STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	**:**	
	:	
Petition for the Establishment of	**:**	**22-0067**
Performance Metrics Under Section	**:**	
16-108.18(e) of the Public Utilities Act.	**:**	

ORDER

September 27, 2022

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By the Commission:

I. INTRODUCTION

On January 20, 2022, pursuant to Section 16-108.18(e) of the Public Utilities Act ("Act"), 220 ILCS 5/1-101 *et seq*., Commonwealth Edison Company ("ComEd" or "Company") filed with the Illinois Commerce Commission ("Commission") a verified Petition for approval of ComEd's proposed performance and tracking metrics, as well as its proposed incentive and penalty mechanism, Rider PIM – Performance Incentive Metrics ("Rider PIM"). Section 16-108.18 was added to the Act by Public Act 102-0662 ("P.A. 102-0662"). ComEd's Petition sought the Commission's approval of eight performance metrics and eleven tracking metrics, allocation of basis points ("bps") for penalties and incentives associated with each proposed performance metric, and Rider PIM.

Commission Staff ("Staff") and the Office of the Attorney General of the State of Illinois ("AG") participated in this proceeding. Additionally, the following parties were given leave to intervene: Citizens Utility Board ("CUB"); Archer-Daniels-Midland Company, ExxonMobil Power & Gas Services, Inc, Liberty Steel & Wire Company, Caterpillar Inc., and the University of Illinois, each as part of Illinois Industrial Energy Consumers ("IIEC"); Community Organizing and Family Issues ("COFI"); Environmental Law & Policy Center and Vote Solar ("ELPC/VS"); Natural Resources Defense Council ("NRDC"); Advanced Energy Economy ("AEE"); Joint Solar Parties ("JSP"); Environmental Defense Fund ("EDF"); and the Coalition to Request Allocation of Cost Together ("REACT").

Pursuant to notice given in accordance with the law and the rules and regulations of the Commission, a prehearing conference was held in this matter before duly authorized Administrative Law Judges of the Commission via teleconference on February 15, 2022, wherein the parties agreed to a case schedule. An evidentiary hearing was held on June 16, 2022.

ComEd presented the testimony of the following witnesses: Chad A. Newhouse, Patrick M. Arns, Brian Kirchman, E. Elaine White, Jie Chu, Daniel P. Gabel, James Menard, Ralph Zarumba, and James Shield.

Staff presented the testimony of the following witnesses: Scott Tolsdorf, Janis Freetly, Sunday Balogun, Dr. David Brightwell, Jeanine Robinson, Joan Howard, Dr. David R. Rearden, and Jennifer H. Morris.

The AG presented the testimony of Melissa Whited and Ben Havumaki. COFI presented the testimony of John Howat. Jointly, the AG and COFI ("AG/COFI") presented the testimony of Philip H. Mosenthal.

Jointly, CUB and EDF ("CUB/EDF") presented the testimony of Andrew Barbeau, Cheryl Watson, and Ryan O'Donell.

ELPC and VS ("ELPC/VS") presented the testimony of William D. Kenworthy. AEE presented the testimony of Daniel Waggoner. JSP presented the testimony of Karl R. Rábago. NRDC presented the testimony of Ron Nelson. IIEC presented the testimony of Robert R. Stephens.

On July 8, 2022, ComEd, Staff, the AG, CUB/EDF, COFI, AEE, IIEC, NRDC, and jointly JSP, ELPC and VS ("JSP/ELPC/VS" or "Solar Intervenors") filed Initial Briefs ("IB"). On July 22, 2022, ComEd, Staff, the AG, CUB/EDF, COFI, IIEC, NRDC, and JSP/ELPC/VS filed Reply Briefs ("RB"). ComEd, Staff, the AG, CUB/EDF, COFI, AEE, IIEC, NRDC, and JSP/ELPC/VS filed Position Statements or Draft Orders on July 25, 2022. A Proposed Order was served on August 19, 2022. ComEd, Staff, the AG, CUB/EDF, COFI, IIEC, and JSP/ELPC/VS filed Briefs on Exceptions ("BOE") on August 31, 2022. On September 7, 2022, the Commission granted requests for Oral Argument and the following parties filed Reply Briefs on Exceptions ("RBOE"): ComEd, Staff, the AG, CUB/EDF, COFI, IIEC, and JSP/ELPC/VS. Oral Argument was held on September 15, 2022.

II. BACKGROUND

Governor Pritzker signed P.A. 102-0662 into law on September 15, 2021. P.A. 102-0662 calls upon ". . .the Commission to establish performance incentive mechanisms in order to better tie utility revenues to performance and customer benefits, accelerate progress on Illinois energy and other goals, ensure equity and affordability of rates for all customers, including low-income customers, and hold utilities publicly accountable." 220 ILCS 5/16-108.18(e)(1). P.A. 102-0662 allows electric utilities to file, and the Commission to approve or modify, Multi-Year Rate Plans ("MRPs") to establish base rates over a four-year period. 220 ILCS 5/16-108.18(d)(1). The Act requires that each electric utility that plans to request an MRP "file a petition with the Commission seeking approval of its performance metrics." 220 ILCS 5/16-108.18(e)(6)(A). ComEd filed its performance metrics Petition initiating this proceeding.

P.A. 102-0662 required ComEd to propose, for Commission review, up to eight performance metrics that advance State policy in six categories, along with additional tracking metrics in five categories. 220 ILCS 5/16-108.18(e) and (f). ComEd's final proposal includes eight performance metrics in the six statutory categories and sixteen tracking metrics across the five statutory categories.

Other parties filed testimony supporting, rejecting, modifying or proposing alternatives to ComEd's performance-based ratemaking ("PBR") structures.

III. LEGAL STANDARDS

A. ComEd's Position

Standard of Review

ComEd states that Section 10-15 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-15, provides, "[u]nless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case … shall be the preponderance of the evidence." *Citizens Util. Bd. v. Ill. Commerce Comm'n*, 2015 IL App (2d) 130817, ¶ 42. ComEd states this is the evidentiary standard typically applied in Commission proceedings.

ComEd notes that Section 16-108.18(e)(2) of the Act provides, in this initial performance metrics approval proceeding:

> The Commission shall approve, based on the *substantial evidence* proffered in the proceeding initiated pursuant to this subsection performance metrics that, to the extent practicable and achievable by the electric utility, encourage cost-effective, equitable utility achievement of the outcomes described in this subsection (e) while ensuring no degradation in the significant performance improvement achieved through previously established performance metrics. For each electric utility, the Commission shall approve metrics designed to achieve incremental improvements over baseline performance values and targets, over a performance period of up to 10 years, and no less than 4 years.

220 ILCS 5/16-108.18(e)(2) (emphasis added).

ComEd states Section 16-108.18 does not define the term "substantial evidence," and notes that term is used in only one other Section of the Act, which addresses powers and duties of the Appellate Court in reviewing a Commission decision. 220 ILCS 5/10-201(e). Section 10-201(e)(iv) lists four categories of grounds for reversal of a Commission decision, the first of which is that: "The findings of the Commission are not supported by *substantial evidence* based on the entire record of evidence presented to or before the Commission for and against such rule, regulation, order or decision[.]" 220 ILCS 5/10-201(e)(iv) (emphasis added).

ComEd states that it is not clear whether the General Assembly intended the term "substantial evidence" to mean the same thing in both Section 16-108.18 and Section 10-201(e)(iv). ComEd notes the former section applies to the Commission's making a final decision in a performance metrics case, while the latter section applies to the Appellate Court's review of a Commission decision.

Subject to that reservation, ComEd provided a discussion of case law regarding what constitutes "substantial evidence" in the context of Appellate Court review. Importantly, ComEd notes, the substantial evidence standard is a lower evidentiary

threshold than the preponderance of the evidence standard. The substantial evidence standard generally requires "more than a mere scintilla [of evidence] but less than a preponderance of evidence," and it is for the Commission to determine what constitutes substantial evidence. *Citizens Util. Bd. v. Ill. Commerce Comm'n*, 2018 IL App (1st) 170527, ¶ 36. Said another way, ComEd states the standard is generally that the agency is acting within its authority if reasonable minds could have reached the same conclusions as the agency. *See Ill. Bell Tel. Co. v. Ill. Commerce Comm'n*, 283 Ill. App. 3d 188, 200 (2d Dist. 1996); *Commonwealth Edison Co. v. Ill. Commerce Comm'n*, 295 Ill. App. 3d 311, 316 (2d Dist. 1998); *Citizens Util. Bd. v. Ill. Commerce Comm'n*, 2018 IL App (1st) 170527, ¶ 36. ComEd points out that Illinois courts have noted the Commission's "findings of fact must be sufficient to allow for informed judicial review, and they will be affirmed if they are based on substantial evidence in the record." *Ill. Power Co. v. Ill. Commerce Comm'n*, 316 Ill. App. 3d 254, 258 (5th Dist. 2000) (*citing People ex rel. Hartigan v. Ill. Commerce Comm'n*, 148 Ill. 2d 348, 366 (1992)).

ComEd states the Commission must make findings and conclusions based on the law and best supported by the evidence in the record. ComEd clarifies that its discussion of case law under Section 10-201(e)(iv) does not suggest that the Commission should make a decision that is against the preponderance of the evidence.

Standard for Approval

ComEd states that the statute provides for a minimum of six and a maximum of eight performance metrics in this initial performance metrics case. Section 16-108.18(e)(2)(A) provides: "[t]he Commission shall approve no more than 8 metrics, with at least one metric from each of the categories below, for each electric utility, from subparagraphs (i) through (vi) of this subsection (A)." 220 ILCS 5/16-108.18(e)(2)(A). ComEd states that it has proposed at least one metric from each of the categories.

ComEd states that the performance metrics must be reasonably within the utility's control to achieve and measure outcomes and actual results, pointing to Section 16-108.18(e)(2)(D). ComEd states that it has proposed metrics that are reasonably within its control to achieve, and which focus on measurable outcomes rather than underlying activities or unmeasurable results.

ComEd states that the statute directs the Commission to develop a methodology for calculating net benefits of the performance metrics and lists the factors that should be considered in such methodology. 220 ILCS 5/16-108.18(e)(2)(F). ComEd states that, although the statute does not require ComEd to do so, ComEd developed and proposed a cost-benefit methodology to serve as a basis for the Commission to comply with Section 16-108.18(e)(2)(F).

ComEd states that the statute describes the overall structure of a performance metrics program and provides a maximum incentive/penalty of 60 basis points related to the utility's most recently approved cost of equity. Section 16-108.18(e)(2)(B) provides:

> Performance metrics shall include a description of the metric, a calculation method, a data collection method, annual performance targets, and any incentives or penalties for the utility's achievement of, or failure to achieve, their

> performance targets, provided that the total amount of potential incentives and penalties shall be symmetrical. Incentives shall be rewards or penalties or both, reflected as basis points added to, or subtracted from, the utility's cost of equity. The metrics and incentives shall apply for the entire time period covered by a Multi-Year Rate Plan. The total for all metrics shall be equal to 40 basis points, however, the Commission may adjust the basis points upward or downward by up to 20 basis points for any given Multi-Year Rate Plan, as appropriate, but in no event may the total exceed 60 basis points or fall below 20 basis points.

220 ILCS 5/16-108.18(e)(2)(B).

ComEd states that the statute provides the procedure for submitting performance metrics to the Commission for approval and the required contents of a petition. 220 ILCS 5/16-108.18(e)(6)(A). ComEd notes the statute also requires that performance metrics related to reliability "shall be implemented to ensure equitable benefits to environmental justice and equity investment eligible communities, as defined in this Act." 220 ILCS 5/16-108.18(e)(2)(C).

ComEd states that the Commission is required to "issue its order approving, or approving with modification, the utility's proposed performance metrics no later than September 30, 2022." 220 ILCS 5/16-108.18(e)(6)(A). ComEd states that the plain language of the statute does not, as some intervenors suggest, authorize the Commission to reject the entirety of ComEd's proposal, nor does it permit the Commission to establish a new docket for further debate of the costs of metrics. ComEd states that the intervenors' arguments must be rejected.

Finally, ComEd states the statute provides that the "Commission shall approve reasonable and appropriate tracking metrics to collect and monitor data for the purpose of measuring and reporting utility performance and for establishing future performance metrics." 220 ILCS 5/16-108.18(e)(3).

Statutory Criteria for Metrics

ComEd argues that its proposed penalty/incentive structure meets the statute's symmetry requirement. Section 16-108.18(e)(2)(B) of the Act requires that performance metrics include "a description of the metric, a calculation method, a data collection method, annual performance targets, and any incentives or penalties for the utility's achievement of, or failure to achieve, their performance targets, provided that the total amount of potential incentives and penalties shall be symmetrical." 220 ILCS 5/16-108.18(e)(2)(B). ComEd claims that under its proposed incentive structure, the total amount of potential incentives and penalties for each metric are symmetrical, i.e., the penalty and incentive applicable to each metric are identical.

ComEd argues that the Commission should reject the recommendations that call for "lopsided" metrics as violative of Section 16-108.18(e)(2)(B)'s symmetry requirement, such as the AG's proposal that reliability performance metrics should be "penalty-only." ComEd asserts that the plain language of the statute requires that the performance

metrics be symmetrical, which means that the total possible incentive and penalties provided must each be the same. ComEd contends that the Commission should reject any recommendation that creates asymmetry between incentives and penalties, as inconsistent with the law.

ComEd notes that the AG and AEE suggest that it is not necessary to set symmetrical penalties/incentives for each metric so long as the total value of available penalties and incentives is symmetrical. ComEd points out that neither intervenor offers a plan as to how this suggestion might be put into practice, and therefore the Commission should disregard this suggestion as unsupported. ComEd states that both AEE and the AG point to language in Section 16-108.18(e)(2)(B), which provides that "the total amount of potential incentives and penalties shall be symmetrical." ComEd explains that the intervenors argue that this language would permit the Commission to adopt individual metrics with asymmetrical incentives/penalties, so long as the total available incentives/penalties for all metrics are symmetrical. ComEd argues that interpretation is undermined in two ways. First, ComEd states that the language in Section 16-108.18(e)(2)(B) explains the requirements for each individual metric, including symmetrical potential incentives and penalties (e.g., requiring a description of "the metric"). Second, ComEd argues that Section 16-108.18(e)(6)(A), which states that basis point adjustments "shall be a symmetrical basis point increase or decrease to the utility's cost of equity based on the extent to which the utility achieved the annual performance goal," indicates that each individual performance metric must have a symmetrical incentive/penalty. 220 ILCS 5/16-108.18(e)(6)(A).

B. Staff's Position

Statutory Framework

Staff states that Section 16-108.18(e) prescribes the statutory framework for performance-based ratemaking. 220 ILCS 5/16-108.18(e). In Section 16-108.18(e)(1), the General Assembly finds that it is "in the State's interest for the Commission to establish performance incentive mechanisms in order to better tie utility revenues to performance and customer benefits, accelerate progress on Illinois energy and other goals, ensure equity and affordability of rates for all customers, including low-income customers, and hold utilities publicly accountable." Section 16-108.18(e)(2) directs the Commission to approve, based on the evidence offered in this proceeding, performance metrics that, "to the extent practicable and achievable by the electric utility, encourage cost-effective, equitable utility achievement . . . while ensuring no degradation in the significant performance improvement achieved through previously established performance metrics." Furthermore, the Commission is directed to approve metrics "designed to achieve incremental improvements over baseline performance values and targets," over a performance period ranging from four to ten years. 220 ILCS 5/16-108.18(e)(2).

In addition to performance metrics, Staff states that the Commission is directed to approve "reasonable and appropriate tracking metrics to collect and monitor data for the purpose of measuring and reporting utility performance and for establishing future performance metrics." 220 ILCS 5/16-108.18(e)(3).

Standard of Review

Section 16-108.18(e)(2) states that "the Commission shall approve, based on the substantial evidence proffered in the proceeding pursuant to this subsection performance metrics…[.]" 220 ILCS 5/16-108.18(e)(2). While the use of "substantial evidence" in Section 16-108.18(e)(2) is ambiguous, Staff agrees with ComEd and the AG that the "substantial evidence" the Commission must rely on to approve metrics in this docket is less than the "preponderance of the evidence."

Statutory Criteria for Metrics

Section 16-108.18(e)(2)(A) requires the Commission to approve no more than eight performance metrics, with at least one metric in each of the following six enumerated categories: (1) reliability/resiliency, (2) peak load reductions, (3) supplier diversity, (4) affordability, (5) interconnection, and (6) customer service. 220 ILCS 5/16-108.18(e)(2)(A). Section 16-108.18(e) requires that incentives and penalties associated with performance metrics be "symmetrical."

Staff notes that the AG argues that only the overall incentives and penalties with ComEd's entire performance metric plan, collectively, must be symmetrical. The Commission can (and should), the AG claims, approve certain metrics as "penalty-only," with no opportunity for ComEd to earn an incentive. AG IB at 21. Other metrics, the AG argues, can then balance out a "penalty-only" metric by using a "reward-only" structure, or a structure that provides higher levels of incentive than penalty. *Id*. at 6. Staff argues that the AG's reading of the symmetry requirement in Section 16-108.18(e) is incorrect, ignores the plain language of the statute, and should be rejected.

Staff points out that the symmetry requirement appears in two places. First, describing the filing requirements for performance metrics, Section 16-108.18(e)(6)(A) lists six criteria that "each metric" must satisfy. 220 ILCS 5/16-108.18(e)(6)(A). One of these criteria is that "the performance adjustment . . . shall be a symmetrical basis point increase or decrease to the utility's cost of equity. . . ." *Id*. at 5/16-108.18(e)(6)(A)(iv). Staff states that this section makes clear that "each metric" must have a symmetrical incentive/penalty, as measured in basis points. Second, when discussing the details of the performance metrics program, the first sentence of Section 16-108.18(e)(2)(B) states that "performance metrics shall include" five elements, including that "the total amount of potential incentives and penalties shall be symmetrical." 220 ILCS 5/16-108.18(e)(2)(B). Three of the five requirements in the first sentence of Section 16-108.18(e)(2)(B) plainly apply to each metric, individually. *See id*. (requiring "a description of the metric," "a calculation method," and "a data collection method") (emphasis added).) In Staff's view, this suggests that all five requirements in the first sentence of Section 16-108.18(e)(2)(B) – including the symmetry requirement – apply to each metric, individually.

The second sentence of Section 16-108.18(e)(2)(B), however, states that "[i]ncentives shall be rewards or penalties or both, reflected as basis points added to, or subtracted from, the utility's cost of equity." *Id*. The AG argues that because of this "rewards or penalties or both" language, Section 16-108.18(e)(2)(B) and Section 16-108.18(e)(6)(A) "conflict." AG IB at 7. The Commission, the AG argues, should focus on Section 16-108.18(e)(2)(B) because it is "more specific." *Id*. The AG contends that the

Commission should conclude that each metric need not be symmetrical, relying only on the "rewards or penalties or both" language in Section 16-108.18(e)(2)(B). *Id*.

According to Staff, the AG's argument, however, is contrary to basic principles of statutory construction. The Illinois Supreme Court has held that "it is presumed that statutes which relate to one subject are governed by one spirit and a single policy, and that the legislature intended the enactments to be consistent and harmonious." *People v. Maya*, 105 Ill. 2d 281, 286 (1985). Statutes, it explained "must be construed in harmony with one another." *Id*. Further, statutes must be "construed so that no part of it is rendered meaningless or superfluous." *People v. Jones*, 214 Ill. 2d 187, 193 (2005). Additionally, where two statutory provisions governing the same general subject manner are thought to conflict, the more specific should take precedence over the more general. *In re Jarquan B*., 2016 IL App (1st) 161180, ¶ 23. Staff disagrees with the AG that Section 16-108(e)(2)(6) is more specific; that argument is contrary to the plain language of the statute. When reading a statute, Staff asserts, it is important to read the language plainly, and not try to guess further into options not expressly written out by the legislature. "[I]t is a cardinal rule of statutory construction that we cannot rewrite a statute, and depart from its plain language, by reading into it exceptions, limitations or conditions not expressed by the legislature." *Crittenden v. Cook Cty. Comm'n on Human Rights*, 2012 IL App (1st) 112437, ¶ 81 (quoting *People ex rel. Birkett v. Dockery*, 235 Ill. 2d 73, 81 (2009) (internal quotation marks omitted)), aff'd, 2013 IL 114876. Section 16-108(e)(2)(B) speaks in generalities about the collective metrics, stating "the total amount of potential incentives and penalties shall be symmetrical." Section 16-108(e)(6)(A) is clearly more specific and more prescriptive, as it describes what the utility must file, when it must be filed, and includes an enumerated list detailing the specific things that "each metric" must contain.

The AG admits that its interpretation requires the Commission to find that two provisions of Section 16-108.18 – which were passed as part of the same bill, P.A. 102-662 – directly conflict. Staff asserts that the Commission should reject this argument, and instead read Section 16-108.18(e)(2)(B) and Section 16-108.18(e)(6)(A) in harmony, by recognizing that the former describes the plan requirements in generalities while the latter prescribes the specific requirements for each metric. Furthermore, the AG's reading relies on two words – "or both" – to render the "symmetry" requirements in Section 16-108.18(e)(6)(A)(iv) and the first sentence of Section 16-108.18(e)(2)(B) superfluous. The interpretation supported by Staff and the Company requires no such creative interpretation. Therefore, the Commission should reject the AG's position and instead require, as Staff and ComEd recommend, that each individual metric include a symmetrical amount of incentives and penalties.

<u>Standard for Approval</u>

Staff states that, when considering ComEd's proposed performance metrics, the Commission must make several determinations. First, is the metric supported by substantial record evidence. 220 ILCS 5/16-108.18(e)(2). Second, do the metrics include at least one metric from each of the statutory categories. 220 ICLS 5/16-108.18(e)(2)(A)(i)-(vi). Third, do the metrics encourage cost-effective, equitable utility achievements and outcomes. 220 ILCS 5/16-108.18(e)(2).

Additionally, the statute details standards the Commission should utilize when considering the individual proposed performance metrics. Performance metrics should include a description of the metric, a calculation method, a data collection method, annual performance targets, and symmetrical incentives or penalties for the utility's achievement of, or failure to achieve, their performance targets. 220 ILCS 5/16-108.18(e)(2)(B).

Furthermore, the Commission is directed to approve performance metrics that are reasonably within the control of the utility to achieve. 220 ILCS 5/16-108.18(e)(2)(D). The Commission is not permitted to approve a metric that is solely expected to have the effect of reducing the workforce. *Id*. Performance metrics should measure outcomes and actual, rather than projected, results where possible. *Id*. Performance metrics shall include one year of tracking data collected in a consistent manner, verifiable by an independent evaluator in order to establish a baseline and measure outcomes and actual results against projections where possible. 220 ILCS 5/16-108.18(e)(2)(E).

Finally, for the purpose of determining reasonable performance metrics and their related incentives, the Commission shall develop a methodology to calculate net benefits that includes customer and societal costs and benefits and quantifies the effect on delivery rates. 220 ILCS 5/16-108.18(e)(2)(F). Achievement of performance metrics are based on the assumptions that the utility will adopt or implement the technology and equipment and make the investments to the extent reasonably necessary to achieve the goals set by the Commission. 220 ILCS 5/16-108.18(e)(2)(G).

Based on the standards set forth above, it appears to Staff that the Commission must answer each of the following questions in the affirmative in order to approve a proposed performance metric:

- Is the metric specific, measurable, and achievable? 220 ILCS 5/16-108.18(e)(2)(A).
- Is the metric reasonably within the control of the utility to achieve? 220 ILCS 5/16-108.18(e)(2)(D).
- Does the metric have an annual performance target? 220 ILCS 5/16-108.18(e)(2)(B).
- Does the metric achieve incremental improvements over baseline performance values and targets over the performance period? 220 ILCS 5/16-108.18(e)(2).
- Does the metric ensure no degradation in the significant performance improvement achieved through Energy Infrastructure Modernization Act ("EIMA") / former metrics? 220 ILCS 5/16-108.18(e)(2).
- Is the period over which data will be collected to establish the baseline clear? 220 ILCS 5/16-108.18(e)(2)(B).
- Is there a clear formula for how success or failure will be measured? 220 ILCS 5/16-108.18(e)(2)(E).
- Does the metric measure outcomes and actual, rather than projected, results where possible? 220 ILCS 5/16-108.18(e)(2)(D).

- Are the incentives for success and penalties for failure symmetrical? 220 ILCS 5/16-108.18(e)(2)(B).
- Do reliability metrics under 220 ILCS 5/16-108.18(e)(2)(A)(i) ensure equitable benefits to environmental justice ("EJ") and equity-investment eligible ("R3") communities? 220 ILCS 5/16-108.18(e)(2)(C).

C. AG's Position

Statutory Framework

P.A. 102-0662 requires each electric utility seeking to adopt a MRP to petition for Commission approval of up to eight target-based performance metrics and additional tracking metrics. 220 ILCS 5/16-108.18(e)(2), (e)(3). P.A. 102-0662 defines a performance incentive mechanism ("PIM") as "an instrument by which utility performance is incentivized, which could include a monetary performance incentive" for a particular utility activity. 220 ILCS 5/16-108.18(b). Similarly, it defines a performance metric as "a manner of measurement for a particular utility activity." *Id*. PIMs and performance metrics work in tandem to align utility and ratepayer interests and are used interchangeably throughout this statement of position. Tracking metrics are not assigned performance rewards or penalties but are instead used to collect data to help the Commission and stakeholders monitor utility performance and potentially establish performance metrics for future MRPs. *Id*. at (e)(3). The AG explains that together, a Company's set of PIMs, performance metrics, and tracking metrics make up its overall PBR structure.

P.A. 102-0662 includes nine policy objectives that a utility's PBR structure should achieve. *See* 220 ILCS 5/16-108.18(c). Specifically, P.A. 102-0662 provides that PBR should:

(1) maintain and improve service reliability and safety, including and particularly in environmental justice, low-income, and equity investment eligible communities;

(2) decarbonize utility systems at a pace that meets or exceeds State climate goals, while also ensuring the affordability of rates for all customers, including low-income customers;

(3) direct electric utilities to make cost-effective investments that support achievement of Illinois' clean energy policies, including, at a minimum, investments designed to integrate distributed energy resources, comply with critical infrastructure protection standards, plans, and industry best practices and support and take advantage of potential benefits from the electric vehicle charging and other electrification, while mitigating the impacts;

(4) choose cost-effective assets and services, whether utility supplied or through third-party contracting, considering both economic and environmental costs and the effects on utility rates, to deliver high-quality service to customers at least cost;

(5) maintain the affordability of electric delivery services for all customers, including low income customers;

(6) maintain and grow a diverse workforce, diverse supplier procurement base and, for relevant programs, diverse approved-vendor pools, including increased opportunities for minority-owned, female-owned, veteran-owned, and disability-owned business enterprises;

(7) improve customers service performance and engagement;

(8) address the particular burdens faced by consumers in environmental justice and equity investment eligible communities, including shareholder, consumer, and publicly funded bill payment assistance and credit and collection policies, and ensure equitable disconnections, late fees, or arrearages as a result of utility credit and collection practices, which may include consideration of impact by zip code; and

(9) implement or otherwise enhance current supplier diversity programs to increase diverse contractor participation in professional services, subcontracting, and prime contracting opportunities with programs that address barriers to access. Supplier diversity programs shall address specific barriers related to RFP and contract access, access to capital, information technology and cyber security access and costs, administrative burdens, and quality control with specific metrics, outcomes, and demographic data reported.

Id.

The AG points out that eight of these nine policy objectives specifically call for utilities and the Commission to advance equity and affordability or emphasize the need for investments to be cost-effective, "indicating that affordability and equity should be paramount when evaluating whether a PIM promotes policy objectives." AG Ex. 1.0 at 14. The only objective that does not explicitly address equity, affordability, or cost-effectiveness is objective number 7, "improve customer service performance and engagement," which the AG points out implicitly requires that participating utilities maintain reliable service at a reasonable rate, so that customers are able to afford essential utility service. A utility cannot provide adequate customer service if its bills are unaffordable.

P.A. 102-0662 states that "[p]roviding targeted incentives to support change through a new performance-based structure to enhance ratemaking is intended to enable alignment of utility, customer, community, and environmental goals." 220 ILCS 5/16-108.18(a)(3). AG witnesses Whited and Havumaki stated: "PIMs can serve as a useful regulatory mechanism to positively influence utility behavior to advance energy policy goals that are not directly aligned with a distribution company's public service obligations or existing financial incentives." AG Ex. 1.0 at 9. According to the AG, this means that PBR should not provide additional incentives for the Company to maintain the status quo but should affirmatively seek to align utility and ratepayer interests to achieve specified public policy goals in a cost-effective manner.

For these reasons, the AG requests that the Commission reject ComEd's proposed PBR structure because it is not cost-effective, does not advance affordability and equity,

permits the Company to receive additional financial incentives for providing basic and other services to ratepayers, and essentially maintains the status quo.

Statutory Criteria for Metrics

The Commission may only approve up to eight PIMs, with at least one PIM taken from each of the following six categories: (i) reliability and resiliency; (ii) peak load reduction; (iii) supplier diversity; (iv) affordability; (v) interconnection timeliness; and (vi) customer service performance. 220 ILCS 5/16-108.18(e)(2)(A). Each PIM must include:

> a description of the metric, a calculation method, a data collection method, annual performance targets, and any incentives or penalties for the utilities achievement of, or failure to achieve, their performance targets, *provided that the total amount of potential incentives shall be symmetrical. Incentives shall be rewards or penalties or both*, reflected as basis points added to, or subtracted from, the utility's cost of equity.

220 ILCS 5/16-108.18(e)(2)(B) (emphasis added). This statutory language emphasizes that the total rewards or penalties for the overall performance metric structure must be symmetrical, but, according to the AG, the structure of each individual metric is not required to be symmetrical. For example, one PIM may be penalty-only, so long as a corresponding number of basis point rewards are provided through either a reward-only PIM, or through a higher number of rewards than penalties over multiple PIMs.

Symmetrical basis points are mentioned one other time in Section 16-108.18(e)(6)(A) which describes the filing requirement for a utility that intends to request an MRP:

> No later than January, 20, 2022, each electric utility that intends to file a petition pursuant to subsection (b) of this Section shall file a petition with the Commission seeking approval of its performance metrics, which shall include for each metric, at a minimum… (v) the performance adjustment, which shall be a symmetrical basis point increase or decrease to the utility's cost of equity based on the extent to which the utility achieved its annual performance goal.

220 ILCS 5/16-108.18(e)(6)(A). The AG states that the structure of this section may appear to indicate that the performance adjustment shall be symmetrical for each metric, in which case it would directly conflict with the more specific Section (e)(2)(B), which explicitly states that the overall PIM framework must be symmetrical, but each individual metric may be "rewards or penalties or both." 220 ILCS 5/16-108.18(e)(2)(B). However, the AG demonstrates that Section 16-108.18(e)(6)(A)'s discussion of individual metric symmetry is within the context of a long list of filing requirements. While it is appropriate that the utility be required to include its proposed performance adjustment in its petition, the filing requirements should be read to be consistent with the more specific Section 16-108.18(e)(2)(B) final plan requirements. This section explicitly provides for "rewards or penalties or both" and overall symmetry as specific plan requirements.

