STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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| Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Electric Service | Case 06-E-1433 |

# DIRECT TESTIMONY AND EXHIBIT OF

# THE NEW YORK STATE CONSUMER PROTECTION BOARD

Dated: February 6, 2007
Albany, New York

MINDY BOCKSTEIN, ACTING EXECUTIVE DIRECTOR/CHAIRPERSON
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**INTRODUCTION**

Q. Please state your names, titles and business addresses.

A. Douglas W. Elfner, Director of Utility Intervention, New York State Consumer Protection Board ("CPB"), Suite 2101, Five Empire State Plaza, Albany, New York 12223.

Tariq N. Niazi, Chief Economist, New York State Consumer Protection Board, Suite 2101, Five Empire State Plaza, Albany, New York 12223.

My name is Hugh Larkin, Jr. I am a Certified Public Accountant licensed in the States of Michigan and Florida and the senior partner in the firm Larkin & Associates, PLLC, Certified Public Accountants, with offices as 15728 Farmington Road, Livonia, Michigan 48154. I am appearing on behalf of the New York State Consumer Protection Board.

Q. Dr. Elfner, please summarize your education and employment experience.

A. I received a B.A. with honors and distinction in economics and mathematics from the University of Delaware in 1976, and a Ph.D. in Economics from the University of Michigan in 1982. From 1982 through 1984 I was an Assistant Professor of Economics at the University of Vermont, where I taught courses in econometrics and microeconomics. I was employed from December 1984 to January 1989 by AT&T in Bedminster, New Jersey, where I held positions of increasing responsibility as an Economist in the Market Analysis and Forecasting organization. My responsibilities included developing revenue and quantity forecasts for existing services; analyzing opportunities for new services and the effects of changing the price and rate structures of existing services; and producing forecasts and market analyses for regulatory purposes.

Since January 1989, I have been employed by the New York State Consumer Protection Board. As Director of Utility Intervention, I am responsible for all aspects of analysis, policy development, and advocacy on behalf of New Yorkers regarding the regulation of utilities. I also serve as the CPB's Director of Outreach and am responsible for the CPB's outreach and information programs on all consumer issues.

I am a member of Phi Beta Kappa, the American Economic Association and the National Association of Business Economists. I have presented original papers at conferences sponsored by the American Economic Association and the Econometrics Society.

Q. Have you previously testified before the New York State Public Service Commission ("PSC" or "Commission")?

A. Yes. I have testified in numerous cases before the Commission.

Q. Mr. Niazi, please summarize your background and experience.

A. I passed my candidacy examination, completed all required course work and passed all comprehensive examinations in the Doctoral Program in

Managerial Economics at Rensselaer Polytechnic Institute. I have a Master's Degree in Economics from the State University of New York at Albany. I also received a Master's Degree in Public Administration from Punjab University in Pakistan and a Bachelor's Degree in Economics and Political Science at Forman Christian College in Pakistan.

I have been employed by the CPB since March 1981, first as an economic consultant and then as a rate analyst. Later, I was promoted to the position of Principal Economist. I was appointed to my present position in October 1990. I have worked on numerous issues in electric, gas, telephone and water proceedings. My responsibilities are in the areas of economic and financial analysis, rate design, policy analysis, cost of service, tariff analysis and cost of capital.

I serve as the CPB's representative at the New York Independent System Operator ("NYISO"). The CPB has been designated by the NYISO as the statewide consumer advocate and is a formal voting member of the NYISO's decision making committees. I also represent the CPB on the Natural Gas Reliability Advisory Group and am a member of the New York State Energy Research and Development Authority's System Benefit Advisory Group.

Q. Mr. Niazi, have you testified before the New York State Public Service Commission?

A. Yes. I have testified in numerous proceedings before the Commission.

Q. Mr. Larkin, 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. A summary of my regulatory experience and qualifications is included as Attachment I.

Q. Mr. Larkin, have you previously testified before the New York State Public Service Commission?

A. Yes, I filed testimony in Case No. 05-G-1494, regarding Orange and Rockland Utilities, Inc. for gas service; Case Nos. 05-E-0934 and 06-G-0935, regarding Central Hudson Gas & Electric Corporation; and in Case 29484 involving the Long Island Lighting Company. I filed testimony with Ms. Donna DeRonne, a senior regulatory consultant in the firm of Larkin & Associates, PLLC, in Case Nos. 06-M-0878, 06-G-1185 and 06-G-1186, regarding the stand-alone rate cases for KeySpan Energy Delivery New York and KeySpan Energy Delivery Long Island, and in Case 05-E-1222 regarding New York State Electric & Gas Corporation.

