

PEOPLE OF THE STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
CIVIL RIGHTS BUREAU

IN THE MATTER OF THE INVESTIGATION OF
LETITIA JAMES, ATTORNEY GENERAL OF THE
STATE OF NEW YORK,

OF

ASSURANCE OF
DISCONTINUANCE
PURSUANT TO
EXECUTIVE LAW § 63(15)

CONSOLIDATED EDISON COMPANY OF NEW
YORK, INC.

AOD No. #24-068

ASSURANCE OF DISCONTINUANCE

In the Spring of 2021, the Office of Attorney General of the State of New York (“OAG”) began to investigate, pursuant to New York Executive Law § 63(12), certain employment practices of Consolidated Edison Company of New York, Inc. (“Con Edison”). Specifically, the OAG investigated whether Con Edison (1) failed to address race- and sex-based harassment of employees in unionized field positions, (2) maintained a hostile work environment for women in unionized field positions, and (3) disciplined women in unionized field positions at higher rates than their male counterparts for attendance, depriving them of opportunities to advance, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq., New York State Human Rights Law, N.Y. Exec. L. § 296 et seq., and New York City Human Rights Law, N.Y.C. Admin. Code § 8-107.

This Assurance of Discontinuance contains the findings of the OAG’s investigation and the relief agreed to by OAG and Con Edison.

DEFINITIONS

“Agreement” means this Assurance of Discontinuance.

“Claims Administrator” refers to the third-party vendor referenced in Paragraphs 58-73 of

this Agreement to be retained by Con Edison at its expense that shall be responsible solely for mailings of documents and other defined tasks related to the claims administration.

“Climate Assessment” shall mean an Office of Diversity & Inclusion tool and practice in which Officer of Diversity & Inclusion personnel gather candid and relevant information on issues and challenges facing diverse employees at a specific worksite from a focus group drawn from a representative sample of such employees. Information learned from the focus group will be documented and used for appropriate equal employment opportunity (“EEO”) remedial action.

“EEO policies” means equal employment opportunity policies and refers to Con Edison’s policies, practices, and procedures that are designed to ensure compliance with federal, state, and local employment anti-discrimination laws.

“Execution Date” means the date on which the last signatory to this Assurance of Discontinuance signs the Agreement.

“Final Eligible Settlement Group Members List” refers to the final list of Settlement Group Members eligible to receive a monetary award under the terms of the Agreement and the amount of any such award.

“Independent Consultant” refers to an independent third-party retained by Con Edison for three years at Con Edison’s expense and approved by the OAG, who has expertise in evaluating compliance with EEO policies and anti-discrimination laws and will work with the Director of Con Edison’s Office of Diversity and Inclusion and the Settlement Implementation Officer to facilitate implementation of the terms and evaluation of Con Edison’s compliance with this Assurance of Discontinuance.

“Notice of Determination” refers to the document the Claims Administrator provides to each Settlement Group Member advising of the total monetary award allocated to them.

“OAG” refers to the New York State Office of the Attorney General.

“Office of Diversity & Inclusion” or “ODI” refers to the department within Con Edison that provides leadership and guidance to promote a diverse and inclusive work environment; facilitates equal employment opportunities through policy development, outreach, training and investigations; oversees the investigation and resolution of EEO complaints; provides employee and supervisory training about Con Edison’s EEO and anti-discrimination policies; and facilitates Con Edison’s compliance with federal, state, and local anti-discrimination laws.

“Parties” refers to the OAG and Con Edison.

“Periodic Report” refers to the semi-annual report prepared by the Settlement Implementation Officer.

“Questionnaire Submission deadline” is forty-five (45) days after the Claims Administrator mails out the questionnaire to Settlement Group members.

“Release” refers to the release mutually agreed to by the Parties.

“Release Return Deadline” is (60) calendar days from the date of the mailing of the Notice of Determination by which each Final Eligible Settlement Group Member shall return an executed Release.

“Relevant Time Period” refers to February 1, 2017, through the Execution Date.

“Reporting Period” refers to each six-month period following the Execution Date of the Agreement in which the Settlement Implementation Officer will provide the Independent Consultant, Con Edison, and the OAG with periodic reports. The Term of the Agreement has six (6) Reporting Periods.

“Settlement Fund Distribution List” refers to the list of Settlement Group Members who timely completed, signed, and returned Releases.

“Settlement Group Member” refers to each of the current or former Con Edison employees

identified by the OAG, whom the OAG believes have sustained emotional distress damages based on alleged actionable claims of discrimination or harassment, or retaliation for engaging in protected activity under anti-discrimination laws arising out of conduct occurring between February 1, 2017, to the Execution Date.

