

**WRITTEN TESTIMONY OF WILLIAM M. FLYNN  
CHAIRMAN  
NEW YORK STATE PUBLIC SERVICE COMMISSION**

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

**BEFORE THE:  
ASSEMBLY STANDING COMMITTEE ON ENERGY  
AND THE  
ASSEMBLY STANDING COMMITTEE ON CORPORATIONS,  
COMMISSIONS AND AUTHORITIES**

**AUGUST 3, 2006**

Thank you, Chairman Tonko, Chairman Brodsky, and members of the Assembly. Joining me today are Jim Gallagher, Director for the Department's Office of Electricity and Environment; Michael Worden, Chief of Distribution Systems and Generation in the Office of Electricity and Environment; and Charlie Dickson, Director for the Office of Accounting and Finance. These individuals have a combined 76 years worth of experience at the Department of Public Service and represent offices within the agency that have a detailed understanding of the operational characteristics of Con Edison's networks as well as procedures employed by the Commission that guide Con Edison's infrastructure investment planning. They will be integral to the Department's efforts to understand the events leading up to the outage as well as developing recommendations to avoid future recurrences.

I first want to thank you for holding this hearing and inviting me and my staff to participate. The power outages throughout northwestern Queens were obviously a difficult and unfortunate 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 happened. That anger is understandable. As Chairman Tonko asked me to discuss today, 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. As of this time, we do not have answers to many of those questions, but I am here to assure those affected by the outages that we will deliver answers and take any appropriate actions based on our findings to try to prevent something like this from happening again.

I also want to thank the utility employees, Con Edison's crews as well as those from neighboring regions who were called in to help out during the restoration process. These crews put a tremendous amount of effort into the restoring the system safely and are still out there today trying to make sure it remains operational through the intense heat and humidity we are experiencing this week.

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So let me address the areas you asked me to testify about:

Given the severity of the situation, and at the urging of Governor Pataki and Mayor Bloomberg, on July 26, I 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 and the subsequent customer outages. A multidisciplinary team of roughly 30 professionals representing virtually every office in the Department will devote their time to this effort to ensure we cover all aspects of the investigation thoroughly and professionally. While I expect the staff team to move expeditiously, at this time it is premature to say exactly when we will conclude our investigation.

I commit to the people affected by the outages that this investigation will be conducted in an open and transparent manner. Among the first efforts we are

undertaking is holding a series of five public statement hearings beginning tonight at Public School 234 in Astoria, next Wednesday (*also at School 234*) and Thursday (*here at LaGuardia Community College*). These hearings will give those affected by the outages an opportunity to communicate their experiences, concerns and recommendations to the Commission. We have also made arrangements with Con Edison to have a mobile outreach vehicle available outside the hearings to help customers file claims for spoiled food and answer any questions or concerns they may have. Additional public statement hearings and information sessions will be scheduled as warranted throughout our investigation.

To facilitate the public's access to information and updates on the investigation, we have established a website specifically for this investigation that will include links to all publicly available information filed by Con Edison, Department staff, or other interested parties throughout the investigation. The Department's website address is [www.dps.state.ny.us](http://www.dps.state.ny.us). I also intend to have staff update the Commission regularly at the monthly Session meetings we hold until such time as we conclude the investigation. All of this information will be part of the record upon which the Commission will base its decisions relating to these outages.

The Department's investigation will focus primarily on the Long Island City network, where numerous underground network distribution feeders failed, and continued to fail repeatedly during the restoration process. In addition, we are aware of localized outages in other areas of Queens that occurred during the same time frame but are not directly related to the Long Island City network failure. We will be examining these outages as part of our investigation as well. Lastly, Westchester County experienced outages during this same time frame due largely to storm activity. These outages in Westchester are also not directly related to the Long Island City network failure, but Con Edison is required to file a report on that event within 60 days, and we will be conducting a separate investigation of that incident.

As for the focal point of our investigation, and the issue I was asked to talk about today, the Long Island City network serves a total of roughly 115,000 customer accounts, or an estimated 500,000 people. We will examine Con Edison's management of its distribution system and its construction and maintenance practices and procedures to determine whether and what changes should be made to improve the reliability of the system and to avoid or minimize future outages.

