in 2009  
6 had total compensation programs that were above market,  
7 below market, or in line with market levels.

8 Q. Mr. Schultz states on page 24, lines 21-22, of his  
9 testimony that "In my 30 plus years of analyzing rate  
10 cases...I do not recall having found any company that is  
11 not at or near the median." Is Con Edison's  
12 compensation at or near the median of its peers?

13 A. Mr. Schultz is not specific about whether he is  
14 referring to positioning for base salary only, base  
15 salary plus variable pay, or total compensation. As it  
16 relates to total compensation, Con Edison's is 23.1%  
17 behind National Utility peers and 24.8% behind Peer  
18 Group Companies. Being almost 25% behind both peer  
19 groups is a significant lag behind the market. Such a

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1 lag in total compensation could not be considered "at  
2 or near the median" as Mr. Schultz's suggests.

3 Q. Mr. Schultz states on page 25, lines 1-3, "[T]he  
4 comparisons do not factor in any variable pay and/or  
5 incentive pay that have been disallowed by the  
6 jurisdiction regulating the respective company." Do  
7 you agree with this statement?

8 A. No. Our analysis does not consider how the monies might  
9 have been funded, only that they were in fact paid. The  
10 primary purpose of our survey is to gather information  
11 on the magnitude of compensation for purposes of  
12 competitive assessment. In order to be competitive,  
13 Con Edison would need to deliver pay levels competitive  
14 to their peers regardless of the rate setting process  
15 impacting the peer companies with which they are  
16 competing.

17 Q. Mr. Schultz suggests on page 26, lines 9-22, that  
18 variable pay is not a key driver in attracting  
19 employees. Do you agree?

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1 A. No. First, it is unclear what specific questions were  
2 asked in the Towers Perrin survey that Mr. Schultz  
3 cites, and it is unclear whether variable compensation  
4 was even considered as a response option by survey  
5 participants. It is possible that survey participants  
6 viewed variable pay like Con Edison does (i.e., a part  
7 of base compensation that is paid, at least in part, if  
8 satisfactory performance is achieved), as opposed to  
9 incentive compensation that may be much more  
10 discretionary and speculative. Second, the exclusion  
11 of a variable pay program would cause total  
12 compensation to be significantly under-competitive, and  
13 therefore, cause significant problems in attracting  
14 employees.

15 Q. In discussing a survey by Mercer, Mr. Schultz says (p.  
16 17) "This indicates that some six months later  
17 companies had finally absorbed the impact of the  
18 financial downturn and developed alternatives in  
19 response, namely, freeze pay or cut workforce if pay

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1 increases are granted. It would appear that Con Edison  
2 believes that as long as it is able to pass salary  
3 increases onto ratepayers, tightening the belt is  
4 unnecessary." Do you have any comments on these  
5 remarks?

6 A. Yes. Mr. Schultz is implying that other companies have  
7 cut their own pay in response to the broad downturn in  
8 the economy. However, it isn't the broad financial  
9 impact, but rather the impact on their own specific  
10 company that leads to a pay cut or freeze at another  
11 company. This is evidenced by the fact that among  
12 utility companies in our recent survey only 15% froze  
13 pay, no companies cut pay, and 85% increased at an  
14 average 3.3% level.

15 Q. Please continue.

16 A. Furthermore, Mr. Schultz' remark is not supported by  
17 actual practice at Con Edison. He states that Con  
18 Edison is not trying to reduce pay because the cost is  
19 able to be passed on to ratepayers. However, this

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1 statement ignores the fact that all pay is not passed  
2 to ratepayers and Con Edison has continued to provide  
3 management variable pay notwithstanding recent New York  
4 Commission decisions that excluded these costs from  
5 rates. It is my understanding that the Company did so  
6 in order to remain competitive in terms of attracting  
7 and retaining employees and thereby maintain safe and  
8 reliable service to customers, while the Company seeks  
9 Commission reconsideration of its recent decision to  
10 eliminate management variable pay from the Company's  
11 rates.

12 Q. Mr. Schultz, on pages 15 through 27 of his testimony,  
13 challenges the reasonableness of Con Edison's proposed  
14 pay levels and variable pay program design. Please  
15 comment on the reasonableness of Con Edison's  
16 compensation program.

17 A. The design of Con Edison's compensation program is  
18 competitive with its peers. The use of three elements  
19 of pay (base salary, variable compensation, and equity

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1 grants) is a typical market practice. The design of  
2 the annual variable performance based pay program is in  
3 line with that of its peers; in fact, the program's  
4 metrics are notably more customer-focused than programs  
5 of peers. The Company's base pay practices for  
6 management level positions approximate market median  
7 practices (0.3% versus National Utilities and -2.3%  
8 versus Peer Group Organizations.) Con Edison's Total  
9 Cash Compensation (base plus variable compensation)  
10 drops below market median levels (-9.6% versus National  
11 Utilities and -12.1% versus Peer Group Organizations.)  
12 Total Compensation is significantly under-competitive,  
13 falling far below market median practices (-23.1% vis-  
14 à-vis National Utilities and -24.8% versus Peer Group  
15 organizations).

16 Q. Does this conclude your testimony?

17 A. Yes.

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