When interpreting a statute, the Commission must use the "plain and ordinary meaning" of the language used and consider terms "in their overall context with a view to reason and necessity for the statute and the purpose to be achieved thereby" *Commonwealth Edison Co. v. Ill. Com. Comm'n*, 328 Ill. App. 3d 937, 942 (2d Dist. 2002) With P.A. 102-0662, the AG states that the General Assembly sought to align ratepayer and utility interests through a series of incentives which may be "rewards or penalties or both" so long as "the total amount of potential incentives shall be symmetrical." 220 ILCS 5/16-108.18(e)(2)(B). The AG asserts that this clear statement should outweigh any apparent conflict in a section unrelated to plan requirements, because an alternative interpretation would fail to achieve the General Assembly's objectives and unreasonably limit the options available to the Commission, the utilities, and other interested parties.

P.A. 102-0662 also permits the Commission to approve certain tracking metrics to collect data to help the Commission and stakeholders monitor utility performance and potentially establish performance metrics for future MRPs. 220 ILCS 5/16-108.18(e)(3). The General Assembly did not require a participating utility to adopt a specific number of tracking metrics but required at least one tracking metric from each of five categories: (i) minimizing emissions; (ii) enhancing grid flexibility; (iii) cost savings; (iv) jobs and workforce expansion; and (v) benefits to EJ and R3 communities. *Id*.

Standard for Approval

The AG states that the Commission may only approve ComEd's proposed performance metrics if it determines that ComEd met the statutory criteria with substantial evidence. 220 ILCS 5/16-108.18(e)(2). P.A. 102-0662 requires that "to the extent practicable and achievable by the electric utility, [metrics must] encourage *cost-effective, equitable* utility achievement of the outcomes described in [P.A. 102-0662]… while ensuring *no degradation* in the significant performance improvement achieved through previously established performance metrics." *Id*. (emphasis added). Metrics should "measure *outcomes and actual, rather than projected, results* where possible" and metrics related to reliability should specifically "be implemented to *ensure equitable benefits* to environmental justice and equity investment eligible communities." 220 ILCS 5/16-108.18(e)(2)(C), (D) (emphasis added). The AG states that this means ComEd must prove that its proposed incentive metrics are cost-effective, equitable, outcome-based, fairly align public and utility interests, and will maintain safe and reliable service with "more than a mere scintilla" of evidence and while "it does not have to rise to the level of a preponderance of the evidence," "[i]t is evidence that a reasoning mind would accept as sufficient to support a particular conclusion." *See Commonwealth Edison Co. v. Ill. Commerce Comm'n*, 405 Ill. App. 3d 389, 398 (2d Dist. 2010) (substantial evidence standard).

When assessing the reasonableness of each metric, the Commission must consider the extent to which it:

> is likely to encourage the utility to achieve the performance target in the *least cost manner*; the value of benefits to customers, the grid, public health and safety, and the environment from achievement of the performance target, *including in particular benefits to equity investment eligible*

> *community; the affordability of customer's electric bills, including low-income customers*, the utility's revenue requirement, the promotion of renewable and distributed energy, and other such factors that the Commission deems appropriate. The consideration of these factors shall result *in an incentive level that ensures benefits exceed costs for customers*.

220 ILCS 5/16-108.18(e)(2)(F) (emphasis added).

In the instant case, the AG shows that ComEd did not demonstrate that its proposed metrics were equitable, cost-effective, outcome-based, will fairly align public and utility goals, or will provide meaningful benefits to consumers with substantial evidence. The AG requests that the Commission reject ComEd's proposed metrics, or in the alternative, adopt a new suite of metrics consistent with their recommendations in their testimony and briefs.

D. CUB/EDF's Position

Statutory Framework

CUB/EDF contend that the Commission must approve performance metrics that encourage cost-effective, equitable achievement of those outcomes while ensuring utilities maintain performance improvements realized through the EIMA. 220 ILCS 5/16-108.18(e)(2).

CUB/EDF state this is a significant departure from previous ratemaking models in Illinois. That formula ratemaking process included "some measures to move utilities to performance-based ratemaking," but, in passing [P.A. 102-0662], the General assembly found that "these measures have not been sufficiently transformative in urgently moving electric utilities" toward the state's environmental, climate, health, workforce, and wealth-building goals, especially in economically disadvantaged communities and communities of color. 220 ILCS 5/16-108.18(a)(4). The General Assembly further stated that the formula rate metrics "were not developed through a process to understand first what performance metrics would help drive the sought-after behavior by the utilities," and found it important to address concerns that those measures may have resulted in "excess utility spending and guaranteed profits without meaningful improvements in customer experience, rate affordability, or equity." 220 ILCS 5/16-108.18(a)(6). CUB/EDF contend the metrics set pursuant to the P.A. 102-0662 PBR framework must correct past deficiencies and should incentivize changes that "urgently move" ComEd toward climate and equity goals. CUB/EDF argue the metrics should "drive the sought-after behavior" and not result in excess utility spending and guaranteed profits without meaningful improvements for customers. Moreover, recognizing the rapid transformation of the electric industry, they should require cost-effective investments that accelerate Illinois' clean energy policies. 220 ILCS 5/16-108.18(e)(1).

CUB/EDF offer that the statutory context, and the metrics' role as part of a comprehensive new PBR framework, should be top-of-mind as the Commission evaluates the metrics proposals. CUB/EDF posit that individual metrics cannot be considered in isolation. Stakeholder feedback reflected in the Staff Report further

supports the importance of considering performance metrics holistically, evaluating how the metrics work as a set rather than individually. "Performance and Tracking Metrics Workshop Summary pursuant to 220 ILCS 5/16-108.18(e), Report to the Commission" at 5 (Dec. 1, 2021) ("Staff Report"), *available at* https://icc.illinois.gov/informal-processes/Electric-Utility-Performance-and-Tracking-Metrics. CUB/EDF believe the statute is clear that metrics should be evaluated within the broader statutory context, not just for their compliance with their individual category within Section 16-108.18(e), but also in concert with each other and the statute as a whole.

Statutory Criteria for Metrics

CUB/EDF state that metrics are to be designed to achieve the overarching objectives of the new PBR framework set forth in the Act, including reliability, particularly in environmental justice, low-income and equity investment eligible communities ("EIECs"); accelerated, affordable decarbonization; cost-effectively enabling distributed energy resources and using cost-effective assets and services, including from third parties; affordability; workforce and supplier diversity; enhanced supplier diversity barrier reduction programs; improved customer service; and particular measures to address the burdens faced by customers in environmental justice and EIECs.

CUB/EDF maintain that the Commission must approve performance metrics that encourage cost-effective, equitable achievement of those outcomes, while ensuring utilities maintain performance improvements realized through the EIMA. 220 ILCS 5/16-108.18(e)(2). Metrics must be "reasonably within control of the utility to achieve," and must not have the sole effect of reducing the workforce. 220 ILCS 5/16-108.18(e)(2)(D). Furthermore, P.A. 102-0662 directs that metrics should measure outcomes and actual results where possible, rather than projected results. *Id*.

Total incentives or penalties are reflected as basis points added to or subtracted from the utility's cost of equity. 220 ILCS 5/16-108.18(e)(2)(B). The basis points available as incentives or penalties must total at least 20 but not more than 60 basis points. CUB/EDF state that basis points incentives and penalties must be symmetrical. In determining the appropriate level of a performance incentive, CUB/EDF state that the Commission must consider: (1) the extent to which the amount is likely to encourage the utility to achieve the performance target in the least-cost manner; (2) the value of benefits to customers, the grid, public health and safety, and the environment, including in particular benefits to equity investment eligible communities; (3) affordability, including for low-income customers; (4) the utility's revenue requirement; (5) promotion of renewable and distributed energy; and (6) other factors the Commission deems appropriate. 220 ILCS 5/16-108.18(e)(2)(F).

Standard for Approval

CUB/EDF state that each metric shall include, at minimum: a detailed description, a calculation of the baseline, the performance period and overall performance goal, each annual performance goal, the performance adjustment, which shall be a symmetrical basis point increase or decrease to the utility's cost of equity based on the extent to which the utility achieved the annual performance goal, and the new or modified tariff mechanism that will apply the performance adjustments. 220 ILCS 5/16-108.18(e)(6)(A). The incentive levels associated with each metric shall ensure net benefits. 220 ILCS

5/16-108.18(e)(2)(F). The Commission shall approve, or approve with modifications, the proposed performance metrics no later than September 30, 2022. 220 ILCS 5/16-108.18(e)(6)(A).

E. COFI's Position

COFI states that ComEd has the burden of proving that its proposed metrics achieve the statutory guidelines and objectives. In its analysis of the new PBR statute and the proposals made in this case, the Commission must adhere to rules of statutory interpretation. Legislative intent is best determined from the language of the statute itself, which if unambiguous, should be enforced as written. *Taddeo v. Bd. of Tr. of the Ill. Mun. Ret. Fund*, 216 Ill. 2d 590, 595, 837 N.E.2d 876 (2005); *Comprehensive Cmty Sol., Inc. v. Rockford Sch. Dist. No. 205*, 216 Ill. 2d 455, 473, 837 N.E.2d 1 (2005). In giving effect to the statutory intent, the Commission should consider, in addition to the statutory language, the reason for the law, the problems to be remedied, and the objects and purposes sought. *People v. Donoho*, 204 Ill. 2d 159, 171-72, 788 N.E.2d 707 (2003). The fundamental rule of statutory interpretation is to ascertain and give effect to the legislature's intent, and the best indicator of that intent is the statutory language, given its plain and ordinary meaning. *Intern'l Ass'n of Fire Fighters, Local 50 v. City of Peoria*, 2022 IL 127040, ¶ 12.

Under Section 16-108.18 of the Act, both ComEd, which provides electric delivery service to Chicago and most of Northern Illinois, and Ameren Illinois Company d/b/a Ameren Illinois ("Ameren"), which provides electric and gas utility service to Central and Southern Illinois, may file a petition proposing tariffs implementing a four-year Multi-Year Rate Plan for delivery service rates to be effective for the billing periods January 1, 2024 through December 31, 2027. Should ComEd choose to file a multi-rate-year plan, the Commission shall issue an order approving or approving as modified the utility's plan no later than December 20, 2023.

A plain reading of the new P.A. 102-0662 PBR provisions specifically requires the Commission "to approve metrics designed to achieve incremental improvements over baseline performance values and targets, over a performance period of up to 10 years, and no less than 4 years" (220 ILCS 5/16-108.18(e)(2)) for a utility choosing to file a multi-year PBR plan. The statute also provides that the total for all metrics shall be equal to 40 return on equity ("ROE") basis points, although the Commission "may adjust the basis points upward or downward by up to 20 basis points for any given Multi-Year Rate Plan, as appropriate." 220 ILCS 5/16-108.18(e)(2)(B).

In addition, the statute provides that the Commission "shall approve performance metrics that are reasonably within control of the utility to achieve," and that the metrics "should measure outcomes and actual, rather than projected, results where possible." 220 ILCS 5/16-108.18(e)(2)(D). The statute further provides that "(p)erformance metrics shall include one year of tracking data collected in a consistent manner, verifiable by an independent evaluator in order to establish a baseline and measure outcomes and actual results against projections where possible." 220 ILCS 5/16-108.18(e)(2)(E).

COFI states that as the Commission examines ComEd's and other parties' specific metric proposals in this docket, it shall be guided by the detailed language in Sections 16-108.18(a), 16-108.18(c) and 16-108.18(e) of the Act, which provide the framework for the

transition to a performance-based assessment of an electric utility's achievement of the new P.A. 102-0662 clean energy and equity directives. 220 ILCS 5/16-108.18(a)(8). COFI state that these provisions highlight the fact that the General Assembly envisioned a continuing transition toward greater climate equity that examines both existing utility practices and the establishment of new metrics to serve the twin goals of moving toward a cleaner energy future and improving the affordability of essential utility service for those currently least able to afford utility bills.

In terms of assessing and incentivizing actions, policies and procedures regarding affordability, the General Assembly was very specific in requiring approval of PBR metrics and incentives that address both existing inequities that impact the affordability of essential utility service for low-income customers, and the need to revisit existing disconnection and credit and collection procedures.

COFI notes that the General Assembly specifically authorizes the Commission to oversee the transition envisioned in P.A. 102-0662, and to do so with "urgency" and to "revise existing utility regulations" … "while ensuring affordability for consumers." 220 ILCS 5/16-108.18(e)(2).

F. JSP/ELPC/VS's Position

Statutory Framework

Solar Intervenors state that new performance-based ratemaking regime is embedded within a much larger statutory framework intended to rapidly and urgently "mov[e] electric utilities toward the State's ambitious energy policy goals: protecting a healthy environment and climate, improving public health, and creating quality jobs and economic opportunities, including wealth building, especially in economically disadvantaged communities and communities of color." 220 ILCS 5/16-108.18(a)(4). Among many other provisions, P.A. 102-0662 includes a significant expansion of the state's renewable portfolio standard under Section 1-75 of the Illinois Power Agency ("IPA") Act, a new Multi-Year Integrated Grid Planning process described in Section 16-105.17 of Act, and a new Commission-led investigation into the value of distributed energy resources and "additive services" under Section 16-107.6(e) of the Act. The establishment of PIMs in this docket must be understood in context of this larger statutory framework. *See* 220 ILCS 5/16-108.18(e)(1) ("Building upon the State's goals to increase the procurement of electricity from renewable energy resources, including distributed generation and storage devices, the General Assembly finds that electric utilities should make cost-effective investments that support moving forward on Illinois' clean energy policies.").

The Illinois General Assembly adopted performance-based ratemaking to "enable alignment of utility, customer, community, and environmental goals" by providing utilities with "targeted incentives" for achieving desired state policy goals. 220 ILCS 5/16-108.18(a). The purpose is to "better tie utility revenues to performance and customer benefits, accelerate progress on Illinois energy and other goals, ensure equity and affordability of rates for all customers, including low-income customers, and hold utilities publicly accountable." 220 ILCS 5/16-108.18(e).

Statutory Criteria for Metrics.

Solar Intervenors note that the Commission must approve a minimum of six and maximum of eight PIMs, including at least one from each of six designated categories listed in Section 16-108.18(e)(2)(A) of the Act. The PIMs shall be "designed to achieve incremental improvements over baseline performance values and targets, over a performance period of up to 10 years, and no less than 4 years." 220 ILCS 5/16-108.18(e)(2).

Solar Intervenors largely agree with Staff's presentation of statutory criteria with two important clarifications. The first clarification is to note that Staff's list neglects to include the fundamental statutory requirement that metrics be designed to result in "benefits [that] exceed costs for customers." 220 ILCS 5/16-108.18(e)(2)(F). Second, the Solar Intervenors interpret the "symmetry" requirement for incentives and penalties at Section 16-108.18(e)(2)(B) to apply to the full suite of performance metrics as a whole, and not to each individual metric. The relevant statutory language reads, in context:

> Performance metrics shall include a description of the metric, a calculation method, a data collection method, annual performance targets, and any incentives or penalties for the utility's achievement of, or failure to achieve, their performance targets, provided that *the total amount of potential incentives and penalties shall be symmetrical*.

220 ILCS 5/16-108.18(e)(2)(B) (emphasis added). Solar Intervenors argue that the statute's reference to the "total amount" makes clear that not every performance metric need be symmetrical so long as the "total amount" of potential incentives and penalties across the full suite of metrics is symmetrical. This reading is further strengthened by the next sentence, which reads:

> Incentives shall be rewards *or* penalties *or both*, reflected as basis points added to, or subtracted from, the utility's cost of equity.

Id. (emphasis added). By using the word "or" when describing the construction of metrics, the statute makes clear that a proposed metric may be upside only (an incentive) or downside only (a penalty) "or both." Solar Intervenors posit that it would make no sense for the legislature to describe metrics as "rewards or penalties or both" if each metric were required to include a perfectly symmetrical reward and penalty. Under such a reading, the phrase "or both" would be rendered meaningless. *See Cooke v. Ill. State Bd. of Elections*, 2021 IL 125386, ¶ 52, 183 N.E.3d 116, 127 (when interpreting a statute, "[n]o part of a statute should be rendered meaningless or superfluous").

Standard for Approval

Solar Intervenors state that, subject to the statutory minimum requirements, this decision standard provides the Commission with substantial discretion to approve or modify a suite of performance metrics based on the testimony and recommendations offered by the utility and intervening parties. The Commission should look to the entirety of P.A. 102-0662's statutory framework and legislative findings to guide its review of the

PIMs and tracking metrics that the parties have proposed in this docket. *See* 220 ILCS 5/16-108.18(a) (laying out legislative findings and objectives).

The statutory goals and objectives in Section 16-108.18 indicate clear legislative intent for the Commission to approve PIMs that challenge utilities in transformative ways and that do not just reward the utility for incremental improvements over business-as-usual. As the Staff Report recommends, performance metrics should result in "meaningful achievement of desired objectives." Staff Report at 31-32.

P.A. 102-0662 requires the Commission to approve performance metrics in this docket while reserving the implementation details for future proceedings. Importantly, the Act identifies the MRP (filed under Section 16-105.17 of the Act) as the place where the utilities must propose "[a] detailed plan" for achieving the performance metrics approved by the Commission in this docket. 220 ILCS 5/16-105.17(f)(2)(J). Each Grid Plan must "propose distribution system investment programs, policies, and plans designed to … achieve the metrics approved by the Commission pursuant to Section 16-108.18 of this Act." 220 ILCS 5/16-105.17(f)(1)(B). Grid Plans must also include "holistic consideration" of related utility programs to "coordinate" their implementation and "maximize the benefits" of each. 220 ILCS 5/16-105.17(f)(4).

G. Commission Analysis and Conclusion

Numerous parties largely restate P.A. 102-0662 in addressing the legal standards for approving the metrics. Accordingly, it is not necessary for the Commission to do so. However, the Commission will address certain arguments made regarding the standard of review, statutory framework, statutory criteria for metrics, and the standard of approval.

Statutory Framework

The AG points to Section 16-108.18(a) in arguing that ComEd should not be rewarded for merely maintaining the status quo. The AG urges the Commission to reject ComEd's proposed PBR structure. The Commission agrees that the PBR structure is a departure from EIMA. P.A. 102-0662 contains explicit policy objectives to consider in approving a PBR structure. However, this proceeding is about the approval mechanism for the metrics and is contained in Section 16-108.18(e). Moreover, Section 16-108.18(e)(6)(A) requires the Commission to "issue its order *approving, or approving with modification*, the utility's proposed performance metrics no later than September 30, 2022." 220 ILCS 5/16-108.18(e)(6)(A) (emphasis added). Accordingly, to the extent the AG or any other party contends the Commission is able to fully reject ComEd's proposed metrics, the Commission finds that would violate the statute. Whether specific performance metrics further the goals of P.A. 102-0662 and should be approved is addressed in Section VI of this Order.

Statutory Criteria for Metrics

The AG and Solar Intervenors argue that Section 16-108.18(e)(2)(B) makes clear that the total amount of incentives and penalties must be symmetrical, but the structure of each performance metric need not be symmetrical. The AG concludes that one metric could be penalty-only, provided another was reward-only. The Commission notes, however, that no party has offered an overall symmetrical proposal that includes penalty-only or reward-only metrics. The Commission also notes that parties do not dispute that

the Commission has the authority to adopt symmetrical performance incentives. The Commission finds that the evidence in the record supports adopting symmetrical performance incentives for this proceeding for the reasons discussed with respect to each metric. The Commission, thus, finds that it does not need to make a determination in this docket on whether penalty-only or incentive-only metrics are consistent with the Act, and, thus, reserves this determination for future proceedings.

Standard for Approval

The AG again urges the Commission to reject ComEd's proposed metrics because the Company failed to demonstrate "that its proposed metrics were equitable, cost-effective, outcome-based, will fairly align public and utility goals, or will provide meaningful benefits to consumers with substantial evidence." AG RB at 6. The plain language of P.A. 102-0662 makes clear that the Commission cannot reject the entirety of ComEd's proposal. 220 ILCS 5/16-108.18(e)(6)(A).

The Commission may modify ComEd's proposals to the extent necessary to bring the proposals into compliance with P.A. 102-0662. 220 ILCS 5/16-108.18(e)(6)(A). Modifications or alternatives to ComEd's proposals may be recommended by any party. Additionally, to the extent that intervenors suggest that ComEd may defer finalization of the performance metrics to other dockets, the Commission disagrees. The Commission must issue an Order approving, or approving with modifications, ComEd's metrics in this proceeding.

IV. PROPOSED PENALTIES AND INCENTIVES STRUCTURE

A. Total Number of Basis Points

1. ComEd's Position

ComEd submits that approving the maximum number of basis points under the statute (60 basis points) will provide the strongest possible incentives/penalties to align ComEd with the State's priorities. ComEd states that the unprecedented level of collaboration and constructive inputs among Staff and many parties in this proceeding, coupled with strong evidence of the customer and societal benefits, assures the Commission that ComEd's final proposed metrics plan accomplishes the objectives of P.A. 102-0662 and warrants Commission approval of the high end of the total basis point range allowed under the law, which is 60 total basis points. 220 ILCS 5/16-108.18(e)(2)(B). ComEd also points to the hundreds of pages of written testimony from 11 witnesses, including ComEd employees from various departments within the company and two outside expert witnesses from the consulting firm Black & Veatch Global Advisory ("Black & Veatch"), nearly 300 data request responses, and extensive outreach by ComEd to Staff and intervenors. ComEd states that the evidence provided, along with ComEd's efforts to revise the performance and tracking metrics based on Staff and intervenor perspectives, demonstrates ComEd's dedication to develop challenging metrics that are tailored to achieve the ambitious objectives of the statute.

ComEd asserts that 60 total basis points will provide the strongest possible linkage between the incentives/penalties to incentivize ComEd and the State's priorities enunciated in P.A. 102-0662. ComEd argues that achieving the performance metrics will take significant effort, particularly considering that ComEd has voluntarily modified

several performance metrics to make them more difficult to achieve and potentially more beneficial for its customers. ComEd notes that the combination of difficult metrics and strong incentives/penalties will ensure a "win-win" situation for ComEd and its customers. ComEd states that its final revised proposed metrics framework is appropriate, fair, and meets the goals identified in the P.A. 102-0662.

ComEd argues that Staff's recommendation that the Commission adopt a maximum incentive/penalty of 36 basis points is plainly arbitrary, as Staff witness Freetly admitted that this level was selected simply and only because it is a multiple of six, allowing it to be equally divided among the six metrics categories in Section 16-108.18(e)(2)(A). ComEd notes that its proposed total of 60 basis points is also evenly divisible by six. ComEd also strongly disagrees with Staff's position that basis points must be evenly allocated among the six performance metric categories.

ComEd argues that restricting the total possible basis points will limit the opportunity to materially tie ComEd's and P.A. 102-0662's goals together. ComEd believes this is especially significant given that these are the metrics that will apply during the initial implementation of P.A. 102-0662 and will be in place for at least four years. ComEd contends that neither Staff nor any intervenors provided compelling justifications for their proposed total basis points or for their approach to allocating basis points to individual metrics, and that no party has provided persuasive evidence in support of a lower number of basis points. ComEd argues that smaller incentives/penalties miss the mark as to the reason for a performance metric structure: to encourage utilities to focus specific efforts that help the State meet its overarching goals as quickly and equitably as possible. ComEd claims that IIEC's suggestion that the law does not reflect this "urgency" ignores the greater mission expressly set forth in the first two legislative findings of the P.A. 102-0662:

> (1) That improving the alignment of utility customer and company interests *is critical* to ensuring equity, *rapid* growth of distributed energy resources, electric vehicles, and other new technologies that substantially change the makeup of the grid and protect Illinois residents and businesses from potential economic and environmental harm from the State's energy systems.
>
> (2) *There is urgency* around addressing increasing threats from climate change and assisting communities that have borne disproportionate impacts from climate change, including air pollution, greenhouse gas emissions, and energy burdens. Addressing this problem requires changes to the business model under which utilities in Illinois have traditionally functioned.

220 ILCS 5/16-108.18(a)(1) and (2) (emphases added). ComEd argues that these legislative findings demonstrate that the General Assembly indeed views these issues as critical and very urgent. ComEd states its proposal to permit up to 60 basis points in incentives and penalties – the maximum available under the law – aligns with this

urgency. ComEd contends that the "wait and see" approach to the total number of basis points advocated by Staff and certain intervenors undermines these objectives.

ComEd argues that one of Staff's main reasons for its "wait and see" approach has it backward. ComEd states that Staff erroneously points to Mr. Zarumba and Mr. Shields' statement that the Interruption Cost Estimate ("ICE") calculator, which was used to estimate benefits for Performance Metrics 1 and 2, has shortcomings because it is based on older data. ComEd explains that Staff either fails to understand or neglects to mention that the shortcomings of the ICE calculator result in a conservative estimate of the benefits associated with Performance Metrics 1 and 2. ComEd suggests that if the shortcomings of the ICE calculator were resolved, it would likely result in even greater calculated benefits than those estimated by Mr. Zarumba and Mr. Shields. ComEd argues that is no reason to reduce the total available incentive/penalty, but rather a reason to support a higher level.

ComEd also points out that IIEC conflates ComEd and Ameren to justify its proposal that, if the Commission determines to approve more than the statutory minimum level of basis points, it should permit no more than the 24 basis points requested by Ameren. ComEd argues there is no evidence in the record of this proceeding to suggest that the incentive structure that is appropriate for Ameren would be equally appropriate for ComEd. Further, ComEd explains that Section 16-108.18(e)(2)(D) provides that "[n]othing in this paragraph is intended to require that different electric utilities must be subject to the same metrics, goals, or incentives." 220 ILCS 5/15-108.18(e)(2)(D).

ComEd notes that Staff, the AG, and IIEC each argue that a lower amount of basis points should be approved in order to minimize the cost of the incentives themselves to ratepayers. ComEd explains that its proposed metrics are specifically designed to align customer, societal, and utility interests. ComEd points to Mr. Newhouse's testimony, which explains, "a higher maximum incentive/penalty does not shift risk to customers … ComEd will only receive an increased return when it has achieved sufficient performance, which in turn only occurs when customers benefit." ComEd Ex. 18.0 at 23-24. ComEd argues that when Staff, the AG, and IIEC point to the aggregate value of incentives as a reason to minimize such incentives, they ignore the substantial customer and societal benefits that would be realized upon achievement of the performance metrics. Further ComEd states that they also ignore the fundamental reason for this performance metric structure: to encourage utilities to focus specific efforts that help the State meet its overarching goals as quickly and equitably as possible. ComEd also argues that intervenor testimony arguing or implying that a significantly higher degree of certainty is needed regarding the costs of investments required to achieve the metrics is neither realistic nor an accurate representation of what the Commission must consider in approving performance metrics and associated incentives and penalties.

Finally, ComEd notes that CUB/EDF recommend a total of 42 basis points for its Alternative Performance Metrics Plan ("Alternative Plan"). ComEd states that while this total is more reasonable than the absolute minimum suggested by the AG and IIEC, the alternative metrics contained in CUB/EDF's Alternative Plan should not be adopted.

2. Staff's Position

ComEd proposes a total incentive or penalty of 60 basis points, the maximum adjustment allowed for by the statute. ComEd Ex. 1.0 at 9-10; ComEd Ex. 18.0 at 28. In Staff's opinion, ComEd's approach does not give due consideration to the novelty of either multi-year ratemaking or the incentives and penalties associated with new categories of performance metrics. Importantly, data regarding the benefits that may (or may not) accrue to customers under this approach is significantly lacking at this time. Accordingly, and in contrast to the Company's aggressive approach, Staff recommends that the Commission approve a plan that is more tempered, and which begins with a total for all metrics that is near 40 basis points, versus the minimum allowable amount of 20 basis points or the maximum of 60 basis points allowed by statute. Staff Ex. 2.0 at 8.

Staff states that, because the Commission does not yet know how successful the performance metrics will be in achieving the statute's goals, or what adjustments to the total allowable basis points might be appropriate in the future, the plan that is approved should be flexible enough to allow room for adjustments, up or down, in future dockets. Starting with the maximum possible basis points, as ComEd proposes, simply does not allow this flexibility. *Id*. To ensure there is room to adjust the points up or down in future performance metrics dockets, Staff proposes starting with 36 basis points, evenly divided across the six required categories. By making the incentives and penalties easier to calculate and evenly distributed, the structure is both transparent and symmetrical. Given the novelty of the incentive structure Staff recommends a measured approach to determining the appropriate adjustments for incentives and penalties to the ROE. *Id*.

Staff states that the uncertainty of net benefits also supports a more measured approach. ComEd appears to concede that it lacks sufficient data to assess the costs and benefits of many of the metrics. First, ComEd's cost-benefit analysis does not even attempt to characterize the potential costs associated with achieving its proposed performance metrics. *See, e.g.,* ComEd Ex. 11.0 at 8 ("In particular, there were challenges for ComEd when estimating the costs (only some of which are known at this time) to achieve a challenging metric (at the target levels)."). For example, the Company states that its first three metrics will be "net beneficial" only if "ComEd implements its programs prudently and at a reasonable cost" (*id*. at 21, 30), which will not be known until after those programs are completed. Similarly, it states that "[a]t this time ComEd has not quantified the costs of the programs that will be employed to achieve the peak load metric." *Id*. at 32.

ComEd also notes that there are many uncertainties surrounding the potential benefits of its proposed metrics. Generally, the Company admits that its analysis "is necessarily limited by certain factors in this docket, including the need for consideration of customer and societal benefits, some of which are qualitative or not practically quantifiable at this time." *Id*. at 5. For example, for Performance Metrics 1-3, the Company notes that the ICE calculator on which it relies "has shortcomings;" is based on data that is at least ten years old; and may not capture societal benefits. *Id*. at 16-17, 19. As another example, for Performance Metric 5, the Company states that an "Input-Output analysis" is the best method to estimate the benefits of the metric, but that it lacked sufficient time to perform such an analysis. *Id*. at 34-35.

Because there are significant data gaps, and costs and benefits cannot be fully assessed at this time, Staff recommends the Commission adopt fewer total basis points for the performance metrics for this first performance metrics plan than allowed under the statute. Staff Ex. 10.0 at 3.

Under ComEd's proposal, the Company could earn up to $49 million per year, above and beyond the authorized ROE. Staff Ex. 10.0, Schedule 10.2. Under Staff's proposal, the Company could earn $29 million per year, above and beyond the authorized ROE. In other words, a 60-basis point adjustment to ComEd could mean ratepayers fund over $19 million per year more than they could with a total of 36 basis points. Staff Ex. 10.0 at 8.

