

Utility Rate Analysis Consultants (URAC)

156 Scranton Avenue
Lynbrook, NY 11563

(516) 536-4545 fax (516) 594-9413
email: DDiCeglie@UracCorp.com

June 21, 2012

Ms. Jaclyn Brillling, Secretary
Department of Public Service
3 Empire State Plaza
Albany, NY 12223

Re: Petition for Declaratory Ruling
Failure of Consolidated Edison Company to abide by 16 NYCRR 12.3(a)

Dear Secretary Brillling:

Petitioner requests that Consolidated Edison Company (Con Ed) be directed to show cause why they have not abided by 16 NYCRR 12.3(a), on two separate occasions, in the pending complaint of PSC Case 211548. In addition, Petitioner is requesting that Con Ed be penalized for non-compliance in accordance with PSL §25. Its actions are not only contrary to regulations, but are abusive and have caused undo and unnecessary aggravation between the property and its tenants.

This petition is prompted by the failure, **on two separate occasions during one billing dispute**, of Con Edison to adhere to 16 NYCRR 12.3 (a). Petitioner has an interest in a ruling on this matter as it represents the complainant in PSC Case 211548 and the actions of Con Edison must be stopped for the protection of the consumer.

BACKGROUND

16 NYCRR 12.3 at (a) states:

A utility shall not disconnect a customer's service, based on amounts billed that have not been paid and which are in dispute, from the time that a complaint or appeal of a complaint is filed with the commission until 15 days after the decision is mailed or personally communicated to the customer or his or her representative.

On January 11, 2012 Urac Corp, on behalf of the complainant, filed a complaint with the Office of Consumer Service (OCS) contesting a back-bill issued on its account in the amount of \$67,505.44. That complaint is still pending. In accordance with consumer protection regulations complainant was not required to pay this disputed amount, and Con Edison was not allowed to solicit payment or threaten to turn off service, until such time as the case is resolved. On February 3, 2012 Con Edison threatened to turn off service based on the disputed arrears (Attachment A). This was the first violation of the above quoted regulation. At that time we allowed Con Edison a pass on the violation because we were assured it would not happen again.

Four months have past and complainant received its latest bill (April 26 to May 22) inappropriately requesting a "Total amount due \$70,145.75" (Exhibit B). Petitioner contacted Con Edison on June 19, 2012 to advise the company that it was violating complainants rights a second time. Today, Con Edison posted the building advising the tenants "We want to avoid disconnecting service to this building. We recommend contact be made with the landlord or his agent to arrange payment. " It also advised the tenants "The Law allows tenants, individually or jointly, to avoid discontinuance of service by paying bills for service rendered after 5/9/2012. The payments can be deduct from future rent payments." (Exhibit C)

What Con Edison is doing is atrocious and warrants swift and substantial action by the PSC. Consumer complaint regulations are there for the protection of the consumer and to stop any utility from strong-arming a consumer into paying a bill that is being contested. We were nice enough, the first time around, to let Con Edison off the hook for violating our rights in February. However, now this utility has gone too far and its actions require a thorough investigation and penalties for non-compliance of regulations.

SUMMATION

The evidence is clear that Con Edison has violated 16 NYCRR 12.3 (a) on two separate occasions. In doing so they have placed additional pain, suffering and costs on the complainant in the billing dispute case. They have caused additional work for all involved.

The regulations are in place to make sure a utility does not “bully” a customer into making a payment that is in dispute. They are “bullying” this customer. We request that the Commission direct them to show cause as to why they have taken such a position. We further request that the Commission levy financial sanctions under PSL §25 so that this consumer and others are not "bullied" in the future; **AND MORE IMPORTANTLY SO THAT CON ED REALIZES THAT ACTIONS OF THIS NATURE WILL NOT BE TOLORATED.**

Kindly advise the undersigned of the Commission's decision in this matter.

Ms. Jaclyn Brilling
June 21, 2012
Page 4 of 4

Sincerely,

Douglas DiCeglio

Douglas DiCeglio
President

DDC:wp
Enc.

