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**Introduction**

Q. Please state your name and business address.

A. My name is Robert Muccilo. My business address is 4 Irving Place, New York, N.Y. 10003.

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

A. I am employed by Consolidated Edison Company of New York, Inc. ("Con Edison" or the "Company") as Vice President and Controller. In this position I am the Company’s chief accounting officer with the overall responsibility for the accuracy and consistency of the Company financial accounting records.

Q. Briefly state your educational background.

A. In 1978, I graduated from Jersey City State College with a Bachelors Degree in Accounting. I graduated from Fairleigh Dickinson University in May 1983 with a Master Degree in Corporate Finance.

Q. Please explain your work experience with Con Edison and your current primary responsibilities.

A. I began my employment at Con Edison in June 1978 and, from that time until 1998, I worked in the General Accounts and Accounting Research and Procedures ("ARP") sections of Corporate Accounting in increasing levels of responsibility up to and including Manager.
of ARP. In 1999, I was promoted to Assistant Controller, responsible for General Accounts and ARP. In 2002, I assumed the responsibilities for Financial Forecasting and Budgets and Electric Revenue and Volume Forecasting sections of Corporate Accounting, and in 2003 continuing through 2006, I assumed the additional responsibility of Regulatory Accounting and Regulatory Filings sections of Corporate Accounting. As part of a career developmental opportunity, in 2006 I assumed the position of General Manager, Stores Operations where I was responsible for operating and managing the central warehouse and distribution facility for electric, gas and steam materials. In April 2008, I returned to Corporate Accounting to assume a special assignment as Assistant Controller and team leader for the Finance Transformation Project. The team was responsible for implementing process, people, and system changes designed to minimize financial reporting risk. I have also served on and led several corporate teams, including the establishment of the Holding Company corporate structure and the Orange and Rockland ("O&R") Merger Transition Team.
Q. Have you been involved in industry-wide utility issues?

A. Yes. For many years, I have been an active member of both the Edison Electric Institute and American Gas Association finance and accounting committees.

Q. Have you previously testified before the Public Service Commission (“Commission”)?

A. Yes. I have testified before the Commission on behalf of the Company in previous electric, gas and steam proceedings.

**Purpose of Testimony**

Q. What is the purpose of your testimony in this proceeding?

A. My testimony will cover the following topics:

- First, I will provide an overview of the costs driving the Company’s request for a rate increase for the twelve months ending December 31, 2014 ("Rate Year") as shown in Exhibit __ (RM-1), including the Company’s plans to make investments of approximately $1 billion in storm hardening of our electric, gas and steam infrastructure over the
next four years, and the Company’s efforts to mitigate the cost of providing service;

- Second, I will discuss how the Company proposes to apply the provisions of the current gas rate plan to the three-month “stub” period covering October 1, 2013 through December 31, 2013. This is the period between the end of the third rate year of the current gas rate plan (i.e., September 30, 2013) until gas base rates would be reset as a result of this filing (i.e., January 1, 2014)

- Third, I will outline the Company’s request to continue currently authorized deferred accounting for a variety of items and purposes, address Company proposals to modify or eliminate some of the deferral or reconciliation mechanisms and address new items for which the Company believes deferral accounting or reconciliation is appropriate. This includes a description of an accounting and ratemaking process that the Company proposes be authorized to facilitate investments designed to “harden” the Company’s gas system to
provide for greater resilience to severe weather conditions;

- Fourth, I will discuss the elimination of collecting any revenues subject to refund pending the Commission’s determination in Case 09-M-0014;
- Fifth, I will address the Company’s interest in pursuing a multi-year rate plan in settlement discussions; and
- Finally, I will address regulatory reforms the Company is actively supporting that, if adopted, would lower Company costs without impairing the level of service provided.

I. Costs Driving the Company’s Request for Rate Relief and Mitigation Measures

A. Costs Driving the Company’s Request for Rate Relief

Q. Mr. Muccilo, please explain why the Company is requesting to increase its rates for gas service at this time.

A. This rate filing, which was delayed due to our focus on the response and recovery from Superstorm Sandy,
has since been revised to address the universal
concern that greater investments and preventative
measures need to be initiated now to better protect
critical infrastructure and our customers from major
storms in the future.
The Company’s existing gas rates were set by the
Commission under a rate plan that began October 1,
2010 and has a primary term extending through
September 30, 2013. With this filing, the gas rate
increase will not be effective until January 1, 2014,
three months later. The Company has taken significant
steps to instill a cost-management culture that
pervades management of all aspects of its operations
starting with long range planning, project
prioritization and optimization continuing to short
term budgeting and culminating in daily implementation
as is addressed by many Company witnesses, a number of
significant increases in the Company’s costs of
providing service that are, for the most part, outside
its control materially exceeded the Company’s success
in mitigating costs over which the Company can
exercise a reasonable degree of control.
As is described throughout this filing, the Company
continues to mitigate costs - some to be realized in the short term and some in the longer term - some that can be more specifically quantified or estimated than others, and some that are avoided increases rather than savings from current levels. Many increases in costs, however, are outside the Company’s direct control, cannot be mitigated or offset to a degree the Company can absorb without significantly curtailing or eliminating necessary programs, negatively affecting overall service quality, jeopardizing the Company’s ability to provide reliable service and failing to provide a reasonable return to investors.

Q. What amount of gas rate relief is the Company requesting in this proceeding?

A. The Company is requesting $25.3 million of rate relief for the Rate Year. This would be equivalent to an approximately 2.6% average increase in delivery rates, or an overall increase on customers’ bills of approximately 1.3% as the Gas Rate Panel explains in additional detail. As discussed later in my testimony, the $25.3 million request does not reflect the impact of additional planned storm hardening expenditures in 2014 of approximately $4.8 million or
the additional rate base reduction that will be available due to the extension of bonus depreciation. In terms of customer bill impacts in relation to current bill levels, the one percent temporary portion of the Public Service Law § 18-a surcharge is scheduled to expire March 31, 2014. The annual surcharge is revised each year and billed over a twelve-month period that runs from July through June. As a result, the Company estimates that approximately $10 million dollars of the increase will be offset during the last six months of the Rate Year and customer savings will then be $20 million annually.

Q. Are any costs for Superstorm Sandy reflected in this filing?

A. None of the Operation and Maintenance ("O&M") costs incurred by the Company related to Superstorm Sandy are included in the revenue requirement in this proceeding. Because Hurricane Sandy O&M expenses related to gas operations are not subject to storm reserve accounting as are those for electric operations, and because they do not satisfy the Commission’s requirements for deferral accounting authorization as do those for steam operations, the
Company has absorbed the full amount of gas operations O&M expenses due to Hurricane Sandy. The amount was approximately $3 million.

Q. How are the planned investments in storm hardening reflected in this filing?

A. The Company’s Gas Infrastructure and Operations Panel addresses Company plans to make storm hardening investments in 2013 through 2016. All of the projected storm hardening investments are reflected in the revenue requirements developed for the Rate Year and for two additional years for illustrative purposes, with the exception of $4.8 million in 2014, which we will reflect in the Company’s update to be submitted later in this proceeding.

Q. What are the principal drivers of this rate increase?

A. There are several. They are summarized in the following table. Additional detail is shown in Exhibit __ (RM-1) entitled “CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. - MAJOR ITEMS DRIVING RATE INCREASE” which was prepared under my supervision and direction.
<table>
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<th>Item</th>
<th>($ millions)</th>
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<td>Carrying Cost of Rate Base additions (incl. Depr.)</td>
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<td>Pension/OPEB Expense &amp; Employee Welfare Expense</td>
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<td>Higher Cost of Capital</td>
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<td>Other Items</td>
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<tr>
<td>Increase</td>
<td>$25</td>
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Q. Please discuss the component of the rate request relating to plant additions listed on Exhibit __ (RM-1).

