

PETER HENNER
ATTORNEY AND COUNSELOR AT LAW
P.O. BOX 326
CLARKSVILLE, NEW YORK 12041-0326
(518) 423-7799
Fax: (518) 768-8235
peter@peterhenner.com
WEB SITE: peterhenner.com

*

Via e-mail to secretary@dps.ny.gov

March 17, 2015

Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
Agency Building 3
Albany, NY 12223-1350

Re: Local 175's Petition to Institute a Prudence Proceeding concerning Con Edison,
Case No. 14-M-0523

Dear Ms. Burgess:

Local 175 of the United Plant and Production Workers Union has requested that the Commission institute a proceeding pertaining to the prudence of Consolidated Edison Company of New York Inc's ("Con Edison") new policy pertaining to the exclusion of construction contractors who have not signed collective bargaining agreements with designated labor unions. For the reasons stated in the petition, and in the other proceedings that the Commission has already instituted pertaining to Con Edison's construction program, Local 175 believes that it would be appropriate for the Commission to institute a new proceeding and/or, as requested in the petition as an alternative relief, issue a declaratory ruling pursuant to the § 204 of the State Administrative Procedure Act with respect to this new policy.

I am submitting this letter to formally request that the Commission also consider exercising its authority pursuant to § 115 of the Public Service Law and issue an order directing Con Edison to award any and all construction contracts to "the lowest responsible bidder", and to make it clear in the order that the lowest responsible bidder must be determined without consideration of which union has been selected by the employees of the bidder as their collective bargaining agent.

Con Edison, in its response to the petition, characterizes the issues raised as a "labor dispute." However, the issue is not a labor dispute; rather this is a situation where Con Edison is seeking to eliminate competition for its work by eliminating certain contractors from bidding. Local 175 is simply asking the Commission to use its authority to require Con Edison to award construction contracts on a competitive basis, either pursuant to the company's long-established

practices which permitted contractors to use workers from any union, or, in the alternative, pursuant to rules and regulations to be adopted by the Commission pursuant to § 115. Such rules and regulations should specify that the “lowest responsible bidder” cannot be required to have a collective bargaining agreement with a particular union.

There is no reason why the Commission should permit a regulated utility to deviate from the principles of competitive bidding to favor one union versus another. The utility should simply be required, in the interest of the ratepayers, to select the contractor that submits the lowest bid, regardless of the union affiliation of the contractor’s employees. Although the Commission can accomplish this result by instituting a new proceeding, the Commission can also simply invoke its authority under section 115.

Very truly yours

s/
Peter Henner

c. Service List, Case 14-M-0523, by electronic filing