“Settlement Implementation Officer” refers to the senior employment lawyer in Con Edison’s Law Department designated by Con Edison to oversee implementation of and compliance with this Assurance of Discontinuance as set forth in this Agreement and coordinate with the Independent Consultant.

“Term of the Agreement” is three years from the Questionnaire Submission deadline.

“Title VII” refers to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.

Terms of construction:

“And” and “or” will be construed conjunctively or disjunctively as necessary to make the meaning inclusive rather than exclusive.

“All” means “any and all” and “any” means “any and all.”

“Including” means without limitation.

The use of the singular form of any word includes the plural and vice versa.

“Day” refers to a calendar day, not a business day, unless otherwise specified.

FINDINGS OF THE OFFICE OF THE ATTORNEY GENERAL

Background

1) Con Edison is one of the largest utility companies in the United States, with over ten million customers, primarily providing services in New York State, including the counties of New York, Richmond, Kings, Queens, Bronx, and Westchester.

2) In February 2008, OAG initiated an investigation into certain employment practices of Con Edison. Specifically, OAG investigated whether Con Edison: (i) failed to address harassment of women and a hostile work environment in non-traditional field positions and (ii) discriminated against women in non-traditional field positions in the terms and conditions of their employment, including promotions, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e *et seq.*; the New York State Human Rights Law, Executive Law §§ 290 *et seq.*; and the New York City Human Rights Law, New York Administrative Code §§ 8-101 *et seq.*

3) After an extensive investigation, the parties reached a resolution in 2015. The Assurance of Discontinuance required compliance with federal, state, and local antidiscrimination law; revised policies for ODI investigations; retention of an independent consultant; self-reporting to the OAG; third-party training of ODI, human resources, and management employees; and the establishment of a claims fund for victims. The agreement lasted for three years and concluded in August 2018.

4) In Spring 2021, several current and former employees contacted the OAG to express renewed concerns about discrimination at Con Edison. Women in non-traditional, unionized field positions (hereafter, "Field Positions") alleged that they were subjected to a hostile work environment and held back from advancement by being disciplined for conduct that men engage in with fewer, if any, repercussions. Men alleged that they were subjected to racial harassment

by a supervisor, that other managers were aware of the unlawful harassment and took no action, and that those managers were never investigated or disciplined for their failure to report. As a result of these complaints, OAG began an investigation.

5) Throughout the course of its investigation, the OAG interviewed dozens of current and former Con Edison employees, took testimony from three Con Edison representatives, and reviewed over 1,400 documents.

Unlawful Discrimination against Women in Field Positions

6) The OAG found that women in Field Positions at Con Edison were routinely subjected to mistreatment based on their gender, and that ODI often failed to take adequate action to protect victims or address systemic discrimination against women. The OAG further found that women were disciplined for lateness and absences at a higher rate than men. The OAG further found that several men were subjected to racial harassment by a supervisor whose employment was only terminated two years after his misconduct—which included the use of blackface, racially offensive jokes, and the N-word—began, and well after the employees had twice complained to management and received no response.

Under-representation of women in Field Positions:

7) Overall, women comprised less than 17% of Con Edison's unionized Field Positions between 2019 and 2022, and at least one location had no female workers at all as of 2022. While Con Edison complied with federal requirements regarding the compilation of yearly affirmative action plans, it did not target locations with zero or few women and did not take sufficient action to assess whether the climate is welcoming to women or whether women are deterred from applying or staying to work at the company based on a hostile work environment.

Gender-based hostile work environment for women in Field Positions:

8) Interviews with current and former employees and a review of internal complaints

revealed that numerous women were subjected to a hostile work environment at Con Edison.

9) Several women reported that their male coworkers were unwilling to work with them and that they were regularly maligned as lazy and incompetent.

10) Men referred to them as “bitches,” and at least one woman was called a “stupid bitch” and a “dumb bitch.”

11) Women were subjected to demeaning comments about their appearances, including the tightness of their pants, the length of their nails, and their weight. Multiple women were criticized by male colleagues and/or supervisors for the length and frequency of their bathroom breaks.

12) Men have explicitly told their female counterparts at Con Edison:

- “Women don’t belong in this department;”
- “I don’t see females being in the department because it’s dirty and rough;”
- “You don’t belong here;”
- “Are you sure you want to go in a manhole?;” and
- “Maybe this job is not for you.”

13) One male supervisor was overheard saying that he “had it good” because he had an “all-male department.”

