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**THE COUNCIL OF THE CITY OF NEW YORK**

**BRIEFING PAPER AND COMMITTEE REPORT OF THE**

**GOVERNMENTAL AFFAIRS, AND INFRASTRUCTURE DIVISIONS**

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**COMMITTEE ON ENVIRONMENTAL PROTECTION**

*Hon. Costa Constantinides, Chair*

**September 14, 2020**

**Oversight:**

**Tree Removals and the Restoration of Power in the Aftermath of Tropical Storm Isaias**

**PRECONSIDERED RES. NO.\_\_:** By Council Member Vallone

**TITLE:** Resolution calling upon Consolidated Edison to increase resources dedicated to service restoration on a borough by borough basis and create a report of the most vulnerable utility infrastructure in each borough

**PRECONSIDERED RES. NO.\_\_:** By Council Member Vallone

**TITLE:**  Resolution calling upon the New York State legislature to pass and the Governor to sign legislation to require Consolidated Edison to cover the costs of wires downed or damaged by a storm that run from private homes to utility poles

1. **INTRODUCTION**

On September 14, 2020, the Committees on Consumer Affairs and Business Licensing, Parks and Recreation, Resiliency and Waterfronts, and Environmental Protection will hold a joint, remote oversight hearing on Tree Removals and the Restoration of Power in the Aftermath of Tropical Storm Isaias. The Committees will also be hearing two resolutions sponsored by Council Member Vallone: Preconsidered Resolution Number \_\_, calling upon Consolidated Edison to increase resources dedicated to service restoration on a borough by borough basis and create a report of the most vulnerable utility infrastructure in each borough; and Preconsidered Resolution Number \_\_, calling upon the New York State legislature to pass and the Governor to sign legislation to require Consolidated Edison to cover the costs of wires downed or damaged by a storm that run from private homes to utility poles. The Committees have invited representatives from Consolidated Edison (Con Edison), several relevant City agencies, consumer and environmental justice advocates, and other members of the public to testify.

1. **BACKGROUND**

In May 2020, the Committees on Consumer Affairs and Business Licensing, Resiliency and Waterfronts, Environmental Protection, and Health, held a remote joint hearing, in part examining Con Edison’s preparedness for the upcoming summer and the pressures on the grid under COVID-19. In preparation for that hearing, the Committees found that, along with predictions of increased temperatures and more frequent heatwaves, weather experts indicated that New York City was to face above normal projections for hurricanes. Experts forecasted 16 named tropical storms,[[1]](#footnote-1) eight of which were expected to reach hurricane status with winds greater than 74 mph.[[2]](#footnote-2) As stated in the briefing paper for May’s hearing, the “active storm season, coupled with rising temperatures, raises the specter that power outages this summer could pose even greater challenges for vulnerable New Yorkers.”[[3]](#footnote-3) Despite this forecast from experts, along with the Committees’ attempt to ensure that Con Edison was prepared, as well as assurances from the utility during May’s hearing that it had taken the appropriate measures in preparation, Tropical Storm Isaias (TS Isaias) nevertheless wreaked havoc on the City. It caused one of worst blackouts in the City’s history, second only to the impact after Hurricane Sandy in 2012, and left thousands of people without power, during a pandemic, for days.

**The Impact of Tropical Storm Isaias**

TS Isaias was a Category 1 hurricane that caused severe damage along the east coast of the United States causing approximately $4 billion in damages.[[4]](#footnote-4) On August 4, 2020, then downgraded to a tropical storm, TS Isaias delivered heavy rain and strong winds to New York City, along with New Jersey and Connecticut leaving over two and a half million customers without power.[[5]](#footnote-5) Strong winds were measured around New York City with gusts reaching up to 78 mph in Battery Park in Manhattan, 70 mph at John F. Kennedy Airport in Queens and 69 mph at LaGuardia Airport in Queens.[[6]](#footnote-6)

TS Isaias destroyed some outdoor dining areas throughout the City, suspended railroad services and downed many trees and power lines.[[7]](#footnote-7) The severe weather left nearly 267,000 New York City and Westchester County Con Edison customers without power, which surpassed the 204,000 outages caused by Hurricane Irene in 2011.[[8]](#footnote-8) The borough of Queens had the most power outages with nearly 50,000 residents without power, and Staten Island residents were hit the hardest per capita with 36,000 without power.[[9]](#footnote-9) The Bronx had approximately 22,700 customers without power, 10,057 in Brooklyn and 67 in Manhattan.[[10]](#footnote-10) In fact, TS Isaias caused the second biggest power outage for customers in Con Edison’s history behind Superstorm Sandy in 2012, which caused approximately 1.1 million[[11]](#footnote-11) outages.[[12]](#footnote-12) Con Edison stated that the storm brought down more than 7,000 wires throughout the City.[[13]](#footnote-13) The storm also caused a vacant three-story building in Brooklyn to partially collapse.[[14]](#footnote-14)

The City received nearly 22,000 tree-related Service Requests as a result of TS Isaias, including downed trees, downed tree limbs and dangling tree limbs.[[15]](#footnote-15) On August 4th and 5th, it was stated that the borough of Queens had reported over 9,000 tree-related Service Requests to the Department of Parks and Recreation (DPR)[[16]](#footnote-16) and at least 2,598[[17]](#footnote-17) tree-related Service Requests were reported in Staten Island. The Bronx had approximately 2,656[[18]](#footnote-18) tree-related Service Requests while Brooklyn had 6,997[[19]](#footnote-19) and Manhattan had 1,383.[[20]](#footnote-20) Some downed trees blocked roadways, broke power lines, destroyed several parked cars and even killed a person in Queens who was sitting in his car when a tree crashed on top of it.[[21]](#footnote-21) There were also reports of injuries from falling tree limbs throughout the City.[[22]](#footnote-22)

 On August 5th, Governor Andrew Cuomo declared a State of Emergency in Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk and Westchester Counties. As a result of the volume of outages that occurred, there were delays in restoring power, leaving some residents without power for days. In fact, over 4,000 Con Edison customers in the Bronx and Queens remained without power a week after TS Isaias during extreme temperatures. Areas such as the East Bronx, College Point, Queens and East New York were slower to regain power.

