NEW YORK STATE
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company New York, Inc. for Electric Service	Case 08-E-0539

DIRECT TESTIMONY AND EXHIBIT OF

HELMUTH W. SCHULTZ, III, CPA

ON BEHALF OF THE

NYS CONSUMER PROTECTION BOARD

Dated: September 8, 2008
Albany, New York

MINDY A. BOCKSTEIN
NYS CONSUMER PROTECTION BOARD
5 EMPIRE STATE PLAZA
SUITE 2101
ALBANY, NEW YORK 12223-1556
http://www.nysconsumer.gov

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INTRODUCTION

Q. What is your name, occupation and business address?

A. My name is Helmuth W. Schultz, III, I am a Certified Public Accountant licensed in the State of Michigan and a senior regulatory analyst in the firm Larkin & Associates, PLLC, Certified Public Accountants, with offices at 15728 Farmington Road, Livonia, Michigan 48154.

Q. Please describe the firm Larkin & Associates, PLLC.

A. Larkin & Associates, PLLC, is a Certified Public Accounting and Regulatory Consulting Firm. The firm performs independent regulatory consulting primarily for public service/utility commission staffs and consumer interest groups (public counsels, public advocates, consumer counsels, attorneys general, etc.). Larkin & Associates, PLLC has extensive experience in the utility regulatory field as expert witnesses in over 600 regulatory proceedings, including numerous electric, water and wastewater, gas and telephone utility cases.

Q. Have you previously filed testimony with the New York State Public Service Commission ("PSC" or "Commission")?

A. Yes. I submitted testimony in 2007 in Case 06-G-1332, regarding Consolidated Edison Company of New York, Inc.'s ("Con Edison" or "Company") natural gas operations and in Case 07-E-0523, regarding Con Edison's electric operations.

Q. Have you prepared attachments describing your qualifications and experience?

A. Yes. I have included Attachment I, which is a summary of my regulatory experience and qualifications.

Q. What is the subject of your testimony?

A. My testimony relates to selected operations and maintenance expenses in Con Edison's 2008 rate filing for its electric operations.

Q. Do you have any exhibits supporting your testimony?

A. Yes. I have Exhibit___(LA-1), containing Schedules 1 through 12. Schedule 1 presents the impact on revenue requirement resulting from each of the adjustments I am recommending in this testimony. Schedules 2-12 support several of my proposed adjustments to the Company's filing. Exhibit___(LA-2), Schedule 1 consists of a list of all information responses that were referenced in this testimony and the corresponding page number of my testimony. Exhibit___(LA-2), Schedule 2 consists of the actual responses to those information requests.

Q. On whose behalf are you testifying?

A. Larkin & Associates, PLLC was retained by the New York State Consumer Protection Board ("CPB").

GENERAL OVERVIEW

Q. Do you have any general observations regarding the Company's filing?

A. The Company's filing reflects significant increases in proposed spending for numerous operations and maintenance programs. In several respects, the filing is better organized and, along with the responses to information requests, contains more supporting information than in Case 07-E-0523. However, in many instances, the Company's filing and some of the responses to discovery, provided limited information and inadequate supporting documentation for the requested expenses in the rate year.

Q. What did you mean when you said that the filing provided limited information?

A. This is best illustrated by the presentation of the Infrastructure Investment Panel. This submission, despite 284 pages of testimony and 28 exhibits, lacked sufficient detail for the reader or the Commission to readily identify how the requested funding was determined. As shown on CPB Exhibit__(LA-1), Schedule 12, that Panel is requesting an increase of $82.6 million over the test year O&M expense of $80.7 million, for a total request of $163.3 million for the comparable programs identified in Company Exhibit__(IIP-3), Exhibit__(IIP-5) and Exhibit__(IIP-7) . A 100% increase is significant and any change requested should be adequately supported with readily available documentation.

The least detailed portion of the Company's filing is the work papers. It is expected that the work papers would provide a significant amount of detail in support of the information being summarized in the testimony and exhibits. In reviewing the work papers for the three exhibits identified above, the only added detail was a breakout of labor dollars and other dollars for the test year and the rate year. However, numbers on a piece of paper are not supporting documentation.

Even with the information in the testimony, exhibits and the work papers, it was not possible to readily determine how the rate year costs were derived by the Company. For example, the Company in Exhibit__(IIP-3), requested that SSO Staffing – New Facilities be increased from $315,000 in 2007 to $5,212,000 in the rate year. Exhibit__(IIP-10) and the work papers together indicated that the new cost would reflect an increase of 37 employees at a labor cost of $4,372,000 ($118,162 per employee) and that the costs for operating supplies and expenses at the facilities would be $600,000 ($150,000 per facility). There is no explanation or calculation showing how the $118,162 per employee was determined and/or how the $150,000 of expense per facility was determined. The absence of any detailed explanation raises substantial questions about the reasonableness of these unsupported assumptions. The concern is particularly apparent since a total non-labor cost of $600,000 for each of the six new facilities, should have resulted in non-labor expense per facilities of $100,000.

Q. What did you mean when you said that some of the discovery responses provided limited information?

A. In several instances, the Company was requested to provide specific information and instead provided non-responsive answers. For example, CPB IR 49 specifically requested the number of employees in the test year, the number of employees reflected in the program changes and the number of employees in the rate year included in the health care costs shown on Exhibit__(HJR-1), Page 1. The response indicated that the number of participants for the rate year was based on the February 2008 employee participant level of 13,377. The number for the test year was not provided. Instead the response referred to the Company response to CPB IR 55. The response to CPR IR 55 did provide the employee complement for the test year but that is not the same as the number of employee participants in the health care program. Not all employees participate in the plan.

Q. Did you ask for additional information to explain how various costs and/or quantities may have been determined?

A. Yes. Some requests were made, but even with the high number of information requests made in this case by the CPB, Staff of the Department of Public Service ("DPS Staff") and other parties, there are still a great number of assumptions that are not supported by the Company filing or information responses.

Q. Could you explain your statement that Con Edison failed to supply supporting documentation?

A. Supporting documentation to an analyst, is a document that can substantiate a claim and/or an expense. The Company's filing and the responses to discovery often include a number of calculations using a specific cost but there is a lack of supporting documentation within the filing that details how that cost was developed. There is a difference between supporting documentation (i.e., invoices, quotes, studies, etc.) and numbers on a piece of paper and/or a calculation. A calculation in many cases is helpful but does not constitute supporting documentation. A prime example is CPB IR 101, which requested supporting documentation for the insurance cost estimates made by the Company. The response includes the previously provided insurance budget, but the Company did not provide any supporting and objective documentation such as letters from its insurance agent or any premium notices.

Q. Should Con Edison supply supporting documentation when requested?

A. Yes. While in some cases, supporting documentation was provided as requested, in others it was not. The fact that some respondents supplied the requested information or at least offered to make it available made it obvious to us that there is no confusion as to what constitutes "supporting documents." Documentation should be provided when requested by parties, not subsequently through follow-up requests or motions to compel.

CPB Counsel advises me that since the Company is requesting an increase in rates, it has the burden of proof. Failure to supply supporting documentation means the Company failed to meet the burden of proof as required. It should not be the responsibility of the CPB or other parties to have to repeatedly request supporting documents or request the Commission to order the Company to supply the documents because that in essence shifts the burden of proof and delays the process. I note that in the State of Vermont, if a Company fails to provide the requested information when first asked, the Company is precluded from entering the information into the record thereafter.

Q. Have you requested specific information to be supplied more than once?

A. Yes. To test the Company's position, I asked twice for supporting documentation for manhole inspections, first in CPB IR 88 and then in CPB IR 102. No supporting documentation was provided in response to CPB IR 88. The Company's response to CPB IR 102 was "Refer to response to CPB-11- 88 part b." Therefore, the Company did not comply with my request for supporting information.

As detailed in my testimony later, on a case-by-case basis, where information necessary to support the Company's request was not provided, I often made adjustments to Con Edison's proposal to reflect that fact.

LABOR

Q. Are there concerns with the labor (payroll) expense reflected in the Company's request?

A. Yes. The initial filing reflected $570,410,000 of what has been identified as "Company Labor" projected for the rate year. That reflects a net increase of 18.5%, or $89,113,000 over the test year payroll expense of $481,297,000. There is a concern with the Company's proposed normalization adjustment, the amount of payroll added for program changes, the escalation of payroll, the compensatory pay, test year overtime and the variable pay.

Q. Why did you state the Company "identified" the payroll expense request as "Company Labor"?

A. The Company has included contract labor dollars in the program changes requested on the line identified as "Company Labor." Contract labor is not actually Company labor.

Q. How did the Company determine its forecast of labor expense?

A. The Company began with the test year electric operations labor expense of $481,297,000. Then, the test year amount was increased to reflect the impact of a normalization of $7,307,000, representing the cost of approximately 79 employees added during the year or expected to be added subsequently, as well as a reclassification to operations expense, of costs that were charged to capital in the test year. Next, a program change adjustment of $40,631,000 is proposed for 429 additional employees, along with an increase in the cost of existing work crews, an increase in overtime, a reclassification of payroll previously treated as capital that is now being charged to operations expense, and payments made for contract workers. The labor request was then increased another $41,175,000 for pay raises net of the Company's calculated productivity savings.

The Company has made separate labor adjustments for the savings associated with the Automated Meter Reading/Advanced Meter Initiative ("AMR/AMI") Program that is a reduction to the Company's additions described above. The Company has also filed an update that increases its labor request by another $5,032,000. Overall, the net update request is not considered reasonable because the labor included in the filing is considered excessive.

<u>Normalization Adjustments</u>

Q. What are your concerns with the normalization adjustments?

A. The normalization adjustments include an increase to test year labor for positions filled during the year, for which a full year of compensation is purportedly not reflected in the test year. It also represents compensation for positions that are vacant as of the end of the test year. Finally, the adjustment shifts $1,748,000 of labor that was capital labor in the test year to O&M expense in the rate year because the Company claims maintenance in 2007 was essentially curtailed to shift labor dollars to high priority capital projects. These adjustments have not been sufficiently justified by the Company and are not considered to be appropriate.

Q. Why did you state that the Company has not sufficiently justified the normalization adjustment?

A. The Company's testimony on this issue is limited and in some cases questionable. In addition, the related exhibits provide a very broad generalization and the workpapers only show numbers without any real detail and/or justification. The testimony states, without any detail, that the normalization dollars are for vacant positions, positions that were filled during the test year, positions that were filled subsequent to the test year and for a shifting of labor that was capitalized in the test year to O&M in the rate year. The workpapers, in some cases, only show a description and a dollar amount, and in other cases there is a summary of the jobs that need to be filled with the associated dollar requirement.

Q. Why is the adjustment not considered to be appropriate?

A. First, the Company fails to reflect the fact that in the test year, vacancies occurred and an adjustment wasn't made to remove the labor dollars for employees that left during the test year that were not replaced. Next, the Company assumes that all the normalized positions will in fact be filled for an entire year. I reviewed the responses to CPB IR 58, CPB IR 59, CPB IR 66 and DPS IR 45Rev, to determine whether the Company's assumption had any merit. That analysis concluded that the Company had not demonstrated that a number of positions had been filled or were even listed as vacant as of June 30, 2008. Furthermore, CPB IR 61 requested supporting documentation for the calculated adjustment but the response did not provide the requested detail. For example, the Company failed to provide support for the annual salary for any of the various positions listed in the calculation and there was no detail available to verify the period of time that was being normalized. The problem with the normalization as it was determined is compounded further by the labor escalation adjustment which in effect duplicates the normalization.

Q. Why is it necessary to know whether a position was filled or not?

A. If the position is not filled, the Company should not be able to include compensation in rates for the unfilled position. In an attempt to verify the hiring of the positions being normalized, I reviewed listings of the hires and transfers, provided in response to CPB IR 58 and 59, for 2007 and through June 2008. A number of the positions could not be verified. For example, the Accounting Panel testimony stated that for Finance, two Senior Tax Accountant positions were filled in January 2008, and that a Vice President, a Director and an Analyst were hired after the historic test year 2007. Two tax accountants were hired (in March and May), as well as an analyst, but the list of new hires provided by the Company did not include a Vice President or Director. A Vice President was located in the list of employee transfers, but that illustrates another problem because that individual would have compensation in the rate year in two different positions. This type of problem was common among the various departments being normalized.

The Company's response to CPB IR 130 (DPS IR 45REV) included a list of positions requested and allowed in Case 07-E-0523. It was noted that a large number of the positions were not filled as of July 2008, despite the fact that funding for those positions was included in rates that went into effect on April 1, 2008.

