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March 1, 2007

Via FedEx Airbill No. 8530 9186 4025

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 of Comment Schedule 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 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 1st Class Mail, are being sent to Administrative Law Judge Eleanor Stein and an electronic copy to all active parties in this proceeding listed as of November 20, 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
Harry Farrell, President, Utility Workers Union of America, AFL-CIO, Local 1-2

CASE 06-E-0894

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 the following comments regarding the 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 Network in Queens, New York.

The Commission finds itself in an unenviable position of pointing fingers at Con Edison for its inadequate response to the recent outage in Northwest Queens. By restricting monetary remuneration to Con Edison for its internal workforce (adopting a productivity adjustment in base rates proceedings based solely on internal labor), the State of New York Public Service Commission shares responsibility for the Company's poor performance in Northwest Queens. There is no oversight or control over how and to what extent the Company uses outside contract labor. It is obvious that Con Edison's internal staffing levels were inadequate to respond to the crisis in Northwest Queens and this Commission bears a great deal of culpability. As the Long Island City incident has shown, outside contractors were not up to the task of making adequate repairs to restore the power in the Long Island City network. In addition, contractors are notorious for using undocumented workers and many misclassify their workers as independent contractors thereby depriving the state of payroll tax, unemployment insurance and workers compensation payments. Staff's recommendation to meet any future crises in Con Edison's

electrical system appears to be the use of more contractors. This recommendation along with the productivity adjustment and the non-qualification of contract labor is so perplexing and counter productive that Local 1-2 believes that an investigation by the Office of the Attorney General is warranted into whether either Staff or Commissioners or their relatives have a conflict of interest regarding the contracting firms employed by Con Edison.

In keeping with its general tendency to dismiss the comments of Local 1-2, Staff glosses over Local 1-2's recommendation to replace the misnamed arc-proofing tape currently in use at Con Edison. When Con Edison embarked on its Asbestos Removal Program it replaced the Asbestos arc-proofing with an inferior product, which not only does not suppress arcing, it burns!!! Furthermore, when the arc-proofing tape is burning it gives off toxic fumes that are harmful to both first responders and the public at large. One would think that Staff would be more responsive after the experience of 9/11 workers, unfortunately that does not appear to be the case. One only needs to see one of our members dying a slow and excruciatingly painful death from Mesothelioma or other lung related disease contracted in the workplace to be more responsive to unsafe working conditions. Local 1-2 believes that the Commission has been woefully inadequate in its role of oversight and rate making regarding the public utilities under its jurisdiction.

Other than the lack of interest shown by Department of Public Service Staff ("Staff") in the initial comments made by Local 1-2, Local 1-2 appreciates the effort that the Department of Public Service Staff ("Staff") put in to the SR and agrees that many of the recommendations made by Staff will be beneficial to provision of safe and reliable electric service within the Long Island City Network. In the SR, Staff appears to have placed a premium on expediting the restoration of the system recognizing that this particular outage had a significantly negative

impact on the Long Island City consumers of electricity. While it may be desirable to expedite restoration of electrical service during an electrical outage, especially one of major proportions, a rapid restoration of service should not take precedence over a safe restoration of service.

Restoration of electric service should be safe for both the public at large and the utility workers who strive to make the restoration a reality in as rapid a time-frame as possible. Staff should have expended a bit more effort to ensure that the recommendations made to the Commission regarding the restoration of electric service facilitate a safe implementation of the restoration process. Safety should have been more of a primary consideration in Staff's Final Report recommendations, and should be a primary focus in the Commission's adoption of any recommendations that appear in the SR.

New policies and procedures to be enacted in response to a crisis, especially a crisis with political overtones such as the one that caused the instant Staff investigation to be initiated, have the potential to be detrimental to utility operations and customer service, rather than beneficial as originally intended. The Commission should ensure that the recommendations it adopts from the SR are corrective rather than punitive in nature. All recommendations to be adopted by the Commission should be designed for positive, effective and safe implementation to improve electric service while not placing the utility at severe financial risk.

