

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on April 18, 2007

COMMISSIONERS PRESENT:

Patricia L. Acampora, Chairwoman
Maureen F. Harris
Robert E. Curry, Jr.
Cheryl A. Buley

CASE 06-E-0894 - Proceeding on Motion of the Commission to Investigate the Electric Power Outages in Consolidated Edison Company of New York, Inc.'s Long Island City Electric Network.

CASE 06-M-1108 - Petition of Certain Members of the New York State Legislature Regarding Consolidated Edison Company of New York, Inc.'s Electric Service Outages.

CASE 06-M-1078 - Proceeding on Motion of the Commission to Audit the Performance of Con Edison Company of New York, Inc. in Response to Outage Emergencies.

CASE 06-E-1158 - In the Matter of Staff's Investigation of Consolidated Edison Company of New York, Inc.'s Performance During and Following the July and September Electric Utility Outages.

ORDER COMMENCING PRUDENCE INVESTIGATION

(Issued and Effective April 18, 2007)

BY THE COMMISSION:

INTRODUCTION

By Order issued July 26, 2006,¹ this proceeding was instituted to examine all issues associated with the failure of

¹ Case 06-E-0894, Proceeding on Motion of the Commission to Investigate the Electric Power Outages in Consolidated Edison Company of New York, Inc.'s Long Island City Electric Network, Order Instituting Proceeding and Directing Staff Investigation (issued July 26, 2006) (Instituting Order).

the feeders and the outages in the Long Island City electric network that had commenced on July 17, 2006. Department of Public Service Staff (Staff) was directed to conduct a comprehensive examination of the outages in Consolidated Edison Company of New York, Inc.'s (Con Edison) Long Island City distribution network. Staff has completed this phase of the investigation of the Long Island City network event and the Staff Report was issued February 9, 2007.²

Staff recommends, based on its analysis of Con Edison deficiencies, the resulting damage to the secondary system and the magnitude of customer outages, that the Commission review the prudence of Con Edison's actions and omissions leading up to and during the Long Island City network events. Initial comments on the Staff report were filed on March 2, 2007,³ and reply comments on March 30.⁴ In light of this recommendation, we also consider the pending petition for the institution of a prudence investigation initially filed by the members of the New York State Assembly and others (Assembly parties), on September 13, 2006.

² Case 06-E-0894, 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 (issued February 9, 2007)(Staff Report).

³ Initial comments were filed by the Assembly Committee on Corporations (Assembly parties) which also filed its own report, titled Report of the New York State Assembly Queens Power Outage Task Force, Attorney General Andrew M. Cuomo (Attorney General or AG), the City of New York (NYC), Con Edison, Consumer Protection Board (CPB), Public Utility Law Project (PULP), TransGas Energy Systems, Inc. (TransGas), Utility Workers Union of America-AFL-CIO (Utility Workers), and Western Queens Power for the People (WQPFP).

⁴ Reply comments were received from Staff, the Attorney General, NYC, Con Edison, PULP, TransGas, Utility Workers, and WQPFP.

This Order considers only the parties' comments concerning the initiation of prudence review. Nine parties filed comments, seven in support of the Staff recommendation to commence a prudence inquiry, and two opposed: Con Edison, as well as the City of New York (NYC), which also filed a voluminous report on its own investigation into the causes and handling of the July 2006 outage.⁵ Of the parties supporting prudence review, several suggest different bases for review than Staff, and parties have diverse views of Con Edison's financial exposure.

PROCEDURAL BACKGROUND

The Instituting Order directed Staff to investigate a wide range of issues and report its findings. The scope of review included: the circumstances leading to the loss of the primary feeders; the reasonableness of the time in which Con Edison ascertained the magnitude of the customer outages; the use of company and other resources in the restoration effort; the reliability of the Long Island City network; the nature and extent of Con Edison's expenditures to operate and maintain 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 response to the failures and outages; the quantification of the costs incurred by Con Edison associated with the failures and outages;

⁵ Investigation by the City of New York into the Northwest Queens July 2006 Power Outages, March 2, 2007 (New York City Report).

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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. In addition, expedited discovery, oral depositions, and site inspections by Staff were authorized.