C: Victor Kavy
David LaBombard
Marilyn Caselli

EXHIBIT A

ddiceglio@uraccorp.com

From: ddiceglio@uraccorp.com
Sent: Thursday, February 09, 2012 12:52 PM
To: 'David.LaBombard@dps.ny.gov'
Cc: 'Castro, Doris'; 'Beale, Richard J.'; 'mcaselli@coned.com'
Subject: PSC Case 211548, BCRE v. Con Edison
Attachments: olcott invoices for gas .pdf

Dear Mr. LaBombard:

My client received the attached notice threatening to turn off gas service in the next 4 days unless it pays the disputed amount. Con Edison is in violation of its tariff and Public Service Law by making this threat. Amounts in dispute are not required to be paid and Con Edison is prohibited from threatening or turning off service.

We request that you direct Con Edison to immediately cease and desist with its threats.

Kindly advise, by the end of the day, that service will not be turned off nor will the client receive any future threats of this nature. In addition, an apology from Con Edison would be appropriate.

Sincerely,
Douglas DiCeglio, President
Urac Corp., 156 Scranton Avenue, Lynbrook, NY 11563
516-536-4545, 516-594-9413 fax
DDiCeglio@UracCorp.com
www.UracCorp.com

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02/09/12



conEdison



ON IT. Working for you 24/7.

IMPORTANT TURN-OFF OF SERVICE NOTICE

February 3, 2012

We have not received the \$66,492.87 for bills on your account number 44-2015-1450-1300-3 located at:

27 W 72 ST ENT

Therefore, we will notify your tenants and also notify Public Officials of the pending turn-off of service, as required by the Public Service Law.

Tenants will be advised of their right to pay current bills and deduct payments from their rents.

We would like to continue our service and will do so provided we receive payment of \$66,492.87 within the next four business days. Ways to pay your bill are listed on the back of this notice.

If you are unable to pay these bills, we will arrange a payment agreement with you to pay the balance in installments. You will need to make a down payment of 30% of what you owe or twice your average monthly bill, whichever is greater. The balance can be paid in installments equal to your average monthly bill or one-sixth of the balance, whichever is greater. In addition, you must pay your current bills promptly. The terms of this agreement can be adjusted depending on your ability to pay. However, if we have to send a collector to your premises, you will be required to make a larger down payment.

If you need our assistance in this matter, please call us at 1-212-243-2590.

Credit Operations

PTNB



B.C.R.E. STELLAR
CHG MANAGEMENT (756)
4 PARK AVENUE
NEW YORK, NY NY 10016

Bill Summary	
Past Due Bills.....	\$66,492.87
Deposit Required.....	None
Total Amount	
Now Due.....	\$66,492.87

442015145013003 0000000000 00006649287

EXHIBIT B



ON IT. Working for you 24/7.

B.C.R.E. STELLAR W 72 ST LLC

Your account number: 44-2015-1450-1300-3

Service delivered to: 27 W 72 ST ENT

Your gas rate: Trans Resid Multi Dwell Heating

Next meter reading date: Tuesday, Jun 26, 2012

Avoid estimated bills - please give us access to read your meter.

Your billing summary as of May 29, 2012

Your previous charges and payments

Total charges from your last bill	\$92,123.52
Payments through May 24, thank you	-\$19,881.70

Remaining balance \$72,241.82

Your new charges - details start on page 2

Billing period: Apr 26, 2012 to May 25, 2012

Esco gas supply charges - for 29 days	\$0.00
Con Edison gas charges	\$19.86
Adjustments	-\$2,115.93

Total new charges -\$2,096.07

Total amount due \$70,145.75

Payment is due upon receipt of this bill. To avoid a late payment charge of 1.5%, please pay the total amount due by **Jun 19, 2012**.

Message Center

The "Adjustments" amount includes a credit of \$2,115.93 for Late Payment Charges which have been removed from your account.

Please protect yourself against scams. Be alert if someone calls you to arrange to pay your bill with pre-paid credit cards or to send money to an out-of-state address. Con Edison does not accept payments via pre-paid credit cards. Never arrange payment or give account or personal information over the telephone, unless you are certain you are speaking to a Con Edison representative.

The gas portion of this bill has been estimated. We will adjust it if necessary the next time we have access to read your meter.