Q. Do you have a concern with the Company's attempt to reclassify test year labor from capital to O&M expense?

A. Yes. The Company's presentation changes the labor classification in the amount of $1.748 million, consisting of a calculation based on positions totaling $848,000 plus another $900,000 labeled as "Non-recurring shift of work from capital to O&M." Although supporting detail was requested in CPB IR 61, it was not provided. Con Edison has attempted to justify this shift in labor from capital to expense by cherry-picking a few programs, despite the fact that the Company's requested increase in rates is driven, in part, by its proposed increase in capital work. Overall, the Company's proposed adjustment is not adequately supported and is not appropriate because it attempts to reclassify some capital project costs on a piecemeal basis. This selective reclassification of costs could be viewed as an attempt by the Company to change the capitalization rate without identifying it as a proposed change in the filing.

Q. How is the normalization adjustment duplicated by the labor escalation adjustment?

A. The normalization adjustment reflects a full year of compensation for employees added during the test year and after the test year. However, the adjustment does not remove compensation in the test year for employees who left before the test year ended. The escalation adjustment duplicates the normalization adjustment by using end-of-year employee counts.

As shown on Con Edison's Exhibit__(AP-5), Schedule 2, Page 1, the Company calculates the effective escalation rate based on December 31, 2007 compensation, which reflects the compensation of the average number of employees during 2007. The projected March 31, 2010, payroll in the calculation uses the end-of-year employee counts. Because the number of employees increases throughout the year, the number of employees used in the escalation calculation is greater than the average for the test year. This effectively factors in a normalization of employees into the escalation factor (i.e. the use of a higher number of employees inflates the rate year dollars and that in turn increase the percentage change in compensation). Therefore, the escalation factor is double counting the Company normalization adjustment. On CPB Exhibit__(LA-1), Schedule 3, I have recalculated the escalation factor to determine the approximate impact on expenses from including a normalizing factor in the escalation factor, leaving everything else the same. Using the approximate electric O&M expense in relation to Total Company Payroll, the Company's use of the year-end employee levels overstates electric operations expense by approximately $5.3 million.

Q. Are you recommending an adjustment to the labor normalization?

A. Yes. First there is no justification and/or support for the reclassification of the $1.748 million from capital to O&M. I also recommend that $5.3 million of the remaining $5.559 million of the normalization be disallowed to avoid a duplication of the impact of the escalation adjustment. Overall, I recommend that the Company's labor normalization be reduced by $7.048 million.

<u>Program Change</u>

Q. Would you explain your concerns with the Company's proposed program change adjustment?

A. Yes. The Company has requested the addition of approximately 429 positions to accommodate its proposed changes in operations. The proposed program changes would affect 16 different organizational groups.

There is a concern whether the increase in employees is justified. In addition, there are concerns regarding the Company's proposals to increase payroll expense for additional work for existing crews, increase overtime, reclassify costs not previously expensed, and improperly classify payments to contractors as "Company Labor."

Q. What do you mean the Company increased payroll for additional work for existing crews?

A. The response to CPB IR 66 (DPS IR 165) provided a detailed listing of the components of the labor program change adjustment of $40,631,000. Included in this listing are three lines totaling $2,970,000 which indicate that the additional dollars are for work "by existing crews". The Company testimony regarding the adjustment, referenced in the response, provides no explanation as to why additional dollars are included in the program change adjustment. In fact, some of the pages referenced discuss capital projects. The Company does not classify the additional dollars for existing crews as overtime or as capital dollars being reclassified. Overall, the adjustment for additional dollars is not supported and therefore, the $2,970,000 should be disallowed.

Q. Please explain your concerns regarding the overtime dollars included in the program change adjustment?

A. The Company has increased its test year overtime for electric operations by $2,345,000 before applying the escalation factor. This proposal has two components, neither of which is adequately supported. First, the Company has only provided a reference to testimony for $1,158,000 of the requested extra overtime in the Company response to CPB IR 66. However, the pages referenced make no mention of the fact that the Company is increasing overtime to perform the program changes identified. The other $1,187,000 requested, has "N/A" as a reference to testimony, so there is no testimony justifying this change.

The next concern with this request is that the Company, according to the response to CPB IR 67, cannot provide any information regarding the level of overtime in any year for electric operations. That concern is compounded by the fact that overtime for the whole Company in the 2007 test year is higher than the 2006 overtime, which in turn was significantly greater than in 2005 due to storm-related work.

The final concern is that overtime has consistently increased despite a continued increase in the number of employees. At some point in time, the Company has to stop increasing employees and/or stop increasing overtime. There has to be some efficiency gains from one or the other.

Overall, the proposed increase in overtime is not supported by testimony and is therefore not justified given the significant increase in employees requested. Accordingly, an adjustment of $2,345,000 should be made to remove this unsupported change.

Q. Is your concern about the reclassification of payroll from capital to O&M expense for program changes the same as the concern you previously articulated regarding the reclassification of dollars in the normalization adjustment?

A. Yes. The response to CPB IR 66 states that $955,000 of payroll dollars is being reclassified to O&M expense. Once again, the referenced testimony discusses the program in general and does not mention that the dollars reflected are being reclassified to O&M from "capital" or "other." The response describes the reclassification as additional cost for emergency personnel to address the anticipated increase in stray voltage work ($490,000), a change in accounting allocation ($190,000) and a change from capital expense program ($271,000). Given the increase in capital work and the Company's failure to specifically address the reason for this proposal, there is no justification for reclassifying the dollars from capital to expense. Accordingly, the program change adjustment should be reduced by $955,000.

Q. Did the Company's program change adjustment include contract labor in the "Company Labor" category for the rate year?

A. Yes. The response to CPB IR 66 specifically identifies $3,446,000 of contract labor as part of the $40,631,000 program change adjustment to "Company Labor." However, the testimony referenced does not mention the use of contractors to perform the work requested. Contract Labor is a separate cost and has separate adjustments as shown on line 19 of Company Exhibit__(AP -5), Schedule 1, Page 3. If the cost for contract labor was justified by the Company, which I believe it was not, then the request should have been shown under the heading of "contract labor" on line 19. The Company failed to properly identify the requested $3,446,000 in testimony or its work papers, and its exhibits provide only a reference to contractors performing some inspections. Therefore, the program change adjustment to "Company Labor" should be reduced by $3,446,000 to remove the unsupported contract labor dollars.

Q. Does the Company's testimony provide sufficient information about the 429 added positions?

A. No. The Company's testimony generally describes a number of positions, the various exhibits provide some additional information, and discovery responses provide further detail. In its testimony and discovery responses, the Company refers to the PSC's decision in Case 07-E-0523 for justification of employee additions. The problem is that while the Commission's decision authorized additional positions either specifically or in general, there is no evidence in this case that the Company is actually hiring the positions it contends were authorized in the PSC's Order. Between December 2006, which is the end of the test year in Case 07-E-0523, and December 2007, the end of the current test year, the Company added a net of 379 positions. Based on the response to CPB IR 66, Con Edison is requesting compensation for 429 positions in addition to approximately 45 normalized positions that were purportedly hired after the end of 2007. That means the Company is proposing to add approximately 853 positions since December 2006. Since a significant portion of the information included in this filing is a carryover from the last case and a number of the positions requested were purportedly approved in the last case, I question how the number of additional positions authorized in Case 07-E-0523 does not encompass a significant portion of the 379 positions added during 2007.

Q. Why is it a problem if the Company hires positions that were not requested and/or allowed in a previous case?

A. If the Company has authorization to fill specific positions and instead fills other positions, ratepayers will pay for positions that were not authorized and/or whose necessity was not evaluated. In addition, ratepayers will continue to pay for positions that are supposed to be filled but have not yet been filled.

Q. Could you provide an example of where you have a concern regarding the carryover of labor dollars for program changes for employee additions?

A. Yes. In Case 07-E-0523, the Customer Operations Panel requested 36 Customer Service Representatives ("CSRs"). The PSC's Order allowed 18 CSRs. The Company's Customer Operations Panel in this case is requesting an additional 24 CSRs. Based on the response to CPB IRs 58 and 59, the Company in 2007 hired 112 CSRs and through June of 2008, the Company hired another 68 CSRs. The significant number of CSRs hired raises a concern as to whether the Company is supplementing its allowed positions with other positions. Although I do not believe that all of the CSRs hired are still employed, the net increase in the number of CSRs cannot be determined because the Company stated in its response to CPB IRs 58 and 59, that it cannot provide vacancy information.

Another example concerns Customer Field Representatives ("CFRs"). The Company requested, and was allowed, 15 CFRs in Case 07-E-0523. In this case, the Company is requesting a program change for the same 15 CFRs as well as normalization of 27 who were on the payroll for a portion of 2007. Yet in 2007, the Company hired 174 CFRs and through June of 2008, it had hired an additional 67 CFRs. Con Edison admittedly has hired in excess of the 15 authorized positions by normalizing 27 positions and has still requested the same 15 positions again in this case. The Company also seeks funding for whatever added compensation is included for the net remaining CFRs from the 174 who were hired during 2007. Arguably, there should be a reduction to 2007 labor expense for the CFRs who left during 2007.

Additionally, the response to CPB IR 130 (DPS IR 45REV), lists numerous positions allowed in rates effective April 1, 2008, that had not been filled as of July 2008. It is not appropriate for ratepayers to pay for employees that do not exist because the Company employee projections are overly optimistic.

Q. What is the total reduction for labor for program changes that you are recommending?

A. The Company has requested an increase of $40.631 million for program changes. I previously recommended a $9.716 million reduction to the Company's proposal for program changes, and will recommend an additional $14.549 million reduction to other program changes for payroll-related expenses later on in my testimony. My recommendation would allow an increase of $16.366 million for program changes, which is still significant and considered reasonable, particularly when the escalation adjustment is considered.

<u>Labor Escalation</u>

Q. What is your concern with the labor escalation adjustment made by the Company?

A. Con Edison applies the escalation rate to all payroll expense, as if there is no variability to the different components of compensation. In fact, however, overtime fluctuates from year to year as does variable pay. It is not appropriate to assume the historical compensation for various components of compensation will increase at the same percentage as base pay. In addition, the Company calculation of the escalation rate used a different year end employee count than what was identified in the responses to CPB IR 54 and 55. As discussed previously, the employee count used is also based on year-end levels instead of the average for the year and incorporating variable pay in the escalation calculation overstates the escalation adjustment.

Q. What is the difference in the employee count that you found?

A. The responses to CPB IR 55 and DPS IR 431 show the December employee count for weekly and management employees to be 9,109 and 4,675, respectively. The Company in its calculation on Exhibit__(AP-5), Schedule 2, Page 2, reflected a weekly and management count of 9,127 and 4,670, respectively. Under the assumption that that everything else was acceptable, which I do not support, this variance in the employee count alone would overstate labor expense in the rate year by $610,000.

Q. How does the inclusion of variable pay in the escalation calculation overstate the escalation rate?

A. The variable pay reflected in the Company's calculation, net of productivity, is $29.1 million (DPS IR 505), representing an increase of approximately 55% over the level in the test year of $18.759 million (DPS IR 421). Reflecting the impact of an increase of 55% as the Company has done on Exhibit__(AP-5), Schedule 2, Page 1, significantly impacts the labor escalation rate. On CPB Exhibit__(LA-1), Schedule 4, I have recalculated the escalation rate, again under the assumption that everything else was not adjusted. The result as seen on Schedule 4, is a .75% difference. If this were the only change to the Company's request, it would reduce the Company's request by $3.967 million.

Q. What adjustment are you recommending?

A. The Company's escalation adjustment should be reduced $3.967 to properly reflect the productivity savings when calculated without the variable pay component. This properly and effectively reduces the Company escalation/normalization rate including productivity, from 7.78% to 7.03%.

Compensatory Time

Q. Why is compensatory time a concern?

A. Compensatory time is authorized overtime for non-union personnel including management. It includes emergency overtime but the Company cannot quantify the amount of emergency overtime incurred in each year.

In 2004, compensatory pay was $23.316 million; in the 2006 test year, it was $33.233 million and in 2007, it increased by 2.4% to $34.017 million. The 42.5% increase in the three-year period 2004 to 2006 is significant. In addition, the 2.4% increase from 2006 to 2007 is substantial with respect to the Company's use of a 7.78% escalation rate for this cost.

The Company did not adequately justify this large increase in Case 07-E-0523. In response to CPB IR 1(k) in that proceeding, it stated: "The Company does not maintain data identifying compensatory time for electric, gas or steam operations individually." If the Company cannot separate the overtime among its different operations, there is virtually no way for the Company, or the Commission, to assess whether the compensatory time is attributable to non-recurring events, whether it is reasonable and/or justified and what level should be paid by electric ratepayers.

Q. Did you raise this issue in Case 07-E-0523?

A. Yes. The Administrative Law Judge (ALJ) disagreed with my assertion noting that the Company stated that the increase in the number of employees will not impact overtime, that compensatory overtime will be required and new employees need to be up to speed. In addition, the ALJ indicated that I made my recommendation without knowing what steps the Company would take to analyze overtime. The Company's testimony references these statements by the ALJ, but does not address the fact that the Company attributed the increase in compensatory time in 2006 overtime to storms.