To ensure a complete public record in this proceeding, nine on-the-record public statement hearings were held in affected neighborhoods in Queens. Hundreds of Con Edison customers participated in public statement hearings in Astoria (August 6 and 9, and October 25, 2006), Long Island City (August 10, 2006), and Woodside, Queens (November 2, 2006). Staff, and other parties, conducted extensive discovery, comprising hundreds of interrogatories and responses. Staff also conducted numerous site visits, employee interviews, and on-the-record oral depositions of Con Edison employees, including the highest levels of corporate management.

An on-the-record Technical Conference was held on October 25 and 26, 2006, at which Con Edison presented the conclusions of its October 12, 2006 report, and Staff and other parties, including NYC, the Attorney General, the Assembly parties, CPB, PULP, WQPFP, and TransGas questioned and discussed the unfolding events and Con Edison employee decision-making during the course of the event.

Pursuant to Commission regulations (16 NYCRR Part 105), on September 25, 2006, Con Edison filed its report titled

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"Power Outages in Northwest Queens";⁶ and on October 12, 2006, Con Edison released a second, more detailed report assessing the causes of the outages.⁷

On January 17, 2007, Staff publicly issued a Draft Staff Report, and invited parties to provide informal comment. Staff received and reviewed informal comments from several parties, including Con Edison. On February 9, 2007, the final Staff Report was issued and the parties filed formal initial and reply comments.

THE CON EDISON REPORT

In its Report, Con Edison concludes that the network event was caused by three unrelated events: a low-voltage cable fire in an underground conduit that damaged two of the network's 22 primary 27,000-volt supply feeders, causing them to fail; a malfunction of a substation breaker when a third feeder failed because of a faulty connection, which caused three additional network feeders to be isolated from the system; and the occurrence, when operators attempted to restore feeders to service, of a phenomenon known as "inrush" current, which caused circuit breakers to reopen, preventing restoration of the feeders.

The Con Edison Report asserts that operators were aware of system limitations and took steps to reduce the strain on the Long Island City network by pursuing reductions in demand for electricity and accelerating other feeder restoration. Its

⁶ Part 105 Compliance Filing by Consolidated Edison Company of New York, Inc., Event Preparation, Recovery, and Communication, Power Outages in Northwest Queens, July 2006 (filed September 25, 2006) (Con Edison Part 105 Compliance Filing).

⁷ Consolidated Edison Company of New York, Inc., Comprehensive Report on the Power Outages in Northwest Queens in July 2006 (October 12, 2006) (Con Edison Report).

Report states that operators decided to maintain service to the network while working to stabilize and restore primary feeders. The operators decided, according to the Con Edison Report, not to shut down the network.

The Con Edison Report acknowledges that there were an unusually large number of customer outages during the Long Island City network event and that those outages were the result of secondary network damage that arose from multiple primary feeder outages. While regretting that the event took place, Con Edison concludes that its actions during the event prevented a network shutdown and further damage. Ultimately, the Con Edison Report concludes that it acted reasonably.

THE STAFF REPORT AND PARTIES' COMMENTS

The Staff Report rebuts Con Edison assertions that the Long Island City network event was caused by three unrelated incidents. In Staff's view, these incidents were triggers initiating the failures in the primary feeders; they were not the ultimate cause of the crisis that resulted. The Staff Report asserts that the company failed to take appropriate actions to minimize the impact of the primary feeder and transformer failures on the secondary system and consumers. Staff also asserts Con Edison failed to address adequately pre-existing problems associated with the operation, maintenance and oversight of the network itself. The Staff Report concludes that Con Edison's performance was unreasonable and a gross disservice to its customers, citing the failure to recognize the magnitude of the crisis, the extent of the damage to the network's secondary system, the failure to calculate accurately the number of customers without power or subject to low voltage conditions, and the lack of effective communication with customers, public officials and the media about the extent and

duration of the outage. Staff estimates that approximately 174,000 people were without electricity or experienced low voltage during the outage.

Con Edison's efforts, according to the Staff Report, were concentrated on containment of the primary feeder problems and not on timely understanding the impact those failures had on secondary cables. Consequently, according to the Staff Report, extreme damage ensued to the power delivery system, causing customer outages and low voltage conditions.