Contact us 24 hours a day, 7 days a week

To report a service problem, call 1-800-75-CONED (1-800-752-6633) or visit www.conEd.com

Visit www.conEd.com
 For payments, visit www.conEd.com or call 1-888-925-5016

Con Edison
Cooper Station
P.O. Box 138
New York, NY 10276-0138

For other information, call 1-212-243-1900 or 1-800-75-CONED (1-800-752-6633)

Tear off here Say good-bye to paper bills. Go to www.conEd.com and sign up for e-bills. Page 1 of 3



Payment slip

Please make checks payable to Consolidated Edison Company of N.Y. Inc.

To avoid a late payment charge of 1.5%, please pay the total amount due by **Jun 19, 2012**.

Your account number: 44-2015-1450-1300-3

Total amount due: \$70,145.75

Amount enclosed:



B.C.R.E. STELLAR
W 72 ST LLC
CHG MANAGEMENT (756)
4 PARK AVENUE
NEW YORK, NY NY 10016-5339

JAF STATION
P.O. BOX 1702
NEW YORK, NY 10116-1702

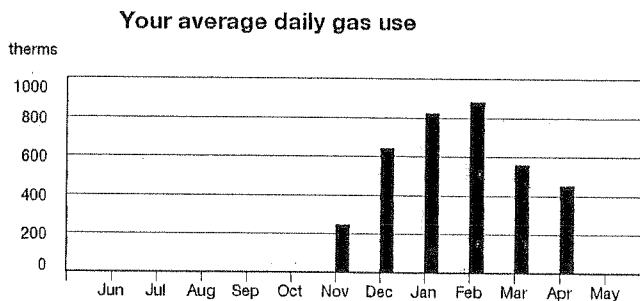
442015145013003 90000001986 00007014575



Your gas charges

These charges are for the gas you used (supply) and getting that gas to you (delivery). Rates are based on a 30 day period. When your billing period is more or less than 30 days, we prorate your bill accordingly.

Gas you used during this 29 day billing period	
from Apr 26, 2012 to May 25, 2012	
Rate: Trans Resid Multi Dwell Heating	Meter# 2900987
Gas meters measure the volume of natural gas. Gas usage is billed in therms, the heat content of gas. The meter multiplier is the factor by which the meter reading difference is multiplied to determine your usage in ccf (hundred cubic feet). The therm conversion factor converts ccf into therms.	
May 25, 12 estimated reading	10572
Apr 26, 12 estimated reading	-10572
Reading Difference	0
Meter multiplier	X10
Usage in ccf	0 ccf
Therm conversion factor	X1.028
Your gas use	0 therms



► Your supply charges

Your gas is supplied by GLOBAL ENERGY MARKETING. Your supply charges appear on page 3.

► Your delivery charges

Basic service charge	\$17.98
Charge for basic system infrastructure and customer-related services, including customer accounting, meter reading and meter maintenance.	
Monthly rate adjustment @0.0000¢/therm	\$0.00
Adjustment for miscellaneous costs and credits, and from October through May, for the effect of variation from normal weather.	
SBC @0.8558¢/therm	\$0.00
The System Benefits Charge funds New York State environmental and other related public policy programs.	
GRT & other tax surcharges	\$1.02
Taxes on Con Edison gross receipts from sales of utility services and other tax surcharges.	
Sales tax @4.5000%	\$0.86
Tax collected on behalf of New York City.	
Total delivery charges	\$19.86

Ways to pay your Con Edison bill:

If you have a checking or savings account, the easiest way to pay your Con Edison bill is with the Direct Payment Plan (DPP). It's free, and there are no checks to write or stamps to buy. Once you set it up, it's automatic every month. Con Edison also offers Pay-by-Phone and Pay-by-Internet services. Call Payment Express at 1-888-925-5016 for DPP enrollment or to make a payment by phone, or go to www.conEd.com to make a payment. You can also pay your bill by mail in the enclosed envelope. The address to mail all payments is Con Edison, JAF Station, PO Box 1702, New York, NY 10116-1702. Con Edison has a network of Authorized Payment Agents throughout the five boroughs and Westchester County. This option is also free. Go to www.conEd.com to find a location closest to you.

Moving?

Contact us to make sure you have service at your new address.

Changing your mailing address?

Contact us to make sure your bills go to the right place.