3. AG's Position

The AG requests that the Commission only approve the statutory minimum of 20 basis points as a performance incentive or payment, because ComEd did not support its proposed basis point allocation with a rigorous benefit-cost analysis. A basis point incentive is a mechanism designed to adjust the Company's cost of equity up or down, based on "the extent to which the utility achieved [its] annual performance goal[s]." 220 ILCS 5/16-108.18(e)(6)(A). P.A. 102-0662 permits the Commission to approve a minimum of 20 basis points and a maximum of 60 basis points for a given MRP. 220 ILCS 5/16-108.18(e)(2)(B). The Commission may adjust a utility's basis points within these parameters, as appropriate, for each new MRP. *Id*. While ComEd did not provide any cost estimates for its proposed PIMs, AG witnesses Whited and Havumaki estimated that each basis point is worth "approximately $818,480, inclusive of taxes and other ratemaking adjustments, and that the total portfolio proposed by the Company is worth about $49.1 million" per year, based on ComEd's rate base utilized in the Company's 2021 Formula Rate Case. AG Ex. 1.0 at 17-18. They also noted that if the Company increases "its overall rate base in pursuit of incentive earnings, the total value of potential incentives would also increase." *Id*. at 18 n.23.

AG witnesses Whited and Havumaki pointed out that Illinois' four-year MRP structure is based on cost projections that rely heavily on utility estimates and annual reconciliations to actual cost that "provides little in the way of meaningful cost containment incentives," making it "even more important that PIMs promote cost efficiencies to help promote rate affordability and equity." AG Ex. 1.0 at 11-12. The AG maintains that if the Commission approves the maximum allowable basis points in this proceeding, it will be difficult to roll back these basis points or contain ComEd's costs later. It is better to avoid perverse incentives by approving lower basis points for ComEd's first MRP, and potentially raising the basis points later, if necessary, as a further incentive to improve upon existing PIMs.

ComEd witness Newhouse argued that higher basis points would promote "alignment between utility initiatives and State goals" and lower basis point assignments would result in "lost opportunity" over the four years of its first MRP. ComEd Ex. 18.0 at 6. The AG points out that Mr. Newhouse did not discuss aligning utility and ratepayer interests in a cost-effective manner, as required by P.A. 102-0662. Similarly, Staff asserts that ComEd failed to demonstrate how ratepayers would benefit from paying the maximum reward to the Company's shareholders for its incentive metrics when "data

regarding the benefits that may (or may not) accrue to customers under this approach is significantly lacking at this time." Staff IB at 12. Other parties point out that a lesser basis point assignment "ensures customers are receiving value, at the lowest possible cost, and allows the Commission the opportunity to assess this new process while minimizing the risk of increased customer rates." IIEC IB at 5. The AG states that these parties show that assigning maximum incentives is inappropriate when the benefits to consumers have not been presented in a benefit-cost analysis and many of the incentive metrics do not represent a significant change from the status quo.

Each basis point reward will cost ratepayers at least $818,480. AG Ex. 1.0 at 17-18. If ComEd achieves its goals, ratepayers will be required to foot the bill for an extra $49.1 million per year, or $196.4 million over the four years of ComEd's first MRP. *Id*. In contrast, if ComEd achieves its goals under a 20 basis point structure, ratepayers will only be required to pay an incentive of around $16.4 million per year, or $65.5 million over four years, until ComEd demonstrates meaningful benefits to ratepayers. The AG notes that an incremental approach is especially important, both to preserve the opportunity to ramp up the incentive amounts if they prove beneficial, and because ComEd has not provided any investment amount or cost, and only minimal quantified benefits to ratepayers for achieving its proposed metrics.

ComEd has the burden to prove that its proposed metrics will be cost-effective, equitable, outcome-based, fairly align public and utility goals, and will maintain safe and reliable service with substantial evidence. 220 ILCS 5/16-108.18(e)(2). The AG shows that ComEd did not provide adequate information to demonstrate that its metrics would provide these actual, measurable benefits that will outweigh costs to ratepayers. Instead, it simply argued that Staff and intervenors were being "overly cautious" and "too precise," as if caution and precision were defects in assessments of what will inevitably result in hundreds of millions of dollars in new charges to customers and additional profits to ComEd's shareholders. ComEd Ex. 18.0 at 4.

ComEd witness Newhouse argued that assigning basis points "is significant because moving up or down from the starting point requires justification." ComEd Ex. 18.0 at 23. The AG notes that Mr. Newhouse is not an attorney and his view of what the law requires is beyond his expertise, although it is apparent that ComEd can be expected to assert that the Commission is somehow restrained in changing the incentive structure once the 60 basis points are in place. Assuming, for purposes of argument only, that Mr. Newhouse is correct, the AG maintains that the Commission should not be locked into forever allowing the maximum incentive payment in this first PIM docket.

Notwithstanding Mr. Newhouse's position, the AG requests that the Commission address each PIM docket on the evidence presented. Changes to PIMs were contemplated in the law, and, as is the case with any matter before the Commission, PIMs will be considered in light of the evidence and relevant factors. There is no presumption that changing existing incentives (moving up or down) is further limited.

For these reasons, the AG requests that the Commission only approve the minimum of 20 basis points and potentially increase the number of basis points for future MRPs, if ComEd demonstrates that its metrics benefitted ratepayers.

4. CUB/EDF's Position

See Section IV(B)(3) of this Order.

5. COFI's Position

COFI states that Section 16-108.18(e)(2)(F) of the Act provides specific guidance on the Commission's assignment of ROE basis point values for metrics proposed by a utility. Increases or enhancements to an existing performance goal or target must be considered in light of other metrics, cost-effectiveness, and other factors the Commission deems appropriate. COFI states that it understands the inclination to tread carefully in this first foray into performance-based ratemaking. The Commission's mission here is to thoughtfully balance the General Assembly's direction to incite change in utility outcomes while ensuring that the benefits of such financial incentives outweigh the costs, which will be incurred by ratepayers who provide the incentive payments.

COFI states that it continues to believe that three of the metrics should not be assigned any ROE point values because the Company already has incentives to invest in the infrastructure needed to achieve the stated goals – ComEd's Proposed Metrics1-3.

As COFI witness Howat testified, each of these metrics, in order to be achieved, requires investment in electric infrastructure to achieve the improved performance metrics described in the statute. Stated another way, a utility under rate of return regulation already has an incentive to pour additional financial resources into infrastructure investments that increase its rate base, since the return on investment that a utility received is multiplied by its rate base as a part of establishing its revenue requirement. That is true now under the current Section 16-108.5 formula ratemaking environment and will be true under the four-year performance-based ratemaking structure that will begin in 2024.

If the Commission adopts Staff's proposal, which would allocate each metric point value equally among a total of 36 points, COFI urges the Commission to set the Affordability metric at no lower than six points, assuming the COFI-ComEd agreed-upon metric is adopted in a Commission final order. If the Commission assigns a total of 20 basis points, as IIEC and the AG recommend, no less than 1/6 of the total should be assigned to the Affordability metric. If the Commission approves a total of 60 basis points for the metrics (which is not recommended given the uncertain status of the overall cost/benefit methodology), as ComEd proposes, the Affordability metric should be assigned 10 basis points or more if the Commission adopts COFI's and the AG's recommendation that the reliability metrics not be provided any incentive basis points. Otherwise, in COFI's view, a maximum of 10 points would properly incite the Company to achieve the Affordability metric in either a 40- or 60-point total scenario.

6. IIEC's Position

IIEC recommends the Commission award ComEd no more than 20 basis points. IIEC Ex. 1.0 at 14-15. Ameren, subject to the same statutory requirements, agreed to 24 basis points. IIEC Ex. 2.0 at 22. IIEC reasons that, in contrast to IIEC, Staff, and others, ComEd is asking for the maximum number, 60 basis points. One basis point will cost

ratepayers $820,000 per year; 60 basis points, if awarded, would cost $49.2 million per year, and over a 4 year period, the cost would be nearly $200 million. IIEC Ex.2.0 at 19.

IIEC says the key argument upon which ComEd relies, is its belief that in order to achieve all of P.A. 102-0662's objectives in this proceeding, that can only be accomplished by awarding ComEd the maximum number of basis points. But the law says no such thing. If that were the case, the General Assembly would not have created a range of possible basis points, as it did, and would have set the number at 60, or some other fixed amount. Instead, the General Assembly affords the Commission the flexibility to ". . . adjust the basis points upward or downward by up to 20 basis points for any given Multi-Year Rate Plan, as appropriate." 220 ILCS 5/16-108.18(e)(2)(B).

IIEC argues there are number of reasons for limiting the number of basis points in this first performance metric proceeding. IIEC suggests limiting the basis points ensures customers are receiving value, at the lowest possible cost, and allows the Commission the opportunity to assess this new process while minimizing the risk of increased customer rates. IIEC Ex. 1.0 at 13. IIEC points out the Commission, utility, and stakeholders are afforded the opportunity to examine the workings of any plan to be adopted, without excessive cost being foisted upon ComEd's ratepayers in the event of incentives, especially too easy ones, being awarded, or upon the utility in the event penalties are assessed. Depending on how well the incentives work in the initial MRP period, IIEC suggests the Commission can modify the potential incentives for a subsequent plan period. *Id*. at 15.

IIEC argues that it is appropriate to utilize the first multi-year plan to test the performance metric regime, as is also conveyed by ComEd's own witnesses. ComEd witnesses Zarumba and Shields testify that "we believe that the process will be iterative in this new context as the Commission, ComEd, Staff, and Intervenors gain familiarity with the final approved metrics and better understand the related costs and benefits." ComEd Ex. 11 at 7-8. IIEC notes these ComEd witnesses admit that parties need to gain familiarity with the final approved metrics and better understand the related costs and benefits. According to IIEC there is no better argument for lowering the risk of cost — to customers in the case of incentive awards, and to the Company in the case of penalties — by lowering the basis point adjustment allowed in this first iteration given this pervasive uncertainty and unfamiliarity. IIEC Ex. 2.0 at 21.

IIEC points out formula rates allowed for performance incentives, but the framework is now much different. IIEC witness Stephens explained that there are material differences and lessons to be learned and applied. First, IIEC notes the incentive amounts under formula rates were dictated by the statute, and the Commission was not given the discretion granted in this case. Second, IIEC further notes under formula rates, the level of base rate growth was unprecedented. If instituted incorrectly, IIEC argues the incentives in this proceeding have the potential of being a windfall for the utility at the expense of the ratepayers. IIEC Ex. 1.0 at 15.

In what IIEC characterizes as an act of brinkmanship, IIEC says ComEd witness Newhouse actually testified that, "[t]he reduction of basis points to anything less than the maximum allowed under the statute...lessens the utility's motivation to expend the additional effort to reach those stretch goals." ComEd Ex. 4.0 at19. Thus, according to

Mr. Newhouse, it must follow that if the Commission approves all of ComEd's metrics and awards ComEd only Staff's recommended 36 basis points, that ComEd will expend less than half the effort to reach the goals it claims stem from its metrics. IIEC argues the Commission should not be asked to support a utility position under any circumstances where the utility conditions its compliance on something less than its obligations under the law or a Commission order.

Continuing, IIEC notes ComEd promotes its position, in part, due to its ". . . dedication to develop challenging metrics that are tailored to achieve the ambitious objectives of the statute," and it is this statement that highlights another reason not to award 60 basis points but instead 20 basis points. IIEC believes there are major holes remaining in ComEd's case, the least of which is a porous, alleged cost-benefit study IIEC addressed elsewhere that cannot support any findings of net benefits.

IIEC points out Staff witness Freetly weighed in testifying, "ComEd appears to admit in its Rebuttal Testimony that both the costs and the benefits of its proposed performance metrics are difficult to estimate at this time. Since the data are not available and those costs and benefits cannot be fully assessed, the Commission should adopt fewer total basis points for the performance metrics in a more measured approach for this first performance metrics plan." Staff Ex. 10.0 at 3.

IIEC notes that it is not just Staff witness Freetly's opinion that there is a lack of data. Messrs. Zarumba and Shields testified that the process will be iterative in this new context as the parties gain familiarity with the final approved metrics and better understand the related costs and benefits. ComEd Ex. 11.0 at 7-8. IIEC agrees that the outcomes that ComEd trumpets are important, but they are dubious when the means and costs by which to achieve them are unknown or in doubt. IIEC argues it would be an unfair gamble to customers to award ComEd 60 basis points under these circumstances. IIEC Ex. 2.0 at 23.

IIEC noted Ameren Illinois position in testimony. The utility revised its original proposal downward, to 24 basis points, a much more reasonable level of basis point incentive for the first multi-year plan. IIEC recommends that if the Commission does not adopt IIEC's recommendation of the minimum 20 total basis points, IIEC argues the Commission should adopt 24 basis points, as Ameren proposed in its case. IIEC Ex. 2.0 at 22.

IIEC points out that in measuring the right amount of basis points to be awarded and realizing the goals and objectives inherent in the metrics, the Commission needs to be cognizant that the utility has every financial incentive to set baselines and targets that will allow it to receive the greatest amount of basis points, i.e., easiest to meet and most difficult to fail. IIEC Ex. 2.0 at 19. IIEC argues there are ComEd baselines that fail to take into account relevant historical data, which then are the basis for easier targets.

IIEC asserts the Commission needs to take into account as well, as the record details, the established fact that ComEd is uncertain as to the costs of many of the metrics and, in many instances, still has yet to identify with any specificity how the metrics will be accomplished. IIEC posits that outcomes are important, but they are dubious when the means and costs by which to achieve them are unknown or in doubt. It would be an unfair

gamble to customers to award ComEd excessive basis points under these circumstances. IIEC Ex. 2.0 at 23.

7. Commission Analysis and Conclusion

Section 16-108.18(e)(2)(B) of the Act specifies that:

> the total for all metrics shall be equal to 40 basis points, however, the Commission may adjust the basis points upward or downward by up to 20 basis points for any given Multi-Year Rate Plan, as appropriate, but in no event may the total exceed 60 basis points or fall below 20 basis points.

220 ILCS 5/16-108.18(e)(2)(B).

As an initial matter, the Commission agrees that there is no evidence in the record to suggest that the incentive structure that is appropriate for Ameren would be equally appropriate for ComEd. The fact that a different total number of basis points is being adopted in the Ameren proceeding is immaterial to the appropriate amount of basis points that should be awarded in this proceeding.

ComEd requests that the Commission approve the statutory maximum of 60 total basis points. ComEd argues that the reason for a performance metric structure – to encourage utilities to focus specific efforts that help the State meet its overarching goals as quickly and equitably as possible – supports an allotment of 60 basis points.

The Commission agrees with certain parties that in this initial PBR proceeding there should be a measure of flexibility to allow for movement up or down in total basis points in future dockets. This flexibility appears apparent in the language of the statute in that it states "the total for all metrics shall be equal to 40 basis points" then allows for the Commission to make adjustments up or down as appropriate. Considering the current uncertainty in the effectiveness of ComEd's PBR structure due in part to data gaps and lack of information regarding costs and benefits, the Commission agrees with Staff and intervenors' suggestions that a more measured approach is reasonable regarding the total number of basis points. By not committing to 60 basis points in this initial docket, the Commission has more flexibility to increase or decrease basis points in future proceedings when more information is available as to whether the metrics benefitted ratepayers. Accordingly, the Commission rejects ComEd's proposal to approve 60 total basis points in this proceeding. For similar reasons, the Commission further rejects proposals to only allow for 20 basis points – the statutory minimum.

Based on the proposed metrics offered by ComEd and other parties in this proceeding, the Commission adopts ComEd's and Staff's proposal on exceptions to approve a total of 32 basis points. However, the Commission disagrees with ComEd's and Staff's proposed overall points allocation and allocates basis points as discussed in Section IV.B of this Order.

B. Proposed Overall BPS Allocation

1. ComEd's Position

ComEd's proposed overall basis point allocation is provided in the following table:

Proposed Performance Metric	Final ComEd Proposal (60 bps total)
1. Overall Reliability Based on System Average Interruption Duration Index ("SAIDI")	+/-15 bps
2. EJ and R3 Communities Reliability and Resiliency Based on SAIDI	+/-10 bps
3. System Visibility Index	+/-5 bps
4. Load Reduction Capability	+/-2 bps
5. Supplier Diversity	0 bps
6. Affordability	+/-13 bps
7. Interconnection Timeliness	+/-10 bps
8. Customer Service	+/-5 bps

ComEd Ex. 18.0 at 34.

ComEd explains that to achieve alignment of utility, customer, community, and environmental goals as required by Section 16-108.18(a)(3), ComEd allocated basis points among the performance metrics based on the relative difficulty to achieve each metric, the extent to which such achievement is reasonably within ComEd's control, and the benefit of the achievement to customers and society.

ComEd contends, contrary to Staff's position, that the statute does not require equal weighting among metrics categories (or the metrics themselves). ComEd argues that to provide such equal weighting would ignore the factors presented in Section 16-108.18(e)(2)(F) and fail to acknowledge that some metrics are more difficult to achieve, more clearly within ComEd's control to achieve, and/or potentially more beneficial to customers.

ComEd further states that the likelihood that investments necessary to achieve a particular metric could be included in the utility's rate base is not relevant to the assignment of basis points. ComEd states that the purpose of the statute is to provide incentives/penalties in addition to the normal rate base investment mechanism to further encourage utilities to improve and/or redirect performance. *See* 220 ILCS 5/16-108.18(e)(1). ComEd asserts that the fact that ComEd might realize a return on an investment in the absence of a performance metric does not mean that the metric will be ineffective in incentivizing further improved performance to realize an even greater return. Otherwise, ComEd claims, the General Assembly would not have passed a statute that specifically calls for performance metrics to do so.

ComEd states that Staff's oversimplified proposal that basis points should be evenly allocated among the six categories of performance metrics is arbitrary and unsupported. ComEd states that although Staff suggests that the basis points should be evenly allocated because Staff is unable to determine which metrics categories will provide the most net benefits, for most metrics the Black & Veatch cost-benefit analysis did just that. ComEd also argues that the statute does not require equal weighting among metrics categories (or the metrics themselves). To the contrary, ComEd states, Section 16-108.18(e)(2)(F) suggests that a variety of factors should be considered when

determining the basis point allocations (which is not reflected in Staff's proposal). ComEd states that Staff's proposal also fails to reflect that some metrics are more difficult to achieve, more clearly within ComEd's control to achieve, and/or potentially more beneficial to customers. ComEd states that its proposed penalties/incentives reflect these factors.

ComEd notes that CUB/EDF propose a unique allocation to accompany its Alternative Plan that purports to focus more on equity and environmental outcomes (which CUB/EDF claim ComEd's basis point allocation lacks). ComEd states that CUB/EDF attack ComEd's proposal claiming that it is either arbitrary or based on maximizing ComEd profits. ComEd contends that neither accusation is supported by the evidentiary record. ComEd states that its allocation proposal thoughtfully balances a variety of interests and requirements, including equity and environmental justice communities, as well as (among other things) other benefits to customers and society. ComEd explains that there is nothing in the evidentiary record to support CUB/EDF's assertion.

ComEd states that if the Commission decides to adopt a total number of basis points that is less than 60, the Commission should make a proportionate reduction in the basis points for each performance metric rounded to the nearest whole basis points (except for the Peak Load Metric, which ComEd states should remain at 2 basis points, and the Supplier Diversity Metric, which ComEd states should remain at zero basis points). For illustrative purposes, ComEd provided the table below showing how this recommendation would be applied if the Commission were to approve a total of 40 basis points.

Proposed Performance Metric	**Illustrative Reduced Bps (40 total)**	**Illustrative Reduced Bps (40 total) with Supplier Diversity Allocation**
1. Overall Reliability Based on SAIDI	+/-10 bps	+/-10 bps
2. EJ and R3 Communities Reliability and Resiliency Based on SAIDI	+/-7 bps	+/-7 bps
3. System Visibility Index	+/-3 bps	+/-3 bps
4. Load Reduction Capability	+/-2bps	+/-2bps
5. Supplier Diversity	0 bps	+/-1 bps
6. Affordability	+/-8 bps	+/-7 bps
7. Interconnection Timeliness	+/-7 bps	+/-7 bps
8. Customer Service	+/-3 bps	+/-3 bps

ComEd Ex. 18.0 at 34.

2. Staff's Position

ComEd proposes allocating 60 basis points unequally among the six categories using eight performance metrics, including three individual metrics in the reliability/resiliency category and one metric in each of the other five required categories. Specifically, ComEd proposes to assign 30 of the 60 basis points to the reliability/resiliency category, and to allocate the remaining 30 basis points among four of the five other required categories. ComEd proposes to assign zero basis points to the supplier diversity performance metric. ComEd Ex. 4.0 at 17-27.

Staff recommends the Commission approve 36 total possible basis points evenly allocated across the six categories of performance metrics required by Section 16-108.18 of the Act. Staff also recommends that if the Commission agrees with the Company that the supplier diversity metric should be assigned zero basis points, then the six basis points for the supplier diversity metric should be eliminated thereby reducing the total basis points for the incentives/penalties associated with performance metrics from 36 to 30.

When determining the weight to be assigned to each metric, the Commission must consider:

> the extent to which the amount is likely to encourage the utility to achieve the performance target in the least cost manner; the value of benefits to customers, the grid, public health and safety, and the environment from achievement of the performance target, including in particular benefits to equity investment eligible community; the affordability of customer's electric bills, including low-income customers, the utility's revenue requirement, the promotion of renewable and distributed energy, and other such factors that the Commission deems appropriate.

220 ILCS 5/16-108.18(e)(2)(F).

Staff objects to ComEd's allocation proposal because, as noted above, the information on which the Commission must base its decision is not yet fully developed. Over time, providing service under a MRP may provide ComEd with information necessary to support an argument that one or more category of metrics should be given more weight than others. At present, however, that baseline data does not exist. Staff Ex. 2.0 at 7.

Staff argues that assigning half of the total basis points to the reliability and resiliency category is excessive because ComEd has already made significant rate base investment in that category. ComEd has invested over $2.5 billion in reliability-related and smart grid-related investments over the past decade under EIMA. Staff Ex. 10.0 at 6. Once those investments are included in rate base, they earn the authorized rate of return in future ratemaking proceedings. ComEd proposed 30 basis points for the resilience and reliability metrics which equates to a potential additional reward of approximately $24.6 million annually. Staff Ex. 10.0, Schedule 10.2. This is despite the fact that, as the Company acknowledges, there is a great deal of uncertainty about the

potential customer and societal benefits each of the performance metrics will provide. ComEd Ex. 11.0 at 5. ComEd also acknowledges the challenges of estimating the costs resulting from the "newness" of the performance metrics framework established by P.A. 102-0662. *Id*. at 8.

Given the lack of sufficient information to determine which of the metrics categories will provide the most net benefits and should therefore arguably be assigned more basis points, Staff proposes an equal distribution of basis points among the six required categories of performance metrics, as outlined in Section 16-108.18(e)(2)(A). Staff Ex. 2.0 at 6. Setting the baseline in this case will allow for adjustments to be made as more information becomes available and the metrics are evaluated to ascertain the level of financial and societal benefits provided. *Id*. at 7. In any future performance metric dockets, if there is better information regarding benefits that customers realize under an MRP, there will be opportunities for the Company and interested stakeholders to revise the allocation of basis points as well as the total basis points allowed for incentives and penalties. Until then, it is premature to allow the maximum total basis points, given the lack of information regarding potential benefits for customers, especially in light of the potential costs to ratepayers. Staff Ex. 10.0 at 6.

Staff states that assigning an equal number of basis points for incentives and penalties to each required category keeps the level of adjustment to the ROE equal for each metric category. Under the statute, each performance metric should not only achieve state policy goals, but it should also create value for customers, so that utilities are held accountable for their performance and utility revenues are better tied to performance and customer benefits; progress on Illinois energy goals is accelerated; and rates for all customers are equitable and affordable. 220 ILCS 5/16-108.18(e)(1). Further, provision of reliable electric service at the least cost to Illinois ratepayers is a minimum requirement for ComEd. 220 ILCS 5/1-102. According to Staff, performance metrics should not award additional compensation for providing the service that a utility is statutorily obligated to provide. Instead, performance metrics should incentivize ComEd to go "above and beyond," to provide better, more reliable service to more customers at the least cost. Accordingly, it is Staff's opinion that each metric should be challenging to achieve and provide the same level of incentive to increase the ROE. Staff Ex. 2.0 at 6.

Staff argues that ComEd's proposal does not fully acknowledge the transfer of risk from the utility to the customer. The incentives permitted under the Act will allow ComEd to earn profits that exceed the authorized ROE on rate base assets (i.e., the return that investors require based on the risk inherent in the utility assets). The opportunity to earn additional returns for achieving performance metrics increases risk to ComEd customers since the customers will ultimately pay the increased cost for any incentives ComEd earns with performance-based rates. While the possibility of penalties with reductions to the authorized ROE increases risk to ComEd shareholders, the Company proposed its preferred performance metrics at the beginning of this case. Although the Commission-approved performance metrics may differ from those ComEd initially proposed, the decision of whether to file a MRP and implement the final Commission-approved performance metrics, is up to the Company, not the customers. 220 ILCS 5/16-108.18(d)(9)(A) (noting that a utility "shall file either a general rate case under Section

201 of this Act or a Multi-Year Rate Plan"). Presumably, ComEd will only file an MRP, including the performance metrics approved in this docket, if it determines that doing so makes good financial sense for the Company. ComEd's customers have no such choice and, as such, face greater risk than the Company. Using a more measured approach than ComEd proposes to implement the incentives and penalties applicable in the Company's initial MRP proceeding, as Staff recommends, will mitigate the risk to customers, regardless of what type of rate case the Company elects to file. Staff Ex. 10.0 at 2-3.

Additionally, P.A. 102-0662 created many new goals for the electric utilities and changed the way rates will be set. The statute requires the Commission to consider both financial and societal costs and benefits that will result from the performance metrics. The data is not yet available, and those costs and benefits cannot be fully assessed based on the record in this docket. Accordingly, Staff recommends that the Commission take a measured approach and approve fewer total basis points for the performance metrics than the maximum allowed for this first performance metrics plan. *Id*.

ComEd claims that Staff's justification for its equal weighing proposal lacks foundation and alleges that the statutory burden is on the utility to propose a basis point allocation. ComEd Ex. 4.0 at 25. While the statute does not explicitly require equal weighting for each category of performance metrics, it is also true the statute does not give any clear preference to any of the required performance metrics (Staff Ex. 2.0 at 4-5) and it does not provide support for associating half of the maximum allowable basis points to a single category. Moreover, even assuming the statute puts the burden on ComEd to propose an allocation structure, there is no requirement that the Commission accept that proposal, especially when, as here, there are significant and compelling reasons to adopt a less aggressive approach.

The AG argues that the Commission should approve the statutory minimum of 20 basis points, due to the lack of evidence on cost-effectiveness and the absence of cost-benefit studies. Staff does not support the AG's proposal but shares the AG's concerns about the lack of information about benefits and costs.

IIEC recommends the Commission allow no more than 20 basis points in this first performance metric proceeding. Limiting the basis points ensures customers are receiving value, at the lowest possible cost, and allows the Commission the opportunity to use this proceeding to assess the new regime while minimizing the risk of increased customer rates. Staff does not support IIEC's proposal for 20 basis points but shares IIEC's concerns about risks to customers.

CUB/EDF propose up to 42 basis points in incentives for achievement of the modified performance metrics they proposed in testimony. Staff objects to more than 36 total basis points for the same reasons provided in response to ComEd's proposal to apply 60 total basis points to the performance metrics.

3. CUB/EDF's Position

CUB/EDF and the Company disagree on the appropriate total number of basis points at stake and the allocation of basis point incentives and penalties between performance metrics. CUB/EDF witness Barbeau proposes up to 42 basis points in

incentives for achievement of the modified performance metrics he proposes in testimony. He proposes a symmetrical 42 basis points in potential penalties if the Company's performance worsens by a commensurate factor compared to baseline. Each metric assigns no incentives or penalties if the Company merely maintains baseline performance. *See generally* CUB/EDF Ex. 4.1. CUB/EDF propose a larger range of potential incentives than any party except the Company. ComEd also proposes a symmetrical range of incentives and penalties, centered at a status quo baseline, but the Company proposes the maximum incentive allowed under the law (60 basis points) for performance metrics that CUB/EDF consider both less ambitious and less targeted to provide net benefits than Mr. Barbeau's modifications. *See* ComEd Ex. 18.0 at 18-19. Company witness Newhouse insists it is necessary to make maximum incentive payments available to ComEd to achieve maximum benefits. *Id*. at 19. CUB/EDF contend the Company's performance metric targets are consistently less ambitious and provide less benefits. CUB/EDF argue it does not follow logically that it better serves the "urgency" Mr. Newhouse speaks of to do less, and it certainly does not serve anyone but the Company for ratepayers to pay more for less.

The plain language of the statute is instructive in determining the relative importance of each individual metric in proportion to the General Assembly's goals. CUB/EDF state Section 8-108.18(a)(4) in particular is clear that basis point levels should be allocated to focus more on equity and environmental outcomes in comparison to the basis point allocation used by ComEd:

> though Illinois has taken some measures to move utilities to performance based ratemaking through the establishment of performance incentives and a performance based formula rate under the Energy Infrastructure Modernization Act, these measures have not been sufficiently transformative in urgently moving electric utilities toward the State's ambitious energy policy goals: protecting a healthy environment and climate, improving public health, and creating quality jobs and economic opportunities, including wealth building, especially in economically disadvantaged and communities of color.

220 ILCS 5/16-108.18(a)(4). CUB/EDF argue this language supports Mr. Barbeau's approach, allocating more basis points for outcomes that do more to promote the statutory goals.

4. COFI's Position

See Section IV.A.5 of this Order.

5. AEE's Position

AEE reads the plain text of the law as allowing individual metrics to be asymmetrical so long as symmetry is achieved for the entire plan in total. AEE also maintains that the Commission should use its discretion in setting incentive levels for each metric. The Act provides several factors that the Commission must consider. 220 ILCS 5/16-108.18(e)(2)(F). Setting equal basis point incentives for each metric, as has been proposed by Staff in direct testimony, ignores these considerations. Rather, AEE

recommends that the Commission use its discretion and establish incentives consistent with the criteria provided in law, including asymmetrical incentives, so long as the total incentives remain symmetrical for the incentive plan in aggregate.

6. IIEC's Position

IIEC supports Staff's proposal of an even distribution of basis points among the required six categories. Staff witness Freetly explained assigning an equal number of basis points for incentives and penalties to each required category keeps the level of adjustment to the return on equity equal for each metric category. Staff Ex. 2.0 at 6.

IIEC notes Ms. Freetly explained further that information called for in Section 16-108.18(e)(2)(F) for determining the right level of basis points does not exist. Over time, IIEC points out providing service under a MRP may provide ComEd with information necessary to support an argument that one or more category of metrics should be given more weight than others. IIEC states that at present, however, those baseline data do not exist. IIEC observes that given the lack of sufficient information to know or determine which of the metrics categories will provide the most benefits and should therefore arguably be assigned more basis points, Staff proposes an equal distribution of the basis points. Staff Ex. 2.0 at 7.

