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March 28, 2007

Via Hand Delivery on March 29, 2007

Hon. Jaclyn A. Brillling, Secretary  
State of New York Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223-1350

Re: CASE 06-E-0894 – Proceeding on Motion of the Commission to Investigate the Electric Power Outage of Consolidated Edison Company of New York, Inc.’s Long Island City Electric Network.

Dear Secretary Brillling:

Pursuant to the Notice Extending Reply Comment Schedule, issued March 14, 2007) in the above proceeding, Utility Workers Union of America, AFL-CIO, Local 1-2 (“Local 1-2”) hereby files an original and ten copies of its reply comments regarding the Department of Public Service Staff Report on its Investigation of the July 2006 Equipment Failures and Power Outages in Consolidated Edison’s Long Island City Network in Queens, New York (“Staff Report”).

Both an electronic copy of these comments, and a hard copy of these comments via 1<sup>st</sup> Class Mail, are being sent to Administrative Law Judge Eleanor Stein and to all active parties in this proceeding listed as of November 20, 2006. Also, **please note** that my e-mail address on the Active Party List of November 20, 2006 is incorrect. The Active Party List contains a “.com” suffix on my e-mail address rather than the “.net” suffix which correctly appeared on Local 1-2’s request for active party status in this proceeding dated October 27, 2006.

Respectfully submitted,

*/s/ Richard J. Koda*

Richard J. Koda, Principal  
Consultant to  
Utility Workers Union of America,  
AFL-CIO, Local 1-2

cc: Active Party List as of November 20, 2006  
New York City Council Speaker Christine C. Quinn  
Peter Vallone, Jr.  
Harry Farrell, President, Utility Workers Union of America, AFL-CIO, Local 1-2

CASE 06-E-0894

REPLY COMMENTS OF UTILITY WORKERS UNION OF AMERICA, AFL-CIO,  
LOCAL 1-2

REGARDING DEPARTMENT OF PUBLIC SERVICE  
STAFF REPORT DATED FEBRUARY 9, 2007  
ON ITS INVESTIGATION OF THE JULY 2006 EQUIPMENT FAILURES AND  
POWER OUTAGES IN CON EDISON'S LONG ISLAND CITY NETWORK  
IN QUEENS COUNTY, NEW YORK

**Summary**

Utility Workers Union of America, AFL-CIO, Local 1-2 ("Local 1-2") offers reply comments regarding the parties initial comments on the Department of Public Service Final Staff Report ("SR") dated February 9, 2007 regarding Staff's investigation into the July 2006 equipment failures and power outages in the Consolidated Edison Company of New York's ("Con Edison's") Long Island City ("LIC") Network in Queens, New York. The initial comments of the parties propose to add additional requirements for Con Edison, compared to what Staff proposed, to deal with the LIC outage issues. Local 1-2 generally agrees with many of the parties' comments and Local 1-2 offers some additional mandates that it believes should be adopted by the State of New York Public Service Commission ("PSC" or "Commission"). The additional mandates are discussed below.

**Background**

When these Reply Comments were written, Local 1-2 had been served with four (4) sets of initial comments, in addition to its own in response to the SR: those of Public Utility Law Project of New York, Inc. ("PULP"), New York State Consumer Protection Board ("CPB"), TransGas Energy Systems, LLC ("TransGas") and Western Queens Power for the People Campaign ("PFP"). On March 27, 2007, Local 1-2 became aware of the comments of four

additional parties to this proceeding as a result of a story in the March 27 issue of The New York Times.<sup>1</sup> Local 1-2 objects to not being served with electronic copies of the comments as required pursuant to the Commission's Notice of Comment Schedule, Issued February 13, 2007 and the Notice Extending Reply Comment Schedule, Issued March 14, 2007 by those four parties including: The State of New York Office of the Attorney General ("AG"), Consolidated Edison Company of New York, Inc. ("Con Edison"), The New York State Assembly ("Assembly"), and The City of New York (NYC"). Apparently the non-service is the result of an incorrect e-mail address appearing on the Active Party List of November 20, 2006. This e-mail address was incorrectly transcribed from the Active Party Request of Local 1-2 dated October 27, 2006. Local 1-2 herewith reserves the right to reply to those comments at a future date, as soon as possible.