A. It is necessary to continue to maintain a safe and reliable system. As discussed by the Company’s Gas Infrastructure and Operations Panel, the projected level of spending reflects the investments determined to be necessary due to replacement of aging infrastructure, current customer needs and planning for future customer needs. Of particular significance, is additional investment needed to provide for conversions from use of No. 4 and/or No. 6...
Robert Mucciolo – Gas

fuel oils to natural gas as a result of cost savings
due to falling natural gas prices together with New
York City’s PlaNYC Clean Heat regulations. Capital
spending decisions are made following extensive and
rigorous analysis including an optimization assessment
and are guided by long and short term planning
processes.
The ongoing need for capital investment and new
investments to address storm hardening contributes to
the increase in the carrying cost of rate base of
approximately $55 million, which includes the
additional depreciation expense on the higher plant
investment at the Company’s currently authorized
depreciation rates of $35 million offset by the impact
of bonus depreciation of $32 million.

Q. In his 2013 State of the State message, Governor Cuomo
asserted that strengthening critical utility
infrastructure is an essential step to ensure that we
will be better prepared for future natural disasters.
Does the Company agree?

A. Yes. As indicated above, the Company’s electric, gas
and steam contemporaneous rate filings demonstrate a
Company commitment to this objective made immediately
following Superstorm Sandy. As detailed by the Company’s various infrastructure panels, the Company’s capital programs were adjusted to reflect approximately $1 billion of storm hardening projects in 2013, 2014, 2015 and 2016 as a substantial step to strengthening the Company’s infrastructure against future weather events. Consistent with the Company’s continuing efforts to mitigate costs and thereby provide safe and reliable service in the most cost effective manner, some of the planned investments for 2013 will be made in lieu of previously planned expenditures that the Company determined can be reasonably deferred to a future period. The revenue requirement will be updated at the appropriate stage of this proceeding to reflect the additional investment of $4.8 million for storm hardening. This update would be accompanied by various other updates as is common practice. In this case, the updates would include consequences of the recently enacted Taxpayer Relief Act of 2012 such as the additional rate base reduction that will be available due to the extension of bonus depreciation.

Q. Please explain the item on Exhibit ___ (RM-1) related

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A. The Company is faced with a number of increasing costs, many of which cannot be directly controlled by Con Edison. Employee pension and other post employment benefit ("OPEB") costs are an example. Those costs have increased primarily as a result of the current interest rate environment and account for $16 million of the rate request. Low long-term interest rates manifest themselves in the discount rate that is used to calculate the Company’s pension obligation. Based on information that was available in early December, the Company’s actuary used a 4.0% discount rate when computing the Company’s pension expense for the Rate Year. This change, when compared to the discount rate used for calendar year 2012, increased the Company’s estimated pension cost for the Rate Year by approximately $8.5 million. Due to Company efforts to restructure its Voluntary Employee Benefit Association ("VEBA") plans for its OPEBs, however, that cost has been reduced for the Rate Year by $3.5 million. The change involved the way Medicare Part D prescription drug reimbursements are handled. Beginning in 2013, an employer’s tax deduction was
reduced to the extent the employer’s drug expenses are reimbursed under the Medicare Part D retiree drug subsidy (“RDS”) program. Previously, such reimbursements were not taxed. As a result of this change, the Company will redirect the Medicare Part D RDS to an Employer Group Waiver Plan (EGWP), which would not be subject to the same tax treatment and thereby avoid an increase in this cost to the Plan. The OPEB projections also reflect the reduction, and in some cases elimination, of the life insurance benefit to be paid to the estates of management and weekly retirees effective January 1, 2013. The Company’s Compensation and Benefits Panel further explains the initiatives used to mitigate pension and OPEB costs. As has been customary in previous rate case proceedings, the Company will update pension and OPEB costs, reflecting updated information received from the Company’s actuary, Buck Consultants, during the update stage of this proceeding. Employee welfare expenses account for $9 million of the requested rate increase. Under the current rate plan, health benefit costs were set at levels
reflecting general rate of inflation increases, approximately 2% per year. As explained by the Company’s Compensation and Benefits Panel, general inflationary growth is not the proper escalator for this material cost. Simply applying a cost escalation factor does not recognize that a significant portion of the projected increase is due to changes in health care coverage law, the demographics of those covered by the Company’s benefit plan and increased usage of benefits by employees covered by the plan, among other factors, which support a higher expected rate of growth for this cost.

Q. Please continue by discussing the increase in capital costs of $20 million.

A. Factors contributing to higher capital costs include an increase of the cost of equity. The return on equity ("ROE") that is being requested and recommended by Company witness Hevert is 10.35%. The 10.35% ROE represents an increase of 75 basis points from the 9.6% ROE reflected in the current rate plan and accounts for approximately $22 million of the requested rate increase. Also contributing to the rate increase by approximately $10 million is a change
in the equity ratio from 48% to 49.9%, which is representative of the Company’s current equity ratio. The redemption of preferred stock earlier this year and lower debt costs mitigate capital costs by $5 million.

Q. Please identify factors contributing to increased operating expenses.

A. The more significant operating expenses include uncollectible accounts expense, the phasing-out of excluding O&M expenses from rates by austerity imputations under the current rate plan, and labor costs with each contributing about $4 million to the rate increase for a total impact of $17 million. The components of salary and wage expense are addressed by the Company’s Accounting Panel. Labor expense reflects contractually required wage increases for union employees and a reasonable management wage increase. The Company has also reflected a one percent productivity imputation through a reduction of otherwise expected labor costs. The labor cost reflected in the revenue requirement includes funding for the variable portion of non-officer management labor costs, which was excluded from rates during the
current rate plan.

The Company’s Compensation and Benefits Panel demonstrates the reasonableness of the Company’s compensation of its weekly and management employees. I would note that despite the reasonableness of management employee compensation, the Company has elected for purposes of this proceeding, without prejudice to the Company’s position in any future proceeding, to forgo requesting recovery of the cost of the longer term performance-based equity grant portion of management compensation.

Other items contributing to the increase in operating expenses are discussed by various Company witnesses.

Q. Please discuss the increase due to property and other taxes.

A. Property and other taxes comprise $12 million of the rate increase and are costs over which the Company has no direct control and limited power to influence. As forecasted by the Company’s Property Tax and Depreciation Panel, the level of property taxes forecast for the Rate Year is about 6 percent higher than the levels reflected in current rates, which accounts for $11 million of the rate increase. The
increase in property taxes above the current rate
allowance is attributable to higher projected property
taxes in Westchester and other upstate communities.
This increase is despite Company efforts and successes
to mitigate these taxes as explained by the Company’s
Property Tax and Depreciation Panel.
Payroll and other taxes contribute another $2 million
to the rate increase.

Q. Are sales revenues expected to partially offset the
increased costs you have been describing?
A. Yes. As discussed by the Gas Forecasting Panel, we
are projecting $66 million of additional revenue
attributable to projected growth in the number of new
gas customers and gas load when compared to the levels
assumed in current rates. Sales related conversions
from use of No. 4 and No. 6 oils are expected to be a
significant factor in that regard, along with adding
to the Company’s need to invest in its gas system.

Q. What effect does the amortization of deferred credits
and deferred costs have on the Company’s request for
rate relief?
A. The result is a $21 million reduction from current gas
rates.
Q. Please explain.

A. Under the current rate plan, gas rates reflect amortization of deferred costs and deferred credits of a net charge to customers of $18.4 million. The current projection is that during the Rate Year deferred cost amortization will be approximately $28 million and deferred credit amortization will be approximately $30 million for a net credit in rates of approximately $2 million. Therefore, the rate request reflects an approximately $21 million reduction related to the amortization of net deferred costs and deferred credits, which is the difference between the current annual recovery of $18.4 million that expires and the projected Rate Year credit of approximately $2 million. I note that all annual amortization amounts are based on a proposed three-year period except for a five year amortization period for SIR costs which I will discuss later in my testimony.