In regards to the events leading up to the outages, here is what we know so far:

The Long Island City network is provided electric service by 22 separate primary voltage feeders. Beginning on July 17, problems arose with several of the feeders and, despite Con Edison's efforts to place adequate numbers of the feeders back in service, increasing numbers of them began to fail. At one point, as many as 10 of the 22 feeders were out of service. As an increasing number of feeders failed, Con Edison reduced voltage in that network by eight percent and asked large customers served by that network to reduce load or the amount of energy that they consume. Con Edison also manually disconnected some customers in order to help prevent a complete network shutdown.

At the outset, the company focused on restoring the primary feeders, but apparently experienced difficulties in attempting to bring them back into service. At that time, roughly 2,600 customers reported service outages to Con Edison. In an effort to better determine the magnitude of the situation, Con Edison initiated a block-by-block survey in the area and concluded that more than 200 blocks were experiencing service disruptions. By Friday, July 21, Con Edison estimated the total number of customer accounts without service to be about 25,000, representing roughly 100,000 people.

As of July 25, Con Edison reported that it had restored service to those affected customers, although it further reported that there would likely be ongoing, sporadic customer outages and that some customers could still experience low-voltage conditions. Many of the initial repairs Con Edison implemented are temporary in nature, including

running temporary cables in the street or hooking some customers up to emergency generators. The company is now focusing on making permanent repairs, but it has been unable to provide us with the timeframe that it will take to complete them.

It is important to understand the outages under review here were initiated by failures in Con Edison's underground network distribution system and were not due to a lack of generation. It is also should be noted that the Con Edison system has been historically one of the most reliable in the world. Con Edison's electric network system is designed with the intention that reliable service will be maintained even if any two of the many primary voltage feeders supplying a network are out of service simultaneously. In comparison with other utilities in New York, the overall Con Edison system has traditionally had performance indicators at least six times better than any of the others with regard to number of outages per customer per year (its underground network system outage performance has been over 10 times better than the performance of the systems in the rest of the State). This historically high level of reliability is obviously no comfort to the 100,000 people affected by the recent outages, but I think it is important to note. Unfortunately, when outages do occur in the City, the public safety and economic consequences tend to be more acute than when similar situations occur elsewhere in the State. Consequently, it is relevant that we take a close look at Con Edison's system, how Con Edison managed and maintained it, and what we can learn from any failures we find here.

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With the initial restoration effort complete, we are turning our focus toward examining how these conditions arose, the appropriateness and adequacy of Con Edison's response, and how we can avoid a future recurrence of this type of incident. The investigation launched by the Commission will look into, among other things:

- The circumstances that led to the loss of the primary feeders;
- The reasonableness of the time in which Con Edison accurately ascertained the magnitude of the customer outages;

- The use of company and other resources in the restoration effort;
- The overall reliability of the Long Island City network;
- The nature and extent of Con Edison's expenditures for operating and maintaining the Long Island City network;
- The budgeted and actual capital improvements made to the Long Island City network;
- The company's plans for replacing old feeder cables and ensuring the reliability and safety of its primary and secondary electric distribution systems;
- The effectiveness of Con Edison's management of its electric distribution system before and during the failure of the feeders and customer outages, and its response to the failures and outages;
- The quantification of the costs incurred by Con Edison associated with the failures and outages;
- The need for improvement to Con Edison's plans, practices, procedures, and operations to avoid similar outages;
- The quality and quantity of Con Edison's communications with the public and State and local governmental entities;
- The quality and extent of Con Edison's communications and interactions with special needs customers; and
- The reasonableness of Con Edison's ability to provide estimates to the public and governmental officials of the expected time to restore service.

For purposes of this investigation we expect, and I have been personally assured by Con Edison CEO Kevin Burke, that the company will cooperate fully with Staff's investigation and will provide prompt and unfettered access to company personnel, documents, materials, and other information. We also expect Con Edison to respond quickly to all information requests posed by Staff and give Staff full and complete answers. Under normal circumstances, the companies we regulate are generally afforded 10 days to respond to such information requests from Staff. Because of the importance of this investigation and the need to bring it to a conclusion as swiftly as possible, we shortened that requirement to no more than five days.

