



In addition, Con Edison moves to sanction the Port Authority of New York and New Jersey ("Port Authority") for relying, in its opposition papers, on various assertions in a report by the National Institute of Standards and Technology (NIST), and to strike these assertions or Port Authority's opposition papers in full. Alternatively, Con Edison asks for leave to file an additional submission to respond to Port Authority's use of the NIST Report.

The motion to strike and for sanctions is denied, in both of its parts. A case for sanctions has not been made. If the Court finds the assertions from the NIST Report worthy of consideration, Con Edison may ask for an opportunity to comment.

In its papers, Port Authority comments that Con Edison filed its motion for partial summary judgment before discovery was completed. I wish to know what additional discovery is expected or planned that the parties reasonably anticipate will elicit admissible evidence to clarify their contemporaneous understandings of the meaning of the relevant clauses of the lease agreement. Both parties' submissions on this question will be due on February 13, 2009, at 12:00 p.m.

The Clerk shall mark the motion to strike and for sanctions (Doc. #152) as terminated.

SO ORDERED.

Dated: February 12, 2009  
New York, New York

  
ALVIN K. HELLERSTEIN  
United States District Judge