Q. Please discuss deferred credits relating to World Trade Center costs.

A. The Company’s efforts to obtain recovery of costs incurred for restoration of facilities damaged as a result of the attack on the World Trade Center have
resulted in the mitigation of the rate increase. To date the Company has recovered approximately $400 million through lawsuits, insurance recoveries and from the federal government. These recoveries combined with the amount of costs funded by customers have offset the deferred restoration costs leaving $20 million available to be credited to gas customers, which the Company proposes to do over three years. To the extent additional litigation costs are incurred and/or proceeds are awarded from the pending lawsuits, the Company proposes to continue to defer these costs and proceeds until all of these matters are resolved.

Q. Are there other items that serve to partially offset the need for rate relief?
A. Yes. A decrease in income taxes net of higher revenue taxes and other items also offsets $11 million of rate relief otherwise needed. There is also an offset of $5 million related to decreased depreciation expense. That decrease results from changes in depreciation rates proposed by the Company’s Property Tax and Depreciation Panel based on a study of the appropriateness of the depreciation rates currently authorized for use. The updated
A. Yes. The Company has taken numerous measures to keep costs at the lowest practical level without adversely affecting service quality or reliability. It is a Company-wide imperative to proactively seek ways to responsibly reduce costs.

I have mentioned several already during my explanation of cost increases and decreases resulting in the amount of the rate increase being requested in this filing. Examples are: (i) aggressively pursuing recovery of costs associated with the World Trade Center matter and succeeding to the point that funds are available in this proceeding to more than offset remaining deferred costs and provide a credit to customers; (ii) the significant savings due to the restructuring of VEBA plans (I would also note by adopting a Cash Balance pension formula for newly
hired Local 1-2 union employees); (iii) successful
efforts to reduce property tax assessments; and (iv)
sound financial management such as the redemption of
the Company’s preferred stock serving to reduce
financing costs.

These efforts and successes and others, as well as
embedded practices that have served to avoid
unnecessary costs, are described by various witnesses
including the Gas Infrastructure and Operations Panel,
the Shared Services Panel, the Municipal
Infrastructure Support Panel, the Compensation and
Benefits Panel, the Property Tax and Depreciation
Panel, the Management Audit Panel, Company witness
Price as to environmental costs, Company witness
Carnavos as to gas supply costs, and the Gas Non-Firm
Services Panel as to the efforts to maximize
interruptible and other revenue sources for the
benefit of firm customers.

These efforts are also consistent with implementing
the element of the Cultural Imperatives, as described
by the Management Audit Panel, to reinforce cost
management consciousness. Various witnesses discuss
the implementation of the Cultural Imperatives with
respect to their areas of operations.

II. **Application of Current Gas Rate Plan Provisions**

Q. The Company’s current gas rate plan, adopted in Case 09-G-0795, has a term that ends September 30, 2013, is that correct?

A. Yes. However, because the Company has delayed filing to change base rates for three months, there will be a “stub” period (i.e., a period shorter than a full year) during which the terms of the rate plan will continue, from October 1, 2013 through December 31, 2013.

Q. Please explain how the current gas rate plan reflects the Company not filing for new base rates to be effective immediately following September 30, 2013.

A. Under the current gas rate plan, unless otherwise expressly provided, the provisions of the current rate plan continue after September 30, 2013 unless and until gas base delivery service rates are changed by Commission order. The current rate plan does not expressly provide for termination of any provision at the end of the third rate year so all provisions will continue beyond September 30, 2013.
Q. Are there provisions of the current gas rate plan that you would like to address in terms of their impact on this rate filing?

A. Yes. I would like to address provisions that could result in the over or under deferral of costs during the stub period and could affect the Rate Year revenue requirement. For example, while the rate plan provides for the target for the third rate year of the rate plan ("Current RY3") to apply to any additional rate year(s) for mechanisms subject to targets and reconciliations for the first rate year, the second rate year and Current RY3, the rate plan does not expressly provide how to implement reconciliation for an additional partial rate year.

Q. Please explain how the Company will continue applying the provisions that have Current RY3 targets.

A. The Company will use a portion of the Current RY3 targets, as explained below, for the following reconciliation items and mechanisms:

- Property Taxes;
- Municipal Infrastructure Support;
- Pensions/OPEBs;
• Medicare Part D Reimbursements
• Environmental Remediation;
• Long Term Debt Cost Rate;
• Research and Development Expense;
• World Trade Center Costs; and
• Pipeline Integrity Costs – New York Facilities Charges.

Specifically, the Company will use 1/12 of the annual Current RY3 targets each month of the partial year in the reconciliation calculations for the above items.

Similarly, (1) maximum funding for the Company’s oil-to-gas conversion incentive program recoverable through the MRA will be 3/12 of the $1.465 million per year of incentives recoverable under the current gas rate plan and (2) the Non-Firm Revenue Imputation mechanism in effect under the current gas rate plan will be implemented using 1/12 of the annual base rate revenue imputation of $53 million, or $4.42 million per month. Variations from this level will be handled as follows: (a) the Company will retain 100% of all monthly non-firm revenues up to $4.83 million ($58 million / 12); (b) 75% of all monthly non-firm revenue
above $4.83 million will be deferred for the benefit of customers, with interest; (c) 100% of monthly non-firm revenue below $2.75 million ($33 million / 12) will be deferred for recovery from customers, with interest; and (d) 80% of monthly non-firm revenue between $2.75 million and $4.83 million will be deferred for recovery from customers, with interest.

As to rate base items, (1) for the Average Net Plant-In-Service reconciliation, if the actual average net plant balance for the period of October 1, 2013 through December 31, 2013 is less than the Current RY3 average net plant balance target, the Company will accrue carrying charges for customer benefit in accordance with the Net Plant Reconciliation mechanism of the current rate plan and (2) the 263A deferred tax balance reconciliation will be carried forward during the stub period based on the difference between the deferred tax balance reflected in rate base for current RY3 and the actual deferred tax balance.

Q. How will the Company treat the amortization of deferred charges and deferred credits reflected in
rates under the current gas rate plan during the stub period?

A. The amortization of deferred charges and credits under the current rate plan nets to a charge of $18.407 million in Current RY3. Of that amount, $14.448 million relates to deferred items with amortization periods that extend beyond the end of Current RY3 (deferred pension / OPEB costs at $7.427 million per year, deferred SIR costs at $5.065 million per year and World Trade Center Capital costs at $1.956 million per year) and $3.959 million relates to items for which amortization will be complete at the end of Current RY3. As I explained earlier, the World Trade Center capital costs have been provided for by recoveries from lawsuits, insurance and the federal government making continuation of that amortization of $1.956 million unnecessary. When that amortization is combined with the $3.959 million of expiring amortizations, there will be a total of $5.915 million of annual amortization reflected in rates beyond Current RY3 with no associated deferred costs. Each month of the stub period the Company will defer 1/12
of that $5.915 million each for the benefit of customers.

Q. Please explain how the Company will implement the Revenue Decoupling Mechanism ("RDM") for the stub period.

A. The Company will apply the RDM using the monthly targets applicable to Current RY3 as provided for under the current rate plan.

Q. How will the Company handle the Low Income Discounts and Reconnection Fee Waivers during the stub period?

A. The current program will continue. Low Income Discounts will continue and the reconciliation mechanism shall compare actual discounts to 1/12 of $6.4 million (i.e., the annual amount reflected in rates) per month. The Company will continue to provide Reconnection Fee Waivers so long as the total amount of fees waived since October 1, 2010 does not exceed the $225,000 program allotment.

III. **Deferral Accounting and Reconciliations**

A. **Other Than Related to Utility Plant**

Q. Does the Company currently employ the use of deferred accounting as permitted under Accounting Standards
Codification 980, Regulated Operations?