As previously stated, Local 1-2 believes that certain recommendations of the SR are beneficial to utility operations that would benefit electric customers in Long Island City as well as those in the rest of the electric network system going forward. However, certain recommendations of the SR raise concerns regarding their appropriateness, or lack thereof, to improve current conditions. The following is a list of the recommendations, appearing in

Appendix A of the SR, which Local 1-2 believes are beneficial, and those with which it has concerns:

Beneficial Recommendations

(Appendix A, Page 6) **Primary Feeder Analysis – Recommendation No. 32:** Continued replacement of PILC at its current rate under each of the programs that replace such cable. Such replacement in Long Island City, as well as the other Consolidated Edison networks, will go a long way to improve the safety and reliability of the networks throughout the electric system. In their Electric Operations work, Local 1-2 members do not see a structured PILC replacement program being conducted by the Company; Local 1-2 members are only aware of PILC replacement when there is a failure of the cable or replacement of a transformer. Local 1-2 strongly supports Staff's recommendation and its call for the Company to reassess its PILC replacement program as a whole and file a report with Staff within 90 days of the issuance of the SR (on or before May 10, 2007). As illustrated in the table on page 19 of the SR, there appears to have been deterioration in the Percent Failure Rate of Primary Feeders Returned to Service between 2003 and 2006. Therefore, such replacement remains a necessary component of operations to aid in the achievement of reliable service throughout the Company.

Also, Local 1-2 would like to express its concern regarding the apparent lack of progress in eliminating the Ray-Chem stop-joints which were a significant cause of the 1999 Washington Heights outage and potential future outages throughout Con Edison's electric system.

(Appendix A, Page 7) **Primary Feeder Analysis – Recommendation No. 35:** Con Edison should initiate a formal program to reduce congestion within manholes and providing additional

spacing between primary and secondary cables. As the congestion of manholes is conducive to arcing and resulting fires, the reduction of manhole congestion is strongly encouraged.

Consistent with this strong encouragement, Local 1-2 is concerned that Staff does not include any recommendations specifically addressing a) the removal and elimination of feeders retired in place which exacerbate the manhole congestion; and, b) the application of arc suppression and fire-retardants to the underground cables.

In Local 1-2's opinion, it is essential that the manholes be cleared of non-functioning materials and subsequently enlarged to allow the workers the facility to perform installation and repairs in a safe and efficient manner. Presently, in many congested locations, steel plates are required to cover over the ducts because current installations are made so close to the street. To adequately undertake this effort, there should be a concomitant increase in the number of construction supervisors and related represented labor. In addition, the present fire retardant used by the Company provides inadequate protection for preventing arcing and suppressing fires. It is Local 1-2's understanding that there are more effective fire retardant and arc suppressing applications commercially available. A more effective fire retardant should be acquired and used to prevent arcing and fires that tend to give off toxic gas and fumes that would likely harm first responders to the service disruptions. Toxic emissions have become a significant concern after the 9-11 tragedy. More effective arc suppression and fire retardation would result in fewer outages for customers and fewer injuries to underground workers.

(Appendix A, Page 8) **Primary Feeders Analysis – Recommendation No. 38:** Con Edison should evaluate and report the effectiveness of performing infrared and/or partial discharge testing on underground cables and joints when conducting its normal underground inspections

that are required by the Commission's Safety Standards. Local 1-2 agrees with Staff's recommendation to evaluate such testing and report its results to ensure that such testing is effective. Local 1-2 believes that more of such testing be performed to evaluate the reliability and safety of the underground infrastructure.

(Appendix A, Page 8) **Secondary Cable Analysis and Monitoring – Recommendation No. 43:**

Con Edison should investigate ways to improve its monitoring of the secondary system during normal and multiple contingency event conditions. Local 1-2 agrees that the monitoring of Con Edison's secondary system needs improvement for both normal and contingency event conditions.

