

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 06-E-0894 - Proceeding on Motion of the Commission to
Investigate the Electric Power Outages in
Consolidated Edison Company of New York, Inc.'s
Long Island City Electric Network.

Prima Facie Statement Of Western Queens Power For The People

I. Introduction

Western Queens Power For The People (“Power For The People”), a grassroots organization of people who live and work in Queens, hereby files this prima facie statement in support of a finding of imprudence with respect to all of the issues where the Court has recognized that Consolidated Edison Company of New York, Inc. (“Con Ed”) may have been imprudent. Power For The People believes Con Ed was grossly imprudent with respect to the issues identified by the Court. Due to resource limitations, this statement will be limited in specifics to the following issues: 1(b), 1(d), 1(h), 2(c), 2(g), 3 and 5(b).

II. Con Ed’s Imprudent Actions Played A Key Role In Causing The Power outage and Exacerbated The Harm Suffered By The Victims Of The Power outage

A. Issue 1(b): Con Ed Was Imprudent In Failing To Have In Place A System For Accurately Identifying The Number Of People Affected By The Outage

At least 174,000 people went without power for an extended period of time. Accurately identifying people without power should have been routine and remarkably easy – Con Ed could simply have looked at all of the houses that were dark or Con Ed could have set up a system to check energy use by buildings or street. Unfortunately, Con Ed did not have any organized system to identify the areas affected by its power failure. As indicated in the DPS final report, all of Con Edison's emergency responses systems relied on customer outage figures based on self-reporting from consumers (DPS Final Report, pg 24). According to a DPS survey, 52% of affected consumers did not call to report individual trouble. (DPS Final Report, pg 32) Con Edison's lack of an accurate customer outage assessment tool that was independent of consumer self-reporting was imprudent. Con Ed’s failure to identify (and aid) many victims of the power outage caused considerable avoidable suffering.

B. Issue 1(d): Con Ed Was Imprudent In Not Knowing The Long Island City Network Well Enough That It Could Reasonably Estimate When And How It Could Be Brought Back Into Service After An Outage

After failing to acknowledge the extent of the power outage, Con Ed failed to provide customers with reasonable estimates as to when service would properly be restored. This negligence caused many members of the affected communities to lose food, damaged electrical equipment and appliances and made it difficult for people to make plans. One customer evacuated her 92 years old grandmother to another state not knowing when power would be restored. (DPS Public Statement Hearing, August 9, 2006). The failure of Con Ed to provide adequate notification to the victims of this power outage created additional costs including hotels, generator rentals, restaurant meals. Such costs are listed in Appendix D of the PSC report.

- C. Issue 1(h): Con Ed Was Imprudent In Failing To Recognize The Severity Of The July Outages Thereby Causing Outages To Be Longer In Duration And Extent, Thereby Causing Greater Damage To The System And Harm To Customers

Con Ed was unable to properly identify the severity of the power outage – both in terms of duration and in terms of the numbers of customers affected. Victims of the power outage experienced significant avoidable suffering because of Con Ed’s failure in this regard.

- D. Issue 2(c): Con Ed was imprudent in failing to validate and respond to the increasing actual load on the Long Island City network over the last number of years.

At the PSC public hearings numerous people and government officials testified as to the large amount of real estate development and the large increase in the use of electronic equipment and appliances in the LIC area and their concerns that the provision of basic electrical service has not keep pace. Con Ed announced *after* the power outage that they had identified the need for a new substation for the LIC network and that one would be eventually installed. The failure to identify this significant network upgrade need *before* the power outage was imprudent – as is forcing the LIC network to remain vulnerable while it awaits its new substation.

- E. Issue 2(g): Con Ed Was Imprudent In Not Having Adequate Plans For Dispatching Emergency Crews That Could Address And Repair Secondary System Failures

Con Ed’s failure to immediately dispatch emergency crews extended the length of the power outage and caused thousands of people to suffer. This power outage is the longest power outage on record in Con Ed’s underground network system for the past 40 years. Con Ed’s failure to dispatch emergency crews was imprudent.

- F. Issue 3: Ratepayers Should Be Held Harmless For The Costs Incurred By Con Ed Due To Its Imprudence

It is well established under New York law that innocent victims are not required to pay the costs suffered by the wrongdoers who victimize them. See See, e.g., Thornton v. Barron, 5 N.Y.3d 175, 182 (Ct. App. 2005) (“no wrongdoer may benefit at the expense of the public”); Coyne v. Campbell, 11 N.Y.2d 372, 378 (Ct. App. 1962). Here, ratepayers were victimized by Con Ed’s imprudence. This power outage caused many people to lose food, electrical equipment and appliances and be inconvenienced; even worse, it caused significant health problems for the many victims – especially the elderly -- who had to go without air-conditioning in July. The victims of Con Ed’s imprudence were truly victims only. They were not at fault in any way. Accordingly, they should be held harmless for costs incurred by Con Ed due to its imprudence.

- G. Issue 5(b): Con Ed Imprudently Failed To Communicate With Customers, Public Officials, And The Public At Large Regarding The Nature And Status Of The Outage, Particularly Regarding Requests For Customers To Reduce Loads

As discussed above, Con Ed’s failure to communicate played a crucial role in worsening the crisis caused by the power outages. Many members of the affected community were kept in the dark, literally -- because they had no power, and figuratively -- because Con Ed failed to provide any useful information. Community members were simply forced to deal with an

unexpected loss of power and were not adequately informed as to when Con Ed would fix the problem.

Moreover, Con Ed failed to successfully communicate into the entire affected area requests that customers reduce loads. Indeed, few if any members of Power For The People recall receiving any specific load-reduction requests from Con Ed in relation to this power outage. This failure to communicate was easily avoidable and is further evidence of Con Ed's imprudence.

III. Conclusion

For the foregoing reasons, Power For The People respectfully requests that Con Ed be found imprudent with respect to all of the items at issue. Power For The People also respectfully requests that ratepayers be held harmless for all costs incurred by Con Ed as a result of its imprudence.

Respectfully Submitted,

Western Queens Power For The People

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