

GERALD DAWES - REBUTTAL/UPDATE

Electric

1 Q. Please state your name and business address?

2 A. My name is Gerald Dawes and my business address is 4
3 Irving Place, New York, New York.

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

5 A. I am employed by Consolidated Edison Company of New
6 York, Inc. ("Con Edison") and currently hold the
7 position of Director, Government Liaison for the
8 Construction Department.

9 Q. Please describe your educational background.

10 A. I graduated from Polytechnic University in Brooklyn,
11 with Bachelor's and Master's Degrees in Electrical
12 Engineering. Since joining Con Edison in 1984, I have
13 also completed various certificate programs such as
14 the General Electric Power System Engineering course,
15 the Power Technologies Inc. ("PTI") course in Electric
16 Power System Engineering, the Duke University Program
17 for Manager Development, and the Gas Technology
18 Institute ("GTI") Registered Gas Distribution
19 Professional Program.

20 Q. Please discuss your professional background.

21 A. I began working for Con Edison as a management intern
22 in 1984 with rotating assignments in different areas:

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1 Engineering, Electric Operations, System Operation and
2 the Electric Planning Department. After that, I
3 assumed positions of increasing responsibility in the
4 following departments of the Company: Planning, where
5 I developed plans for the system-wide upgrade of the
6 electric transmission and distribution system;
7 Electric Operations, where I managed projects related
8 to the upgrade of the electric distribution system in
9 Manhattan; Energy Services, where I served as an
10 Account Executive for some of the largest revenue
11 producing customers; Customer Operations, where I
12 managed the meter reading and turn-on/off of electric
13 and gas customers in lower Manhattan; Distribution
14 Engineering, where I managed the Electric Distribution
15 Transformer Shop; Corporate Environment, Health and
16 Safety ("EH&S"), where I managed the Manufactured Gas
17 Plant ("MGP") program; and Gas Operations, where I
18 managed the operation of the gas distribution system
19 in Queens. Thereafter, I served as Con Edison's
20 executive on-loan with the American Gas Association
21 (AGA) in Washington, D.C. In June of this year, I

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1 became Director of the newly-created Government

2 Liaison Group.

3 Q. Please describe your current responsibilities.

4 A. As Director of the Government Liaison Group, I am

5 responsible for managing and improving Con Edison's

6 relationship with the New York City Department of

7 Transportation ("DOT").

8 Q. What is the purpose of this rebuttal testimony?

9 A. I am responding to the testimony of the Staff

10 Accounting Panel ("the Panel"). I address the

11 Company's response to this issue, the results thus far

12 to the Company's actions, and the basis for the

13 Company's position that recovery of these costs is

14 reasonably borne by our customers. In doing so, I

15 note that our lengthy answer to Staff's question on

16 these issues has already been made a part of this

17 record.

18 Q. What is the Staff Accounting Panel's position

19 regarding NOVs?

20 A. The Panel observes that NOVs and tickets may possibly

21 be unfair, to Con Edison, and ultimately, our

22 customers.

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1 Q. Does Staff propose any adjustment with regard to NOVs?

2 A. No, the Panel does not.

3 Q. Please begin by defining NOV.

4 A. NOVs are simply Notices of Violation issued by the
5 New York City Department of Transportation ("DOT") and
6 the New York City Police Department's Traffic
7 Intelligence Unit ("TIU") for alleged failures to
8 comply with the DOT's Highway Rules and New York
9 City's Administrative Law Code.

10 Q. Can you offer a preliminary comment on the situation
11 the Company faces with regard to NOVs?

12 A. Yes. The Company shares Staff's concern for the
13 recent increase in issuances of NOVs to the Company
14 and believes that the current levels are unacceptable.
15 I will explain below the specific actions the Company
16 has taken to reverse this trend and associated costs.

17 Q. Will the Company be able to eliminate receipt of NOVs?

18 A. No. The Company has demonstrated its commitment to
19 reducing the escalation of NOVs and has seen success
20 in this effort. We expect that success to continue.
21 However, no matter how aggressively we work to reduce
22 NOVs and no matter how cooperatively we work with the

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1 City, there will always be a degree of tension between
2 the City's mission to keep traffic flowing on its
3 streets and the Company's mission to provide safe and
4 adequate utility service, which requires regular work
5 on City streets, to its customers. There are reasons
6 for the recent escalation, which we are committed to
7 and have been addressing, but the fact remains that a
8 certain level of NOV's are a consequence for a utility
9 doing business in New York City. I would note that
10 Staff specifically acknowledges that "Con Edison
11 performs a critical mission within the City to keep
12 utility services functioning properly. Properly
13 functioning utility equipment is important from both a
14 safety and efficiency standpoint to the citizens of
15 New York City."