(Appendix A, Page 9) **Transformer Analysis – Recommendation No. 45:** Con Edison should

consider adjusting transformers' normal and emergency load ratings to take into account the actual ambient temperatures experienced within its service territory, instead of just using a constant ambient temperature. Local 1-2 agrees with this recommendation; in addition, it has concerns regarding the capacity of the fuses used in the transformers in the Company's electric system. It has been Local 1-2's experience that where the standard fuse capacity is 1,350 amps, a 2,000 amp fuse is commonly used in the transformer in question. Local 1-2 recommends that the specifications of the manufacturer be followed in maintaining each of the transformers in the Company's system.

(Appendix A, Page 9) **Transformer Analysis – Recommendation No. 48:** Con Edison should complete the inspections and replacements as necessary of all transformers within the Long

Island City network **by June 1, 2007**. Local 1-2 agrees with this recommendation; in addition, Local 1-2 believes that this inspection should be done for the entire system, not simply for the Long Island City network. While the remainder of the Con Edison system need not be completed by June 1, 2007, it is Local 1-2's belief that inspections of the transformers in the entire system should be completed within two years of the June 1, 2007 date. To adequately address the issue of inspections and replacements, as well as to fix infrastructure problems and outages, and to ensure the integrity and appropriate restoration of the electric system, the Company needs to increase the number of employees dedicated to these tasks. An example of the shortfall of Company's Electric Operations employees exists in Building 82 wherein internal staff was reduced pertaining to the repair of network protectors.

(Appendix A, Page 9) **Transformer Analysis – Recommendation No. 50**: Con Edison should evaluate how to reduce the number of network protective relays that fail to operate due to low voltage conditions within the secondary system and also prevent, or at least reduce, the number of alive on back-feed conditions that occur and hamper restoration efforts within 90 days of the issuance of the SR. The Company should also provide feasibility and cost analysis for replacing the nearly 13,000 non-microprocessor relays system-wide. Local 1-2 strongly agrees with this Staff recommendation.

(Appendix A, Page 10) **Substation Analysis – Recommendation No. 52**: Con Edison should perform a complete test and inspection of all similar substation breakers to the rack-out type breaker that failed in the Long Island City Network. Local 1-2 believes that testing and inspection is important, not just for substation breakers, but for all infrastructure on which

customers rely for their electric service. While the rack-out-type circuit breakers allow for faster feeder processing with the use of a ground and test unit once the breaker has been racked out and disconnected from the switchgear, Local 1-2 perceives that the old generation breakers were more reliable than the rack-out-type breakers. In addition, changing out an old generation single breaker could be done quicker than that of a rack-out-type breaker, although the old generation breaker would be at a disadvantage if several had to be changed out at once. There is a cost involved in changing out multiple rack-out-type breakers in that the number of “sets” limits the number of rack-out-type breaks that can be changed out at one time.

(Appendix A, Page 10) **Substation Analysis – Recommendation No. 54:** The Company should provide to Staff by March 1, 2007 a full report of its analysis and risk assessment with regard to adjusting the relay settings within the LIC Network, at which time Staff will assess whether adjusting relay settings to their upper limits is appropriate. Local 1-2 believes that this is a beneficial recommendation. However, given the pre-event history and the satisfaction of the requirement for the performance a comprehensive risk assessment, Local 1-2 recommends that Con Edison return its relay settings in LIC and other networks with similar relays to the manufacturers’ recommended settings (pre-event) until the recommended comprehensive risk assessment is performed.

(Appendix A, Page 13) **Network Recovery – Recommendation No. 71:** Con Edison should establish a protocol for an overall inspection program for network secondary mains program that includes taking current and voltage measurements for all of the Company's secondary networks.

Local 1-2 strongly agrees with this recommendation as a precursor to re-establishing safe and reliable service in all of the Company's secondary networks.