According to the Staff Report, Con Edison estimated its year 2006 Long Island City network event costs for service restoration, including capital investment and infrastructure repairs, operations and maintenance expenditures, and customer reimbursements for spoiled food are approximately \$120 million; additional expenditures may be required for any event-related damage that is later discovered. Con Edison indicates that it will seek to recover from ratepayers only the capital costs for event-related removal and retirement of damaged infrastructure and its permanent replacement.⁸

Staff finds Con Edison failed to monitor adequately the impact of increased power flows on the secondary system and should have known that its secondary system could not sustain the load diverted from the primary system.⁹ Staff asserts the increasing power flows on the secondary system resulted in major damage, extensive consumer outages, and low voltage. In addition, Staff finds Con Edison's substandard monitoring of its system failed to reveal the extent of the damage to certain areas of the network.

⁸ Also at issue in a prudence investigation may be additional costs associated with the replacement of certain equipment in the Long Island City network that assertedly was weakened as a result of Con Edison management actions.

⁹ Staff Report, pp. 6-7.

The Attorney General, the Assembly parties, and the WQFPF concur with the Staff finding that Con Edison failed to properly monitor its network. The Attorney General comments:

The senior management team was flying blind, without accurate or adequate information or a clear understanding about what was happening to its network. First, senior management did not know how many customers or actual people did not have power. Second, senior management did not know or ignored the extent of the damage that its efforts were causing to the secondary system. Third, senior management did not understand that the problems were focused in one part of the network, a point vital for good decision making. Finally, senior management did not grasp that much of the load reduction that it was seeing was not a sign that the Company's efforts to achieve voluntary customer reductions had been successful but rather was the result of power outages and low voltage conditions due to the damage to its network.¹⁰

Indeed, even NYC, which urges that a prudence investigation is a distraction and unwarranted by the Con Edison decision not to shut down the network, concurs. In the view of NYC, it appears that the company's determination not to take the network down "was made without access to sufficient information," thus, NYC concludes that management lacked all the information required for an informed decision.¹¹

The AG as well as other parties link the company's failure to adequately monitor the network to Con Edison's incomplete implementation of Commission requirements and AG recommendations following the 1999 Washington Heights outage, in particular as to upgrading network monitoring and modeling capabilities.

¹⁰ Attorney General Initial Comments, p.13.

¹¹ NYC Initial Comments, p. 26.

Staff finds that Con Edison complied with the majority of the post-Washington Heights recommendations, but that four deficiencies slated for long-term improvement continue to need resolution and resurfaced in Long Island City. These are improvement of modeling techniques, monitoring of the secondary network, expedited elimination of paper-insulated lead-covered cables and joints, and development of more effective testing, all of which contributed to the severity of the Long Island City outage.¹² The AG, the Assembly parties, WQPFP and CPB also contend that full compliance might have mitigated the damage to the Long Island City network and the impact on customers.

Con Edison accepts that its failure to recognize the extent of customer outages "exacerbated the hardships for our customers caused by the outages and is wholly unacceptable."¹³ Con Edison, however, takes issue with the NYC and AG assertions that it failed to fully implement Commission and other recommendations and requirements following the 1999 Washington Heights outage.

Staff finds Con Edison failed to make needed repairs leading to circuit breaker and alarm failures. Other parties adduce numerous other specific, unreasonable failures to monitor or repair. For example, TransGas asserts Con Edison should have corrected the low voltage power conditions within its secondary systems prior to the outage, contributing to the overheating of the secondary systems and consequent outage. Generally, the AG, the Assembly parties, and WQPPC concur with Staff's determination that Con Edison failed to prudently maintain its network.

The Utility Workers add a claim that Con Edison's internal staffing levels were inadequate to respond to the

¹² Staff Report, pp. 129-130.

¹³ Con Edison Initial Comments, p. 1.

crisis, and that the utility relied on unqualified non-union outside contractors to the detriment of the network. It asserts that knowing use of an inadequately trained labor force would be evidence of imprudence.

Staff urges that Con Edison management imprudently failed to shut down the network during the Long Island City event. The utility contests Staff's findings and maintains that the decision to keep the Long Island network running during the event was not only prudent, but the only correct response under the circumstances. NYC supports Con Edison's view that this decision or series of decisions do not demonstrate imprudence. In Con Edison's view, taking the entire network out of service would have left more than four times the number of customers without power and devastated subway lines, railroad service, streetlights, and traffic signals.

Con Edison maintains its decisions during the outage followed its operating protocol for network shutdown, which justifies network shutdown only to prevent extensive damage to Con Edison's electric distribution equipment. Con Edison asserts there is no evidence for Staff's conclusion that a complete shutdown would have prevented damage or protected customers. Con Edison also takes issue with Staff's findings and the AG's comments concerning the prevailing conditions at the time the decisions were made not to shut down and to Staff attribution of network damage to those decisions.