14) A few women have alleged that this disparate treatment extended to the denial or delay of employment opportunities. Two women reported that their supervisors did not allow them to train and prepare for promotional exams, which men were permitted to do.

Sexual harassment of women in Field Positions:

15) Some women at Con Edison also reported experiencing sexual harassment. Several women were subjected to false rumors, spread by male coworkers, that they traded sexual favors for work and had sex with their coworkers.

16) Women were also subjected to unwanted romantic and sexual advances in the

workplace. One woman was asked explicit questions about her genitals, her genital grooming, and what color underwear she was wearing.

17) Another woman was severely traumatized when a male coworker exposed his erect penis to her and repeatedly urged her to touch it. When she reported the incident to Con Edison, the company opened an investigation and offered to change her location, but it did not offer to change the man's location, nor did it limit the accused from appearing at the woman's location or otherwise ensure that she would not have to encounter the accused during the pendency of the investigation.

Failure to remedy discrimination against women in Field Positions:

18) While Con Edison has anti-discrimination policies and practices on paper, in practice it has failed to take effective action to prevent and ameliorate the hostile working conditions described above. Specifically, records produced by Con Edison show that ODI only substantiated complaints that were supported by video/text/photo documentation, third-party eyewitness testimony, or an admission from the accused—types of evidence that are often unavailable to victims of harassment and discrimination.

19) ODI records did not reveal a single instance in which an ODI investigator made a credibility determination in favor of a complainant in order to substantiate a complaint of sex-based discrimination or harassment. In contrast, in every one of the reviewed complaints of gender discrimination and harassment that came down to credibility determinations, ODI found the victim lacking in credibility and chose to believe the denials of the accused.

20) As a result, women typically have not felt comfortable reporting discrimination or harassment to ODI. They have described ODI as a “big joke” and expressed fear that they will only be taken seriously if they have “absolute proof.” Women who have reported misconduct to ODI have said that they did not trust that Con Edison would address their concerns.

21) Although distrust in ODI is widespread, Con Edison does not appear to have taken

any steps to assess—let alone improve—the office’s effectiveness and reputation. ODI’s former director testified under oath that she believed that employees were generally satisfied with their interactions with ODI, although she could not identify any formal survey or other initiative ODI had undertaken to assess its efficacy.

22) In addition, supervisors and managers often failed to report discrimination and harassment to ODI, even though they are mandatory reporters under Con Edison’s policy. Indeed, some women have reported being told by supervisors to keep allegations of harassment and discrimination to themselves to avoid causing problems at work or harming the man’s career. When one supervisor was told that a male employee was exposing himself to coworkers, the supervisor reportedly responded, “If there’s no proof, don’t say that. That’s extremely detrimental to a person’s career.”

23) One woman who was subjected to unwanted sexual advances and physical touching by the male coworker who had exposed himself to a different female worker did not come forward with her complaint because she knew others had been sexually harassed by the same man, and he was not only not disciplined, but he was promoted to a supervisor role. Ultimately, the male coworker was fired, but only after a nearly year-long investigation, which coincided with the OAG’s investigation.

24) Con Edison took little action to discipline managers—who were supposed to be mandatory reporters—when they failed to report EEO violations and sexual harassment. ODI was on notice on several occasions that supervisors were aware of but did not report harassment that they observed or received complaints about. Yet only once in four years did ODI investigate a supervisor for failing to report a complaint of discrimination or harassment.

25) Finally, although ODI identified trends in complaints, Con Edison did not take effective action to address the specific types of discrimination and harassment it identified. The

company created processes called “climate assessments” and “culture resets” to identify and address hostile work environments, but those processes have only been conducted three times since February 1, 2017. A Con Edison witness, who oversees ODI compliance and investigations, identified a proceeding as a “climate assessment,” but Con Edison later corrected his testimony and represented that the proceeding was instead a “cultural reset.”

26) In one “climate assessment,” instituted as a result of race-based harassment allegations, a field manager publicly posted a list of the names and scheduled interview times of participants in the investigation. Employees then circulated the identities of other participants in the investigation, causing concern among the participants about the possibility of retaliation and intimidation. Ultimately, ODI investigators found no EEO violations, explicitly crediting white workers’ denials over their Black and Hispanic coworkers’ corroborations of the allegations.

Impact on employees:

27) Several employees have sought mental health counseling as a result of the harassment described above. Others have taken leaves of absence for stress and panic attacks, and at least two have quit.

28) One woman who left the company in 2021 after despairing of ever receiving better treatment recalled that “every day going to work [I] was just feeling drained, crying, stressed out. It was just somewhere you didn’t want to come to work.”