Despite the fact that our investigation has just begun, there are some steps we are taking immediately to assist those affected by the outages. I issued an order this morning in response to a filing from Con Edison requesting that the Commission waive certain tariff provisions in order to provide some financial assistance and flexibility to those affected by the outages. Among the approved items are:

- A one-time credit to appear on customer bills this month that pro-rates certain fixed customer charges intended to cover the costs of billing, metering, customer accounting and service lines to customer premises, effectively lowering this charge for the month of August;
- A relaxation of the tariff requirements for reimbursing customers for spoiled food that effectively allows residential customers to recover up to \$350 without need for a list itemizing the losses. Without such a waiver, any losses over \$150 would need to be itemized by the customer in order to receive payment.
- A waiver of late-payment charges on August and September bills for any customer affected by the outages; and
- A waiver of any "no-access charges," which are typically assessed on customers who do not provide the company with timely access to their meter for meter-reading purposes.

These are modest and initial measures, but none-the-less represent an important step in helping customers recover from the outages.

Upon conclusion of the investigation, Staff will issue a report containing its findings and recommendations for further action to be taken by the Commission. Broadly speaking, should the Commission determine that Con Edison has failed to adhere to either Commission orders or the Public Service Law, the Commission could potentially pursue a penalty action pursuant to Section 25 of the Public Service Law.

Furthermore, the Commission could commence a prudence investigation into the Con Edison's management of its electric distribution system and infrastructure

investments to determine if the company made prudent infrastructure investments to avoid such incidents as were experienced in Queens.

The Commission could also commence a proceeding to examine the sufficiency of the food spoilage amounts provided by tariff for residential and nonresidential customers. Other options will certainly be on the table, but without knowing more about the details of the incident at this time, I am not going to speculate as to what they may be.

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I think it is important to note at this point the nature of the Commission's role in overseeing, or regulating utilities. In fulfilling our responsibilities under the Public Service Law, the Commission must always balance the numerous, and often competing interests of customers and other 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, we rely upon a comprehensive process that involves participation of multiple parties with multiples interests, who work to build a record upon which the Commission 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. As if that were not enough, discussions about the need for infrastructure investments are, by necessity, part of much broader discussions that include, for example, the need for low-income assistance programs, service quality measures and targets, investments in energy efficiency, and an array of other important issues that must all be balanced. There is no mathematical formula for determining how much money should be invested in the infrastructure in any given year. It is a balancing act among all those concerned. We will, of course, include an examination of our own regulatory practices as part of our

investigation to ensure we continue to learn from experiences like this and improve our own performance.

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In terms of monitoring specific utilities, including Con Edison, Staff to the Commission is responsible for monitoring the company's provision of safe and adequate service to its customers through a multitude of activities. For example, our Consumer Services staff monitors the company's performance through direct contact with customers, outreach and educational activities, and handling of customer complaints. Our engineers monitor and oversee the many technical matters involved in utility operations and planning. In fulfilling these responsibilities, the Staff acts to carry out the policies and requirements established by the Commission as regulators of the utilities; it does not attempt to manage the company.

Staff's role in monitoring for safe and adequate service of the distribution system may be thought of as a cyclical process, with the ultimate results feeding back to the beginning of the cycle with the goal of continuous improvements. At the beginning of the cycle, standards and practices are developed based on experience and information feedback. Once the standards and practices are established, Staff monitors the company's compliance with them and compares its actual performance to the goals set forth in the standards and practices. At the same time, Staff assesses whether the company has appropriate management practices and systematic processes in place to guide investment and operating decisions. Based on these assessments, as well as feedback from customers, Staff determines if modifications of the standards and practices are needed. Ultimately, a utility's actual performance and maintenance of safe and reliable service are the most important factors in determining if and how standards and practices should be adjusted. The investigation the Commission has initiated as a result of the outages in Queens is a clear example of the Staff oversight program.

To be more specific about what the Staff does, let me first indicate that the Commission requires utilities to notify Staff of significant power outages, injuries, shocks, accidents, and unusual events. The notification procedures provide contact points for both working hours and off-hours. Recipients of the notifications relay the information to senior staff and certain other State agencies, if appropriate. Staff then responds to the notifications in a variety of ways, depending on the nature and impact of the event reported. Routine communication is established with the utilities to ensure timely information updates and to monitor progress. For severe events likely to last several days, such as the Queens outages, Staff is dispatched to the utility's emergency operations center to monitor restoration activities. Having personnel on-site facilitates communications and assessments of utility actions. These procedures were followed in this case when Con Edison notified Staff that it was opening its distribution command center on Sunday, July 16.