IIEC notes ComEd's recommended basis point allocation for the metrics ranges from zero basis points to 15. ComEd reasons that the allocation of basis points among the performance metrics is based on the relative difficulty to achieve each metric, the extent to which such achievement is reasonably within ComEd's control, and the benefit of the achievement to customers and society. ComEd concludes that the final proposed basis point allocation balances a variety of interests and requirements, including the relative difficulty to achieve each metric, the extent to which such achievement is reasonably within ComEd's control, and the benefit of the achievement to customers and society. *Id*. at 22.

IIEC points out, importantly, the criteria upon which ComEd relies, achievability of the metric, ability to have control over the metric, and the benefits to customers and society are nowhere to be found in Section 16-108.18(e)(2)(F), which sets out the premise for awarding basis points and, indeed, ComEd offers no statutory support. And further, IIEC argues by selecting these three criteria, ComEd seemingly ignores the criteria listed in Section 16-108.18(e)(2)(F) and does not explain why that should be the case.

IIEC argues ComEd's proposal would seem to be at odds with the overall intent of the metric statute. As it is now, ComEd proposes to assign 30 of the 60 basis points to the reliability/resiliency category. Taking ComEd's logic to the extreme, a utility could assign 1 basis points to each of the seven other proposed metrics, and the remaining 53 basis points to the eighth, assuming a total of 60 basis points. IIEC finds this extreme example points to the impairment of the legislature's intent to promote all categories of metrics under ComEd's proposed allocation.

7. JSP/ELPC/VS's Position

The Solar Intervenors describe their proposed basis points allocation to the DER Interconnection and Utilization Value ("DERIUV") metric in Section VI, below. The Solar

Intervenors would not object, however, to a basis point allocation that varies from that proposal, provided the structure of the underlying performance metric remains intact.

8. Commission Analysis and Conclusion

The main question among the parties is whether the basis points should be allocated evenly – either by the six performance metrics categories or by each specific performance metric – or should be adjusted and awarded "unevenly" based on various factors. P.A. 102-0662 is not clear on this issue. P.A. 102-0662 does not give any preference or ranking among the six performance metrics categories (nor by association the unknown potentially eight specific performance metrics to be established). However, P.A. 102-0062 does specify that the Commission must approve performance metrics that "encourage cost-effective, equitable utility achievement of the outcomes" (220 ILCS 5/16-108.18(e)(2)) and that in determining the appropriate level of a performance incentive, the Commission shall consider, among other things "the extent to which the amount is likely to encourage the utility to achieve the performance target in the least cost manner" as well as "the value of benefits to customers, the grid, public health and safety, and the environment," including factors that the Commission deems appropriate, such as benefits to EJ/R3 communities, affordability or promotion of renewable and distributed energy. 220 ILCS 5/16-108.18(e)(2)(F). It is apparent from the evidence in this docket that the proposed metrics do not require equal amount of investment from the utility or provide equal amount of benefits, due to, among other things, vast differences in their complexity and the targets set in this Order, the potential benefits they provide to EJ/R3 communities or the extent to which they incentivize renewable energy integration. Therefore, the Commission finds that equal weighting is not reasonable in this proceeding based on the evidence provided in this docket. The question before the Commission, and allowable by the flexibility of the statute, is what allocation of basis points is reasonable and supported by substantial evidence in this initial PBR proceeding.

Proponents of an "uneven" allocation of basis points make various arguments including: (1) certain metrics will provide more or less net benefits and therefore should be allocated more, less or zero basis points; (2) certain metrics are more difficult or easy to achieve and therefore should be given more or less basis points; (3) certain metrics should be given zero or minimal basis points due to potential legal challenges or an uneven balance between the penalties/incentives; or (4) certain metrics are more in line with particular goals of P.A. 102-0662 and therefore require a greater incentive/penalty amount of basis points. Proponents of an even allocation of basis points – either by metric category or by metric – argue generally that it is premature to allocate basis points unevenly or arbitrarily given the level of uncertainty that exists in this docket of first impression.

Considering the various arguments and recommendations, the Commission primarily finds that there is insufficient evidence to support even allocation of basis points among all metrics in this docket. While there is uncertainty in the customer and societal benefits each of the performance metrics will provide, as well as the costs related to the performance metrics, P.A. 102-0062 tasks the Commission with determining a reasonable allocation of basis points to each approved performance metric target, and the Commission thus must make its best determination based on the evidence in the record. The Commission finds problematic that ComEd proposes a performance metric

be assigned zero basis points. P.A. 102-0662 explicitly listed performance metric categories that must include incentive and/or penalty adjustments via basis points to the ROE. The Commission agrees with Staff that, without a financial incentive, a purported performance metric is actually a tracking metric.

The Commission recognizes Staff and intervenors' concerns regarding the lack of information and the potential risk to ratepayers. However, the Commission finds that Staff's proposal to allocate six basis points equally to each statutory category is not reasonable given the information provided in the record and is not adopted. As further discussed in this Order, the Commission is also not persuaded by ComEd and Staff to reduce basis point allocation to the Section 16-108.18(e)(2)(A)(ii) peak load performance metric to only two basis points. ComEd and other parties recognize that some metrics will be harder to achieve than others. Assigning the same basis points incentivizes the utility to focus their efforts on the metrics that are easier to achieve, while rewarding it disproportionally less on the ones that are more difficult, even if they may render higher benefits to consumers and the grid.

C. BPS Assignment Method (by Metric)

1. ComEd's Position

ComEd explains that the basis point allocation philosophy is reflected in its recommended basis point allocations for each metric. ComEd states that it has proposed assigning greater weight (30 basis points total) to the performance metrics related to reliability, resiliency, and power quality (Performance Metrics 1 through 3) because these metrics are more difficult to achieve than other metrics, are reasonably within ComEd's ability to achieve, and most directly benefit ComEd's customers. In addition, ComEd submits that Performance Metric 2 focuses on improving reliability and resiliency specifically in EJ and R3 communities, in accordance with the statute. *See* 220 ILCS 5/16-108.18(c)(1).

ComEd proposes assigning 13 basis points to the performance metric related to affordability (Performance Metric 6) and 10 basis points to the performance metric based on interconnection timeliness (Performance Metric 7). Per agreement with COFI, ComEd has agreed to increase the number of basis points allocated to the affordability performance metric to reflect the increased challenge created by the metric's focus on low-income areas with high rates of disconnection. ComEd recommends that 10 basis points be allocated to the interconnection timeliness metric, noting that interconnection timeliness was identified as a key issue for stakeholders, as is reflected in the December 1, 2021, Performance and Tracking Metrics Workshop Summary Report to the Commission, co-authored by Staff and the Rocky Mountain Institute.

ComEd explains that it allocated fewer basis points to the remaining metrics consistent with its overall allocation philosophy. ComEd proposes assigning five basis points to the performance metric related to customer service (Performance Metric 8) because this metric is new and related technology is rapidly changing. ComEd recommends that the metric related to peak load reduction (Performance Metric 4) is limited to no more than 2 basis points, regardless of the total basis points, because of the capacity value of the programs included in the final metric design, as well as the ComEd/customer benefits-sharing model. Finally, ComEd recommends allocating zero

basis points to the performance metric related to supplier diversity (Performance Metric 5).

ComEd contends that Staff and intervenors provide little or no evidence to support their suggested changes to ComEd's proposed basis point allocations for particular metrics. For instance, ComEd notes JSP proposes an alternative performance metric in place of ComEd's proposed interconnection performance metric and recommends that the Commission allocate 25% of the total basis points (10 out of 40, as proposed by JSP) to that one metric. ComEd argues that the Commission should reject any lopsided weighting of a metric that favors one party's agenda and ignores the balance of considerations that must be factored when allocating basis points among a portfolio of performance metrics.

2. Staff's Position

Staff states that how the incentive or penalty will be applied to each proposed performance metric, for both ComEd's and Staff's proposals, are summarized in the table below:

Summary of Basis Points Allocation for Staff and ComEd

	Statutory Category	ComEd basis points	Staff basis points
	Reliability / Resiliency #1	15	2
	Reliability / Resiliency #2	10	2
	Reliability / Resiliency #3	5	2
1	Reliability / Resiliency Total	30	6
2	Peak Load	5	6
3	Supplier Diversity	0	6
4	Affordability	10	6
5	Interconnection	10	6
6	Customer Service	5	6
	Total basis points	**60**	**36**

It is Staff's position that all six required categories of performance metrics must include an incentive/penalty adjustment to the ROE, as the difference between a "performance metric" and a "tracking metric" is that the former contemplates incentives or penalties for success or failure. In other words, by not including a financial incentive for the supplier diversity metric, ComEd has essentially proposed a tracking metric instead of a performance metric. Therefore, Staff recommends assigning an incentive/penalty measured in basis points to the supplier diversity metric. Staff Ex. 2.0 at 11.

Staff notes that ComEd's proposal assigns half of the total basis points to the reliability and resiliency performance metrics. ComEd Ex. 4.0 at 26. ComEd did not fully

explain why the metrics in the reliability/resiliency category should be given the same weight as the metrics in the other five categories combined, 30 basis points. The statute does not prioritize reliability/resiliency over the other five categories of performance metrics. Staff recommends that each of the six categories listed in Section 16-108.18(e)(2)(A) receive six basis points for incentives and penalties, for a total of 36 basis points. Staff recommends that the six basis points for the reliability and resiliency category (Section 16-108.18(e)(2)(A)(i)) should be further divided among the three metrics in the reliability and resiliency category (i.e., 2 basis points each, assuming the Commission adopts three metrics in this category, as ComEd proposes). At this time, the Commission lacks sufficient information on which of the metrics will provide the most benefits and should therefore arguably be assigned more basis points. Moreover, MRPs and performance-based rates are new programs for Illinois electric utilities and the potential benefits are not yet fully known. In subsequent MRPs, when evidence of the actual net benefits provided by each metric is available, the Commission will be able to modify the assignment of basis points if it deems such modifications are warranted. Absent that information, Staff's proposal to evenly distribute the basis points among the required categories of performance metrics is preferable to ComEd's proposal because each category is equally important and meaningful and is intended to spur improved performance in the specified areas. Staff Ex. 2.0 at 11-12. Staff does not suggest that Act requires equal weighting, but rather that it does not give clear preference to any of the performance metric categories. The information necessary to support an argument for giving one category more weight – particularly 50% of the weight – does not yet exist. Until it does, Staff states, the basis points should be equally distributed among the categories.

In any future performance metric dockets, if there is better information regarding benefits that customers realize under an MRP, there will be opportunities for the Company and interested stakeholders to revise the allocation of basis points as well as the total basis points allowed for incentives and penalties. Until then, Staff states that it is premature to allow the maximum total basis points, given the lack of information regarding potential benefits for customers, especially in light of the potential costs to ratepayers. Staff Ex. 10.0 at 6.

Staff notes that AEE opposes an even apportionment of basis points across metrics because it would unnecessarily constrain the Commission's ability to match rewards with benefits to customers; ensure that metrics provide enough reward to motivate utilities toward higher performance; and overcome potential counterincentives embedded in the regulatory framework that normally bias the utility toward capital investment. These arguments do not assuage Staff's concerns about the uncertainty of the benefits associated with the proposed performance metrics.

CUB/EDF state that the plain language of the statute instructs that the basis point levels should be allocated to focus more on metrics that improve equity and environmental outcomes. CUB/EDF state that nothing in the Act suggests that the performance-based ratemaking scheme should assign the same number of basis points to each performance metric and suggests the allocation of basis points should be determined on a metric-by-metric basis. CUB/EDF suggest allocating incentive and penalty basis points to prioritize and reward performance metrics based on the impact of

achieving them. Due to its relative importance, CUB/EDF argue it is appropriate to allocate 10 basis points to the Reliability and Resiliency in Vulnerable Communities metric. While Staff agrees that P.A. 102-0662 as a whole has an emphasis on equity and environmental outcomes, Staff disagrees that this emphasis suggests that any metric category should be afforded more weight than another. Staff states that any and all of the performance metrics have the potential to deliver both equitable and environmental benefits. Again, until those benefits are known, Staff concludes there is no rationale for assigning more weight to one metric over another. For similar reasons Staff does not support COFI's point allocations.

If the Commission disagrees with Staff's primary recommendation to allocate basis points equally among the categories and decides instead to assign more of the total basis points to the reliability and resiliency category, Staff recommends the total basis points be evenly allocated across all eight of the proposed performance metrics. This alternative approach would increase the overall weight for the reliability and resiliency category in Staff's proposal to 37.5% of the total basis points. Evenly distributing the recommended 36 total basis points across all eight metrics would result in 4.5 basis points per metric (instead of 6 basis points per category), including each of the three reliability and resiliency metrics (instead of 2 basis points per metric). Staff Ex. 10.0 at 7. Staff presented the difference in the value of the basis point adjustments for each of the metrics depending on how the recommended 36 total basis points are allocated amongst the metrics on Schedule 10.1.

If the Commission agrees with the Company that the supplier diversity metric should be assigned zero basis points, Staff recommends the removal of the basis points assigned to that category from the total number of basis points. In other words, if the Commission agrees with Staff's proposed total 36 basis points evenly distributed over the six categories, the 6 basis points assigned to the supplier diversity category would be eliminated, making the total incentive/penalty 30 basis points. Staff Ex. 10.0 at 7.

Finally, Staff recommends that, if the Commission agrees with IIEC and the AG that the total number of basis points should be limited to 20 basis points, the basis points be evenly distributed among the categories. Staff Ex. 10.0 at 4.

3. AG's Position

The AG requests that the Commission approve no more than 20 basis points as PIM incentives in this docket due to the lack of evidence on cost-effectiveness and the absence of benefit-cost studies. The AG maintains that the Commission could handle this change a number of ways: it could scale the basis points requested by ComEd down to reflect the 20 maximum; it could retain the 2 basis point maximum for Metric 4 (peak load reduction); and it could reduce other incentives to eliminate the incentives for reliability and increase the incentives for other, better supported metrics.

ComEd argues that it assigned thirty basis points to its three reliability performance metrics (Performance Metrics 1-3), half of its overall basis points, "because these metrics are more difficult to achieve than other metrics, are reasonably within ComEd's ability to achieve, and most directly benefit ComEd's customers." ComEd IB at 23. However, P.A. 102-0662 "does not prioritize reliability/resiliency over the other five categories of performance metrics… and performance-based rates are new programs for Illinois

electric utilities and the potential benefits [or lack thereof] are not fully known." *See* Staff IB at 17.

Staff argues that the Commission should assign an equal number of basis points across the six metric categories to "create value for customers, so that utilities are held accountable for their performance and utility revenues are tied to performance and customer benefits; progress on Illinois energy goals is accelerated; and rates for all customers are equitable and affordable." Staff IB at 15, citing 220 ILCS 5/16-108.18(e)(1). ComEd argues "the statute does not require equal weighting among metrics categories (or metrics themselves)." ComEd IB at 22. The AG agrees that the statute does not require equal weighting but notes that Commission is required to assign basis points in a manner that results in meaningful benefits to ratepayers. *See* 220 ILCS 5/16-108.18(e)(2)(F). While the AG disagrees with Staff's position that the Commission should assign an equal number of basis points to each metric category, the AG and Staff agree that the Company should not be allowed to assign higher basis points to specific categories beyond what is necessary to align utility and ratepayer interests.

For these reasons, the AG requests that the Commission either reject ComEd's metric structure, or in the alternative, only approve the minimum of 20 basis points in this proceeding and assign those basis points in a manner consistent with the AG's testimony and briefs.

4. CUB/EDF's Position

CUB/EDF support basis points assignments based on the adoption of the metrics in CUB/EDF's Alternative Plan. If the Commission adopts a significantly lower peak load reduction target, for example, the associated basis points would likely need to be less.

CUB/EDF argue that due to the relative importance of the Reliability and Resiliency in Vulnerable Communities metric as compared to others in achieving the statutory goals, and the historical level of incentives for reliability improvements, it is appropriate to allocate 10 basis points of incentives or rewards to the Reliability and Resiliency in Vulnerable Communities metric. Under the EIMA, there were a total of 20 basis points for ComEd's reliability metric in years 1 through 3 per Section 5/16-108.5(f) of the Act:

- 20%improvement in systemwide SAIFI (5 basis points penalty)
- 15% improvement in systemwide CAIDI (5 basis points penalty)
- 20% improvement in SAIFI for the Southern Region (5 basis points penalty)
- 20% improvement in SAIFI for the Northeastern Region (5 basis points penalty)

220 ILCS 5/16-108.5(f).

The Reliability and Resiliency in Vulnerable Communities metric contains a total spread of 20 basis points at risk as well (10 basis points bonus to 10 basis points penalty). CUB/EDF assert this is an appropriate level for new reliability-focused performance metrics and is consistent with the initial years of the EIMA. CUB/EDF Ex. 4.0 at 47. However, CUB/EDF note this should not be construed as support or endorsement for increasing the basis points at risk for reliability-related metrics in future years or in future plans. *Id*.

In addition, CUB/EDF maintain that the 10-basis point allocation is consistent with the relative importance of this metric in achieving several of the legislature's goals. The Reliability and Resiliency in Vulnerable Communities metric encourages ComEd to achieve the performance target at least cost, and especially incentivizes improvements for EIECs. *Id*. at 48. Those communities are most vulnerable to hardship from extended and frequent outages, and their service should not only meet but should exceed performance for all customers in similar geographic locations. *Id*. Mr. Barbeau's metric design targets EIECs that are underperforming otherwise similar non-EIECs to incentivize more focused investments, achieving the performance goals at least cost. *Id*. CUB/EDF argue more focused investments should also lead to lower costs and increased affordability, increasing the benefits of reliability improvements especially for low-income customers. *Id*. Finally, by targeting investments to support reliability and resiliency in EIECs, CUB/EDF argue there could be improved ability to interconnect distributed energy resources ("DERs") in those communities as well. *Id*. In the forthcoming Multi-Year Integrated Grid Plan proceeding, the Commission could approve or direct the use of renewable energy resources and distributed energy resources as investments, programs, or policies designed to help achieve the performance targets in this metric.

CUB/EDF believe the most appropriate metric design for peak load reduction is a shared savings mechanism. Assuming use of the Alternative Plan's shared savings mechanism, it is reasonable to allocate 10 basis points of bonuses or penalties to this metric. Mr. Barbeau calculated 1 basis point per 150 megawatts ("MW"), based upon the capacity value of peak load reductions, establishing a 20-percent share of capacity market savings to attribute to utility performance, and calculating the revenue impact per basis point for ComEd. CUB/EDF Ex. 4.0 at 49. The resulting calculation was 149 MW per basis point, which Mr. Barbeau rounded to the nearest increment of 10 MW (150 MW). *Id*. CUB/EDF stress this should not be construed as a statement that benefits from capacity reduction are the only benefits from peak load reduction. *Id*.

CUB/EDF consider 20% of shared savings an amount likely to encourage the Company to achieve the performance target in a cost-effective manner, as it is in the range (in some cases exceeding the range) of the fee charged by aggregated demand response providers in demand response markets. *Id*. CUB/EDF argue aligning utility incentives with the deployment of demand response programs will also promote renewable energy and distributed energy. *Id*.

CUB/EDF determine the basis points for each remaining category in the Alternative Plan based on their relative importance, the amount likely to incentivize action to achieve the desired goal, as well as in consideration for each other metric as well as the metrics as a whole. In other words, reasonable basis point allocations depend on the metrics approved.

5. COFI's Position

Initially, ComEd witness Newhouse proposed that the Commission approve a value of five basis points for the affordability performance metric out of a total of 60 basis points applied to a total of eight metrics. In direct testimony, COFI witness Howat expressed a concern that ComEd's assignment of only five ROE basis points was insufficient to incentivize behavior that will improve affordability for lower-income, EJ and

EIECs. COFI Ex. 1.0 (2d CORR) at 43-44. The Company's total revenues requirement is $13,035,493,000 (from the 2021 formula rate revenues requirement), according to ComEd's response to AG Data Request 1.08 Supplemental. *See* Docket No. 21-0367, Order at 36 (Dec. 1, 2021). ComEd calculates that a five-point ROE incentive payment would adjust the Company's revenue by a total of $4,092,000 upwards or downwards. That amount represents about 0.03% of the Company's total revenue requirement. In Mr. Howat's view, that amount is unlikely to incent extraordinary effort on the Company's part to alter the Company's credit and collection procedures to achieve the goals of an affordability metric. COFI Ex. 1.0 (2d CORR) at 43-44.

Mr. Howat testified that it is particularly insufficient given the General Assembly's emphasis on affordability of rates, and in particular for low income customers in P.A. 102-0662's PBR provisions, and the need to "address the particular burdens faced by consumers in environmental justice and equity investment eligible communities, including shareholder, consumer, and publicly funded bill payment assistance and credit and collection policies, and ensure equitable disconnections, late fees, or arrearages as a result of utility credit and collection practices, which may include consideration of impact by zip code," as required under Section 16-108.18(c) (5) and (8). *Id.* at 44. He recommended that the points be doubled for the affordability metric to 10 points.

COFI witness Howat testified that, at a minimum, a doubling of ComEd's initially proposed five-point affordability metric is necessary to incentivize exceptional performance relative to an affordability metric. ComEd revised its initial proposal in its rebuttal testimony, doubling its proposed basis point level, consistent with Mr. Howat's recommendation. ComEd agreed that 10 points should be assigned to this metric under a total 60 basis point PBR scenario. More generally, Mr. Howat testified that ComEd's three reliability metrics should not be assigned any ROE point values because the Company already has incentives to invest in the infrastructure needed to achieve the stated goals.

In addition, Mr. Howat pointed out, ComEd enjoys the revenue protection of Rider UF (Uncollectible Factors) to recover its bad debt. Under this tariffed rider, the Company is able to collect shortfalls in incremental bad debt that are not already recovered in ComEd's electric base rates through monthly adjustments to the customer charge and kWh charges. Accordingly, the Company currently lacks a clear financial incentive to ensure affordability of rates for all of its customers – and in particular the low-income customers who struggle each month to afford essential utility services. In this regard, a performance metric that provides the Company a financial incentive to ensure affordability for all of its customers, including those who frequently and most often face disconnection from essential utility services, makes sense under a performance-based ratemaking scheme that is trying to incent actions that may not traditionally improve the utility's net income.

With the proposed exclusion of Performance Metrics 1, 2 and 3 from the assignment of any ROE points, a total of five metrics would remain to be divided among the 60 ROE basis points ComEd proposes. The 10 points Mr. Howat proposes be assigned to the Affordability metric represents one-sixth (1/6th) of the total points assigned to the five metrics that would receive incentive points.

In its surrebuttal testimony, the Company continues to propose a total of 60 basis points for all eight metrics. In that testimony, ComEd also proposed, for the first time, that Affordability be assigned 13 basis points. ComEd states that it proposes to add 3 ROE points because it decided to reduce the basis points allocated to the Peak Load Reduction metric from 5 to 2 points and re-allocate the extra points to Affordability. ComEd IB at 20.

If the Commission adopts Staff's proposal which would allocate each metric point value equally, COFI urges the Commission to set the Affordability metric at no lower than six points, assuming the COFI-ComEd agreed-upon metric is adopted in a Commission final order. If the Commission approves a total of 60 basis points for the metrics, Affordability should be assigned 10 basis points, consistent with the originally agreed-upon position of COFI and ComEd.

6. AEE's Position

AEE notes that the first two considerations listed in Section 16-108.18(e)(2)(F) are: (i) the extent to which the incentive is likely to motivate the utility to achieve the target in the least cost manner and (ii) the value of the benefits to customers. AEE recommends that the Commission view those as threshold criteria, since if either of those two criteria are not met, the metrics will not be effective.

7. Commission Analysis and Conclusion

ComEd contends that Staff and intervenors have not supported with evidence their criticisms and modifications of ComEd's proposed basis point allocations for particular metrics. ComEd argues that the Commission should reject any lopsided weighting of a metric that favors one party's objectives and ignores the balance of considerations that must be factored when allocating basis points among a portfolio of performance metrics. The Commission finds ComEd's argument applies to many parties, including ComEd.

The Commission rejects Staff's initial proposal to equally divide basis points among the six statutory categories as discussed in Section IV.B.8 of this Order. Instead, the Commission allocates the total of 32 basis points as follows, considering rejection of Metric 3 and the evidence provided in the record in terms of complexity of achieving each metric and potential benefits to the customers, as well as improvements in equity, affordability, and reliability in EJ/R3 communities as well as better integration of renewable resources, and other considerations discussed with respect to each metric:

Proposed Performance Metric	**Basis Points ("bps")**
1. Overall Reliability Based on SAIDI	+/-5 bps
2. EJ and R3 Communities Reliability and Resiliency Based on SAIDI, SAIFI, CEMI4 and CELID	+/-5 bps
3. System Visibility Index	rejected

4. Peak Load Reduction	+/-6 bps
5. Supplier Diversity	+/- 3 bps
6. Affordability	+/-5 bps
7. Interconnection Timeliness	+/-5 bps
8. Customer Service	+/-3 bps

The Commission does not adopt CUB/EDF's Alternative Plan, see infra; therefore, the Commission rejects CUB/EDF's proposed allocation of basis points pursuant to its Alternative Plan metrics.

D. Linear Approach to Basis Points

1. ComEd's Position

ComEd asserts that the Commission should approve ComEd's proposed penalty/incentive structure, which adopts a linear approach. ComEd initially proposed a "stair-step" approach to the penalty/incentive structure that would allow ComEd to earn an incentive (or incur a penalty) when it achieves (or falls below) an applicable threshold, or "step." ComEd explains that each "step" represented a performance range acceptable for the basis point adjustment associated with the step. ComEd notes that after considering Staff and AEE Rebuttal testimony, and discussing the issue with Staff and intervenors, ComEd has replaced its originally proposed "stair-step" design with a linear approach, which is reflected in the Second Revised Plan. ComEd Ex. 18.0 at 16; ComEd Ex. 18.01.

ComEd states that under the linear approach, the amount of incentive/penalty earned for each performance metric will be determined by multiplying (i) the percentage of the maximum target achieved by (ii) the maximum incentive/penalty amount. In other words, there will be straight-line interpolation from deadband performance (resulting in neither an incentive nor a penalty) to the maximum incentive/penalty amount. Incentive/penalty amounts will be rounded to the nearest hundredth of a basis point. Staff witness Freetly has indicated that she is amenable to either the stair step or linear design, as long as the implementation of the design is symmetrical. Staff Ex. 10.0 at 9. ComEd notes that it is not aware of any opposition to the linear design, and as such, the Commission should adopt ComEd's recommendation.

2. Staff's Position

Staff does not object to using the linear approach to determine the level of incentives and penalties to be included as an addition or reduction to the Company's authorized ROE. Staff Ex. 10.0 at 8-9; Staff Ex. 12.0 at 12.

3. Commission Analysis and Conclusion

No party objects to ComEd's proposed linear approach to the assessment of its penalty/incentive basis point adjustments. The Commission approves ComEd's linear design approach.

V. PROPOSED NET BENEFITS METHODOLOGIES

A. ComEd's Position

ComEd states that its filing is consistent with Section 16-108.18(e)(6)(A), which plainly outlines what an electric utility must include in its filing for approval of performance metrics. ComEd notes that the section contains no mention of any requirement that an electric utility must provide a cost-benefit analysis in its filing. Nevertheless, ComEd notes that it submitted the rebuttal testimony of outside experts who not only responded to the AG and IIEC testimony concerning the cost-effectiveness of the metrics, but also proposed a cost-benefit methodology for the Commission's consideration. Mr. Zarumba and Mr. Shields conclude that each of the performance metrics proposed by ComEd will provide significant customer and societal benefits and should be approved by the Commission.

ComEd notes that no other party presented a substantial cost-benefit analysis or credible evidence refuting the expert testimony of Mr. Zarumba and Mr. Shields. ComEd also points out that Staff raised no substantive issues with the Black & Veatch analysis. ComEd states that IIEC and AG's argument that the specific costs to implement and achieve the metrics must be addressed in this docket should be rejected as impracticable and inconsistent.

ComEd argues that the Commission should reject attempts to create a rigid cost-benefit threshold that does not exist in Section 16-108.18(e). ComEd states that IIEC demands that the performance metrics cannot be approved without estimates of the cost of implementing and achieving them, and that any benefits cannot be considered unless they can be similarly quantified. ComEd contends that this mechanical and highly data-dependent cost-benefit analysis is misplaced in this initial performance metrics case. Section 16-108.18(e)(2)(F) requires:

> For the purpose of determining reasonable performance metrics and related incentives, the Commission shall develop a *methodology* to calculate net benefits that includes customer and societal costs and benefits and quantifies the effect on delivery rates.

220 ILCS 5/16-108.18(e)(2)(F) (emphasis added). ComEd argues that this language expressly requires that this docket result in the Commission's development of a methodology that broadly accounts for both customer and societal costs and benefits. ComEd states that the language does not require a granular analysis of whether each individual metric will ultimately and with a high degree of certainty lead to a net beneficial outcome, as IIEC posits. Instead, ComEd states that the Commission need only find, "based on the substantial evidence," that the approved metrics "*encourage* cost-effective, equitable utility achievement of the outcomes … while ensuring no degradation in the significant performance improvement achieved through previously established performance metrics." 220 ILCS 5/16-108.18(e)(2) (emphasis added). In effect, ComEd argues, the Commission must establish performance metrics that are reasonably expected to support cost-effective achievement. The Commission need not attempt to guarantee financial benefits.

ComEd argues that IIEC's focus on the costs associated with implementing and achieving the metrics ignores that the General Assembly could have required electric utilities to include cost-benefit information or the planned cost to achieve the metrics but chose not to do so. ComEd states that the General Assembly did specify that, in the potential upcoming Multi-Year Integrated Grid Plan proceeding, the utility should submit:

> A plan for achieving the applicable metrics that were approved by the Commission for the utility pursuant to subsection (e) of Section 16-108.18 of this Act.

220 ILCS 5/16-105.17(f)(2)(H)(iii). ComEd explains that the requirement to submit a plan for achieving the metrics in a future proceeding undercuts IIEC's position that detailed plans – including costs – to achieve metrics are a prerequisite to the approval of the metrics themselves. Rather, ComEd argues, the General Assembly intended to create a process sequence that first requires the establishment of performance metrics in the instant docket, based on substantial evidence showing that the metrics encourage cost-efficient achievement of the objectives of the statute, followed by the review of costs to implement the metrics in potential future multi-year grid and rate plans and later cost reconciliations – proceedings with their own standards of evidence. ComEd contends that the plainest reading of these sections is that Section 16-108.18(e)(6)(A) intentionally does not require implementation plans in this metrics approval case, because these plans are subject to the Commission's consideration in the potential upcoming multi-year ratemaking process. *See, e.g. People v. Clark*, 2019 IL 122891, ¶ 47 (when interpreting a statute, the "court may not 'constructively' add a requirement to a statute that the legislature plainly chose not to include*"); Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S. Ct. 2367, 2381 (2020). ComEd argues that the record in this proceeding includes a methodology to calculate net benefits as well as evidence applying that methodology to currently available data concerning each of ComEd's proposed metrics.