29) Another woman, who came to Con Edison after working in almost entirely male environments for 21 years, told ODI that “she has never experienced the amount of disrespectfulness that she encountered at [Con Edison] in any other work environment.”

Disparate treatment in discipline and leave for women in Field Positions:

30) A review of Con Edison’s disciplinary documents from January 2019 to May 2022 for men and women in Field Positions confirmed that women were disciplined at a higher rate for

attendance. While women comprised only 16.58% of Con Edison's unionized workforce between 2019 and 2022, they received 27.78% of the total documented disciplinary actions that Con Edison handed out for lateness and other attendance issues during that period. In sum, women in Field Positions were 2.52 times more likely to be disciplined for an attendance issue than their male counterparts during this time period.

31) Even these seemingly minor disciplinary actions have had serious consequences for women at Con Edison. Two women would arrive at work hours early and sleep in their cars in the parking lot, fearing that they would be disciplined again for arriving at work even seconds late, when similar lateness by men was ignored. Other women have been held back from advancing based on their disciplinary records, which included minor infractions for which men were not disciplined.

32) One woman was put on an unheard-of three-year probation period for missing work due to illness, and another was forced to pay back compensation she received for Covid leave—when no man was ever forced to do so.

OAG Findings

33) The OAG finds that Con Edison's actions are in violation of the New York Executive Law § 63(12), the New York State Human Rights Law, Executive Law §§ 290 et seq., and the New York City Human Rights Law, New York Administrative Code §§ 8-101 et seq., which require, inter alia, equal treatment regardless of sex and race and provide remedies for failure to comply therewith, prohibit sex and race discrimination in employment and the failure to remedy acts of sex discrimination;

34) Con Edison does not admit the above Findings;

35) The OAG finds the relief and agreements contained in this Agreement appropriate and in the public interest. THEREFORE, the OAG is willing to accept this Agreement pursuant to

Executive Law § 63(15), in lieu of commencing a statutory proceeding based on the conduct described above during the Relevant Time Period.

IT IS HEREBY UNDERSTOOD AND AGREED, by and among Con Edison and the OAG, as follows:

RELIEF

COMPLIANCE WITH LAW

36) Con Edison will abide by all applicable federal, state, and local laws, including but not limited to Title VII, New York State Human Rights Law, and New York City Human Rights Law, prohibiting discrimination against employees on the basis of sex or gender and race in promotion, pay, and other terms and conditions of employment.

INDEPENDENT CONSULTANT

37) Within thirty (30) days of the Execution Date Con Edison shall retain, at its own reasonable expense, an independent, third-party consultant (“Independent Consultant”) that is mutually agreeable to the OAG and Con Edison and who has expertise in evaluating compliance with EEO policies and anti-discrimination laws and EEO internal investigations.

38) The Independent Consultant will be retained for a period of three years.

39) The Independent Consultant will work with ODI and the Settlement Implementation Officer to facilitate implementation of and compliance with this Agreement, and will be responsible for the following programmatic relief:

- a) Recommend improvements to ODI’s procedures and execution of procedures for receiving, investigating, and resolving EEO complaints, including recommendations as to an improved conflict checks process, greater confidentiality measures for investigation participants, investigation closeout procedures, and procedures to separate complainants from respondents during the ODI investigation

process to the extent permissible under the law and applicable collective bargaining agreements.

b) Recommend improvements as to revisions to ODI's Internal EEO Investigations Handbook and associated templates, if necessary.

c) Review in person training conducted by an independent third party, who is mutually acceptable to the OAG and Con Edison, for ODI personnel regarding effective internal EEO investigation techniques and practices, including witness credibility determinations by ODI investigative personnel.

d) The Independent Consultant may recommend that Office of Diversity & Inclusion conduct climate assessments, consistent with Office of Diversity & Inclusion's practices and procedures, for specific and identifiable Con Edison work locations based upon allegations or concerns of gender-based discrimination, gender-based harassment, or retaliation concerning female union employees working in the field. The recommendation shall be made in writing to the Settlement Implementation Officer and the Director of Office of Diversity & Inclusion. The Independent Consultant may review the results of Office of Diversity & Inclusion's climate assessment of such locations, and they will be designated as confidential.

e) Review, as part of the Con Edison's bi-annual reporting requirement, see Paragraph 48 below, summaries of relevant employee internal EEO complaints of gender discrimination, gender-based harassment, or retaliation following from complaints of gender discrimination or harassment made or referred to, or pending with ODI, and, at the Independent Consultant's discretion, request and review any ODI Investigation files and Reports relating to such complaints. The summary will be prepared by the Settlement Implementation Officer. In no event shall the Independent Consultant participate in the

investigation or dictate the investigatory findings.

