

# Consumer Power Advocates

Montefiore Medical Center  
Continuum Health Partners  
Fordham University  
Memorial Sloan Kettering Cancer Center

Mount Sinai Medical Center  
New York University  
NYU Medical Center  
Luthin Associates, Inc.

2009 MAR -2 PM 3:10

February 27, 2009

Hon. Rudy Stegemoeller  
Administrative Law Judge  
Department of Public Service  
3 Empire Plaza  
Albany, New York 12223

Re: Case 09-S-0029- Con Edison Steam Resource Plan and East River Repowering Cost Allocation

Comments of Consumer Power Advocates regarding the Company's request for Trade Secret treatment of certain information.

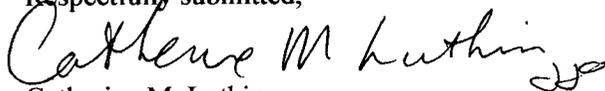
Dear ALJ Stegemoeller:

In accordance with your ruling of February 9, 2009, Con Edison filed a Motion for Trade Secret status on February 17, seeking trade secret status for forecast cost data for a new facility at Hudson Avenue. Con Edison claims that the disclosure of this information would harm the Company and its customers. On February 24, the County of Westchester (COW) and the Independent power Producers of New York (IPPNY) responded to that motion.

Both COW and IPPNY argued that, should there be a determination that this information is in fact trade secret, Con Edison should be required to disclose this information pursuant to a confidentiality agreement. CPA has taken no position with regard to whether trade secret status is justified, but wishes to respond to one argument made by COW.

COW bases its request for access to this information on its status as a "government entity," stating that there is "no distinction between the County of Westchester and the City's Economic Development Corporation or the NYS empire State Development Agency as it relates to their ability or obligation to protect 'trade secrets.'" (COW response, p.8-9) While COW is a "government entity," in this case its role is as a representative of a group of electric ratepayers, the residents of COW. This is exactly the same role as CPA in this case, except that CPA represents actual steam customers, who have an interest in the success of the steam business. To the extent that COW is allowed access to any information based on its status as a government entity, every party who is denied access is disadvantaged. For that reason, access to this information should be provided, or not provided, to all parties on an equal basis.

Respectfully submitted,



Catherine M. Luthin  
Executive Director, Consumer Power Advocates