ComEd states that its witnesses Zarumba and Shields proposed a cost-benefit analysis methodology that uses the best available information to evaluate as many of the costs and benefits as possible at this time. ComEd explains that Mr. Zarumba and Mr. Shields evaluated cost-benefit methodologies used to evaluate performance metrics in other regulatory jurisdictions in the United States and Canada to help them develop the proposed cost-benefit analysis methodology. ComEd states the methodology takes into consideration that some benefits are qualitative or not practically quantifiable at this time. ComEd states that witnesses Zarumba and Shields then methodically gathered information for each of the performance metrics to develop an understanding of the customer and societal benefits ComEd expects or seeks to derive from the programs used to achieve the metrics.

ComEd concludes that the proposed cost-benefit methodology can be iterated upon in this new performance metrics context as the Commission, ComEd, Staff, and intervenors gain familiarity with the final approved performance metrics and better understand the related costs and benefits. ComEd suggests the proposed methodology can serve as a sound foundation for future decision-making. ComEd further notes that there is more than enough information in the record to support a Commission conclusion regarding the benefits and potential cost-effectiveness of ComEd's proposed

performance metrics. ComEd states that the proposed methodology evaluates as many of the costs and benefits as possible at this time and identifies customer and societal impacts that cannot be readily quantified. The approach encompasses all of the elements that the Commission may consider for the purposes of evaluating proposed performance metrics. Finally, ComEd asserts that even though not all impacts can be monetarily quantified, the available evidence supports the Commission's approval of ComEd's proposals as they will provide significant customer and societal benefits.

ComEd argues that the Commission should reject attempts by IIEC (and to a lesser extent the AG) to not move forward until the Commission can neatly quantify all of the benefits and costs associated with implementing and achieving the metrics proposed in this docket. ComEd claims that this approach misreads the law, ignores the legislature's stated urgency regarding climate issues, and is an excuse for inaction. ComEd acknowledges that the ultimate societal and customer benefits associated with achieving the metrics cannot be fully itemized or fully quantified at this time. However, ComEd claims, adopting the intervenors' recommendations would ignore the ample and sufficient evidence of the substantial benefits of the performance metrics to the public, in favor of the false precision of a cost benefit analysis that ignores known benefits simply because they cannot be quantified at this time.

B. Staff's Position

Inherent in Staff's recommendations that the Commission approve various metrics is the consideration of whether the benefits, both financial and societal, outweigh the expected costs. During the course of this proceeding Staff witnesses proposed various adjustments or modifications to ComEd's proposed performance metrics, in the interest of ensuring the metrics supported by Staff properly consider costs and benefits and achieve a balance between the two. Staff is confident its modifications to ComEd's proposed metrics further the objective of ensuring that the benefits outweigh the financial and societal costs of achieving the performance goals therein.

Conversely, for those performance metrics on which Staff disagrees with ComEd, Staff does not believe the benefits derived from the metric justify the cost to achieve the metric. For example, Staff recommends modifications to the peak load reduction metric because, as proposed by the Company, the anticipated benefits of decreasing peak load do not justify the financial reward associated with achieving that decrease.

In conclusion, Staff states that calculating net benefits of future performance metrics as a means to determine the reasonableness of those metrics is inherently difficult where the costs and benefits are as yet unknown. Here, however, the Commission should approve ComEd's proposed performance metrics as modified by Staff because the record evidence supports a conclusion that the benefits will be equal to or greater than the cost to achieve those metrics. Staff anticipates these calculations will be easier in future performance metrics proceedings, with the benefit of actual data and a history of prudence and reasonableness reviews to inform the process.

C. AG's Position

The AG requests that the Commission reject ComEd's proposed cost-benefit analysis because it failed to calculate the costs of ComEd's investments and failed to

demonstrate meaningful benefits to ratepayers. A key principle of P.A. 102-0662 is that investments must be cost-effective, and the Commission must "ensure equity and affordability of rates for all customers, including low-income customers, and hold utilities publicly accountable." 220 ILCS 5/16-108.8(e)(1). P.A. 102-0662 requires that, when assessing the incentives assigned to each metric, the Commission develop a methodology "to calculate net benefits that includes customer and societal costs and benefits and quantifies the effect on delivery rates." A rigorous cost-benefit analysis is necessary to "determine whether benefits of utility investments or actions will outweigh their cost." AG Ex. 1.0 at 16. The AG asserts that this is especially true since ComEd's distribution costs have increased significantly more than inflation since 2014, and the MRP lacks the cost controls evident in other states' MRPs. *Id*. at 8-9, 16. The cost-benefit analysis should be "rigorous, balanced, and transparent" and "account for all costs that will be borne by ratepayers, including investments and other spending expected to achieve the PIM, as well as the cost of any positive performance incentive. In addition, distributional and equity impacts should be considered." *Id*. at 19-20.

Without providing a meaningful benefit-cost analysis that "quantifies the effect on delivery rates," 220 ILCS 5/16-108.8(e)(2)(F), the AG asserts that ComEd cannot meet its burden to demonstrate cost-effectiveness with substantial evidence. The AG shows that ComEd's benefit-cost analysis did not provide costs for specific investments or actions but instead provided "a methodology for decision-making." ComEd Ex. 25.0 at 146-150. This methodology contained minimal quantified benefits, with no degree of certainty as how ComEd would achieve its metrics, no quantification of costs or effect on ComEd's delivery rates, or how they would meaningfully benefit ratepayers. ComEd's witnesses argued that, instead of assessing cost during this proceeding, the Commission should first approve the Company's metrics and then review their costs "in future grid plan and ratemaking proceedings." ComEd Ex. 25.0 at 11. ComEd also repeated throughout testimony that a rigorous benefit-cost analysis is too precise, premature, and not required by the statute. *E.g.* ComEd Ex. 18.0 at 4, ComEd Ex. 25.0 at 11. However, as IIEC witness Stephens pointed out, "Utilities plan for projects that are years in the making. In ComEd's formula rate cases, it had to project costs as part of its rate filings… ComEd should be able to provide reasonable estimates of the costs of its metrics." IIEC Ex. 2.0 at 5. The AG maintains that the Commission cannot approve metrics "based on substantial evidence" without evidence of a reasonable estimate of how much each metric will cost ratepayers. Further, as Mr. Stephens noted, ComEd's proposal is "fundamentally unfair to ratepayers," because it asks the Commission to approve incentive payments "without knowing by what means the cost-benefits of the metrics are to be judged," and with "no explanation as to when or how the yet-to-be-decided cost benefit methodology will be decided." IIEC Ex. 2.0 at 4. P.A. 102-0662 clearly expects that the Commission will consider whether a benefit-cost analysis shows PIMs to be cost-effective and directs that the Commission should only approve metrics that align utility and ratepayer interests.

While the Commission is required to "develop a methodology … that ensures benefits exceed costs for customers," *see id*. at (e)(2)(F), ComEd has a duty to support its metrics with substantial evidence, *id*. at (e)(2)(A), meaning that the Commission may only approve PIMs that the Company has demonstrated meet all criteria of the Act—including cost effectiveness—with substantial evidence. This is particularly important where "intervenors are in the near impossible position of assessing the costs needed to

ensure a metric is achieved when we know that it is the Company's actions taken to achieve the metric that will determine its costs." COFI IB at 19.

According to ComEd witness Newhouse "parties tend to be focused on quantification of benefits when there should be no doubt that the benefits exist." ComEd Ex. 18.0 at 5. If approved, the AG states that ComEd's incentive payments alone will cost ratepayers at least $818,480 per basis point, $49.1 million per year, and $194.6 million over the four-year MRP period, without even accounting for the costs of new plant and other investments needed to achieve ComEd's goals, the return on and of these investments, or other costs and expenses associated with ComEd's proposed metrics. *See* AG Ex. 1.0 at 17-18; *see also* 220 ILCS 5/16-108.8(e)(2)(F) (requiring quantification of effect on delivery rates). The AG notes that the Commission cannot simply take Mr. Newhouse's word that there is "no doubt that the benefits exist," without a rigorous analysis that weighs actual costs against quantifiable benefits. The AG states that insisting that societal benefits be quantified treats costs and benefits the same and does not discount the importance of societal impacts, any more than quantifying costs discounts the importance of costs. Further, while P.A. 102-0662 discusses societal benefits related to the cost-benefit analysis, the PBR section of P.A. 102-0662 mentions societal benefits once, but emphasizes cost-effectiveness five times, least-cost three times, affordability ten times, and customer impacts 60 times. *See generally* 220 ILCS 5/16-108.8. The AG states that this emphasis on customer experience and affordability demonstrates that ratepayers should be at the forefront of any benefit-cost analysis. However, ComEd's benefit-cost analysis failed to include a fair assessment of the benefits that ratepayers can expect and the costs that ratepayers will pay to achieve these metrics and fails to symmetrically include both societal benefits and costs. Ultimately, the AG concludes that ComEd's benefit-cost analysis is fatally flawed, lacking a quantification of costs or benefits and making it impossible to assess whether the proposed PIMs are cost-effective or a benefit to ratepayers.

For these reasons, the AG requests that the Commission reject ComEd's proposed metrics and underlying benefit-cost methodology, or, in the alternative, require alternate cost-effective metrics, consistent with the recommendations in the AG's testimony and briefs.

D. CUB/EDF's Position

CUB/EDF state that the Act tasks the Commission with setting the financial rewards or penalties associated with utility performance on the below metrics at a level that ensures net benefits from each metric. Regarding cost-benefit analysis, P.A. 102-0662 treats incentive payments as a cost and bars the Commission from approving incentive amounts that exceed the net benefit value of achieving the metric. It requires the Commission to develop a methodology to calculate net benefits that includes customer and societal costs and benefits and quantifies the effect on delivery rates. 220 ILCS 5/16-108.18(e)(2)(F). The statute includes a robust list of required considerations for determining the appropriate level of a performance incentive. 220 ILCS 5/16-108.18(e)(2)(F). This statutory framework treats incentive payments as a cost and bars the Commission from approving incentive amounts that exceed the net benefit value of achieving the metric. Each performance metric corresponds to a potential incentive payment of some amount; otherwise, it would be a tracking metric. Therefore, CUB/EDF

state, a performance metric cannot be approved unless achieving its targets would produce a positive net benefit compared to status quo. Further, every target threshold that, if achieved, entitles the Company to an additional incentive payment must be associated with an incremental increase in net benefit greater than the incremental increase in performance incentive payments.

CUB/EDF contend several of the performance metrics ComEd proposes fail this net benefits test. CUB/EDF argue there are performance metric targets the Company proposes that ComEd fails to demonstrate provide any benefit compared to the status quo. Further, CUB/EDF consider the Company's assignment of basis points to each metric arbitrary and allege ComEd based them on maximizing profits rather than achieving net benefits. CUB/EDF contend this approach results in several metrics where the cost in incentive payments exceeds what little, if any, benefit there would be from achieving the targets.

CUB/EDF propose modifications to the performance-based rate plan that CUB/EDF maintain would ensure that every incremental increase in incentive payments is predicated on the achievement of a quantified outcome that provides for a substantial positive net benefit over and above status quo. For example, CUB/EDF recommend multiple performance metrics where incentive payments are calculated as a portion of savings achieved for customers, which guarantees net benefits. CUB/EDF assert these modifications would replace ComEd's obsolete baselines, unambitious targets, and arbitrary, excessive basis point allocations with a robust performance-based ratemaking scheme ensuring ComEd earns any incentive payments by providing quantified, verified net benefits to customers. CUB/EDF maintain to allow otherwise not only would violate P.A. 102-0662's net benefits requirement but also potentially fails the just and reasonable standard that underlies all ratemaking pursuant to the Act.

E. COFI's Position

COFI states that the statutory language emphasizes the importance of recognizing the benefits that flow to both low-income customers and society in general. The costs and benefits of reducing the number of customers disconnected from essential utility service should be incorporated in any Commission analysis of the affordability metric.

COFI states that, as Mr. Howat testified, it is difficult for intervenors to compare the Company's costs and non-quantifiable benefits of altering credit and collections policies and other actions that are needed to achieve the affordability and other metrics recommended in the case. Mr. Howat noted, for example, that in his experience, utilities typically push back on advocates' recommendations to alter credit and collection practices with two responses: (1) that any changes that introduce more flexibility in customer payment practices will require new coding in their IT systems and retraining for customer service representatives, typically without a specific quantification of the cost involved; and (2) that adjusting disconnection policies to increase arrearage trigger amounts will increase uncollectibles (bad debt), thereby increasing costs to all customers. In that regard, utilities are not acknowledging several important societal costs that are incurred when customers are disconnected from essential utility services and the customer and societal benefits that exist when customers remain connected to essential utility services. COFI Ex. 1.0 (2d CORR) at 38.

While Mr. Howat did not conduct a cost-benefit analysis, the COFI/ComEd proposed affordability metric is unlikely to require the expenditure of any significant costs. For example, ComEd could not specifically identify any additional technology or infrastructure investment that is needed to establish and achieve the affordability metric. ComEd witness Chu stated further that "based on ComEd's preliminary (tentative) judgment, ComEd anticipates that this performance metric (as originally proposed and as of the rebuttal position) currently is not expected to have material incremental costs, although some information technology changes might be needed and, if so, they would incur some costs." ComEd Ex.8.0 at 15. She also noted that "ComEd does not expect any significant systems or people changes to support this metric." *Id*.

In reality, COFI states that intervenors are in the near impossible position of assessing the costs needed to ensure a metric is achieved when it is the Company's actions taken to achieve the metric that will determine its costs. ComEd itself admits it still is developing a plan for increasing customer outreach, along with other metric activities. Ms. Chu testified that the Company currently believes that the possible incremental costs of increased customer outreach are somewhat likely to be incurred, but that they are speculative in amount at this time. Importantly, too, Ms. Chu notes that with respect to benefits, "the efforts that ComEd plans to undertake will benefit individual customers in terms of reduced risks of disconnections and in qualitative terms and may benefit customers as a whole in terms of reduced uncollectibles expense and possibly reduced costs associated with disconnection processes such as field calls." *Id*. at 16.

In the Company's rebuttal and surrebuttal filings, ComEd witnesses Zarumba and Shields presented a cost/benefit analysis for each proposed metric, including the ComEd-revised metric (the modified version of Mr. Howat's proposed metric and, in surrebuttal, the ComEd/COFI agreed metric). ComEd witnesses state that many of the net benefits associated with that metric are qualitative and non-quantifiable. These witnesses testified:

> Customers who are assisted in avoiding disconnections will avoid associated disruptions in their daily lives, and potentially incurring the costs of alternative housing, and other lifestyle disruptions. The impacts are real, but difficult to quantify.

Notwithstanding that observation, the witnesses concluded that in current year dollars, the benefits of the affordability metric are conservatively estimated to be more than $1.6 million over the 2024-2027 period. ComEd Ex. 25.0 at 6-7.

In sum, COFI states that the record evidence demonstrates that COFI's proposed affordability metric will, at a minimum, provide net benefits of $322,403 annually, not including non-quantifiable benefits, to customers who are able to retain essential utility service as a result of the Company's actions to achieve the reduced disconnections, and are likely to bring benefits to customers as a whole through reduced credit and collections costs. No party provided evidence that approval of the COFI/ComEd-proposed affordability metric will create new, significant costs, or not produce net benefits. COFI urges the Commission to approve the COFI/ComEd-proposed affordability metric.

COFI states that Staff concurs that calculating net benefits of future performance metrics as a means to determine the reasonableness of those metrics is inherently difficult

where the costs and benefits are as yet unknown, but states that it will be easier in future performance metric proceedings with experience and time. Staff recommends, however, that the Commission should approve ComEd's proposed performance metrics as modified by Staff because the record evidence supports a conclusion that the benefits will be equal to or greater than the cost to achieve those metrics. Staff submits that the COFI/ComEd affordability metric is cost beneficial. No party presented evidence to the contrary, COFI points out.

IIEC states that ComEd's cost-benefit analysis is flawed and speculative. For the affordability metric, IIEC states that ComEd claims it could possibly see reduced call center workload but did not estimate the associated cost. IIEC asks, in the absence of incremental costs, signaling no additional effort is needed to achieve the metrics, whether it is fair to ask customers to provide ComEd excessive rewards for performance that is already supported in rates.

COFI notes that the AG likewise criticized the Company's cost-benefit presentation, although not the affordability metric analysis specifically. (The AG supports adoption of the COFI/ComEd-proposed metric.) The AG states ComEd did not provide costs for specific investments or actions but instead provided "a methodology for decision-making." AG IB at 15. The AG complained that instead of assessing cost during this proceeding, ComEd recommended the Commission should first approve the Company's metrics and then review their costs in future grid plan and ratemaking proceedings. The ComEd methodology, according to the AG, contained minimal quantified benefits, with no degree of certainty as to how ComEd would achieve its metrics, no quantification of costs or effect on ComEd's delivery rates, or how they would meaningfully benefit ratepayers. AG IB at 15. This concern, according to the AG, supports Commission adoption of the minimal total amount of basis points for the metrics as a whole.

To the AG's point, ComEd witnesses Zarumba and Shields admitted in rebuttal testimony:

> there were challenges for ComEd when estimating the costs (only some of which are known at this time) to achieve a challenging metric (at the target levels). By its nature, a metric that is truly challenging will require the utility to develop a strategy as to what processes and resources will be required to optimize performance and to be flexible. These changes may not be known upfront, and in our experience, achievement of such goals is not always a matter of increasing costs but instead may come from things such as a team focus on achieving a particular goal, a reallocation of resources, new processes, tools, etc.

ComEd Ex. 11.0 at 20.

To the extent that some level of uncertainty exists as to costs and benefits (and ComEd admits that uncertainty is present), in COFI's view, Staff's and other parties' concern about selecting a total number of basis points that is less than the 60 basis points has merit. As both IIEC and the AG point out, achievement of 60 basis points would translate into a ratepayer-funded incentive payment of some $49.1 million per year, and

$194.6 million over the four-year MRP period, without even accounting for the costs of new plant and other investments needed to achieve ComEd's goals, the return on and of these investments, or other costs and expenses associated with ComEd's proposed metrics.

In response to IIEC's criticisms of the Company's cost-benefit analysis, COFI notes that it is important to acknowledge and assign a value to the utility system payment benefits, societal and participant benefits identified by Mr. Howat and referenced above. COFI notes that ComEd could not specifically identify any additional technology or infrastructure investment that is needed to establish and achieve the affordability metric. ComEd witness Chu stated further that "based on ComEd's preliminary (tentative) judgment, ComEd anticipates that this performance metric (as originally proposed and as of the rebuttal position) currently is not expected to have material incremental costs, although some information technology changes might be needed and, if so, they would incur some costs." ComEd Ex. 8.0 at 15. She also noted that "ComEd does not expect any significant systems or people changes to support this metric." *Id*.

In the Company's rebuttal and surrebuttal filings, ComEd witnesses Zarumba and Shields presented an admittedly incomplete cost-benefit analysis for each proposed metric, including the ComEd-revised affordability metric (the modified version of Mr. Howat's proposed metric) and the revised version in surrebuttal, based on the modified COFI/ComEd-agreed metric.

That being said, COFI asserts, no party provided specific evidence that approval of the COFI/ComEd-proposed affordability metric will create new, significant costs, or not produce net benefits.

The focus on affordability as a superlative cost-effective metric is consistent with the larger, equity goals of P.A. 102-0662 and the PBR statute (Section 16-108.18) in particular. COFI urges the Commission to adopt findings related to the cost-benefit analysis consistent with these and COFI's recommendations and find that the affordability metric proposed by COFI and ComEd is cost-beneficial.

F. AEE's Position

AEE maintains that ComEd's benefit cost analysis for peak load reductions is deficient because it only includes cost reductions associated with the PJM capacity market. ComEd Ex. 11.0 at 32. Other values, such as avoided transmission and distribution capacity costs, avoided energy at peak, avoided emissions at peak, and avoided transmission and distribution losses, should be included in any comprehensive calculation of the benefits of peak load reductions. In essence, ComEd's valuation methodology for peak load reduction envisions a utility system where customers are directly served by generating capacity without the distribution and transmission system connecting the two and without considering other essential aspects such as energy and emissions. ComEd's witnesses acknowledged in its rebuttal testimony that transmission and distribution savings were possible, but that they were not included in the valuation methodology. ComEd Ex. 11 at 30. The result of this methodology is an incomplete estimation of the benefits of peak load reduction, which subsequently translates into insufficient targets and incentives.

AEE states that, while ComEd is not at fault for not having sufficient data at the ready for a complete valuation of demand reductions (these types of valuation methodologies are best developed in coordination with the Commission and stakeholders), AEE does not believe a peak demand reduction metric established at this point without sufficient valuation data will achieve its statutory requirements under P.A. 102-0662 — in particular that the metric is able to sufficiently motivate ComEd and results in net benefits to customers. AEE asserts that a comprehensive understanding of benefits is an essential first step in this endeavor.

Fortunately, AEE states, there may soon be a remedy for this lack of data. P.A. 102-0662 also requires two additional proceedings pertaining to Multi-Year Integrated Grid Planning and DG Rebate Additive Service Investigation. These proceedings are highly related to avoided transmission and distribution value and would also benefit from the development of a comprehensive methodology. The resulting estimation of value or methodology can then be used to complete the benefit cost analyses for this proceeding. AEE recommends that the Commission wait to establish a final peak load reduction metric until the comprehensive valuation of peak load reductions is established. Moreover, without a more robust valuation of demand on the distribution and transmission systems, customers will likely be left without sufficient demand response programs to address the challenge of beneficial electrification until at least 2028.

G. IIEC's Position

IIEC notes Section 16-108.18(e)(2)(F) states, in a part, "For the purpose of determining reasonable performance metrics and related incentives, the Commission shall develop a methodology to calculate net benefits that includes customer and societal costs and benefits and quantifies the effect on delivery rates." IIEC points out that given that the Commission is required, in this docket, to approve "performance metrics and related incentives," it must follow that the Commission must approve "a methodology to calculate net benefits that includes customer and societal costs and benefits and quantifies the effect on delivery rates" in this docket.

IIEC argues this need for such a method to be approved in this proceeding is bolstered by the requirement that the Commission is to approve, based on substantial evidence, performance metrics that, among other things, encourage cost-effective utility achievement of the outcomes. IIEC asserts the record is clear that ComEd has not put forth a method that calculates net benefits by examining costs and their impact on delivery service rates, and the record is devoid of the necessary information by which the Commission can make a decision that any metrics are likely to be cost-effective.

IIEC points out ComEd made clear, upfront, that it would not be filing a cost-benefit study. IIEC notes in his direct testimony, ComEd witness Newhouse states: "We currently do not know whether ComEd will file a multi-year rate case under Section 16-108.18(e), nor can we estimate the revenue requirement that will be in effect if and when the performance metrics adjustments are ultimately applied." ComEd Ex. 1.0 at 16.

IIEC argues ComEd's reliance on its claimed inability to not know what its revenue requirement will be, as a reason not to estimate the costs of its metrics, is without merit. Notably, it was quick to estimate the amount of the basis points based on a known revenue requirement. *Id*., at 9. IIEC notes the same revenue requirement could have

been used to estimate the impact of metric costs. Further, IIEC asserts Section 16-108.18(e) does not require a cost estimate based on a yet to be determined revenue requirement. Such a "requirement" is of ComEd's own making. IIEC suggests ComEd's current revenue requirement would surely suffice for making a cost estimate.

IIEC notes ComEd concludes that its performance metrics would not have a detrimental effect on affordability. Other than ComEd's representation, the Commission has no means or a record by which to make that determination. IIEC points out "affordability" is one of the criteria that the Commission must take into account when deciding, "the appropriate level of a performance incentive," one must question how the Commission can decide on any performance incentive, for any metric, when cost estimates are lacking? IIEC notes in short, ComEd wants the upfront basis points awards without the Commission knowing whether the metric is "least cost," "affordable," the impact on a "revenue requirement," or ultimately what "incentive level that ensures benefits exceed costs for customers."

IIEC points out that later in the case, ComEd explained its reasoning for not submitting a true cost-benefit method. Mr. Newhouse explained, in response to the claim that the "Commission's confirmation of the performance metrics and basis point allocation in the final Order in this case will influence how ComEd incorporates these goals into its long-term planning," stating, "[t]hat, after all, is likely why the legislature sequenced this proceeding (i.e., goals) before the [multi-year rate plan] and multi-year integrated grid plan proceedings (i.e., actions to achieve the goals) in 2023." ComEd Ex. 4.0 at 20. IIEC argues aside from Mr. Newhouse's cautious use of the word "likely," his and ComEd's understanding of the Section 16-018.18(e)(2)(F) stands the statute on its head.

IIEC points out first, the statute requires "the Commission shall develop a methodology to calculate net benefits that includes customer and societal costs and benefits and quantifies the effect on delivery rates." 220 ILCS 5/16-108.18(e)(2)(F). IIEC argues that this language is in Section 16-108.18(e)(2), governing this proceeding and which requires the Commission to approve performance metrics based in this proceeding, and nowhere else in P.A. 102-0662, is telling. IIEC notes no words like these are found anywhere else in P.A. 102-0662. IIEC asserts had the legislature wanted the Commission to undertake this effort elsewhere, i.e., in some later proceeding as ComEd suggests, it would have said so. It did not.

IIEC points out the operative language is in Section 16-108.18(e)(2)(F). IIEC notes the statute begins, "For the purpose of determining reasonable performance metrics and related incentives, …" and then comes the requirement for a cost-benefit method. According to IIEC, the two are inextricably tied together—in this docket. ComEd's interpretation to bifurcate the effort, i.e. to determine the basis points, and later decide whether there are cost and benefits, makes no sense and is at odds with the plain language of the statute. IIEC reasons that it is more than clear that the Commission, based on this record, must develop an appropriate cost-benefit method. IIEC observes that the only party with unfettered access to the necessary data, ComEd, has refused to provide a method for the Commission to use.

IIEC understands and agrees costs are not the only part of the net cost evaluation. IIEC notes some metrics do offer qualitative or societal benefits, but they cannot stand in

isolation, as ComEd would have it; that is, approve the metrics based on purported qualitative benefits now and consider the costs later. Section 16-108.18(e)(2)(e) does not give the Commission that leeway. Rather, IIEC argues the Commission should only approve performance metrics that have been shown to produce net benefits to customers. IIEC asserts costs that are taken into account in determining the benefits should be considered primarily (but not exclusively) from the customers' viewpoint, as the benefits to customers tend to be more measurable than societal impacts, and it is customers who ultimately are expected to pay for the improvements through their utility rates (IIEC Ex. 1.0 at 4) and that is the ultimate implication of Section 16-108.18(e)(2)(F).

IIEC observes that in its rebuttal case, ComEd witnesses Zarumba and Shield offered what ComEd witness Newhouse referred to as a "cost-benefit analysis." ComEd Ex. 4.0 at 39. However, IIEC confirms, it is not a "cost-benefit analysis" as no costs are estimated. Aside from this failing, IIEC finds the study is flawed and unreliable.

IIEC explains why the ComEd study provided little if any credible information regarding ComEd's metrics, relying on the testimony of its witness Mr. Stephens:

- ComEd witnesses admit that many of their conclusions on individual proposed performance metrics will be directional in nature, with an understanding that, over time, ComEd (and others) will develop a better understanding of the costs to achieve the desired performance. The future ability to determine some level of costs expected to be incurred is not sufficient, and the information limits are not insurmountable. IIEC Ex. 2.0 at 5.

- The benefits of Performance Metrics 1 and 2 related to reliability and resiliency can be quantified through the use of the ICE calculator. However, estimating benefits at some time in the future through use of the ICE calculator does little to help the Commission determine whether the measure is beneficial now. Further, ComEd has yet to identify the costs it expects to incur. *Id*. at 10.

- Regarding Performance Metric 3-system visibility, ComEd witnesses Zarumba and Shields could only opine that the costs are "reasonable," which tells the Commission and parties nothing. Their claim that a targeted investment plan focused on projects with benefits exceeding costs is empty, in that ComEd never identified the specifics of the plan. Thus, there is no legitimate basis for a conclusion that Performance Metric 3 is cost effective, or that the benefits exceed costs for customer. *Id*. at 11-13.

- For the affordability metric, though there is the claim that ComEd could possibly see reduced call center workload, ComEd did not estimate the associated cost. The best ComEd could say is, "ComEd currently believes that the possible incremental costs of increased customer outreach are somewhat likely to be incurred, but they are speculative in amount at this time." *Id*. at 13. IIEC questions the confidence can the Commission have in awarding basis points when there is only the possibility, or some likelihood that some costs will be incurred but, in any case, the costs are speculative. IIEC also questions whether in the absence of incremental costs, signaling no additional effort is needed to achieve the metrics, it is fair to ask customers to provide ComEd a reward for performance that is already supported in rates, IIEC argues that under the circumstances, there cannot be a declaration or finding of net benefits for this metric.

- As to the interconnection metric, it is not clear to ComEd if there will be incremental costs for this program, though the witnesses claim benefits of $335,167 per year. Yet, "assuming ComEd's requested incentive for this metric is figured in the analysis, at the maximum of 10 basis points, with a cost of $8.2 million per year, clearly the costs far outweigh the benefit." *Id*. at 14-15.

- For the customer service metric, ComEd currently assumes zero incremental costs for the program, although ComEd witness Menard indicates that "some incremental cost would likely be required" to achieve the incentive targets. ComEd Ex. 10.0 at 12. At a total annual benefit of only $104,902 in targeted savings, it would not require much of an increase in equipment or labor costs for the program to wipe out any benefit. Plus, at the maximum proposed 5 basis point reward, customers would have to pay an additional $4.1 million per year to achieve the savings of approximately $105,000. IIEC Ex. 2.0 at 16.

IIEC asserts the foregoing demonstrates, ComEd is not recommending a specific cost-benefit methodology in this docket. Instead, IIEC suggests the Commission is being asked to approve metrics and the related basis points without knowing by what means the cost-benefits of the metrics are to be judged, or if there are any net benefits. IIEC believes this is fundamentally unfair to ratepayers, who are being asked to shoulder the cost impact of basis points, and 60 basis points at that, when the estimated costs are withheld, and when ComEd has the ability to estimate these costs. IIEC finds, assuming arguendo ComEd's interpretation that the expectation is the decision on the cost-benefit methodology is to be made later, it is not clear how the Commission can conclude that ComEd's proposed metrics provide net benefits in this proceeding, as is required in the statute. IIEC Ex. 2.0 at 4.

IIEC notes the Commission knows well that in the many ComEd rate case filings, over the previous decades, ComEd has projected costs. IIEC observes its witness Stephens testified, relying on his extensive practice before the Commission, that "utilities prepare and rely on budgets to project future expenditures and in doing so take into account future expenditures. IIEC notes utilities plan for projects that are years off in the making. IIEC points out in ComEd's formula rate cases, it had to project costs as part of its rate filings. In short, ComEd should be able to provide reasonable estimates of the costs of its metrics." IIEC Ex. 2.0 at 6.