A proper analysis of overtime is not possible in the absence of data that identifies the extent to which overtime is attributable to each of the Company's operations. In response to CPB IR 67 in this proceeding, Con Edison again stated that the overtime and compensatory time for electric operations is not available. Since the Company cannot properly identify what overtime was incurred by what operation, it cannot adequately analyze that expense.

Q. Does a similar problem exist with union overtime?

A. Yes. In Case 07-E-0523, the response to CPB IR 1(aa) indicated that union overtime in 2004 was $92.181 million and $127.753 million in 2006, an increase of 38.6% over a two-year period. The response to CPB IR 67 in this proceeding shows that the 2007 overtime increased 1.6% since 2006. It is not appropriate to build into rates, an increase in overtime that has been attributed to storms, nor is it appropriate to escalate overtime at the Company's calculated escalation rate when the dollar impact of the increase in overtime in 2007 was less than the dollar impact of the increase in compensation. Such escalation is even less appropriate because the Company has increased the test year overtime as part of the Company's program changes.

As explained previously, the Company cannot specifically identify how much overtime is actually attributable to electric operations (See response to CPB IR 131), and therefore, has not met its burden of proof. If overtime is justified, it should be attributable to a specific cause and/or event. If that cause and/or event can be identified, the cost should be directly assigned to the operation that created the need for the overtime. Further, based on 2007 data, there is no justification for increasing overtime expense at the Company's proposed escalation rate.

Overtime is an expected cost of operations but the level of overtime should not be simply accepted as part of normal operations and should be subject to review and control. The Company's inability to separate overtime among the various operations means it is essentially unable to know the cause and effect of any event on the cost of operations. The Company's request for compensatory overtime and union overtime has not been substantiated with any evidence and therefore an adjustment is recommended.

Q. Did you inquire as to why the overtime increased?

A. Yes. The Company's response to CPB IR 122 stated that the increase from 2005 to 2006 was due to emergencies and weather. The explanations indicated that the test year overtime for stray voltage testing and repairs declined and no other detail was provided.

Q. Are you recommending an adjustment to projected compensatory time and overtime costs for the rate year?

A. Yes. Removing the 7.03% escalation applied to the $65.361 million of estimated electric operations compensatory time and overtime expense in the test year, reduces the Company's projected compensatory time and overtime costs by $4.595 million. The estimated electric operations compensatory time and overtime of $65.361 million is based on the 2007 total cost for compensatory time and overtime of $163.821 million (response to CPB IR 67), multiplied by the ratio of test year electric O&M expense of $481.297 million, to the total Company test year payroll of $1,206.333 million as shown on Company Exhibit__ (AP-5), Schedule 2, Page 1. The adjustment is necessary because overtime and compensatory time is not specifically identifiable to electric operations and the application of a variable amount is not supported by the record.

Q. Is another adjustment for electric operations compensatory time and overtime required?

A. A second adjustment may be justified but because the Company cannot identify the compensatory time and overtime associated with electric operations and neither the Company, interested parties nor the Commission are able to evaluate the reasonableness of the estimated $65.361 million of overtime included in the test year. This is an area requiring further research and investigation by the Commission to ensure that rates are just and reasonable.

Variable Pay

Q. What is your concern with the Company's proposal regarding variable pay?

A. The Company's filing includes the cost of its variable pay program despite the fact that the Commission specifically disallowed that cost in Case 07-E-0523. The Management Variable Pay program allows for payment of additional compensation to non-officer management employees on the presumption that it enhances corporate financial and operational results. The problem is that the Company has no real historical measurements and the most recent goals were not sufficient to justify ratepayer funding of incentive compensation.

Q. Why do you contend that the Company goals do not justify including the cost of incentive compensation in rates?

A. The Company requested a rate increase last year and is requesting an additional substantial increase this year. That suggests that the Company was unable to achieve goals including an improvement in performance. However, that is not reflected in the Company's payment of Variable Compensation, according to the response to CPB IR 47. Variable Compensation for Con Edison's electric operations was $8.083 million in 2006 and increased to $14.733 million in 2007. Apparently, the Company feels it achieved more than its target because its incentive compensation reward increased by 82%.

However, the goals that were set for 2006 and 2007 were not sufficient since the income target was well below the income required to meet the Company's allowed return on equity. In 2006, the Company achieved ten of twelve Key Indicators of its Performance Measures. In 2007, the target for nine of the ten Key Indicators remained the same and even though the tenth indicator target was increased, it was not raised above the level achieved in 2006. It is noteworthy that according to the response to CPB IR 37, before 2006, the Company did not use specific financial and operating objectives or goals for its variable pay program.

Another real concern is that some major performance benchmarks of interest to ratepayers are not incorporated in the incentive plan goals. Items such SAIDI, CAIDI and SAIFI are not reflected in the goals, nor are costs-per-customer. Incentive compensation is compensation that is paid for achievement of goals providing financial and operating benefits. To be even considered for partial inclusion in rates, the incentive compensation must have goals that require a true incentive for improvement and/or achievement on measures that benefit ratepayers.

Q. Are there other concerns with the Company's design of this program?

A. Yes. The first concern is that according to the response to CPB IR 1(h) in Case 07-E-0523, the program awards "management employees with at least satisfactory performance." According to CPB IR 54 and 55 there were an average of 4,622 management employees at the Company in 2007 and according to CPB IR 46 only 87, less than 2%, did not receive incentive compensation. That would mean that 98.1% of Company management performed satisfactorily and were eligible for variable (incentive) compensation.

However, base compensation for management employees should assume satisfactory performance. Variable pay, bonus pay, or incentive compensation should be only awarded for performance that is over and above the satisfactory performance that should be expected of an employee and that results in a benefit to shareholders and ratepayers alike.

Therefore, it would not be appropriate to include in the Company's compensation request for electric operations, $14,733,000 for its variable pay program and it is not appropriate to escalate that amount on the assumption that a similar payment will occur in the rate year.

Q. Is the information supplied by Company witness' McCullough sufficient to justify some incentive compensation in rates?

A. No. Mr. McCullough provided a very limited analysis of selective employee's compensation levels. His comparison of total compensation ignores the fact that total compensation in other jurisdictions may include incentive compensation, but the incentive compensation paid may be partially or completely excluded from rates (See the response to CPB IR 29). Also, in response to CPB IR 27Rev, Mr. McCullough indicated that the analysis did not take into consideration the other benefits provided to employees. In fact, the revised response added that the overwhelming majority of cash compensation analyses do not include an associated analysis of benefit plans. In my opinion, a proper comparison and determination of the reasonableness of employee compensation and/or the appropriateness of ratepayer funding of such compensation, must include consideration of the full spectrum of employee benefits. Talented managers can be attracted and retained by a strong benefit package including retirement plans and/or health care options, as well as through cash compensation.

Q. What adjustment are you recommending for variable pay?

A. According to the response to CPB IR 47, the test year includes actual payments under the variable pay program of $14,733,000. The payout was $18.759 million for Con Edison as a whole, including $14.733 million for electric operations. I recommend that the entire $14.733 million be disallowed because the Company has not provided sufficient justification for charging ratepayers this compensation and there is no clear evidence that provides any indication that ratepayers benefited from the goals underlying the program. I also recommend that the 7.03% adjusted escalation of the $14.733 million, or $1.076 million, be disallowed. The removal of variable pay requires removal of all escalation associated with variable pay.

Q. Please summarize your recommended adjustments to the Company's projection of payroll expense.

A. As shown on CBP Exhibit__(LA-1), Schedules 1 and 2, the Company's payroll request should be reduced $7.048 million for unjustified normalization costs, $24.265 million for unsupported program changes, unsupported escalation of $11.344, and $14.733 million for unsupported variable pay, for a total reduction of $57.390 million.

OTHER COMPENSATION EXPENSE

Q. What concerns have you identified with the Company's request regarding "Other compensation"?

A. "Other Compensation" expense of $6.021 million results from the allocation of $5.724 million of Long Term Incentive Plan costs to electric operations plus $297,000 of escalation. This cost was not allowed by the Commission in Case 07-E-0523 because it is compensation that has not been supported by a showing that the performance of management has produced specific benefits for ratepayers. I support the Commission's decision to remove this incentive compensation from rates for the same reason that I recommended the disallowance of the Variable Pay. For the same reasons found by the Commission in Case 07-E-0523, the $6.021

million costs of "other compensation" should not be recovered from ratepayers in this case.

I note that even if the Company, in the future, were able to provide sufficient evidence of a quantifiable benefit and show that customer service had improved, the cost of this added compensation should not be the sole responsibility of ratepayers because the benefit that is derived will flow through to shareholders as well.

EMPLOYEE WELFARE EXPENSE

Q. Are there concerns that you have identified with the Company's request regarding employee benefits?

A. Yes. To the extent an adjustment is made to remove payroll dollars, a commensurate adjustment should be made to reduce employee benefits. In addition, I have concerns with the Company's capitalization of costs, and the significant increase in health care costs including the fact that the employee contribution was not proportionately increased.

Q. Please explain your concern with the capitalization of costs.

A. The Company's response to DPS IR 178 states that the only costs subject to capitalization are group life insurance and health care costs. Thus, the Company proposes to expense $29.848 million of employee benefit costs in their entirety. Generally accepted accounting principles state that the cost of an asset includes direct and indirect costs incurred by an entity in constructing its own assets. The FERC Uniform Systems of Accounts in identifying components of construction costs states, that labor includes the pay and expenses of employees of the utility engaged in construction work, and related workmen's compensation insurance, payroll taxes and similar items of expense. Capitalization of health insurance and group life insurance costs by the Company along with payroll taxes is appropriate because each of these costs has a direct relationship to the capitalized payroll. The Company has recognized this direct relationship in projecting rate year employee welfare expense, by its use of the labor escalation rate for many of the benefits that are not capitalized. For example, the work papers for employee welfare expense specifically identify a direct relationship to payroll for the Thrift Savings Plan and have identified a partial labor relationship for the Stock Purchase Plan, Employee Publications and Communications and Occupational Supplement.

Q. Is it appropriate to exclude expenses directly related to payroll from capitalization?

A. No. In fact, even indirect expenses could also be capitalized. There is no question that the Thrift Savings Plan expense should be subject to capitalization. The contributions to the plan have a direct connection to payroll, since if there was no payroll there would not be an expense for the Thrift Savings Plan.

Q. Are you aware of why the Company is not capitalizing the Thrift Savings Plan costs?

A. No, and based on the response to CPB IR 72, neither is the Company's Accounting Panel.

Q. Should an adjustment be made to the rate year employee welfare expense?

A. Yes. The electric operations' cost in total should be reduced $5,121,491 ($15,614,303 x 32.8%, the effective Company capitalization rate) to reflect the appropriate capitalization of the Thrift Savings Plan expense. Although I have not made an adjustment for the $14.234 million of remaining benefits not capitalized, I recommend that the Commission consider doing so.

Q. Please explain your concern with the projected increase in health care costs.

A. The Company has reflected an increase of 24.8% for medical costs over a 27-month period. I do not dispute the fact that health care costs typically increase at a rate in excess of general inflation. However, I do have a concern regarding the percentage increase reflected by the Company and the fact that the increase is not proportionally offset by employee contributions. Another concern is that while the Company has projected an increase in costs, including an increase in the number of participants, the Company did not factor in any savings from changes to the health care program.

Q. Should plan changes and some savings be considered?

A. Yes. In response to CPB IR 50, Con Edison contends that the savings resulting from any new changes to the health care program would be long term and not experienced in the rate year. This response ignores the fact that it is reasonable to expect savings in the rate year from changes in the health care programs that were implemented in previous years, unless the Company has not taken any action in recent years to reduce the cost of healthcare. Since the implementation of cost savings is an ongoing process, it is reasonable to expect some impact on rate year costs from changes implemented in 2007 and planned for 2008.

Q. Would you discuss your concerns with the 24.8% increase in health care costs that was projected by the Company?

A. Yes. First, Company witness Mr. Hector Reyes states on page 4 of his testimony that the Company is using a trend inflation rate of 8%. The use of an 8% annual inflation rate over a 27-month period would increase costs by 19% not 24.8%. The reason that the increase projected by the Company exceeds 19%, is because other factors have been included in the Company's calculation, such as an increase in the number of employees as of February 2008. This is potentially problematic because the Company also has a separate "health care and other" benefit adjustment for program changes that technically captures the increase in the number of employees. Therefore, by using the February 2008 employee participant number in projecting health care costs, the Company appears to be double-counting some costs.

Next, while health care costs are projected to increase 24.8%, the employee contributions are forecast to increase only 15.9%. Employee contributions should be based on a percentage sharing and unless the Company plan has reduced that sharing or doesn't follow that standard, the projected employee contributions for the rate year are understated.