Q. Do you have an exhibit?

A. Yes. We have attached Exhibit___(CPB), consisting of one schedule.

Q. What is the purpose of this testimony?

A. Our testimony addresses whether the Commission should impose temporary rates for Orange and Rockland Utilities Inc.'s ("Orange and Rockland" or the "Company") electric service. In Part I, we provide relevant background information on this issue and summarize the CPB's position and recommendation. In Part II, we identify our concerns with the Company's earnings projection. In Part III, we identify the cost of equity that the Commission should use to determine the reasonableness of the Company's current rates. In Part IV, we explain why the Commission should adopt temporary rates for the Company's electric operations at this time.

**PART I: BACKGROUND AND SUMMARY**

Q. Please provide a brief overview of the history of this proceeding.

A. Orange and Rockland's last Commission-approved rate plan for electric operations formally covered the period July 1, 2003 through October 31, 2006, although the vast majority of its provisions continue until modified by the PSC. (Case 03-E-0797, In the Matter of Orange and Rockland Utilities, Inc.'s Proposal for an Extension of an Existing Electric Rate Plan, filed in Case 96-E-0900, Order Adopting The Terms of a Joint Proposal, October 23, 2003, Attachment.) The plan permits the Company to use deferral accounting for a number of important categories of costs including pensions, other post-employment benefits ("OPEBs"), manufacturing gas plant ("MGP") site remediation costs, and research and development costs. (Rate plan, p.14) It also allows the Company to retain all earnings without sharing with customers. (Id., p.4)

On October 30, 2006, the Company filed a report indicating that it earned a 16.17% return on common equity ("ROE") in the twelve months ending June 30, 2006, and an average of 15.15% over the first three years of the rate plan. (Attached as Exhibit___(CPB)) Based on that report and the CPB's understanding of the likely future impact on the Company's earnings of known changes, the CPB filed a formal complaint regarding the Company's rates on November 8, 2006.

On December 15, 2006, apparently as a result of its review of the Company's earnings report and the CPB's complaint, the PSC commenced an investigation of Orange and Rockland's electric delivery rates. It directed the Company to submit, by January 9, 2007, information including cost of service, rate base, sales forecasts and work papers to support its calculations of earnings for the 2007 calendar year. It also ordered that those projections be compared to historic period earnings for the year ending June 30, 2006.

After a series of procedural delays and refinements, the Company filed testimony and exhibits including the information requested by the

Commission, on February 2, 2007. That submission also included lengthy testimony by several witnesses alleging that temporary rates should not be imposed in this proceeding.

Q. Please summarize the CPB's position in this case.

A. In recent years, the Company's reported ROE for its electric operations has been excessive. Its financial projections for 2007, although intertwined with a proposal to implement a surcharge, indicate that it expects to earn an ROE of 11.63%. That projection is conservative and includes proposed program changes which would add more than 10% to the Company's operating expenses. It also far exceeds the Company's cost of equity, which is in the range of 9.2%. The Commission should protect ratepayers by establishing temporary rates at current levels, until it determines the appropriate level of permanent rates.

**PART II: THE EARNINGS PROJECTIONS**

Q. Please summarize the financial information provided by the Company on February 2, 2007.

A. The starting point for the Company's 2007 presentation is the 12-months ended June 30, 2006. Its report filed with the Department of Public Service's Director of Accounting and Finance on October 30, 2006, showed that the Company earned a return on equity of 16.17%.

The Company's presentation for the year ended December 31, 2007, shows a projected return on equity of 11.63%. This presentation, which forecasts a substantial reduction in Orange and Rockland's rate of return, is inconsistent with the PSC's December 15, 2006 Order. Pursuant to that order, the Company was to file information supporting its calculation of earnings for the period ending December 31, 2007. The Company's presentation, however, combined that information with a proposal to recover, though a surcharge, its projection of certain deferrals. Although directed by the Commission to file information to evaluate the appropriateness of temporary rates, the Company's financial presentation is based on its proposal to implement a surcharge.