For information about your account:

You can speak to someone in person about your Con Edison account at one of the following locations:

- Bronx Walk-in Center - 448 East Fordham Road
- Brooklyn Walk-in Center at National Grid - One Metrotech Plaza
- Manhattan - 122 East 124th St.
- Queens Walk-in Center at National Grid - 89-67 162nd Street
- Staten Island Walk-in Center - 1140 Richmond Terrace
- Westchester Walk-in Center - One Pathmark Plaza, Mount Vernon



ON IT. Working for you 24/7.

Name: B.C.R.E. STELLAR W 72 ST LLC

Account number: 44-2015-1450-1300-3

Billing period ending: May 25, 2012

Page 3 of 3

Your gas supply detail

Your gas supplier

GLOBAL ENERGY MARKETING

800 SOUTH STREET

SUITE 200

WALTHAM MA 02454

For information call: 1-718-536-3000

Your supplier account #: 10002960

► Your gas supply charges

29 day billing period from Apr 26, 2012 to May 25, 2012

therms used 0

Customer charge	\$0.00
Supply cost @66.0000¢ per therm	\$0.00
Sales tax @4.5000%	\$0.00

Total gas supply charges	\$0.00
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EXHIBIT C



conEdison

IMPORTANT

SERVICE TO BE DISCONTINUED ON OR AFTER: July 9th, 2012

We regret to notify you that your landlord has not paid outstanding charges for service to this building

Service Address: 27 W 72 ST ENT
NEW YORK NY 10023

Type of Service: GAS

Bills: \$0. Deposit Request: \$28305

Trip: 18

Route: 510

CONTACT WITH LANDLORD ABOUT PAYMENT

We want to avoid disconnecting service to this building. We recommend contact be made with the landlord or his agent to arrange for payment. Our bills have been sent to:

B.C.R.E. STELLAR

W 72 ST LLC

CONTACT WITH LANDLORD ABOUT PAYMENT

We want to avoid disconnecting service to this building. We recommend contact be made with the landlord or his agent to arrange for payment. Our bills have been sent to:

B.C.R.E. STELLAR
CHG MANAGEMENT (756)
4 PARK AVENUE

W 72 ST LLC

NEW YORK, NY NY 10016

ACTION YOU CAN TAKE IF LANDLORD FAILS TO PAY

The Law allows tenants, individually or jointly, to avoid discontinuance of service by paying bills for service rendered after: 5/9/2012 . The payments can be deducted from future rent payments.

The right to pay utility bills and deduct the amount from rent is included in Section 235-a of the New York Real Property Law.

HOW CON EDISON CAN HELP THE TENANTS

Tenants who wish our assistance in this matter can appoint a coordinator for tenant interests. The coordinator may phone the following special representative who will be pleased to help in every possible way.

Contact: Con Edison Customer Service

Telephone Number: 1-877-262-6633

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE

METHOD OF SERVICE FORM

This form should be filed with all new petitions and applications that require action by the Commission. It will allow us to serve you with the Commission decision using the method you select.

Name:	<u>Douglas DiCeglio</u>
Your Company/Organization:	<u>Urac Corp.</u>
Mailing Address:	<u>156 Scranton Avenue, Lynbrook, NY</u> <u>11563</u>
Company/Organization you represent, if different from above:	_____
E-Mail Address:	<u>DDiCeglio@UracCorp.com</u>
Case/Matter # (if known)	_____

If you consent to receive Commission-issued orders electronically, you will receive all Commission-issued documents electronically. If you do not consent to receive Commission-issued orders electronically, you will receive all Commission-issued documents by mail.

Check the box(es) in A or B, below:

A.

I am authorized by the party I represent to grant consent to receive electronic-only service of Commission-issued orders, AND

I, on behalf of myself or the party I represent, knowingly waive the right specified in Public Service Law §23(1) to be served personally or by mail with orders that affect me or the party I represent and consent to receive service of Commission-issued orders by electronic means only. This consent remains in effect until revoked.

B

I do not consent to receive electronic service and instead request that the DPS mail Commission-issued document(s) to me.

Signature: _____	Date: _____
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Please note that this form applies to this filing only.

To the extent possible, please file this form in .pdf format.