

Jason Justiniano, Con Edison

[REDACTED]

JAC 10 11 1:00

Jaclyn Brillling, Secretary  
Public Service Commission  
3 Empire State Plaza  
Albany, New York 12223

Dear Ms. Brillling:

Re: Appeal of Informal Hearing Decision  
Con Edison - Case # 160087

This is an appeal of this decision based on the January 18 hearing, held by Ramona Munoz, for the following reasons:

1. I requested that the hearing be taped in three letters. At the hearing, Ms. Munoz only had a mini-recorder (about 2" by 4"). Mr. Jason Justiniano, the Con Edison representative, was at the opposite end of the table so I didn't think the recorder would pick up his voice because I have a similar recorder, which isn't useful at that distance.

When I received Ms. Munoz's decision and CD for this hearing, I tried to play it but there was no sound on it. I left a message for Ms. Munoz in the morning of 2/7, and in the afternoon I spoke to Ms. Montalvo who said Ms. Munoz wasn't in the office but she would return 2/8 "early". She said she had already left the message for Ms. Munoz.

Ms. Munoz didn't call the morning of 2/8 so I called her about 11 AM, and I spoke to Ms. Montalvo. I heard her give my name to Ms. Munoz but then Ms. Montalvo said "she was away from her desk". Ms. Munoz has not called back to explain why she sent me a blank CD or when and if she would send me a usable CD.

I consider this a fraud and illegal activity, and I believe it was planned in advance. Otherwise, microphones would have been set up for the three parties involved, and they would have been tested properly beforehand to make sure they worked. If it was an honest error, Ms. Munoz would have called me in the morning, as Ms. Montalvo promised, to explain why the CD was blank, and that she was going to replace it that day. I have no way of backing up my claims without the audio proof.

This basic flaw in the hearing affects the facts I made during the hearing which Ms. Munoz totally overlooked, and makes her decision invalid and incorrect.

2. Mr. Justiniano apologized for his street clothes, and said he was not informed of the hearing until that morning. Con Edison and I were sent notices, and then I was called to confirm I would be there. I assume Con Edison was called too.

Mr. Justiniano said he knew nothing about the \$52.86 check not being credited to my account even though Mr. Auricchio sent a letter on 10/17, and I sent letters to Con Edison Customer Service on 10/8 with a copy of the cancelled and deposited check. I also sent the same letter and copy to Mr. Justiniano 10/28. He claims he never received any of the three letters.

Ms. Munoz didn't mention either of these two facts in her decision.

3. Missing letters from my file: There were 11 letters not in my file which was sent to me only a day before the hearing. Missing were my two letters to Con Edison about the \$52.86 check plus Mr. Auricchio's letter to Con Edison. I sent copies of my two letters to Mr. Auricchio. On one I attached two pages of articles about the PSC and Con Edison, which were in the file.

Also missing were letters from Karen Anderson dated 6/23 after my 6/10 letter requesting a hearing, stating she was still investigating my complaints. In her 11/23 letter Ms. Anderson stated on page 2 that there was a problem with the \$52.86 check but two paragraphs later, she stated "no adjustments necessary."

I gave a copy of all the missing letters to Ms. Munoz at the hearing but she didn't refer to any of these missing documents that affected the facts and decision of the case. These missing letters were:

5/11- My letter to PSC re: reduced rates and CONCERN.  
 5/19 - Case opening letter.  
 5/21 - My letter (cc: Karen Anderson) to PSC re: reduced rates/CONCERN.  
 6/23 - letter from Karen Anderson (see above).  
 7/28 - FOIL request to PSC re: Con Ed/PSC reduced rate agreement/CONCERN.  
 8/5 - Letter from Karen Anderson stating "hearing not necessary".  
 8/10 - Certified letter to Mr. Dowling re: "4 points" for hearing.  
 8/15 letter to PSC re: \$70.13 check and hearing.  
 8/31 letter to Compliance Unit citing "extreme prejudice".  
 10/28 - letter re-sent to Mr. Justiniano (cc: Auricchio) re: \$52.86 check.  
 11/23 - letter from Karen Anderson cited above.

How can Ms. Munoz analyze all the facts and come to a decision without mentioning or considering these letters? Why aren't they in the file?

4. I mentioned that Senior Vice President Scalese forced me into the CONCERN program, which is a voluntary program, stating it was mandatory. Her aides and 800 phone number reps insisted that too. That took a year to change. Mr. Justiniano stated that but Ms. Munoz didn't ask why it took so long nor did she mention this harassment or intimidation in her decision or analysis. Why not? I sent a copy of that among many inserts to Senior Counsel at PSC but none of them were in the file. That letter was dated 6/10.

5. Despite letters and phone calls from county and state [REDACTED], plus my sending the [REDACTED] statement to Con Ed, twice, it took months to re-instate me on the gas/electric reduction rate, and then even longer to refund the errors. Why wasn't that mentioned in the analysis since it was mentioned by me and Mr. Justiniano?