**Con Edison’s Response to Tropical Storm Isaias**

 On August 4th, Con Edison released a statement that TS Isaias had caused 257,000 customer outages.[[23]](#footnote-23) As of 9:15pm that night, the utility reported that they had restored power to over 48,000 customers.[[24]](#footnote-24) According to Con Ed’s tallies, Queens suffered the most outages of any borough, with 45,000 customers out of service, followed by Staten Island with 29,000 customers, The Bronx with 23,000 customers, and Brooklyn with 16,000 customers.[[25]](#footnote-25)

 Con Edison further stated that it had brought in 220 additional line workers, with 100 additional line workers expected to arrive on Wednesday, August 5th, and an additional 500 people who would assist with trimming trees, replacing poles and addressing damaged equipment.[[26]](#footnote-26) The utility stated that it would prioritize repairs that would restore power to the largest number of residents in the timeliest manner, before addressing repairs to restore service to smaller groups and individual homes.[[27]](#footnote-27) The utility sent text message alerts informing customers of the outage reporting procedure to residents in all boroughs other than Manhattan, which is served by underground power lines, with residents who reported outages also receiving a service restoration estimate via text message.[[28]](#footnote-28) As of Wednesday, August 5th, the utility reported that it had restored power to over 90,000 customers within 24 hours of the storm.[[29]](#footnote-29) Con Edison committed to working around the clock until power had been restored to all residents, but cautioned that the endeavor would take multiple days due to the volume of sites that needed servicing.[[30]](#footnote-30) The utility reported nearly 500 roads blocked with fallen trees, noting that each instance required repair workers to de-energize tangled wires, untangle them from fallen trees, and work with municipal crews to remove the damaged trees before repairing the wires. The utility also reported over 7,000 downed wires needing repair across the service area.[[31]](#footnote-31) Allan Drury, a spokesman for Con Edison stated that some of the repairs necessary to restore power would take days. Con Edison also stated that most of the restoration work involved rebuilding old infrastructure, including replacing multiple poles and transformers.

 On August 5th, Con Edison began distributing ice to residents affected by power outages at four locations across Queens, Staten Island and Westchester.[[32]](#footnote-32) Each location also had a mobile information unit, with a Con Edison staffer available to answer questions until 7:00pm.[[33]](#footnote-33) On August 6th, the utility began distributing dry ice at an additional Bronx location, with mobile information units available from 3:30pm to 9:00pm.[[34]](#footnote-34) Impacted residents were also able to charge their phones at these locations. As of August 7th, mobile information centers were available at two locations in Queens, one in the Bronx and one in Staten Island, with dry ice available until supplies ran out.[[35]](#footnote-35)

 On August 8th, the utility reported that an estimated 19,000 customers in Queens, 9,700 customers in the Bronx, 3,200 customers in Staten Island and 1,400 customers in Brooklyn, remained without power.[[36]](#footnote-36) As of August 11th, the utility reported that power had been restored to 98 percent of all affected customers.[[37]](#footnote-37)

Residents who were without power for more than 12 hours within a 24-hour period could file a form for reimbursement of costs associated with food and prescription medicine spoilage.[[38]](#footnote-38) Food reimbursements were capped at $540, with claims under $235 requiring an itemized list of lost items, and claims over $235 requiring additional proof of loss such as receipts, canceled checks or photographs of spoiled items.[[39]](#footnote-39) Medicine spoiled due to lack of refrigeration required an itemized list, proof of loss such as pharmacy labels or pharmacy receipts identifying the medications, with reimbursements not included in the $540 cap for food spoilage reimbursements.[[40]](#footnote-40)

Typically, the utility allows residential customers to claim up to $515[[41]](#footnote-41) for their food losses and a commercial customer up to $10,200[[42]](#footnote-42) if the outage is not caused by a storm. For both types of customers, the claims must be filed within 30 days of the outage and they generally require an itemized list and receipts to prove the loss. Both commercial and residential food spoilage reimbursement claims also require that the power outage last at least 12 hours within a 24-hour time frame. This policy, however, runs contrary to the food safety guidelines published by the U.S. Department of Health and Human Services, which was developed in partnership with the Department of Agriculture (USDA), Food and Drug Administration, and the Center for Disease and Control and Prevention, and states that food requiring refrigeration should be discarded within two to four hours of no refrigeration.[[43]](#footnote-43) According to the USDA, food such as meat, fish and eggs need to be stored at temperatures below 40°F in order to be safe. If the power goes out and these items are in a refrigerator, they should remain at safe temperatures for four hours, provided the door remains closed. If these food items were held above 40°F for more than two hours, they should be discarded.[[44]](#footnote-44)

1. **ISSUES AND CONCERNS**

**The Public Service Investigation**

 On August 5th, the Office of Governor Andrew Cuomo sent out a press release directing the State Department of Public Service (DPS) to investigate Verizon, PSEG Long Island, Con Edison, Central Hudson Gas & Electric (Central Hudson), Orange and Rockland Utilities (Orange and Rockland), and New York State Electric & Gas, in the wake of their failed storm response.[[45]](#footnote-45) The statement asserted that the high volume of outages and poor communication from the utilities in providing ratepayers with timely information constituted a contravention of their legal obligations as service providers.[[46]](#footnote-46) On August 10th, the Governor expressed disappointment over Con Edison’s response to TS Isaias service outages, noting that storm preparedness and recovery efforts are part of the essential services provided by utility companies, and that the utilities may face fines, be forced to pay restitution, or have their franchises revoked pending the outcome of the DPS investigation.[[47]](#footnote-47)

DPS’s Office of Investigations and Enforcement issued an initial assessment on August 19, 2020. In this letter, Joseph Suich, the Director of the Office of Investigations and Enforcement, outlined apparent violations the utility faced due to its “wholly inadequate response” to TS Isaias.[[48]](#footnote-48) These violations identified by the initial DPS investigation are detailed below.

