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Via Electronic Filing

September 18, 2012

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

Re: Case 12-M-0306 – Request for Investigation of Utility Workers Union of America, AFL-CIO, Local 1-2, Utility Workers Union of America, New York Central Labor Council and New York State AFL-CIO – Request for Leave to Reply, and Reply and Additional Comments of Utility Workers Union of America, AFL-CIO and UWUA Local 1-2

Dear Secretary Brillling:

By motion, dated September 14, 2012, Local 1-2 of the Utility Workers Union of America, AFL-CIO (“the Union”) seeks leave to file both a reply to the *Response of Consolidated Edison Company of New York, Inc. to Motion for Initiation of Expedited Investigation and Interim Relief*, filed July 17, 2012, and “additional comments.”

Consolidated Edison Company of New York, Inc. (“Con Edison” or “the Company”) requests that the Union’s motion be denied. The proceeding in which the Union seeks leave to file a reply is, by the Union’s own admission, moot, and the filing of further allegations, responses and arguments in this proceeding is unwarranted. In this proceeding – the subject of which is a work stoppage that ended a month and a half ago – the Commission suspended the filing of further comments in July, and the Union has failed to demonstrate circumstances warranting filing a reply, much less “additional comments,” at this time.

The Union commenced this proceeding to request that the Commission act to ensure the provision of safe and reliable utility services during the period when Con Edison was operating its electric, gas, and steam systems without its Union workforce.¹ The lockout has been over since July 26-27, 2012, when the parties executed a

¹ The Union’s July 10, 2012 Motion for Initiation of Expedited Investigation and Interim Relief requested the following Commission action in this proceeding:

1. initiate and conduct on an expedited basis an investigation into the quality, reliability, and safety of the service currently being provided by Con Edison to its utility customers;
2. investigate whether customers are being charged for a quality and level of service that Con Edison is not providing, and for costs that Con Edison is not incurring associated with some 8,500 workers who are involuntarily off the job; and
3. provide interim relief by directing the Company to terminate immediately its lockout of employees represented by UWUA Local 1-2 and direct their return to work during the pendency of the Commission’s investigation.

memorandum of agreement resolving all their issues, and the Union workforce returned to work. On August 15, 2012, the Union employees ratified a new four-year collective bargaining contract, which covers the period July 26, 2012 through June 25, 2016.

Accordingly, and as stated in the Union's September 14, 2012 motion (page 1), "[t]he settlement of this dispute and the return to work of the membership of Local 1-2 ... moots the Union's pending request" Thus, the filing of additional allegations seeking to establish facts in support of and in opposition to granting relief over circumstances that no longer exist is purposeless and superfluous.

The Commission suspended further comments in this matter until further notice on July 27, 2012. The Union has not demonstrated any circumstances warranting a reply more than 45 days after the lockout has been terminated, nor could there be any, since the Union's original petition addressing the lockout is moot.

Con Edison is prepared to refute the numerous inaccuracies contained in the Union's proposed reply and to demonstrate that the reply is otherwise without merit. However, the Company does not believe that continued litigation in this moot proceeding is productive or warranted. Thus, the Union's request for leave to file a reply and additional comments should be denied. If the Union's motion is granted, Con Edison requests leave to file a response no later than seven business days thereafter.

Yours truly,



C: Via E-Mail
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