6. Mr. Justiniano stated that I had written to the NYS Department of Labor and OSHA about the subcontractors not using proper eye, ear and head protection when they butchered the neighborhood trees. That was a major reason Con Edison decided to harass, intimidate, and bully me for over a year, which established the pattern that forced me to request a hearing (which took seven months to get). Ms. Munoz didn't mention those facts either.

7. I gave Mr. Justiniano and Ms. Munoz a copy of my breakdown of disputes with Con Edison billing from 4/6 to 1/5/12 which showed errors by Con Edison. The total was still wrong as of the 1/5/12 bill. These bills showed me in arrears for ten months although I cited the disputes on each check. This can affect my credit rating. Ms. Munoz didn't mention these long-standing disputes in her analysis or decision.

8. In July I paid \$70.13 on my bill but Con Edison withdrew \$90.13 from my account. Again I had to fight to get that corrected by sending a copy of the deposited and cancelled check to Con Edison and PSC. That was mentioned in the hearing but not considered by Ms. Munoz as part of a policy of harassment, intimidation and bullying. Ms. Munoz considered each "mistake" by Con Edison as an individual problem, not as a pattern. She didn't have to live under the constant stress and bullying. I am nearly [REDACTED] and I felt the intimidation.

9. Near the end of the hearing I wanted to discuss the many problems I had with Karen Anderson, which I detailed in a letter to Mr. Auricchio but Ms. Munoz stopped me. If Ms. Anderson had handled each harassment objectively and professionally, this long-standing pattern of harassment and bullying never would have happened. For instance, regarding the reduced rate problem, Ms. Anderson stated in a letter that the only proof she had of my eligibility was a letter from county Social Services. That was in June after I had sent multiple attachments and letter to Senior Counsel on 6/10, including my [REDACTED] which clearly stated that [REDACTED]

Ms. Munoz should have discussed this incompetence in her analysis and decision.

10. I also showed pictures of what the subcontractors had done to the beautiful, 60 foot trees on this block and, more recently, how different subcontractors tore up the sidewalks, streets, lawns to install gas lines, and then replaced all the concrete and pavement with black asphalt. The City is forced to pay to re-pave the streets and sidewalks with taxpayer money. Why didn't Ms. Munoz analyze this long-standing problem which I discussed?

1. I want a copy of the taped hearing.
2. I want a formal hearing of my complaints because this informal hearing failed to discuss, analyze and decide on all the facts. Ms. Munoz didn't consider the eleven letters as part of the facts in the case in her analysis and decision.
3. I want PSC to notify Con Edison in writing that it must not harass, intimidate or bully me in the future.
4. I want PSC to inform Con Edison that it is responsible for proper tree care, and holding meetings with concerned citizens. I gave PSC and Mr. Justiniano a 1991 letter from Con Edison stating it would work with me in preserving the beauty, shade, and privacy provided by trees.
5. I want PSC to inform Con Edison that is responsible for re-paving sidewalks and streets after it or the subcontractors do any work in any neighborhood. The lawns must be re-seeded too.

6. I want Con Edison to explain why there are still instant outages (1/7, 12/26, 10/6, 9/30 at 9:24AM, 10:04AM, 11:54AM, 11AM respectively) after the trees have been destroyed.
7. I want Karen Anderson to be re-trained so she acts objectively, and professionally, and stops treating citizens as the enemy and the utilities as her boss. Taxpayers pay her salary.
8. I want Con Edison to explain why Mr. Justiniano wasn't informed of the hearing until that morning, and why he was not given my two letters and the letter from Mr. Auricchio re: the \$52.86 check. What is wrong at Con Edison?
9. I want Con Edison to explain why a Senior Vice President isn't familiar with the CONCERN program regulations. What is wrong at Con Ed?
10. I want Con Edison to explain why it took so long to re-instate me in the gas/electric rate reduction program, and refund the money, after I sent the [REDACTED] twice & the county and state called and wrote Con Edison. What is wrong at Con Edison?
11. I want PSC to explain why so many letters were missing from my file. What is wrong at PSC?
12. I want Con Edison to explain why it allowed the subcontractor to put pipes in front of the building, which ruins the appearance tremendously,

If I thought "the only issue" was the \$52.86 check I wouldn't have mentioned all of the above at the hearing. As I stated in many letters to the PSC, the issue was harassment, intimidation, and bullying for nearly 15 months.

Since there is no tape of the hearing, this can't be proven. I expect a response to all of the above, contrary to what Ms. Munoz states in her letter. The blank CD is just part of the PSC fraud.

I WANT A FORMAL HEARING.

Sincerely,

[REDACTED]  
Charles Roda

cc: Jason Justiniano, Customer Service Supervisor, Con Edison