IIEC argues the Commission need look no further than the pending Ameren 'performance metric filing for guidance. IIEC notes Ameren, subject to the same statutory requirements, subject to the same period over which metrics would be in effect (2024-2027), was able to provide a cost-benefit method including estimates of both costs and benefits associated with each of its metrics, some of which are similar in nature to ComEd's proposed metrics. IIEC Ex. 2.0 at 5.

IIEC points to metrics where the costs can be estimated. IIEC notes staffing reductions or increased levels are an ongoing cost over which ComEd has intimate familiarity. IIEC points out ComEd has been tasked with reducing interruptions since the advent of EIMA, and surely the knowledge of developing multi-year metrics designed to improve its SAIFI and CAIDI scores plays into the reliability improvements for the reliability and resiliency metrics. IIEC Ex. 1.0 at 21.

IIEC argues ComEd has placed the Commission in a difficult situation by not estimating costs of the metrics; the record is simply inadequate for the Commission to make a finding of net benefits for all of ComEd's metrics.

IIEC points out ComEd seeks to assign all responsibility for developing a cost-benefit analysis on the Commission. "The statute directs the Commission (not the utility) to develop a methodology for calculating net benefits of the performance metrics and lists the factors that should be considered in such methodology." ComEd IB at 15. IIEC argues while the Commission clearly has the responsibility to approve a cost-benefit analysis, this does not mean that ComEd has no responsibility for proposing one. IIEC suggests this is analogous to saying that the utility has no obligation to propose rates, since the Commission has authority over rate setting. IIEC suggests ComEd is concerned about the word "develop" but, in the context of Section 16-108.18(e), a fair reading means the Commission will approve a cost-benefit methodology that has been developed based on this record. IIEC notes the Commission must base its decision in this proceeding on the record evidence. 220 ILCS 5/10-103; 220 ILCS 5/10-201(e)(iv)(A). IIEC points out there will not be another record like this and P.A. 102-0662 points to no other but this proceeding.

IIEC asserts the Commission could readily find that there is no substantial evidence regarding cost-effectiveness in this docket and reject all the metrics. 220 ILCS 5/16-108.18(e)(2). IIEC also suggests the Commission could, using its general supervisory authority, make findings as to those metrics it believes have merit, and order ComEd to provide in an accelerated supplemental docket on the estimated costs of those metrics, so that the Commission can make informed findings as to whether the metrics can be expected to provide net benefits. *See* 220 ILCS 5/4-101.

IIEC argues in any event, given the uncertainty of net benefits, the Commission should recognize the unfair proposition to ComEd customers, and award ComEd no more than 20 basis points.

IIEC argues that ComEd wants the maximum basis point incentive, in itself, should give the Commission pause and allow only the minimum number of basis points. IIEC asserts the symmetrical basis points, i.e., chance for either penalty or reward, represents a financial risk factor. IIEC suggests that if ComEd truly believed there was equal, or even significant, risk of incurring penalties, it would seek to minimize such risk, not maximize it. IIEC argues the fact that ComEd proposes to maximize the basis point reward or penalty suggests that it foresees very little risk of penalty, i.e., nothing close to equal likelihood of reward or penalty. IIEC Ex. 2.0 at 22.

IIEC concludes based on this record, and for all the reasons it offered, ComEd should be awarded only 20 basis points, or at most, 24 basis points, as requested by Ameren in Docket No. 22-0063.

H. JSP/ELPC/VS's Position

Solar Intervenors state that cost-effectiveness is a key pillar of the PBR section of P.A. 102-0662. P.A. 102-0662 expressly envisions three distinct processes—comprehensive grid planning, ratemaking, and the establishment of performance incentives—to coordinate, such that each utility's resulting "performance-based

ratemaking framework" (which is a product of the three aforementioned processes) leads the utility to:

- "make cost-effective investments that support achievement of Illinois' clean energy policies, including, at a minimum, investments designed to integrate distributed energy resources . . .", and;
- "choose cost-effective assets and services, whether utility-supplied or through third-party contracting, considering both economic and environmental costs and the effects on utility rates, to deliver high quality service to customer at least cost."

220 ILCS 5/16-108.18(c) (listing objectives that utility's performance-based ratemaking framework should be designed to accomplish); *see also* 220 ILCS 5/16-108.18(e)(1) ("the General Assembly finds that electric utilities should make cost-effective investments that support moving forward on Illinois' clean energy policies).

Solar Intervenors note that IIEC states that the Act does not require that ComEd or any party supply a methodology to calculate net benefits. The Act does, however, prohibit the Commission from approving any performance metric that is not cost-effective. To that end, Solar Intervenors explain that ComEd's benefit-cost analysis for its proposed interconnection metric (ComEd Ex. 11.0 (Rev.) at 43-45) is structurally unsound, inconsistent with the requirements of the Act, and would result in substantial net costs to customers and a windfall to the Company's shareholders. Solar Intervenors therefore request that the Commission reject it.

Solar Intervenors explain that ComEd did not prepare a formal benefit-cost analysis to support its proposed suite of metrics in this case, but it did file testimony from a consulting firm recommending "methodological approaches" for the Commission to consider when evaluating the cost-effectiveness of individual performance metrics. ComEd Ex. 11.0 at 5. The consultants' proposed methodology identifies a modest annual net benefit of approximately $335,000 per year for the interconnection metric (based entirely on reduced electric service costs for distributed energy resources ("DER") customers), but the methodology is flawed because it assumes that these benefits can be achieved at zero net costs. ComEd Ex. 11.0 at 45. ("We have assumed a value of zero costs for the purposes of the cost-benefit analysis.") This raises two important questions: (1) If ComEd can reduce interconnection processing time at zero cost, why is it not doing so already? and (2) If ComEd can reduce interconnection processing time at zero cost, why is it requesting millions of dollars in performance incentives in this docket for such an easy and cost-free task?

Solar Intervenors further explain that ComEd's proposed cost-benefit methodology omits the substantial incentive costs (up to $5,852,000 in added earnings or $8,185,000 when grossed up for taxes) that would be paid to the Company if the Company were to achieve its goals under the interconnection timeliness metric. ComEd invites the Commission to effectively divorce its assessment of the cost-effectiveness of any metric from its assessment of the number and cost of the basis points that should be applied to that metric. ComEd Ex. 11.0 at 22.

Solar Intervenors assert that the Act does not support ComEd's extraordinary approach. There is no reason that the Commission should disregard incentives — which, if earned by the Company, will be paid by ComEd's customers — when evaluating the costs and benefits associated with any performance metric. Section 16-108.18(e)(2)(F) of the Act requires an incentive level that "ensures benefits exceed costs for customers." 220 ILCS 5/16-108.18(e)(2)(F). The incentives accruing to ComEd's shareholders are not benefits "for customers." On the contrary, there is no dispute that the incentive received by the Company's shareholders will be paid by the Company's ratepayers through delivery service rates. As such, these incentive payments are "costs" to ratepayers. The statute therefore requires that ComEd reflect incentives as costs in the cost-benefit analysis.

Solar Intervenors posit that ComEd's cost-benefit approach would establish perverse incentives and absurd results because it asks the Commission to ignore the transfer of value from the Company's customers to its shareholders — no matter how large that transfer is. ComEd's approach, taken to its logical conclusion, suggests that the Commission must ignore any imbalance between the potential for shareholder profit and potential customer benefits from a performance incentive mechanism — no matter how large the imbalance between shareholder profit and customer benefit. Nothing in the Act requires this absurd result or compels the Commission to adopt such an interpretation and award a windfall to ComEd's shareholders. To the contrary, the statute expressly prohibits this result.

Solar Intervenors assert that ComEd's reading of the Act, if adopted by the Commission, would encourage the utility to propose increasingly modest performance metrics, at minimum cost to the Company and delivering correspondingly low benefits to customers, just so that the utility had the opportunity to maximize its return to shareholders. The Commission should adopt a methodology that is consistent with P.A. 102-0662's requirements and accounts for incentives paid to the Company by ratepayers as a cost in its net benefits analysis. This would require the utility to propose performance metrics that deliver customer benefits that outweigh customer costs inclusive of upside incentives, as required by Section 16-108.18(e)(2)(F) of the Act. When the full costs and benefits are viewed from its customers' perspective, as required by law, ComEd's proposed interconnection metric results in substantial net costs to customers.

Solar Intervenors explain that if ComEd were to correctly reflect the cost associated with the incentive payment it proposes in its benefit-cost analysis, the total cost of the Company's proposed interconnection timeliness metric increases to up to $8,158,000 per year. Based on ComEd's projections, the Interconnection Timeliness Metric would produce total benefits to end-users (not ratepayers) of between $335,167 and $488,793, depending on the number of "days saved." ComEd Ex. 11.0 at 45. Dividing those modest benefits by the significant costs of ComEd's requested basis-point incentives produces a benefit cost ratio of .05 in 2024, rising to .06 in 2027. Put another way, ComEd's proposal would offer the Company's shareholders an enormous windfall in return for an added burden so small that ComEd failed to quantify it. While the Solar Intervenors have explained several other reasons why the Commission should reject ComEd's proposed interconnection timeliness metric, the fact that the Company's proposal is demonstrably cost-ineffective is a sufficient basis for the Commission to reject

the Company's proposal. Solar Intervenors therefore argue that ComEd's proposal violates Section 16-108.18(e)(2)(F), which requires "an incentive level that ensures benefits exceed costs for customers."

Solar Intervenors assert that in contrast with ComEd's highly costly interconnection performance metric, the Solar Intervenors' DERIUV metric is, by definition, cost-effective. That is because the incentive paid to the Company under the "DER Utilization for Value" component of the DERIUV metric is indexed to the net ratepayer savings that the Company achieves by deploying and utilizing DERs. JSP Ex. 1.0 at 53-54; JSP Ex. 2.0 at 33-34.

I. Commission Analysis and Conclusion

The Commission agrees with various parties that calculating net benefits of the performance metrics is difficult when benefits are unknown or not quantifiable. The Commission further agrees with ComEd that the statute does not require a cost-benefit analysis. However, to the extent possible, a cost-benefit analysis would certainly aid in the Commission's analysis of any particular metric's potential net benefit.

Further, the statute does not require that any party, including the utility, must provide a net benefit methodology. The statute requires the Commission to develop a methodology to calculate net benefits that includes customer and societal costs and benefits and quantifies the effect on delivery rates. 220 ILCS 5/16-108.18(e)(2)(F). However, it would be only logical that, at a minimum, the utility proposing the metrics would provide a net benefit methodology for the Commission's consideration. The Commission notes that future performance metrics proceedings will provide more information and therefore improve any net benefit methodology.

Some parties find ComEd's proposed net benefit methodology for particular performance metrics is not supported by substantial evidence. The Commission addresses these arguments, and the net benefit methodologies used, in Section VI of this Order regarding approval of specific performance metrics.

VI. PROPOSED PERFORMANCE METRICS

Section 16-108.18(e)(2)(A) of the Act requires the Commission to approve no more than eight performance metrics, with at least one metric in each of the following six enumerated categories: (1) reliability, resiliency, and power quality, (2) peak load reductions, (3) supplier diversity, (4) affordability, (5) interconnection, and (6) customer service. 220 ILCS 5/16-108.18(e)(2)(A). ComEd's overall proposal includes three performance metrics for the first category (Section 16-108.18(e)(2)(A)(i) – reliability, resilience, and power quality) and one performance metric for each of the additional five performance metric categories, for a total of eight performance metrics. Other parties propose to either reject ComEd's proposed performance metrics, modify those performance metrics, or propose alternative performance metrics.

A. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(i) (reliability, resilience, power quality)

1. ComEd Proposals

a. ComEd's Position

ComEd states that its proposed three performance metrics related to reliability, resiliency, and power quality should be approved. ComEd states that its three performance metrics align with each of the three topics identified in Section 16-108.18(e)(2)(A)(i) – specifically (1) improvement in overall system reliability and resiliency; (2) improvement in EJ and R3 communities; and (3) improvement in power quality.

Performance Metrics 1 and 2

ComEd notes that Performance Metrics 1 and 2 are designed to measure continuous reliability and resiliency improvement across ComEd's system (Performance Metric 1) and in EJ and R3 communities (Performance Metric 2) in terms of both outage frequency and duration, in the composite form of SAIDI. ComEd further explains that the metrics are designed to focus on the day-to-day customer experience including across common storms and weather events. ComEd states that during the vast majority (97.5% on average, or 356 of 365 days) of the year, ComEd and its customers experience "normal" weather and storms. ComEd argues that its proposal to exclude up to nine major event days ("MEDs") per year allows Performance Metrics 1 and 2 to focus on these normal days and incentivizes ComEd to further improve its robust reliability performance to support the communities that it serves. ComEd states that this metrics design also provides a clear view of ComEd's day-to-day reliability performance and the impact of the related grid investments.

ComEd explains that, for each metric, the baseline target will be based on a three-year baseline for the period 2021-2023, with a target of 15% improvement over the ten-year period 2024-2033. The incremental annual targets will be established such that, to earn an incentive, ComEd must achieve an improvement of 1.5% per year on average for a total reduction target of 15% from the baseline over a 10-year period. To earn an incentive in 2033, ComEd states it must achieve a cumulative improvement of 15% from baseline.

ComEd explains that its original Performance Metric 1 proposed to calculate SAIDI using a widely accepted industry standard published by the Institute of Electrical and Electronic Engineers ("IEEE") (IEEE Standard 1366-2012). The IEEE methodology excludes MEDs, interruptions lasting five minutes or less in duration, and planned interruptions. ComEd argues that using the IEEE methodology of calculating SAIDI results in a performance metric that is reasonably within ComEd's control to achieve and allows ComEd, its customers, and the Commission to readily benchmark ComEd's performance against other utilities across the country. ComEd's final proposed Performance Metric 1 modifies the SAIDI calculation methodology such that ComEd will (i) exclude up to nine MEDs in a calendar year and (ii) lower the threshold of excluded interruptions to those interruptions lasting one minute or less in duration. ComEd states that Staff agrees on the exclusion of interruptions lasting one minute or less in duration,

but the appropriate number of MEDs to exclude from the SAIDI calculation remains a contested topic. The table below shows the currently projected baseline target, deadband, and penalties/incentives for ComEd's final proposed Performance Metric 1.

Surrebuttal Proposed Performance Metric 1: Projected Baseline Target, Deadband, and Penalties/Incentives

Year	-0.01 to -15 bps	0 bps	+0.01 to +15 bps
2024	36.3 to 37.4 or higher	34.8 to 36.2	34.7 to 33.6 or lower
2025	35.7 to 36.8 or higher	34.2 to 35.6	34.1 to 33.0 or lower
2026	35.2 to 36.3 or higher	33.7 to 35.1	33.6 to 32.5 or lower
2027	34.7 to 35.8 or higher	33.2 to 34.6	33.1 to 32.0 or lower
2028	34.1 to 35.2 or higher	32.7 to 34	32.6 to 31.5 or lower
2029	33.6 to 34.7 or higher	32.1 to 33.5	32.0 to 30.9 or lower
2030	33.1 to 34.2 or higher	31.6 to 33	31.5 to 30.4 or lower
2031	32.6 to 33.7 or higher	31.1 to 32.5	31.0 to 29.9 or lower
2032	32.0 to 33.1 or higher	30.5 to 31.9	30.4 to 29.3 or lower
2033	31.5 to 32.6 or higher	30 to 31.4	29.9 to 28.8 or lower

ComEd Ex. 19.0 at 42.

ComEd notes that its original Performance Metric 2 was based on minimum service levels. Specifically, ComEd proposed to measure the number of customers who experience (i) four or more interruptions per year for three consecutive years; or (ii) at least one 12-hour interruption per year for three consecutive years. ComEd explains that it modified Performance Metric 2 to make the same modifications as it did for Performance Metric 1: (i) limit the number of MED exclusions to up to the nine worst MEDs in a calendar year and (ii) lower the threshold of excluded interruptions to interruptions lasting one minute or less. ComEd states that, as is true for Performance Metric 1, Staff and ComEd agree on the exclusion of interruptions lasting one minute or less in duration (*see* ComEd Cross Ex. 1.0), but the appropriate number of MEDs to exclude from the SAIDI calculation remains a contested topic. The table below shows the currently projected baseline target, deadband, and penalties/incentives for ComEd's final proposed Performance Metric 2.

Surrebuttal Proposed Performance Metric 2 Projected Baseline Target, Deadband, and Penalties/Incentives

Year	-0.01 to -10 bps	0 bps	+0.01 to +10 bps
2024	36.3 to 37.4 or higher	34.8 to 36.2	34.7 to 33.6 or lower
2025	35.7 to 36.8 or higher	34.2 to 35.6	34.1 to 33.0 or lower
2026	35.2 to 36.3 or higher	33.7 to 35.1	33.6 to 32.5 or lower
2027	34.7 to 35.8 or higher	33.2 to 34.6	33.1 to 32.0 or lower
2028	34.1 to 35.2 or higher	32.7 to 34	32.6 to 31.5 or lower
2029	33.6 to 34.7 or higher	32.1 to 33.5	32.0 to 30.9 or lower
2030	33.1 to 34.2 or higher	31.6 to 33	31.5 to 30.4 or lower
2031	32.6 to 33.7 or higher	31.1 to 32.5	31.0 to 29.9 or lower

2032	32.0 to 33.1 or higher	30.5 to 31.9	30.4 to 29.3 or lower
2033	31.5 to 32.6 or higher	30 to 31.4	29.9 to 28.8 or lower

Id. at 43.

ComEd asserts that the Commission should approve ComEd's final proposed Performance Metrics 1 and 2 because they (i) are reasonably within ComEd's control to achieve, (ii) encourage cost-effective achievement of the desired outcomes, (iii) ensure no degradation of current reliability performance, and (iv) appropriately incentivize ComEd to meet the performance targets.

ComEd states that while it has made significant compromises to limit the number of MED exclusions to no more than nine days in a calendar year, Staff continues to advocate including all MEDs in the SAIDI calculation for both Performance Metric 1 and 2. ComEd recommends that the Commission reject Staff's proposal because it will result in reliability performance metrics that are not reasonably within ComEd's control to achieve or require ComEd to dramatically "overdesign" its system at ratepayers' expense. Further, ComEd argues that IIEC's criticisms of ComEd's proposed Performance Metrics 1 and 2 concerning the baseline and benchmarking are not convincing in that they do not seek to drive continuous improvement as effectively as ComEd's proposal (which uses the most current performance data for the baseline and uses industry benchmarked performance levels). *See generally id.* at 26-28.

ComEd explains that, as defined under IEEE Standard 1366, an MED is a day in which the daily system SAIDI exceeds a statistical threshold for determining outlier events based on the previous five years of data. ComEd Ex. 5.0 Corr. at 9. ComEd notes that the IEEE standard defines a "Major Event" as one which "exceeds reasonable design and or operational limits of the electric power system." In other words, ComEd asserts, an MED represents an event that is beyond ComEd's reasonable control. *Id*. at 11. ComEd states that if an event meets the IEEE Standard 1366 definition of an MED – that is, it is a statistical outlier – the event is classified as a "Major Event" and is excluded from the calculation of reliability metrics. ComEd notes that this industry standard for reliability calculations is adopted in 32 states, by more than 90% (856 of 944) of electric utilities across the nation. *Id*. at 12. ComEd states that MEDs can include extreme weather conditions, such as severe flooding, tornadoes, and derechos.

ComEd points out that in its service territory, MEDs occurred on approximately 2% of the year on average over the past 10 years (2012-2021), and 3% of the year on average over the past five years, or nine days per year. *Id*. at 9. ComEd explains that while not a regular occurrence, MEDs have a disproportionate impact on ComEd's resiliency measurements, like SAIDI, because these statistical outliers skew the overall measurement of reliability. *Id*. ComEd argues that when MEDs are included in resiliency measurements (as Staff has recommended), they impact the utility's and stakeholders' ability to effectively track whether investments to improve overall reliability and resiliency are working as intended. ComEd asserts that if MEDs are included in resiliency measurements, it could also potentially force ComEd to make a choice – either focus its grid investments on withstanding and recovering from events that only occur 3% of the year (which would be a potentially very expensive shift in focus) or leave its achievement of the metric up to sheer luck. ComEd Ex. 19.0 at 5. ComEd contends that Performance

Metrics 1 and 2 would not be inherently "achievable" by ComEd through sound and intentional engineering and operational performance improvements, but rather be left to chance. *Id*. at 17.

ComEd argues that the exclusion of MEDs from reliability measurements would allow a better view of ComEd's day-to-day reliability and provide a clearer picture of whether a utility's investments to improve overall reliability and resiliency are working because the resulting reliability calculation is not skewed by a handful of MEDs. ComEd contends this is precisely why the industry standard, IEEE Standard 1366-2012, was developed for reliability calculations – so that utilities across the country have a sound and consistent method of identifying and excluding MEDs from core reliability performance evaluation. ComEd argues that by excluding MEDs from the SAIDI calculation, ComEd can focus its efforts on maintaining and improving customers' day-to-day reliability instead of trying to compensate for the extreme (and uncontrollable) MEDs that have the potential to impart a disproportionate impact on the performance measure.

ComEd disagrees with Staff's suggestion that, if the Commission decides to exclude some MEDs from the calculation of SAIDI for Performance Metrics 1 and 2, it should exclude five MEDs, not nine as ComEd proposed. ComEd explains that Staff's proposal aligns with the fewest MEDs experienced, which is not a reasonable representation of likely outcomes. To the contrary, ComEd states that its proposed nine MED exclusion is based on historical data demonstrating the average number of MEDs experienced in ComEd's territory over the last five years. ComEd notes that it is also less than the average number of MEDs experienced in ComEd's territory over the last 15 years, which is 11.7 MEDs. *Id*. at 19. ComEd further points out that the average number of MEDS appears to be trending higher, with four of the last five years having MED totals of nine or higher – the relatively low number of MEDs in the outlier year 2018 (five) pulls the average down to nine. With the impacts of climate change and the increasing volatility of weather, ComEd states that it is likely the number of MEDs will continue to rise over time. ComEd also explains that if there are only five MEDs in a year, only those five would be excluded, whereas in a hypothetical year where ComEd experiences 11 MEDs, ComEd would exclude only the nine worst MEDs of the 11 MEDs it experienced that year. ComEd argues that setting a cap that is inconsistent with historical data (such as five MEDs as suggested by Staff) would compel ComEd toward dramatic design measures to be impervious to weather outside of its control rather than effectively design to respond readily to it.

ComEd also disagrees with Staff that it would be "fair" to allow ComEd and Ameren the same number of MED exclusions. ComEd does not believe it is appropriate to assign the same number of MEDs because extreme weather is highly localized and its impact on each utility is different. ComEd notes that Ameren and ComEd also have different distribution grids and operating environments and likely experienced a different number of MEDs historically. Moreover, ComEd states that there is no evidence in the record of this proceeding as to why excluding five MEDs is reasonable, and this docket must be decided based on its record evidence. ComEd reasons that the Commission cannot rely on evidence in Ameren's case to reach a determination here and recommends that the Commission adopt ComEd's proposal to exclude up to nine MEDs per year for its Performance Metrics 1 and 2.

ComEd argues that Performance Metrics 1 and 2, as presented in ComEd's surrebuttal testimony, are within ComEd's reasonable control to achieve, as required by Section 16-108.18(e)(2)(D) of the Act. Most importantly, ComEd states, allowing the exclusion of all MEDs or up to nine MEDs per year from the calculation of SAIDI is necessary to ensure that the two performance metrics remain reasonably within ComEd's control to achieve. According to ComEd, including all MEDs, as Staff advocates, will result in a metric for which achievability is dramatically dependent on the number and intensity of events that are completely outside of ComEd's control, such as uncontrollable disruptions to distribution systems caused by extreme weather affecting large portions of the service territory or terroristic acts.

ComEd notes that even though it continues to believe that excluding all MEDs in the calculation of SAIDI (which is consistent with the IEEE methodology) is best, ComEd's final proposed Performance Metrics 1 and 2 allow for the exclusion of up to nine MEDs in a year. Specifically, ComEd will exclude the nine "worst" MEDs in a calendar year, meaning the nine most severe events in that year. Any MEDs in excess of nine would be reflected in the SAIDI performance for the year. ComEd claims that the resulting Performance Metrics 1 and 2 are more challenging but still reasonably within ComEd's control to achieve.

ComEd explains that inclusion of any MEDs beyond the nine excluded events (1) introduces a larger element of chance to the measured outcome, (2) requires additional investment and planning to control for the less frequent extreme, and (3) obscures ComEd's focus on more efficient and affordable initiatives and investments that make the most immediate differences for ComEd's customers. ComEd argues that the proposal to exclude up to nine days per year will allow ComEd to better measure its overall reliability performance.

In contrast, ComEd states, Staff's proposal to include all MEDs would result in two metrics for which ComEd's ability to achieve the goals is left to chance rather than utility performance. ComEd notes Staff's argument that the SAIDI calculation for both Performance Metrics 1 and 2 should include all MEDs because doing so would more accurately reflect ComEd's reliability performance. ComEd points out that even Staff witness Balogun acknowledged that extreme weather events are outside of ComEd's control. As such, including MEDs would mean that ComEd's reliability performance will be impacted by weather events that ComEd cannot control. ComEd argues that such a metric – where the successful achievement of the metric is dependent on events outside of the utility's control – contradicts one of the statutory principles of these performance metrics ("within reasonable control") and should not be adopted.

ComEd disagrees with Staff's suggestion that ComEd could request a waiver of the metrics penalty if ComEd experiences events outside its control that negatively impact performance against the metrics should be rejected. ComEd notes that the Act requires that the metric itself measure outcomes within the utility's control. ComEd asserts that a Commission Order permitting waivers would essentially acknowledge that the metric failed to meet that statutory requirement.

ComEd asserts that Performance Metrics 1 and 2 encourage cost-effective, equitable achievement of the measured outcomes, as required by Section 16-

108.18(e)(2), ComEd suggests that Performance Metrics 1 and 2 accomplish this by ensuring that the metrics accurately reflect ComEd's reliability performance so that it can properly inform ComEd's investment decisions to improve reliability and resiliency. ComEd notes that SAIDI calculations that include all MEDs cannot be relied upon to paint the true reliability picture of ComEd's distribution system. By excluding MEDs (or at least excluding up to nine MEDs), ComEd argues, the resulting SAIDI metric allows ComEd and interested parties to effectively track whether investments to improve day-to-day reliability are effective.

ComEd claims that including all MEDs in Performance Metrics 1 and 2 could result in ComEd overdesigning its system by making otherwise-unnecessary upgrades to make the system withstand conditions that would constitute an MED, which would be ineffective, inefficient, and ultimately costly for customers. ComEd contends that even though it experiences MEDs, on average, less than 3% of the days in a calendar year, in order to ensure ComEd can meet its reliability metrics' targets, ComEd would have to design its system to withstand these rare events 100% of the days. ComEd explains that this could result in ComEd overdesigning its entire 11,429 square mile distribution system to eliminate or avoid outages that occur rarely. ComEd argues that current industry best-practice solutions would be inadequate to achieve the level of performance required by metrics, and ComEd's focus would shift to buttressing the grid to withstand more uncommon, but more intense, events, such as tornado force winds and extreme flooding. ComEd notes that this could limit the available design options for any improvement on the system to only those impervious to such remote extremes, regardless of their cost.

In contrast, ComEd asserts that excluding MEDs (as originally proposed by ComEd) or excluding up to nine MEDs (as presented in ComEd's final proposal), benefits customers by ensuring that ComEd's reliability planning is focused on system-wide design and operational improvements that most efficiently benefit the greatest sustainable portion of grid reliability. ComEd suggests this would naturally lead to cost-effectively accomplishing reliability improvements.

ComEd asserts that its final Performance Metrics 1 and 2 will ensure no degradation in prior reliability performance. ComEd states that one of Staff's criticisms of ComEd's proposal to exclude MEDs is that doing so will result in degradation of ComEd's reliability performance. ComEd submits that Staff witness Balogun is wrong. ComEd argues that its proposal to exclude up to nine MEDs per year "raises the bar" from the previously established reliability metric under the EIMA which uses Extreme Weather Event Days ("EWEDs"), - days where storms cause at least 10,000 customers to lose power for at least three hours in a calendar day. 220 ILCS 5/16-108.5(f). ComEd explains that the EIMA metric excludes nine EWEDs, which was a result of negotiations among EIMA stakeholders. ComEd notes that experience during the EIMA period has revealed the limitations of the EWEDs design. Specifically, EWEDs are based on a single preselected number of customers (and so results in more storms classified as EWEDs in urban areas than rural areas), a single pre-selected duration (three or more hours), and the use of a calendar day event window (so that storms that start before midnight often do not meet the EWED criteria because the clock resets). ComEd explains that the IEEE MED definition is designed to overcome all three limitations by utilizing the daily SAIDI, adjusting for the combined impacts of number of customers and duration of interruption.

ComEd argues that using MEDs as opposed to EWEDs makes the proposed Performance Metrics 1 and 2 even more (not less) challenging for ComEd and drives ComEd to ever-improved performance compared to the EIMA period. ComEd notes that MEDs more consistently represent the most extreme storms and events that occur in ComEd's service territory. According to ComEd, EWEDs include the same extreme storms that qualify as MEDs, but they also include the somewhat less severe storms. In other words, nearly all MEDs are EWEDs, but many EWEDs are not MEDs. Therefore, by proposing to use MEDs instead of EWEDs, and by proposing to exclude only up to nine MEDs per year, ComEd asserts that it has already agreed to incorporate the impact of those not-as-extreme EWEDs in its reliability calculations. Therefore, ComEd contends, the volatility that results from those EWEDs will be reflected in ComEd's SAIDI results, and, as a whole, make achievement of the Performance Metrics 1 and 2 more challenging than the EWED standard under EIMA.

ComEd notes that Staff's argument that ComEd's proposal to exclude nine MEDs could allow ComEd's performance to degrade, or make it difficult to evaluate ComEd's performance in comparison to historical data based on 83 Ill. Adm. Code 411 ("Part 411") reliability measurements, does not withstand scrutiny. ComEd states that its proposed Performance Metrics 1 and 2, by definition and design, will only reward ComEd if ComEd improves its reliability performance compared to the established baseline. ComEd explains that the baseline for both metrics will be the average of the 2021-2023 data, which will be calculated using whichever methodology is authorized by the Commission for Performance Metrics 1 and 2 (i.e., ComEd's IEEE or Staff's Part 411), so ComEd's performance will be measured on an apples-to-apples basis. ComEd states that it will not earn performance metrics incentives if it fails to "reduce the total average number of outage minutes experienced by its customers." In other words, ComEd states, it will not earn an incentive and instead will incur a penalty if its performance degrades from the baseline.

ComEd states that it will continue to comply with its Part 411 reporting obligations, in addition to measuring its performance against the performance metrics, meaning the Commission, Staff, and all interested stakeholders can view these reports to see if ComEd's performance has improved (or degraded) compared to prior years. In addition, ComEd explains that Part 411 is only used in Illinois, and therefore, allows ComEd to compare its performance only to Ameren and a few smaller local utilities. Instead, ComEd argues that a much more helpful benchmarking standard is the IEEE Standard, which is used by 695 electric utilities across the country. ComEd also notes that, while not precedential, Staff agreed to Ameren's proposal to exclude up to five MEDs for their SAIDI metric in Ameren's performance metric proceeding. ComEd suggests Staff's acceptance of the Ameren proposal demonstrates that its concerns regarding comparability of data in this docket are not insurmountable.

