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August 22, 2008

## VIA HAND DELIVERY

Hon. Jaclyn A. Brillong  
Secretary  
State of New York Public Service Commission  
Three Empire State Plaza  
Albany, New York 12203-1350

2008 AUG 22 PM 3:18

RECEIVED  
PUBLIC SERVICE COMMISSION  
ALBANY, NY

Re: Case 04-M-0159 - Proceeding on Motion of the Commission to Examine  
the Safety of Consolidated Edison Company of New York, Inc.'s  
Electric Transmission and Distribution Systems

Dear Secretary Brillong:

Pursuant to the Notice Soliciting Comments issued by the State of New York Public Service Commission in the above-referenced proceeding on July 8, 2008, I am enclosing an original and five (5) copies of the Comments of New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation.

Sincerely,



Eric W. Nelsen

Enclosure

STATE OF NEW YORK PUBLIC SERVICE COMMISSION

-----X  
Proceeding on Motion of the Commission to Examine the :  
Safety of Consolidated Edison Company of New York, Inc.'s : Case 04-M-0159  
Electric Transmission and Distribution Systems :  
-----X

**COMMENTS OF  
NEW YORK STATE ELECTRIC & GAS CORPORATION  
AND  
ROCHESTER GAS AND ELECTRIC CORPORATION**

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August 22, 2008

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**COMMENTS OF  
NEW YORK STATE ELECTRIC & GAS CORPORATION  
AND  
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**I. INTRODUCTION**

New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation (collectively, the "Companies") hereby submit their comments on the matters addressing stray voltage set forth in the Notice Soliciting Comments, issued by the Public Service Commission ("Commission") in the above-captioned proceeding on July 8, 2008 ("Notice Soliciting Comments"). The Notice Soliciting Comments provides interested parties the opportunity to respond to a proposal by Department of Public Service Staff ("Staff Proposal") to revise the Commission's Electric Safety Standards ("Standards") and to remark on the efficacy of utilizing on a statewide basis mobile stray voltage testing technology currently only being used by Consolidated Edison Company of New York, Inc. ("Con Edison").

Concurrently with this filing, the Companies and the other New York State electric and gas utilities ("Utilities") are submitting a joint response to the Notice Soliciting Comments ("Joint Comments"). As signatories to the Joint Comments, the Companies adopt that filing and incorporate it by reference herein. The instant filing is intended to supplement the Joint Comments and present the particular position of the Companies regarding certain topics identified in the Notice Soliciting Comments and a specific provision of the Staff Proposal.

The Companies support the Commission's adoption of changes to the Standards. The safety of the public and its workers is a fundamental objective of the Companies' electric system specifications, work rules and practices. The Commission's requirements for periodic testing and inspection of electric facilities serve to reinforce the Companies' commitment to the safety of the public and its workers and augment the Companies' activities to promote electric system safety.

As the Notice recognizes, implementing the Standards is a dynamic process that will produce information, experience and technologies that will warrant periodic review of the Standards with the goal of determining the most effective and efficient methods for maintaining electric system safety on an ongoing basis. As opportunities to review the Standards are identified, the Companies will work with Staff to promote this goal.

## **II. COMMENTS**

### **A. Comments on the Staff Proposal**

The Joint Comments respond to individual provisions of the Staff Proposal. In addition, the Companies offer the following considerations on the five broad categories of revisions recommended in the Staff Proposal that the Commission lists in the Notice Soliciting Comments.

- 1. Performing mitigation efforts on any and all voltage findings greater than or equal to one volt.*

The Companies disagree that a utility should be required to perform mitigation efforts on stray voltage of as little as one volt. Mitigation should be performed only on stray voltage findings as defined in the Joint Comments: any confirmed stray voltage reading on an electric facility greater than or equal to 8 V<sub>AC</sub> measured using a volt meter and 500 ohm shunt resistor. Conditions naturally existing in the environment create voltages below the level defined in the Joint Comments, including induced and neutral-to-earth voltages. Such low level voltages under everyday conditions are not harmful to humans or animals and, therefore, do not need to be

mitigated. Furthermore, no technical data supporting a one-volt threshold have been introduced in this proceeding, whereas the Joint Comments reference studies countering the soundness of such a low threshold. Similarly, no evidence has been presented demonstrating that the benefits of a one-volt threshold would outweigh the associated costs, and the Companies doubt that such a demonstration could be made. The Commission, therefore, should establish a threshold of  $8 V_{AC}$  for stray voltage findings.