In sum, Con Edison urges there is no identifiable point in time when the system operator could or should have recognized that a network shutdown was required, and would have prevented further damage - and that Staff failed to pinpoint any such date or time. Other parties also comment that the Staff Report lacks specificity on this issue. Finally, Con Edison refutes Staff's assertion that its management team lacked the experience to make the final decision, maintaining its

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management made the only prudent decision under the circumstances.

Generally, Con Edison concludes, it is in the process of implementing numerous Staff and internal recommendations for improvement, and that this effort is critical to ensuring future reliability. In the utility's view, a prudence investigation would divert and distract from this critical effort. NYC concurs that a prudence investigation is an unwarranted distraction.

Given its view that Con Edison demonstrated a lack of care for the Long Island City network, the resulting damage to the secondary system, the number of customers adversely affected, and the potential financial impact of this event on ratepayers, Staff recommends a further examination of the prudence of the company's operation, maintenance, and oversight of the Long Island City network and its actions and omissions related to the Long Island City outage.

Supporting the Staff prudence recommendations are the AG, PULP, WQFP, CPB, the Assembly parties, TransGas and the Utility Workers. In the view of the AG, immediate institution of prudence review is necessary to determine the full extent of Con Edison mismanagement. The AG charges imprudence not only as to Con Edison's response in the emergency, but as to the operation, maintenance and management of its system prior and contributing to the 2006 outage. Not only should the proceeding ensure that ratepayers not bear any burden for utility mismanagement, the AG argues, but the proceeding should also provide increased compensation for losses, including for damaged electrical equipment, even if the individual suffering the loss was not a Con Edison customer, but was an affected resident or business located in the Long Island City network. Other arguments supporting prudence review include the urgent need for Con Edison to expand targeted programs for energy efficiency and

clean distributed generation to relieve the load on constrained networks, including Long Island City. The AG argues that network load and constraints were contributing causes of the outage, and could be mitigated by energy efficiency and distributed generation planning.

NYC cites Con Edison for inadequate training leading to errors in outage handling. While NYC disagrees that prudence review is warranted, it also finds "the Company's determination not to take the network down was made without access to sufficient information."¹⁴ NYC agrees with the AG that the Staff Report is lacking in specificity as to the exact point in the unfolding crisis at which Con Edison should have, assertedly, shut down the entire network. In reply, Staff acknowledges that it has reserved its case in chief for an actual prudence review, should the Commission order one.

Con Edison objects to Staff's recommendation that the Commission review the prudence of the company's actions. Con Edison also contends that a review of the prudence of its actions is not compelled by the facts. The company argues that its operating decision to maintain the Long Island City network was correct and in conformance with its written operating procedures. Applying those procedures led to the conclusion that it was not necessary to shut down the network given the operating condition of primary feeder cables and transformers, two essential components of the written operating procedure for shutdown.

Lastly, Con Edison recommends against a review of the prudence of its actions on the basis that it does not intend to seek ratepayer recovery of \$60 million in costs and revenue adjustments associated with the Long Island City network event.

¹⁴ NYC Initial Comments, p. 25.

THE ASSEMBLY PARTIES' PETITION AND THE CON EDISON RESPONSE

In a petition filed on September 13, 2006¹⁵ and supplemented on September 14, 2006, the Assembly parties and local governmental officials requested that the Commission prohibit recovery of costs relating to the Long Island City network equipment failures and power outages that resulted from what it characterizes as Con Edison's imprudent policies and grossly negligent behavior. The Assembly parties' petition alleges that Con Edison was responsible for imprudent decision-making when it decided against shutting down the Long Island City network, thereby exacerbating the damage resulting from the outage and extending its duration.¹⁶

¹⁵ Case 06-M-1108, Petition of Certain Members of the New York State Legislature Regarding Consolidated Edison Company of New York, Inc.'s Electric Service Outages, amended to add additional parties. Petitioners are: Assembly Members Richard L. Brodsky, Catherine Nolan, Paul Tonko, Michael Gianaris, Margaret Markey, Andrew Hevesi, Vivian Cook, Barbara Clark, William Scarborough, Mark Weprin, Jose Peralta, Audrey Pheffer, Ivan Lafayette, Ann-Margaret Carrozza, Sandra Galef, Adam Bradley, Amy Paulin, and George Latimer; Councilman Steve Bass (Greenburgh); Clinton I. Young, Jr., William J. Ryan, Martin Rogowsky, Andrea Stewart-Cousins (Westchester County Legislature); and State Senators Vincent L. Leibell, Jeffrey Klein, Nick Spano, and Suzi Oppenheimer. On September 20, 2006, an amended petition sought to widen the requested inquiry to include an investigation into the September 2, 2006 power outage in Con Edison's Westchester County system. An Assembly task force also conducted an investigation and released a report (Report of the New York State Assembly Queens Power Outage Task Force (issued January 30, 2007)).