The Company's presentation has hypothesized program changes which total $41,472,000, an increase in the Company's operating expenses of approximately 12%. The Company then hypothesizes a surcharge which offsets the majority of the program changes. Of course, the hypothetical surcharge has never been authorized or analyzed by the Commission, nor have many of the changes which the Company presumes will be collected through the surcharge mechanism.

Q. Please continue.

A. The Company's June 30, 2006 operating expenses included $9,518,000 for pensions and OPEBs. The Company proposes to increase this cost by $23,211,000. These cost changes include changes to pension deferrals and amortizations of past deferrals. (Some pension deferrals are amortized over three years while OPEB costs are amortized over five years.) None of these changes in cost levels or deferrals and amortizations have been examined or approved by the Commission. To offset these increases in costs, the Company hypothesizes a surcharge mechanism which will be first viewed by the Commission in the expedited process established by the PSC and the Administrative Law Judge. There will be no discovery, no analysis and inadequate time for scrutiny of the costs and the surcharge mechanism.

Q. Are there any other significant cost changes proposed by the Company?

A. Yes. Another significant area of cost changes is MGP site investigation and remediation costs. The program changes include amortization of past deferrals and new costs for the year 2007. The Company's proposed program changes which total $19,287,000, are purportedly offset by the hypothetical surcharge mechanism and regulatory liabilities which are due to customers. Again, these changed cost levels have never been viewed, nor approved by the Commission, and have been presented for the first time in the Company's February 2, 2007 filing. No in-depth analysis or discovery will be made in this expedited proceeding on either the proposed program changes or costs, or the mechanism and offsets utilized in the Company's income statement.

This issue also arises with regulatory costs and amortizations. Program changes postulated in the Company's filing total $5,777,000. Again, changes in the level of costs and program changes are assumed. Some would be recovered according to the Company's filing through the hypothetical, unapproved surcharge mechanism. Other costs may be new costs not yet presented to the Commission or scrutinized by the parties.

Q. Please summarize your concerns regarding the Company's financial projections.

A. The Company's presentation cannot be accepted on face value without significant analysis. Overall, Orange and Rockland's presentation likely understates the Company's 2007 earnings. It behooves the Commission to protect ratepayers' interest by instituting temporary rates at current levels until a full and complete hearing can be held reviewing each and every proposed cost change and the appropriate method of recovery.

**PART III: THE COMPANY'S COST OF EQUITY**

Q. What rate of return on equity is just and reasonable for Orange and Rockland's electric operations at this time?

A. For purposes of determining whether the Company's rates should be made temporary, the Commission should compare the projected ROE reflecting the concerns identified above, with the ROE that it has found reasonable for energy utilities in recent months. Those recent determinations provide a reasonable approximation of what the PSC would conclude from the in-depth company-specific analysis typically done as part of a proceeding involving permanent rates.

Particularly instructive is the Commission's finding regarding the cost of equity for Orange and Rockland's gas operations a little over three months ago. In that decision, the Commission approved an ROE for a three-year rate plan that was based on a single-year cost of equity of 9.19%. (Case 05-G-1494, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc., for Gas Service, Order Establishing Rates and Terms of Three-Year Rate Plan, p. 23) To that was added 36 basis points for a three-year stay-out premium and 25 basis points to recognize business risk contained in the Joint Proposal. Neither of those increments to the 9.19% equity cost is applicable in this situation, since the Company's three-year rate plan has expired, as have the risks of it not being able to seek a rate increase.

The PSC also recently determined the appropriate return on equity for a utility's electric operations in a one-year rate case involving New York State Electric & Gas Corporation ("NYSEG"). In a decision issued in late August 2006, the Commission found the utility's cost of equity to be 9.55%. Energy East Corporation, the holding company for NYSEG, is B-rated, while Consolidated Edison, Inc., the parent of Orange and

Rockland, is A-rated. To account for the differences in bond ratings, we looked at the difference in A-rated and B-rated long term public utility bond yields. Over the six-month period from July to December 2006, A-rated utility bond yields averaged 5.90%, while B-rated bond yields over the same period averaged 6.27%. Subtracting 37 basis points from NYSEG's 9.55% equity return would result in a return on 9.18%, virtually the same return underlying the Commission's determination for Orange and Rockland's gas operations on a one-year basis.

