



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

RICHARD L. BRODSKY

Westchester County

CHAIRMAN
Committee on
Corporations, Authorities and Commissions

November 20, 2007

Hon. Jaclyn A. Brillling
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

RE: Case 06-M-1078 – In the Matter of the Audit of the Consolidated Edison
Company’s Electric Emergency Outage Response Program.

Dear Secretary Brillling,

Enclosed please find an original and five copies of the “Comments of the Committee on Corporations, Authorities and Commissions,” on the Independent Auditor’s Final Report in the above-entitled matter. A copy by email is also being sent to benjamin_stein@dps.state.ny.us.

Thank you.

Respectfully submitted,

/s/

Richard A. Berkley, Esq.
Counsel to Assemblyman Richard Brodsky

**Before the
PUBLIC SERVICE COMMISSION
Albany, N.Y.**

In the Matter of the Audit of the Consolidated Edison)
Company's Electric Emergency Outage Response Program) Case 06-M-1078

COMMENTS OF

**ASSEMBLYMAN RICHARD L. BRODSKY, CHAIR,
NEW YORK STATE ASSEMBLY STANDING COMMITTEE
ON CORPORATIONS, AUTHORITIES AND COMMISSIONS**

Discussion

On January 17, 2007, the Public Service Commission ("PSC" or "Commission") issued an Order approving the selection of a consultant to audit Consolidated Edison Company of New York, Inc.'s ("Con Ed") emergency outage response to electric outage emergencies.¹ The reason the Commission cited for instituting the audit was that during the four major and protracted outages in Con Ed's territory during 2006,² "questions have arisen about the timeliness of Con Edison's restoration of service and the ability of customers to obtain accurate information about the extent and duration of the outage."³ Questions about the sufficiency of Con Edison's emergency response and planning process had also

¹ See Case 06-M-1078, Proceeding on Motion of the Commission to Audit the Performance of Consolidated Edison Company of New York, Inc. in Response to Outage Emergencies, Order issued and effective January 17, 2007 ["January Order"].

² Westchester County suffered major outages in January, July and September of 2006; Long Island City suffered a major outage in July of 2006.

³ Case 06-M-1078, Con Edison Outage Emergency Response Audit, Order Instituting Proceeding and Directing Audit (issued September 8, 2006), p. 3 ["September Order"].

been raised by a number of affected individuals and elected officials, all of whom called for a thorough examination of Con Edison's emergency plans and emergency management process.⁴ The independent auditors filed their examination of Con Edison's emergency outage response plan on October 24, 2007.⁵ In addition to a number of recommendations for corrective action, and the identification of many areas for improvement, the Audit Report noted the following significant failures of Con Edison's emergency response plan:

- Con Edison did not fully understand the nature and magnitude of shortcomings in emergency planning and response during 2006;
- The importance of emergency planning and preparedness at Con Edison is not sufficiently defined and articulated ... ;
- Con Edison still lacks a sufficiently coordinated strategy and Master Plan for reliability and emergency preparedness;
- [T]he Corporate Emergency Management organization is not sufficiently sized or aligned with its mandated responsibilities;
- [T]here is a need to refine policies related to maintenance and repair of critical systems and to better develop procedures for making operational decisions during major outages; and
- Reliability performance measures began to deteriorate in Con Edison's distribution system in recent years ... [but] It is not clear if management was fully cognizant of these changes.⁶

Although the Committee will reserve the majority of its comments for the reply comment phase, there are a few observations to be made here. First, the interested parties should have been able to comment upon the draft audit report, and not only upon the final report. Second, input from the interested parties prior to this final report might have addressed the curious disjuncture between the findings and recommendations in the principal body of the report, and the brief

⁴ PSC Case # 06-M-1108, In the Matter of Consolidated Edison's Long Island City Electric Network July 17, 2006 and the Westchester County September 2, 2006 Electric Service Outages, petition filed by Assemblyman Richard Brodsky, et al., on September 13, 2006 (subsequently amended in part) ["Prudence Petition"].

⁵ Final Report: Independent Audit of Consolidated Edison Company Electric Emergency Outage Response Program for the New York State Department of Public Service, filed October 24, 2007 ["Audit Report"].

⁶ Audit Report, at pp. 1-4.

analyses of the four major outages appended at the end of the Audit Report. It would have been valuable to see analyses of the outages that showed at each stage of the event, the interplay between the various shortcomings identified in the audit, and Con Edison's actions during the outage emergencies and during the restoration process. Finally, it is only late in the Audit Report that the auditor alludes to Con Edison's previous experience with compliance with recommendations for change, stating:

The Vantage review is the latest in a seemingly endless string of examinations of the Company and, to some extent, the Company seems to have treated the review within that context. This raises the prospect that the Vantage recommendations will be treated in the same manner as the prior recommendations. Our consultants have been critical of that prior implementation process and we would view such an outcome as a failure for Con Edison, its customers and Vantage.⁷

The issue of Con Edison's failure to implement recommendations made by DPS staff, the Attorney General and other parties after the 1999 Washington Heights outages, and the 2006 outages; and the apparent confusion over exactly which 1999 and 2006 recommendations were completed, and in what manner, is too important to relegate to the closing paragraphs of a 200 page report. As the parties to all of the various investigations concerning Con Edison have commented, there must be a transparent and accountable process by which recommendations are made to Con Edison, and there must also be a transparent and accountable process by which DPS and the public determine whether Con Edison has made the mandated changes to its network(s), operations and corporate operation. Furthermore, in addition to a publicly available fixed timetable by which Con Edison must implement the recommendations, there must also be clearly discernible

⁷ Audit Report, at p. 227.

penalties for Con Edison's failure to complete such recommendations; all of which should be readily accessible by Con Edison's customers and the general public.

Conclusion

The Committee notes that Con Edison's comments on the Audit Report do not substantively refute any of the findings of such report. Therefore despite the auditor's suggestion that "prescriptive recommendations from Vantage or any other entity will not provide optimum value at this point,"⁸ the Committee respectfully requests that the Commission Order corrective actions by Con Edison that implement the prescriptive recommendations of the Audit Report in as transparent and accountable a manner as possible.

⁸ Audit Report, at p. 228.