1. *Damage Assessment*

According to the DPS notice, Con Edison failed to properly prepare for the approaching storm, despite having adequate warning. Weather experts were warning of the approach of TS Isaias days before it hit New York City; however, Con Edison failed to fully prepare for its impact. For example, although Con Edison identified that it needed an extra 1,200 line workers, the Company failed to secure them. On August 4th, the night TS Isaias hit the City, Con Edison was assigned an additional 21 workers from the North Atlantic Mutual Assistance Group (NAMAG) mutual aid process, but did little to fill the remaining positions. That same day, Con Edison did secure 238 contracted line workers and an additional 93 the following day, but this still left a gap of 848 line workers. DPS concluded that “[t]he lack of sufficient crews triggered extended customers outages that might have been otherwise avoided.”[[49]](#footnote-49)

1. *Inaccurate Estimated Times of Restoration*

Estimated times of restoration (ETR) are crucial in helping both customers and government authorities to plan around power outages. As stated in the DPS’s investigation, “[a]n inaccurate ETR does not benefit the customers or municipalities and, taken to the extreme, can lead to personal injury or even death.”[[50]](#footnote-50) Despite their importance, DPS found that Con Edison failed to provide accurate ETRs and at times, the ETR were “inaccurate, conflicting or unavailable.”[[51]](#footnote-51) According to the DPS investigation, local leaders in Queens, and other parts of New York State, were unable to access accurate ETRs, which made it difficult for them to coordinate restoration efforts.[[52]](#footnote-52)

1. *Fines and Remedial Actions*

In their notice to Con Edison, DPS also highlighted that the utility would face fines, should violations be substantiated. The rate of the fine would be $500,000 or four one-hundredths of one percent of the annual intrastate gross operating revenue, excluding taxes, whichever is greater, for each offense.[[53]](#footnote-53) Importantly, each day of a continuing violation is not treated as a separate offence.[[54]](#footnote-54)

In terms of immediate remedial actions, DPS required the following of Con Edison:

1. Crew development
* Add additional line workers and source these workers through either private companies or from utilities located outside of New York. The aim is to double current crewing capacity.
* Develop plans on how to secure crews that do not rely solely on private contracts or NAMAG mutual aid.
* Report bi-weekly to DPS on this capacity building until the end of 2020.
1. Communications
* Test capabilities at all command, back-up command, data and call centers to ensure they can manage an outage that affects 90 percent or more of Con Edison’s customers.
* Provide confirmation of the test within ten days to DPS.
1. Municipal coordination
* Refine and tailor each county coordination plan.
* Provide confirmation to DPS within 20 days, from each municipality’s Emergency Operations Center that they both understand and accept the plan.
1. Critical Lists
* Update Life Support Equipment and Critical Infrastructure lists.
* File the new list with DPS within ten days.[[55]](#footnote-55)

These initial findings, highlighting Con Edison’s failure to properly prepare for the impact of TS Isaias are already damning; however, DPS has announced a further investigation. On August 20th, a day after the letter from Director Suich was sent to Con Edison, DPS launched a new proceeding against Con Edison, focusing on the initial violations detailed in the letter from Director Suich. As of September 9th, no additional documents have been filed on the case.[[56]](#footnote-56)

**Criticisms from Public Officials on Con Edison’s Performance**

Many state and local elected officials also expressed displeasure at Con Edison’s handling of TS Isaias. Mayor de Blasio and the Public Advocate, Jumaane Williams separately expressed interest in turning over the Company’s operations to a public utility, though many questions remain about how such a move would be implemented.[[57]](#footnote-57) On August 11th, acting Queens Borough President Sharon Lee, Congresswoman Grace Meng, State Senators Leroy Comrie, Joseph Addabbo, and John Liu, Assembly Members David Weprin, Stacey Pheffer Amato, Nily Rozic, and Clyde Vanel, Council Member Peter Koo and Council Member Barry Grodenchik[[58]](#footnote-58) gathered with community members in front of Queens Borough Hall to condemn Con Edison’s failures in responding to TS Isaias, noting that the utility’s failures only served to compound struggles experienced by residents already affected by the COVID-19 crisis.[[59]](#footnote-59) Council Member Mark Treyger noted that due to the use of overhead power lines in his district, outages happen even without inclement weather, suggesting that federal resiliency money be put toward burying electrical cables underground, where they will be more resilient to the effects of climate change.[[60]](#footnote-60) Council Member Justin Brannan also voiced his support for burying power lines and public ownership of the energy grid, while noting that the outer boroughs have long been neglected and resiliency efforts primarily focused on the borough of Manhattan.[[61]](#footnote-61)

**Tree Removal and Community Concerns**

All trees growing in the public right-of-way, along streets and in parks and playgrounds, are under the jurisdiction of DPR[[62]](#footnote-62) and DPR, in conjunction with the borough forestry offices, provides a number of basic services for the roughly half million street trees.[[63]](#footnote-63) These include removing dead trees, pruning trees, responding to storms and other emergencies, and assisting with the control of invasive pests.[[64]](#footnote-64)

Typically, DPR advises that if a tree has fallen or sustained storm damage, City residents should call 311; however, if a tree emergency has put lives in immediate danger, DPR advises residents to call 911.[[65]](#footnote-65) In a severe storm, clearing roads and securing all damaged trees is DPR’s first priority.[[66]](#footnote-66) The Office of Emergency Management (currently referred to as New York City Emergency Management or NYCEM) convenes the Downed Tree Taskforce consisting of DPR, Police, Fire, 311, Sanitation, Transportation and representatives from the major utility companies.[[67]](#footnote-67) The Downed Tree Taskforce was put on alert before TS Isaias reached the City and responded to tree emergencies received through 311 or a Tree Service Request form located on DPR’s website.[[68]](#footnote-68)

DPR receives Tree Service Requests relating to damaged and downed trees from 311, DPR’s website and DPR’s field staff.[[69]](#footnote-69) Tree Service Requests are verified and streamlined, then assigned for inspection to verify that the reported circumstances are correct so it can be properly prioritized.[[70]](#footnote-70) Forestry personnel are then deployed to address the concerns, coordinating with Con Edison if power lines are involved. DPR prioritizes downed trees fully blocking streets, downed trees on houses and downed trees related to power outages for safety concerns.[[71]](#footnote-71)

Although trees growing in the public right-of-way, along streets and in parks and playgrounds are under the jurisdiction of DPR, there has been confusion as to which agency or company is responsible for a tree that has fallen on power lines. At a City Council hearing on January 18, 2013, Con Edison testified that they are responsible for the overhead power lines. When a tree falls on a power line, Con Edison will respond with tree crews and line crews in order to clear just enough tree debris to get access to the power lines.[[72]](#footnote-72) Con Edison is not responsible for tree removal.

