

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 06-E-0894 - Investigation of Con Edison Electric Power
Outages in Long Island City Electric Network.

RULING ON PROCEDURE AND SCHEDULING PROCEDURAL CONFERENCE

(Issued September 6, 2006)

ELEANOR STEIN, Administrative Law Judge:

On August 21, 2006, I wrote to all active parties in this proceeding inviting them to submit procedural proposals, including schedules, for my consideration, by Tuesday, August 29, 2006. I also asked parties to indicate if they intended to seek technical conferences or evidentiary hearings and to include proposals as appropriate. Parties were invited to submit proposals concerning additional public involvement and the schedule for additional public statement hearings.

I also expressed a preference for a joint proposal on process and schedule, to ensure all parties' principal procedural concerns were addressed, and stated my intention to issue a procedural ruling and convene a procedural conference as necessary.

Three parties filed responses: Department of Public Service Staff (Staff), City of New York, and Western Queens Power for the People Campaign (Power for the People). Staff reports that some parties—itsself, Consumer Protection Board (CPB), City of New York, Public Utility Law Project (PULP), Office of Attorney General Eliot Spitzer (AG) and Consolidated Edison Company of New York (Con Edison)—reached substantial agreement on a proposal but parties also reserved their rights. These parties appear to have generally agreed to a

discovery process¹; no party requests evidentiary hearings at this time; and none of these parties yet proposes additional public statement hearings. As to schedule, Staff expresses its intention to issue its Staff Report and Recommendations by December 31, 2006, envisioning the informal issuance of a draft report for comment by Active Parties to be incorporated into the final Staff Report and Recommendations. No party, including Staff, requests that a schedule for this proceeding be set at this time.

City of New York separately reserves its rights with respect to the discovery process, including to seek to conduct its own interviews and participate in any scheduled depositions; to participate in any Commission process established to consider the Staff Report notwithstanding any participation in commenting on a draft Staff Report; and suggests that parties should propose a schedule no later than October 1, 2006.

Power for the People separately urges the scheduling of several additional public statement hearings during September, with suggestions as to how to make these hearings accessible to the community; and for an extension of the time to file written comments. Currently, public comments concerning the outage, whether submitted via the Commission's Web site, by mail, or on the Commission's toll-free opinion

¹ The process described is as follows: Staff is conducting informal interviews of Company personnel; these interviews are not open for active party participation but Staff will provide parties the names of Con Edison personnel interviewed and the subject of the interview. There is no agreement as to other parties conducting interviews of Con Edison personnel. Staff may depose Con Edison personnel; no consensus was reached concerning use of or party participation in depositions.

line, are to be sent no later than September 25, 2006.² In addition, Power for the People urges an extended fact-finding period to allow for the assessment of additional losses attributable to the outage; and for the community to propose a "first alert" system.

I have considered the positions expressed by the parties and conclude that a procedural conference is necessary. The procedural conference will be held on the record on Friday, September 15, 2006. An official Notice from the Secretary to the Commission will set the time and location of this procedural conference. Parties are on notice that I have had some brief informal discussions, limited to schedule and procedure, with some parties, and I invite active parties to contact me at 518-474-4505 or Eleanor_Stein@dps.state.ny.us in advance of the procedural conference to explain any procedural concerns.

In preparation for the procedural conference, let me inform you that I am inclined to adopt the following measures:

1. Establish a working schedule for this proceeding that contemplates, at least, the release of a draft Staff report in November 2006 for comment by Active Parties, a comment schedule, and a final Staff Report of its findings and recommendations to the Commission³;
2. Schedule a one- to two-day technical conference for discussion on the record of the current Con Edison analysis of the causes of and responses to the

² Case 06-E-0894, Investigation of Con Edison Electric Power Outages in Long Island City Network, Notice of Additional Public Statement Hearing (issued July 28, 2006).

³ See Case 06-E-0894, Order Instituting Proceeding and Directing Staff Investigation (issued July 26, 2006), p. 2.

outages. Examples of this procedure, which affords an open forum, led by Staff, for examination of the issues, can be found in Cases 97-C-0271 and 03-E-0188; and

3. Schedule at least two additional public statement hearings, adopting the suggestions and with the assistance of Power for the People and other parties, that will be preceded by public forums in which Staff representatives will report on the scope and schedule of the Staff investigation.

(SIGNED)

ELEANOR STEIN