2. *In the event of a voltage finding on an electric facility, a requirement to test all metallic structures within a minimum 30 foot radius of that facility.*

The Companies disagree that a utility making a stray voltage finding on an electric facility should be required to test non-electric facility metallic structures within any radius of the electric facility. By definition, any non-electric facility structure (metallic or otherwise) is beyond the scope of the utility's statutory obligations. The Standards recognize the limit of a utility's statutory obligations because the Standards require the utility to test for stray voltage on electric facilities only, and not on parked cars, municipal road signs, steel buildings and other metallic structures. A utility's statutory obligations are not expandable to these types of non-electric facility structures simply because the utility made a stray voltage finding on an electric facility in the area. Requiring a utility to test non-electric facilities also would expose the utility to potential third-party liability that otherwise would not be triggered. Moreover, the record in this proceeding lacks any evidence that the benefits of this requirement would outweigh the significant costs incurred by a utility and its customers to test each and every non-electric facility within a minimum 30-foot radius of the electric facility on which the utility made a stray voltage finding.

Notwithstanding these comments and the rationale presented in the Joint Comments on this subject, if the Commission were to direct a utility to test non-electric facilities within a defined radius of an electric facility on which the utility made a stray voltage finding, the Commission should shorten that radius to 10 feet from 30 feet.<sup>1</sup> The 30-foot radius in the Staff Proposal is excessive and provides no additional safety value than that created by a 10-foot radius. The shorter 10-foot radius also would acknowledge the significant costs that a utility and its customers will incur to test structures beyond the scope of its statutory obligations.

3. *Implementing the proposed prioritization system for inspections, which include defined repair guidelines.*

Except for the matter discussed herein, the Joint Comments convey the Companies' position on the Staff Proposal's revisions to Standards, Section 4 (Inspection). The Staff Proposal recommends adding a Section 4(j) to the Standards that would require a utility to prioritize the time period for repairing deficiencies identified through the inspection process, depending on the severity of the condition. Three prioritized categories are mentioned in the Staff Proposal: Level I (repair as soon as possible but not longer than one week), Level II (repair within six months of discovery) and Level III (repair within two years).

The time periods for repairing Level I and Level III deficiencies are acceptable, but the Companies request that the Commission set the time period for repairing Level II deficiencies at one year rather than six months. Level II deficiencies pose no immediate danger to the public or to the reliability of the electric system. Such conditions may require extensive planning and scheduling to implement a permanent repair, such as arranging for equipment and pole replacements. These complex repairs often involve equipment that is not readily available and

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<sup>1</sup> As the Utilities assert in the Joint Comments, the Commission also should clarify that only publicly-accessible structures are required to be tested.

site permits that alone may take six or more months to obtain. They also may involve outages, which require careful scheduling in order to avoid a negative impact on customer reliability.

The Companies make every effort to repair deficiencies as soon as system conditions permit and resources are made available. In fact, the Companies currently endeavor to complete Level II repairs sooner than the proposed one-year period, but factors outside the Companies' control sometimes dictate longer repair periods. For these reasons and because the Standards contain the possibility of large penalties, the Companies request that the Commission set a reasonable time period for repairing Level II deficiencies, namely one year.

4. *Accurately tracking repair activities in response to inspection findings.*

The Joint Comments address the Companies' remarks on this aspect of the Staff Proposal.

5. *Changes to testing, inspection, and quality assurance practices needed to comply with the proposed changes.*

The Joint Comments address the Companies' remarks on this aspect of the Staff Proposal.

**B. Comments on the Inefficacy of Implementing Statewide the Mobile Stray Voltage Testing Technology Currently Used Solely by Con Edison**

Although the Joint Comments convey the Companies' position on the efficacy of implementing statewide the mobile stray voltage testing technology currently used only by Con Edison, the Companies wish to emphasize the importance of this issue from their perspective as two upstate utilities. The mobile unit being utilized by Con Edison has been shown to be inaccurate in areas affected by electromagnetic fields, and standards for utilizing the mobile unit have yet to be clearly specified. Also, no evidence has been presented that the significant cost to upstate utilities and our customers for employing this technology is outweighed by any purported benefit. The Notice Soliciting Comments (p. 2) observes that the Standards are not being revised to incorporate mobile stray voltage testing technology on a statewide basis, and the Commission

should maintain this approach because the record lacks any basis for such revision in an order to be issued on the Staff Proposal or otherwise.

### **III. CONCLUSION**

The Companies respectfully request that the Commission adopt the positions taken in the Joint Comments and this filing.

Respectfully submitted,



Dewey & LeBoeuf LLP

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New York State Electric & Gas Corporation and  
Rochester Gas and Electric Corporation

Eric W. Nelsen, Esq.  
Of Counsel

Dated: August 22, 2008