16 Q. Do you have a further comment on the level of NOV's?

17 A. It is important to note that incurring some level of
18 NOV's is outside of our control. For example, NOV's
19 incurred related to emergency permit/authorization
20 number violations for work on our electric
21 distribution system. This type of NOV has been driven
22 by a different view of what constitutes an emergency

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1 between Con Edison and the DOT. The DOT's definition
2 of an emergency condition is related to loss of
3 service, fire, smoky condition or explosion. Con
4 Edison's definition is that although no customers may
5 be out of service, there is infrastructure work, such
6 as load relief work described by the Company's IIP,
7 which needs to be done to assure continued service to
8 an area. Abiding by the DOT's interpretation could
9 result in safety or reliability concerns.

10 Q. Returning to the NOV's generally, can you describe the
11 Company's efforts to address this issue?

12 A. Yes. Our NOV reduction initiatives have been
13 implemented over time with recent intensified actions.
14 We have focused on these areas: increased
15 communication with the DOT, increased emphasis on work
16 planning and coordination, and targeted initiatives
17 based on analysis of the NOV data.

18 Q. Please describe these efforts.

19 A. In June 2009, the Company formed the Government Liaison
20 Section within the Construction organization and
21 encompassing the Permits and the Compliance groups to

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1 manage the Company's relationship with the DOT and
2 improve the Company's performance related to NOVs.
3 Among other activities discussed below, this Section
4 coordinates meetings between local DOT borough
5 managers/coordinators and Company. These meetings
6 have proven successful in addressing some of the
7 issues the DOT has identified with Con Edison's street
8 work.

9 Q. Please describe your efforts with Company personnel.

10 A. In addition to the continuation of awareness
11 communication meetings in various Company
12 organizations, we have developed e-learning modules
13 aimed at educating operating area field forces and
14 administrative staffs.

15 Q. Please continue.

16 A. The Company has developed an electronic application
17 processes to secure embargo/emergency permits as well
18 as an electronic application to receive confirmation
19 numbers prior to commencing backfills on protected
20 streets on a real-time basis. The Company has also
21 centralized of the paving and repair of hardware
22 related Corrective Action Requests (CARs) within the

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1 Construction organization to improve response because
2 the failure to address CARs can lead to NOVs.

3 Q. Has the Company taken any other actions?

4 A. Yes. The Construction organization now has the
5 designated responsibility to manage these issues, such
6 as situations where either the area or hardware (like
7 a manhole or service box) is not flush with
8 surrounding roadway. In fact, to address this issue,
9 we have brought dedicated contractors on board.
10 Further, by centralizing this work, we provide
11 management reports that include an overall
12 NOV performance summary as well as customized
13 summaries for each operating area so that
14 organizations can react to address areas of concern.

15 Q. Are there other steps the Company has taken to reduce
16 NOVs?

17 A. Because, as I discuss below, emergency
18 permit/authorization number violations represent the
19 largest driver of NOVs for the Company, particularly
20 in Manhattan, we recently completed field surveys of
21 all electric structures in an area of Manhattan south
22 of Canal Street to determine those locations where

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1 work could be performed without impeding traffic flow
2 and the need to request an emergency
3 permit/authorization number from the DOT. The DOT is
4 receptive to this concept. We are also working with
5 DOT representatives to improve the process by which
6 the Company plans and implements street work projects
7 in an effort to receive more favorable stipulations
8 from the DOT, which should reduce stipulation
9 violations. We expect our continuing work with the
10 City will result in further specific mitigation
11 actions to reduce NOV infractions.

12 Q. Does the Company challenge any of the NOVs it
13 receives?

14 A. Yes. We have a comprehensive program described in DPS
15 373 which I will not repeat here.

16 Q. Have you seen any results from these efforts?

17 A. Yes. Based on the most recent data we have that is
18 available (August 2009 NOV Report), the number of NOVs
19 received during August 2009 Year-to-date
20 (9,688) versus August 2008 Year-to-date (11,927)
21 represents a 19 percent reduction. We expect our
22 efforts to continue to show results.

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1 Q. Can you summarize what you have learned in addressing
2 these NOV's?

3 A. Understanding the nature of the problem has been
4 fundamental to our ability to solve it. The NOV data
5 reveals these violation categories where I have
6 principally seen an increase in infractions issued by
7 the DOT: emergency permit/authorization number
8 violations, areas/hardware not flush with surrounding
9 roadways and use of stipulations.

