

**BEFORE THE NEW YORK STATE  
PUBLIC SERVICE COMMISSION**

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**Proceeding on Motion of the Commission  
as to the Rates, Charges, Rules and Regulations  
of Consolidated Edison Company of New York,  
Inc. for Electric Service**

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**Case 22-E-0064**

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**Proceeding on Motion of the Commission  
as to the Rates, Charges, Rules and Regulations  
of Consolidated Edison Company of New York,  
Inc. for Gas Service**

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**Case 22-G-00665**

**MOTION OF WE ACT FOR ENVIRONMENTAL JUSTICE,  
ALLIANCE FOR A GREEN ECONOMY,  
AND SANE ENERGY PROJECT  
TO MODIFY THE PROCEDURAL SCHEDULE**

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## **MOTION TO MODIFY THE PROCEDURAL SCHEDULE**

Pursuant to 16 NYCRR § 3.6, WE ACT for Environmental Justice, Alliance for a Green Economy, Citizens' Environmental Coalition, and Sane Energy Project (collectively, "Public Interest Groups") hereby respectfully request that the Commission modify the date(s) set for testimony by the Procedural and Technical Conference. As explained below, Consolidated Edison Company of New York, Inc. ("the Company") has repeatedly failed to timely respond to multiple interrogatory requests in the ten (10) days required by regulation. Such late responses of new or supplemental information preclude other parties, including the Public Interest Groups, from exercising their right to respond fully in testimony. *See* 16 NYCRR § 4.5. For these reasons, the Commission should extend filing date of pre-filed testimony for intervening parties by two weeks so they will be able to utilize the full time provided in the scheduling order to write and file testimony calculated to add to a comprehensive record. In the alternative, if Your Honors do not wish to extend the date for initial testimony by two weeks, we respectfully request that you extend the filing deadline for initial testimony by one week and order the Company to respond to all Interrogatory and Document Requests within five days so that we might have sufficient time.

On March 8, 2022, Judge Costello and Judge Moreno issued a Ruling on Schedule that allowed the Department of Public Service ("DPS") Staff and Intervenor Pre-filed Testimony and Exhibits to be filed on May 20, 2022.<sup>1</sup> The Public Interest Groups have since filed numerous discovery requests to the Company and under the DPS discovery rules at 16 NYCRR Part 5.3(c), which sets forth the rules and timelines for discovery in major rate cases, 10 days is set as the

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<sup>1</sup> *See* Ruling on Party Status and Schedule at 3, 22-E-0064 (Item No. 24) & 22-G-0065 (Item No. 21) (March 8, 2022).

default time for responses, unless a responding party contacts the requesting party to discuss an exception to such requirement(s). The Company has not contacted any of the Public Interest Groups to negotiate such an informal extension of the discovery response time.

On April 29, 2022, the Public Interest Groups sent a letter notifying the Company that it has failed to respond to information requests from consumer protection and environmental intervenor parties in the above captioned case in a timely manner. The Public Interest Groups all experienced incomplete or otherwise missing discovery responses within the applicable time period and as noted above, never received any contact from the Company seeking such a departure from the required response times. Only after outreach by the Public Interest Groups inquiring as to the missed deadlines did the Company sometimes respond, simply acknowledging that the requests had not been fulfilled. DPS practice and regulations require that, where a party believes it cannot reply in a timely manner to discovery and information requests, it contact the requesting party and discuss such a projected failure. However, that has not happened with the Public Interest Groups for our discovery requests.

On May 5, 2022, the Public Interest Groups met and conferred with the Company to discuss the untimely and outstanding responses. The Company conveyed to the Public Interest Groups that it would comply with 16 NYCRR § 5.3(d). The Company's failure to respond in a timely manner up to this point are creating an unreasonable burden upon the ability of the Public Interest Groups to file timely and comprehensive testimony. The burdens created by Company's delays have prejudiced the Public Interest Groups' ability to provide timely testimony outlining the public interest in this proceeding. Therefore, the Public Interest Groups request the Commission extend the filing date of pre-filed testimony for intervening parties by two weeks,

and in the alternative, order the Company to respond to all Interrogatory and Document Requests within five days and extend the filing date of pre-filed testimony by one week.

May 10, 2022

Respectfully submitted,

/s/ Meagan Burton

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