f) The Independent Consultant shall not be responsible for investigating internal complaints. In the event the Independent Consultant receives an internal complaint, including, but not limited to, gender discrimination, gender-based harassment, disparate treatment, or retaliation, they shall promptly forward it to ODI for review pursuant to its internal procedures and practices. If the Independent Consultant receives an internal complaint from a person who wishes to be anonymous, the Independent Consultant will promptly direct the person to Con Edison's anonymous reporting channels, such as its hotline.

g) Evaluate whether Con Edison is in material compliance with the programmatic terms of the Agreement and report their conclusion to Con Edison and to the OAG as part of Con Edison's bi-annual reporting requirement.

h) Consult with the Director of ODI and the Settlement Implementation Officer to provide guidance and recommendations as to how Con Edison can better achieve its goal to support women in non-traditional job titles in the Company. The Independent Consultant may, at their discretion, conduct site visits, recommend that ODI conduct climate assessments and any other types of assessments the Independent Consultant deems appropriate, review the results of those assessments, and make recommendations for corrective action as needed based on the results of the assessments.

40) The Independent Consultant will complete the duties listed under Paragraphs 39(a) through 39(c) within eighteen months of the Execution Date.

41) The Independent Consultant will evaluate Con Edison's compliance with the programmatic terms of this Agreement based on, among other things, the Periodic Reports submitted by the Settlement Implementation Officer and any additional relevant and non-

privileged documentation, or materials reviewed by the Independent Consultant pursuant to this Agreement and recommend corrective action to address any noncompliance.

42) Within thirty (30) days of receiving each Periodic Report, the Independent Consultant shall provide a draft written progress report to the Settlement Implementation Officer with respect to Con Edison's implementation of and compliance with the programmatic terms of this Agreement. Con Edison's Settlement Implementation Officer shall have fourteen (14) days to review and provide feedback to the Independent Consultant and to ensure that the report does not inadvertently disclose confidential information or contain other material errors. Following receipt and consideration of any comments from Con Edison, the Independent Consultant shall simultaneously issue to Con Edison and OAG a final written report ("Independent Consultant's Report") as to Con Edison's progress in implementing and complying with the Agreement.

43) Each Independent Consultant's Report shall describe the activities of the Independent Consultant during the Reporting Period and evaluate whether Con Edison is in material compliance with the programmatic terms of this Agreement.

44) The Independent Consultant shall, to the maximum extent practicable and consistent with their obligations, work cooperatively with Con Edison so as not to interfere unduly with Con Edison's operations. At all times, Con Edison will retain its managerial discretion to oversee its services and operations and to protect the safety of its employees, its customers, its property, and the general public.

45) Con Edison shall, to the extent practicable, work cooperatively with the Independent Consultant and, in good faith, consider implementation or adoption of written recommendations made by the Independent Consultant to the Settlement Implementation Officer pursuant to this Agreement and consistent with the duties outlined above. Within thirty (30) days of a written recommendation, Con Edison agrees to either implement the recommendations or

provide a written explanation to both the Independent Consultant and the OAG explaining its decision to reject the recommendations of the Independent Consultant, and offering a reasonable and feasible alternative to the recommendations.

46) Con Edison shall provide the Independent Consultant reasonable access to relevant, non-privileged documents and other sources of information necessary to execute their duties pursuant to this Agreement within fourteen (14) days. Any requests for such documents or information shall be written and directed to the Settlement Implementation Officer and Director of Office of Diversity & Inclusion, and such requests will be reasonable in timing and scope, will be limited only to those documents reasonably related to the fulfillment of their specific duties, and will not be unduly burdensome to Con Edison's operations and services. If Con Edison determines that the requested documents are privileged, unreasonable in time or scope, not reasonably related to the fulfillment of their specific duties, or unduly burdensome, it must provide a written explanation to both the Independent Consultant and the OAG within fourteen (14) days of such request.

SETTLEMENT IMPLEMENTATION OFFICER

47) Con Edison shall designate a senior employment attorney in the Law Department to serve as Settlement Implementation Officer, who will oversee implementation of and compliance with the terms of the Agreement. The Settlement Implementation Officer's duties shall include:

a) Meeting and communicating regularly with the Independent Consultant during the Term of the Agreement, and forwarding all recommendations from the Independent Consultant to relevant Con Edison stakeholders and coordinating their response;

b) Responding to inquiries and requests for information or documents by the

Independent Consultant;

c) Within fourteen (14) days of receipt, reviewing and providing feedback to the Independent Consultant on their draft written progress reports; and

d) Creating and providing Periodic Reports, as discussed in Paragraph 48.