Q. What is your recommendation regarding healthcare costs?

A. Given today's challenging economy and the fact that there is undoubtedly a large number of ratepayers who do not even have health insurance, it is only appropriate that the net cost be limited to the 8% increase that Mr. Reyes stated the Company was requesting. As shown on CPB Exhibit__(LA-1), Schedule 5, the use of an annual rate of 8% over the 27-month period results in a net cost of $76,755,572. The Company's net request of $83,195,886 should be reduced $6,440,314. This adjustment would reduce my concerns regarding the potential double count for employee additions, the Company's failure to recognize any impact for cost savings implemented that had not yet been reflected in the test year costs and the disparity between the increase in costs and the insufficient increase in employee contributions.

INSURANCE

Q. Are you recommending an adjustment to the Company's request for insurance expense?

A. Yes. I am recommending two adjustments. First, the Company has assumed that there will be a net increase of approximately 41% in insurance expense. That increase is not supported by the historical trend and the Company failed to supply supporting documentation to show that there will be an increase in premiums. Therefore, I recommend that the $8.975 million added as a program change by the Company be disallowed. The second adjustment removes $5.0 million of insurance for protecting directors and officers from any claims for actions and/or decisions that they have made or failed to make. The protection that is provided to directors and officers from this insurance is of no direct benefit to ratepayers and therefore, the cost for this coverage should not be charged to ratepayers. Thus, the Company's rate year insurance expense should be reduced a total of $13.978 million.

Q. What do you mean the historical trend does not support an increase in insurance expense?

A. In Case 07-E-0523, the CPB and DPS Staff opposed the Company's request for an increase in insurance expense because during the period

2004 – 2006, the cost of property insurance and liability insurance declined. In response to DPS IR 374, the Company supplied the historical costs for 2005 – 2007, which once again showed that a decline occurred in 2007. The DPS Staff request also asked for source documents supporting the escalation rates used by the Company and the response simply referred to the Company's work papers for insurance. The only documentation in the work papers was the budget numbers for 2008. Numbers alone are not supporting documentation. The Company has failed to justify an increase in premiums for insurance. Costs have declined each year since 2004 so it evident that that a downward adjustment to the test year expense is warranted, rather than the increase as proposed by the Company.

Q. Is it possible that the Company received notices that its premiums were increasing?

A. That is possible. However, the Company was requested in CPB IR 101 to provide supporting documentation to verify the cost increase reflected in the filing and the response provided only budgeted numbers, essentially the estimated costs being requested. The Company did not provide the supporting documentation for the cost estimates as they were specifically requested to do. Con Edison had the opportunity to prove its case and failed to do so. Accordingly, an adjustment to reduce the cost back to the test year level should be made.

Q. Could you explain further why the cost of directors and officers' liability insurance should be disallowed?

A. Yes. Directors and officers liability ("DOL") insurance represents 16.2% of the total insurance expense for electric operations. This insurance is designed to protect directors and officers from actions deemed as inappropriate that they may have participated in and/or from decisions that they made. Essentially, the cost of this insurance protects shareholders from their decision in appointing directors who are in turn responsible for hiring the officers of the Company. Generally, it is shareholders who will make a claim against the directors and/or officers, therefore, the insurance ultimately will provide protection to the shareholder. If a claim was to be made and a liability determined, the most significant payment would be paid to shareholders, with ratepayers receiving nothing. Further, the ratepayer does not decide who is in charge at the Company, the shareholder does. Therefore, the shareholder should be responsible for costs associated with mitigating the risk of their decision.

Next, the Company has not provided any justification for ratepayers to be responsible for 100% of the cost of DOL insurance. In fact, the information that has been supplied suggests that the coverage is excessive and that the benefit, if any, to ratepayers is minimal at best.

Finally, the fact that this expense represents 16.2% of the total cost of corporate insurance (i.e. excluding employee health & welfare insurance) cannot be ignored. The significance of the cost of this coverage in relation to the insurance that covers plant and public liability, should be a concern to the Commission.

Q. Did you recommend an adjustment in for DOL insurance in Case 07-E-0523?

A. Yes. The Commission did not adopt my recommendation, although it stated that if adequate support for such an adjustment was provided, the Commission would entertain capping the cost that ratepayers would be expected to pay. As I demonstrate herein, there is more than sufficient support to cap and/or remove the cost of DOL insurance from rates in its entirety.

Q. Please summarize the Company's justification for ratepayers to fund DOL insurance.

A. The Company claims the cost of DOL insurance is necessary to attract and retain directors and officers. In response to CPB IR 17, it stated that support for this assertion is in the testimony of Robert Hoglund and the Towers Perrin Study provided in response to CPB IR 6. Also, the Company in response to CPB IR 13 provided a list of recent settlements as justification for the level of coverage that was obtained.

Q. Is DOL insurance necessary to attract competent individuals?

A. Directors and officers are compensated for their time, and they receive generous benefit packages, including generous stock options. If they are being paid by ratepayers for their competence, it is unreasonable for ratepayers to pay again, to insulate these individuals from their personal responsibility for inappropriate actions, negligence, errors and/or omissions. If Directors and Officers provide the performance for which ratepayers are paying, the level of insurance coverage should be minimized.

Even if DOL insurance is determined to be necessary to attract excellent employees, the benefit of the insurance goes to shareholders not ratepayers. I am not aware of any settlement ever being paid directly to ratepayers. Ratepayers should not be required to pay for something that does not provide a benefit to them, especially when the real beneficiary is the shareholders. In fact, in CPB IR 12, the Company was asked if they would continue the insurance coverage if some or all of the cost was not borne by ratepayers. The response stated the Company would continue the coverage.

Q. Does the list of recent settlements justify the level of insurance maintained by the Company?

A. No. Since ratepayers have no control over who is appointed as directors and officers, it is reasonable to conclude that stockholders have made their decision based on the integrity of the directors and officers. This listing that identifies the various settlements is headed up by Enron Corporation, WorldCom, Inc., Tyco International, etc. I would like to think that the shareholders of Consolidated Edison have more confidence in the directors and officers that they have appointed, than the directors and officers from a number of the companies on this list that contributed to the high level of settlements identified. This list does not provide justification for $300 million of coverage purchased by the Company for what ratepayers have to assume are competent directors and officers.

Q. Does the Towers Perrin Study justify the level of insurance maintained by the Company or ratepayers funding the cost?

A. No. The study on page 16 indicates that the median DOL coverage for companies with over $10 billion of assets is $105 million. On page 18, the median DOL coverage for utilities is quantified as $70 million. On page 36, the study shows the average premium for utilities in 2006 was $1.718 million. That information suggests that the $300 million coverage is excessive for the Company. In fact, in an email from Marsh USA Inc. to the Company provided in response to CPB IR 15, the median coverage for comparable companies and Fortune 500 Utility Companies was identified as $140 million and $187 million, respectively.

The Towers Perrin Study also included important information regarding the claims filed and the settlement of those claims. On page 53 of the study, it indicates that 49% of claims against public companies were made by shareholders and 21% of claims were made by employees. In settling the claims, shareholder claims were settled at an average of $24 million while employee settlements averaged $130,494 (page 55). The study also indicated that defense costs for shareholder claims were more than double any of the other possible claimants. Thus, the preponderance of claims are shareholder related, which means that most, if not all the costs should be borne by shareholders.

For all of these reasons, the $5 million of costs for DOL insurance included in the Company's request should be disallowed.

SUBSTATION OPERATIONS O&M PROGRAMS

Q. What changes are being requested for substation operations O&M?

A. The Company, on Exhibit__ (IIP-3), is requesting an increase for normalization and program changes of $12.712 million. As shown on CPB Exhibit__(LA-1), Schedule 6, the increase consists of $8.022 million for labor and $4.69 million of other costs. General explanations of the cost and increases can be found in the Infrastructure Investment Panel's testimony, the exhibits (referred to as white papers) and to a very limited degree the work papers.

Q. Did the white paper exhibits and work papers provide sufficient detail to justify the program requests?

A. No. The white paper exhibits and/or the work papers included general descriptions of the various programs, often very similar to the testimony, and numbers, respectively. There was no detail indicating how the costs were derived or supporting documentation for cost estimates.

Q. Did you ask for more information?

A. Yes. The Company was requested in CPB IR 78 and CPB IR 79 to provide additional information for the various programs within the Substation Operations O&M Program category. The response to CPB IR 78 provided the information requested. The response to CPB IR 79, despite requesting supporting documentation for costs, provided only descriptions and/or calculations. Supporting documentation for the cost estimates for four of the programs was requested. One program consisted entirely of labor, so no support was available. However, the other three programs included $3.267 million of added non-labor costs and no supporting documentation was provided. Supporting documentation is not just numbers on paper or a company explanation. Instead, it is a document that supports the unit cost of the new cost requested.

DPS Staff also posed a number of requests for internal documentation. The responses, again, did not provide any internal documents to justify the cost and/or the program.

Q. Could you discuss some specific concerns regarding the requested increase in Substation Operations O&M Program costs?

A. Yes. A total of 53 new positions are requested for projects entitled "SSO Staffing – New Facilities" and "Operator Staff Augmentation for Existing Facilities." The majority ($5.749 million) of the $6.132 million in labor being requested for these projects was included in the current 2009 rate year. Based on what is included in rates that were effective April 1, 2008, the majority of the 53 positions should have been filled already. However, based on a review of the Company response to CPB IRs 58 and 59, it appears that only 5 of the 33 requested operator positions were filled. I have to use the term "appears" because there are no "operators" identified in the list of 2008 hires, only "operator mechanics" and none of the five were at the stations identified in the SSO Staffing program. I also point out that despite a number of new hires referred to as general utility workers, I could not locate any description that would suggest those positions could be "operators." In addition, the Field Operation Trainers for the Substation Operations projects that are included in rate year 2009 costs to be paid by ratepayers, have not been hired based on the response to CPB IR 58 and 59. Finally, the response to CPB IR 130 (DPS IR 45REV) indicates that 58 positions for Substation Operations allowed in rates effective April 1, 2008, have not been filled as of July 2008.

In addition, no supporting documentation for the Bus Enclosure, Corrective Maintenance Normalization and Structural/Integrity cost estimates was provided as requested. In fact, the response to CPB IR 79 stated that the cost estimates are based on "Supervisor station inspections." The Company wouldn't pay a vendor on a best guess and it is not appropriate for ratepayers to have to pay costs based on a best guess. The Company could obtain quotes, estimate or even retrieve previous invoice to support the costs being requested but they have not done so.

Q. Are you recommending an adjustment to Substation Operations O&M Program costs?

A. Yes. I am recommending that the Company's projection of substation operations non-labor O&M costs be reduced by $1.634 million due to the Company's failure to properly substantiate these costs. The adjustment removes 50% of the non-labor costs for three programs. The specific programs, as shown on Exhibit__ (LA-1), Schedule 5, are Bus Enclosure, Corrective Maintenance Normalization and Structural Integrity/Station Betterment. An adjustment may also be justified for the Dynamic Feeder Rating System, Flame Retardant Clothing and Advanced Control Systems program costs, because of the Company's failure to provide the internal documentation requested by DPS Staff as justification for the costs requested.

Q. Are you recommending a labor adjustment to Substation Operations O&M Program costs?

A. Yes. As discussed previously, the $848,000 Correction Maintenance Normalization should be disallowed. I am also recommending that $3.143 million (50%) of the labor costs previously allowed in rates, be disallowed in the rate year because the Company has not filled the positions as of July 2008, and there are concerns that these positions will continue to be vacant.

SYSTEM & TRANSMISSION O&M PROGRAMS

Q. Does the Company request changes for its System and Transmission Operations?

A. Yes. The Company, on Exhibit__ (IIP-5), is requesting an increase of $11.597 million. The increase consists of $6.365 million for labor and $5.232 million for other costs. Again, general explanations of the cost and the increases could be found in the Infrastructure Investment Panel's testimony for most of the programs, the exhibits and the work papers. No specific testimony was provided for a number of the programs.

Q. Are there specific programs about which you have concerns?

A. Yes. The Company indicated in response to DPS IR 469 and CPB IR 85 that the Sequence and Scheduling position was filled. However, despite claiming that the position would result in savings in overtime expense, such savings was not reflected in the filing. It is not appropriate for ratepayers to fund a position based in part on a claim that it will result in savings, without also reflecting the savings in rates. The response to CPB IR 130 (DPS IR 45REV) identifies this position as being filled in May 2008, one month after ratepayers began paying for this position.