Since the Commission's decisions regarding NYSEG and Orange and Rockland were issued in August 2006 and October 2006, respectively, interest rates have decreased significantly. The market yield on 30-year U.S. Treasury securities has dropped from 5.0% in August 2006 and 4.85% in October 2006, to 4.68% in December 2006. Similarly, the market yield on 10-year U.S. Treasury securities has dropped from 4.88% in August 2006 and 4.73% in October 2006, to 4.56% in December 2006. The average market yield of 30-year and 10-year U.S. Treasury securities has dropped approximately 32 basis points from August 2006 to December 2006. This indicates that a PSC determination regarding the fair ROE if made today, would likely be below the 9.18% and 9.19% levels for NYSEG and Orange and Rockland cited above, everything else equal.

Q. What do the Company's witnesses claim is a fair ROE for Orange and Rockland?

A. Company witness Mr. Carl H. Seligson uses two methods to determine the cost of common equity, comparable earnings and risk premium. (Testimony of Mr. Seligson, p. 7) Based on these methodologies, he concludes that a fair return is between 12.5% and 12.8%. He also asserts that special circumstances make Orange and Rockland subject to increased risk, requiring an additional 35 basis point premium. Overall, he argues that a fair ROE for the Company is 13.00%, constructed as the average of the results of his comparable earnings and risk premium analysis (12.65%), plus 0.35%.

Q. Do you have any comment on that proposal?

A. The two methodologies used by Mr. Seligson were rejected by the ALJs in the Generic Finance Case and have been repeatedly rejected by the Commission. In Opinion No. 96-28, the Commission said:

> …we have avoided reliance on the risk premium approach because it allowed returns that are an inferior alternative to a direct estimate of a company's own cost of equity. (p. 13)

The PSC also concluded:

> …we have consistently found the comparable earnings approach unreliable because it does not adequately reflect the cost of equity of the companies in the proxy group. (Id.)

It appears that neither Mr. Seligson, nor any Company witness, even mentioned the two methodologies for establishing a fair ROE that have been the foundation of PSC ratemaking for decades – the discounted cash flow method and the capital asset pricing model. A proposal that recommends that the Commission reject years of precedent is particularly inappropriate in an expedited proceeding to determine whether a utility's rates should be made temporary.

In addition, the 35 basis point premium proposed by the Company, while not clearly explained or justified, appears to be based on its witnesses' opinion that new state energy policy initiatives will increase the cost of utility capital. (Testimony of Mr. Seligson, pp. 11-12) Such an adjustment is completely unwarranted. The Company has not been, and may never be, directed to take on additional risk or responsibility associated with any new state energy policy initiatives.

Q. Company witness Mr. Edward J. Rasmussen contends that Orange and Rockland's projected earnings levels should be compared with the 12.75% sharing threshold in the Company's recently expired rate plan. (Testimony of Mr. Rasmussen, p. 9) Do you agree?

A. No. Under the Company's expired rate plan, Orange and Rockland could retain all earnings up to 12.75% of common equity. Earnings in excess of that amount at the end of the three-year period from July 1, 2003 through June 30, 2006, were shared between customers and shareholders.

Incentive mechanisms such as this, are common in performance-based, multi-year rate plans, and have the potential to benefit both customers and the utility. They provide the utility a powerful incentive to identify and achieve cost savings, by permitting them to retain all earnings up to a threshold level and a portion of earnings above that level. Ratepayers benefit during the term of the rate plan if earnings exceed the threshold, but importantly, they generally realize the full benefit of the cost savings when rates are eventually reset. There is a great difference between foregoing potential rate decreases for three years and giving them up indefinitely.

The CPB supported the Orange and Rockland incentive mechanism as one element of the Company's rate plan, which also froze base electric rates and required the Company to absorb certain costs, thereby reducing the likelihood of future rate increases. Now, however, the 12.75% sharing threshold has expired. It has absolutely no relevance for a current determination of the reasonableness of the Company's projected earnings.