ComEd also argues that contrary to Staff's assertion, excluding (up to nine) MEDs will not reduce ComEd's incentive to prepare for and respond to extreme weather events. ComEd states that even if ComEd "clearly knows that conditions like extreme weather will occur in its territory" as Staff argues, that does not mean that ComEd can reasonably eliminate any impact of such weather events. Furthermore, ComEd explains that it would likely not be prudent to pursue capital investments to ensure ComEd can fully withstand

the most extreme weather events, as the costs would outweigh the marginal benefits. ComEd argues that the metrics should not be designed such that they are unachievable without engaging in investments that would likely be imprudent.

ComEd further disagrees with Staff's criticisms that excluding MEDs, as the IEEE method does, weakens the relationship between the reliability metric reported by the utility and the actual experience of the utility's ratepayers. ComEd points out that its proposed nine MED exclusions is based on historical data demonstrating the average number of MEDs experienced in ComEd's territory over the last five years. Therefore, ComEd argues excluding MEDs (up to nine per year) will effectively measure ComEd's overall reliability performance on a day-to-day basis.

ComEd rejects Staff's hypothetical that the average customer could experience an increased number of outages while SAIDI reflects performance improvement is misleading. ComEd explains that an increased number of outages that qualify as MEDs would be an indication of the increasing volatility in severe weather conditions or extreme events, not ComEd's day-to-day reliability performance. Therefore, ComEd explains it can, in fact, improve its day-to-day reliability performance and at the same time experience an increasing number of volatile weather events that qualify as MEDs. ComEd also notes that the measure of whether a day qualifies as an MED is a five-year average of all daily SAIDI datapoints, including those that count as MEDs. Therefore, an increase in the number of MEDs would raise the value of the Major Event Day threshold ("TMED"), meaning the threshold for what counts as an MED would become higher.

ComEd argues that Staff provides no credible basis for its claim that there could be MEDs that are a result of ComEd's mistake, oversight, or omission. ComEd states it is implausible ComEd improves the daily reliability across a minimum of 97.5% of all days in a year but directly causes MEDs in the remaining 2.5% of the time.

ComEd argues that contrary to Staff's assertion, the IEEE standard will not make it difficult to accurately compare ComEd's performance against other utilities, particularly with smaller utilities located in different parts of Illinois that report reliability statistics pursuant to Part 411. ComEd argues that this makes little sense because (1) those smaller utilities in different parts of Illinois did not file for performance metrics; and (2) the only other utility that has filed performance metrics (Ameren) will exclude up to five MEDs (if their reliability metrics are approved). Also, as previously noted, ComEd reiterates that it will continue to report under Part 411, so ComEd's performance under Part 411 can continue to be compared against other Illinois utilities that file under Part 411.

ComEd argues that Performance Metrics 1 and 2 appropriately incentivize ComEd to meet the performance targets. ComEd points out that one of the goals of the statute is to align utility and customer interests. 220 ILCS 5/16-108.18(a)(1). ComEd's proposed Performance Metrics 1 and 2 establish a target of 15% improvement in reliability from a baseline of a three-year average for the period 2021-2023. ComEd submits that this is a challenging target, especially considering ComEd's compromise of limiting the number of MEDs excluded to nine per year. Further, ComEd is proposing that the targets be set on a baseline of past performance, utilizing the most recent three years of past performance at the time the target is set. ComEd contends that this will result in two metrics that demand continuous improvement.

Certain intervenors argue that the proposed target of 15% reduction in SAIDI over the next ten years is too modest. ComEd notes, however, that a 15% improvement would go beyond expected improvements over the next ten years. ComEd states that it has made significant improvement over the last decade and maintaining today's current levels while making these critical incremental improvements will become more and more challenging as ComEd moves closer to achieving a zero SAIDI value.

ComEd reasserts that if Staff was to prevail and ComEd was required to include all MEDs in the SAIDI calculations for Performance Metrics 1 and 2, the baseline target, along with the deadband and performance targets for penalties and incentives, will need to be modified. Specifically, including all MEDs will result in significantly higher baseline targets for Performance Metrics 1 and 2 because, as discussed above, the MEDs will skew the overall outcome of the average SAIDI performance in a given year. ComEd assures that a baseline that includes such significant outliers will not be a useful tool to compare improvement year over year, because there will be great variability depending on whether a particular year experiences many MEDs or relatively fewer MEDs.

ComEd argues that the Commission should reject Staff's argument that ComEd's proposal is not "sufficiently transformative" to merit an incentive. ComEd states that to the extent that the potential for "transformative" impact is an appropriate factor for the Commission to consider, ComEd's proposed metric will satisfy that goal. ComEd explains that given the drastic improvements in ComEd's reliability performance under the pre-existing EIMA metric, further improvements in reliability will be increasingly difficult to achieve. ComEd notes that it was among five utilities with a SAIDI of 40 minutes among the 103 utilities that reported reliability performance to the U.S. Energy Information Administration. ComEd argues that this not only shows that ComEd's reliability performance is significantly better than average, but also that continued improvement at this level is anything but ordinary. ComEd notes that its proposed metrics would require ComEd to continue making steady incremental improvements between 2024 and 2033 in order to earn an incentive in any year, and that if ComEd does not achieve the necessary incremental improvement over the baseline performance in any year, it will incur a penalty.

ComEd disagrees with IIEC's contention that ComEd did not provide sufficient detail of how it will achieve its reliability metrics, and that the Commission cannot be expected to approve metrics without "specific plans or details as to exactly what efforts ComEd will undertake." IIEC IB at 17. ComEd states that the statute does not require that ComEd submit a detailed plan as to how it will achieve each metric. ComEd argues such plans belong in the multi-year grid plan, which will come after this metrics proceeding concludes. Contrary to the IIEC's assertion, ComEd submits that the record contains substantial evidence to allow the Commission to reasonably conclude that the metric is achievable.

ComEd further disagrees with IIEC's recommendation to use 2020 as the baseline rather than 2021-2023. IIEC suggests that ComEd's proposed baseline target will be too easy to meet based on the fact that ComEd has achieved greater percentage improvements in the past. ComEd argues that continued improvements in reliability will be increasingly more difficult to achieve. Further, ComEd states IIEC's suggestion that ComEd may influence the baseline to make it easier to meet has no merit. ComEd

asserts that IIEC has provided no evidence that would suggest ComEd would intentionally achieve worse reliability performance through 2023 just so that it can more easily achieve basis point awards, at the risk of far greater costs that may arise from poor reliability performance. Finally, ComEd asserts there is no reason that the Commission could not approve a metric without knowing the exact baseline because ComEd will be measured on its ability to gain incremental improvements to reliability, and it will be compared to its performance over the immediately preceding three years.

ComEd argues that contrary to IIEC and the AG's assertion, ComEd's proposed target of 15% improvement in SAIDI performance over the ten-year period (2024-2033) is a challenging goal. ComEd contends that IIEC attempts to minimize the significant challenge that this target represents by comparing the absolute value of performance improvements over the last 10 years against the absolute value of the improvement targets incorporated into the metrics. ComEd reasons that the fact that ComEd has reduced its SAIDI performance by nearly 50 minutes between 2010 and 2021, or the fact that ComEd has reduced more than five minutes in a single year has no bearing on how difficult it will be to continue incremental improvements to its already high performance level. ComEd points out that IIEC's evaluation is based on a flawed assumption that such performance improvements follow a simple linear model without diminishing marginal returns. ComEd argues that maintaining today's current levels is a substantial challenge as clearly illustrated by how few utilities can even attain them, and then further making these incremental improvements will become more and more challenging as ComEd approaches a zero SAIDI value.

ComEd disagrees with IIEC that ComEd's proposed ten-year metric period is too long and that it should be four years instead. ComEd notes that a ten-year metric period is within the statutory requirements, and that a longer metrics period would allow ComEd to consider all appropriate investments to improve reliability in the context of its long-term investment plan. ComEd explains that it plans system improvement and investments that are designed and implemented over varying timeframes. ComEd states that this can occur over multiple years and have sustaining and compounding impacts over a long period of time. ComEd asserts that the effectiveness of the impact on reliability of such design improvements is best incented and measured over several years to ensure they sustain in effective value.

ComEd disagrees with IIEC that Performance Metrics 1 and 2 are fundamentally the same, and that Performance Metric 2 simply measures the same performance for a subset of customers. ComEd argues that although comparable, Performance Metrics 1 and 2 are designed with different goals in mind. ComEd explains that whereas Performance Metric 1 is designed to ensure that ComEd is always striving to improve system performance for all of its customers, Performance Metric 2 is designed to ensure that no customers, especially those in EJ and R3 communities, experience less-than-average service improvements, i.e., "no customer is left behind." ComEd notes that its historic performance data has shown the methods by which it plans improvements across worst performing circuits and components of the system have improved reliability across all communities, and Performance Metric 2 importantly ensures this for the EJ and R3 communities. Further, ComEd states that it is possible to achieve Performance Metric 1 and not achieve Performance Metric 2 or vice versa.

Finally, CUB/EDF argue that ComEd's proposed reliability metrics should be rejected because they focus on systemwide reliability. ComEd notes that while CUB/EDF criticize ComEd's proposed reliability metrics because they do not control for geographic differences, CUB/EDF do not offer an electrically applicable design basis for tracking reliability performance while controlling for geography. ComEd states that CUB/EDF continue to ignore that electrical flow and connectivity is indifferent to geographic boundaries, meaning any single component of an electrical system often impacts multiple customers in multiple communities. ComEd explains that such a design takes advantage of economies of scale in utility design optimizing safety and operational flexibility, and it would be inefficient to design separate systems for each community. Also, ComEd states that its proposed Performance Metric 2 offers an apples-to-apples comparison between reliability improvements in EIECs and non-EIECs in similar geographic areas. ComEd explains that although system components that serve EIECs also serve non-EIECs, and performance of any one of these components impact both groups of communities, Performance Metric 2 ensures that ComEd monitors performance of components that serve the EIEC communities, and that performance improves at the same rate or better than system average.

Performance Metric 3

ComEd asserts that the Commission should approve ComEd's final proposed Performance Metric 3 as presented in ComEd's rebuttal testimony. ComEd contends that its final proposed Performance Metric 3 satisfies all applicable statutory requirements and produces significant customer benefits. ComEd notes that Staff strongly supports ComEd's final proposed Performance Metric 3, and other intervenors have not demonstrated why Performance Metric 3 should not be approved.

ComEd explains that its final proposed Performance Metric 3 is focused on improving power quality by increasing the percentage of the distribution system (i.e., station bus, circuit mainstream, and lateral segments) that is visible and the health of the communication and control devices that can be used to diagnose and improve power quality. ComEd notes that the metric is composed of three measurable components, weighted as suggested by Staff to be based on the importance of achieving improvements: (i) percent of system visible (60%); (ii) percent of network uptime (20%); and (iii) percent of segments controllable with communication times qualified below a power quality actionable threshold (20%). ComEd contends that improvement of these three components will result in fewer and shorter customer voltage deviations and interruptions and thus fewer equipment protective trips and resets with the potential to interrupt customer processes or disconnect DERs and energy efficient loads. The table below shows the baseline target, deadband, and penalties/incentives for ComEd's final proposed Performance Metric 3 as presented in surrebuttal testimony.

Surrebuttal Proposed Performance Metric 3 Projected Baseline Target, Deadband, and Penalties/Incentives

Year	-0.01 to -5 bps	0 bps	+0.01 to +5 bps
2024	14.4 or lower to 14.7	14.7 to 14.9	14.9 to 15.2 or higher
2025	14.7 or lower to 15.0	15 to 15.2	15.2 to 15.5 or higher
2026	15.0 or lower to 15.3	15.3 to 15.5	15.5 to 15.8 or higher
2027	15.3 or lower to 15.6	15.6 to 15.8	15.8 to 16.1 or higher

ComEd Ex. 19.0 at 43.

ComEd points out that its final proposed Performance Metric 3 reflects revisions to its original weighting of the components based on Staff's feedback. ComEd notes that based on the adjustments, Staff concluded that ComEd's final proposed Performance Metric 3 is "justifiable, reasonable, and meaningful" and recommended that the Commission adopt it. Staff Ex. 11.0 at 32. Both ComEd and Staff disagree with certain intervenors' assertions that Performance Metric 3 is "activity-based" rather than "outcome-based" or that the metric is akin to "additional spending on certain types of distribution system equipment." ComEd IB at 41; *see, e.g.*, AEE IB at 7-8; AG IB at 34. ComEd explains that the metric is designed to measure outcomes rather than activities, which is why it focuses on attainment of optimally designed technology-neutral goals, and does not prescribe the use of specific software, devices, or application methods. Staff further noted that ComEd should not be "discouraged from spending to implement" the metric because of the benefits that the metric affords. Staff Ex. 11.0 at 33.

Benefits and Net Benefits

ComEd argues that Performance Metrics 1 and 2 will result in significant benefits for customers and will likely result in net benefits (assuming ComEd's costs are reasonable). ComEd explains that reliable electric service provides quality of life for individual customers and the community (including public health and safety benefits) and is a driving force behind economic activity. According to ComEd, improving reliability and resiliency, both system-wide and specifically in EJ and R3 communities, also supports the equitable distribution of benefits across the utility's service area. ComEd asserts that the customer benefits from improving reliability and resilience (or avoiding outages and performance degradation) can be quantified in terms of avoided cost. Avoided cost is the incremental cost that is not incurred by customers when electrical service is interrupted. ComEd explains that avoided customer costs can be monetized through the use of the industry-standard ICE calculator (also called the "ICE tool"). ComEd notes that the monetized benefits produced from the ICE tool should be considered conservative estimates of the benefits associated with the reliability and resilience improvements for a couple of reasons. First, ComEd explains, the ICE tool does not capture the societal benefit of avoiding outages that can affect public safety or public health. Second, ComEd argues that this methodology only captures the value of lost load from improving SAIDI. Depending on the portfolio of projects used to achieve the reliability performance metrics (either in the EJ or R3 communities or the overall ComEd system), other benefits may accrue to customers. For example, if conversion of overhead to underground distribution

lines was part of the investment plan to improve reliability and resilience, then there would be additional benefits of reduced future tree trimming and restoration costs.

Based on the information currently available, Black & Veatch experts Mr. Zarumba and Mr. Shields conclude that if ComEd implements its programs prudently and at reasonable cost, then Performance Metrics 1 and 2 would be net beneficial for customers and society.

ComEd argues that Performance Metric 3 will also result in significant customer benefits and result in net benefits to customers. Mr. Zarumba and Mr. Shields note that benefits associated with Performance Metric 3 are more difficult to quantify, but there are many benefits that can be described qualitatively. The categories of benefits include: reduced/avoided capital cost; reduced/avoided O&M cost; security and compliance risk improvement; reduced/avoided customer power quality events; customer outage reduction; increased customer satisfaction; and safety risk improvement. Based on the information available, Mr. Zarumba and Mr. Shields conclude that if ComEd implements its programs prudently and at reasonable cost, the final proposed Performance Metric 3 would be net beneficial for customers and society.

b. Staff's Position

Performance Metrics 1 and 2

Staff recommends that the Commission adopt ComEd's Performance Metrics 1 and 2 only with Staff's modification, which prohibits ComEd from excluding MEDs when measuring its resilience and reliability performance. Staff does not support the alternative metrics in this category that were proposed by intervenors in this proceeding.

ComEd originally proposed three metrics falling within Section 16-108.18(e)(2)(A)(i): Performance Metric 1 – Overall Reliability Based on SAIDI; Performance Metric 2 – Customers Exceeding Minimum Service Levels of Reliability or Resiliency, and Performance Metric 3 – System Visibility Index.

In its rebuttal testimony, ComEd agreed to replace its proposed Performance Metric 2 with a metric proposed by Staff that focuses on reliability in EJ and R3 communities. ComEd Ex. 5.0 (CORR) at 27. ComEd also agreed to Staff's proposed modifications to Performance Metric 3. *Id*. at 31.

Thus, Staff and ComEd agree regarding the overall structure of Performance Metrics 1 and 2, the SAIDI metrics, as well as Performance Metric 3, the System Visibility Index. One key issue remains in dispute, however: whether ComEd should be permitted to exclude the days on which its customers experience the highest level of interruptions – MEDs – when calculating performance against the SAIDI targets in Performance Metrics 1 and 2. Consistent with the Commission's existing rules, and with the statutory goals of the Performance Metric program, Staff recommends that the Commission measure ComEd's reliability performance comprehensively, without excluding or excusing any MEDs. Staff believes that the measurement of ComEd's system performance should reflect the systems' design and operation and the weather and environmental conditions under which those systems operate.

Staff and ComEd, disagree regarding which data ComEd should include when calculating SAIDI under Performance Metrics 1 and 2. ComEd proposed using a

voluntary standard developed by the IEEE, which excludes from the calculation of SAIDI (a) interruptions lasting five minutes; and (b) MEDs. ComEd Ex. 5.0 (CORR) at 11. In contrast, Staff recommends that ComEd calculate SAIDI using the method prescribed by the Commission's Part 411 rules, which provides a more comprehensive measure of reliability and accounts for more of the interruptions experienced by ComEd's ratepayers. Staff Ex. 3.0 REV at 5.

Staff witness Balogun expressed several concerns with ComEd's proposal to exclude all interruptions lasting five minutes or less. First, this exclusion is inconsistent with the Commission's existing process for reporting reliability statistics. Part 411 requires electric utilities to report, inter alia, certain reliability metrics as part of annual reporting to the Commission. 83 Ill. Adm. Code 411.120(b)(3)(H). Part 411 defines "interruptions" to include a loss of service lasting "longer than one minute in duration." 83 Ill. Adm. Code 411.20. ComEd's proposed exclusion of all interruptions up to five minutes in length from the calculation of SAIDI – regardless of their cause – would make it difficult for the Commission and stakeholders to compare ComEd's future and historical performance. Staff Ex. 3.0 REV at 8-9. ComEd's proposal would, by definition, capture fewer interruptions than are captured under the Part 411 metrics. *Id*. at 11. Excluding interruptions that are currently included in ComEd's reliability measurements could also interfere with the Commission's ability to ensure, pursuant to Section 16-108.18(e)(2), that there is no degradation in ComEd's reliability performance in the future. *Id*. at 9. Mr. Balogun therefore recommended that ComEd's proposed Performance Metric 1 be modified to exclude only interruptions lasting one minute or less.

The Company agreed to modify its proposed Performance Metric 1 to exclude only interruptions lasting 1 minute or less, consistent with Part 411, acknowledging that, in practice, the difference between a 1-minute and a 5-minute threshold for calculating interruptions is "negligible." ComEd Ex. 19.0 at 20. This agreed modification also extends to ComEd's proposed Performance Metric 2. *Id*. at 8.

Staff objects to ComEd's proposal to exclude all MEDs when calculating SAIDI under Performance Metrics 1 and 2. Staff explains that MEDs are, by definition, the days on which a utility's customers experience the highest level of interruptions. ComEd claims that it is appropriate to exclude MEDs because they are "outliers" and do not reflect the "day-to-day reliability" of ComEd's system. ComEd Ex. 5.0 (CORR) at 10. ComEd also stresses that the IEEE standard is used by other utilities, so adopting it for Performance Metrics 1 and 2 will allow ComEd's performance to be "benchmarked" against those utilities. *Id*. at 12-13. Finally, ComEd contends that "the occurrence of MEDs is outside of ComEd's control" so, if MEDs are included, the achievement of Performance Metrics 1 and 2 "would depend more on luck . . . than it would on ComEd's system performance. . . ." *Id*. at 16. While ComEd may not be able to "control" grid stressors like extreme weather, it can and should anticipate those stressors and control how it prepares for and responds to them. Simply put, ComEd's system should be designed for the conditions in ComEd's territory. Staff states that the existence of severe weather in ComEd's territory, and the possibility that severe weather may cause MEDs, is well known. In fact, ComEd acknowledges that "it is likely that the number of MEDs will continue to rise over time." ComEd IB at 35. The Commission requires, and the Company has already taken, a number of steps to improve the performance of ComEd's system under extreme

conditions. Therefore, Staff states, it is appropriate to incentivize ComEd to continue to improve its ability to withstand and respond to severe weather and other extreme conditions and to limit the impacts of such events on the Company's customers. In Staff's view, excluding MEDs from the calculation of SAIDI significantly diminishes that incentive. ComEd's performance should be evaluated based on the comprehensive performance of its system and its ability to withstand conditions under which it operates. ComEd proposed capping the number of MEDs ComEd may exclude in any given year at nine. ComEd Ex. 19.0 at 9. This limit is based on the "most recent five-year average (2017-2021) of MEDs that ComEd experiences per year." *Id*. at 11.

Staff recommends that the Commission reject ComEd's proposed exclusion of MEDs and instead require the Company to employ a comprehensive set of data when calculating performance under Performance Metrics 1 and 2.

Staff states that Performance Metrics 1 and 2 should not allow degradation or backsliding from past achievements. Section 16-108.18 directs the Commission to consider the context in which new performance metrics will be adopted and to approve metrics which will build on the progress that has already been made. Section 16-108.18(e)(2) requires the Commission to "ensur[e] no degradation in the significant performance improvement achieved through previously established performance metrics." 220 ILCS 5/16-108.18(e)(2). Additionally, Section 16-108.18(e)(2)(i) requires metrics in this category to "ensure that the utility maintains and improves the high standards" of reliability and resiliency. 220 ILCS 5/16-108.18(e)(2)(i). Under EIMA, which was passed in 2011, ComEd was required to develop metrics to improve its SAIFI and CAIDI performance by 20% and 15%, respectively, over a ten-year period. 220 ILCS 5/16-108.5(f)(1)&(2). Earlier this year, ComEd reported that its performance has improved dramatically since that time, issuing a press release to tout that "overall reliability has improved 68[%]." Staff Ex. 3.0, Attach. B. To achieve these improvements, ComEd has invested more than $2.5 billion in reliability-related investments and smart grid-related investments in the past ten years. AG Ex. 1.0 at 12. These investments have included "smart switches that reroute power around potential problem areas, new storm hardening and vegetation management solutions, and cable replacement." Staff Ex. 3.0, Attach. B.

Staff states that it is also important to recognize the existing regulatory environment in which ComEd operates. Currently, under Part 411, Illinois electric utilities are required to report comprehensive reliability statistics, without excluding any interruption events. Staff Ex. 3.0 REV at 8. Staff notes that Part 411 recognizes that there are a variety of factors that can cause interruptions – and requires utilities to categorize and report such causes – but it does not provide exclusions or exemptions for storm-related or other interruption categories. 83 Ill. Adm. Code 411.130, 411.Table A. ComEd's proposal, in contrast, would erase the impact of certain interruption events on the Company's SAIDI calculations. Staff asserts that this creates multiple problems. Most importantly, the exclusion of MEDs would result in fewer interruption events captured in the calculation of the index. Staff Ex. 3.0 REV at 11. This would make it possible for ComEd to create an inflated impression of reliability – and receive an incentive payment for achieving the performance metric – without necessarily reducing the total average number of outage minutes experienced by its customers. *Id*. ComEd

contends that the exclusion of MEDs is necessary for "industry benchmarking" purposes, but, because this exclusion is inconsistent with Illinois regulations, benchmarking" against utilities from other states would come at the expense of the ability to compare ComEd to its own historical performance and to the performance of other Illinois utilities. *Id*. at 9-11.

ComEd admits that interruptions have serious consequences for its customers, testifying that "[t]he loss of electric service disrupts both qualify of life and economic activity." ComEd Ex. 11.0 at 14. ComEd provided a "conservative" estimate in its testimony of the costs of interruptions, using the ICE calculator. *Id*. at 15. For a SAIDI of 35.4 minutes – which is slightly higher than ComEd's projected baseline value (excluding nine MEDs) of 35.2 minutes (ComEd Ex. 19.0 at 18-19) – ComEd estimates that the cost to its customers is nearly $300 million per year. ComEd Ex. 11.0 at 18. ComEd admits that "MEDs have a disproportionate impact on ComEd's resiliency measurements." ComEd IB at 33. According to Staff, it follows, then, that MEDs also cause a disproportionate amount of the interruption costs experienced by ComEd's customers. Despite this, the Company argues that the Commission should exclude up to nine of the worst days of system performance per year, when assessing its performance under Performance Metrics 1 and 2. Staff argues that excluding MEDs artificially inflates reliability statistics, while at the same time artificially lowering costs. MEDs create real costs for ComEd's customers, regardless of whether they are counted in SAIDI, and thus should not be excluded from its reliability calculations simply to improve ComEd's statistics.

In Staff's opinion, there are reasons inherent to the IEEE 2.5 Beta Method that caution against its use for purposes of awarding benefits or assessing penalties to ComEd. As an initial matter, ComEd admits that the IEEE standards are guidelines, and are not binding on any utility. ComEd Ex. 5.0 (CORR) at 13. The Commission is not required to adopt the standard, even if some utilities have chosen to do so. Further, the Commission should not adopt IEEE's method for calculating and excluding MEDs in this proceeding because it weakens the relationship between the reliability metric reported by the utility and the actual experience of the utility's ratepayers. Under the IEEE method the average customer could experience an increased number of outages, while a utility's reported SAIDI performance improves, so long as the outages occur on days that qualify as MEDs.

ComEd explains that MEDs can be caused by a number of factors, such as extreme weather or cyberattacks. ComEd frames MEDs as "unusual system events," such as "flooding, tornados, and derechos. . . ." ComEd Ex. 5.0 (CORR) at 9. It also contends that excluding MEDs is necessary to exclude events that are not "reasonably within its control." *Id*. at 10. Staff explains that under the IEEE method, however, an MED is not determined based on the type, or even the magnitude, of the threat to the system. For example, the speed of wind or the number of lightning strikes does not directly factor into whether an MED occurs. Rather, whether an MED occurs is determined by how ComEd's grid performs (measured by SAIDI) in the face of whatever conditions occur. ComEd Ex. 5.01 at 19. If ComEd's daily SAIDI exceeds the statistical threshold, TMED, then an MED has occurred, regardless of the reason for the interruptions represented by

that daily SAIDI value. *Id*. Even a minor storm could cause an MED, if it causes a high level of outages.

Contrary to ComEd's claims, Staff states, IEEE's definition of MEDs does not make any reference to whether any stress on the system is or is not within a utility's control, or even whether it is the utility's fault. *See id*. MEDs do not distinguish days of poor performance based on whether they are caused by controllable or uncontrollable interruptions. Thus, it is possible that, under the IEEE standard, an MED may occur and be excluded from SAIDI calculations, even if the cause of the interruption is a mistake, oversight, or omission by ComEd itself. IEEE's approach – which does not consider what steps a utility has taken to limit the frequency, scope, and impacts of MEDs – poses a serious risk of allowing degradation in ComEd's recent reliability improvements.

Staff points out that even IEEE admits that there are shortcomings with its 2.5 Beta Method. The IEEE Guide notes that "[t]he number of MEDs identified per year is significantly higher than expected, and the average number of MEDs varies somewhat from utility to utility, with size affecting the value." ComEd Ex. 5.01 at 45. Staff states that this undermines ComEd's claim that use of the IEEE standard will allow for accurate "benchmarking" against utilities across the country. IEEE also notes that utilities differ in both their mean reliability data and their standard deviation. *Id*. at 44. Differences in mean reliability data, IEEE explains, "are attributable to differences in the environment between utilities." *Id*. Differences in standard deviation are "mostly attributable to size," and "[l]arger utilities have inherently smaller standard deviations," resulting in a smaller value for TMED. *Id*. Additionally, IEEE notes that there is still some uncertainty in its understanding of the 2.5 Beta Method. While IEEE claims to understand some of the unexpected outcomes of the 2.5 Beta Method, it reports that the "effect of utility size" on MED calculation "is less clearly understood." *Id*.

Further, the IEEE method does not account for either the unique regulatory requirements in Illinois or the history of the Commission's approval of substantial investments in strengthening its distribution system. Staff Ex. 11.0 at 18-19. ComEd has already spent $2.5 billion in recent years to improve its system. AG Ex. 1.0 at 12. These differences in size, environment, history, and regulatory environment will limit the ability to accurately compare ComEd's performance against other utilities, which is one of ComEd's primary justifications for using the IEEE method. These factors will also compromise the ability of the Commission and stakeholders to compare ComEd's reliability statistics with smaller utilities located in different parts of Illinois, which report reliability statistics pursuant to Part 411. Staff Ex. 3.0 REV at 8-9.

Finally, ComEd's proposal to cap the number of MEDs at nine per year does not eliminate the risk that Performance Metrics 1 and 2 could lead to degradation or backsliding in reliability performance. ComEd itself admits that "[o]ver the past ten years (2012-2021), MEDs occurred . . . 7 or 8 days a year." ComEd Ex. 5.0 (CORR) at 9. In some years since 2007, the number of MEDs has been as low as five. Id. By adopting an MEDs limit above its ten-year average, ComEd reduces the incentive for it to reduce the number of MEDs that occur. In fact, excluding up to nine MEDs per year could allow for ComEd's system performance to worsen during periods of stress, causing the number of MEDs to rise above its most recent ten-year average, without impacting its performance under Performance Metrics 1 and 2. Further, Staff states, ComEd's

proposed cap does not eliminate the risk that MEDs might occur as a result of – or be exacerbated by – ComEd's own actions.

Accordingly, Staff states that the Commission should reject ComEd's proposal to exclude MEDs from its calculation of SAIDI in Performance Metrics 1 and 2, in order to ensure that this exclusion does not jeopardize the reliability improvements that have been achieved to date.

Staff further states that the Commission should also reject ComEd's proposal to exclude MEDs from Performance Metrics 1 and 2 because that exclusion would result in a metric that would not be sufficiently transformative to merit an incentive from ComEd's ratepayers. This docket involves the opportunity for ComEd to earn additional, bonus returns funded by its ratepayers. In Staff's opinion, these returns should only be authorized where ComEd's performance is exceptional, not merely a continuation of a preexisting trend. Section 16-108.18 states that the existing performance metrics, which were in place during a time in which ComEd's reliability improved 68%, were "not sufficiently transformative in urgently moving electric utilities towards the State's ambitious energy policy goals. . . ." 220 ILCS 5/16-108.18(a)(4). Allowing ComEd to earn a reward for modest improvements in reliability under "normal" system conditions, while excusing up to nine days of interruptions per year would not be a "transformative" goal.