This has led to confusion for City agencies in determining whether power lines have been de-energized around a fallen tree, which can cause delays in tree removal for DPR and Sanitation.[[73]](#footnote-73) In some instances, DPR or Sanitation will respond to a 311 call and not remove a tree because they do not know if the power lines around the tree are still active.[[74]](#footnote-74) DPR may be unaware that Con Edison has already responded and cut the power lines, making it safe for the agency to remove a particular tree.[[75]](#footnote-75) Con Edison has testified that they want to develop a universal process of tagging power lines that have already been de-energized and are deemed safe for tree removal, which would improve miscommunications that typically occur in these situations.[[76]](#footnote-76)

In February 2015, the City Council passed Local Law 21, which requires DPR to establish a tree removal protocol for trees on City property that were downed or damaged as a result of severe weather events.[[77]](#footnote-77) The protocol must include a process for timely notifications between the local electric corporations and DPR regarding tree removal; a unique identifier to be assigned to each downed or damaged tree; and the co-deployment of City and local electric corporation personnel to assess and remove downed trees that have fallen on electric wires.[[78]](#footnote-78) The legislation requires that a description of the protocol be posted on the DPR’s website and submitted to the Mayor and the City Council and that DPR prominently post information on its website about how to notify the City of a downed or damaged tree or downed wires after a severe weather event.[[79]](#footnote-79)

The fiscal impact of COVID 19 on the City’s economic base has been severe, and DPR’s budget was cut by approximately $85 million for Fiscal Year 2021.[[80]](#footnote-80) Many have claimed that this decreased funding will make it more difficult for DPR to keep up with tree inspections and maintenance.[[81]](#footnote-81) Notably, these budget cuts did not include any members of DPR’s 390 member forestry staff who respond to downed and damaged tree complaints.[[82]](#footnote-82)

**A Pattern of Failure**

In 2019, during a weekend heatwave, Con Edison’s infrastructure again failed its customers. This was despite prior assurances from President Tim Cawley that the Company was “ready for what the heat will bring.”[[83]](#footnote-83) According to Mr. Cawley, Con Edision had learned from previous peak demand events, particularly in 2016, and that they were prepared. During his press conference, Mr. Cawley stated that Con Edison “basically spend[s] a full year preparing for the high demand that summer brings” and, over that past year had invested $1.5 billion in energy-delivery systems.[[84]](#footnote-84) Despite these investments, and the assurances from the Con Edison president that they would not need to resort to “voltage optimization” – where voltage is preemptively lowered to protect equipment when there is particularly high demand[[85]](#footnote-85) – Con Edison did indeed implement this procedure in 2019, completely cutting power to 33,000 residents in parts of Brooklyn.

 This highlights an ongoing pattern with Con Edison. In 2007, the Public Services Commission (PSC) issued an $18 million fine against the power company for an outage in Queens that lasted for nine days.[[86]](#footnote-86) This fine was, at the time, the largest fine issued to Con Edison by the PSC and yet, local law makers decried the penalty as being too small and inadequate to impact any changes by the utility.[[87]](#footnote-87) These concerns may have been validated as earlier this year, PSC settled with Con Edison for $9.5 million over its failure to prepare for a 2018 winter storm that knocked out power to 143,300 customers over March 2 and 3, 2018, and then to 66,000 customers on March 7, 2018.[[88]](#footnote-88)

 After Hurricane Irene in 2011 and Superstorm Sandy in 2012, Con Edison stated that it would spend $1 billion over four years to upgrade its infrastructure.[[89]](#footnote-89) This additional spending came on the backs of customers, whose electricity bills went up as part of Con Edison’s subsequent rate increase. Despite now paying some of the highest prices in the country for their power,[[90]](#footnote-90) however, New Yorkers still cannot rely on Con Edison to provide this power, especially in times of emergencies.

1. **CONCLUSION**

New York City residents have endured one of the most challenging summers in recent memory; they have faced storms, outages, and a global pandemic. However, while the latter took everyone by surprise, the storms and potential outages were at the forefront of many minds prior to summer. Public health experts had warned that COVID-19 could make heat waves much deadlier, and disproportionately affect elderly and low-income residents.[[91]](#footnote-91) Con Edison’s failure to quickly restore power to residents, particularly in Queens, meant that the borough hardest hit by COVID-19 was also the hardest hit by power outages.

History continues to repeat itself with this utility. Despite numerous inquiries, commitments, investments and increased rates, Con Edison has failed to address significant flaws within its infrastructure and planning system so that it can reliably meet the City’s electricity needs. As early as the spring of this year, weather experts were raising the alarm of increased heatwaves and more frequent hurricane activity, and Con Edison assured lawmakers and the public that it was ready. It clearly was not. The Committees are, yet again, seeking answers on failure to service New Yorkers.

