STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission
On Its Own Motion

Requirements governing the form and content of contract summaries for the neutral fact-finder process for 2000 under Section 16-112(c) of the Public Utilities Act.

No. 00-0007

BRIEF ON EXCEPTIONS OF COMMONWEALTH EDISON COMPANY

Sarah J. Read
Lisa A. Hausten
Mitchel A. Mick
SIDLEY & AUSTIN
10 South Dearborn Street
Chicago, Illinois 60603
(312) 853-7000

E. Glenn Rippie
Acting Associate General Counsel
COMMONWEALTH EDISON COMPANY
125 South Clark Street
Chicago, Illinois 60603
(312) 394-4200

Attorneys for Commonwealth Edison Company

Dated: April 6, 2000
BRIEF ON EXCEPTIONS OF
COMMONWEALTH EDISON COMPANY

Although Commonwealth Edison Company ("ComEd") generally believes that the Hearing Examiner’s Proposed Order is thorough and well reasoned, ComEd takes exception to the conclusion that Section F.(b) of the proposed instructions regarding reliability (i.e., firmness), should be adopted despite the variance from the instruction on reliability previously adopted by the Commission in Docket 98-0769, and despite the lack of evidence supporting the proposed instruction. ComEd also takes exception to the conclusion in the Proposed Order that the instructions for unbundling contracts do not need to specifically address line losses.

EXCEPTION 1: THE COMMISSION SHOULD APPROVE IN THIS DOCKET, THE SAME INSTRUCTION REGARDING RELIABILITY THAT IT APPROVED IN DOCKET 98-0769.

Section F.(b) of the proposed instructions regarding reliability is different from the instruction regarding reliability adopted by the Commission in Docket 98-0769. The
proposed instruction in Section F.(b) contains parenthetical definitions that were not contained in the Commission's order for reporting contracts to the 1999 NFF. (Order, Ill. C.C. Dkt. 98-0769; Tr. at 56-57). Although the change was included in the proposed instructions attached to Staff witness Bishop's direct testimony (Bishop, Staff Ex. 1.0, Schedule B, Paragraph F.(b)) no party, including Staff, put forth evidence supporting the change. In fact, it appears that there was confusion among some parties as to whether the proposed instruction was a change from the instruction previously adopted by the Commission in Docket 98-0769. (Tr. at 53-57). For example, IIEC's witness Mr. Stephens stated that he saw "nothing in [Mr. Feerick's] testimony that warrants the Commission reversing its decision on reporting the distinctions and levels of firmness among the various products, as specified in its Order in Docket No. 98-0769." (Stephens, IIEC Ex. 1 at 10).

In his direct testimony, ComEd witness Mr. Feerick testified that there are really only two major categories of power -- firm and non-firm. (Feerick, ComEd Ex. 2 at 2). Mr. Feerick outlined that within the firm category, there are different types of power sold in the market -- Firm as Native Load, System Firm and Marketer Firm that are considered to be "firm power." Mr. Feerick further testified that defining "Firm" as "Native Load Firm" as the proposed guidelines do, is incorrect, and that defining "Marketer Firm" as "interruptible, but with liquidated damages" is misleading. (Id. at 3). He further testified that "[a]ll types of firm power are curtailable, it just depends on the extent to which a seller is willing, or physically able, to supplement its system portfolio of resources with off-system purchases to avoid curtailing System Firm or Firm as Native Load sale, or the economic risks it is willing to take in conjunction with curtailing a Market Firm sale." (Id. at 3-4).
On rebuttal, Ameren witness Mr. Voytas addressed an argument Mr. Feerick never made. Mr. Voytas contended that Mr. Feerick testified that “the definition of Native Load Firm is incorrect” (Voytas, Ameren Ex. 3.0 at 2); however, Mr. Feerick testified that “[t]he definition stated in the guidelines of Firm as “Native Load Firm” is incorrect . . . .” (Feerick, ComEd Ex. 2 at 3 (emphasis added)).