48) For the duration of this Agreement, the Settlement Implementation Officer shall submit Periodic Reports to the OAG and Independent Consultant bi-annually for three years. The Period Reports will include a summary of internal complaints of gender-based discrimination or gender-based harassment and retaliation made by female union field employees to ODI as well as their outcomes. The reporting will also include documentation regarding the status of programmatic relief implemented, including copies of training materials and training attendance lists for ODI personnel consistent with Paragraph 39(c) above, and of Con Edison's compliance with the terms of this Agreement during the preceding Reporting Period.

a) The first Reporting Period shall begin on the Execution Date and will end on the last day of the sixth (6th) complete calendar month thereafter. Each subsequent Reporting Period shall be six (6) calendar months.

b) The Periodic Report corresponding to each Reporting Period shall be provided no later than thirty (30) days after the end of the preceding Reporting Period except:

c) The fourth (4th) Periodic Report shall be produced no later than twenty-three (23) months after the Execution Date; and

d) The final Periodic Report shall be produced no later than thirty-five (35) months after the Execution Date.

PROGRAMMATIC RELIEF

49) Training for ODI Personnel: Con Edison agrees that within the first six (6) months of the Agreement, it will provide training to all ODI personnel on effective investigation techniques from an outside organization or provider that is mutually agreeable to Con Edison and the OAG. The training will be interactive and in person and include best investigation practices, trend identification, mandatory reporting obligations, and credibility determinations. For all ODI personnel hired or promoted during the duration of the Agreement, the training will be completed within 30 days from the employee's hire or promotion date. Con Edison will maintain documentation, including a copy of the training materials and signed attendance lists, to show it conducted the required training.

50) Support of Women in Non-Traditional Careers: Con Edison shall create an employee resource group ("ERG") for women and allies in Field Positions to discuss workplace concerns and otherwise make recommendations on how to further improve Con Edison's work environment for female employees. The ERG will meet locally with female union employees and allies across Con Edison's organizations/departments and will meet at least on a quarterly basis. Management, ODI employees, and the Independent Consultant may only attend ERG meetings by invitation of the ERG.

51) Recommendations on how to further improve the work environment for female employees made by the ERG will be referred to an implementation committee ("Committee"), which shall consist of senior representatives from Con Edison's organizations, the Director of ODI, and the Settlement Implementation Officer. The Committee will review all recommendations to determine feasibility and execute an implementation process for lawful and feasible recommendations. All recommendations and resulting action or inaction will be summarized in the Settlement Implementation Officer's periodic reports.

52) The ERG will remain part of Con Edison's diversity, equity, and inclusion programming after the expiration of the implementation period of the Agreement.

53) Con Edison shall employ a new full-time ODI employee dedicated to the ERG, Committee, and otherwise supporting female union field employees in Con Edison.

54) Con Edison will agree to pay a minimum gross amount of two-hundred thousand dollars (\$200,000) towards programmatic relief, including Independent Consultant fees and expenses, implementation of the ERG and Committee, ODI staff training, ODI staff hiring referenced in Paragraph 53 of the Agreement (of which only \$50,000 may be allocated to this employee's salary), and supporting female union employees in the field. The Settlement Implementation Officer will include a summary of the money spent on programmatic relief in the Periodic Reports

MONETARY RELIEF

55) In full and final settlement of any and all claims that were or could have been asserted against Con Edison in connection with the OAG Investigation and in exchange for all promises in the Agreement, Con Edison will reserve the gross settlement amount of Seven Hundred Fifty Thousand Dollars (\$750,000) (the "Settlement Fund").

56) The OAG has identified current or former Con Edison employees, who the OAG believes have sustained emotional distress damages based on alleged actionable claims of discrimination or harassment, or retaliation for engaging in protected activity under anti-discrimination laws arising out of conduct occurring between the Relevant Time Period ("Settlement Group Members"). Con Edison will agree to pay the gross settlement amount of \$750,000 via a claims process to resolve and release any discrimination, harassment, or retaliation claims up to the date of execution of this Agreement. Con Edison agrees to be responsible for any associated fees. The entire settlement amount will be distributed to Final Eligible Settlement Group Members who complete the claims administration process and execute a Release.