Now, let me identify some of the filings and reports that we require of utilities, specifically Con Edison. First, each day, and twice a day during the summer for Con Edison, utilities are required to submit to Staff reports that provide the status of their distribution systems, including customer and feeder outages. These reports are analyzed by Staff to obtain a sense of whether or not problems might be expected, or if an outage trend might be developing. Subsequent to such analyses, Staff follows up with the applicable utilities to determine what is being done, or can be done, to address specific problems identified.

In March of each year, Con Edison must file a "Reliability and Power Quality Report" with the Commission. These reports contain Con Edison's assessments of its performance, along with factual information that identifies outage trends in its various geographic regions, lists major reliability improvement projects, and provides analyses of the reasons for poor performance of the worst-performing feeders. Following receipt of these reports, Staff typically meets with Con Edison to discuss the reports and its plans for improvements. At the time of filing its Reliability and Power Quality Report, Con Edison must also file a report that indicates whether or not it met the performance targets

specified by the Commission in its most recent rate case. If Con Edison does not meet its targets, it must subject to a negative revenue adjustment.

Con Edison also submits annual reports on the safety of its manholes. This report provides information on the number of manhole events that occurred from the previous year and what the company is doing to mitigate such events. Programs that are in place to reduce manhole events include: a five year inspection program, installation of new vented covers, and use of dual-layer insulation on all new secondary cables. Again, Staff analyzes these reports and meets with Con Edison to discuss the findings whenever appropriate.

On April 1 of each year, Con Edison must file an Emergency Plan that specifies the procedures it will follow in the event of a power outage or other emergency. The Plan must also discuss the utilities' plans for recovering its electric system and restoring customers to service. Staff reviews these filings and provides feedback as needed.

As a result of the Washington Heights network outage in 1999, Con Edison must also submit semi-annual reports concerning the status of its implementation of the 44 Staff recommendations made following that event. Con Edison has completed implementation of all but 10 of the recommendations, and the remaining 10 recommendations are continuous, on-going projects to enhance and improve the electric system. Staff reviews the company's filings, monitors its efforts, and meets with the company as needed to ensure that appropriate progress is made in complying with the recommendations.

In January of each year, Con Edison must file a report of the company's compliance with the Commission's Safety Standard that requires annual stray voltage testing and inspection of utility facilities at least once every five years. It must also file reports of all shock incidents as they occur, along with a monthly summary report. This information is used by Staff to ascertain whether or not Con Edison is responding to the Commission's requirements and addressing hazardous conditions. Staff meets with Con

Edison quarterly on the overall issues and more frequently, as needed, on specific issues. Staff also has bi-weekly conference calls with the utilities.

Whenever there is a significant reliability or safety event related to Con Edison's service, or the potential for an event, Staff commences real time contact with the company to ensure awareness of the situation, and it commences in-depth monitoring activities as needed. Following major incidents, Staff typically conducts inquiries, or even investigations, to determine the causes and to assess what practices or procedures might need improvement. While Staff conducts its own investigations and often goes into the field to witness Con Edison's actions, it also reviews its self assessment reports that are required to be submitted for major outages. In many cases, such as will occur here, a Staff report is issued.

Finally, as part of rate cases, Staff reviews the utilities' capital investment and O&M expenditure plans, as it did in Con Edison's most recent rate case. Once new rate plans are implemented, staff meets regularly with the utilities to ensure the utility is complying with the various elements of the rate plan.

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While the initial restoration effort from the outages is essentially "complete," we 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. The hot weather we are once again facing this week is driving record demand levels for electricity that can potentially strain the system and threaten reliability. It is therefore important for the Commission and Con Edison's customers to understand the immediate steps that Con Edison will take to preserve electric system reliability for the remainder of this summer. Consequently, the Commission directed Con Edison to file 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. That report was filed yesterday, and we will be reviewing

it thoroughly to ensure it represents a comprehensive strategy for maintaining reliability throughout Con Ed's service territory.

Despite the efforts Con Edison is undertaking, customers can play perhaps the most important role in supporting system reliability by conserving energy during these hot days to alleviate demands on the system. These conservation steps can be as simple as turning off unnecessary lights, closing curtains to keep the sun from heating up homes or apartments, using major appliances during off-peak hours, and setting air conditioner thermostats a few degrees higher.

I want to again thank the Energy and Corporations Committees 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 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.