Contrary to Mr. Voytas’ testimony, ComEd does not seek a finding that “Native Load Firm” and “Marketer Firm” are the same. ComEd has only requested that the instructions regarding reliability be modified to reflect the fact that there are several types of firm power. (ComEd Brief at 3; Feerick, ComEd Ex. 2 at 3-4). In lieu of revising Staff’s proposed instruction in Section F.(b), ComEd proposed that the instruction on reliability be replaced with the same instruction that was previously adopted by the Commission in Docket 98-0769. (Order, Ill. C. C. Dkt. 98-0769 at 15-16, Appendix B, par. 12). IIEC and Staff both stated that they would accept the language adopted by the Commission in Docket 98-0769. (Staff Br. at 10; Stephens, IIEC Ex. 1 at 10). Ameren’s misinterpretation of ComEd’s testimony does not warrant the Commission varying the instruction regarding reliability previously adopted by the Commission in Docket 98-0769. Contrary to the conclusion stated in the Proposed Order which reads: “Nor is the Commission aware of any reason to return to the language used in Docket No. 98-0769” (H.E. Proposed Order, Ill. C.C. Dkt. 00-0007 at 21), no other party has introduced evidence or presented an argument justifying a change from the language adopted in Docket No. 98-0769.
Proposed Alternative Language:

For the above reasons, the first full paragraph on page 21 of the Proposed Order should be deleted in its entirety and replaced with the following language:

The Commission is not persuaded to vary from the reliability language previously approved by the Commission in Docket 98-0769 (Order, Ill. C.C. Dkt. 98-0769 at 15-16, Appendix B, par. 12) and hereby adopts in this docket, the same language previously approved in Docket 98-0769:

F.(b) In reporting the level of reliability, determine and define each level or category of reliability, e.g. “Native Load” Firm, Marketer Firm, other type of firm (specify), or type of nonfirm (specify), and designate each with a capital letter, e.g. A, B, C, etc. Also provide information regarding the delivery obligations of the selling entity.

EXCEPTION 2: LINE LOSSES SHOULD BE ACCOUNTED FOR WHEN UNBUNDLING CONTRACTS.

The proposed order concludes that “[s]ince Mr. Geraghty has not demonstrated, however, that line losses are not already subtracted when the delivery services component of a bundled contract is deducted, the Commission finds that the proposed instructions should not be modified to address the value of line losses.” (H.E. Proposed Order, Ill. C.C. Dkt. 00-0007 at 26). This language appears to agree with the testimony of ComEd witness Mr. Geraghty that line losses should be accounted for when unbundling contracts. ComEd requests that the proposed instructions explicitly require that line losses be accounted for when unbundling contracts.

Proposed Alternative Language:

For the above reasons, paragraph IV. G. of the Proposed Order should be deleted and replaced with the following language:

Mr. Geraghty also claims that the proposed instructions do not address the value of line losses. Line losses, according to Mr. Geraghty, should be subtracted from
the energy price. He recommends that the distribution level line losses be subtracted as stated in Rate RCDS and transmission level line losses as stated in the OATT. The Commission finds that the proposed rules should be modified to require that line losses are accounted for in the unbundling process:

D. 3.(d) ensure that line losses are accounted for in the unbundling process.

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

By: [Signature]

Sarah J. Read
Lisa A. Hausten
Mitchel A. Mick
SIDLEY & AUSTIN
10 South Dearborn Street
Chicago, Illinois 60603
(312)853-7000

E. Glenn Rippie
Acting Associate General Counsel
COMMONWEALTH EDISON COMPANY
125 South Clark Street
Chicago, Illinois 60603
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NOTICE OF FILING

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on this date we have forwarded for filing with the Clerk of the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62701, the original and eleven copies of the Brief on Exceptions of Commonwealth Edison Company in the above-captioned matter.