Preconsidered Res No. \_\_\_

Resolution calling upon Consolidated Edison to increase resources dedicated to service restoration on a borough by borough basis and create a report of the most vulnerable utility infrastructure in each borough

By Council Member Vallone

                     Whereas, Consolidated Edison (Con Edison) has a monopoly over the distribution of electricity in New York City; and

                     Whereas, Therefore, New York City residents have little to no choice but to be bound to Con Edison; and

                     Whereas, New Yorkers pay nearly 50 percent more for their electricity than the average national price; and

                     Whereas, However, they still face long hot summers with the specter of power outages and little confidence that, in the event of a blackout, power will be restored quickly; and

                     Whereas, Certain boroughs and neighborhoods in New York City are particularly susceptible to power outages; and

                     Whereas, For example, in Queens, the majority of power lines run above-ground, which are vulnerable to downed trees and storm damage; and

                     Whereas, Staten Island has the second-most overhead power lines in New York, after Queens, and there are no overhead lines in Manhattan; and

Whereas, It was not surprising then that when the most recent tropical storm, Isaias, hit New York City in early August 2020, residents in Queens and Staten Island were the hardest hit by power outages; and

                     Whereas, In Staten Island, 36,000 customers faced outages after Tropical Storm Isaias; and

Whereas, In Queens, meanwhile, at the peak of the outage, 73,000 customers lost power and 10,000 were still without power five days after the storm hit; and

                     Whereas, Compounding these power outages, some neighborhoods in Queens have also faced some of the highest cases of COVID-19, during this pandemic; and

                     Whereas, The overlap of power outages hitting the most vulnerable is not exclusive to this event, nor this borough; and

                     Whereas, For instance, in 2019, when a heatwave hit New York City, residents across the boroughs faced power outages; and

                      Whereas, Just as the temperatures and humidity were hitting their peaks, customers in Flushing and Richmond Hill in Queens, and various neighborhoods in Brooklyn, lost power; and

                     Whereas, Additionally, Con Edison cut power or reduced voltage for some customers in Brooklyn, claiming the utility needed to take this action in order to make repairs and prevent further outages; and

                     Whereas, These outages, deliberate and otherwise, came despite assurances from Con Edison’s President, Tim Cawley, prior to the heatwave that the company was “ready for what the heat will bring”; and

                     Whereas, Importantly, residents in the neighborhoods that were left either without power or with reduced voltage, were also neighborhoods with some of the highest heat vulnerability indexes; and

                     Whereas, While many of New York’s political leaders are fed-up with Con Edison’s poor performance, it is clear that some boroughs are bearing more of the brunt than others; and

Whereas, Con Edison often touts its reliability performance against other national utilities; and

Whereas, However, as the New York State Department of Public Service notes, because Con Edison’s network “includes many large, highly concentrated underground distribution networks [mainly in Manhattan] that are generally less prone to interruptions than overhead systems, its interruption frequency is extremely low (better) compared with other utilities”; and

Whereas, Therefore, the Company’s reliability claims mask some of the important borough-to-bough differences; and

Whereas, The recent outages in Queens were not the first major blackouts for the borough; and

Whereas, In 2006, residents in the borough were left without power for eight days, making it one of the longest blackouts in the City’s history; and

Whereas, Investigations of this event found that Con Edison had failed to maintain its equipment and had under-reported the number of people affected; and

Whereas, Furthermore, although residents in Queens experienced a total of $188 million in damages, Con Edison was criticized for offering a mere $100 in compensation to impacted businesses; and

Whereas, Despite ongoing promises from Company leadership that lessons have been learned and that they are committed to investing in infrastructure upgrades to prevent further service disruptions, Con Edison is still unable to provide reliable service, equitably, to all of its New York City residents; and

Whereas, With heatwaves and storms predicted to increase, due to the impact of climate change, the City’s most vulnerable populations are at further risk for power outages; and

Whereas, Research has shown that race, age and poverty are all compounding factors in heat-related deaths, and yet neighborhoods with these populations continue to face the most frequent power outages; and

Whereas, Con Edison’s New York-wide performance data does not show the whole picture; and

Whereas, Without this information it is impossible to tell whether the utility is investing in the most vulnerable neighborhoods, or focusing solely on upgrading infrastructure in parts of the City that are already secure; now, therefore, be it

Resolved, That Consolidated Edison increase resources dedicated to service restoration on a borough by borough basis and create a report of the most vulnerable utility infrastructure in each borough.

LS #16033

9/11/2020

LMS

Preconsidered Res. No.

Resolution calling upon the New York State legislature to pass and the Governor to sign legislation to require Consolidated Edison to cover the costs of wires downed or damaged by a storm that run from private homes to utility poles.

By Council Member Vallone

Whereas, Consolidated Edison (Con Edison) provides electricity to over three million customers in New York City and Westchester County and is the primary utility serving New York City residents throughout the five boroughs; and

Whereas, Con Edison maintains over 36,000 miles of overhead electrical wires in the New York area; and

Whereas, According to Con Edison’s website, they are responsible for repairing or replacing the service wire that runs from the street to a private home, however homeowners are responsible for clearing tree limbs downed on their property; and

Whereas, Homeowners are also responsible for the service bracket and all the hardware running from the connection point of the service wire attached to the house, including the weatherhead, entrance cable and standpipe, the drip loop and the meter pan; and

Whereas, In the event of a storm where any of this equipment is damaged, homeowners must hire an electrician to repair any of these items before power can be restored to a household; and

Whereas, Certain boroughs and neighborhoods in New York City are particularly susceptible to power outages, such as Queens and Staten Island, where the majority of power lines run above-ground, making them vulnerable to downed trees and storm damage; and

                     Whereas, In fact, during the most recent tropical storm, Isaias, which devastated areas of  New York City in early August 2020, residents of Queens and Staten Island were the hardest hit by power outages, with Queens having 73,000 customers without power and Staten Island having 36,000 customers with power outages; and

                     Whereas, Although Con Edison was able to restore power, there were certain homeowners that were delayed longer than others because they were not aware of their responsibility for repairing the service brackets and all the hardware running from the connection point of the service wire attached to the house; and

                     Whereas, Depending on what utilities need to be fixed or replaced by the homeowner, repairs can take longer if new parts need to be ordered and installed and may require multiple site visits to complete repairs; and

                     Whereas, These repairs can be costly to homeowners who may be already struggling financially; and

                     Whereas, Homeowners who sought to purchase generators for their homes in the event they lose power found that average sized generators appropriate to service a residential home are between 3,000 and 8,000 watts and can also be very costly; and

                     Whereas, A whole home generator system can cost up to $12,000 or more; and

                     Whereas, New Yorker’s utility bills are already high, affecting middle- and lower-income residents, as well as small businesses that rely on Con Edison for power; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State legislature to pass and the Governor to sign legislation to require Consolidated Edison to cover the costs of wires downed or damaged by a storm that run from private homes to utility poles.