I also have a concern regarding the Company's proposed costs for Coating Refurbishment, which is based on an average cost of $2,000 per foot and 750 feet. The response to CPB IR 86a states that the costs of this project is not driven by a footage target and that the average O&M program trenching of 503 feet per year was performed over the last three years at an average cost for the O&M program of $1,582 per foot. In 2007 though, the O&M Program average was $1,061 per foot. The Company has not provided justification for the use of a rate of $2,000 per foot and it has not provided any justification for the 750 feet estimate in the rate year. I recommend a cost of $800,000 be allowed based on the O&M Program average trenching cost per foot of $1,582 and the O&M Program average trenching of 503 feet. This reduces the non-labor cost request by $700,000.

In addition, the Feeder Emergencies request is considered excessive. Based on the response to CPB IR 86d, the five-year average cost for this program is $7,276,519. The Company is requesting $7,826,000 in the rate year, instead of the test year 2007 costs, which were only $4,808,461. Interestingly, the Company did not request an adjustment in Case 07-E-0523 because the test year 2006 cost of $11.444 million was considered "adequate." The 2006 and 2007 costs were significantly different than the previous three years, which averaged $6,710,030. It is not appropriate for the Company to include in rates, expenses for an extraordinarily high year and not adjust that amount until the experience of the test year reveals low costs, at which time it seeks to base its request on an estimate that exceeds average costs over a multiple year period. Ratepayers are now paying for Feeder Emergencies based on $11,444,044 plus escalation. An adjustment to the Company's request is necessary. I recommend a reduction of $550,000 to the non-labor increase of $1.257 million. The adjustment reduces the rate year cost to the $7.276 million five-year average.

Q. Would you please explain any concerns that you have with the labor requested in the Company's projected System & Transmission Operations O&M Program costs?

A. As discussed in my testimony regarding labor expense, I recommend the removal of the Normalized Human Resource request of $2.322 million (included in the $5.3 million normalization adjustment) because the Company escalation calculations use of year-end employee counts effectively normalizes the test year, thereby resulting in a duplication of payroll costs. In addition to the justification for that adjustment that I previously provided, I would add that the response to CPB IR 61 and 62 showing how the Company arrived at the requested $2.322 million, is a concern. The Company's request essentially says that since employees left during 2007 and it plans to fill the positions in 2008, compensation should be provided beyond that reflected in the test year, and an extra $900,000 should be provided for money charged to capital work in 2007 that it wants charged to O&M expense in 2008. This request is very one-sided. As previously discussed, the Company has not removed the cost of any employee who is no longer employed by Con Edison and will not be replaced, and it is shifting capitalized costs to expense, despite the requested increase in capital work, without providing proper justification.

In addition to the normalization cost disallowance, I am also recommending that the labor costs for the Manhole Inspections and the Perfluorcarbon Tracer (PFT) Patrols be reduced based on discrepancies between the information supplied in discovery responses and the Company's filing. The Company has requested $500,000 of labor for each program. The response to CPB IR 130 (DPS IR 45Rev) indicates that all the positions requested were filled on April 25, 2008. However, the pay rate identified in that document is substantially less than that in the Company's request. In addition, there is concern that the supporting information is inconsistent because the responses to CPB IR 58 and 59 indicate that mechanics hired in 2008 were not hired on April 25, 2008, and were not System and Transmission Operations employees. The response shows that general utility workers were hired on April 25, 2008, for System and Transmission Operations, which may explain the discrepancy in compensation. Based on the pay rate identified in the response to CPB IR 130, I am recommending that the Company's labor request for Manhole Inspections and PFT Patrols each be reduced $350,000 for a total reduction of $700,000.

Q. Are there any other concerns that you identified with the Company's System and Transmission Operations Labor request?

A. Yes. I question the proposed NYISO employee addition and the Conductor Repair additions. The costs for these positions were approved in Case 07-E-0523 and included in rates as of April 1, 2008, yet the positions have not been filled as of July 2008. While I have not recommended an adjustment for this labor, the Commission may want to consider one since it is not appropriate for the Company to include employee compensation in rates unless it is known that the positions will in fact be filled as requested.

Q. Please summarize your recommendation regarding the Company's projected System & Transmission Operations O&M Program costs?

A. I am recommending that that the Company's projections for non-labor costs be reduced by $1.250 million because justification for the costs of the Coating Refurbishment Program and the Feeder Emergencies program projects was insufficient. The specific program recommendations are shown on CPB Exhibit__ (LA-1), Schedule 7. The adjustment for normalized labor and program change labor costs are $2.322 million and $700,000, respectively.

ELECTRIC OPERATIONS O&M PROGRAMS

Q. Did you review the Company's request for the costs of its Electric Operations O&M Programs?

A. I reviewed the various programs with a focus on the most significant proposed cost increases. Con Edison has requested an increase of $58.245 million for Electric Operations O&M Programs. This significant increase consists of $23.292 million in labor and $34.953 of non-labor costs are summarized on CPB Exhibit__(LA-1), Schedule 8.

In an attempt to evaluate these programs, a specific request was made in CPB IR 74 for the historical costs over the last five years and for a quantification of the labor cost included in the test year and the rate year for the specific programs identified on Company Exhibit__(IIP-7). The Company response to the inquiries regarding historical costs and labor costs was significantly different despite the fact that the requests were worded the same. The request relating to historical costs was not responded to as requested. Instead, a broad general cost comparison was provided making it impossible to evaluate the Company's request for the specific programs that were detailed on Company Exhibit__(IIP-7). In contrast, the request regarding labor costs was responded to exactly as requested and provided the respective labor dollars by the respective programs on Company Exhibit__(IIP-7). The Company should not be permitted to benefit from its failure to properly respond to information requests.

Support Economic Growth

Q. Did you review the Company's request for costs for programs supporting economic growth?

A. Yes. The Company's request for a $2.655 million increase was reviewed with the focus on specific programs, with cost being the primary concern. One program of concern is the SMART Electric Technologies program. CPB IR 80 requested a breakdown of the cost and an explanation as to why the Company feels it is required to encourage economic growth in commercial refrigeration. The response stated that a breakdown of program costs is not available and no decision has been made on the commercial refrigeration program. Simply said, the cost request for this program is a guess. Thus, the requested $92,000 of labor and $500,000 of non-labor costs should not be allowed.

The other program of concern is the Company's request for the Customer Focused Service Ruling Program. This program seeks 12 new engineers, and based on the response to CPB IR 80, two were filled in 2007 and five in 2008. The concern is that this program is one of many that required additional engineers and that were to begin in the rate year that began April 1, 2008. Based on the response to CPB IR 58 and 59, the Company has hired four associate engineers, six engineers and five senior engineers as of June 30, 2008, for a total of 15 engineers. With the significant number required to be hired and only 15 hired to date, ratepayers are paying for engineers currently that are not on the payroll and there is doubt that the full complement of engineers being requested in the various programs will in fact be hired when rate year 2010 begins on April 1, 2009. As discussed in the labor section, this does not appear to be an isolated problem.

Q. Are there any other adjustments to the Support Economic Growth programs?

A. At this time, the only adjustment I propose is to reduce the Company's request by $592,000 for the SMART Electric Technologies program.

<u>System and Component Performance</u>

Q. What program costs is the Company requesting for System and Component Performance?

A. The Company is requesting an increase of $7.671 million, consisting of $6.245 million of labor and $1.426 million of non-labor costs.

Q. Are there concerns with the cost requested?

A. Yes. First, the Remote Monitoring System (RMS) Response Group requests the addition of 14 inspectors and based on the response to CPB

IR 81, none have been hired yet. The Electrical Engineering Support Program is planning on adding three supervisors and 12 engineering technicians and the exhibit suggest that an additional supervisor and four engineering technicians will be required for field engineering and quality assurance. The response to CPB IR 81 states none have been hired. There is not evidence that the Vault Repair mechanics that are purportedly required were hired and the increase in non-labor costs is questionable.

Q. Please elaborate on your concerns.

A. Based on the Company's failure to fill the positions allowed in rates effective April 1, 2008, I am concerned that the labor requests for the RMS Response Group, the Electrical Engineering Support Program and the Vault Program may be overly optimistic.

There is an additional concern regarding the proposed increase in expense for the Electrical Engineering Support Program. The justification provided by the Company in response to DPS IR 260, suggests that the driving factor for the increase in employees is the capital program. However, capitalized labor for this project is increasing by only $308,000 while the O&M expense is projected to increase by $1.896 million. The response to CPB IR 100 questioned how the increase in employees was justified. The Company's response stated that the supervisors and engineers along with added overtime was required "for its new and incremental Capital programs." Thus, if the increase occurs, it should be classified as capital costs and not O&M expense.

Finally, the Company performed 37 vault repairs in 2007, at a cost of $2.591 million (response to CPB IR 81). The Company expects to complete an additional 28 repairs in the rate year, for a total of 65 repairs. In my opinion, the Company has not supported the expectation that 65 repairs will be performed in the rate year. The Company's projected increase should be reduced by at least 50% or 14 repairs.

Q. What adjustment are you recommending to the rate year for the System and Component Performance?

A. I am recommending that the new labor costs for the RMS Response Group and the Electrical Engineering Support programs be reduced by 50% or $910,000 and $948,000, respectively. The Vault Repairs labor and non-labor increase should also be reduced by 50% or $636,000 and $343,000, respectively. This reduces the System and Component Performance request for labor by $2.494 million and non-labor $343,000, for a grand total of $2.837 million.

Public Safety and Environmental

Q. What change is being requested for the Public Safety and Environmental program?

A. The Company is requesting an increase of $37.627 million above the comparable test year expense level of $35.073 million. The primary drivers are overhead inspections, underground inspections, mobile stray voltage testing, vault cleaning and central quality assurance. I will discuss the individual programs that are primarily responsible for this significant increase.

Five-Year Overhead ("OH") Inspection Program

Q. Is the Company's request for an increase of $3.226 million for overhead inspections reasonable?

A. The Company's request for this program in Case 07-E-0523 was $5.443 million and was determined by the Commission to be unsupported. An allowance of $1.089 million was granted. The reason the cost is significantly less in this case is that the Company identified certain cost components that were originally overestimated (CPB IR 82a). An additional concern is that the Company did not incur any costs in 2006 or 2007 for overhead inspections.

According to the Company Exhibit__(IIP-18), the Company must conduct 282,000 pole inspections at a cost of $53 per pole over five years. That equates to $14.946 million or $2.989 million a year. This is less than the exhibit amount of $3.226 million a year. The Company has provided no information to substantiate its new cost estimate and there is concern that the cost may be overstated as it was in Case 07-E-0523.

Q. Are you recommending an adjustment to the OH Inspection request?

A. Yes. Even though the Commission took notice of the Company's failure to support its costs in Case 07-E-0523, the Company has again prepared its request without including supporting documentation for its proposed unit cost. The Company should not be allowed to arbitrarily insert costs in the rate year without supplying adequate information as to how the cost was developed.

The Company's requested increase consists of $2.916 million in labor and $310,000 of non-labor costs. The arbitrary use of a $53 per pole cost is not supported by the Company. The response to CPB IR 82b refers to a contract and identifies a cost-per-inspection that explains the non-labor cost component. However, no detail is provided for the labor costs. Additionally, the response to DPS IR 46, that provides details on the incremental labor being requested in this case, does not identify any labor for overhead inspections. Accordingly, the Company's estimate for labor for this project is not sufficiently supported.

Q. What is your recommended adjustment to the OH Inspection request?

A. I am recommending that the projected rate year labor cost increase of $2.916 million be reduced by $1.458 million or 50% because of Con Edison's failure to adequately supply information that could be utilized to determine the reasonableness of the Company's estimate.

5-Year Underground Structure Inspection Program

Q. What did you determine from your review of the underground inspection cost request?

A. The Company is requesting $23.829 million in costs in the rate year compared to the indicated $12.347 million of test year costs. The Company's request is based on the estimated 59,000 remaining inspections of a five-year inspection program. According to the response to CPB IR 2(d) in Case 07-E-0523, the Company spent $0 in 2004, $8.5 million in 2005 and $6.8 million in 2006 for underground inspections. Company Exhibit__(IIP-7) and Exhibit__(IIP-18) indicate that in 2007, the Company expensed either $12.347 million or $12.322 million to perform 36,300 inspections. Company Exhibit__(IIP-18) also indicated that there are a total of 272,027 inspections to be performed in the five-year cycle and at the end of 2007, 126,000 had been completed. Using that information along with the Commission's decision that 75,447 were to be performed in rate year 2009, I would agree with the Company's estimate that there would be a need to perform approximately 59,000 inspections to complete the current five-year cycle and proportionately begin the next five-year cycle.

Q. Does that mean that you agree with the Company's estimate of the cost for underground inspections in the rate year?

A. No. The requested rate year expense of $23.829 million assumes an average inspection cost of $403.88, compared to a 2007 average of $340.14. There is no justification for the Company to increase the cost per inspection especially given the fact that the Company is escalating its labor and the non-labor expense. The Company projected the program costs in determining its program change adjustments, so in essence, the Company's use of a projected cost rate along with the escalation would result in a double dip.