57) Within thirty (30) calendar days of executing this Agreement, Con Edison shall pay into escrow with the Claims Administrator the gross sum of seven hundred and fifty thousand dollars (\$750,000).

CLAIMS ADMINISTRATION

58) Con Edison will retain, at its own expense, a third-party Claims Administrator to assist with the claims process.

59) The OAG shall provide the Claims Administrator with the names and personal identifying information, including social security numbers and residential addresses, for Settlement Group Members to confirm their employment status and tax reporting information.

60) Within fourteen (14) days of receiving the personal identifying information for Settlement Group Members, the Claims Administrator will send each Settlement Group Member a confidential questionnaire, where each Settlement Group Member will describe their allegations of actionable discrimination, harassment, or retaliation for engaging in protected activity under anti-discrimination laws arising out of conduct allegedly occurring the Relevant Time Period, and provide any supporting documentation.

61) Settlement Group members will have forty-five (45) days to complete and return the confidential questionnaire (“Questionnaire Submission Deadline”).

62) Completed confidential questionnaires will be sent directly to the OAG, and not Con Edison. The Parties will mutually agree on a form confidential questionnaire, which will include a requirement that the Settlement Group member is attesting to the truth, completeness, and veracity of their statements.

63) The OAG will make a good faith determination on whether a Settlement Group Member is eligible to recover based on an agreed upon criteria tied to the OAG’s investigation findings and applicable New York state and federal law.

64) Fund Eligibility. The OAG shall have sole discretion to make all eligibility determinations for monetary awards from Settlement Fund, provided that the determinations are otherwise consistent with the terms of this Agreement. The OAG's determination of monetary awards from the Settlement Fund shall be made after consideration of the following criteria:

a) Severity of alleged discrimination, harassment, or retaliation experienced by Settlement Group Member;

b) Frequency and duration of alleged discrimination, harassment, or retaliation experienced by Settlement Group Member;

c) Length of time during the Relevant Time Period that the Settlement Group Member worked in a unionized field position;

d) Whether the Settlement Group Member ever used Con Edison's internal processes to file a complaint of discrimination, harassment, or hostile work environment, or retaliation for engaging in protected activity under federal, state or city anti-discrimination laws;

e) Whether Con Edison substantiated the allegations, in whole or in part, of the Settlement Group Member's complaint; and

f) Whether the Settlement Group Member sought any mental health or medical treatment as a result of any alleged discrimination, harassment, or retaliation sustained while employed by Con Edison during the Relevant Time Period.

65) Within fifteen (15) calendar days after the OAG has completed its determinations, it shall provide the Claims Administrator with a final list of eligible Settlement Group Members ("Final Eligible Settlement Group Member List"), which shall include the OAG's determinations as to each Final Settlement Group Member's eligibility for an award and the amount of each such award.

66) Within thirty (30) calendar days of the Questionnaire Submission Deadline, the Claims Administrator shall send to Final Eligible Settlement Group Members contained on the Final Eligible Settlement Group Member List, return receipt requested, the following:

a) A Notice of Determination advising each such Final Eligible Settlement Group Member of the total monetary award allocated to them.

b) A Release along with instructions regarding execution and timely return to the Settlement Implementation Officer.

c) A postage-prepaid return envelope addressed to the Settlement Implementation Officer.

67) The Claims Administrator shall provide the Parties with certification of mailing of the Releases and Notices of Determination within fifteen (15) calendar days of such mailings.

68) In consideration for receiving any monetary award pursuant to this Agreement, as well as all other consideration provided by this Agreement, each Final Eligible Settlement Group Member shall return an executed Release within sixty (60) calendar days of the date of the mailing of the Notice of Determination (“Release Return Deadline”). To be considered timely and executed, the Release must be completed in full, signed, and returned to the Claims Administrator, postmarked by the U.S. Postal Service or other common carrier by the Release Return Deadline. The Parties will mutually agree on a form of Release.

69) A Settlement Group Member who fails to return a timely executed Release shall be deemed to have rejected the offered monetary award and will receive no payment from the Settlement Fund.

70) Con Edison will receive a copy of executed Releases, which will be provided to the Settlement Implementation Officer and will remain “Attorney’s Eyes Only.”

71) Within thirty (30) calendar days from the Release Return Deadline, the Claims Administrator will send the OAG and the Settlement Implementation Officer the names of all Settlement Group Members who returned timely, signed, and complete Releases (“Settlement Fund Distribution List”), along with confirmation of the gross and net payout amounts to be made to each such Settlement Group Member. The Settlement Fund Distribution List will include any adjustments to gross payout amounts necessitated by any legal obligation of Con Edison to withhold payments to any Settlement Group Member as required by law. Each Settlement Group Member will be solely responsible for the payment of any and all applicable taxes or other garnishments, support obligations or withholdings required by law or Court order, except for those that are the responsibility of Con Edison to pay.

