



Marc Huestis
Senior Vice President

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Via e-mail

Kevin Speicher
Chief, Pipeline Safety
State of New York
Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

Re: Operator Qualification (“OQ”) testing used by the Northeast Gas Association (“NGA”)

Dear Kevin,

Provided below are the responses to the questions and matters raised in the Department’s December 20th letter regarding the integrity of the NGA testing process. Con Edison understands the seriousness of this issue and would welcome the opportunity to discuss our responses to any of these questions in more detail. In particular, we think the in-person meeting scheduled for January 18 will enable us to review the “5-day challenge” for contractors and the details of our planned retesting process.

During a telephone conversation on December 22, 2016, DPS Staff requested that Con Edison notify its employees of their whistleblower rights and responsibilities. Our Company’s Chief Ethics and Compliance Officer accordingly sent out a Company-wide email on January 9th that reminded employees of their responsibility to report any inappropriate activity and their right to be free from retaliation under the Company’s Standards of Business Conduct.¹

In addition to answering Staff’s questions, I want to assure you that Con Edison understands the seriousness of the allegations of impropriety during online knowledge exams for certain operator qualification covered tasks, and the potential impact if individuals were not properly trained and competent to perform work. First, Con Edison has suspended work for the two contractors discussed in response to Question 1 below. In addition, the NGA has suspended operator qualifications for applicable personnel. It is important to emphasize here that contractor construction employees who perform gas safety related work for us, in addition to passing written exams, must also pass practical evaluations that involve demonstrating the

¹ In addition, because the December 23rd letter to Orange and Rockland required that it inform its contractors regarding whistleblower protection, the letter the Company sent to contractors (noted in response to Question 2 below) also reminded them that their employees have the right to report wrongdoing free from retaliation.

ability to properly perform gas pipe installations, including welding, plastic fusion and other street work. We also inspect contractor work in the field. These inspections are performed by on-site supervisors, construction inspectors, and quality assurance/quality control. In addition, post installation pressure testing is conducted to confirm the integrity of newly installed piping. To date, we have not found anything with respect to the two contractors at issue that would warrant a more extensive assessment. Con Edison continues to examine the covered tasks and the inspections that we currently perform to determine whether an additional assessment is necessary.

Our responses are as follows:

1) Con Edison and NGA should root out how the lapses occurred.

The Con Edison investigations have confirmed that employees from two separate contractors who perform gas work for Con Edison were able to secure screen shots of NGA online test questions. Our current understanding as to how this occurred is as follows: The laptops used for NGA testing, in general, were contractor-owned laptops. The screen shots were captured through the use of existing computer laptop and operating system functionality. The information was retained and duplicated outside the testing environment.

2) Determine the extent of the problem statewide. It is incumbent on local distribution companies that use NGA's testing program to determine, or at least estimate, how many contractor companies and company workers had access to the answer sheets.

The investigation is still underway with respect to the extent of the problem for the Con Edison service territory (as discussed with you, Con Edison cannot conduct a statewide investigation). At this time, as discussed above, we have confirmed that certain employees of two contractor companies had access to screen shots containing questions from certain NGA covered task knowledge exams. The contractors have cooperated with our investigation, making their employees available for interviews and providing copies of the "study guides" created. In addition, each contractor has retained counsel and investigators to perform independent internal investigations for its company.²

To our knowledge, Con Edison employees did not have access to either of these study guides or other unauthorized preparation materials at the time Con Edison employees took operator qualification tests.

² The extent of copying of test questions and answers is different for the two contractor companies. The Company will explore applicable legal options if warranted by the investigation. If we determine that any contractors or Company employees facilitated or condoned the use of unauthorized materials to facilitate passing operator qualification evaluations, they may be subject to discipline up to and including termination of employment or disqualification of any further work and removal from the approved bidders list.

We have sent a letter to all of our gas contractors asking them to communicate with their employees and report if they are aware of inappropriate activity relating to operator qualification testing that may have occurred at their companies or the unions with which they work. Should we receive any additional information in response to these letters, we will, of course, follow up with further investigation.

3) Identify any trends between the results of the written tests and results of modules' associated performance-based testing.

Con Edison asked the NGA to provide us with information concerning any trends in testing data they have been able to identify for the Company's contractors. Con Edison provided the NGA with the names of Company contractors currently performing gas work for the Company to facilitate this analysis. The NGA has analyzed data for all covered tasks, which have both written and performance evaluations. A comparison of average pass rates for written and performance evaluations was conducted for eight different contractor company groupings. In all cases analyzed, there was no indication of high pass rates for written knowledge evaluations coincident with low pass rates for performance evaluations. This analysis included a comparison for each of the two contractors identified as having compromised the integrity of written evaluations.

Please note that failure of either a knowledge evaluation or any associated practical evaluation disqualifies individuals from performing that covered task on Con Edison's system until they can successfully pass the entire assessment.³

4) Identify the safeguards that were in place when the breach of testing integrity occurred.

In summary, the NGA proctor guidelines and protocols that were in place during the summer of 2015, when we believe the screen shots were taken, provided for the following:

- Test-takers were required to provide photo identification before taking a test
- Phones, electronic devices, notes or reference materials were not permitted to be accessible during testing
- Copying, photographing or reproducing questions was not allowed
- Proctors were to log in to each test at each computer with a unique, confidential password
- No one was permitted to leave the room during a test

Our interviews with the subject contractor employees, former employees of the contractors, the NGA, and proctors indicate that the proctors followed these protocols

³ Con Edison did not use NGA legacy written tests for qualification because Con Edison did not participate in NGA operator qualification testing prior to April of 2015.

during online testing. Despite the proctoring protocols, including the prohibition on photographing, copying or reproducing questions, certain test takers did not follow these requirements because they captured screen shots.