Q. What adjustment are you recommending?

A. The Company's request for $23.829 million should be reduced $3.761 million to $20.068 million.

Q. How did you determine your adjustment?

A. I determined the average cost for inspections for 2007 to be $340.14 instead of the $403.88 assumed by the Company, and then multiplied that unit cost by 59,000 inspections, resulting in a total cost of $20.068 million.

<u>Annual Stray Voltage Program</u>

Q. Are there concerns with the Company's request for $8.892 million for the Annual Stray Voltage Program?

A. Yes, there is some concern with the cost projection. The Company's testimony states that an increase of $1.538 million (20.9%) is being sought but that the Company is seeking approval to substitute mobile stray voltage testing for manual stray voltage testing. In addition, the Company's response to CPB IR 82e stated that the cost of the Annual Stray Voltage Program in this proceeding is less than in Case 07-E-0523 because "the awarded contracts for stray voltage testing were lower than initially expected." As was noted in my earlier discussion of the overhead inspection program, the annual stray voltage program is another instance where the Company has presented a different unit cost than in the last case. This further illustrates the importance of supporting documents for the cost estimates.

Another concern with the Company's request is the apparent inconsistency in the information supplied. The Company Exhibit__(IIP-18) states that the cost increase is attributable to the increased detection rate of stray voltage events. In contrast, the response to CPB IR 82e states that the annual stray voltage testing program costs have decreased because "the historical numbers of stray voltage found through the Annual program have decreased by over 25%."

I am also concerned that once again the Company has double dipped in their request. The projected cost of the program change is not based on historical cost-per-unit, but instead on a new contract rate for 2008. The escalation factor according to Company testimony, increases the historic year costs through the rate year. By increasing the contract rate beyond the test year and then applying an escalation factor that is intended to be applied to the historic year, Con Edison has essentially double counted the increase in costs since the test year.

Finally, I am concerned that the Company may conduct far less manual stray voltage testing in the rate year than it projects in its filing. By Petition dated March 25, 2008 in Case 04-M-0159 (Investigation of the Safety of Con Edison's Transmission and Distribution Systems), Con Edison asked the Commission for permission to use mobile stray voltage diction in lieu of manual stray voltage testing. If the Commission approves this request, Con Edison is expected to substantially reduce the volume of its stray voltage testing, thereby obviating the need for ratepayers to fund the amount requested.

Q. Should the escalation applied to the new Company estimate be removed?

A. No. While that may be easier, it would not be equitable, because the use of only the contract escalation would deprive the Company of any allowed escalation for 2009 and the first part of 2010.

Q. Are you recommending an adjustment to the Company's request for $8.892 million?

A. Yes. No cost justification has been provided for a $1.538 million increase over the test year level of $7.354 million for Stray Voltage testing, especially considering the facts that the same level of testing is assumed in both periods and that the increase is attributable to double counting the

2008 escalation in the cost-per-unit. Since escalation is intended to be applied to test year costs and the same 742,002 structures are assumed to be tested in the rate year as in the test year, no program change adjustment should be made. Accordingly, I recommend that the $1.538 million increase be disallowed, thereby reducing labor $271,000 and non-labor costs $1.267 million.

I also recommend that the Commission ensure that any shortfall of actual spending on the manual stray voltage program from the amount provided in rates in this proceeding, be returned for the benefit of ratepayers. This protection is necessary since the PSC is currently considering Con Edison's request to substitute mobile stray voltage testing for manual testing.

<u>Mobile Stray Voltage Testing</u>

Q. Do you have any concerns about the Company's proposed Mobile Stray Voltage Testing Program?

A. Yes. The Company has requested an increase of $9.753 million over the test year expense of $11.321 million for a total request of $21.074 million plus escalation. The growth is attributed to increasing the number of annual scans performed from 5.5 to 12. In Case 07-E-0523, the Company was allowed $14.883 million plus escalation to perform 12 system scans. The Company is requesting an increase of $6.191 million ($21.074-$14.883) or 41.6%, for what is essentially one year of inflation. Again, there is the concern that the Company has increased the cost-per-scan and then applied escalation, effectively double counting the impact of increasing per-unit costs.

Q. What did you determine from your review of the mobile stray voltage detection program cost request?

A. The Company is increasing the cost-per-scan for contractors and support management while reflecting a cost decrease per scan for electricians, site-safety, emergency response and contractor support. Essentially, the Company is offsetting the cost savings, derived from the program's increased inspections that in turn reduced the number of shocks and the required costs to correct the stray voltage sites detected. The Company has indicated that a decline in shocks has occurred. With a decline in shocks it would be anticipated that there could be a decline in cost for repairs and standby charges. Therefore, the reduction in costs reflected by the Company for making repairs is considered appropriate. The problem is that the Company has offset the reduction in costs for making repairs by increasing the average contractor cost-per-scan cost from $681,000 per scan ($3,748,000/5.5 scans) to $872,000 per scan ($10,460,000/12 scans). Con Edison has also increased its labor to manage the increased number of scans. In 2007, the cost to manage 5.5 scans was $32,000, but the cost in the rate year is projected to be

$225,000 for 12 scans. The increase in oversight cost appears excessive considering the perceived success of the program.

Q. Does the Company have any explanation for the significant increase in costs for the mobile stray voltage detection program?

A. Based on the response to CPB IR 82e, the Company is increasing the cost-per-scan for contractors because the costs to run the mobile voltage detection vehicles was underestimated and the contract that was awarded to operate the vehicles had a significantly higher cost than expected.

Q. What adjustment are you recommending to the Company's request for $21.074 million?

A. My initial recommendation would be to reduce the Company's contractor cost for mobile testing and ultimately the total request by $2.282 million. This was determined by multiplying the 2007 cost per scan of $681,460 by 12 scans for a total contractor cost of $8.178 million. That $8.178 million cost estimate is $2.282 million less than the Company's requested amount for contractor mobile testing of $10.46 million. Because the Company did not include any supporting documents in their filing to justify the increase requested and because using a 2008 cost would result in a duplication of part of the escalation application, my recommended adjustment is considered to be conservative in comparison to the alternative adjustment.

Q. What alternative adjustment are you referring to?

A. As an alternative, I would recommend that the cost increase for this program for the rate year be limited to what the Commission allowed for the current 2009 rate year plus one year of inflation. The per-scan amount that the Commission found to be reasonable in Case 07-E-0523, was essentially a 2006 expense level that was then inflated to the expected 2009 expense level by the approved labor and non-labor escalation factors. Similarly, the 2010 rate year amount could be established at the approved amount for the 2009 rate year inflated by approximately 3%. This approach would result in a recommended base cost of $15.329 million ($14.883 million x 1.03) resulting in a recommended reduction of $5.745 million to the Company's request of $21.074 million. As I stated previously, my primary recommendation is conservative in comparison to this alternative.

<u>Network Transformer Vault Cleaning Program</u>

Q. Did you review the cost request for the Network Transformer Vault Cleaning Program?

A. Yes. The Company is requesting $6.951 million plus escalation for the rate year to fund this cleaning program which would be performed on a five-year cycle. This represents an increase of $6.836 million over the test year expense of $115,000. The cost proposal assumes that seven contractor crews at a cost of $2,000 per day per crew, will be required to clean approximately 5,064 structures. In addition to the seven contractor crews, the Company is requesting labor to support the crews at an annual cost of $707,000. The Company was allowed $4.357 million for this project in Case 07-E-0523 based on the costs that could be determined through a calculation.

Q. What are your concerns with the Company's request?

A. The Company was requested in CPB IR 82f to provide supporting documentation for the vault cleaning costs. A calculation was provided, but once again no supporting documentation was submitted and the numbers in the calculation differ from the numbers in the Exhibit__(IIP-18).

Also, as with many other program costs, the response to DPS IR 45REV indicates that the 10 positions allowed in Case 07-E-0523 have not been filled as of July 2008.

Q. Are you recommending an adjustment to the Company's request for $6.951 million?

A. Yes. Because the Company has failed to support its cost estimate with documentation, as requested, the proposed costs are considered to be unsupported guesses. In addition, the low level of spending on this project in 2007 and the fact that the Company has not yet filled the associated positions although they are being funded by ratepayers, demonstrates that this project is not a priority for the Company. The Company's request should be reduced to what is known and measurable and that is the $115,000 expensed in 2007. I recommend that the entire increase of $6.836 million ($826,000 of labor and $6,010,000 of non-labor costs) be disallowed for failure to provide supporting documentation for the cost estimate and based on the level of historical spending (none in 2006 and $115,000 in 2007).

Central Quality Assurance Program

Q. Did you review the cost request for the Central Quality Assurance Program?

A. Yes. The Company is requesting $4.587 million plus escalation for the rate year for Quality Assurance. This request represents an increase of $4.397 million over the test year expense of $190,000. The increase consists of $3.646 million of labor costs and $751,000 of non-labor. The increase in cost is attributed to an expansion of an existing program.

Q. Do you have concerns with the cost requested for the Central Quality Assurance Program?

A. Yes. The Company's request is identified as Phase Two of a program implemented in the first quarter of 2007. The second phase provides for an almost doubling of the employees participating in the program from 21 in 2007 to 41 in 2008. In addition to this substantial increase in personnel, the Company proposes to change its accounting for these costs. According to the response to CPB IR 82a and 82h, in the test year, approximately 15% of the cost was expensed and the remaining 85% was charged to capital projects. Now, however, the Company proposes to expense 100% of the cost. Company testimony and exhibits did not provide any support for this change in accounting, therefore no justification has been provided.

In addition, I did not find evidence that any of the 40 positions referred to as Quality Assurance positions in CPB IR 82h had been filled during the first six months of 2008. There is no justification for increasing the cost of this program for new employees that have not yet been hired. Finally, the Company was requested in CPB IR 82h to provide supporting documentation for the non-labor costs requested and no information was provided. Thus, no justification for the non-labor cost increase has been submitted.

Q. Should the Company's request for $4.587 million be adjusted?

A. Yes. The Company has failed to support its cost estimate and to justify a change in accounting for Quality Assurance costs. As a result, the $751,000 of new non-labor costs should be disallowed. Also, there is no evidence justifying the increase in employees so the employee costs should be limited to the 21 currently on staff. Finally, I recommend that the cost included in the rate year be limited to the 15% previously expensed. Therefore, the Company's program change adjustment of $4.397 million should be reduced by the $751,000 of unsupported non-labor costs and the labor increase should be reduced by $3.373 million. The labor adjustment allows the 21 positions filled using the historic 15% expense rate for a total expense of $273,000 ($3.545 million x 50% x 15%)

Q. What is your total proposed adjustment to the Company's request for Public Safety & Environmental cost?

A. I recommend that the Company's cost projection for these projects be reduced by $14.071 million for non-labor and $5.928 million for labor.

<u>Storm Hardening & Response</u>

Q. What increase in cost is being requested for the Storm Hardening and Response program?

A. The Company is requesting that the test year expense of $15.715 million be increased by $5.337 million to $21.052 million. The major reasons for this increase are the proposed initiation of programs for customer response, danger tree removal, overhead planning and a rear lot pole removal program. In addition, there is a 14% increase in line clearance and a 26% increase in the double wood program costs. The specific program costs of greatest concern will be discussed separately.

Customer Service Response Program

Q. What are your concerns with the Customer Service Response request?

A. The Company's explanation of the costs of this program is confusing and inconsistent, and therefore raises serious questions regarding the appropriateness of this request. For example, in response to CPB IR 83a, the Company indicates that this new program for which $418,000 of cost plus escalation was approved in Case 07-E-0523, has not filled 3 of the 6 positions currently in rates. However, the response to DPS IR 45REV indicates that all 6 positions have been filled.

Similarly, in Exhibit__ IIP 20, the Company says that the requested $388,000 cost for this program is based on 6 full-time employees and 11 Equivalent Employees (EOT) and non-labor costs. The response to CPB IR 83b, confirms that the cost calculation is based on 6 CSR's and 11 EOTs but provides no indication of non-labor costs.

In addition, the response to CPB IR 83b indicates that the salary of each CSR is $73,000, whereas the response to CPB IR 66 (DPS IR 165) shows that the labor for the Customer Response Program is based on 6 CSR's each with an annual salary several times larger than the salary above. The response to CPB IR 66 makes no reference to any portion of the cost being overtime-related in contrast to what was indicated in Exhibit__ IIP 20 and CPB IR 83b. These numerous inconsistencies raise uncertainty about the appropriateness of this request.

Q. Are you recommending an adjustment to the Customer Service Response requested increase of $388,000?

A. Yes. I accept the Company's representation that 6 CSRs have been hired for this program but disagree with its proposed annual compensation rate and the overtime request. Based on the response to CPB IR 83b, the CSR salary is $73,000 and 25.8% of the associated costs should be allocated to electric operations. Therefore, the cost of 6 CSRs would be $113,004 ($73,000 x 6 x 25.8%). Thus, an adjustment of $275,000 is required to reduce the Company's request of $388,000 to $113,000.