Lack of Recommendations and Recommendations of Concern

(Appendix A, Page 1) **Identification of Outages – Recommendation No. 3:** Con Edison should explore the feasibility and associated costs and benefits of installing a fixed network, advanced metering system in the Long Island City Network and in other networks in the future. Local 1-2 agrees that such an exploration is appropriate, but has concerns regarding whether all available data and information would be evaluated without having the information biased in favor of adopting such advanced metering. All infrastructure elements of LIC network must be considered, including but not limited to the rapidity of technological change and benefits of a meter reader observing, reporting and correcting hazardous conditions as the meter reader would proceed through the meter reading route.

(Appendix A, Page 3) **Customer Operations (Call Center Customer Assistance – Recommendation No. xx:** Staff made no recommendations regarding the working conditions within the Customer Operations Organization. In Sections 5.3.1 and 5.3.2 of the SR it provides a description of the Call Center operations and Call Center Statistics and “concludes that Con Edison performed well with regard to providing a sufficient number of representatives for the Call Center, in providing adequate incoming lines, and in picking up (by representatives or by the automated system) calls within a reasonable time.”¹ Section 5.3.2.2 of the SR concludes

¹ Department of Public Service Staff Report 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, dated February 2007 at 42.

with “Staff”s review of a random sampling of the calls revealed no evidence of any failure of the Representatives to employ appropriate skills and empathy; as noted previously, some members of the public have said they had different experiences.²

The above statements in the SR leave the impression that improvements to the Customer Operations Organization (“Organization”) are not necessary. That could not be farther from the truth. To handle the outage crises in Westchester County and Long Island City, the Organization went on physically and emotionally demanding, mandatory 16 hour shifts. During the first two days some leniency was granted by management regarding individuals who could not comply with a 16 hour shift mandate. On the third day of the crisis management cracked down on the employees and threatened suspension if an employee left the position the employee was working. While the Customer Service Representatives were required to employ appropriate skills and empathy during the LIC crisis, and for the most part they did, the first and second-line supervisors of these representatives were abusive in dealing with the workers and their needs during this frustrating and stressful period that was compounded by the fact that the Organization is understaffed and undertrained. During the course of the LIC outage, customer waits were as long as 40 minutes, as reported by customers to the Service Representatives. Subsequent to the end of the crisis, the Company has instituted a 12 hour shift maximum.

Based on what transpired during the LIC outage, the following recommendations should be added to the Staff’s Customer Operations recommendations:

1. Increase internal staffing levels.
2. Increase the training of Customer Service Representative regarding the handling of major service outages to improve performance.

² *ibid.* at 43 and footnote omitted.

3. Under no circumstances should any Organization workers put in more than 12 hours of effort during a crisis. Fresh workers do a much better job than workers that are physically and emotionally drained.
4. First and second-line supervisors should be required to employ the same skills and empathy required of the workers they are supervising. Abusive behavior toward the workers is unacceptable and should not be tolerated.
5. There needs to be improvement in the liaison between Electrical Operations and the Customer Service Center. Management should provide more information that has greater accuracy during an emergency than what was provided to the Customer Service Representatives during the LIC outage.

(Appendix A, Page 6) **Network Shutdown Decision – Recommendation Nos. 30 & 31**: Con Edison should modify EO-4095 and provide a copy to Staff for review by June 1, 2007. Con Edison should develop a procedure for the analysis to be performed during multiple contingency events to allow for a more defined process of taking into consideration the requirements for re-starting a network. In Section 6.2.2 of the SR on page 75 the Staff indicated that the Company needs to modify EO-4095 to establish clearer criteria as to when a network should be shut down, including defining what is considered significant damage to a network. While Local 1-2 understands Staff's concern regarding the Company's Operating Specifications and the need for clear criteria regarding when a network should be shut down, there should be an appropriate level of flexibility provided within the parameters of the specification developed to recognize the discretionary nature of the decision which must be made during an electric outage event.

(Appendix A, Page 6) **Primary Feeders Analysis – Recommendation No. xx:** Although not mentioned in the SR, the Company has made a decision to split the network in LIC and reduce the number of customers serviced by one LIC network. The recommendation for splitting the network was actually made in 1992 by the current President of Local 1-2. If his recommendation were adopted by the Company it is likely that the crisis that unfolded in July 2006 would have been avoided.