A. Yes. The Commission has authorized the Company to utilize deferred accounting to match the recognition of expenditures with the recovery of certain costs when they are either beyond the Company’s direct control and therefore not subject to reasonable estimation, the timing of the actual expenditure is not certain or in furtherance of Commission policy objectives. The Commission similarly employs deferred accounting regarding the Company’s actual, potential or unexpected receipts of various revenues and credits. The approach is intended to protect the interests of customers and investors by avoiding a “windfall” for one or the other and the approach of amortizing the costs over subsequent periods serves the purpose of minimizing rate volatility.

Q. Is the Company proposing to continue the use of deferral accounting for the costs that the Commission has previously authorized?

A. Yes. With limited exceptions (discussed below), the Company is proposing to continue all deferred accounting and reconciliation mechanisms that are part of the current gas rate plan, some with modifications.
I will discuss later in my testimony. The reconciliation mechanisms that are proposed to continue include, but are not limited to, the existing supply rider provisions (e.g., GCF, MRA) and reconciliation mechanisms for such items as property tax expense, interference costs, pensions and OPEBs, SIR costs, the weighted average cost of long term debt and that related to legislative, regulatory and related actions. I also propose to continue the implementation of the revenue decoupling mechanism in effect under the current gas rate plan subject to certain modifications explained by the Company’s Gas Forecasting Panel.

For all mechanisms based on established targets, the target levels in effect under the current gas rate plan should be updated to reflect those established in this proceeding.

Q. Why is the Company proposing the continuation of the existing reconciliation mechanisms?

A. Those related to costs that are significant, highly variable even in the near term and not subject to reasonable estimation, protect the interests of customers and investors and are appropriate. I note
in that regard that the Company is subject to the Commission’s Policy Statement on Pensions and Other Post Employment Benefits and is required to true-up its annual pension and OPEB costs to the levels provided in base rates. Moreover, continuing these true-ups in connection with a one-year rate determination could enable the Company to delay the need for rate relief at the expiration of the Rate Year.

Q. Does the Company propose that certain reconciliation mechanisms that are currently in effect be modified?

A. Yes. The Company proposes that modifications be made to the currently effective reconciliation mechanisms related to: Property Taxes, Municipal Infrastructure Support, and Net Plant. The Company also proposes a change to the amortization period associated with the recovery of SIR costs. In addition, the Company proposes that the existing provision for deferral accounting for cost or expense changes due to legislative, regulatory and related actions be modified to include changes in Company revenues due to such circumstances.

Q. Please explain the Company’s proposed modifications to
the Property Tax Reconciliation Mechanism.

A. The Company’s Property Tax and Depreciation Panel explains at length why property taxes are not subject to reasonable estimation. The Company’s property taxes are subject to the vagaries of municipal management, economic circumstances, and political influences. The so called “2% cap” law is an example and as the Property Tax and Depreciation Panel points out, there really is no ultimate “cap” under the law and that the Company’s experience for amounts paid in 2012 for bills levied pursuant to the “cap” compared to bills paid in 2011 indicated a 5.1% increase.

The Panel also points out how a small change in New York City (“NYC”) tax rates can produce large tax amount changes and the City has imposed large and unexpected tax rate changes. In this proceeding, the Company’s property tax forecast reflects an increase of $11 million that is equivalent to 5.7% but variations from this forecast can be material. This was the case during the current gas rate plan where the Company projects to defer $14 million in lower property taxes for the benefit of customers and the Company will retain the equivalent of 10 basis points
of return on common equity as a result of the over
estimation of property taxes. Absent a full and symmetrical reconciliation
mechanism, these circumstances create the potential
for a significant windfall for either customers or the
Company at the expense of the other. There should be
no such opportunity and the current sharing mechanism
does not foreclose the possibility. As the Company’s
Property Tax and Depreciation Panel explains, the
Company has historically sought to minimize its taxes
and that continues on an ongoing basis – it is a
normal course of business for the Company including
when a full reconciliation was in effect. There
should be no concern that full reconciliation would
diminish the Company’s incentive to minimize its
property taxes and there is no reason to not provide
for it because a rate case does not result in a multi-
year rate plan. The Commission has addressed those
matters specifically for the Company.
In Case 08-E-0539, the Commission last set rates for
the Company outside the context of a multi-year rate
plan and provided for a full and symmetrical
reconciliation of property taxes. Addressing the
Robert Mucciolo – Gas

1 disincentive issue on pages 106-107 of its April 24,
2 2009 order in that case, the Commission said:

3 We share DPS Staff’s concern about
4 removing an incentive for the Company
5 to minimize its property tax expenses.
6 However, the record in these cases
7 shows that the Company has aggressively
8 sought to minimize its property tax
9 assessments. Indeed, there is no
10 assertion to the contrary. Moreover,
11 our long standing policy is that a
12 utility will be allowed to retain a
13 share of property tax refunds,
14 frequently in the 10-15% range, to the
15 extent it can be established
16 conclusively that the utility’s efforts
17 contributed to that outcome. Taking
18 these two factors into account, we
19 conclude that the Company already has
20 and will retain an incentive to
21 minimize its property tax assessments.
22
23 Given the magnitude of the Company’s
24 property taxes, the relative
25 uncertainty about the impacts of the
26 economic downturn that we consider
27 unique, and that the Company will
28 continue to have an incentive to
29 minimize its property tax assessments,
30 we are adopting the judges’
31 recommendation for full or bilateral
32 reconciliation of property taxes.
33 (footnotes omitted)
34
35 The Commission’s explanation of why a full
36 reconciliation mechanism was appropriate in Case 08-E-
37 0539 remains applicable here in the context of a
38 single rate year filing. The Company has continued to
aggressively pursue minimization of its property 
taxes. Although economic circumstances that the 
Commission referred to as “unique” are not indicative 
of today’s economic environment, it can hardly be said 
that taxing entities no longer face fiscal stress or 
uncertainty, which prevents the ability to forecast 
future tax responsibility with any reasonable degree 
of certainty.

The Company’s proposal for full reconciliation is 
without prejudice to the Company’s right to petition 
for a sharing of tax savings in cases where 
exceptional efforts lead to success in this area as is 
provided for under the current rate plan.

Q. What do you propose with respect to sharing of any tax 
savings?

A. The Commission should continue the 86% customer/14% 
Company sharing mechanism for property tax refunds and 
assessment reductions (net of costs incurred to 
achieve them) that the Company secures that is in 
place under the current gas rate plan. Such sharing 
is consistent with established Commission practice to 
incent utilities to pursue property tax reductions.

Moreover, as explained by the Company’s Property Tax
and Depreciation Panel, the Company’s efforts in this
regard have produced material benefits for customers.

Q. What modifications is the Company proposing to the
currently existing reconciliation mechanism for
interference O&M expense?

A. For the reasons explained in the testimony of the
Company’s Municipal Infrastructure Support Panel, the
Company is proposing that a full and symmetrical
reconciliation mechanism replace the partial and
asymmetrical reconciliation mechanism currently in
effect under the Company’s gas rate plan.

Q. What modifications does the Company propose be made to
the amortization period associated with the recovery
of SIR costs?

A. The Company proposes that the amortization period be
changed from ten years to five years. The Company
believes that this change can be accommodated with
minimal bill impacts and will reduce the long term
cost to customers by reducing carrying charges.

In its Order Concerning Costs For Site Investigation
And Remediation, issued November 28, 2012, in Case 11-
M-0034 (“SIR Order”), the Commission’s generic
proceeding to review and evaluate the treatment of
utility SIR costs, the Commission presented (at page 6) the range of current bill impacts for electric and gas residential, commercial and industrial customers in the State. Those of Con Edison are the lowest in every instance and by a wide margin as can be seen in Appendix 1 of the SIR Order. Appendix 1 of the SIR Order also shows Staff forecasts of utility-specific bill impacts for 2012 and forward. Those for Con Edison are the lowest by a wide margin in almost all cases.

