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May 9, 2007

BY OVERNIGHT MAIL

Hon. Jaclyn A. Brilling, Secretary
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223

Re: PSC Case 06-M-1078 – Proceeding on Motion of the Commission to Audit the Performance of Consolidated Edison Company of New York, Inc. in Response to Outage Emergencies.

Dear Secretary Brilling:

Consolidated Edison Company of New York, Inc. ("Con Edison" or the "Company") seeks a ruling by the Public Services Commission that certain information requests issued in the referenced proceeding are outside the scope of the proceeding and that the Company does not have to respond to those requests.

By order dated September 8, 2006 ("September Order")¹, the Commission instituted the referenced proceeding and directed that an audit be conducted of the Company's preparedness for outage emergencies and its practices and procedures for responding to these outages. The September Order directed Staff to retain an independent third-party consultant to conduct the audit and further directed the Company to enter into a contract with the independent third-party auditor, who would work for and under the direction of the Commission. With respect to the scope of the audit, the September 8, 2006 order states as follows:

[T]he Commission determines that there is a need to initiate a proceeding and to conduct an independent audit of the Company's system-wide operations, practices, and procedures as they relate to emergency planning, response to outages, and restoration of service.

The September Order goes on to identify six aspects of the Company's management and operations that should be included in any assessment.²

¹ Case 06-M-1078, *Proceeding on Motion of the Commission to Audit the Performance of Consolidated Edison Company of New York, Inc. in Response to Outage Emergencies*, Order Instituting Proceeding and Directing Audit (Issued September 8, 2006).

² The six areas identified in the September Order are: (1) Effectiveness of the Company's overall emergency response planning, response to outages, and service restoration efforts, including an organizational assessment of the Company's internal structure for managing service restoration; (2) Adequacy of the Company's resources available by major operating areas, including personnel and equipment, to respond aggressively to large-scale outage emergencies and the

On October 18, 2006, the Commission approved Staff's proposed Request for Proposal, which also addressed the scope of the audit.³ The RFP sets out the framework for the independent auditor's analysis from three perspectives: planning/preparedness, performance/effectiveness, and best practices. The RFP goes into some detail of what should be included under each of these three areas.

In January 2007, Vantage Consulting, Inc. ("Vantage") was selected by Staff and approved by the Commission as the independent third-party consultant to perform the audit.⁴ Attached to the Commission's order was a contract which the Company was directed to execute with Vantage and Staff. The contract has been fully executed by all parties. This contract describes the process for discovery disputes between the Company and Vantage.

To date, the Company has received 154 data requests. On April 16, 2006, Vantage submitted the following four data requests to the Company:

226. Provide a copy of latest available version of Dr. David Allen's study on maximum size of reliable network.

262. Provide records of cable, splice, joint, termination failures by type and network during and subsequent to winter DC Hi Pot proof testing for last five years.

263. Provide records of cable, splice, joint, termination failures not subjected to winter DC Hi Pot proof testing for last five years.

264. Provide correlation data regarding feeders identified at risk, those subjected to Hi Pot proof testing, and actual subsequent failures for last five years.

The Company objects to these questions as outside the scope of the Commission's order establishing the audit proceeding. None of these questions seek information concerning the Company's operations, practices, and procedures as they relate to emergency planning, response to outages, and restoration of service. These

Company's effectiveness in deploying and managing these resources in an optimal manner; (3) Planning and preparation for responding to multiple and simultaneous large-scale outages occurring in different operating areas; (4) Effectiveness of procedures for determining the extent of outages, including the number of customers affected, and in providing accurate estimates of the timing of service restorations; (5) Effectiveness of plans and procedures for obtaining assistance from other utilities and contractors, and ability to effectively deploy and manage these additional resources; and (6) Proper procedures to assure effective outreach efforts on a regular basis, including accuracy of information and frequency of communication with local officials, state agencies, and the public throughout the event.

³ Case 06-M-1078, *Proceeding on Motion of the Commission to Audit the Performance of Consolidated Edison Company of New York, Inc. in Response to Outage Emergencies*, Staff Recommendation for RFP (Issued October 18, 2006).

⁴ Case 06-M-1078, *Proceeding on Motion of the Commission to Audit the Performance of Consolidated Edison Company of New York, Inc. in Response to Outage Emergencies*, Order Approving Consultant (Issued January 17, 2007).

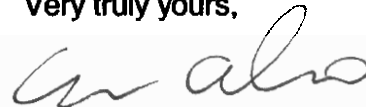
four questions do not address any of the six areas identified for assessment in the September Order. Nor do these questions address the areas identified in the RFP. Rather, these questions seek information regarding the Company's programs for maintaining the operability of distribution system components and the overall reliability of the distribution system. Therefore, these requests are outside of the identified scope of this proceeding, and the Company has submitted responses objecting to these requests.

At a meeting on May 7, 2007, with representatives of Staff, the Company and Vantage present, the Company explained the reasons for its objection to these requests. Staff disagreed with the Company and takes the position that these four questions are within the scope of the audit.

The Company continues to believe that the auditor's questions are outside the scope of the auditor's charge in this proceeding and should not be addressed in this proceeding.

Pursuant to the contract executed by the parties in this matter, disputes between the Company and the auditor are to be handled by Staff. If either party is dissatisfied with Staff's resolution, the decision may be appealed to the Commission. Please allow this letter to serve as the Company's request for appeal of Staff's resolution of this matter.

Very truly yours,



Cc: Ben Stein (via email)
Julie Niedzialkowski (via email)
Guy Mazza (via email)
Walter Drabinski (via email)