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Consolidated Edison Company
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4 Irving Place
New York, NY 10003-0987

FL:26358
05-E-1133
Corresp
OCS

February 29, 2008

Hon. Jaclyn Brilling
Secretary
New York State Public
Service Commission
Three Empire State Plaza
Albany, NY 12223

Re: **Case 05-E-1133**
Kaled Management Request
For Rehearing

Dear Secretary Brilling:

Consolidated Edison Company of New York, Inc. ("Con Edison" or the "Company") has received the February 7, 2008 request for rehearing ("rehearing request") of URAC on behalf of the customer, Kaled Management, located at 67-67 Burns Street and 89-50 56 Avenue ("URAC"). In this rehearing request, URAC claims that under PSL 118(3), Kaled is entitled to a refund at the SC 1 rate for up to 24 months because there was a change in the character of service at these two locations. As will be explained, Kaled did not change its character of service, entitling it to a refund, nor has URAC provided any justification for a rehearing request under 16 NYCRR 3.7(b).

On January 29, 2008, the Commission, in an Erratum Notice, issued a Commission Determination regarding Kaled. In that Determination, the Commission concluded that Con Edison had provided Kaled with notice, through its rights pamphlets and Welcome Package, of the availability of SC 1 for employee occupied residences. The Commission also upheld its longstanding policy that, when a customer advises the Company that its account is eligible for SC 1 as an employee occupied residence, the Company will change the classification for that customer's account prospectively only.

Although the rehearing request (p. 1) agrees that "the facts of this case will reveal that the accounts always supplied the superintendent's apartments," URAC inexplicably claims that, under PSL 118(3), Kaled should receive a refund because there was a change in the character of service for the two locations. URAC's argument is inconsistent and should be dismissed. URAC cannot argue that the use was "always" for an employee occupied residence and at the same time claim that there was a change in the character of use that would make it eligible for a refund.

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More important, URAC appears to be claiming that the Commission determined that the locations were not employee occupied. This is not what the Commission concluded. Rather, the Commission found that the Company had provided ample notice of the availability of the SC 1 rate for employee occupied residences and that Kaled was not entitled to be billed at the SC 1 rate until after Con Edison was notified by Kaled or URAC that the locations were for employee occupied residences. Once that notification was made, the Company prospectively changed the rate for Kaled's two locations. There was no determination by the Commission that the locations were not employee occupied.

Equally important, the Commission rules state that rehearing requests are only permitted on the "grounds that the Commission committed an error of law or fact or that new circumstances warrant a different determination." 16 NYCRR 3.7(b). No such showing has been made here. The February 7 letter does not allege an error of fact or law nor does it allege new circumstances. In fact, the letter states that nothing has changed.

URAC has not demonstrated that the request for rehearing is proper nor has it demonstrated that the suggested refund is appropriate. As such, the request for rehearing should be denied.

Respectfully submitted,

Mary L. Krajeske (Re)

c: Doug DiCeglio, URAC
Nancy Lee, DPS Staff

Rachel J. Taylor

From: Lanahan, Kevin [LANAHANK@coned.com]
Sent: Friday, February 29, 2008 2:54 PM
To: Terri Crowley; Janet Silver; Rachel J. Taylor
Subject: RE: Filing today



LAW1-#285528-v1-
Kaled_-_Reques...

Here it is. 25 copies are required. Please sign and have a date stamped copy returned to me. That's it. Only a couple pages long. Many, many thanks!

-----Original Message-----

From: Terri Crowley [mailto:tcrowley@hinmanstraub.com]
Sent: Friday, February 29, 2008 2:35 PM
To: Lanahan, Kevin; Janet Silver; Rachel J. Taylor
Subject: Re: Filing today

Kevin-janet and I are traveling but I can have Rachel take care of this.

-----Original Message-----

From: Lanahan, Kevin <LANAHANK@coned.com>
To: Terri Crowley; Janet Silver
Sent: Fri Feb 29 13:03:03 2008
Subject: Filing today

Just got word of a filing due today that I might need help with. Are you available? I'm promised it's not large. Thanks.

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Please note our new website address: www.hinmanstraub.com.

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