

"Marvin S. Baum" <marvin@baumimagegroup.com>

06/17/2010 03:11 AM

Please respond to <marvin@baumimagegroup.co m>
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Dear Secretary Brilling:

I am attaching two pages of a Sworn Statement from Mr. Mark Beamish, Chief Arborist for Orange & Rockland Utilities. In his statement, Mr. Beamish swears:

Defendants refer to certain tree maintenance work performed by Consolidated Edison Company of New York, Inc. ("Con Edison") on property located in Westchester County. Since this work does not involve the Company, or the implementation of the Company's ROW Plan, it is irrelevant to the motion presently before this Court.

As you can see, Mr. Beamish is unequivocal in stating that there is no connection between his company's ROW [Transmission Vegetation Management] Plan and that of Con Edison Company of New York, Inc., on property located in Westchester County. Clearly, according to this document, the staff that would have prepared O&R's response and the response itself (dealing with much lower-powered transmission lines) for 10-E-0155 would have been completely different and unconnected to the staff that would have prepared Con Edison's response and the details contained therein.

I am also attaching one page of a separate Sworn Statement from Mr. Beamish in which he states his responsibilities at O&R to include as follows:

I am responsible for the implementation and scheduling of the Company's distribution and transmission vegetation management programs. This includes responsibility for the implementation of the Company's Long Range Transmission Right-of-Way Vegetation Management Plan ("ROW Plan"), and adherence to all state and federal requirements concerning utility vegetation management programs, including the New York Public Service Commission's ("PSC") Order Requiring Enhanced Transmission Right-of-Way Management Practices By Electric Utilities, issued June 20, 2005 in Case 04-E-0822 ("June 2005 Order'1).

With his background and responsibilities, it is clear that Mr. Beamish alone should have been sufficiently qualified to prepare a response with relatively minimal input from others at his company. Are we to now assume that Mr. Beamish, along with O&R's various customer service representatives, attorneys and all engineering resources of this "separate" company (as he indicated), were suddenly reassigned to work on repairing the Dunwoodie Substation in Yonkers and that none of them were able to complete their responses prior to this past Saturday, almost two months after the issuance of Case 10-E-0155? Does Con Edison Company of New York not have sufficient personnel resources and outside contractors available in Westchester, the Bronx, Manhattan, Brooklyn, Queens and Staten Island that they specifically needed to retain the expertise and services of an arborist and/or customer relations representative from a "separate company" in Rockland County to do this work?

Having served on a Planning Board, I'm quite familiar with the types of excuses applicants and interested parties use when they want extensions of time. In this situation, however, particularly with the request on behalf of O&R, credibility is pushed well beyond any limit that I've previously seen. As the saying goes... I may have been born at night, but it wasn't last night.

Both Con Edison and O&R now have the advantage of thoroughly reviewing all submissions and, in particular, the GEF LORAX submissions, which were exceedingly well documented and detailed. Why did Mr. Warner wait until after LORAX made its submission to make his request for an extension of time?

Since the Dunwoodie situation was known by everyone prior to the start of business on Monday morning, why didn't Mr. Warner submit his request to you first thing on Monday if he knew that both Con Edison and O&R's documents had not yet been completed and that key personnel resources from both of these companies had been reassigned to Dunwoodie? This would have provided at least a minimal amount of credibility to Mr. Warner's request. Why did Mr. Warner wait until Wednesday to "discover" the problem and only then request an extension? His excuse simply doesn't make sense.

The "short extension" of 48 hours give both Con Edison and O&R more than ample time to make numerous modifications, changes and enhancements to their comments for a more "robust" response, which they had more than ample time to do under the existing deadline, plus both companies still have the opportunity until July 6th to comment on all submissions and all issues, including those raised by LORAX.

Are published deadlines from the PSC now to be interpreted as mere "suggestions" by all parties in all matters from this date forward? Did I really have to work so hard (sometimes as late as 3am – and right now it's almost 3am) to meet the PSC's deadline or could I have simply asked for an extension to better accommodate my personal schedule or a last minute family medical emergency, as actually happened to me on Wednesday?

I appreciate the fact that you believe it's important to have input from both companies, but doing so for them is not fair to everyone else and, as previously mentioned, O&R was not so "gracious and understanding" when it came to my family's need for additional time. Their requests should be denied.