### **PULP Comments**

PULP offers the Commission ten (10) separate comments. Local 1-2 generally supports each of those comments and strongly supports specific comments: **2. The Commission should examine the prudence of Con Edison's system operation;** and, **3. The Commission should adopt service performance standards to reduce N-2 feeder outage incidents and their duration and to reduce the incidence of secondary system fires and explosions.** Local 1-2 has long maintained that the Company's system operation has been in need of improvement and in the last base rate proceeding, Case 04-E-0572, Local 1-2 strongly advocated for a reliability performance mechanism based on the occurrence of manhole incidents. The Company has a questionable history of manhole incidents over the past decade ranging from an annual low of

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<sup>1</sup> City Report Defends Con Ed for Key Choice in Blackout, The New York Times, March 27, 2007 by Sewell Chan.

five hundred twenty-eight (528) in 1998 to over twenty-eight hundred (2,800) in 2001 and 2003. Two Con Edison workers were killed by a manhole explosion in June 2004.

Also, Local 1-2 is on record as urging the Company to hire an expert consulting firm, such as Stone & Webster or a firm of similar stature and expertise in evaluating underground electric distribution facilities, to perform an independent assessment of Con Edison's underground electric distribution facilities and investigate the causes and solutions to the increased level of manhole incidents in the recent past. Local 1-2 maintains that manhole incidents must be reduced. A reliability performance mechanism based on manhole incidents would aid in pressuring the Company to achieve a lower level of such incidents.

### **CPB Comments**

In general CPB agrees with the vast majority of the DPS Report's findings and recommendations and urges the Commission to formally adopt those recommendations, impose definitive dates by which each must be completed, and vigilantly oversee Con Edison's implementation of those recommendations. In several respects, however, CPB maintains that the Report should be strengthened.<sup>2</sup> Local 1-2 agrees with several of the enhancements that the CPB recommends to be made to the SR. Specifically, Local 1-2 is in agreement that the PSC must establish a firm deadline for the Company to fully implement each recommendation, as well as an open and transparent process for the parties and the public to keep apprised of the Company's progress;<sup>3</sup> that the PSC should immediately increase its oversight of Con Edison's expenditures substantially, to ensure that necessary expenditures, particularly operations and maintenance expenses which underlie the Company's rates, are undertaken;<sup>4</sup> and, that the

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<sup>2</sup> Initial Comments of the New York State Consumer Protection Board, Dated March 2, 2007 at 2.

<sup>3</sup> *ibid.* at 3.

<sup>4</sup> *ibid.* at 5.

Company conduct additional training exercises that focus on the types of circumstances that arose in the summer of 2006.<sup>5</sup> Local 1-2 fully supports the concept that improved and increased training results in better electric operations and performance efficiencies.

CPB also commented on what it considered to be necessary changes to be made in the Commission's regulation and oversight of Con Edison. It alleged that the Commission ignored provisions of the Public Service Law ("PSL") that explicitly require it to conduct an audit of Con Edison's construction program planning as it relates to reliable service; and that overall, the PSC failed to ensure that Con Edison's electric system was capable of providing safe and reliable service, and did not identify issues requiring attention until after the LIC outage.<sup>6</sup> Local 1-2 concurs.

In Case 04-E-0572, Local 1-2's expert recommended that a management audit be should be conducted. In that proceeding, it was shown to be a fact that Con Edison does not make any comparisons of the cost of its use of contract labor compared to its represented weekly labor pool to determine what is a better value for ratepayers. Con Edison was asked to provide the total amount the Company spent on contractors in 2003 and responded that it "does not normally compile the requested data nor is it readily available." The Company was also asked to provide a listing of all of the Company's electric operation contracts which included contract labor, together with a detailed reason why each such contract was entered into rather than the Company using its internal labor force for a recent eighteen month historic period. The Company responded that the information requested is not available and that it does not keep nor track such information and, therefore, cannot compare it to its internal labor force to determine which is most appropriate to use in providing safe and adequate utility service to its customers. The Company was asked to

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<sup>5</sup> *ibid.* at 10.

<sup>6</sup> *ibid.* at 17.

provide a copy of all workpapers/analyses performed by or on behalf of the Company subsequent to December 31, 2002 which compared the cost of using internal labor compared to that of contractor labor for electric operations. The Company responded that it has not performed any such analysis.

The above demonstrates that the Company does not know the amount it is spending on outside contractor labor or if it is getting quality services at a reasonable price. If it doesn't know the amount it is spending, which entity is receiving the expenditure and how the expenditures and work compare to internally provided workforce, how can it adequately control its costs? Local 1-2 strongly supports the recommendation for an audit of Con Edison focusing on construction program planning<sup>7</sup> to be initiated by the Commission. Also, Local 1-2 recommends that this audit be expanded to include electric operations O&M expenditures and the Company's use of outside contract labor.

Local 1-2 believes this to be an important issue. To underscore why this issue is important, attached to these comments is a photo taken at a cordoned-off location next door to 160-34 Northern Boulevard in Queens, New York. When the Local 1-2 represented Con Edison Trouble man asked the limousine driver: "What's up?", the Trouble man realized that the limo driver had actually been sleeping. When awake, the limo driver handed the Trouble man a slip of paper that said "11 Volts" and responded that all he knows is that the limousine company receives \$35.00 per hour for the "surveillance" service being provided to an outside contractor, and that he was at the site for over 24 hours. Upon subsequent investigation, it appears that Con Edison has contracted out stray voltage work to an electrical contractor (the yellow cones in the photo apparently belong to the contractor and the red cone on top of the limousine belongs to Con Edison) who subsequently subcontracted the stand-by work to the limousine service. It was

also found that the outside contractor in question is “Sarnoff” and that there was stray voltage on the metal telephone stand just outside of the Off-Track Betting establishment shown in the photo. If anyone tried to use the phone in the photo, depending on that person’s physical condition, that person, at the very least, would have received a shock, and one that could have had deadly consequences.

New Yorkers deserve better than this. This situation is a direct result of the Commission’s policy to constrain Con Edison’s internal work force with the use of Staff’s productivity adjustment, while at the same time having no oversight over outside contractor labor expenditures and the quality of the work obtained for those expenditures. In fact, based on reports from Local 1-2 represented employees at the Company’s Emergency Service Bureau, as few as two (and sometimes only one) crews are available in the entire borough of Queens during a given period.

Finally, CPB recommends what it considers necessary changes to Con Edison’s rate plan and tariffs before the summer of 2007.<sup>8</sup> CPB contends that Con Edison’s rate plan should be modified to remove its retail migration incentive and replace it with incentives that are targeted to service reliability.<sup>9</sup> Local 1-2 strongly agrees. A manhole incident performance standard, as discussed under PULP above, is such a mechanism that would focus the Company’s attention on system reliability and safety.

### **TransGas Comments**

The TransGas comments raise the question: what caused the low voltage conditions that apparently contributed to the LIC Network outages? Local 1-2 believes that the causes of such

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<sup>7</sup> *ibid.* at 20.

<sup>8</sup> *ibid.* at 20-25.

<sup>9</sup> *ibid.* at 23.

conditions should be investigated because of their potential negative impacts on Con Edison's electric network. Once such causes are determined, recommendations should be made by the Staff and the parties as to how to appropriately address those causes.

### **PFP Comments**

PFP expresses its concern with the SR recommendation that Con Edison study the feasibility of installing fixed network, advanced metering in the Long Island City network and report to PSC Staff within six months. Local 1-2 shares that concern for the reasons expressed by PFP.<sup>10</sup> The Con Edison workers in the field are in fact a direct human connection between the customers and the corporate decision makers. As was mentioned in Local 1-2's initial comments, these workers benefit utility customers in a variety of ways as they are continuously involved in observing, reporting and correcting hazardous conditions as they would proceed through their operations related work.

Regarding the PFP comments pertaining to Utility Worker Safety, Local 1-2 formally thanks PFP for both its kind acknowledgement of the "tremendous job under difficult, often dangerous conditions" performed by Con Edison's utility workers during the July 2006 outage, and for its support for Local 1-2's technical recommendations which would make this work safer and more reliable for neighborhoods in the future.<sup>11</sup>

Regarding financial concerns, PFP comments that it agrees with Staff's recommendation that Con Edison begin budgeting by electrical network from 2008 on.<sup>12</sup> From Local 1-2's perspective, Con Edison should not only begin budgeting by electrical network from 2008 on, but should initiate and maintain records that differentiate between the number of workers and

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<sup>10</sup> Comments of Western Queens Power for the People Campaign at 9.

<sup>11</sup> *ibid.* at 10.

<sup>12</sup> *id.*

cost components of internal labor compared, on an “apples to apples” basis, to that of contractor labor that would allow for an analysis and a determination of the level of actual productivity, or lack thereof, achieved by the Company in both its O&M and its capital expenditures.