¹⁶ The Assembly parties' petition further requests the Commission commence an investigation into the actions of Con Edison related to the additional electric outages in Jamaica, Queens, and Westchester County during the same period, as well as the September 2, 2006 electric outages in Westchester County and surrounding areas. To the extent these issues are beyond the purview of this proceeding, they will be considered in Cases 06-M-1078 and 06-E-1158.

The Assembly parties' petition alleges a history of insufficient investment by the company in its transmission and distribution system, an inadequate communication network, and failures in the design and execution of Con Edison's emergency plan. The petition attributes the outages to these failures and requests that the Commission prohibit Con Edison's recovery from ratepayers of any costs associated with the Long Island City outage and the July and September outages in Jamaica, Queens and Westchester County.

On January 12, 2007, Con Edison responded to the Assembly parties' petition, countering that no further investigations are warranted inasmuch as these outages are the subject of three pending Commission investigations.¹⁷ Con Edison replies that a prudence investigation is not appropriate for service-related matters and would impose an unwarranted regulatory burden. It also refutes the allegations of insufficient investment in its transmission and distribution system, and inadequate staffing and training of its work force, and questions both the legality and the wisdom of altering the limitations on liability associated with the July and September 2006 outages.

DISCUSSION AND CONCLUSION

The immediate issue is whether at this stage an expansion of the scope of this proceeding is warranted, to consider the prudence of Con Edison's conduct before, during, and after the Long Island City July 2006 outage. Following deliberation on the numerous recommendations contained in the Staff Report, two Con Edison reports, the reports of the Assembly parties and NYC, the parties' comments, the voluminous

¹⁷ Case 06-E-0894 (Long Island City Network Outage Investigation); Case 06-M-1078, (Audit Investigation); and Case 06-E-1158 (July and September 2006 Severe Storms Staff Investigation).

record of public statement hearings and other public comments, and the record as a whole, we conclude that the expansion of the scope of this proceeding to encompass prudence review is appropriate to ensure that the issues are fully examined.

The Public Service Commission has authority to investigate the prudence of utility decisions in determining rate recovery, pursuant to Public Service Law §66.¹⁸ The only issue at this stage of the proceeding is a threshold one: whether the Staff Report and other party filings have adduced sufficient evidence concerning the reasonableness or propriety of the maintenance, preparation, and management of the utility during the outage to call into question the prudence of Con Edison's conduct.

Staff has raised sufficient questions to warrant a prudence review. Staff's findings are based upon evidence, it asserts, indicating substandard operation, maintenance, and oversight resulting in or contributing to the prolonged power outage. Staff conducted interviews of company employees, consumers, and public officials; prepared, submitted, and reviewed responses to information requests (IRs or Discovery Requests); conducted formal inquiries on the record (depositions); commissioned a survey of persons residing in the Long Island City network; observed autopsies of failed network feeders, network protectors, and network transformers; conducted information and educational sessions to assist the public and other parties; reviewed written comments received from the

¹⁸As the courts have long held, the Public Service Commission has authority to investigate the prudence of utility decisions in determining rate recovery, pursuant to Public Service Law §66(12), which provides "[t]he PSC's power to investigate the propriety of costs incurred by a utility derives from its duty to set just and reasonable utility rates." See, e.g., Long Island Lighting Co. v. Public Serv. Comm'n., 134 A.D. 2d 135 (3d Dept. 1987).

public; monitored and audited Con Edison's claims process and participated in nine public statement hearings conducted by the Commission to hear the people affected by the event and produced an extensive report.