The Company understands, however, that its ten-year recovery period for SIR costs is the longest recovery period in the State. In fact, by an order issued in Cases 06-G-1185 and 06-G-1186 on the same day as the SIR Order, the Commission authorized five-year recovery periods for KeySpan Energy Delivery New York and KeySpan Energy Delivery Long Island. The ten-year amortization period applied to the Company can be shortened to five years with gas bill impacts remaining low in relation to other companies in the State while reducing the long term costs to customers. Rate Year gas delivery bill impacts at ten-year and five-year amortization periods would be approximately
0.4 percent and 0.8 percent, respectively.

Q. What deferral or reconciliation mechanisms not currently in effect does the Company propose be established?

A. As explained in the testimony of the Company’s Compensation and Benefits Panel, the Company proposes to defer for customer benefit the amount by which payments under the variable component of the non-officer management pay plan are less than the rate allowance for this expense. As explained in the testimony of the Company’s Gas Infrastructure and Operations Panel, the Company proposes that the Commission provide the Company the opportunity to defer O&M expenses in excess of the Company’s current Rate Year projection for costs related to compliance with the Pipeline Safety Act of 2011.

Finally, the Company is proposing to establish a major storm reserve for Gas, equivalent to the mechanism currently in place for Electric.

Q. Please explain the rationale for this mechanism.

A. The rationale for a gas major storm reserve is the same as the rationale for the electric major storm
reserve. The Company’s rates should reflect costs reasonably anticipated to be incurred by the Company to respond to major storms. Since the frequency, nature and intensity of storms, and consequently, the extent and nature of the Company’s response, cannot be reasonably predicted, a major storm reserve provides a mechanism pursuant to which a reasonable amount of costs may be recovered in rates based upon an average of storm response costs during an historical period, subject to reconciliation for actual costs incurred. Although past major storms that impacted electric service did not have a material impact on steam or gas service, that changed with Superstorm Sandy, during which the Company’s steam and gas services experienced significant damage and/or incurred significant costs from flooding. Accordingly, the Company believes it would be unreasonable to ignore the possibility of future major storms also having material adverse impacts on the gas system.

Q. Does the Company distinguish Electric, from Gas and Steam, in terms of the amount to be included in base rates?
A. Yes. Although the Company did incur major storm-related costs as a result of Superstorm Sandy, the Company recognizes that there is not a reasonable historical period that establishes a basis for including in base rates a representative amount of costs. For that reason, the Company proposes for purposes of this proceeding to establish a major storm reserve for Gas where the initial reserve amount is $1 (One Dollar).

Q. Does the Company propose that any deferral or reconciliation mechanisms in effect under the current gas rate plan be terminated?

A. Yes. First, the mechanism by which the difference between the actual rate base effect of deferred taxes related to deductions under Section 263A of the Internal Revenue Service Code and the rate base amount reflected in rates being subject to carrying charges should cease. As explained by the Company’s Accounting Panel, the issue between the Company and the Internal Revenue Service underlying the employment of the mechanism has been resolved. Second, as explained by Company witness Devries (Gas R&D), the Company proposes that the currently
effective reconciliation mechanism for gas Research and Development costs cease.

Third, as discussed by the Gas Infrastructure and Operations Panel, the Company proposes terminating the mechanism related to deferral of all firm delivery revenues, O&M expenses and carrying costs associated with conversions from No. 4 and/or No. 6 fuel oil in connection with changes in law by New York City or other governmental entity. The mechanism was established under the current gas rate plan due to significant uncertainties as to the timing of any such law and the effect it would have on Company costs and revenues. The Company believes that the principal underlying basis for the mechanism is no longer applicable.

C. **Net Plant and Capital Expenditures**

Q. The current gas rate plan includes provisions governing net plant targets, capital spending targets and reporting requirements relating to capital expenditures. What is the Company’s proposal in this proceeding regarding these capital expenditure mechanisms?
A. The Company proposes

- to continue downward reconciliation of net plant, with certain changes to the mechanism currently in effect and the two-way true-up of Municipal Infrastructure Support expenditures;
- to authorize upward reconciliation for certain anticipated actions;
- to continue the current annual reporting and meeting requirements, with one modification; and
- to allow to expire at the conclusion of the current rate plan, without replacement, the currently-effective capital spending target mechanism.

Q. Please explain what the Company is proposing with respect to downward reconciliation for net plant.

A. The Company is proposing to continue downward reconciliation of net plant in this rate proceeding. Over the last several years, the Company has embarked on comprehensive cost management, capital expenditure prioritization, capital spending optimization and long term planning initiatives aimed at mitigating capital expenditures, as explained by various Company
witnesses in this proceeding. As a result, the
Company’s recent and projected capital expenditures
are expected to remain at the same levels for Annual
Capital Programs and Distribution Supply Main projects
except for certain expenditures, both actual and
anticipated, driven by circumstances outside the
Company’s control, such as compliance with new federal
gas safety initiatives, changes in market conditions
(e.g., cost of gas vs. #2 heating oil), changes aimed
at improving the environment (e.g., NYC rules phasing
out the use of Nos. 4 and 6 fuel oil), and in response
to Superstorm Sandy.
Accordingly, the Company believes that this feature of
recent Company rate plans should be phased out in
future rate proceedings beyond this rate proceeding.
Q. Please explain why.
A. There should be a reasonable basis for establishing
any reconciliation mechanism. Most reconciliation
mechanisms are premised on the underlying costs being
outside the Company’s control and/or not subject to
reasonable estimation. Such mechanisms are usually
bilateral in nature.
Downward reconciliation mechanisms merely serve to limit discrete aspects of the Company’s overall cost structure to actual expenditures up to a cap and therefore limit the Company’s flexibility to effectively manage its operations and shift resources, as needed. Downward reconciliation is also inherently unfair because it addresses only the potential for forecasts being too high, while not reasonably addressing the just as likely potential for forecasts being too low. This lack of fairness is particularly evident where the downward reconciliation mechanism is structured to create caps on discrete categories of expenditures, thereby not recognizing the offsetting spending effects of certain projects above or below forecasts where the net result is within the utility’s overall budget.

For these reasons, the Company is proposing for purposes of this proceeding to continue downward reconciliation based upon (1) continuation of a single net plant target that includes T&D and Municipal Infrastructure Support; (2) reasonable forecasts of the Company’s expenditures, some of which may turn out to be somewhat higher than forecasted and others
lower; and (3) a limited opportunity for upward reconciliation where the reason for exceeding the aggregate net plant target is expenditures that result from circumstances outside the Company’s control.

Q. You mentioned that the Company is seeking a limited opportunity for upward reconciliation where the reason for exceeding the aggregate net plant target is expenditures that result from circumstances outside the Company’s control. Please explain your proposal.

A. While the Company accepts the challenge and responsibility for managing its capital expenditures within an aggregate net plant target reasonably set during the rate proceeding, the Company may face circumstances during the Rate Year that cannot be reasonably anticipated or planned for, which must be addressed through capital projects that cannot be delayed to a future period when the costs can be reflected in rates. These costs are often significant in scope and/or cost, and cannot and/or should not be offset by deferring other capital projects that are in customers’ interests in order to avoid exceeding net plant targets.
Q. Please provide examples of circumstances to which the Company would not likely be able to delay responding until there was an opportunity to first reflect projected costs in rates.

A. As explained by the Company’s Municipal Infrastructure Support Panel, the Company is compelled to respond to municipal infrastructure projects impacting Company facilities in accordance with schedules and scopes of work established unilaterally by the municipality. This work may entail major infrastructure projects, like NYC’s Water Tunnel #3 project, or a myriad of smaller projects, each smaller in scope but material in the aggregate.

As explained by the Gas Infrastructure and Operations Panel, other circumstances for which an immediate response may be required are the implementation of new federal safety rules resulting from the Pipeline Safety Act of 2011 and/or implementation of new cyber security requirements. The Commission’s new proceeding to evaluate its Gas Expansion Policy also has very uncertain consequences.