## PART IV: THE NEED FOR, AND APPROPRIATENESS OF, TEMPORARY RATES

Q. Please summarize the CPB's position regarding temporary rates.

A. As explained above, the Company is expected to earn in excess of its cost of equity in 2007. The Commission must take action to ensure that the Company's rates are just and reasonable and that ratepayers are protected. The proper remedy is for the PSC to adopt temporary rates immediately. All other potential remedies, such as changes to the deferral provisions of Orange and Rockland's rate plan, implementation of an earnings cap and/or earnings sharing, and/or a proceeding to establish new permanent rates, can be considered in due course once ratepayers are protected.

Q. Please summarize the Company's position on the appropriateness of temporary rates.

A. Several witnesses for Orange and Rockland testify at length, that temporary rate action is inappropriate in these circumstances. They allege, among other things, that temporary rates would be inconsistent with the current regulatory paradigm and would damage the prospects of future negotiations, would be viewed negatively by the investment community and would cause the Company to be diverted from other priorities.

Q. Do you agree with these contentions?

A. Absolutely not. Temporary rates are the appropriate remedy to protect ratepayers and the Company in these circumstances. In general, Orange and Rockland's claims do not properly consider the circumstances of this case or reflect a full understanding of the protections afforded the Company under temporary rate provisions of the Public Service Law. A complete response to the claims in the Company's testimony is not necessary, nor possible in the time available for responsive testimony. Nevertheless, we address the most significant assertions below.

Q. Please address Mr. Rasmussen's assertions on pages 12 – 13 of his testimony that, among other things, temporary rates in these circumstances would create a new asymmetrical regulatory paradigm and would damage the prospects of future negotiations and collaboration.

A. These arguments are unfounded. The Public Service Law explicitly provides the Commission this tool to protect ratepayers and the utility in situations when prompt action is necessary to ensure that rates are just and reasonable.

Utilities are well versed in the measures available to them when they believe they require additional earnings. The Company and its affiliates, for example, recently filed requests for rate increases for Orange and Rockland's gas operations and Consolidated Edison's gas operations. Similarly, Con Edison is expected to seek Commission approval in mid-2007 to increase its electric delivery rates. In each of these three situations, the Company and its affiliates sought, or are expected to seek, approval for rate increases, as soon as they were permitted to do so under the Public Service Law and the terms of their rate plans. The CPB generally does not support all aspects of such rate increase requests, but we fully recognize that utilities have a right to make them.

The PSC and the parties have had less experience in initiating proceedings to reduce utility rates. In this case, Orange and Rockland has demonstrated that it intends to delay such a proceeding as long as possible. For example, it opposed the CPB's November 8, 2006 request for Commission action and recommended that the PSC wait almost five months from the date of the CPB's Complaint until even considering the relief the CPB requested. The Company also waited almost three weeks before filing a Petition for Rehearing and Clarification on the Commission's December 15, 2005 Order, twice requested postponement in the dates designated by the PSC or Administrative Law Judge for providing information, and advocated a schedule that would preclude any PSC action until April 2007. Further, despite stating on several occasions since November 2006 that its preferred approach is to resolve issues including permanent rates through collaborative efforts, it has not even shared any written settlement proposal with the CPB. In these circumstances, temporary rates are the appropriate mechanism to protect ratepayers, as permitted by the PSL.

The Company's arguments also fail to recognize the asymmetries in the information possessed by utilities on the one hand, and consumers and regulators on the other. Utilities possess information regarding their operations and are constantly monitoring their financial condition. They seek relief when they see problems on the horizon. Ratepayers and organizations such as the CPB only have access to information regarding utilities' financial condition that the utility is required to report, such as the October 31, 2006 earnings report. Moreover, such information is generally historical in nature. As a practical matter, consumers and organizations such as the CPB can only react when an over-earnings situation is manifest. The PSL's provision for temporary rates is a necessary tool to protect ratepayers given this information asymmetry.

Mr. Rasmussen's suggestion that in requesting consideration of temporary rates, the CPB and other parties are not honoring the Company's rate plan (Rasmussen, p. 13), is curious. First, the rate plan has expired. Second, as mentioned above, Orange and Rockland and its affiliates never hesitate to file, while rate plans are still in place, requests for rate increases to become effective immediately upon the expiration of those rate plans. It is unreasonable to suggest that it is dishonorable or inappropriate for consumer representatives to seek to use all available remedies to protect ratepayers' interests, just as the Company has done to further its own interests.