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1. Some projections put the number at 17 named tropical storms. *See:* Judson Jones, “Experts Agree this Hurricane Season will be Above-Average, Maybe Even Extremely Active,” *CNN,* May 8, 2020, available at: <https://www.cnn.com/2020/05/08/weather/hurricane-season-2020-forecast-above-average/index.html>. [↑](#footnote-ref-1)
2. Jeff Berardelli, “‘Above normal’ 2020 Atlantic hurricane season on tap, researchers forecast, *CBS News*, April 2, 2020, available at: <https://www.cbsnews.com/news/2020-atlantic-hurricane-season-colorado-state-university-forecast-released-today-2020-04-02/>. [↑](#footnote-ref-2)
3. New York City Council remote hearing Committees on Consumer Affairs and Business Licensing, Resiliency and Waterfronts, Environmental Protection, and Health, “Oversight - Consolidated Edison’s Summer Preparations and the City’s Cooling Needs”, May 26, 2020, see: <https://nyc.legistar.com/MeetingDetail.aspx?ID=787228&GUID=C0847FF2-45A2-4FC5-96A1-9783BFA0A593&Options=&Search>=. [↑](#footnote-ref-3)
4. “RMS Estimates Insured Losses from Hurricane Isaias at $3-$5 Billion,” Insurance Journal (August 17, 2020), available at: <https://www.insurancejournal.com/news/national/2020/08/17/579240.htm> [↑](#footnote-ref-4)
5. Mihir Zaveri and Ed Shanahan, "2.5 Million Lose Power and One Is Killed as Isaias Batters N.Y. Area," The New York Times (August 4, 2020), available at: <https://www.nytimes.com/2020/08/04/nyregion/isaias-ny.html> [↑](#footnote-ref-5)
6. Brandon Miller, “Powerful Winds Have Arrived in New York City,” CNN (August 4, 2020), available at: <https://www.cnn.com/us/live-news/isaias-storm-08-04-2020/index.html> [↑](#footnote-ref-6)
7. Troy Closson, “After Isaias, When Will Power Be Back?” The New York Times, (August 6, 2020), available at: <https://www.nytimes.com/2020/08/06/nyregion/power-outage-ny-nj-ct.html> [↑](#footnote-ref-7)
8. *Id.* [↑](#footnote-ref-8)
9. Clifford Michel, "Isaias Delivers Power Outages and Powerful Reminder of NYC’s Vulnerability, Years After Superstorm Sandy," The City (August 4, 2020), available at: <https://www.thecity.nyc/2020/8/4/21355163/isaias-power-outages-blackout-trees-superstorm-sandy> [↑](#footnote-ref-9)
10. Spectrum New Staff, “Isaias Power Outages Second-Largest in Con Ed’s History, Behind Only Sandy,” Spectrum New NY1, (August 5, 2020), available at: <https://www.ny1.com/nyc/all-boroughs/news/2020/08/05/power-outages-in-nyc-today-tropical-storm-isaias-damage> [↑](#footnote-ref-10)
11. “Tropical Storm Isaias Causes Con Edison’s Second Largest Storm-Related Outage In History,” CBS News, (August 4, 2020), available at: <https://newyork.cbslocal.com/2020/08/04/con-edison-outage-tropical-storm-isaias/> [↑](#footnote-ref-11)
12. Spectrum New Staff, “Isaias Power Outages Second-Largest in Con Ed’s History, Behind Only Sandy,” Spectrum New NY1, (August 5, 2020), available at: <https://www.ny1.com/nyc/all-boroughs/news/2020/08/05/power-outages-in-nyc-today-tropical-storm-isaias-damage> [↑](#footnote-ref-12)
13. “Tropical Storm Isaias: Officials Say More Than 7,000 Power Lines Came Down In NYC,” CBS News (August 5, 2020), available at: <https://newyork.cbslocal.com/2020/08/05/tropical-storm-isaias-new-york-city-power-outages-bayside-queens/#:~:text=linkedin-,Tropical%20Storm%20Isaias%3A%20Officials%20Say%20More%20Than%207%2C000,Lines%20Came%20Down%20In%20NYC&text=NEW%20YORK%20(CBSNewYork)%20%E2%80%94%20The,damage%20across%20the%20five%20boroughs>. [↑](#footnote-ref-13)
14. “1 Dead When Tree Falls On Car as Tropical Storm Isaias Hits New York City,” CBS News (August 4, 2020), available at: <https://newyork.cbslocal.com/2020/08/04/new-york-city-tropical-storm-isaias/> [↑](#footnote-ref-14)
15. Jacob Kaye, “Governor Declares State of Emergency as Queens Sees Highest Number of Downed Trees and Power Outages After Tropical Storm Isaias,” Queens.com, (August 5, 2020), available at: <https://qns.com/story/2020/08/05/queens-sees-highest-number-of-downed-trees-and-power-outages-after-tropical-storm-isaias/> [↑](#footnote-ref-15)
16. Data Acquired by the New York City Council Data Operations Unit, September 8, 2020. [↑](#footnote-ref-16)
17. *Id.* [↑](#footnote-ref-17)
18. *Id.* [↑](#footnote-ref-18)
19. *Id.* [↑](#footnote-ref-19)
20. *Id.* [↑](#footnote-ref-20)
21. *Id.* [↑](#footnote-ref-21)
22. “1 Dead When Tree Falls On Car as Tropical Storm Isaias Hits New York City,” CBS News (August 4, 2020), available at: <https://newyork.cbslocal.com/2020/08/04/new-york-city-tropical-storm-isaias/> [↑](#footnote-ref-22)
23. Storm Isaias Outage is Second Largest in Con Edison's Long History. Con Edison. <https://www.coned.com/en/about-us/media-center/news/20200804/storm-isaias-outage-is-second-largest-in-con-edisons-long-history> (last accessed 9/4/20) [↑](#footnote-ref-23)
24. *Id.* [↑](#footnote-ref-24)
25. *Id.* [↑](#footnote-ref-25)
26. *Id.* [↑](#footnote-ref-26)
27. *Id.* [↑](#footnote-ref-27)