72) Within thirty (30) calendar days of the finalization of the Settlement Fund Distribution List, the Claims Administrator shall send via certified mail, return receipt requested, settlement checks reflecting the names and award amounts identified on the Settlement Fund Distribution List. Such mailing shall be accompanied by a cover letter from the Claims Administrator. The Claims Administrator shall provide the Parties with certification of mailing of the settlement checks within fifteen (15) calendar days of such mailing.

73) If there is any remainder in the Settlement Fund as a result of unexecuted Releases, the OAG, in its discretion, will re-distribute the remainder among the Final Eligible Settlement Group Members who have signed Releases.

SCOPE OF THE ASSURANCE, JURISDICTION, AND ENFORCEMENT PROVISIONS

74) The Parties have agreed to the terms of this Agreement based on, among other things, the representations the Parties made to each other, and, in the OAG’s case, its own factual investigations.

75) If, during the pendency of this Agreement, the OAG receives a complaint of gender-

based discrimination, gender-based harassment, or retaliation for an incident that occurred during the Relevant Time Period to a current Con Edison employee who has not reported the same complaint internally with Con Edison, the OAG will direct said employee to use Con Edison's internal complaint channels.

76) Con Edison represents and warrants, through the signatures below, that the terms and conditions of this Agreement are duly approved, and execution of this Agreement is duly authorized. Nothing in this paragraph affects Con Edison's (i) legal, regulatory, or testimonial obligations or (ii) right to take any legal or factual positions in connection with litigation or other legal, administrative, or regulatory proceedings.

77) This Agreement has been reached by the Parties after settlement negotiations, and is not intended, and should not be construed, as an admission of liability or proof of any wrongdoing by Con Edison against any third-party, and thus is not admissible in any proceeding involving third parties to prove liability for any claim, amount, or otherwise. Moreover, this Agreement, though public, does not confer contractual or other rights on any third party.

78) This Agreement may not be amended except by an instrument in writing, signed on behalf of all the Parties.

79) In the event that any one or more of the provisions contained in this Agreement will for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision of this Agreement.

80) This Agreement will be binding on and inure to the benefit of the Parties to this Agreement and their respective successors and assigns.

81) All notices, reports, requests, and other communications to any Party pursuant to this Agreement will be in writing and will be directed as follows:

If to OAG, to:

Sandra Pullman Senior Counsel
Office of the Attorney General Civil Rights Bureau
28 Liberty Street
New York, New York 10005

(in her absence, to the person holding the position Chief of the Civil Rights Bureau, currently
Sandra Park)

If to Con Edison, to:

Christopher A. D'Angelo, Esq.
Associate General Counsel
Consolidated Edison Company of New York, Inc.
4 Irving Place, Room 18-201
New York, New York 10003

Lorie Almon, Esq. Seyfarth Shaw LLP 620 Eighth Avenue
New York, New York 10018-1405

82) Should the identity of the persons to whom notice should be directed change at any point, that information will be shared with all other persons designated to receive notice.

83) Acceptance of this Agreement by the OAG will not be deemed approval by the OAG of any of the practices or procedures of Con Edison prior to the Execution Date of this Agreement, and Con Edison will make no representation to the contrary.

84) This Agreement will be governed by the laws of the State of New York without regard to any conflict of laws principles.

85) Nothing contained herein will be construed so as to deprive any person of any private right under the law.

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto on March 4, 2024.

LETITIA JAMES
Attorney General of the State of New York

By: Sandra Pullman

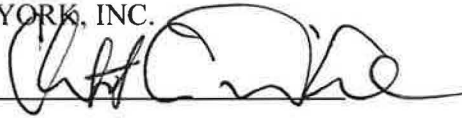
Sandra Pullman
Senior Counsel
Kathryn Martin
Assistant Attorney General
Benjamin Pollak
Assistant Attorney General
Civil Rights Bureau

28 Liberty Street
New York, New York 10005
Phone: (212) 416-8250
Email: Sandra.pullman@ag.ny.gov

Dated: March 25, 2024

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.

By: _____



Chris D'Angelo
Associate General Counsel
Consolidated Edison Company of New York,
Inc.
4 Irving Place
New York City, New York 10003
Phone: 212-460-3959
Email: dangeloc@coned.com

Dated: March 17, 2024