Mr. Rasmussen's contention that granting temporary rates would preclude the Company from sharing in management's productivity efforts is also without merit. Pursuant to the rate plan, it retained all earnings up to the 12.75% threshold and shared excess earnings with ratepayers until June 30, 2006. From July 1, 2006 through October 31, 2006, the plan authorized the Company to retain all earnings. The plan has now expired. The Company is retaining excessive earnings not because of the 2003 agreement of the parties to Case 03-E-0797, but simply because it has chosen not to file a new rate case unless it is ordered to do so.

Q. Please respond to assertions by Company witnesses Mr. Rasmussen (p. 14) and Mr. Seligson (pp. 14 – 19) that the exercise of temporary rates would be viewed negatively by the investment community.

A. The CPB recommends that temporary rates be set at current levels, thereby maintaining the Company's cash flows. Imposition of temporary rates would indicate that Company earnings should be expected to return to normal levels. Investor expectations that returns far in excess of the cost of equity would continue unchecked, if any, are inconsistent with an understanding of regulated industries. Analysts who follow utility stocks understand regulation. The notion that any competent investment advisor who follows New York utilities would expect earnings in excess of 12.75% to continue indefinitely, is absurd.

Action on temporary rates would provide protection for both ratepayers and the utility. After establishing temporary rates, we understand that the Commission will take steps to ensure that Company earnings are sufficient to recover all of its prudent costs including its cost of equity. It would be reasonable to expect that the Company will be provided a ROE for its electric operations, on a one-year basis, that is similar to the 9.19% that served as the basis for the recent Joint Proposal regarding the Company's gas operations and the Commission's decision in the NYSEG case, adjusted for subsequent differences in market conditions. The Company accepted such a market-based return for its gas operations, demonstrating that it had no concerns regarding the investment community's reaction to authorized returns in that range.

Q. Please address concerns by Mr. Seligson that establishing temporary rates would, among other things, divert attention from priorities, provide a complete change in the core mission of the utility and damage the company's culture. (pp. 15-16)

A. These claims are not credible. As explained above, it is reasonable to expect that after establishing temporary rates, the Commission will take steps to ensure that the Company's return on equity for its electric operations will be similar to what it recently approved for Orange and Rockland's gas operations on a one-year basis. We understand that such a result did not divert the Company's attention away from providing safe and reliable service for gas operations or create the havoc anticipated by Mr. Seligson.

In view of Mr. Seligson's testimony, however, the Commission should consider substantially increasing its oversight of Orange and Rockland's electric and gas operations. If Company management reacts to the resumption of normal earnings in the manner that Mr. Seligson expects, a much more heavy-handed approach to overseeing and regulating the Company would be in the public interest.

Q. The Company proposes that the Commission implement a surcharge mechanism to mitigate the impact of deferrals. (Testimony of Mr. Rasmussen, pp. 17-18; Testimony of Mr. Kane, pp. 14-16) What is your position on that proposal?

A. This is a proceeding to consider the appropriateness of temporary rates for Orange and Rockland's electric operations. As explained above, all other issues can be considered, in due course, once ratepayers are protected. Based on available information, the CPB opposes the proposed surcharge mechanism.

Q. Do you have any other comments on the Company's filing?

A. Yes. Company witness Mr. Kane states that "the Company, however, also takes marked exception to CPB's implicit allegation that the Company is somehow skimping on its investment in its electric system." (Testimony of Mr. Kane, pp. 6, 7) We understand that the Company is referring to the CPB's November 8, 2006 Complaint. In that document, the CPB simply relayed information from Orange and Rockland's October 31, 2006 earnings report, which stated that it was planning to spend approximately $3.7 million less on capital expenditures in 2007 than it did in the twelve months ending June 2006. (CPB Complaint, pp. 3 – 4, citing the Company's October 31, 2006 earnings letter, Attachment 2) We did not, and do not, make the allegations cited by Mr. Kane. It is interesting to note, however, that the Company subsequently increased its projected electric capital expenditures for 2007 by $5.3 million, or 9% (Testimony of Mr. Rasmussen, p. 12).

Q. Does this conclude your testimony?

A. Yes, at this time.