

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 26, 2014

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman

CASE 14-G-0212 - Proceeding on Motion of the Commission to
Investigate the Practices of Qualifying Persons
to Perform Plastic Fusions on Natural Gas
Facilities.

ORDER INSTITUTING PROCEEDING TO INVESTIGATE
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.'S
PRACTICES AND OBTAIN INFORMATION CONCERNING
PLASTIC FUSIONS ON NATURAL GAS FACILITIES

(Issued and Effective June 27, 2014)

BY THE COMMISSION:

INTRODUCTION

On May 29, 2014, Department of Public Service Staff
(Staff) learned that Consolidated Edison Company of New York,
Inc.'s (Con Edison, Company) qualifying and requalifying
procedures for persons who perform plastic fusions on natural
gas facilities were out of compliance with Commission
qualification and requalification requirements in 16 NYCRR Part

255.¹ Specifically, Con Edison told Staff that its employees and contractors hired to perform plastic fusions have not been satisfactorily requalified, as required. Staff has since learned that some Con Edison employees and contractors also were not qualified initially in accordance with Commission rules. By this order, Con Edison is directed to take steps to address its non-compliance with 16 NYCRR Part 255, to eliminate any possible increased risk to public safety, and to explain how the Company plans to ensure compliance with safety regulations in the future.

As part of its normal on-site field audit of construction practices, Staff has found no evidence that Con Edison placed into service any pipe that had not been fused according to acceptable procedures and specifications. The Company is nonetheless required to fully qualify and requalify its employees and contractors at its training facilities as part of its obligation to provide safe and adequate gas service. Because vigilant adherence to our safety regulations is the best way to ensure that Con Edison continues to provide safe gas service, the Commission takes this proactive step in requiring Con Edison to produce its record of compliance and non-compliance with 16 NYCRR §§255.285, 255.283, 255.603, and 255.604.

¹ Con Edison's certification violations were discovered during the Department of Public Service Staff's investigation into the East Harlem incident. The investigation is continuing and a cause has not yet been determined. To infer any connection to Con Edison's certification violations and the East Harlem tragedy would be incorrect. The Staff investigation revealed that the individual who performed work at the East Harlem site was certified and qualified to perform plastic fusion work; five months prior to the incident, he had been properly tested and certified while working for another utility that followed the requisite State and Federal rules and regulations.

DISCUSSION AND CONCLUSION

The Commission's gas safety rules require that local gas distribution companies (LDCs) whose employees and contractors install or repair plastic natural gas pipeline qualify and, each year thereafter, requalify persons who perform heated fusions on plastic pipe unless very specific quality control protocols are in place. LDCs, therefore, are required to have in place, and to follow, procedures by which they test their employees and contractors, whose work must pass both visual inspection and destructive testing in the classroom. Con Edison recently informed Staff that the Company had not followed its own requalification procedures as well as those required by 16 NYCRR Part 255. Specifically, Con Edison had failed to timely requalify its employees and contractors who performed plastic fusions and, when it did perform requalifications, the Company had not performed the destructive test. While Staff has continued to seek information from Con Edison on its lapses in qualifying and requalifying its employees and contractors in performing plastic fusions, this order institutes a Commission proceeding to verify the extent to which Con Edison has or has not complied with the qualification and requalification requirements found in 16 NYCRR §§255.285, 255.283, 255.603, and 255.604.

This order, therefore, requires Con Edison to take corrective action for the protection of public safety. Con Edison shall certify, as soon as practicable, but no later than within five days of the date of this order (1) the date and manner it discovered that its company-wide qualification and requalification procedures were not in compliance with 16 NYCRR

Part 255;² (2) the date that the Company stopped performing plastic fusions after learning that its employees and contractors who performed plastic fusions were out of compliance with 16 NYCRR Part 255; (3) that the Company did not recommence plastic fusion work until it could do so with employees and contractors who had passed all elements of the requalification procedures; and (4) that any and all persons who are currently performing plastic fusions are fully qualified pursuant to 16 NYCRR Part 255.

In addition, the Company shall show that, in the future, all persons are properly qualified and requalified by producing a description of the Company's processes used to ensure compliance with 16 NYCRR Part 255, including the Company's schedule of training, education, qualification, and requalification that fulfill the Commission's rules. Moreover, the Company will confirm that plastic fusion work completed on Con Edison gas facilities during the period of non-compliance did not result in defective fusions or other adverse consequences. This order also directs Con Edison to commence leakage surveys, as defined in 16 NYCRR §255.3, in areas where plastic fusions are known to exist; Con Edison shall continue such surveys until otherwise directed by the Commission.