COMMONWEALTH EDISON COMPANY

By: ___________________________
One of its Attorneys

April 6, 2000

Sarah J. Read
Lisa A. Hausten
Mitchel A. Mick
SIDLEY & AUSTIN
10 South Dearborn Street
Chicago, Illinois 60603
(312) 853-7000

E. Glenn Rippie
Acting Associate General Counsel
COMMONWEALTH EDISON COMPANY
125 South Clark Street
Chicago, Illinois 60603
(312) 394-4200
CERTIFICATE OF SERVICE

I, Mitchel A. Mick, certify that I served copies of the attached Notice of Filing and the Brief on Exceptions of Commonwealth Edison Company, on each party on the attached service list by either facsimile, messenger, Federal Express or by depositing a copy in a properly addressed, sealed envelope with the U.S. Post Office, Chicago, Illinois, with proper postage prepaid on April 6, 2000.

Mitchel A. Mick
SERVICE LIST
I.C.C. DKT. NO. 00-0007

Donna M. Caton
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

Steven Revethis
John Feeley
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, IL 60601

Christopher W. Flynn
Karl B. Anderson
Jones Day Reavis & Pogue
77 West Wacker Drive
Chicago, IL 60601

Robert Mill
AmerenCIPS
607 East Adams Street
Springfield, IL 62739

Robert Jared, Esq.
MidAmerican Energy Company
106 East Second Street
Davenport, IA 52808

John Albers
Hearing Examiner
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

Robert Bishop
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

Patrick Foster
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

Leijuana Doss
Marie Spicuzza
Assistant State’s Attorneys
Environment and Energy Division
69 West Washington, Suite 700
Chicago, IL 60602

Edward J. Griffin
W. Michael Seidel
Defrees & Fiske
200 South Michigan Avenue
Suite 1100
Chicago, IL 60604

Edward C. Fitzhenny
Lueders Robertson & Konzen
1939 Delmar Avenue
Granite City, IL 62040

James Hinchliff
Gerard Fox
Mary Klyasheff
Peoples Energy Services Corporation
130 East Randolph Street, 23rd Floor
Chicago, IL 60601
Susan M. Landwehr
Enron Energy Services, Inc.
900 Second Avenue South
Suite 890
Minneapolis, MN 55402

Stephen Mattson
Joseph Weber
Mayor, Brown & Platt
190 South LaSalle Street
Chicago, IL 60603

Kent M. Ragsdale
Alliant Energy Corporation
200 First Street, S.E., 12F Floor
Cedar Rapids, IA 52401-0351

Michael A. Munson
150 North Michigan Avenue
Suite 1405
Chicago, IL 60601

Julie Voeck
Blackhawk Energy Services
N16 W23217 Stone Ridge Drive
Suite 100
Waukesha, WI 53188

Nicholas T. Shea
Central Illinois Light Co.
300 Liberty Street
Peoria, IL 61602

Michael W. Hastings
P.O. Box 3787
Springfield, IL 62708-3787

Christopher Townsend
David Fein
Piper Marbury Rudnick & Wolfe
203 North LaSalle Street
Suite 1800
Chicago, IL 60601

James Stamos
Stamos & Trucco
10 North Dearborn
5F Floor
Chicago, IL 60602

Joseph L. Lakshmanan
Regulatory Services
Illinois Power Company
500 South 27F Street
Decatur, IL 62521

Sarah J. Read
Mitchel A. Mick
Sidley & Austin
10 South Dearborn
Suite 5400
Chicago, IL 60603

E. Glenn Rippie
Commonwealth Edison Company
125 South Clark Street
Suite 1535
Chicago, IL 60603

Koby Bailey
Nicer, Inc.
1844 Ferry Road
Naperville, IL 60563

Joseph H. Raybuck
Ameren Services Company
1901 Chouteau Avenue
St. Louis, MO 63103-3085