Q. What is the Company’s proposal to address these circumstances?
A. The Company proposes that if capital expenditures resulting from one or more of the foregoing circumstances cause the Company to exceed its aggregate net plant target, the Company be permitted to defer carrying charges on the amount of net plant that exceeds the aggregate net plant target.

Q. Is there precedent for the Commission adopting such a mechanism?

A. Yes. The Company’s current gas rate plan includes this type of mechanism for Municipal Infrastructure Support capital expenditures resulting from NYC infrastructure projects supported by federal stimulus funds and NYC’s Water Tunnel #3 project.

Q. Aren't some of the circumstances you refer to covered by the new laws provision you propose continue?

A. Yes, for some of these circumstances. However, application of the new laws provision would subject these expenditures to a dollar threshold. While a dollar threshold has been applied for unanticipated costs resulting from a change in law or regulations not anticipated at the time rates are set, a threshold should not apply when the potential circumstance is
known at the time rates are set, although the details of implementation are not.

Q. Is there another example of the Commission adopting such a recovery mechanism?

A. Yes. In the Company's 2006 gas rate case, the Commission adopted a provision that permitted the Company to defer for recovery costs incurred as a result of new regulatory requirements for distribution integrity and/or gas inspections promulgated by either federal or state regulatory agencies during the term of that rate plan. This deferral mechanism was in addition to a traditional new laws provision included in that rate plan for new legal and regulatory obligations that were not foreseeable, unlike the distribution integrity costs.

Q. Why is it reasonable to expand the application of the current gas rate plan provision applicable to certain Municipal Infrastructure Support costs and stimulus program costs to the additional circumstances you list above?

A. This proposal reasonably balances customer and investor interests by providing customers a downward reconciliation mechanism for virtually the totality of
Company capital expenditures and providing the Company
the opportunity to be made whole for expenditures
above the aggregate net plant target, for limited
circumstances outside the Company’s control, where the
Company is unable to mitigate these additional costs
by deferring other capital expenditures.

Q. Doesn’t the reconciliation mechanism you propose
eliminate the Company’s incentive to defer other
capital expenditures in order to mitigate the impact
on customers of these unanticipated expenditures?

A. No. As demonstrated by several Company witnesses, the
Company now has in effect comprehensive and
disciplined business planning and budgeting processes
designed to prioritize and minimize capital
expenditures in the context of a long-range plan to
goal of which is to mitigate costs to customers and
maintain the sustainability of the Company’s services.
The integrity of these processes demands that the
Company first seek to defer planned capital work to
accommodate unavoidable unplanned expenditures. For
example, the Company has already demonstrated that it
would and has taken such action in response to NYC’s
Water Tunnel #3 project. As set forth in reports
submitted pursuant to the current Gas Rate Plan, the
Company deferred certain gas capital work in an effort
to reduce unavoidable capital spending in response to
the Water Tunnel #3 project. However, with a planning
and budgeting process that already prioritizes and
minimizes capital expenditures, the deferral of
already prioritized capital work is not always in the
best interest of system operation or indeed, our
customers.

Q. Are there any other similar circumstances that need to
be addressed?

A. Yes. The Energy Highway Task Force recently announced
that it will
encourage[] cost-effective utility initiatives to
create near-term jobs and improve the electric
generation and delivery system. DPS should work
with existing and new rate cases and other
proceedings to help accelerate specific projects
that would improve system reliability and/or
safety. The electric projects identified could
accelerate utility spending by up to $500 million
over five years. The spending would include
capital expenditures and operation and
maintenance elements. Where possible, utility
budgets should be reprioritized to accomplish the
economic development goals cited above and stay
within existing rate plans, without sacrificing
previously established goals. (New York Energy
Highway Blueprint, p. 56).
While the Company will endeavor to work with Staff to accomplish these goals within existing rate plans, that effort may require either adjustment to the projected spending upon which rates are based in this proceeding or a deferral or surcharge mechanism that provides the Company the opportunity to recover such costs outside the rate plan parameters.

Q. You mentioned that the Company proposes that the Capital Spending Targets provision of the current rate plan expire without replacement. Please explain why.

A. The Capital Spending Targets provision is a novel ratemaking element of the Company's current multi-year rate plan. The Capital Spending Targets provision was instituted to address concerns regarding Company spending practices that have been comprehensively and systematically addressed by the Company. Similar to Commission policy regarding reducing regulatory mandates, when the purpose for which a rate plan provision was instituted has been addressed, the provision should be eliminated. To the Company's knowledge, a capital spending target provision is unique to the current Con Edison rate plans and not a ratemaking tool commonly employed by the Commission.
The targets were intended to provide the Company added incentive to restrain capital expenditures over the current three-year rate plan period while the Company implemented internal measures, many prescribed by the Management Audit Report, to improve cost control and better correlate capital spending to longer-term objectives and customer benefits. These measures included a new cost management organization, a new budgeting process, a capital expenditure optimization process that reflects operating risks and business plans, and long term planning that establishes long-term goals and considers the impacts of expenditures on customer bills. These internal measures have been implemented over the three years since the rate plan was established, and corporate discipline in prioritizing and limiting capital expenditure is embedded in the Company’s planning and budgeting process. As a result, the need to impose fiscal discipline through external, regulatory measures like a Capital Spending Target provision is obviated.

Q. Does the Company propose that any additional rate plan provisions continue consistent with its cost management initiatives relating to capital spending?
A. Yes. As discussed by the Company’s Management Audit Panel, along with the Company’s cost management initiatives, the Company is also aggressively pursuing cultural imperatives aimed at enhanced outreach with Staff and other stakeholders. In furtherance of these imperatives, the Company is proposing to continue the comprehensive capital cost reporting and meeting requirements included in the current rate plan. These requirements are designed to keep Staff and other interested parties informed of Company actions to implement the capital programs upon which current rates are set and to explain deviations that are considered material and the reasons for such deviations.

Q. Is the Company proposing any modifications to these reporting requirements?

A. Yes. The Company’s Gas Infrastructure and Operations Panel addresses a proposed change to the current reporting requirements.

C. System Hardening Costs

Q. How does the Company propose to recover storm hardening investments?
A. The Company plans to seek recovery of storm hardening investments in base rates through this rate filing and through future major rate filings for investments that can be timely addressed in rate proceedings. However, for major storm hardening investments that cannot be timely addressed in rate proceedings or through multi-year rate plans, the Company believes that a separate process should be established to provide for recovery of these costs. A surcharge mechanism would be a suitable approach.

Q. Under what circumstances would this process be implemented?

A. One circumstance is where the Company is otherwise able to defer a rate request, as was the circumstance in May 2012 for the Company’s electric service when the Company elected to forgo filing for new electric rates and continue to operate under the terms of its existing gas rate plan beyond the expiration of the primary term. As discussed later in my testimony, this mechanism should also be incorporated in a multi-year rate plan that the Company plans to seek through settlement discussions with Staff and other parties to this proceeding.
Q. Why is such a mechanism necessary and appropriate?
A. A surcharge mechanism will facilitate the Company’s investment in storm hardening projects that may be developed via Company, governmental and/or other stakeholder processes, and in particular those that follow Superstorm Sandy, outside the traditional rate process, and would allow it the flexibility to timely respond to such recommendations and actions that result from such processes.

Q. Please explain what you mean by other governmental and/or stakeholder processes.
A. Immediately following Superstorm Sandy, there has been intensified focus on the steps necessary and appropriate to mitigate the impact of future storms. As indicated above, strengthening utility infrastructure is a major initiative of Governor Cuomo, as detailed in his State of the State message. It is also a major initiative of the City of New York and Westchester County.

Q. Please give an example of a government process to develop storm hardening plans that may be initiated outside a traditional rate proceeding.
A. In his 2013 State of the State message, Governor Cuomo discussed strengthening critical utility infrastructure as an essential step to ensure that we will be better prepared for future natural disasters.