<u>Danger Tree Removal</u>

Q. What are your concerns with the danger tree removal request?

A. The Company, on Exhibit__(IIP 7), under the program caption "Storm Hardening and Response," is requesting $634,000 plus escalation for danger tree removal. This request, based on Company Exhibit__(IIP-20) assumes a "2010 cost per unit" for various size trees with the overall average cost-per-tree being $704. The use of a 2010 cost is inappropriate since the Company also applies an escalation factor to its cost estimate.

Q. What adjustment are you recommending for the danger tree removal request?

A. The Company in response to DPS IR 138.1, provided the year-to-date costs for 2008 and an estimate of the costs of trees identified for removal.

The average cost of tree removal thus far in 2008 is $526 per tree. Including the cost of removing those trees that have been targeted for removal, reduces the overall average cost to $435 per tree. Both rates are significantly less than the 2010 rate of $704 identified in Exhibit__ (IIP-20). I recommend use of the average cost of $435 per tree to offset the possible double count from the escalation application. Accepting the 900 tree count proposed by the Company at a rate of $435 per tree, results in a rate year expense of $391,500. That requires a reduction of $242,500 to the Company's request of $634,000.

<u>Distribution Line Clearance</u>

Q. What are your concerns with the line clearance request?

A. The Company, on Exhibit__(IIP 7), under the program caption "Storm Hardening and Response," has reflected a program change adjustment of $1.904 million for distribution line clearance, thereby increasing the test year cost from $13.529 million to $15.433 million plus escalation. Company Exhibit__(IIP-20) provides a detailed summary that enables the reader to determine how the rate year amount was determined. However, I have several concerns with the Company's cost projection.

First, the Company's cost calculation states that the rate year costs are based on "2010 Dollars." As explained previously, this approach coupled with an escalation adjustment results in a double count. Next, information supplied in the response to CPB IR 83e indicates that the costs used by the Company in its calculation are excessive. That response provides three quotes that on a weighted basis had an average cost of approximately $4,000 per trim-mile. This indicates that the $5,361 cost per trim-mile used by the Company is overstated. In addition, the Time and Equipment cost estimate of $2.109 million is 7.3% more than the three-year average of $1.966 million that was purportedly used to set the projected rate. This confirms my concern that some escalation was factored into the original estimate, so the application of an escalation rate would lead to ratepayers paying twice for the same cost.

Q. Why was the Company's cost per mile estimate for trimming overstated?

A. The Company's response to CPB IR 83c provided supporting documentation for the danger tree rates used by the Company. The quotes provided were different than the ones provided as justification for the estimate of line clearance costs. In reviewing the two sets of quotes, I noted that the per-mile cost for clearance used in developing the cost estimate was greater than the per-mile cost in the support provided for line clearance. It would not be appropriate to ignore this information even though the Company did not provide it as justification for the line clearance rate per mile. By adding in the extra two quotes in the weighted average, I determined that the Company's estimated rate per mile of $5,361 for line clearance is overstated by $323 per mile. The $323 difference multiplied by 1,600 miles suggests that Con Edison's 2010 estimate is overstated by $516,800.

Q. Do you have a recommendation regarding Con Edison's proposed spending for line clearance?

A. Yes. I am recommending a two step adjustment. First, the Company's 2010 cost estimate should be reduced by $500,000 for the excess per-mile cost included in the 2010 projection. Next, to avoid any double count with escalation, I am recommending as part of the escalation adjustment that the escalation be reduced $801,000 ($15.433 million x 5.19%, the Company escalation rate). That is a conservative adjustment given the fact that any labor dollars included in the $15.433 million request have been increased by 7.78% escalation and accounts for the overstatement of the Time and Equipment cost estimate.

Double Wood Program

Q. Do you have concerns with the Double Wood Program cost request?

A. Yes. The Company has requested $2.648 million for the rate year. Company Exhibit__(IIP-7) shows that this represents an increase of $540,000 over the 2007 test year expense of $2.108 million. In reviewing the decision in Case 07-E-0523, at page 79, I noted that on exceptions to the Recommended Decision, the Company claimed to have spent over $4 million to remove double wood in 2007. This significant difference in the

Company's representation of the amount of expense in 2007 has not been explained.

Another concern is that the Company's justification in Company Exhibit__(IIP-18), states in two paragraphs that it is subject to fines from municipalities for not promptly removing the double poles. Other information in the exhibit, including that there are more than 3,600 poles which have Company attachments and that 280 additional double poles are placed annually, suggests that this has been a cumulative problem that has developed over a number of years. According to the response to CPB IR 83j, no fines have been paid by the Company from 2003 to date. The threat of fines is possible, but the fact that no fines have been paid in more than five years, suggests that the Company's concern should be discounted.

Additionally, I still contend as I did in Case 07-E-0523, that the costs for this program are capital in nature and should not be expensed.

Finally, I am concerned with the Company's response to CPB IR 83l, in which the Company essentially says that if it doesn't receive funding for a program, it won't perform the work. The response also states that double poles were allowed to accumulate because the 2004 rate case did not provide funding for the transfer of equipment to a new pole.

Q. Are you recommending an adjustment to projected expense for the Double Wood Program?

A. Yes. Because there appears to be uncertainty as to what the real test year cost is and because the Company allowed the double pole problem to occur and grow, I am recommending that the Company be provided the $2.108 million that they have represented to be the 2007 test year expense. A reduction of $540,000 is recommended.

Q. What is the total adjustment to the Company's request for Storm Hardening & Response cost?

A. The total adjustment for the programs discussed above is a reduction of $1.283 million of non-labor costs, $801,000 of escalation and $275,000 of labor costs.

<u>Process Improvement</u>

Q. Are there any concerns with the Process Improvement program request?

A. The Company is requesting an increase of $4.955 million above the comparable test year expense of $9.131 million for the fourteen programs listed on Exhibit__(IIP-7). I will identify some concerns that were noted. The Engineering Contractor – Vendor Layouts program includes an increase of $221,000 for non-labor costs associated with the addition of 12 engineering technicians. The projected expense is the same that was requested and allowed in Case 07-E-0523. However, the Company has not filled all the positions that were planned. That means the associated cost increase is not justified.

Another concern is with the Enhanced Project Planning program. The Company is requesting an increase of $1.536 million over the test year expense of $7.822 million. The program requirements provided by the Company on Exhibit__(IIP-25) suggest that eight additional positions are required. The response to CPB IR 84f shows that since December 2007, the employee count has declined by two positions.

Finally, another concern is that the Technical Support /NYC Regulatory Liaison Program and the Field Auditing & Quality Control Program were approved for $376,000 and $563,000, respectively in Case 07-E-0523. The respective costs were projected to continue at the level beyond rate year 2009. Now the Company is estimating that the costs for rate year 2010 for the Technical Support /NYC Regulatory Liaison Program and the Field Auditing & Quality Control Program will be $220,000 and $394,000, respectively. To the extent that the new estimates represent the true cost of the programs, ratepayers are currently paying in excess of what is required for those programs. The point is that the Company's filing is overly optimistic throughout. It assumes that employees will be added and vacancies won't occur. It asks for non-labor funding without substantiating the estimates with supporting documentation.

Q. Are you recommending an adjustment to the Company's Process Improvement program request?

A. Yes. The Company is requesting an increase of $4.955 million above the test year expense, with $3.287 million of the increase attributed to labor. Because the Company has failed to fill the positions allowed in Case 07-E-0523 and has assumed there are no vacancies, I am recommending that the labor request be reduced by 50% or $1.643 million.

FACILITIES EXPENSE

Q. Please summarize the Company's request regarding projected facilities expense.

A. The Company's Shared Services Panel has reflected the proposed rate year O&M expenses for facilities and security on Exhibit__ (SSP-2), Exhibit__ (SSP-3), Exhibit__ (SSP-4) and Exhibit__ (SSP-5). The test year costs for the various programs are $9.295 million and the requested expense level is $33.167 million. The increase of $23.872 million is significant.

Q. What is driving the increase in costs for facilities?

A. The Company is having to undergo significant renovations of its facilities to comply with local building requirements. While some costs are being capitalized, others are being expensed. Based on the Company's arguments in Case 07-E-0523 and the information supplied in this case, there are differences of opinion on whether some of the costs the Company is expensing could instead be capitalized. For example, the DPS Staff in DPS IR 343 asked for an explanation as to why Local Law 11 costs could not be spread over more than a single rate year. The response suggested that in accordance with Generally Accepted Accounting Principles ("GAAP") the amounts expended are expensed as they are incurred. The response continues by stating that in rate filings, the Company "expects" to record these costs in the year when they are incurred. I believe the operative word is "expects." There are a number of factors that apply when asserting that something is done in accordance with GAAP. One factor is the Company's expectations. Judgment is also part of GAAP and may, of course, differ among parties.

In my opinion, a significant portion of the facility costs could be capitalized under two different scenarios. First, a basic concept of GAAP is that when a significant amount of expenditures are made that will extend the life of an asset and/or provide a benefit over future periods, the cost should be capitalized. My opinion is the costs should be capitalized and amortized over the periods in which the benefits occur.

Second, Con Edison and the Commission can make use of the special rules of Financial Accounting Standard 71 ("FAS 71"), which is specific to regulated industries and has been utilized by utilities and regulatory agencies for years to account for costs differently than in unregulated operations. Utilities often use FAS 71 to recover unusual costs incurred between rate cases that otherwise would be expensed. Prime examples are unusual storm costs and recovery of accounting changes that unregulated entities would be required to write-off immediately. The Commission could use tools made available under FAS 71 to require facility costs to be deferred for recovery and amortized to ratepayers over a period of time.

Q. Are there other concerns with the Company's request?

A. Yes. The increase in projected expense is for costs incurred as the result of capital projects that will provide improvements to facilities that will be used over a period of time. Some costs are for improvements to the property that one would expect to be capital costs. It is not appropriate to establish rates with one-time costs. If rates are set that include the costs in question and they are not adjusted after the year the project is completed, ratepayers will continue to pay costs that the Company is no longer incurring. This is a significant consideration when the projected expense requested is three and one-half the times the historical expense level.

Q. What is your recommendation regarding Exhibit__ (SSP-2)?

A. The $10.610 million of program change cost identified on Exhibit__ (SSP-2) that are associated with the work performed at Corporate Headquarters includes costs that should either be capitalized, or deferred and written off over an extended period of time.

The first concern is with the Air Quality Improvements of $924,000. The increase of $763,000 over the test year is significant and includes the removal of mold and insulation. Under EITF No. 90-8, costs to mitigate or prevent environmental contamination that improve the property should be capitalized. The Company in response to CPB IR 113 confirmed that environmental containment is a part of this project; however, since sufficient information is not available, I am not adjusting the Company's request for Air Quality Improvements at this time.

Next, Local Law 10-11 includes environmental costs (i.e. caulk removal) that will mitigate or prevent contamination. As stated above, the Company could defer these costs and amortize them over the future periods in which benefits from the project will be received. I am recommending that the costs for Local Law 10-11 be deferred, including the projected costs for the next two years, and that the current year's costs be amortized over a five-year period. This would reduce the current years expense $800,000 ($1 million /5= $200,000 allowed). An adjustment of $649,000 ($800,000 x 81.14%) million is required for electric operations.

The cost of the Building Infrastructure Restoration Programs total $1.288 million in the rate year. The Company testifies that the life expectancy of assets is being approached and that upgrading the assets will ensure continual operation and use of the facilities. If the costs increase the life expectancy of the assets, the costs should be capitalized. I am only recommending that the Cooling Towers Restoration cost of $630,000 be amortized over five years, reducing the Company's request $504,000. An adjustment of $408,946 ($504,000 x 81.14%) million is required for electric operations.

I also recommend an adjustment to the cost projection for floor renovations. The cost associated with the relocation of employees in the rate year is $7.655 million compared to $226,000 in the test year 2007. In reviewing the response to CPB IR 113, I am of the opinion that the $4.895 million ($5.76 million - $0.865 million) of construction costs and furniture are capital costs and should be excluded from O&M expense. An adjustment of $3.972 million ($4.895 million x 81.14%) is required for electric operations.

Q. What is your recommendation for Exhibit__ (SSP-3)?

A. The $11.761 million of program change cost identified on Exhibit__ (SSP-3) is associated with other capital work performed at other locations. I have the same concerns regarding the various programs but my primary concern is the rent increase from $6.75 million in the test year to $16.317 million in the rate year. First, the white paper for the rent and tax increase shown on Exhibit__ (SSP-3), page 8 of 9, indicates that the cost is $8.317 million not the $16.317 million included in the Company adjustment. The response to CPB IR 114 requested detail on the $8.317 million on Exhibit__ (SSP-3), page 8 of 9, and the information supplied suggests that the $8.317 million amount is correct. The additional $8 million is not supported by the filing and should be adjusted. An adjustment of $6.491 million ($8.0 x 81.14%) is required for electric operations.

