



# NEWS

From the Office of the New York State Inspector General  
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## **IG Issues Report on Allegations Relating to the PSC**

State Inspector General Kristine Hamann today released the results of an investigation into allegations that Steven Mitnick, the former Assistant Secretary to the Governor for Energy and Telecommunications, threatened the job of Public Service Commissioner Cheryl Buley if she didn't follow his orders, and that Mitnick and Angela Beddoe, the governor's then-nominee for chairperson of the Public Service Commission, improperly influenced the PSC. The investigation found that both Mitnick and Beddoe acted inappropriately at times, but that their conduct did not violate criminal or ethical statutes.

Hamann issued a detailed 130-page report that followed a thorough investigation of both allegations. In conducting this investigation, the Inspector General's Office took sworn testimony from all significant witnesses. More than 40 interviews were conducted of PSC and Department of Public Service officials, Executive Chamber members, senior officials of past administrations, and private citizens with relevant information. More than a thousand pages of records were examined.

### **Commissioner Buley's Allegations**

Buley alleged at an April 18, 2007 PSC public meeting that Mitnick had threatened to remove her from her position unless she followed his directions regarding the timing of a PSC investigation of Consolidated Edison's responsibility for a July 2006 blackout in Queens. In testimony to the Inspector General, Buley also accused Mitnick of engaging in unethical, intimidating, and coercive conduct toward her. Mitnick denied the allegations and accused Buley of using the allegations to protect her job.

There is no dispute that Mitnick requested Buley to resign from the PSC based on his belief that she was unqualified. Such a request is permissible and typical as a new administration takes office and begins to implement its policies. It is also permissible for Mitnick to advocate for the administration's policies with PSC commissioners. As a term appointee, Buley had no obligation to leave her position. What is disputed is whether Mitnick's requests for Buley's resignation were linked to threats that she would be removed if she didn't follow his instructions. The Inspector General's investigation determined there was insufficient evidence to establish such a link.

Three telephone conversations on February 16 and 26, 2007, and April 17, 2007 are at the core of Buley's allegations that Mitnick threatened her job by initiating a removal proceeding against her under Public Service Law § 4-b if she did not follow his directives. Buley claimed that Mitnick made the threat to stop her from publicly commenting on what she saw as unnecessary delays in the PSC's voting to begin a prudence investigation of Con Ed regarding the 2006 blackout, and to influence her vote on the issue. In their testimony, Mitnick and Buley provided accounts of these three telephone calls that are contradictory. There is not sufficient evidence to resolve these contradictions, as no third-parties witnessed the telephone conversations and no recordings of them were made.

Buley's claims tend to be supported by several colleagues at the DPS who testified that she told them of Mitnick's alleged threats at or near the time they purportedly occurred. Buley's allegations are also consistent with accounts of Mitnick's impatient, overbearing, and even aggressive manner in his interactions with other PSC and DPS officials. Further, in one of their contentious February conversations, Mitnick in fact did mention § 4-b to Buley, although he knew that his superiors in the Executive Chamber had decided, and made clear to him, that the provision would not be used to remove commissioners who declined a request to resign.

Similarly, there is indirect corroboration for Mitnick's denial that he threatened Buley. The evidence does not show that Mitnick sought a delay in the PSC's vote on the Con Ed prudence investigation, rather that the PSC chairperson and DPS staff wanted to put off the vote until April to allow for public comment on a staff report on the blackout. Buley agreed with the need for the comment period, and she herself requested that the vote not take place at the PSC's March 2007 meeting because she would be on vacation. The PSC unanimously voted to commence the prudence investigation at its April 18, 2007 session. Moreover, the evidence shows that Buley was dissatisfied at the PSC, and even prior to Mitnick first contacting her, she had asked a mutual friend to communicate to Mitnick her interest in returning to her former post on the Racing and Wagering Board. Thereafter, she continued discussions with Mitnick about other possible jobs. Although Buley claimed that Mitnick threatened her in a February 26, 2007 telephone call, she didn't go public with her claim until April 18, 2007, after she had refused Mitnick's help in finding a new job. In addition, a number of Buley's colleagues, including PSC commissioners, testified that they had doubts about Buley's credibility and said she was prone to exaggeration.

The evidence does not support a conclusion that Mitnick violated criminal or ethical statutes, or that he threatened Buley to influence her actions as commissioner. The investigation did conclude that Mitnick mismanaged his efforts to obtain the resignations of PSC commissioners. He exercised poor judgment, particularly in his ill-advised mention to Buley of the removal statute, even though he knew that his superiors in the Executive Chamber had decided, and made clear to him, that it would not be used. While many commended Mitnick's expertise in energy, he proved poorly suited for an executive position in state government. Mitnick resigned from state service on August 3, 2007.

### **Allegations Regarding Mitnick and Beddoe**

On May 4, 2007, the Inspector General received a second complaint, that Mitnick and Beddoe were exerting improper influence over the PSC and DPS. Beddoe, an executive at Energy East, a

utility regulated by the PSC, chose not to sever ties with her employer while her confirmation was pending before the State Senate. Energy East, which had a contentious relationship with the PSC, had numerous matters pending before the PSC at this time.

The investigation found that Mitnick initiated a series of meetings between Beddoe and DPS staff. Instead of recognizing the obvious ethical concerns relating to these meetings and acting cautiously, Mitnick urged Beddoe and DPS staff to engage in premature discussions about agency restructuring. In doing so, Mitnick created a climate fraught with apparent ethical conflicts. Beddoe acted improperly when she discussed actual promotions, demotions, and possibly terminations of DPS employees during the meetings.

Specific personnel matters discussed at the meetings are troubling. Beddoe targeted for demotion or termination several DPS employees who had clashed with Energy East or had voiced ethical concerns about Beddoe's nomination. At the same time, Beddoe interviewed DPS Administrative Law Judge Eleanor Stein for promotion to agency counsel, and less formally interviewed Acting Counsel Peter McGowan and Acting Chief Administrative Law Judge Judith Lee for promotions. Stein's interview with Beddoe is particularly problematic as Stein was presiding over matters in which Energy East and its subsidiaries have a material interest, most notably the Queens blackout investigation.

DPS staff who met with Beddoe were aware of the ethical implications of their discussions. The public confidence could be affected by the knowledge that these senior DPS officials were discussing promotions contingent on the continued favor of an executive of a regulated utility.

The investigation also found that DPS staff provided Beddoe with a document mostly likely in violation of agency policy.

Beddoe withdrew her nomination on June 29, 2007.

The Inspector General has forwarded the report to the Commission on Public Integrity for its review and whatever action it deems appropriate. The Inspector General also specifically requested that the Commission assess whether the actions of DPS staff violated the state's code of ethics contained in the Public Officers Law. As a private citizen, Beddoe is not subject to the Public Officers Law.

As employees of regulated bodies may be nominated for positions in state government in the future, the Inspector General has asked the Commission on Public Integrity to establish guidelines for these nominees' interactions with agency staff. In addition, the Inspector General has requested that PSC Chairperson Garry Brown examine the actions of DPS staff and determine if disciplinary action is warranted.

The Inspector General's report is available at: [www.ig.state.ny.us](http://www.ig.state.ny.us)