For the electric system, Governor Cuomo stated that the Public Service Commission must require the utilities to submit plans for the following critical actions:

- strengthening substations against flooding (raised walls, elevated equipment, relocation if necessary);
- reconfiguring network boundaries to separate flood areas from non-flood areas to limit the impact of flooding to a much smaller area;
- elevating critical distribution transformer installations to protect against flooding;
- replacing the most critical distribution wood poles with steel poles to limit the risk of damage; and
- installing state-of-the-art, remote condition monitoring equipment to allow real-time monitoring of lines without manual inspection.

The Governor also stated that installing electric distribution lines and equipment underground can reduce the potential for damage caused by high winds, debris, impact, and lightning strikes; and that placing equipment underground can also improve land-use aesthetics and free up land for additional use. Recognizing that undergrounding can be cost-
prohibitive, the Governor noted that it may be more effective to employ undergrounding only for portions of a circuit that are harder to access. The Governor stated that utilities will be required to identify best locations for undergrounding for their most critical or most vulnerable distribution lines.

With respect to gas systems, in his 2013 State of the State message, Governor Cuomo noted:

Like the electric system, many parts of New York’s natural gas infrastructure have been in use for nearly two centuries. Developed over many decades, there are miles of aging pipeline that are prone to leakage and vulnerable to storm damage (and ground movement). Utilities will be required to accelerate pipeline replacement programs in flood prone areas and to evaluate their infrastructure and prepare plans for strengthening critical systems. This will involve annual review and development of design criteria for the natural gas network, including analysis of incidents, progress and priorities of gas supply providers. Utilities will also be required to install remotely operated natural gas control valves to limit the impact of any disruptions.

Finally, the Governor noted that creating a long-term capital stock of critical equipment throughout the region provides an efficient system of distribution to streamline the delivery and recovery processes.
Accordingly, he directed the PSC, NYISO, other regional electric entities, and utilities to work to create a long-term stock of critical equipment by the end of 2013 that is shared and leave utility companies less exposed to supply bottlenecks, spare parts shortages, and updates in equipment every five years.

Q. Does the Company’s rate filing reflect any initiatives in furtherance of the Governor’s objectives?

A. Yes. As explained by the Company’s infrastructure panels, the Company already plans to spend approximately $1 billion (electric $800 million, gas $100 million, steam $100 million) during calendar years 2013, 2014, 2015 and 2016 to harden the Company's electric, gas and steam systems against future storms. The Company's infrastructure panels explain these projects and programs in their initial testimonies in this gas rate filing and the contemporaneous electric and steam rate filings. Company witnesses also discuss ongoing efforts to evaluate further investments designed to make the Company's infrastructure more resilient and thereby less prone to damage and service interruptions during major weather events.
However, it is apparent that there may be parallel initiatives that are likely to result in plans and/or directives for the Company to make additional, material investments in storm hardening infrastructure. The magnitude and timing of these investments is unknown and not within the Company’s control. Accordingly, a complementary cost recovery mechanism should be established to facilitate timely implementation of these new initiatives.

Q. What distinguishes these storm hardening investments from other capital investments that the Company develops as part of its current capital planning processes or that result from new circumstances outside the Company's control (like those identified above) for which the Company is seeking the right to defer costs?

A. The Company views these future storm hardening investments to be more akin to the investments in Smart Grid, a major, ongoing public policy initiative for investments aimed at the future enhancement of the utility grid. Smart Grid involved a process for determining which projects to pursue and recovering carrying charges through a surcharge until future rate
proceedings, when recovery of these investments would continue in base rates. Other than developments that may result from the State’s Energy Highway initiative (which I indicate above may also require different rate treatment), the circumstances for which the Company is seeking the right to defer costs are more speculative in terms of whether and to what extent they will have a material impact on overall capital spending (for example, whether investments can be made to satisfy those objectives by reprioritizing other projects and programs).

Q. Does the Company intend to also consider storm hardening projects in the context of its overall budget plans and therefore will re-prioritize other capital projects and programs as necessary and appropriate?

A. Yes. The Company has, for purposes of the contemporaneous rate filings, presented plans to invest in storm hardening in 2013 in lieu of other previously scheduled projects and programs. And the Company will continue to do so. The Company already engages in a comprehensive capital optimization and prioritization process that provides opportunities to
initiate material storm hardening capital projects designed to meet new public policy objectives in lieu of current capital plans designed to maintain the safety and reliability of the Company's services. Accordingly, the Company proposes the surcharge as a vehicle for recovering incremental costs pursuant to a defined process.

Q. What is the process that you propose be established to authorize the Company to recover these investments by means of a surcharge?

A. The following are key elements of the process I propose for recovery of storm hardening costs through a surcharge.

- In accordance with any Commission initiatives to implement the Governor’s directive, the Company would file with the Commission its plan to invest capital in a specific storm hardening project(s) and/or program(s). The Company may also choose to file such a plan with the Commission if the Company determines that certain storm hardening initiatives are warranted and should be presented for implementation in advance of the next major rate filing opportunity.
• The filing would explain the location and scope of the project(s) and/or program(s); benefit to the system; past impact of storms on the to-be-modified infrastructure; the current ability of the system to withstand severe weather events; and future design capabilities of the system to be achieved via targeted projects.

• The Company would also explain why the project(s) and/or program(s) cannot be accommodated within the Company's existing capital budget.

• DPS Staff would evaluate the proposed project(s) and program(s), with input from interested parties, and present to the Commission all project(s) and/or program(s) that DPS Staff recommends be initiated by the Company, within 60 days of the Company's filing.

• Between rate proceedings, the Company will file a report annually with the Commission as to the status of its storm hardening projects and programs. Company rate filings would serve as the primary vehicle for reporting this information, since the rate filing would also be the vehicle for including in base rates
investments for which the costs have been deferred or partially recovered through the surcharge.

- The surcharge would include a return on and return of investments. Depreciation rates, return on equity, and overall return on each project would be as approved in or derived from the Company's most recent rate case. The surcharge would also include any incremental O&M, sales taxes and all other operating costs that arise due to a storm hardening project or program.

- The Company would proceed with construction on individual projects following Commission action and commence the surcharge related to each project as it is placed in service.

- The surcharge would be applied to all customer classes in a manner consistent with the allocation of costs approved in Con Edison’s most recent rate case.

III. Revenues Subject to Refund

Q. Is the Company proposing to make any change to the Rate Adjustment Clause ("RAC")?
A. Yes. The Company proposes to cease collecting any revenues subject to refund pending the Commission's determination in Case 09-M-0114 ("contractor proceeding"), effective January 1, 2014. The revenues collected subject to refund through December 31, 2013 would continue to be subject to disposition by the Commission pursuant to its determination in the contractor proceeding.

Q. Why did the Commission direct the Company to collect revenues subject to refund pending the Commission's determination in the contractor proceeding?

A. In February 2009, following the January 2009 arrests of 14 Con Edison employees and retired employees for accepting kickbacks from contractors that performed work for Con Edison, the Commission commenced a proceeding to examine the prudence of certain Con Edison expenditures. In order to preserve its flexibility to order refunds to customers in the event Con Edison was determined to have been imprudent, the Commission ordered that a portion of the Company’s revenues be collected subject to potential refund to customers.
1 Q. How did the Commission determine the amount of revenues to be collected subject to refund for this purpose?

2 A. The Company, Staff and other parties developed a Joint Proposal that established the annual level of revenues to be made subject to refund. The Joint Proposal was adopted by the Commission on June 25, 2009.

3 Q. Why are you recommending that the Company cease collecting revenues subject to refund for purposes of the contractor proceeding?

4 A. Generally, the Company believes that the amount of revenue that will be collected subject to refund through December 31, 2013 will grossly exceed any reasonable expectation of potential refund liability in the contractor case, and continuing to collect revenues subject to refund is both unnecessary and potentially harmful to the Company's customers.