Five-Day Filing

Con Edison shall submit the following information within five business days of the date of this order: (1) a list of persons whose qualifications or requalifications were found to have been out of compliance with Con Edison and regulatory procedures for performing plastic fusions, in particular, 16 NYCRR §§255.285 (and, by reference, 255.283), 255.303, 255.603,

² Con Edison should retain any documents to support its certification in anticipation of further Staff discovery.

and 255.604, including former employees and contractors; (2) the date and duration of time that any such persons were not within compliance with 16 NYCRR §§255.285, 255.303, 255.603, and 255.604; (3) a list of persons tested on and since May 29, 2014 (2014 requalification tests), when Con Edison began to requalify its employees and contractors correctly; (4) a list of persons who failed the 2014 requalification tests; (5) with regard to persons who failed any component of the test after qualification and requalification, a Company determination whether any fusions a person had performed used the module(s) they failed during qualification and requalification and, if so, the number of fusions each person performed; and (6) with regard to the number of persons who failed the 2014 requalification tests, which module(s) of the plastic fusion qualification and requalification procedures they failed.

In addition, the Company needs to have sufficient protocols and/or procedures in place to ensure compliance with all gas safety regulations and procedures in the future. The discovery of non-compliance in this case is especially troubling given the recent filing of its Chief Executive Officer's 2014 Certification, required by Public Service Law §65(15) (2014 Certification), that the Company had in place "internal controls, policies and procedures designed to ensure compliance with the requirements of this chapter and any rules, regulations, orders and procedures adopted thereto, including the obligation that such corporation provide safe and adequate service." Given the foregoing, Con Edison should explain the controls and procedures it used to prepare its 2014 Certification. In addition, Con Edison shall include in its Five-Day filing a plan for how it will ensure Company compliance with all gas safety regulations.

Fifteen-Day Filing

Within 15 days of the issuance of this order, the Company shall identify (1) the number and location of plastic fusions performed in Con Edison's system since 16 NYCRR §255.604 went into effect; (2) the number and location of plastic fusions performed by any unqualified person since that time; and (3) whether any confirmed gas leaks have been attributed to a faulty plastic fusion and, if so, whether that fusion was performed by an employee or contactor who was out of compliance with 16 NYCRR Part 255 at the time they performed the work.

Moreover, the Company shall file a plan, for Staff review, for (1) prioritizing any identified risks associated with plastic fusions performed by inadequately qualified persons; (2) eliminating the identified risks; (3) how the Company will make sure its failure to requalify its employees and contractors in this and with respect to other safety requirements will not recur.

The Commission orders:

1. A proceeding is instituted to investigate the practices of qualifying persons to perform plastic fusions on natural gas facilities.

2. Consolidated Edison Company of New York, Inc. shall, as soon as practicable but no later than within five days of the date of this order, identify the steps it is taking to verify its continued provision of safe and adequate gas service, particularly how the Company will ensure, through on-site inspection or by other means, that work performed on gas facilities during the period of non-compliance with 16 NYCRR Part 255 has not resulted in defective fusions or other adverse consequences.

3. Consolidated Edison Company of New York, Inc. shall, as soon as practicable but no later than within five days of the date of this order, certify the date and manner it discovered that its company-wide plastic fusion qualification and requalification procedures were not in compliance with 16 NYCRR Part 255.

4. Consolidated Edison Company of New York, Inc. shall, as soon as practicable but no later than within five days of the date of this order, certify that any and all persons who are currently performing plastic fusions are fully qualified to do so pursuant to 16 NYCRR Part 255.

5. Consolidated Edison Company of New York, Inc. shall, as soon as practicable but no later than within five days of the date of this order, certify the date it stopped performing plastic fusions after learning that its employees and contractors who performed plastic fusions were out of compliance with 16 NYCRR Part 255.

6. Consolidated Edison Company of New York, Inc. shall, as soon as practicable but no later than within five days of the date of this order, certify that the Company did not recommence work on any plastic fusions until its employees and contractors were requalified to perform such work in accordance with 16 NYCRR Part 255.

7. Consolidated Edison Company of New York, Inc. shall, as soon as practicable but no later than within five days of the date of this order, indicate how it will continue to ensure that all persons are properly qualified and requalified by producing a description of the Company's processes used to ensure compliance with 16 NYCRR Part 255, including the Company's schedule of qualification and requalification pertaining to gas safety rules.

8. Consolidated Edison Company of New York, Inc. shall, as soon as practicable but no later than within five days of the date of this order, explain how it will ensure that any work performed on its gas facilities during the period of non-compliance did not result in defective fusions or other adverse consequences.

9. Consolidated Edison Company of New York, Inc. shall commence continuous leakage detection surveys, as defined in 16 NYCRR §255.3, over all plastic facilities joined by the fusion process until otherwise directed by the Commission.

10. Consolidated Edison Company of New York, Inc. shall, within five business days of the date of this order, provide the information described in this order as "Five-Day Filing."

11. Consolidated Edison Company of New York, Inc. shall, within 15 days of the date of this order, provide the information described in this order as "Fifteen-Day Filing."

12. The Secretary in her sole discretion may extend the deadlines set forth in this order. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

13. This proceeding is continued.

By the Commission,


Digitally Signed by Secretary
New York Public Service Commission

KATHLEEN H. BURGESS
Secretary