CUSTOMER OPERATIONS

Q. Did you review the Company's request regarding Customer Operations?

A. Yes. A review was made of the testimony, exhibits and workpapers of the Customer Operations ("CO") Panel, as well as the Panel's responses to information requests. Based on my analysis, I am recommending an adjustment of $447,169 to the Company's proposal ($274,000 for CSRs and $173,169 of escalation). The requested increase of $5.524 million, as shown on CPB Exhibit__(LA-1), Schedule 9, is driven by the requested increase for Customer Service Representatives (Exhibit__ (CO-10)), Customer Field Representatives (Exhibit__ (CO-18)), the Competitive Market Customer Service System (Exhibit__ (CO-14)) and the Bill Redesign (Exhibit__ (CO-16)).

Q. Are there some concerns that you have identified from your review?

A. Yes. As I indicated previously in this testimony, Con Edison's proposal to add 18 Customer Service Representatives ("CSRs") has been eclipsed. The Company was provided funding for an additional 18 CSRs in Case

07-E-0523 and has hired those 18 plus at least another 29 CSRs since January 2007. Based on the response to CPB IR 92b, the 2006 test year in Case 07-E-0523 included an average of 549 CSRs, and the 2007 test year had an average of 557 CSRs, indicating an average addition of 8 CSRs. The Company now requests full ratepayer funding for 18 CFR's as if none were added after the 2006 test year. In my opinion, the request duplicates approximately 8 positions that were added positions since 2006. Proportionately, the Company's request should be reduced at least $274,000 ($651,000/19 requested including a supervisor, yields a per CSR cost of $34,263. Therefore, the total cost of the 8 CSRs added in 2007 is $274,000.)

I also recommend an adjustment to the Company's Bill Redesign request. Based on the supporting documentation supplied in response to CPB IR 93, the increase in costs reflects projected dollars using forecasted costs per unit. Since the Company also escalates the cost of this project for projected inflation, it has essentially double-counted the effects of inflation. To be appropriate, an escalation factor should be applied to 2007 costs. Based on the Company's response to the information request, the approximate increase in the cost of envelopes is 15.7% over the "current cost" per unit. Therefore, I am recommending that the escalation of 5.19% or $173,169 ($3,336,594 x 5.195%) not be allowed.

STEAM OPERATIONS

Q. Did you review the Electric Production Panel's testimony and exhibits?

A. Yes. The Electric Production Panel has requested an increase of $10.898 million for steam operations. This includes the following major cost increases: $2.6 million for major maintenance; $2.5 million for Unit 6 turbine rewind; $350,000 for boiler cleaning; $2.244 million for gas turbine inspections and repairs; and, $2.94 million for facilities maintenance, stack painting and repair.

Q. Do you have any concerns with the Company's request?

A. Yes. Con Edison was requested in CPB IR 91 to provide supporting documentation for the boiler cleaning, the gas turbine maintenance and the facilities maintenance, but did not provide the requested support. Instead, an explanation was provided that the estimate was based on experience and a contract estimate; however, that contract estimate was not provided.

Another concern is that the request appears inconsistent with the Company's actual spending in the current rate year. In Case 07-E-0523, Con Edison requested and was allowed a total of $585,000 for boiler cleaning and $2.969 million for gas turbine work, an increase over the test year of $350,000 and $2.244 million, respectively. The problem is that Con Edison's 2008 budget, which encompasses 75% of the rate year ending March 31, 2009, has only $200,000 budgeted for boiler cleaning and $1.689 million budgeted for the gas turbine work. One would expect, that based on what the Company requested, there should be a higher expense budget for 2008. Therefore, it appears the Company's estimates in Case 07-E-0523 were overstated or there is no longer a plan to expend the money at the level intended. In the current rate case, the Company has asked for the same increases, although Con Edison claims that the $350,000 for cleaning is for a different unit and the $2.244 million for gas turbine repairs is for the second year of a three-year maintenance plan. The problem is that there is no evidence that the Company will spend the amounts requested.

In addition, the cost requested is not reflective of historical spending. The 2010 boiler cleaning request of $474,000 exceeds the $359,000 that was spent in 2006 and 2007, combined. The $4.225 million requested for overhauls in 2010 exceeds the $2.939 million that was the total actual expense for 2006 and 2007, combined. The same concern applies to the requests for gas turbine maintenance and facilities maintenance.

One other concern is that the Company's filing is either inconsistent with the purported supporting exhibits or the filing includes incorrect amounts. For example the Exhibit__(EEP-2) pages 2, 3, 4 and 6 rate year funding amounts match the Company's request. But Exhibit__(EEP-2) pages 5, 7 and 8 match the increases requested and not the total rate year funding requested.

Q. Did you voice similar concerns with the projected costs in Case 07-E-0523?

A. Yes. The ALJ and the Commission stated that the Company's testimony adequately supported its request. I recommend that the Commission require hard evidence in this case and not rely solely on the Company's unsupported testimony.

On CPB Exhibit__(LA-1), Schedule 10, I have summarized some relevant historical and budget information. The response to CPB IR 13a in Case 07-E-0523 provides three years of historical costs and the 2007 budget for seven of the major program costs. The 2007 actual amounts and the requested amounts on my exhibit are from the Company's filing. These data demonstrate that the boiler cleaning request of $474,000 has not been achieved in any of the previous four years. Similarly, the gas turbine maintenance request of $2.889 million has not been achieved in any of the previous four years. The Company's request for six of the seven programs exceeds the four-year average expense for that program. Overall, in 2007, Con Edison budgeted $16.03 million for the seven major programs and expended $12.602 million, with only one program being over budget.

The other fact that the Commission should consider is that the Company was requested in CPB IR 91 to provide supporting documentation for three of the programs, identified earlier, with a projected total cost of $7.358 million, yet no supporting documentation was provided.

Q. Are you recommending an adjustment to the requested increase in expense for Electric Operations by the Electric Production Panel?

A. Yes. The facilities maintenance request of $3.995 million is considered excessive. As shown on CPB Exhibit__(LA-1), Schedule 10, the four-year average amount expended was $2.494 million. I am recommending that the Company's request be reduced $1.501 million to the historical average of $2.494 million, due to the absence of supporting documentation that would justify an expenditure level in excess of the historical spending.

I am also recommending that the boiler cleaning request of $474,000 million be reduced $274,000 to the amount budgeted for each of the years 2007 and 2008. That $200,000 is approximately the four-year average expense of $209,000. This adjustment is warranted since the Company failed to provide the requested supporting documentation for the expense and there is no evidence that Company will spend in excess of what is budgeted and/or historically spent.

The request for $7.293 million for major maintenance is considered questionable. The Company requested $7.442 million in the last case and budgeted $7.5 million for 2008 which suggests that the estimate may be reasonable. However, the Company budgeted $7.5 million in 2007 but only spent $4.693 million. Based on the facts that over the last four years the average expended for major maintenance was $4.44 million and the Company only spent $4.693 million in 2007 when $7.5 million was budgeted, I am recommending a reduction of $2.293 million to the Company's request of $7.293 million, resulting in a recommended expense of $5.000 million. That recommended expense exceeds both the 2007 spending and the four-year historical average expense.

Finally, the increase of $2.500 million to a total request of $4.225 million for scheduled overhauls should be reduced. Historically, the Company has spent on average $2.012 million for scheduled overhauls. In 2007, the Company budgeted $3.675 million but only expended $1.725 million. The 2008 budget is $1.605 million. The historical average is representative of spending for scheduled overhauls and an adjustment of $2 million would reduce the request to $2.225 million, an amount that exceeds the 2007 spending and the average spending but is more reasonable than an unsupported $4.225 million.

Overall, the Electric Production Panel's request for Steam Operations should be reduced a total of $6.068 million.

<u>INTERFERENCE COSTS</u>

Q. What is the Company requesting for Interference O&M costs in the rate year?

A. The Company originally requested that the test year non-labor expense of $51.482 million be increased by $44.748 million for a total request of

$96.230 million, an increase of approximately 87%. The Company's update reduced that request by $2.764 million, to $93.466 million, resulting in an increase of approximately 82% over spending in the test year.

Q. How was the Company's estimate determined?

A. Con Edison estimated interference costs of $77.663 million excluding Lower Manhattan, and for $13.849 million for Lower Manhattan, and then escalated those costs by $4.747 million for projected inflation. The Company's estimate for interference costs, excluding Lower Manhattan, is based on a formula and New York City's Commitment Plan for capital expenditures. The formula in this case is the same as used in Case 07-E-0523, but the methodology for some of the factors within the formula have been modified. One modification is the use of the City's January Commitment Plan instead of its Capital Commitment Plan as explained in the response to CPB IR 75. The use of the different commitment plan resulted in an increase in the Company's cost estimate. The Company increased this factor even more as explained in the response to DPS IR 249.

Q. What are your concerns with this estimate?

A. The City's Commitment Plan for capital expenditures is uncharacteristically high in comparison to historical levels. Based on a comparison of the annual commitment amounts for a specific time period, the passage of time can impact the estimated commitment significantly. For example, the City Commitment Plan for 2009 increased from $1.337 billion in Case 07-E-0523 to $1.91 billion in this case. Another concern, which I also voiced in Case 07-E-0523, is that the initial request of $96.23 million for the rate year is significantly higher than the five-year average actual cost of $57.958 million.

The amounts requested by Con Edison are based on an estimate of costs by New York City and assume that the City will complete a far larger number of projects than it has historically. This concern is compounded by the fact that in 2006 and 2007, actual expenditures on a percentage basis were significantly less than the budgeted amount based on the City's Commitment Plan.

Q. What was decided in Case 07-E-0523 with respect to your concerns?

A. The ALJ and the Commission both stated my reliance on historical results was not sufficient. However, the ALJ made reference to the fact that the 2006 results were out of line with previous periods and absent a demonstration that my recommendation was more reasonable, the DPS Staff/Company estimate should be used.

Q. Why should the Commission give your recommendation further consideration in this proceeding?

A. The projected increase in interference cost is again significant. As shown on CPB Exhibit__(LA-1), Schedule 11, the 2002-2005 actual expenditures by the Company ranged from 91.06% to 122.33% of the budgeted amount that was based on the City's Commitment. In 2006, that actual expense as a percentage of budget decreased significantly to 74.16%. In 2007, actual expenditures were 78.16% of budget. For 2008, data through June 30 show that spending is 38.66% of the annual budget, which is equivalent to 77.32% at an annualized rate. The significant deviations from projected expenditures for the years 2006-2008 year to date should not be ignored.

Q. What about the Commission's decision to return for the benefit of ratepayers, any portion of the approved amount that is not spent for interference projects?

A. I am in full agreement with that determination. However, rates should not be established based on inflated costs, particularly in consideration of the magnitude of the requested rate increase, the price of electricity and today's challenging economy. Further, ratepayers should not be responsible for providing working capital to the Company in advance without receiving any credit for the advance of funds. The increase in projected interference expense is significant and until the Company can show that interference expenses will in fact increase to the level requested, a lower, more realistic amount should be reflected in rates. In Case 07-E-

0523, the Company was allowed $92 million and in the first 3 months of that rate year April 1, 2008 through June 30, 2008, Con Edison spent $17.276 million (DPS IR 442), $69.104 million at an annualized rate, or $22.896 million less than what was authorized.

Q. What adjustment should be made to the Company's request for interference costs?

A. I recommend that the initial Interference cost request of $96.23 million be reduced $22.66 million to $73.57 million, based on the average of the 2006 and 2007 actual-to-budget data. The $73.57 million amount is approximately 27% more than the Company's average actual interference expense of $57.958 million for the years 2003-2007.

ESCALATION

Q. Are you taking exception to the escalation applied by the Company in projecting its rate year costs?

A. Yes. Some costs should be escalated to reflect projected inflation. However, some projected costs should not be escalated. In addition, some costs may be subject to inflation, but because the costs fluctuate from year to year, the application of an escalation factor is not appropriate.

Q. What costs should not be escalated?

A. Interference costs are based on projections, and escalating those projections would effectively double-count inflation. My Interference adjustment already removed 23.5% of the $4.747 million projected escalation for interference, or $1.116 million. The remaining $3.631 million should also be excluded from cost of service.

Next, I question the appropriateness of escalation on injuries and damages expense. Injuries and damages fluctuate from year to year and there is no evidence that the costs vary from year to year based on inflation. That expense is not tied to inflation like materials and supplies. No justification exists for escalating that projected expense. A reduction of $2.069 million to the Company's projection should be made.

As shown on CPB Exhibit (LA-1), Schedule 1, that would result in a total reduction for escalation of $6.674 million.

Q. Does this complete your prefiled testimony?

A. Yes, it does.