5) Specify in as much detail as possible what new safeguards to protect the integrity of tests have been or will be put in place before any new testing commences.

Con Edison has been working closely with the NGA and other LDCs to assess and recommend enhancements to security protocols associated with NGA testing so NGA testing can resume. The interim enhancements under discussion with NGA include:

- Immediate replacement of exams which may have been compromised
- Require two proctors for all test sessions. One proctor will administer the exams and monitor the classroom, with the second proctor dedicated to monitoring all computer screens. At least one of the two proctors must be an NGA proctor.
- Reconfiguring test rooms ensuring all computer monitors are visible from one location at all times. If needed, reduce the number of personnel that may test at a given time to ensure all computer screens are visible to the proctors.
- Implement physical and/or software/hardware solutions to prevent screen shots from being electronically captured. Physical controls such as the use of a wireless keyboard, which would be removed from the examinee once the test is initiated by the proctor. Each examinee would only have a “single click” mouse for taking the test. For laptop computers, the laptop’s keyboard would be covered with a solid laminate material or equivalent and secured in place throughout the test session with security tape or stickers. These measures, in conjunction with two proctors and line of sight visibility to all computers, will limit access to computer functionality to print or capture screenshots. Additionally, the use of a secure web-browser will be added to the security measures once integration of the secure web-browser and testing platform is complete.
- Deactivate the proctor password at the conclusion of every test session.

Con Edison will continue to monitor and work with NGA to provide for a more secure testing process going forward.

Additionally, to be able to requalify individuals who have been affected by the suspension of NGA testing if there is a delay in the reinstatement of the NGA testing program, and as a contingency plan for future NGA issues, Con Edison is enhancing the in-house operator qualification program it had in place prior to 2015. Con Edison will be capable of administering its own set of evaluations at its Learning Center, which will include knowledge and practical skill assessments. The knowledge and practical skill evaluations will be proctored by current and former Con Edison Learning Center employees, who are trained and experienced in administering evaluations.

6) Explain how Con Edison will check or inspect NGA's testing program to ensure on an ongoing basis that (a) the program's integrity is intact and (b) that testing on Con Edison's own procedures are fully covered in NGA's tests.

Program integrity

Con Edison will perform periodic quality assurance reviews of the NGA and our contractor's OQ programs once the NGA has resumed testing and new protocols are in place. NGA has also indicated it will provide LDCs and Contractors who use NGA testing with more frequent auditing and reporting of all aspects of security protocols and measures. In addition, internal compliance, quality control, and quality assurance personnel will continue to perform field inspections of ongoing work to verify that individuals are properly qualified to perform their work, and that all covered tasks are performed pursuant to New York State gas safety code requirements, Con Edison's procedures, and in accordance with Con Edison's expectations for quality and workmanship.

Testing on Con Edison's procedures

As was discussed yesterday with DPS Gas Safety Staff, the NGA's tests do not cover and are not expected to cover all of Con Edison's own procedures. To the extent that the NGA tests cover Con Edison's procedures, Con Edison employees are engaged with the NGA on many fronts. Employees of our Learning Center and Gas Compliance & Quality Assessment and other subject matter experts are members of NGA's Training & Qualification Committee and the Operator Qualification Committee.

Importantly, where Con Edison procedures differ or are not covered by NGA testing, we conduct our own training and evaluation process at its Learning Center. This evaluation is known as the "5-day challenge." For gas construction contractors, the 5-day challenge includes 5 days of Con Edison specific training, with a 6th day dedicated to a written and practical assessment. NGA-qualified mechanics must successfully complete the 5-day challenge before being permitted to work on Con Edison's system. Customized challenges have been developed, for which the curriculum and final assessment vary depending on the types of covered tasks the contractor employee will be performing

For Con Edison employees, training and evaluation is provided at Con Edison's Learning Center as part of their career path, to assure proficiency in the work they are performing in accordance with Con Edison's procedures. NGA qualifications are procured throughout this process as they progress.

Con Edison also has developed Company-specific covered tasks and non-covered tasks and evaluations, which are documented in Con Edison's Operator Qualification Written Plan Appendix D. Training on these Company-specific tasks is required of both employees and contractors who perform this work. This Appendix is provided to DPS Staff annually at the conclusion of our review and during any revision process. The most recent version of Appendix D was submitted to DPS Staff on or about December 30, 2016.

7) How long has Con Edison used the test that coincides with the answer sheets in question?

Con Edison began accepting NGA qualifications for contractors, subject to the 5-day challenge described above, in April 2015. We began using associated NGA evaluations for Company employees in June 2015.

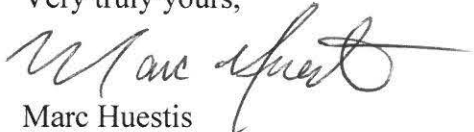
8) How does Con Edison plan to re-test any Con Edison workers completing covered tasks who require re-testing?

For the employees for the two suspended contractors, Con Edison will require that these individuals be retested either through the NGA testing process once new tests are released under enhanced security protocols, or Con Edison's own in-house operator qualification testing program. As was discussed with DPS Gas Safety Staff, other NGA qualified workers may continue to perform work. Con Edison is evaluating the need for retesting of this group.

Even after NGA testing resumes, Con Edison will be capable of performing Con Edison-specific training and evaluation at its Learning Center as described above in Answer 6.

Con Edison has a total of 1128 Company employees that have active NGA qualifications. Of this population, approximately 10 Company employees will have their NGA qualifications expire within 30 days, 5 additional within 60 days and 75 more within 90 days. We are still compiling this information for Company contractors.

Very truly yours,



Marc Huestis

cc: Diane Dean, Esq.
Richard Miller, Esq.