28. *Id.* [↑](#footnote-ref-28)
29. Con Edison off to a Fast Start on Post-Isaias Restoration. Con Edison. <https://www.coned.com/en/about-us/media-center/news/20200805/con-edison-off-to-a-fast-start-on-post-isaias-restoration> (last accessed 9/4/20) [↑](#footnote-ref-29)
30. *Id.* [↑](#footnote-ref-30)
31. *Id.* [↑](#footnote-ref-31)
32. Con Edison Distributes Ice in Queens. Con Edison. <https://www.coned.com/en/about-us/media-center/news/20200805/con-edison-distributes-ice-in-queens> (last accessed 9/4/20) [↑](#footnote-ref-32)
33. *Id.*  [↑](#footnote-ref-33)
34. Con Edison Adding Dry Ice Distribution Location Thursday in Ozone Park. <https://www.coned.com/en/about-us/media-center/news/20200806/con-edison-adding-a-dry-ice-distribution-location-thursday-afternoon-in-ozone-park> (last accessed 9/4/20) [↑](#footnote-ref-34)
35. Con Ed Updates Dry Ice Distribution Information for Customers Affected by Storm Isaias. <https://www.coned.com/en/about-us/media-center/news/20200807/con-edison-updates-dry-ice-distribution-information-for-customers-affected-by-storm-isaias> (last accessed 9/4/20) [↑](#footnote-ref-35)
36. Isaias Restorations Surpass 270,00. Nearly 3,000 Workers Deployed. Con Edison. <https://www.coned.com/en/about-us/media-center/news/20200808/isaias-restorations-surpass-270000-nearly-3000-workers-deployed> (last accessed 9/4/20) [↑](#footnote-ref-36)
37. Con Edison Working to Restore Scattered Outages. Con Edison. <https://www.coned.com/en/about-us/media-center/news/20200811/con-edison-working-to-restore-scattered-outages> (last accessed 9/4/20) [↑](#footnote-ref-37)
38. Residential Claim Form for Food and Prescription Medicine Spoilage. Con Edison. <https://www.coned.com/-/media/files/coned/documents/services-outages/claim-form/residential/residential_claim_form-2017_en.pdf?la=en> (last accessed 9/4/20) [↑](#footnote-ref-38)
39. *Id.* [↑](#footnote-ref-39)
40. *Id.* [↑](#footnote-ref-40)
41. Con Ed “Residential claim for food and prescription medicine spoilage”, available at: <https://www.coned.com/-/media/files/coned/documents/services-outages/claim-form/residential/residential_claim_form-2017_en.pdf?la=en>. [↑](#footnote-ref-41)
42. Con Ed “Commercial claim for perishable merchandise”, available at: <https://www.coned.com/-/media/files/coned/documents/services-outages/claim-form/commercial/commercial-claim-form-english.pdf?la=en>. [↑](#footnote-ref-42)
43. U.S. Department of Health and Human Services “Food safety during power outage”, April 12, 2019, available at: <https://www.foodsafety.gov/food-safety-charts/food-safety-during-power-outage>. [↑](#footnote-ref-43)
44. U.S. Department of Agriculture “Keeping food safe during an emergency”, July 30, 2013, available at: <https://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/emergency-preparedness/keeping-food-safe-during-an-emergency/CT_Index>. [↑](#footnote-ref-44)
45. New York State Department of Public Service. In the Matter of DPS Investigation into the Utilities' Preparation and Response to August 2020 Tropical Storm Isaias and Resulting Electric Power Outages. Press Release – Governor Cuomo Directs State Department of Public Service to Investigate Utilities in Wake of Failed Storm Response [http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={C0FEA4A8-F077-4ADC-A9CA-D95A4FAE03E6}](http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7bC0FEA4A8-F077-4ADC-A9CA-D95A4FAE03E6%7d) (last accessed 9/2/20) [↑](#footnote-ref-45)
46. *Id.* [↑](#footnote-ref-46)
47. Mark Hallum. Cuomo ‘personally disappointed’ in Con Ed’s response to Isaias, threatens to pull license. AMNY, 8/10/20. <https://www.amny.com/news/transit-news/cuomo-personally-disappointed-in-con-edisons-response-to-tropical-storm-isaias/> (last accessed 9/2/20) [↑](#footnote-ref-47)
48. Department of Public Service “Re: Notice of Apparent Violations Related to Tropical Storm Isaias”, August 19, 2020, available at: <http://dingo.telicon.com/NY/library/2020/20200819TV.PDF>. [↑](#footnote-ref-48)
49. *Id.* [↑](#footnote-ref-49)
50. *Id.* [↑](#footnote-ref-50)
51. *Id.* [↑](#footnote-ref-51)
52. *Id.* [↑](#footnote-ref-52)
53. *Id.* [↑](#footnote-ref-53)
54. *Id.* [↑](#footnote-ref-54)
55. *Id.* [↑](#footnote-ref-55)
56. See: Department of Public Service “Case number: 20-E-0422”, available at: <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=20-E-0422&submit=Search>, last accessed September 9, 2020. [↑](#footnote-ref-56)
57. Spectrum New Staff. All Isaias- Related Power Outages Fixed, Con Edison Says. Spectrum News. August 13, 2020. <https://www.ny1.com/nyc/all-boroughs/news/2020/08/14/power-outages-nyc-isaias-related-power-outages-latest> (last accessed 9/3/20) [↑](#footnote-ref-57)
58. Office of the Queens Borough President. Advisory – Queens Officials to Discuss Con Edison’s Response Post Isaias. <https://www.queensbp.org/advisory-queens-officials-to-discuss-con-edisons-response-post-isaias/> (last accessed 9/3/20) [↑](#footnote-ref-58)