10 Q. Please explain the nature of these violations.

11 A. Emergency permit/authorization number violations are
12 the result of DOT having a more strict definition of
13 emergency work than Con Edison. Con Edison issues an
14 emergency ticket when infrastructure work is
15 necessary; the DOT receives a notification and then
16 inspects the work. If the nature of the work does not
17 meet the DOT's definition of an emergency, a ticket is
18 issued to the company. Areas/Hardware not flush with
19 surrounding roadway occurs when heavy traffic flow or
20 heavy construction activity causes the roadway surface
21 or the structures located in the roadway to become
22 depressed. Use of stipulations occurs because in

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1 order to do work in the streets of New York City, Con
2 Edison is required to obtain a permit from the DOT.
3 The permit will provide stipulations for the work to
4 be performed, which include, for example, hours to be
5 worked, restrictions on lane occupancy and embargo
6 areas during holiday periods. If a DOT or a TIU agent
7 reviews the permit stipulations and determines that
8 Con Edison's crews are not abiding by the
9 requirements, an NOV is issued.

10 Q. Do you believe that the Company's NOV costs are a
11 reasonable and necessary expense incurred by the
12 Company in connection with its provision of service?

13 A. Yes. As I explain, a reasonable level of NOVs is
14 unavoidable despite the fact that Con Edison takes all
15 necessary and reasonable steps to reduce these NOVs in
16 the day-to-day challenging environment of doing work
17 in the streets of NYC, during a period of increased
18 enforcement by the DOT and TIU.

19 Q. Please comment on the increase in NOVs over the years.

20 A. There are several drivers behind the increase. First,
21 the DOT has very restrictive requirements for when Con
22 Edison can access its structures located in the

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1 streets and when Con Edison can excavate in the
2 streets, particularly in Manhattan. In many instances,
3 Con Edison crews or their contractors can only work on
4 weekends or have timeframes within which to perform
5 work at night. At the same time, the City revised its
6 noise code, making it more difficult to do work at
7 night when there is less traffic. Second, Con
8 Edison's workload in the streets has increased over
9 the past several years. This is true for our capital
10 work and inspection programs for electric, gas and
11 steam. Third, the City's DOT has instituted new
12 initiatives intended to reduce congestion on the
13 streets and to designate more dedicated lanes for bus
14 and bike lanes. This has placed greater focus on
15 maintaining traffic flow. Fourth, in part due to the
16 reasons mentioned above, the DOT and TIU have
17 increased enforcement. As we have shown, we are
18 working hard to reduce NOV's but in order to provide
19 our customers with reliable utility service, the
20 Company must continue to perform a considerable amount
21 of work in the City streets.

22 Q. Please continue.

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1 A. As described above, a continuing point of
2 misunderstanding between the City and the Company is
3 what constitutes an emergency. For the DOT, there
4 must be the imminent interruption of service and/or
5 danger to public safety. There must also be proof
6 that there was never any planned work to be done at
7 the site and the crew was there solely because of an
8 emergency condition (e.g., loss of service, fire or
9 smoky condition or explosion). Con Edison's
10 definition is that although no one may be out of
11 service because power is still supplied through a grid
12 pattern of feeders, there is still the ever
13 possibility of a customer losing electric service if
14 conditions are not addressed. The understanding of
15 the meaning of emergency is a principal reason why the
16 number of D1H (doing non-emergency work in a structure
17 on a critical street during restricted hours with an
18 emergency permit/authorization number) and D6D (doing
19 non-emergency work with an emergency permit)
20 violations has steadily increased. This difference
21 also demonstrates why NOV's for this sort of violation
22 are a necessary business expense. The Company incurs

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1 these NOVs because of its fundamental responsibility
2 to reliably deliver electricity to its customers.

3 Q. With respect to red light and parking ticket
4 violations, how does the Company address the issue of
5 individual employees?

6 A. The Company seeks to identify employees responsible
7 for red light violations and recovers the majority of
8 these fines from employees. The Company is also
9 generally successful in recovering fines for those
10 parking violations that could have reasonable been
11 avoided. Therefore, our request is for a net amount.
12 We have also enhanced our outreach to the operating
13 groups in the Company on parking ticket payments in an
14 effort to ensure that documentation is received for
15 appropriate dismissals, when conditions make the
16 receipt of these tickets unavoidable. This enhanced
17 oversight has the additional benefit of maximizing the
18 payment by employees for tickets that truly are
19 avoidable. To clarify points made in our response to
20 DPS 373, it is important to note that while the number
21 of tickets issued doubled from 2007 to 2008, the

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1 number of tickets dismissed almost tripled over the
2 same period.

3 Q. Does this conclude your rebuttal testimony?

4 A. Yes, it does.