(Appendix A, Page 11) **Restoration – Recommendation Nos. 63 & 64:** Con Edison should develop a procedure for when and what minimum level of mutual assistance and contractor assistance should be used for each event level identified in its underground emergency plans and guidelines, similar to what is specified for an emergency overhead event; and, Con Edison should identify resources other utilities have that can assist it during underground emergency events and advise Staff of its findings within 90 days of this Staff Report. The focus on mutual assistance and contractor assistance is misplaced with regard to Con Edison's underground operations. Con Edison's underground networks are unique and there are minimal outside resources that would be able to assist in emergencies dealing with the underground system. It is likely that outside contractors would not be available when needed and those that would be available would likely not be competent in dealing with the underground system emergency that may develop.

In the LIC outage, shoddy work performed by mutual service workers was observed and documented (see .jpg file attached to the electronic version of these comments). There was no insulation on the service neutral and the service neutral was left on top of the installation by the mutual assistance workers. Because of the way this repair was performed, if not corrected by

Con Edison's internal workforce, there would have been the potential for another incident similar to that which tragically took the life of Jodi Lane. Mutual assistance workers did not follow Con Edison's Policies, Procedures, and Specifications when doing work in the secondary system (no primary work was performed by the mutual assistance workers). The outside crews were provided with two (2) hours of training. This level of training is clearly insufficient as the outside crews rarely worked on an underground system as unique and complicated as that of Con Edison. It takes between eight and nine years for an electrical worker to attain the position of cable splicer in the Con Edison system. As a result, mutual assistance workers from American Electric Power ("AEP") simply stood idly around the manholes for most of the crisis doing "dead work" only. The focus of improved restoration would be better directed at improving the level of Con Edison's internal workforce which has an intimate knowledge in working on the Company's unique underground network.

Also, Local 1-2 continues to have concerns regarding an antiquated rate case adjustment favored by the Commission and which continues to threaten safe and reliable service to Con Edison's customers. The outage experienced last summer in Long Island City reinforces the concerns expressed by Local 1-2 in Con Edison's Case 04-E-0572. Given the reductions historically made by Con Edison to its internal weekly workforce and the age and state of the Company's infrastructure, the historic request by the Department of Public Service Staff to require the use of a productivity adjustment is misplaced and counter-productive. It is misplaced because after years of internal weekly workforce reductions the internal weekly labor pool of the Company has already been cut to the bone. It is counter-productive because it places undue pressure on the Company to continue to eliminate its weekly workforce that is vital to providing quality repair and maintenance services, especially to the underground networks, which allow the

Company to provide safe and adequate electric service. It takes a minimum of three years of training before an individual acquires the skills necessary to work in the underground system. Forcing the elimination of employees with a knowledge base acquired over years of service to satisfy a mandate which has no controls of costs incurred for outside contract labor is ludicrous.

When the Company cuts its internal workforce, it increases its use of contract labor that is neither reliably available nor knowledgeable about the unique underground networks of the Company. The end-result is that some necessary inspection, maintenance and/or restoration work in the underground is delayed or not performed at all. This has been true in Long Island City as well as other networks throughout the Con Edison system. In reality, under this inappropriate rubric of phantom mandatory productivity with its embedded loopholes, no savings are realized, and in fact costs may actually increase reflecting contractor profits, while at the same time the knowledge base and ability to adequately maintain the underground system is imperiled. Given these conditions, Con Edison should not be encouraged to replace qualified in-house labor with contract labor and certainly should not be rewarded for doing so.

(Appendix A, Page 12-13) **Mobile Generators – Recommendation Nos. 69:** Con Edison should perform a cost/benefit analysis of owning a greater number of mobile generators and positioning them in strategic locations in its service territory. Local 1-2 agrees with this recommendation as mobile generators have a significant contribution to make in restoring a system from an outage, especially one of major proportions.