5 Q. Didn't the Company, along with other signatory parties, propose continuation of the Rate Adjustment Clause as part of the Joint Proposal presented to the Commission in Case 09-G-0795?
A. Yes. That provision was one of a myriad of provisions agreed to by the Company and other signatory parties as part of the give-and-take of the settlement process. The Company is not proposing to modify the current rate plans. However, there is no reasonable basis for continuing this provision beyond the expiration of these rate plans.

Q. Please explain why.

A. When the current rate plan was established, there was a reasonable basis to assume that the Staff would conclude its investigation and the Commission would reach a decision in the contractor proceeding before the expiration of the three-year terms of these rate plans. However, Staff's investigation has been underway for more than three years with no target date for either completing its investigation or concluding this proceeding. Nothing in the record in the contractor proceeding establishes a basis for collecting a nearly unlimited amount of revenues for an indeterminate period of time pending a determination in that proceeding. Revenues collected subject to refund through December 31, 2012 amount to $1.103 billion ($979 million for electric, $104
The estimated amount that would be collected subject to refund as of December 31, 2013 is $1.587 billion ($1.425 billion for electric, $136 million for gas and $26 million for steam). No rational basis has been presented by Staff or the Commission for reserving an amount of revenues subject to refund in the order of magnitude already collected.

Q. Why is reserving this gross level of revenues subject to refund harmful to customers?

A. Investors and rating agencies assess the value of utility investments as a function of the regulations that govern their financial performance. With little or no opportunity to earn more than the returns specified in rate plans, the financial community’s assessment of utility investments often fixates on the potential for large adverse outcomes. Discussions with members of the financial community indicate that the indeterminate nature of the contractor proceeding, coupled with the material and growing amount of revenues held subject to refund, is beginning to cause the financial community to similarly fixate on the contractor proceeding. If this perception results in
an increase in the Company's financing costs, customer
bills will be adversely affected. Avoiding this
adverse result by terminating further collections of
revenues subject to refund, effective January 1, 2014
would ultimately benefit our customers.

V. Multi-Year Rate Plan

Q. Has the Company included forecasted financial
information for periods beyond the Rate Year in its
filing?

A. Yes. The Company has included for illustrative
purposes only financial information for two annual
periods beyond the Rate Year. Exhibit __ (RM-2)
entitled “CONSOLIDATED EDISON COMPANY OF NEW YORK,
INC., THREE-YEAR REVENUE REQUIREMENT,” which was
prepared under my supervision and direction, presents
details of the revenue requirement for the Rate Year
and the two following twelve-month periods ending
December 31, 2015 and December 31, 2016. The
Company’s filing also includes capital expenditure
projections that extend beyond the Rate Year. Those
projections are for calendar years 2013 through 2017.

Q. What is the basis of the financial information
presented in Exhibit __ (RM-2)?

A. Various Company witnesses have presented forecasts extending beyond the Rate Year. There are also proposals by various witnesses, including myself, that would affect periods beyond the Rate Year such as amortization periods for deferred costs and credits.

Q. Is the Company proposing a multi-year rate plan for adoption by the Commission?

A. No. This filing seeks Commission approval of what is commonly referred to as one-year rates. The Company is, however, interested in pursuing, through settlement discussions with Staff and the parties, a multi-year rate plan. The financial information presented, along with the Company’s thoughts on some possible features of a multi-year plan could form a basis for discussions to address the myriad of details and complexities that must be addressed to establish a multi-year rate plan that fairly considers the interests of all stakeholders.

Q. Please identify rate plan features that the Company anticipates it would consider in discussing a multi-year rate plan with Staff and the parties.

A. The Company is not in a position to identify all
features of a multi-year rate plan that the Company might seek or that various parties might want included in the give and take of the settlement process, but I can provide some examples of multi-year rate plan features that the Company believes would warrant consideration. The examples, however, should not be construed as the Company’s view of all of the features that should be addressed in establishing a multi-year rate plan.

Q. Please provide these examples.

A. Without prioritizing the examples, I will start with consideration of a deferral mechanism that would allow the Company to defer incremental O&M costs in the event of inflation notably higher than now anticipated over the term of a multi-year rate plan. A stay out premium added to the ROE to compensate the Company for the additional risk of a multi-year rate plan as discussed by Company witness Hevert would be appropriate.

The Company believes that there is considerable merit to exploring a mechanism that would enable the rate plan to be extended beyond the initial multi-year term if certain agreed-upon circumstances exist. This
would go beyond simply implementing the rate plan beyond its term in the manner that I explained earlier in my testimony. It could reach to automatic modifications of the rate plan that become effective at the end of the stated multi-year term. This would include consideration of the storm hardening surcharge process and mechanism discussed earlier in my testimony.

As a final example, consideration of an earnings sharing mechanism with respect to cumulative earnings over the term of the rate plan in order to provide customers an opportunity to share in productivity or efficiency savings achieved by the Company in addition to those reflected in base rates over the term of the rate plan. Such mechanisms established in recent Company multi-year rate plans have included initial and graduated earnings sharing thresholds and sharing formulae more heavily favoring customers over investors than had traditionally been the case. The purpose of the shift was to permit customers to benefit from potential Liberty Audit cost savings that, at the time, could not be reasonably identified and (where appropriate) reflected in rates, to the
extent that is now possible. Therefore, a return to sharing thresholds in line with traditional levels is now warranted. The customers’ share of such earnings could be used to write down deferred costs that are otherwise chargeable to customers.

Q. Does the three-year revenue requirement you present reflect a stay-out premium?

A. For purposes of illustration, the revenue requirements for the twelve-month periods ending December 31, 2015 and December 31, 2016 reflect an ROE of 10.85% (as compared to 10.35% for the Rate Year), which assumes an ROE resulting from a settlement that reflects a stayout premium.

VI. Regulatory Reforms

Q. Mr. Muccilo, are there regulatory reforms that could be implemented as part of this proceeding, through changes in State legislation or otherwise that, if adopted, would lower costs for customers without significantly impacting the level of service or reliability provided by the Company?

A. Yes, there are a number of programs and requirements that currently add to the Company’s cost of providing
service to customers that, if modified or eliminated, would lower customer bills without markedly affecting service quality and not only with respect to the Company’s electric operations. If the Company is successful in achieving reforms in even small programs, the resulting cumulative savings have the potential to be significant.

Q. Can you provide specific examples of the types of regulatory and legislative changes you are referring to and indicate what steps the Company has already taken?

A. Examples are addressed in the testimony of various Company witnesses and relate to electric, gas and steam service. As explained by the Municipal Infrastructure Support Panel, Con Edison has been supporting an expansion of joint-bidding for municipal interference work. Although some progress has been made, a challenge to supportive legislation is in the courts. The Gas Infrastructure and Operations Panel explains how changes to the Commission’s regulations concerning main extension and service line installation costs should be modified to make them applicable in multiple-dwelling circumstances in a
manner that more fairly assigns cost responsibility. The Steam Infrastructure and Operations Panel explains the benefits of changes to the Commission’s trap inspection requirements. As Company witness Viemeister points out, the cost of generating electric and steam includes a New York City tax on tax on the fuel used for such generation without a comparable tax on on-site generation. The Company’s Property Tax and Depreciation Panel explains that the Company has been pursuing a strategy to merge the New York City property tax Class 3, the utility property class in which most of the Company’s property is included, with Class 4, the general business class in which a lesser portion of the Company’s property is included, with the objective of lowering the Company’s tax liability. This change, if passed by the legislature, would reduce the property tax rate paid by Con Edison and result in significant savings for customers. In addition, the Company along with the other major electric utilities in the State, recently petitioned the Commission (petition dated September 17, 2012 filed in Case 04-M-0159) for modifications to the Commission’s standards for inspecting and testing
facilities for the presence of stray voltage which
would reduce costs without reducing the degree of
public safety.

Q. Does this conclude your testimony?

A. Yes, it does.