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GOVERNOR ANDREW M. CUOMO

**GOVERNOR CUOMO ANNOUNCES COMPLETION OF TROPICAL STORM ISAIAS  
UTILITY INVESTIGATION**

***Three of the State's Largest Utilities Face Potential Penalties Totaling \$137.3  
Million, Possible Revocation of Operating Licenses Under Consideration***

***Department of Public Service Issues PSEG LI Report and Recommendations to  
LIPA Board***

***Special Counsel for Ratepayer Protection Will Hold Public Forums and Submit  
Evidence to the PSC on the Harm the Utilities' Failures Caused Residents,  
Businesses and Localities***

Governor Andrew M. Cuomo today announced that the New York State Public Service Commission has completed its investigation into the apparent failure of New York's electric utilities to adequately prepare for and respond to Tropical Storm Isaias, which ravaged large swaths of New York State this summer. As a result of the investigation, the fastest ever conducted by New York's utility regulator, three of the state's largest utilities - Con Edison, O&R and Central Hudson - now face potential penalties totaling \$137.3 million, with Con Edison and O&R also facing potential license revocation. All three will now be required to explain why penalties should not be imposed by the PSC for such apparent violations of the laws, regulations and orders that are designed to ensure the safety and reliability of the electric system. PSEG LI was also the subject of the investigation, and numerous failures were identified by the New York State Department of Public Service. The Department recommended enforcement actions to the LIPA Board of Trustees earlier this week.

"We had Hurricane Isaias back in August and we once again had delays from the utility companies. They want to say the storm is the reason why the service was disrupted. I understand that, and New Yorkers are reasonable, but we're paying you for the service of restoring power after the storm. I'm going to do everything I can do to make sure New Yorkers are compensated, and certainly that New Yorkers are not paying for service they're not getting," **Governor Cuomo said.** "I asked the PSC to do an investigation and as a result of its swift action the three utilities could be penalized \$137 million, which is one of the most significant penalties. They have a right to contest. Let them contest. We will remain diligent in pursuit of the penalties because we are serious."

On the afternoon of August 4, 2020, Tropical Storm Isaias struck New York, bringing strong winds and heavy rain that particularly impacted the Mid-Hudson, New York City,

and Long Island regions. The storm caused extensive damage to electric distribution infrastructure that, in turn, led to lengthy outages for a substantial number of New York utility customers. Peak outages affected approximately 900,000 customers. The next day, Governor Cuomo directed the Department of Public Service to perform an expedited investigation into utility performance. In response, the Department initiated an investigation into New York electric service providers' preparations and responses to the storm, as well as launching similar investigative efforts into telecommunication providers' services.

On August 19, 2020, Governor Cuomo announced that the Department had completed its initial phase of investigation into utility performance in regard to the storm and that the Department had issued five notice of apparent violations letters in response to electric and telecommunication utility providers' apparent failures to properly prepare for and respond to the weather emergency and its effects on New Yorkers' access to essential utility services. The letters were sent to, among others, the electricity service providers Consolidated Edison of New York (Con Edison), Orange & Rockland Utilities, Inc. (O&R), Central Hudson Gas & Electric Corporation (Central Hudson), and PSEG Long Island (PSEG LI).

- **Con Edison:** The Department's initial investigation showed that Con Edison's response to the storm was wholly inadequate and that Con Edison apparently failed to follow its Commission-ordered Emergency Response Plan's requirements relating to its damage assessment responsibilities; and its published estimated time of restoration notices. Recognizing prior instances where Con Edison's storm event response had fallen short of legal requirements, staff noticed that its investigation would include the determination of whether Con Edison's certificate of public convenience and necessity — the prerequisite legal requirement for exercising franchise rights necessary to provide electric service in New York — should or should not be revoked based on these apparent violations as well as Con Edison's prior failures to adequately prepare and respond to emergencies.
- **O&R:** The Department's initial investigation showed that O&R apparently failed to follow its Commission-ordered Emergency Response Plan's requirements relating to pre-storm crewing assessments. As with Con Edison, and similarly recognizing prior instances where O&R's storm event response had fallen short of legal requirements, staff noticed that its investigation would include the determination of whether O&R's certificate should not be revoked based on these apparent violations as well as O&R's prior failures to adequately prepare and respond to emergencies.
- **Central Hudson:** The Department's initial investigation showed that Central Hudson had apparently failed to follow its Commission-ordered Emergency Response Plan's requirements relating to its damage assessment responsibilities; and internal website failures.

- **PSEG LI:** The Department's initial investigation showed that PSEG LI apparently failed to follow its Department-recommended and Long Island Power Authority (LIPA) Board of Trustees-adopted Emergency Response Plan's requirements relating to PSEG LI's damage assessment responsibilities; responsibility to maintain a functional Outage Management System; responsibility to publish accurate estimated time of restoration notices; and responsibility for timely and effective communication and coordination with its customers, local municipal governments, and state agencies.

Although no apparent violations were discovered in the Department's initial investigation, the Department also sent letters to New York State Electric & Gas, Rochester Gas & Electric and National Grid requiring a series of immediate remedial steps to better anticipate storm impacts, including a requirement to double line workers to speed restoration efforts. These remedial efforts were also included in as requirement for the above-noted Notices of Apparent Violations.

The order issued today by the PSC identified numerous apparent violations, including those related to storm classifications, storm restoration staffing and assessment, call center staffing and response, and inadequate communications in the form of inaccurate and untimely estimated times of restorations, down websites, and the failure to contact registered life support equipment customers. The PSC may amend this order to include any subsequently identified apparent violations for all electric utilities, to include those in today's order.

The utilities have 10 days to respond to the Department's recommendations on how to improve their response and restoration efforts and 30 days to respond regarding a potential penalty action. The potential penalties facing the three utilities are as follows: Con Edison (\$102.3 million for 33 apparent violations); O&R (\$19 million for 38 apparent violations) and Central Hudson (\$16 million for 32 apparent violations).

Rory Lancman, newly appointed Special Counsel for Ratepayer Protection, will hold public forums and submit evidence to the PSC on the harm the utilities' failures caused residents, businesses and localities.

**New York State Public Service Commission Chair John B. Rhodes said,** "The PSC has the responsibility to determine how reasonable people would have performed the task that confronted New York's utilities regarding Tropical Storm Isaias. Customers pay for utilities' operations. If those operations are mismanaged, then customers should not be held liable and utility shareholders should pay to remedy such situations and penalties should serve as a deterrent to avoid repeat situations throughout the industry."

**New York State Superintendent of Financial Services Linda A. Lacey said,** "It is critical that government comes together for the people during times of crisis. New York customers deserve to receive the services they pay for, especially as they are reliant on electricity at home during an ongoing pandemic. This investigation delivers a measure

of justice and accountability to those impacted by the failures of several large electricity service providers."

Should the Commission confirm some or all of the respective apparent violations as to Con Edison and/or O&R, and should such respective confirmed violations be classified as findings of violations of the rules or regulations that demonstrate a failure to continue to provide safe and adequate service, the Commission would commence a proceeding to revoke or modify Con Edison's certificate and O&R's certificate as it relates to its service territories. The Department continues to investigate the telecommunications utilities involved in Tropical Storm Isaias.

Additionally, the Department of Public Service investigated PSEG LI preparation for and respond to Tropical Storm Isaias, finding the utility's actions wholly inadequate. Pursuant to Public Service Law, the Department provided LIPA the results of its investigation and recommendations on proposed actions and remedies against PSEG LI for LIPA's consideration, which may include contract termination.

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