The Staff Report finds that the events surrounding the Long Island City network event raise questions about the prudence of Con Edison's operation, maintenance, and oversight of its network. The scope of this investigation should be expanded to examine and determine the prudence of the company's actions and practices surrounding the Long Island City equipment failures and power outages.¹⁹ If the finding is that such actions were unreasonable, this proceeding should also identify the expenditures necessitated by any practices and actions of the company determined to be imprudent, and decide whether and to what extent costs associated with the event should be borne by the company's ratepayers. Pursuant to our authority to investigate the propriety of costs incurred by a utility, deriving from the duty to set just and reasonable utility rates,²⁰ we expand the scope of this investigation to establish whether associated utility costs should be shouldered by the utility's shareholders rather than its ratepayers.

This investigation should determine the prudence of Con Edison's actions and practices relating to the equipment failures and power outages in the Long Island City distribution network, its infrastructure operations and maintenance practices, and its system design practices in order to identify and protect ratepayers against the recovery of costs incurred as

¹⁹ This prudence investigation does not include an examination of the prudence of Con Edison's actions and practices relating to the July 2006 and September 2006 outages occurring in Westchester County, requested in the Assembly parties' petition. A Staff report concerning these events is currently the subject of public comment in Case 06-E-1158.

²⁰ See, inter alia, Public Service Law §66.

a result of any unreasonable and imprudent actions and practices.

Based on our review of the Con Edison Report, the Staff Report, the Assembly parties' petition and the Con Edison response, and the record as a whole, we anticipate the examination of the prudence of Con Edison's practices and actions should consider and address, among other things:

1. The circumstances leading to the cascading primary system failures during the Long Island City event and the reasonableness of Con Edison's response to these failures.
2. The reasonableness of Con Edison's monitoring of the secondary system to understand system status during primary feeder failures and the reasonableness of its use of available information to assess potential damage to the secondary system, including the reasonableness of Con Edison's ability to identify accurately customer outages and low voltage conditions.
3. The reasonableness of Con Edison's procedures for determining whether to shutdown the Long Island City network and the prudence of its decision against shutting down the Long Island City network.
4. The reasonableness of Con Edison's operation and maintenance of primary cables, transformers and associated equipment in the Long Island City network.
5. Whether and to what extent the expenses and capital expenditures which Con Edison has already incurred should be borne by Con Edison's ratepayers including an assessment of the impacts on company earnings sharing for the period ending March 2007.

6. Whether and to what extent the expenses and capital expenditures associated with the Long Island City event that Con Edison may incur in the future should be borne by Con Edison ratepayers. This inquiry should include the development of a methodology for properly identifying and quantifying the future components of this category.

This list of issues is not intended to be exhaustive; other prudence-related issues have been identified by parties, and yet others may arise as the inquiry proceeds. The examination is a retrospective review of Con Edison's actions and practices in order to determine whether or not it should be allowed to recover certain costs related to that conduct from ratepayers.

Con Edison is expected to cooperate in good faith with all forms of Staff discovery and to provide prompt access to all requested documents, books and records. Other parties, of course, are entitled to conduct discovery and obtain documents from Con Edison pursuant to Commission rules.

The Administrative Law Judge will decide in the first instance whether the Staff Report provides a "tenable basis for raising the specter of imprudence [such that] the utility can be called upon to defend its conduct,"²¹ or if further evidentiary submissions are required from Staff and/or other parties proffering evidence that Con Edison has been imprudent. This review should be conducted with a view toward expeditiously resolving the issues presented consistent with due process.

²¹ See Long Island Lighting Co. v. Public Serv. Comm'n., 134 A.D.2d 135 (3d Dept. 1987).

The Commission orders:

1. The scope of this proceeding is expanded to determine the prudence of Consolidated Edison Company of New York, Inc.'s actions and practices relating to the July 2006 equipment failures and power outages in the Long Island City distribution network, in accordance with the discussion in the body of this Order.

2. Consolidated Edison Company of New York, Inc. and its officers, employees, and agents are directed to make available for review and provide prompt access to any documents, books, and records or other materials that may pertain to the issues discussed in the body of this Order.

3. To the extent the September 13, 2006 Assembly parties' petition filed in Case 06-M-1108 seeks an investigation into the prudence of the actions of Consolidated Edison Company of New York, Inc. with respect to the July 2006 outages in its Long Island City network, it is granted consistent with this Order and consolidated with Case 06-E-0894. To the extent the Assembly parties' petition raises issues concerning outages in Westchester County or elsewhere, these issues are beyond the purview of this investigation and will be considered in Case 06-E-1158.

4. These proceedings are continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary