

STATE OF NEW YORK
BEFORE THE
PUBLIC SERVICE COMMISSION

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

Case No. 12-_____

**MOTION FOR INITIATION OF EXPEDITED INVESTIGATION
AND INTERIM RELIEF**

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INVESTIGATION AND INTERIM RELIEF**

On July 1, 2012, Consolidated Edison Company of New York (“ConEd”), which provides service to 3.3 million customers in the City of New York and surrounding communities made a unilateral decision to “lockout” its field and operations workforce of roughly 8,500 persons, and to replace these skilled and experienced employees with a substantially smaller group of management employees and contractors. It is not reasonable to believe that the Company can provide adequate and reliable service with this radically diminished workforce. Indeed, the evidence is to the contrary: ConEd’s actions, which are in direct contravention of its statutory obligations, have imperiled the safety and reliability of utility services provided to its customers. This situation requires the immediate attention of this Commission.

Thus, pursuant to the New York Public Service Law, Article 4, Sections 65, 66, 79 and 80, and Rule 3.6 of the Commission’s Rules of Procedure, the Utility Workers Union of America, AFL-CIO and UWUA Local 1-2 (collectively “UWUA” or “the Union”) respectfully request that the Commission: (1) initiate and conduct on an expedited basis an investigation into the quality, reliability, and safety of the service

currently being provided by Consolidated Edison Company of New York (“ConEd” or “the Company”) to its utility customers; (2) investigate whether customers are being charged for a quality and level of service that ConEd is not providing, and for costs that ConEd 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.¹

The UWUA is authorized to state that this request is joined in and supported by the New York Central Labor Council,² and the New York State AFL-CIO.³

Given the importance of the matters at issue, we ask that the Commission shorten the time allotted under 16 NYCRR § 3.6(d)(1) to this motion and direct that ConEd respond to this pleading by Friday, July 13.

PARTIES AND COMMUNICATIONS

The parties to this request are:

The UWUA is a national labor organization representing approximately 55,000 workers primarily in electric, gas, and water industries across the United States. The UWUA has participated in proceedings before state utility commissions throughout the

¹ The factual allegations in this pleading are supported by the attached Affidavit of James Slevin, which is sworn and notarized.

² The New York Central Labor Council is a non-profit labor membership organization devoted to supporting, advancing and advocating for the working people of New York City. The organization brings together 300 local unions from every trade, occupation, public and private sector of the New York economy. The organization’s offices are located at 275 Seventh Ave., 18th Floor New York, NY 10001.

³ The New York State AFL-CIO is a state organization active in advocating the interests of its 2.5 million members. The organization’s office is at 50 Broadway, 35th Floor New York, NY 10004.

Nation, including those involving water utility rates. The business address of the UWUA is 815 16th Street, NW, Washington, DC 20006.

UWUA Local 1-2 is the labor organization that represents the 8,500-employee workforce at ConEd. Among other things, these employees constitute the Company's field and operations personnel. Local 1-2's offices are located at 5 West 37th Street, 7th Floor, New York, NY 10018.

All official communications concerning this pleading and actions taken in this proceeding should be sent to:

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SUMMARY

As set forth in the New York Public Service Law, it is the "policy of this state that the continued provision of . . . gas, electric and steam service to all residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest." Pub. Serv. Law § 30. In furtherance of this policy, ConEd has the statutory obligation to "furnish and provide such service, instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable." Pub. Serv. Law § 65 (gas and electric service) *See also id.*

§ 79 (same obligation for provision of steam service). These statutory obligations are owed to ConEd customers and employees, who include members of UWUA Local 1-2 and their families. The Company's obligations are also independent of the circumstances in which violations occur; they are neither put in suspension nor held in abeyance because they arise the context of a labor dispute.

For its part, the Commission is responsible for ensuring that ConEd fulfills its obligations,⁴ for investigating instances in which the Company may not be doing so, including expressly with respect to its "methods" of operation, and, in such instances, for "order[ing] such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas or electricity and those employed in the manufacture and distribution thereof." *Id.* § 66(2). *See also id.* § 80(2).

Here, the Company's unilateral action has cast doubt on its ability to meet its statutory obligations. The UWUA asserts that there is every reason to believe that in current circumstances, ConEd is not providing customers with service that is "safe and adequate and in all respects just and reasonable." It further asserts that the Company's failure to provide safe and adequate service may have immediate and dangerous effects on the Company's customers, and asks that the Commission act to enforce its statutory mandate and the Company's statutory obligations. This can be accomplished by (a) initiating an expedited investigation into ConEd's provision of service with its

⁴ The Commission's jurisdiction over ConEd extends, *inter alia*, to the "manufacture, conveying, transportation, sale or distribution of gas (natural or manufactured or mixture of both) and electricity for light, heat or power, to gas plants and to electric plants and to the persons or corporations owning, leasing or operating the same[.]" as well as to the "manufacture, holding, distribution, transmission, sale or furnishing of steam for heat or power, to steam plants and to the persons or corporations owning, leasing or operating the same." Pub. Serv. Law § 5.

diminished workforce; and (b) directing the immediate reinstatement of the locked-out workforce during the pendency of the investigation.

FACTUAL BASIS FOR REQUESTED RELIEF

On July 1, 2012, in the midst of a labor dispute with UWUA Local 1-2, ConEd implemented a “lockout” of its 8,500 employee workforce. As a result, this portion of the Company’s skilled and experienced workforce, including both field and front office personnel, was directed by ConEd to cease all work. The locked-out personnel include the trained workers who routinely serve as first responders to system emergencies such as gas leaks and electric outages, and who perform virtually all operations and maintenance activities, including actions vital to the safe and reliable operation of the ConEd system. Collectively, they possess tens of thousands of years of experience in working on Company facilities and interacting with customers. In place of these thousands of long-term and experienced employees, the Company has sought to maintain electric, gas, and steam service to its 3.3 million customers by using a mix of 5,000 management personnel and contractors.

There should be no dispute that the quality and reliability of the services provided by ConEd under this arrangement are significantly less than what was being provided to customers the day before the Company’s lockout was implemented. A workforce of 8,500 skilled persons is being replaced by a workforce of 5,000, many of whom are apparently being retrained to perform front-line operation and maintenance tasks—work which they presumably have not performed in years, if ever. Moreover, it appears that the Company’s management team is now responsible for completing both the day-to-day tasks assigned to field personnel as well as their own management and supervisory

responsibilities. To the extent that is the case, then 5,000 management personnel (plus an unknown number of contractors) are being asked to perform the work previously performed by 13,500 people.⁵

ConEd's website includes a list of what its customers "need to know during the work stoppage." The Company states that its "first priority will be responding to emergencies."⁶ However, ConEd acknowledges that:

- "Most meter reading will be suspended . . ."
- "Walk-in service centers in the Bronx, Manhattan, Brooklyn, and Queens will be closed."

By the Company's own admission, its new work environment is one in which significant and statutorily-mandated customer services are not being provided. New York State law provides that the suspension of meter services and its replacement with estimated readings is to occur only upon Commission approval and in limited and defined circumstances. New York Public Service Law, Article 2, Section 39(1) provides (emphasis added):

A utility corporation or municipality may, in accordance with such requirements as the commission may impose by regulation, render an estimated bill for any billing period if: (a) the procedure used by such utility or municipality for calculating estimated bills has been approved by the commission, and the bill clearly indicates that it is based on an estimated reading *and* (b) *the utility owning the meter and providing the meter reading data on which the estimated bill will be based or the municipality has made reasonable effort to obtain an actual meter reading or* (c) *circumstances beyond the control of the utility or*

⁵ The UWUA's understanding is that less than one-half of the management "replacements" had field-level experience.

⁶ <http://www.coned.com/customer-info/default.asp>

municipality made an actual reading of the meter extremely difficult or (d) circumstances indicate a reported reading is likely to be erroneous, or (e) an estimated reading is prescribed or authorized by the commission for a billing period between periods when actual meter readings are scheduled or for seasonal or short term customers.

Even if ConEd has in place a Commission-approved plan to use estimate meter readings, that plan can be implemented only where there have been reasonable efforts to obtain actual readings or the Company faces “circumstances beyond [its] control.” Given ConEd’s sudden and unilateral institution of the lockout, neither circumstance is present here. In the meantime, contrary to statute, customers are paying bills based on estimated readings that may or may not be accurate. And while ConEd has willfully and unilaterally suspended the performance of normal utility operations (such as meter reading), it is charging customers rates intended to recover the costs associated with a labor workforce that is no longer on the job, including costs associated with the locked-out meter readers.

Similarly, walk-in service centers provide important services to customers, including the option of paying their bills. ConEd’s unilateral closure of its walk-in call centers is contrary to its statutory obligations. Article 4, Section 65(13)(b) of the Public Service Law provides in part that

No gas or electric corporation shall close a call center or other facility providing the customer assistance set forth in paragraph (a) of this subdivision or relocate such customer assistance to another area of New York state or outside of New York state without notice and hearing before the commission.

ConEd’s walk-in centers constitute “other facilit[ies]” that provide at least certain of the services set forth in Section 65(13)(a), as they include “handling payment and other credit arrangements such as obtaining deposits, financial statements and payment plans[.]” As

such, ConEd has no right to close these facilities absent PSC approval, which has not been obtained.⁷

Thus, based on the facts already admitted by the Company, it is per se in violation of its statutory obligations. However, the evidence suggests that the Company's lockout has created other safety and reliability hazards as well. As a result of the lockout, substantial and critical O&M-related work that would otherwise be performed in the ordinary course of business is not being conducted, with the result that customers are not receiving the service that they are paying for and that is reliable and safe. Some of the most important work that is not being performed includes:

- *Transformer Inspections.* Transformer inspections are conducted by field personnel as part of their routine maintenance activities, and include inspection for oil leaks and overheating. They are vital to the provision of safe and environmentally sound electric service and include inspection for oil leaks and overheating. If an inspection reveals an overheated transformer, then steps can be taken to cool the transformer and avoid a possible explosion and related loss of service. The UWUA understands that such inspections are not being conducted during the lockout as a result of a lack of personnel. This stoppage can lead to immediate and critical damage. Following the start of the lockout, a Company transformer exploded under a busy Midtown Manhattan street, igniting a minivan and spreading flames to a 16-story building. The conduct of a timely inspection of the transformer might have

⁷ It should be noted, that both using estimated bills (which may be much too high) and closing the Company's walk-in centers, are likely to disproportionately affect the Company's most vulnerable, low-income customers.

led to the implementation of preventive measures that could have prevented the explosion.

- *Manhole Inspections.* ConEd's "Manhole Inspection Program" addresses potential structural as well as underground cable damage by, *inter alia*, ensuring the integrity of the manhole and that there are no stray voltage issues or cracked insulation on secondary cables, and by preventing dielectric fluid releases in the environment. Field personnel are responsible for conducting these inspections and, where appropriate, undertaking corrective or preventative maintenance activities. The UWUA understands that these inspections are not being conducted during the lockout due to a lack of personnel.
- *Coating Refurbishment Program.* The Coating Refurbishment Program is likewise intended to prevent or limit dielectric fluid leaks. The UWUA understands that activities under this program are not being conducted during the lockout due to lack of personnel.
- *Stray or Contact Voltage Work.* ConEd uses sophisticated equipment to prevent, detect, and repair "stray" or "contact" voltage. ConEd's program was implemented following the 2004 electrocution of a Columbia University graduate student. The Company's website states:

When Con Edison crews find contact voltage, the company guards the site until repairs are made, even if the defective equipment causing the problem does not belong to Con Edison.

<http://www.coned.com/publicissues/safety.asp> The UWUA understands that stray voltage inspections are not being conducted during the lockout because

of a lack of personnel, and that as a consequence any such repairs and site guard activities are not occurring. Even more important, when a ConEd field employee enters a structure to conduct an inspection or repair, a stray voltage inspection should be conducted before the structure is accessed. The UWUA understands that those inspections are not occurring during the lockout, which puts at risk the Company's working employees and contractors.

- *Preventive Maintenance to Avoid Voltage Reduction.* The UWUA understands that during the recent heat wave, ConEd has implemented voltage reductions (and related brownouts) in low-income portions of Brooklyn and the Bronx. These reductions are in part the consequence of aging infrastructure. This has two effects. First, when such reductions are implemented, customers may cease operation of important appliances, such as window air conditioning units, when they are most needed. Second, some customers may continue to operate appliances, such as air conditioning units, without regard to the limitations imposed by the brownouts. The operated appliances may break down as a result. The UWUA understands that maintenance work that might minimize (or eliminate) the need for voltage reductions is not being conducted because of an absence of the requisite personnel.
- *Heat Event Response.* During periods of hot weather, there can be related underground system problems. To address such concerns, the Company implements a "Underground Contingency Heat Event Response Procedure." According the Procedure (an excerpt from which is attached), there are

employees throughout the Company who may be called to take actions during “heat related events that significantly impact our customers.” Procedure § 2.0. When the requisite event occurs, the Procedure provides that “[e]ach organization will ensure adequate staffing for the designated event level and associated staffing plan.” *Id.* § 3.4.1. The UWUA understands that the Company currently lacks sufficient personnel to implement the Procedure as written.

- *Permanent Repairs.* From time-to-time, ConEd crews will implement temporary repairs, for example, to restore electric service after an outage. These “bridging” repairs are to be followed with the implementation of permanent repairs. The UWUA’s understanding is that such permanent repairs are not being conducted in a timely manner because of an absence of sufficient personnel. For example, there are instances in which an underground cable to a home burns out and needs to be replaced. In order to restore service quickly, and pending the installation of a new cable pulled through the underground conduit, the Company may put in place an overground cable that runs on the sidewalk and into the house. The cable may be covered by a “shunt” or “box” or other form of temporary covering. The UWUA understands that because of the lockout, these cables are not being replaced with underground facilities in a timely way, meaning that members of the public continue to walk or ride over them, heightening the possibility that the cables may become damaged and cause injury. In addition, when a temporary repair fails, there is typically no available fallback and service may

be lost for an extended period of time. By making permanent repairs, the utility restores the fallback option of temporary bridging repairs.

Likewise, the Company's field personnel conduct restoration activities following the conduct of utility repair work. Absent those activities, street sites are maintained through the temporary installation of metal plates. Their presence (whether on roadways or sidewalks) causes inconvenience to members of the public. The UWUA understands that restoration activities are not being conducted during the lockout due to a lack of personnel.

- *Gas Service.* There is ongoing work being conducted by UWUA personnel in connection with New York City's elimination of the use of No. 2 fuel oil and related customer conversions to gas service. The UWUA understands that during the lockout the work associated with these service changeovers (such as trenching) is not currently being done, and that a substantial backlog of such work exists.
- *Steam Services.* Worker crews are responsible for checking steam pipe "traps" after rain storms to protect against the possibility of water hammer (a pressure surge from the pipe). The UWUA understands that these inspections are not being conducted during the lockout because of a lack of adequate personnel. The potential safety implications of this issue are obvious. In July 2007, a water hammer-related explosion at Grand Central Terminal resulted in a fatality.

This list is not exhaustive. It is merely illustrative of the obvious: 5,000 managers cannot perform, and cannot be performing, the full complement of operations

and maintenance work that is routinely performed on a day-to-day basis by 8,500 field personnel who possess the requisite skills, training, and experience to do that work.

Nor have the impacts of the lockout on service quality and reliability been lost on ConEd's customers. An online petition maintained the New York State AFL-CIO has been signed by nearly 900 customers. Signatories send a message to the Commission and the Department of Public Service that states in part:

On July 1, 2012, Con Edison locked out 8,500 skilled workers and has since replaced them with management employees. I am concerned that my service will be interrupted because of the lockout. I am also concerned that the replacement workers lack the current training, skills and experience necessary to provide safe and reliable electricity, gas and steam. In addition, it is simply impossible to take 8,500 workers off the job and maintain comparable service.

The petition can be accessed at <http://nysaflcio.org/pscletter/>.

As shown, the Company's change in operating practices has created an undue risk to safety and reliability during the summer months, when the system has been under substantial heat and weather related stress. As a result, significant numbers of ConEd customers are concerned about the status of their utility services.

Only ConEd knows the full extent of ordinary and necessary utility work that is not being performed. ConEd can and should be directed to provide this Commission with an exhaustive accounting of all the operations and maintenance activities that would otherwise be performed but for the lockout, but that is not being done now. In addition, it is not reasonable to believe that ConEd's re-assigned managers are both operating and monitoring the system and performing their normal managerial jobs. ConEd should also

be directed to inform the Commission as to the managerial work that is not being performed now, but would be performed but for the lockout.

To the Union's knowledge the Company did not seek this Commission's prior approval or otherwise alert the Commission of its fundamental change in operating practice. Nor is the UWUA aware that ConEd coordinated its actions with the New York Independent System Operator or otherwise alerted any governmental authorities. And the Company cannot claim that it acted suddenly in response to unforeseeable forces outside its control. This is not a crisis caused by an outside force; it is a self-inflicted wound. Likewise, the Company should not be heard to claim that its implementation of a strike contingency plan satisfies the current concerns. There is no strike. Instead, the Company has made a decision to drastically downsize its workforce and, as a result, unduly jeopardize safety and reliability by providing substandard service—presumably in an effort to try and gain an advantage in pending labor negotiations.

Even more fundamental, while not currently receiving service from the thousands told by ConEd not to report for work, the Company's customers continue to pay rates that include the costs associated with the salaries and benefits for the 8,500 persons who are currently subject to the lockout as well as the higher managerial salaries to employees who are not now performing managerial tasks, but are instead doing craft work. The Commission should not permit the Company to charge rates for services that are not being received, and for employees who—as a result of ConEd's unilateral action—have no ability to service Company customers.

In this unprecedented situation, the Commission should take immediate action in order to protect service safety and reliability. While there has not yet been a catastrophic

failure, there is no reasonable basis for the Commission to stand down until one occurs. In these circumstances, and for the reasons stated herein, the Union asks that the Commission immediately initiate an investigation into the quality, safety, and reliability of service currently being provided by the Company. The Company should be directed to provide an accounting of the work that is and is not being performed, and to explain why it is proper to attempt to operate a utility that has a right-sized workforce of some 13,500 employees with only 5,000 managerial employees. In addition, and in furtherance of its authority under Article 4, Section 66 to require "reasonable improvements as will best promote the public interest," the Commission should direct the Company to put the 8,500 craft personnel back to work, pending the Company's showing as to why it is reasonable and necessary for it operate with only 5,000 managerial employees (many of whom have no field experience) and contractors, and that doing so runs no significant risk to safety and reliability.

The relief that is sought here is grounded in the statute, and accords with public utility law in general. Utility commissions in other jurisdictions, operating under regulatory regimes similar to the one in place in New York, have found that they have the power to ensure that utilities are adequately staffed with skilled personnel when necessary to protect quality of service. And they have found cause to exercise that power and protect customers in their jurisdiction from staffing practices that threaten safety and reliability.

For instance, in West Virginia, the West Virginia Public Service Commission recently issued an order prohibiting the state's largest water company from implementing proposed layoffs because of their potential impact on service quality. *W. Va.-Am. Water*

Co., Case No. 11-0740-W-GI, 2011 W. Va. PUC LEXIS 2425 (W. Va. Pub. Serv. Comm'n Oct. 13, 2011), *modified*, Case No. 11-0740-W-GI, 2012 W. Va. PUC LEXIS 230 (W. Va. Pub. Serv. Comm'n Feb. 2, 2012). That commission found that the evidence showed a reasonable expectation of adverse results from the proposed terminations, and that that was sufficient for commission oversight. It explained that in "instances where [the regulated utility] has unreasonably reduced employment levels to the point that it presents an inefficiency, expected degradation of service below acceptable levels or an unacceptable risk of damage to property, the Commission will direct [the utility] to reconsider and reverse those practices." *Id.* at *39.

The West Virginia Commission likewise made clear that it was not required to await a catastrophe before taking needed action, stating:

Some of the testimony in this matter includes a degree of reasonable expectation on the future adverse results of the proposed terminations. When these expectations are based on reliable testimony and evidence, we will not wait for actual service problems to support a finding that the actions of WVAWC are unreasonable. The requirement for evidence of unreasonable acts or practices can be based on reasonable expectations and does not require the Commission to wait until the facilities of a utility are so poor that consumer complaints increase to unprecedented levels or result in instances of dangerous conditions or inadequate service.

Id. at *37.

Similarly, Connecticut's Department of Public Utility Control ("DPUC" or "Department")⁸ stayed 67 proposed layoffs at Connecticut Natural Gas Corporation and Southern Connecticut Gas Company while an investigation of the impact of the action on

⁸ The DPUC has recently been renamed the "Public Utilities Regulatory Authority."

service to consumers was pending. *See* Department Order and Notice of Technical Meeting and Continued Hearing, *DPUC Investigation into the Contemplated Workforce Reductions*, Docket No. 09-09-08 (Sept. 24, 2009). Ultimately, after hearing, the Department allowed the layoffs to occur but “require[d] substantial compliance filings to ensure that the Companies’ exercise of its workforce does not lead to degradation or reduction in safety and reliability.” *Id.* at 22. It concluded:

The Department will not hesitate to reopen the instant proceeding if in monitoring the compliance filings the Department finds a degradation or reduction in safety and reliability for either customers or employees. The Department reminds the Companies that while the decision to layoff personnel is within the field of management, it is not outside the field of an appropriate regulatory authority.

Id. The DPUC has likewise ordered at least one utility to report to the Department annually on its actual level of hiring, writing that “[a] shortfall in Electric System staffing would potentially affect the Company’s electric system reliability, especially after restoring from a major storm.” *In Re United Illuminating Co.*, 246 P.U.R.4th 357, 408 (Conn. Dep’t of Pub. Util. Control 2006).

At least two state utility commissions have seen the need (and found they had the authority) to take prospective action in response to long-term staffing problems, as well as imminent ones. In response to concerns that the Sierra Pacific Power Company had a significant percentage of its workforce facing retirement age, the Nevada Public Utility Commission opened an investigation into the demographics of its workforce and its long-term succession plans, requiring the company to produce various data on its staffing

demographics and workforce plans.⁹ Likewise, the Wisconsin Public Service Commission created an ongoing process for addressing workforce planning issues, ordering Madison Gas and Electric Company to “report to Commission staff in 2008, identifying the workforce challenges it is facing, the actions it is and will be taking to address these challenges, and the progress [it] is making toward meeting its goals.” *Madison Gas & Elec. Co. for Auth. to Change Elec. & Natural Gas Rates*, Docket No. 3270-UR-115, 2007 Wisc. PUC LEXIS 611, at *22, slip op. at 15 (Wis. Pub. Serv. Comm’n Dec. 14, 2007).

And when faced with staffing issues that might impair the quality of service, utility commissions in numerous states have rejected arguments that such matters are subject to collective bargaining and therefore the exclusive domain of federal labor law. The Illinois Commerce Commission (“ICC”) went so far as to find that that it *must* have the authority “to touch upon matters that might also be reasonably characterized as labor-management relations matters,” as “[t]o hold otherwise would be to end the regulation of public utilities. Every act of a public utility is performed by *someone*, and in countless instances that person is managed by another *someone*.” *In Re N. Shore Gas Co.*, Docket No. 07-0241, 2008 WL 631214, at *290 (Ill. Commerce Comm’n Feb. 5, 2008). The West Virginia Public Service Commission chided parties for “reducing what [it] view[s] as quality of service issues to pro-union/pro-management arguments.” 2012 W. Va. PUC LEXIS 230, at *8. The Connecticut DPUC rejected claims that its

⁹ Investigation Regarding Whether the Workforce of Sierra Pacific Power Company d/b/a/ NV Energy (“SPPC”) Is, or in the Future Will Be, Experiencing a Significant Amount of Aging, and the Potential Impact, If Any, That Such Aging May Have on the Reliability of SPPC’s Service, Docket No. 11-02015 (Nev. Pub. Utils. Comm’n).

investigation into layoffs was not a proper subject for Department action, concluding that its review and investigation had “in no manner interfered with any contracts between the Companies and their employees.” *DPUC Investigation into the Contemplated Workforce Reductions by Conn. Natural Gas Corp.*, 279 P.U.R.4th 161, 167 (Conn. Dep’t Pub. Util. Control 2010). And the Vermont Public Service Board opened an investigation into the staffing levels at Central Vermont Public Service Corporation (“CVPS”) and took a broad view of its regulatory authority, noting that its investigation fell “well within [its] supervisory authority over CVPS’s staffing levels and the attendant costs imposed upon CVPS ratepayers.” *Investigation into Cent. Vt. Pub. Serv. Corp.’s Staffing Levels*, Docket No. 7496, slip op. at 9 (Vt. Pub. Serv. Bd. Aug. 20, 2009), available at http://psb.vermont.gov/sites/psb/files/orders/2009/7496_final.pdf.

CONCLUSION

The Company’s unilateral actions in locking out its labor workforce have created a situation warranting an immediate investigation into the Company’s actions. This is an issue of great public import.

The Commission is not being asked to mediate a labor dispute. It is instead being asked to act in accordance with its statutory mandate and in recognition of the obvious: 5,000 managers (many of whom lack field experience) cannot be performing the utility work routinely performed by 13,500 employees, including 8,500 craft personnel who are now off the job.

As such, the Union respectfully requests that the Commission: (1) initiate and conduct on an expedited basis an investigation into the quality, reliability, and safety of the service currently being provided by ConEd to its utility customers; (2) investigate

whether customers are being charged for a quality and level of service that ConEd is not providing, and for costs that ConEd 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 pending lockout of employees represented by UWUA Local 1-2 and direct their return to work.

Respectfully submitted,



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July 10th, 2012

AFFIDAVIT

STATE OF NEW YORK
BEFORE THE
PUBLIC SERVICE COMMISSION

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

Case No. 12-_____

**AFFIDAVIT OF JAMES SLEVIN IN SUPPORT OF
MOTION FOR INITIATION OF EXPEDITED
INVESTIGATION AND INTERIM RELIEF**

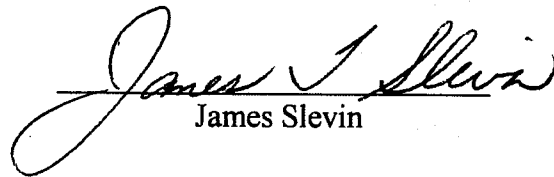
STATE OF NEW YORK
COUNTY OF QUEENS

) ss:

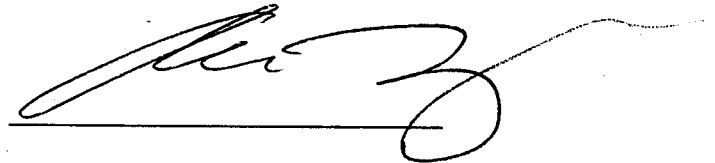
PERSONALLY appeared before me the undersigned, who, after being duly sworn,
states on his oath as follows:

1. I am James Slevin. I am Vice President of Local 1-2, Utility Workers Union of America, AFL-CIO.
2. I make this Affidavit on behalf of the "Motion for Initiation of Expedited Investigation and Interim Relief" ("Motion") filed initiating this proceeding by the Utility Workers Union of America, AFL-CIO and UWUA Local 1-2, and joined in and supported by the New York Central Labor Council, and the New York State AFL-CIO.

3. I state that the factual allegations stated in the Motion concerning the status of utility operations in the Consolidated Edison of New York electric, gas, and steam systems are true and correct to the best of my knowledge.


James Slevin

Subscribed and sworn to before me, the undersigned notary public, this 10th day of July, 2012.



Notary Public

ADAM L. GOLDBERG
NOTARY PUBLIC, State of New York
No. 02GO6098894
Qualified in Kings County
Commission Expires September 22, 2014

MY COMMISSION EXPIRES: —

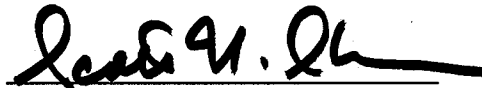
CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon the following persons, by first class mail and electronic service:

Elizabeth Moore, Esq.
General Counsel
Consolidated Edison Company of New York, Inc.
4 Irving Place, Room 1815-S
New York, NY 10003
mooree@coned.com
mendozad@coned.com

Marc Richter, Esq.
Deputy General Counsel
Consolidated Edison Company of New York, Inc.
4 Irving Place, Room 1815-S
New York, NY 10003
richterm@coned.com

Dated on this 10th day of July, 2012.



Scott H. Strauss

Law Offices of:
Spiegel & McDiarmid LLP
1333 New Hampshire Avenue, NW
Washington, DC 20036
(202) 879-4000

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE

METHOD OF SERVICE FORM

This form should be filed with all new petitions and applications that require action by the Commission. It will allow us to serve you with the Commission decision using the method you select.

Name:	<u>Scott Strauss</u>
Your Company/Organization:	<u>Spiegel & McDiarmid LLP</u>
Mailing Address:	<u>1333 New Hampshire Avenue, NW</u> <u>2nd Floor</u>
Company/Organization you represent, if different from above:	<u>Utility Workers Union of America, AFL-CIO, Local 1-2, Utility Workers Union of America</u>
E-Mail Address:	<u>scott.strauss@spiegelmc.com</u>
Case/Matter # (if known)	

If you consent to receive Commission-issued orders electronically, you will receive all Commission-issued documents electronically. If you do not consent to receive Commission-issued orders electronically, you will receive all Commission-issued documents by mail.

Check the box(es) in A or B, below:

A.

I am authorized by the party I represent to grant consent to receive electronic-only service of Commission-issued orders, AND

I, on behalf of myself or the party I represent, knowingly waive the right specified in Public Service Law §23(1) to be served personally or by mail with orders that affect me or the party I represent and consent to receive service of Commission-issued orders by electronic means only. This consent remains in effect until revoked.

B

I do not consent to receive electronic service and instead request that the DPS mail Commission-issued document(s) to me.

Signature: 	Date: <u>July 10, 2012</u>
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Please note that this form applies to this filing only.

To the extent possible, please file this form in .pdf format.

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE

METHOD OF SERVICE FORM

This form should be filed with all new petitions and applications that require action by the Commission. It will allow us to serve you with the Commission decision using the method you select.

Name:	<u>Katharine Mapes</u>
Your Company/Organization:	<u>Spiegel & McDiarmid LLP</u>
Mailing Address:	<u>1333 New Hampshire Avenue, NW</u> <u>2nd Floor</u>
Company/Organization you represent, if different from above:	<u>Utility Workers Union of America, AFL-CIO, Local 1-2, Utility Workers Union of America</u>
E-Mail Address:	<u>Katharine.Mapes@spiegelmc.com</u>
Case/Matter # (if known)	

If you consent to receive Commission-issued orders electronically, you will receive all Commission-issued documents electronically. If you do not consent to receive Commission-issued orders electronically, you will receive all Commission-issued documents by mail.

Check the box(es) in A or B, below:

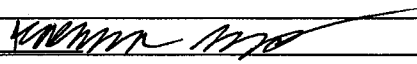
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