59. Clarissa Sosin. Queens Says Enough to Con Man Con Ed. Queens County Politics. August 11, 2020. <https://www.queenscountypolitics.com/2020/08/11/queens-says-enough-to-con-man-con-ed/> (last accessed 9/3/20) [↑](#footnote-ref-59)
60. Zainab Iqbal. Was Brooklyn Prepared for Tropical Storm Isaias? Bklyner. August 5, 2020. <https://bklyner.com/was-brooklyn-prepared-for-tropical-storm-isaias/> (last accessed 9/3/20) [↑](#footnote-ref-60)
61. *Id.* [↑](#footnote-ref-61)
62. New York City Charter Section 533(a)(4); Admin. Code Sections 18-104 and 18-105 [↑](#footnote-ref-62)
63. *See*, New York City Department of Parks and Recreation, <http://www.nycgovparks.org/sub_your_park/trees_greenstreets.html>. [↑](#footnote-ref-63)
64. *See,* New York City Department of Parks and Recreation, Trees and Severe Weather, available at: <https://www.nycgovparks.org/services/forestry/storm-response> [↑](#footnote-ref-64)
65. *See*, New York City Department of Parks and Recreation, Storm Response, <http://www.nycgovparks.org/services/forestry/storm-response>. [↑](#footnote-ref-65)
66. *See,* New York City Department of Parks and Recreation Website, Storm Response, <http://www.nycgovparks.org/services/forestry/storm-response>. [↑](#footnote-ref-66)
67. Testimony of the New York City Department of Parks and Recreation Commissioner Veronica M. White, New York City Council’s Committees on Parks and Recreation, Health and Mental Hygiene, Sanitation and Environmental Protection Hearing, February 28, 2013. [↑](#footnote-ref-67)
68. *See,* New York City Department of Parks and Recreation, Trees and Severe Weather, available at: <https://www.nycgovparks.org/services/forestry/storm-response> [↑](#footnote-ref-68)
69. Email from DPR Representative on Downed Tree Removal Protocol [↑](#footnote-ref-69)
70. *Id.* [↑](#footnote-ref-70)
71. *Id.* [↑](#footnote-ref-71)
72. Testimony of Consolidated Edison Company of New York Senior Vice President of Electric Operations John Miksad, New York City Council’s Committees on Lower Manhattan Redevelopment, Consumer Affairs and Technology Hearing, January 18, 2013. [↑](#footnote-ref-72)
73. *Id.* [↑](#footnote-ref-73)
74. *Id.* [↑](#footnote-ref-74)
75. *Id.* [↑](#footnote-ref-75)
76. *Id.* [↑](#footnote-ref-76)
77. *See,* New York City Council Website, available at: <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1672699&GUID=2DE2085C-7703-449C-992E-27C933D082FB&Options=Advanced&Search>= [↑](#footnote-ref-77)
78. *Id.* [↑](#footnote-ref-78)
79. *Id.* [↑](#footnote-ref-79)
80. Gaby Acevedo, “Budget Cuts Leave NYC Parks Dirtier and More Run Down, City Residents Complain, NBC New York, (August 18, 2020), available at: <https://www.nbcnewyork.com/news/coronavirus/budget-cuts-leave-nyc-parks-dirtier-and-more-run-down-city-residents-complain/2572329/> [↑](#footnote-ref-80)
81. *Id.* [↑](#footnote-ref-81)
82. Kathleen Culliton, “Toppled Trees Topple Cyclists as NYC Works to Clears Isaias’ Mess,” Spectrum New NY1, (August 17, 2020) available at: <https://www.ny1.com/nyc/all-boroughs/news/2020/08/17/toppled-trees-topple-new-yorkers-as-city-tries-to-clear-isaias--mess> [↑](#footnote-ref-82)
83. Tim Cawley as quoted by: Maura Grunlund “Con Ed is ready for NYC heat wave that ‘will rival’ top weekend demand for electricity”, SI Live, July 19, 2019, available at: <https://www.silive.com/news/2019/07/con-ed-is-ready-for-nyc-heat-wave-that-will-rival-top-weekend-demand-for-electricity.html>. [↑](#footnote-ref-83)
84. Tim Cawley as quoted by *id*. [↑](#footnote-ref-84)
85. Maura Grunlund, *id*. [↑](#footnote-ref-85)
86. Patrick McGeehan “Con Edison is penalized for blackout”, *New York Times,* November 8, 2007, available at: <https://www.nytimes.com/2007/11/08/nyregion/08con-ed.html>. [↑](#footnote-ref-86)
87. *Id.* [↑](#footnote-ref-87)
88. Public Service Commission “PSC announces $10.75 million settlement with Con Edison, O&R over utilities’

preparation and responses for 2018 winter storms”, August 13, 2020, available at: <http://documents.dps.ny.gov/search/Home/ViewDoc/Find?id=%7B10EB90C5-8858-456F-9930-0A6205AA1AFA%7D&ext=pdf>. [↑](#footnote-ref-88)
89. Letter to Andrew Cuomo et al from leaders of affected communities, August 14, 2020, available at: <http://documents.dps.ny.gov/search/Home/ViewDoc/Find?id=%7B4504F1D0-76D3-457A-96E1-7689121D9F18%7D&ext=pdf>. [↑](#footnote-ref-89)
90. U.S. Bureau of Labor Statistics “Average energy prices, New York-Newark-Jersey City – May 2019”, available at: <https://www.bls.gov/regions/new-york-new-jersey/news-release/averageenergyprices_newyorkarea.htm>. [↑](#footnote-ref-90)
91. Anna M. Phillips and Tony Barboza, “Summer heat waves could be deadlier because of COVID-19, health officials warn”, *Los Angeles Times*, May 6, 2020, available at: <https://www.chicagotribune.com/coronavirus/ct-nw-coronavirus-summer-heat-waves-20200506-2wzd2rkrura7hjdwb3bchb2vcy-story.html>. [↑](#footnote-ref-91)