

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Proceeding on Motion of the Commission as to	:	
the Rates, Charges, Rules and Regulations of	:	
Consolidated Edison Company of New York, Inc.	:	CASE 16-E-0060
for Electric Service.	:	
	:	
Proceeding on Motion of the Commission as to	:	
the Rates, Charges, Rules and Regulations of	:	
Consolidated Edison Company of New York, Inc.	:	CASE 16-G-0061
for Gas Service.	:	
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**REPLY STATEMENT TO TESTIMONY OF JAMES KILKENNY
IN OPPOSITION OF THE JOINT PROPOSAL**

ON BEHALF OF

UTILITY WORKERS UNION OF AMERICA, AFL-CIO

LOCAL 1-2

OCTOBER 21, 2016

I. Background

Pursuant to the Ruling on Schedule (Issued September 28, 2016) testimony was filed By James Kilkenny on behalf of New York Independent Contractors Alliance in opposition to the Joint Proposal in these proceedings. The main reasons for NYICA's opposition to the JP is a follows: As currently drafted, NYICA opposes PSC approval of the Company's request because:

- 1) The Company has not presented an accurate and complete budget forecast for 12 Interference Costs, and
- 2) The Company has a demonstrated track record of making decisions that increase its construction costs for non-business purposes, which presents a risk of future uncontrolled and unwarranted costs to the ratepayer.¹

Mr. Kilkenny cites a recent change in Con Ed's Standard Terms and Conditions, the companies who have consistently and repeatedly bid on and been awarded contracts for Con Ed construction work during 2013 through 2015, will in future be barred from being awarded the work unless they sign an additional labor agreement with a member union of the Building Construction Trades Council (BCTC) of Greater New York. Mr. Kilkenny indicates that Con Ed recently changed its contract language to require contractors to have signed labor agreements with unions who have membership in only one specific building trades organization, the BCTC.² Con Ed's decision to award contracts only to BCTC-member companies, and the BCTC's decision to protect its existing members' market share by denying membership to NYICA-member companies, have the combined effect of insulating BCTC-member companies from competition from NYICA-member companies for Con Ed contracts, at the expense of Con Ed ratepayers, who will be responsible for paying increased

¹ Testimony in Opposition of the Joint Proposal, James Kilkenny on behalf of New York Independent Contractors Alliance, October 13, 2016 at 6.

² *ibid.* at 10.

costs for construction related to MIS.³(Municipal Infrastructure Support)

II. Discussion

U.W.U.A. Local 1-2 (“Local 1-2”) agrees with and supports portions of NYICA testimony in opposing Con Edison’s changing its Standard Terms and Conditions to exclude the awarding of future contracts to labor from non-BCTC (non-Building Construction Trades Council) member unions, the very companies on which Con Ed has relied for decades for cost-effective, quality and reliable work. To limit Con Edison’s Standard Terms and Conditions to require contractors to have signed labor agreements with union members of a building trades organization in order to be eligible to be awarded a contract is inimical to maximizing competition for Con Ed contracts and ensuring Con Ed’s Interference, or other work, is performed by companies offering Con Ed and its ratepayers the lowest cost, highest quality, and greatest reliability of service for the benefit of its ratepayers.

The fact of the matter is that the majority of Con Edison’s present workforce are not part of the “building trades”. Con Edison’s present workforce does indeed perform its work at the lowest cost, highest quality, and greatest reliability of service for the benefit of its ratepayers. It would be bad public policy for the Commission to allow Con Edison’s Standard Terms and Conditions to exclude the awarding of future contracts to labor from non-BCTC member unions for all of the reasons cited in Mr. Kilkenny’s testimony including, but not limited to, the potential for excessive and collusive costs.

III. Conclusion

Based on the above Reply Statement, Local 1-2 recommends that, if the Commission

³ *ibid.* at 11.

were to approve the JP, it should require Con Ed to revert to Standard Terms and Conditions, under which companies are eligible to bid on Con Ed contracts as long as they belonged to any trade union, not just the BCTC. This would allow for the maximization of competition for Con Ed contracts, thus ensuring Con Ed's work is performed by companies offering Con Ed and its ratepayers the lowest cost, highest quality, and greatest reliability of service.

Respectfully submitted,

/s/ Richard J. Koda

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