

**WRITTEN TESTIMONY OF JAMES T. GALLAGHER  
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NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE**

**THE POWER OUTAGES IN THE CONSOLIDATED EDISON SERVICE TERRITORY**

**BEFORE THE:  
NEW YORK CITY COUNCIL COMMITTEE ON CONSUMER AFFAIRS**

**AUGUST 22, 2006**

Thank you, Chairman Comrie and members of the Committee. My name is James Gallagher. I'm Director of the Office of Electricity and Environment at the New York State Department of Public Service. Joining me today are Michael Worden, Chief of Distribution Systems and Generation in the Department's Office of Electricity and Environment, and Charles Dickson, Director of the Department's Office of Accounting and Finance. We represent offices within the agency that have a thorough understanding of the operational characteristics of Con Edison's networks as well as procedures that allow us to oversee Con Edison's infrastructure investment planning.

I first want to thank you for holding this hearing and inviting us to participate. The power outages throughout northwestern Queens were obviously a difficult and terrible event, leaving roughly 100,000 residents and businesses throughout several communities in Queens without power; some for as many as nine days. This incident was yet one more challenge imposed upon the residents of New York City without warning, and they faced it with the kind of resolve and character that we have come to expect from New Yorkers during difficult times.

Outages of this nature represent a significant public health and safety risk to those residents who were left without power, as well as a significant economic loss for the

business community. I know many residents are angry and want answers as to why this event happened. That anger is understandable. The residents and businesses deserve answers as to why the outages occurred, why it took as long as it did to restore power, and what steps we will take to try to prevent it from happening again. I am here to assure those affected by the outages that we are vigorously pursuing the answers and will recommend that the Commission take any appropriate actions to try to prevent something like this from happening again.

Given the severity of the situation, and at the urging of Governor Pataki and Mayor Bloomberg, on July 26, the Chairman of the Public Service Commission signed an Order initiating a formal proceeding and investigation to examine thoroughly all issues associated with both the loss of the primary feeders in the Long Island City network of Queens, and the subsequent customer outages. While we expect the investigation to proceed expeditiously, it will be thorough and comprehensive, and, at this time, it is premature to say exactly when it will be concluded. However, if during the course of our investigation, we learn facts that require immediate actions, we will move quickly to implement them.

As part of the investigation, we conducted an initial series of public statement hearings to give those affected by the outages an opportunity to communicate their experiences, concerns and recommendations to us. Additional public statement hearings and information sessions will be scheduled as warranted throughout our investigation. In addition, an Administrative Law Judge has been assigned to this proceeding, and interested parties will be given an opportunity to present their own opinions and recommendations.

One critical aspect of these outages in Queens is that they were initiated by failures in Con Edison's underground network distribution system, and were not due to a lack of generation. It also should be noted that, based on industry-wide statistics, the Con Edison electric distribution system has been historically one of the most reliable in the nation. Con Edison's electric network system is designed with the intention that reliable service will be maintained even if any two of the primary voltage feeders supplying a specific network are out of service simultaneously. In this particular situation, however, many more primary feeders were out of service.

While we are continuing to monitor Con Edison's restoration efforts in the Queens network, and actively inspecting Con Edison's system recovery activities, we are turning the focus of the investigation toward examining how the conditions that led to the outages arose, the appropriateness and adequacy of Con Edison's response, and how a recurrence of this type of incident can be avoided. The specific issues we are examining include:

- The circumstances that led to the loss of the primary feeders serving the Long Island City network in Queens;
- The inordinate amount of time it took for Con Edison to accurately determine the magnitude of the customer outages;
- The effectiveness of Con Edison's management of its electric distribution system, before and during the failure of the feeders in question, and the company's response to the failures and subsequent customer outages;
- The quality and quantity of Con Edison's communications with the public and State and local governmental entities;

- The actions taken by the Company to restore service in the immediate aftermath of the outages, including the use of temporary above-ground cables and emergency generators;
- The nature and extent of Con Edison's expenditures for operating and maintaining the Long Island City network; and
- The Company's plans for ensuring the reliability and safety of its overall primary and secondary electric distribution systems, and the need for improvements in its practices and procedures.

Upon conclusion of the investigation, Staff will issue a report to the Commission containing its findings and recommendations for further action. Broadly speaking, the investigation may lead to a formal prudence investigation of Con Edison's management of its electric distribution system, the company's response to the feeder outages in Long Island City, and/or other issues. In a prudence proceeding, the company would have the burden of demonstrating that its actions were reasonable. If the investigation reveals that Con Edison failed to adhere to either Commission orders or regulations, or the Public Service Law, the Commission could pursue a penalty action against the company in State supreme court pursuant to Sections 24 and 25 of the Public Service Law.

The Commission could also commence a proceeding to examine the adequacy of the company's tariff that provides for food spoilage payments to affected customers. Other options will certainly be on the table, but without knowing more about the details and root cause of the incident, it would be premature to speculate as to what they might be.

To put the Commission's options in context, I would like to add a few points on the nature of the Commission's role in overseeing, or regulating utilities. In fulfilling its

responsibilities under the Public Service Law, the Commission must always balance the numerous, and often competing interests of customers and stakeholders. The Commission's role is to balance the need for investment in the system against the costs imposed by such investments upon customers. To achieve that balance, the Commission relies upon a comprehensive process that involves participation of multiple parties with multiple interests, who work to build a record upon which it can make informed decisions as to how to balance these factors while establishing the company's revenue requirements and rates.

Because customers bear the costs of prudent investments in the electric system, and the Commission is required by law to ensure that rates for customers are "just and reasonable," there is a natural tension in attempting to accomplish both objectives. Moreover, while the need for infrastructure investments is of paramount importance and a primary focal point of the Commission's rate-setting process, there are other factors that influence rates that are also considered during rate cases including, for example, the need for low-income assistance programs, service quality requirements, and investments in energy efficiency. There is no mathematical formula for determining how to balance all of these factors, or even for establishing how much money should be invested in the infrastructure in any given year. In the end, however, the company is ultimately responsible under law for furnishing and providing safe and adequate service.

It is now Staff's responsibility to find out exactly what happened and what needs to be done to ensure that a similar situation does not occur again. Following major incidents, such as the recent outages, Staff conducts inquiries or investigations to determine their causes and to identify any practices or procedures that need improvement.

While Staff conducts its own investigations, and goes into the field to witness the utility's actions, it also does a critical review of the utility's self assessment reports that are required to be submitted within 60 days of the conclusion of all major outages. In many cases, such as will occur here, a Staff report is issued. Through these and other regulatory initiatives in recent years, there have been a number of improvements to Con Edison's infrastructure and operations. For example:

- The company's infrastructure program spending for transmission and distribution facilities has more than doubled since 2001 to over \$1 billion per year;
- The company has committed to a program to rebuild its secondary network system at a funding level of approximately \$100 million per year;
- The company has committed to spending approximately \$25-30 million each year to replace old paper-insulated lead-covered cable;
- Feeder restoration times have been reduced significantly, which is a key for maintaining network reliability;
- The company now performs annual stray voltage testing of all publicly accessible facilities;
- The company now inspects all of its electrical facilities once every five years and makes repairs to any problems that are identified;
- New vented manhole covers are being installed throughout the company's service territory.

Unfortunately, these improvements did not help to avoid the outages in Queens, and our investigation needs to find out why.

While the initial restoration effort from the outages is progressing rapidly, we will continue to monitor closely the network's operation throughout the remainder of the summer and the long term repairs being made to the damaged network elements. Our oversight will not be limited to the Long Island City network though, and we will continue to monitor the operation of Con Edison's entire system. In response to a directive from the Commission, Con Edison has filed its plans for ensuring the safe and reliable operation of the entirety of its electric distribution system, and, in particular, the Long Island City network in Queens. We are reviewing it thoroughly to ensure it represents a comprehensive strategy for maintaining reliability throughout Con Edison's service territory.

I want to again thank the Committee for the opportunity to update the residents and businesses of Queens affected by the outages about what we know and how we will proceed with our investigation. I want to assure those affected by the outages, as well as all the citizens of New York, that there is currently no higher priority within the agency and that we will work as expeditiously as possible to conclude our investigation and report back on our findings and conclusions.