I once again ask for your reconsideration of Con Edison's request and especially of O&R's request, which is simply inexcusable under any circumstances in light of Mr. Beamish's sworn statements.

I am attaching a copy of this email in PDF format for posting to the PSC website in Case 10-E-0155, so that my comments can be included in the public record.

Thank you very much.

Sincerely,



Marvin S. Baum
marvin@baum.tv
845-353-3082

From: jaclyn_brilling@dps.state.ny.us [mailto:jaclyn_brilling@dps.state.ny.us]
Sent: Wednesday, June 16, 2010 8:55 PM
To: marvin; secretary@dps.state.ny.us
Cc: 'Gilliland Mark'; 'Patricia Podolak'; 'Anne Jaffe Holmes'; 'Crane, Christopher'; 'susan porcino'; David Warner; garry_brown@dps.state.ny.us; patricia_acampora@dps.state.ny.us; james_larocca@dps.state.ny.us; maureen_harris@dps.state.ny.us; 'Amy Kupferberg'; 'Kriscaz@aol.com'; 'Walter Rodriguez'; 'Amy Mele'
Subject: Re: My Request to Deny Con Edison's Extension

Dear Mr. Baum:

I received both email transmissions and both will be posted in our Document Management system tomorrow morning.

Extensions of time to file in Commission proceedings is within the discretion of the Secretary. The decision is nonreviewable.

In making my decision, I lean toward inclusion of information into the record for the Commission's consideration. Of course, it is critical that the Commission have record comment from Consolidated Edison and O&R in this proceeding. The companys' request was for such a short extension and would not disrupt the proceeding. The request is reasonable and was granted.

Jaclyn A. Brillling

From: "Marvin S. Baum" [marvin@baumimagegroup.com]

Sent: 06/16/2010 06:33 PM AST

To: Jaclyn Brilling; Secretary

Cc: "Gilliland Mark" <mg@markg.org>; "Patricia Podolak" <vze27vte@verizon.net>; "Anne Jaffe Holmes" <ajaffeholmes@greenburghnaturecenter.org>; "Crane, Christopher" <cmcl@westchestergov.com>; "susan porcino" <sporcino@hotmail.com>; "David Warner" <warnerd@coned.com>; Garry Brown; Patricia Acampora; James Larocca; Maureen Harris; "Amy Kupferberg" <artgirl22@earthlink.net>; "Kriscaz@aol.com" <kriscaz@aol.com>; "Walter Rodriguez" <wrodriguez@tasrc.com>; "Amy Mele" <a_mele@town.clarkstown.ny.us>

Subject: My Request to Deny Con Edison's Extension

Dear Secretary Brilling:

I submitted in email format (prior to the 5pm deadline) a request that Con Edison's and O&R's extension requests be denied. In the email, I requested that you post my response to Con Ed's extension request on the PSC website for Case 10-E-0155, as having been submitted on time. To facilitate this posting, I am also now submitting this same email to you in PDF format.

I also ask that you reconsider your granting of an extension to Con Edison and O&R, which I only learned about after I submitted my response. As I indicated in my email, I made a tremendous effort to complete my submissions and reviews (as part of the LORAX response) ahead of schedule, despite my personal circumstances and "challenges" that caused various delays along the way.

Given all that I went through to ensure a timely submission, it is grossly unfair that Con Ed and O&R so readily be granted extensions before anyone else had an opportunity to comment on their request. I, too, would have like more time to submit an additional response on behalf of myself and my parents, as I had planned to do today, but my mother's medical condition required me to take her to the hospital for treatment, so I was unable to make this additional submission. Nevertheless, I understood the PSC's rules... and I've adhered to those rules. There is no excuse for **both** Con Edison's and O&R's delays, which is why I request your reconsideration of this matter.

I would also like to point out that Orange & Rockland, which took my parents to court over this same matter, was unwilling to grant them an extension of time that we requested in September 2009, due to a combination of my parent's weekly medical treatments, our religious observances and my prior work obligations, which were all well known to O&R's attorney.

Con Edison's and O&R's requests should now be similarly denied, and, as I said in the attached email, if you deny them this request... they will never again be late with a filing..

Sincerely,

A handwritten signature in blue ink that reads "Marvin". The signature is stylized with a cursive 'M' and a trailing flourish.

Marvin S. Baum
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845-353-3082