In fact, Staff states that what ComEd has proposed is essentially a direct continuation of what came before. Under EIMA, ComEd was required to adopt reliability performance metrics. 220 ILCS 5/16-108.5(f). EIMA allowed ComEd to exclude up to nine EWEDs when calculating its reliability indices. While ComEd claims that fewer events qualify as EWEDs than MEDs (ComEd Ex. 19.0, 15), its data shows that over the past 10 years, the IEEE 2.5 Beta Method would have produced SAIDI values that are very similar to those calculated under EIMA. ComEd Ex. 5.0 (CORR) at 17. Reliability as measured by the EIMA and IEEE standards "bear a striking resemblance" to each other and both consistently show "better" performance than that calculated under the Commission's Part 411 methodology. Staff Ex. 11.0 at 23. Further, even if not all EWEDs qualify as MEDs, there could also be MEDs that do not qualify as EWEDs, because the IEEE Guide does not limit MEDs only to weather-related events. *See* ComEd Ex. 5.01 at 19. Thus, because ComEd's Performance Metrics 1 and 2 would allow up to nine days of exclusions from SAIDI calculations, it is not clear that these metrics would be "sufficiently transformative," compared to the performance metrics that came before.

Additionally, ComEd's proposed exclusion of MEDs is not "sufficiently transformative" because it reduces the Company's incentive to prepare for and respond to known conditions. ComEd repeatedly claims that MEDs are "unusual" and beyond its control (*see e.g.*, ComEd Ex. 5.0 (CORR) at 10), but it clearly knows that conditions like extreme weather will occur in its territory. ComEd states that 141 MEDs have occurred in its territory over the past 15 years. ComEd Ex. 19.0 at 12. The Company has stated publicly that it expects that there may be "increasing and more intense weather events" in the future (Staff Ex. 3.0, Attach. B), and testified in this docket that "[w]ith the impacts of climate change and the increasing volatility of weather it is likely that the number of MEDs will continue to rise over time." ComEd Ex. 19.0 at 11.

Staff asserts that ComEd may not be able to "control" the weather, but it can, and does, control how it designs, operates, and maintains its system to account for threats, including weather. The Commission has a number of rules that recognize the possibility of events that stress the electrical grid, and which the utilities are required to take steps to address. Staff Ex. 11.0 at 16-17. For example, ComEd's existing obligations under Part 411 require it to employ "generally accepted engineering practices, including consideration of normally expected weather, animal activity and other conditions." 83 Ill. Adm. Code 411.100(e). Additionally, Part 305 of the Commission's Rules (83 Ill. Adm. Code 305), which incorporate certain National Electrical Safety Code requirements, specify detailed strength, wind speed, and weather conditions requirements for parts of ComEd's systems. Staff Ex. 11.0 at 16-17. Adherence to these standards can help improve a system's performance in the event of stressors like extreme weather. *Id*. Indeed, both Staff and ComEd note that the substantial investments ComEd has made to its system have improved its facilities' ability to withstand grid stressors like extreme weather. Staff Ex. 11.0 at 17; Staff Ex. 3.0, Attach. B. Thus, in Staff's opinion, it is disingenuous for ComEd to contend that minimizing the impact of weather and other events on the grid is wholly beyond its control.

Additionally, there are remedies available to ComEd in the event of legitimately unanticipated stress on ComEd's grid. Staff Ex. 17.0. If such "extraordinary circumstances" occur, and they are truly "outside of [ComEd's] control," then "ComEd may petition the Commission to be 'excused from compliance with the applicable performance goal or goals and the associated financial incentives and penalties." 220 ILCS 5/16-108.18(e)(2)(G). It would be inappropriate for the Commission to determine ahead of time that it will excuse interruptions on ComEd's system when the statute already provides a remedy to allow ComEd to avoid penalties in extraordinary circumstances beyond its control.

Finally, Staff states that the evidence that ComEd presented does not prove that any additional costs associated with Staff's recommendation to include all MEDs in the calculation of SAIDI are inappropriate or undue. ComEd's witnesses note that "[p]roviding utility service has a cost and providing better service may have a greater cost." ComEd Ex. 11.0 at 10. As explained above, the evidence shows that interruptions impose serious costs on ComEd's customers. Further, ComEd has stated repeatedly that it expects weather-related stress on its grid to increase due to climate change. ComEd IB at 35; ComEd Ex. 19.0, 11; *see also* Staff Ex. 3.0, Attach. B. Finally, ComEd's own witnesses acknowledge that the types of activities that may help to reduce MEDs – such as undergrounding distribution lines – could create additional benefits, such as reducing tree trimming and restoration costs. ComEd Ex. 11.0 at 20. Most importantly, the details of what costs ComEd will incur to achieve the performance metrics is not at issue in this docket. When calculating the "net benefits" of ComEd's proposed Performance Metrics 1 and 2, ComEd witnesses Zarumba and Shields did not even attempt to calculate the costs of ComEd's proposed metrics. *See* ComEd Ex. 11.0 at 13-28. Similarly, ComEd witness Arns did not explain in any detail what steps ComEd would take to implement its proposed Performance Metrics 1 and 2. *See generally* ComEd Ex. 5.0 (CORR). Instead, as ComEd notes, "ComEd's actions in working to achieve high performance will continue to be subject to review of prudence and reasonableness." *Id*. at 10. That review will occur in future dockets and should not be prematurely considered here. Therefore, the

Commission should reject ComEd's conclusory arguments that the costs of including all MEDs will be undue or excessive.

A performance metric that does not require ComEd to plan for and respond to increasing levels of severe weather, and instead allows it to continue to exclude up to nine days of major interruptions is not "sufficiently transformative" and should not be approved. Instead, Staff argues that the Commission should incentivize ComEd to improve its performance – even on the days when grid stressors are the most extreme – by requiring comprehensive SAIDI reporting, without any exclusions.

If the Commission determines that excluding MEDs is appropriate, Staff states that it should reduce the number of available exclusions. As it has throughout this proceeding, Staff continues to believe that it would be inappropriate for ComEd's proposed Performance Metrics 1 and 2 to exclude any MEDs. However, if the Commission determines that some number of MEDs should be excluded, it should modify ComEd's proposal. ComEd claims that it proposed to exclude nine MEDs because that is the average number of MEDs over the past fifteen years. ComEd Ex. 19.0 at 4. However, over the past 10 years, the average number of MEDs was only 7.8. *See* ComEd Ex. 19.0 at 12. In three of the past fifteen years, ComEd's system experienced only 5 MEDs. *Id*. at 12. As noted above, during this same period ComEd has invested heavily to improve the performance of its system, including reliability-related and smart grid-related investments, including storm hardening. AG Ex. 1.0 at 12; Staff Ex. 3.0, Attach. B.

ComEd notes that Ameren proposed a similar metric in its performance metric docket, Docket No. 22-0063. ComEd Ex. 19 at 13. While ComEd is correct that Ameren originally proposed excluding all MEDs, Staff notes that Ameren subsequently agreed to the exclusion of five MEDs with specific caveats on what MEDs may be excluded, including that the MED must be caused by events outside the utility's control. In order to better align ComEd's incentives with the potential for severe weather and other threats in the future, and only if the Commission does not accept Staff's recommendation to exclude all MEDs, as an alternative, Staff recommends that the Commission limit ComEd to excluding a maximum of five MEDs per year from its SAIDI calculations under Performance Metrics 1 and 2. Data provided by ComEd shows that excluding five MEDs would have resulted in higher SAIDI scores from 2012 – 2021 and is projected to produce a higher baseline. *Id*. at 18. But excluding just five MEDs also significantly reduces the variability in the SAIDI scores over that period, compared to SAIDI calculated with no MEDs excluded. *Id*. Therefore, Staff states, a limit of five MEDs excluded per year would encourage ComEd to take steps to minimize the impacts of grid stress on its customers, and reduce those impacts below their current levels, while also addressing ComEd's concern regarding the "extreme effect that MEDs have on reliability calculations." *Id*. at 17.

<u>Performance Metric 3</u>

Staff recommended several changes to this Performance Metric 3. First, that ComEd increase the number of switching and protection devices on its distribution system that it can monitor remotely from its Supervisory Control and Data Acquisition system. Staff Ex. 3.0 REV at 25. Second, that ComEd increase the visibility of devices located closer to customers. *Id*. at 26. Third, that ComEd consider alternatives to optical fiber

communication systems. *Id*. Fourth, that ComEd enhance the automation of devices in lower-performance locations and circuits, closer to its customers. *Id*.

ComEd accepted Staff's recommendations and agreed to increase the weighting of the "percent of system visible" component to 60% of the index. ComEd Ex. 5.0 (CORR) at 31. With this change, Staff recommends that the Commission approve ComEd's proposed Performance Metric 3. The metric will allow ComEd to use new techniques, without necessarily requiring the installation of new and expensive electric lines, to provide reliable service. Staff Ex. 11.0 at 32. Staff explained that "the engineering to implement Performance Metric 3 is sound and implementing [Performance Metric] 3 is justifiable, reasonable, and meaningful." *Id*.

c. AG's Position

Performance Metrics 1 and 2

The AG requests that the Commission reject ComEd's proposed Performance Metrics 1 and 2, because these metrics would incentivize the Company to overspend on reliability investments, without providing meaningful benefits to ratepayers. The AG asserts that each of these metrics have the overarching problems of failing to provide meaningful benefits to consumers, failing to re-align utility interests to match consumer interests, and encouraging ComEd to invest in new and unnecessary infrastructure that effectively continues the status quo, at ratepayer expense.

AG witnesses Whited and Havumaki criticized ComEd's proposed performance metrics for several reasons. First, they pointed out that ComEd has a core obligation to maintain reliable and resilient service and when "a utility fails to meet its core obligation, penalties may be appropriate. However, rewards for delivering on a core obligation, particularly when the utility already recovers the cost of reliability investments with a return and little or no regulatory lag, should be avoided." AG Ex. 1.0 at 23. Second, they demonstrated that "financial rewards should only be provided to incent behavior a utility would not otherwise take, meaning there is a disincentive or lack of incentive to achieve the desired outcome." *Id*. at 24. Staff witness Balogun agreed with Ms. Whited and Mr. Havumaki on both of these points. Staff Ex. 11.0 at 10. These points are important because "[i]f a utility is rewarded for something that it would have achieved without the PIM, then the PIM does nothing to enhance performance, while increasing costs for ratepayers since they are paying more for what they would have received anyway." AG Ex. 1.0 at 15.

Under Illinois' existing penalty-only statute (EIMA), ComEd increased its total distribution plant from $13.6 billion to $22.4 billion, from 2011-2020. AG Ex. 1.0 at 26. ComEd's SAIDI without major event days fell from 73 minutes to 35 minutes from 2011 to 2021 (an improvement of 52% or approximately 8% per year). *Id*. at 26. ComEd projects it will invest $2.02 billion in distribution infrastructure in 2023, $1.776 billion in 2024, $1.881 billion in 2025, and $2.192 billion in 2026. *Id*. at 26. ComEd witness Newhouse and the AG's witnesses pointed out that ComEd "already is a high performer (compared to peer utilities) in many of the metric areas." ComEd Ex. 18.0 at 25; AG Ex. 1.0 at 29 (Table 2) (showing ComEd with the second lowest SAIDI among 22 comparable utilities). The AG asserts that it is unlikely that future investments will result in meaningful improvements to ComEd's already high reliability standards, because any additional

"improvements are likely to become increasingly costly due to the phenomenon of diminishing returns to scale." AG Ex. 1.0 at 28. The AG requests that the Commission not provide ComEd with an additional 25 basis point reward — approximately $20.5 million per year — for marginal improvements in reliability, when its reliability performance as measured by systemwide SAIDI is already among the best in the industry and when, as ComEd admits, "[m]eeting ever-higher customer requirements and expectations of reliability and resilience naturally can be anticipated to require the application of greater resources, especially for a utility that already has achieved high reliability, such as ComEd." *Id*. at 28, citing ComEd Response to Staff Data Request 1.01.

The AG maintains that ComEd's proposed Performance Metrics 1 and 2 would not meaningfully improve reliability, beyond the status quo. Ms. Whited and Mr. Havumaki argued that "financial rewards should only be provided for significant achievements," not modest 1.5% year-to-year targets as proposed by ComEd, especially since ComEd anticipates a 1% year-to-year improvement in its SAIDI score absent performance incentives. AG Ex. 1.0 at 24. Staff witness Balogun agreed with Ms. Whited and Mr. Havumaki on this point and noted "ComEd's performance metrics on reliability and resiliency should be more robust and transformative than ComEd's success under EIMA." Staff Ex. 11.0 at 10-11. On average, ComEd improved its SAIDI score by 8% per year and 52% overall under EIMA's penalty-only structure. *Id*. at 26-27. Further, "ComEd reached a score of 32 in 2020, and even in 2021 the score of 35, barely above the 34.7-minute threshold, suggesting that the target will be relatively easy for ComEd to meet as early as 2024." IIEC IB at 19. The AG maintains that it is unreasonable to provide the Company with additional incentives for 1.5% improvements, when the Company significantly improved reliability in recent years based on a penalty-only framework.

P.A. 102-0662 emphasized that EIMA was "not sufficiently transformative in urgently moving electric utilities towards the State's ambitious energy policy goals." 220 ILCS 5/16-108.18(a)(4). Under EIMA's penalty-only structure, ComEd was required to improve its SAIFI score by 20% and its CAIDI score by 15%, over a ten-year period. 220 ILCS 5/16-108.5(f)(1)-(2). ComEd's SAIDI score is calculated by multiplying its SAIFI by its CAIDI, meaning that despite clear guidance to go above and beyond EIMA standards, ComEd proposed a 15% SAIDI score improvement over ten years — less than the SAIFI improvement and the same as the CAIDI improvement required by EIMA. Clearly, according to the AG, this does not "support change" as envisioned by P.A. 102-0662.

Instead of rewarding ComEd for maintaining the status quo, the AG requests that the Commission only approve reliability metrics that are targeted and designed to provide meaningful benefits to ratepayers, consistent with P.A. 102-0662's requirement that "[m]etrics related to reliability shall be implemented to ensure equitable benefits to environmental justice and equity investment eligible communities." 220 ILCS 5/16-108.8(e)(2)(C). The AG shows that while ComEd's Performance Metric 2 is designed to specifically target EJ and R3 communities, ComEd's systemwide Performance Metric 1 ignores the Company's highly variable performance across its four operating zones and makes no effort to advance equity and affordability. AG Ex. 1.0 at 24. Further, the AG points out that ComEd has not calculated the costs associated with either metric, making it impossible for the Commission or stakeholders to determine whether the benefits to

ratepayers associated with these metrics outweigh their costs, as required by P.A. 102-0662. 220 ILCS 5/16-108.8(e)(2)(F).

The AG demonstrates that the problems associated with ComEd's failure to quantify costs and benefits, or effectively target its metrics, are exacerbated by the fact that ComEd seeks to use its SAIDI score to measure its progress. As noted in one article cited by Ms. Whited and Mr. Havumaki, measures such as SAIDI, SAIFI, and CAIDI, "only go so far in measuring performance from the customer's perspective. They can mask poor service for customers who are frequently inconvenienced by power outages or who are always the last to have their power restored." AG Ex. 1.0 at 25. Instead, the AG maintains, it is preferable to measure reliability and resiliency through minimum service standards — such as the number of customers experiencing multiple or prolonged outages — and penalize the Company if it falls below these standards. *Id*. Failure to meet these standards could translate into hundreds if not thousands of customers experiencing prolonged or repeated outages and the associated burdens and inconveniences.

The AG explains that EIMA included a minimum service standard (Service Reliability Targets Metric (Section 16-108.5(f)(4)) with a penalty of up to 7 basis points. 220 ILCS 5/16-108.5(f-5). The baseline was 407 customers experiencing more than six controllable or uncontrollable outages in three consecutive years, and customers experiencing more than 18 hours of controllable or uncontrollable outages in three consecutive years. ComEd's reports showed that in some years hundreds of customers experienced these multiple or long interruptions for three consecutive years, creating a concerning disparity of service reliability and resilience.

In direct testimony, ComEd proposed a systemwide minimum service standards PIM, based on these EIMA reporting standards. Ms. Whited and Mr. Havumaki supported this PIM in concept but asked that ComEd revise the PIM to focus on EJ and R3 communities and only assign penalties, rather symmetrical penalties and rewards. AG Ex. 1.0 at 34. Rather than accept Ms. Whited and Mr. Havumaki's suggestions, ComEd changed its minimum service standards PIM to a tracking metric and replaced it with an EJ/R3-specific SAIDI PIM, with 10 symmetrical basis points. The AG asserts that ComEd's revised Performance Metric 2 would over incentivize reliability investments and mask the experiences of customers with multi-year, persistent, and prolonged outages. The AG requests that the Commission reject ComEd's proposed PBR structure, or in the alternative, reject both of ComEd's SAIDI metrics and instead impose penalties on ComEd where it fails to meet minimum service standards.

The AG further requests that the Commission reject ComEd's proposal to exclude up to nine MEDs from its SAIDI score. An MED is not limited to weather but is a day where "an event that exceeds reasonable design and or operational limits of the electric power system" causes the Company's daily SAIDI score to exceed its average score by 2.5 standard deviations. IEEE Standard 1366-2012 at 3, 5. Ms. Whited and Mr. Havumaki encouraged the Commission to adopt a metric that included all MEDs, because excluding MEDs would not sufficiently incentivize the Company's "operations and maintenance efforts such as tree trimming and preventative maintenance." AG Ex. 1.0 at 36. The AG witnesses note that customers experience outages on both MEDs and "blue-sky days" (*Id*. at 36) and that reliability calculations that include all days better reflect

customers' actual experiences and indicate where improvements are needed. AG Ex. 2.0 at 14. P.A. 102-0662 requires that performance metrics address reliability and resiliency. 220 ILCS 5/16-108.18(e)(2)(A)(i). As Ms. Whited and Mr. Havumaki pointed out, "By definition, resilience cannot be measured by excluding major events… [and] focusing on outages on blue-sky days." AG Ex. 2.0 at 14.

The AG notes that ComEd argues that Staff and intervenors' proposal to include all MEDs in its reliability incentive metric calculations "should be rejected because it will result in reliability performance metrics that are not reasonably within ComEd's control to achieve or require ComEd to dramatically 'overdesign' its system at ratepayers' expense." ComEd IB at 32. In contrast, Staff pointed out that "the measurement of ComEd's system performance should reflect the systems' design and operation and the weather and environmental conditions under which those systems operate." Staff IB at 21-22. The AG and Staff also demonstrate that ComEd's proposal would require ratepayers to pay ComEd's shareholders an incentive based on "an inflated impression of reliability," because it would "erase the impact of certain interruption events" and capture fewer interruptions in its reliability calculations. Staff IB at 26-27. The AG states that an MED is measured by the resulting outages rather than by the system's ability to withstand strain. The more MEDs ComEd is allowed to exclude from its reliability calculations, the less resilient its system needs to be to meet ComEd's performance goals. By requesting that the Commission approve performance metrics that reward only reliability and resilience on blue-sky days — by excluding up to nine MEDs — the Company has effectively asked the Commission to provide it with maximum rewards for minimum effort.

The AG explains that ComEd is currently allowed to exclude up to nine "extreme weather events" from the EIMA standard. 220 ILCS 5/16-108.5(f). P.A. 102-0662 emphasized that EIMA was "not sufficiently transformative in urgently moving electric utilities towards the State's ambitious energy policy goals." 220 ILCS 5/16-108.18(a)(4). Despite clear guidance to improve upon the EIMA standards, ComEd recommended that the Commission maintain the status quo of nine MEDs and a 1.5% SAIDI improvement over ten years. ComEd attempts to distinguish EWEDs under EIMA from MEDs by arguing that MEDs "more consistently represent the most extreme storms and events that occur in ComEd's service territory" and while "EWEDs include those same extreme storms… they also include the somewhat less severe storms. In other words, nearly all MEDs are EWEDs, but many EWEDs are not MEDs." ComEd IB at 38. According to ComEd, this means that a metric that excludes nine MEDs is more difficult to achieve than a metric that excludes nine EWEDs. *Id*. However, the AG points out that ComEd's performance reports under EIMA demonstrate that it considered storms affecting as few as 6,307 as EWEDs that could be excluded from the EIMA metric and regularly excluded storms affecting fewer than 25,000 customers (0.6% of its 3.8 million customers) from the measure.

The AG asserts that the Commission should reject ComEd's specious claims that its proposed SAIDI incentive metrics are more difficult to achieve than current EIMA standards, when in fact they are status quo incentive metrics that do not support the change envisioned by P.A. 102-0662.

For these reasons, the AG requests that the Commission reject ComEd's proposed PBR structure, or in the alternative, reject ComEd's proposed Performance Metrics 1 and

2 and adopt the AG's proposed penalty-only reliability and resiliency metrics based on minimum-service standards that include all MEDs.

Performance Metric 3

The AG requests that the Commission reject ComEd's proposed Performance Metric 3, because it would incentivize ComEd to overspend on new infrastructure and is not cost-effective, as required by P.A. 102-0662.

For Performance Metric 3, ComEd proposed to measure "the percent of distribution system sections (station bus, circuit mainstem, and lateral segments) visible, the communication health of those sections, and the integrity and utility of that telemetry and control." ComEd Ex. 18.01 at 7. It planned to set a systemwide baseline in early 2023 using 2022 data, set a performance goal of 2% year-to-year improvement (20% over ten years), and assigned five basis points to this metric. *Id*. at 8. A key principle of P.A. 102-0662 is that investments must be cost-effective, and the Commission must "ensure equity and affordability of rates for all customers, including low-income customers, and hold utilities publicly accountable." 220 ILCS 5/16-108.18(e)(1). The AG asserts this is especially true for reliability metrics, which P.A. 102-0662 requires "be implemented to ensure equitable benefits to environmental justice and equity investment eligible communities." *Id*. at (e)(2)(C). P.A. 102-0662 also requires that each metric must be structured so that the benefits to ratepayers outweigh the costs of achieving the metric. *Id*. at (e)(2)F).

AG witnesses Whited and Havumaki criticized ComEd's Metric 3 because it would "reward investments more than actual, measurable outcomes." AG Ex. 1.0 at 37. P.A. 102-0662 requires that metrics "measure outcomes and actual, rather than projected, results where possible," 220 ILCS 5/16-108.8(e)(2)(D), and that reliability metrics "be implemented to ensure equitable benefits to environmental justice and equity investment eligible communities." 220 ILCS 5/16-108.8(e)(1)(C). In response, ComEd argued that this "metric is designed to measure outcomes… which is why it focuses on attainment of optimally designed technology-neutral goals, and does not prescribe the use of specific software, devices or application methods." ComEd IB at 41. However, the AG points out that ComEd's proposal explicitly states that this metric will measure "the percent of distribution system sections (station bus, circuit mainstem, and lateral segments) visible, the communication health of those sections, and the integrity and utility of that telemetry and control." ComEd Ex. 18.01 at 7. These measurements are based on investments in ComEd's rate base, not on the customer impacts of those investments. ComEd would be rewarded for investing in its systemwide visibility infrastructure, rather than providing specific or meaningful benefits to ratepayers, especially ratepayers in EJ/R3 communities. ComEd could achieve this incentive metric simply by allocating part of its investment budget to system visibility. The AG requests that the Commission not provide ComEd with additional financial incentives for a spending metric on a core function where it is already incentivized to act by receiving a return of and on reliability infrastructure.

ComEd has continually improved its system visibility under EIMA's penalty-only structure by increasing its percent of system visible by 1-3% per year and increasing its percent of network uptime to 94.5% in 2021. According to the AG, ComEd failed calculate any quantified costs for this metric, making it impossible to determine whether the

additional investments contemplated by this metric will provide meaningful benefits to ratepayers. ComEd also failed to demonstrate how this incentive metric is anything more than "another opportunity for ComEd to spend more money, whether invested capital or operation and maintenance expense (both of which would be drivers for cost for this metric)." IIEC IB at 26.

The AG notes that ComEd sought to distinguish Performance Metric 3 from Performance Metrics 1 and 2 by noting that Performance "Metric 1 will measure the overall reliability and resiliency of ComEd's distribution system, and [Incentive] Metric 2 will measure the locational reliability and resiliency of EJ and R3 communities. [Performance] Metric 3 will make improvements in power quality." ComEd IB at 42. The statute only requires one PIM for each performance category. ComEd's proposed Performance Metrics 1 and 2 already address the reliability category, both systemwide (Performance Metric 1) and specifically for EJ and R3 communities (Performance Metric 2). The AG asserts that Performance Metric 3 is a spending rather than outcome metric that will affect the outcomes measured in Performance Metrics 1 and 2 (both as proposed by ComEd and by the AG), making additional incentives for that activity duplicative. The AG maintains that ComEd's attempt to classify this incentive metric as improving "power quality," ignores that the end result of this spending metric would be to improve its reliability scores, which are already measured by Performance Metrics 1 and 2.

In conclusion, the AG requests that the Commission reject ComEd's proposed Performance Metric 3, because it is a spending metric rather than an outcome metric, would provide a bonus return for investment that is already entitled to a return and recovered in rates with little if any regulatory lag, would not result in more affordable rates, would not re-align consumer and shareholder interests, would not specifically benefit customers residing in EJ/R3 communities, and would not be cost effective or benefit ratepayers, as required by P.A. 102-0662. ComEd's proposed Performance Metric 3 is duplicative to Performance Metrics 1 and 2, and to the spending incentives inherent in ratemaking. Therefore, the Commission may reject this incentive metric without replacing it with another metric.

d. CUB/EDF's Position

CUB/EDF state that performance metrics should drive changes in utility behavior that will accomplish statutory objectives. The General Assembly highlighted equity throughout its objectives, explicitly referencing impacts on and benefits for environmental justice, low income, and equity investment eligible communities; ensuring affordability; addressing the particular burdens faced by customers in those communities; and promoting workforce and supplier diversity. 220 ILCS 5/16-108.18(c). Those statutory directives align with feedback from stakeholders throughout the workshop process and several witnesses in this proceeding recommending that the Commission should use these performance metrics to prioritize benefits for communities that need them most. Therefore, CUB/EDF argue, the Commission should consider the extent to which each metric ensures equitable distribution of benefits while driving equitable, affordable decarbonization.

For each metric category, CUB/EDF witness Barbeau analyzed ComEd's proposed metric. Finding that ComEd's proposals do not sufficiently satisfy statutory

criteria, Mr. Barbeau developed an Alternative Plan. For each proposed metric in his Alternative Plan, he included a description of the metric, a calculation method, a data collection method, annual performance targets, and a description of any incentives or penalties for the utility's achievement of, or failure to achieve, their performance targets. In response to ComEd's rebuttal testimony and the testimony of Staff and other intervenors in this case, Mr. Barbeau revised his Alternative Plan. CUB/EDF urge the Commission to adopt the Alternative Plan identified as CUB/EDF Ex. 4.1 and attached to CUB/EDF's Initial Brief. The Alternative Plan modifies ComEd's proposed approach to reflect P.A. 102-0662's directives, supported by Mr. Barbeau, Ms. Watson and Mr. O'Donnell's testimony, as well as recommendations in the Staff Report and evidence submitted by other intervenors in this proceeding.

Rather than correcting existing inequities in its system investments that have resulted in disparities in service reliability, ComEd proposes an incentive on systemwide reliability improvements. In response to testimony from CUB/EDF and others, ComEd added a measurement for systemwide EJ and R3 community reliability as well. CUB/EDF argue that metric continues to fall short of achieving the legislature's goals, and a performance incentive for systemwide reliability – a metric for which the Company was previously awarded under EIMA, should be altogether rejected. CUB/EDF note systemwide reliability was the focus of the previously-controlling EIMA – which this PBR framework replaces. CUB/EDF contend if the General Assembly intended to simply extend the reliability performance mechanisms of the EIMA, it did not need to develop a new PBR framework. Instead, the General Assembly found that the previous measures were not sufficiently transformative and noted concerns that they may have resulted in excess utility spending and guaranteed profits, without meaningful improvements for customers, affordability, or equity. 220 ILCS 5/16-108.18(a)(8). CUB/EDF provide analysis showing that previous incentives focused on systemwide reliability have led to disparate impacts of service outages. Service reliability and resiliency in EIECs is well below that of non-EIECs with similar geographic profiles in ComEd's territory. CUB/EDF Ex. 4.0 at 5.

e. COFI's Position

Although COFI's briefs focuses on issues related to the affordability metric, COFI urges the Commission to not assign any performance metrics points to this category of metrics because the Company already has incentives to invest in the infrastructure needed to achieve the stated goals.

f. AEE's Position

AEE speaks only to the System Visibility Index and not to the other aspects of the reliability and resilience metric. AEE opposes the System Visibility Index and recommends that the Commission reject it. First, the metric largely measures capital investment related to the deployment of sensors on elements of ComEd's distribution system, rather than the desired outcome of these investments: improved reliability. The reliability experienced by customers can be directly measured through SAIDI, so there is no reason to resort to a metric that measures an intermediate activity rather than the outcome itself. Further, ComEd is already rewarded for investments in improving visibility because it receives a rate of return on the capital needed to increase visibility. The

performance incentive could even be counterproductive if ComEd has identified another means that could achieve better reliability more cost-effectively. In this case, the utility would have to forgo the incentive and additional earnings associated with the System Visibility Index in order to make an alternative investment that is more aligned with the interests of customers. Absent this System Visibility Index, nothing would prevent ComEd from deploying distribution automation if it believed it was the best way to achieve better reliability performance. On the contrary, if ComEd successfully improves reliability through its investments in system visibility, the improvements in reliability would result in rewards through the SAIDI-based elements of this metric. For these reasons, AEE strongly recommends that the Commission reject the System Visibility Index.

g. IIEC's Position

Performance Metric 1

IIEC argues ComEd offered limited evidence or detail in terms of achieving the Overall Reliability Based on SAIDI metric, stating only that the "performance metric is designed to measure continuous reliability improvement across the system in terms of both outage frequency and duration." IIEC notes a similar statement was replicated in ComEd's Performance Metrics Plan. IIEC Ex. 1.0 at 19. IIEC witness Stephens concluded, "This lack of detail or explanation is a major failure in this and other ComEd metrics." IIEC Ex. 2.0 at 26. IIEC asserts the Commission cannot be expected to approve metrics and the related basis points without having any specific plans or details as to exactly what efforts ComEd will undertake. *Id*.

IIEC points out ComEd's failure to provide the necessary detail associated with the metric runs counter to Section 16-108.18(e)(2). IIEC notes the statute requires that the metric be "achievable by the electric utility." 220 ILCS 5/16-108(e)(2). IIEC asserts that, despite the logical proclivity of ComEd to choose only metrics it can meet, the Commission cannot know, based on this record, whether ComEd is capable of achieving the metric outcomes or how easily it may do so.

IIEC argues another flaw in ComEd's proposed SAIDI metric is the use of a 2021-2023 baseline. ComEd plans to make an informational filing in the first quarter of 2024 that will include actual performance data for each year (2021-2023) and proposes to determine a final baseline calculated using that information. IIEC points out no 2021 or 2022 data were ever provided, and ComEd conveniently overlooked its 2010 through 2021 SAIDI scores which provide relevant data in setting a baseline.

Given the long-standing effort on ComEd's part to reduce outage minutes, IIEC recommends using ComEd's score of 32 minutes from 2020 as the baseline, a target already reached by ComEd. A known target is preferred over some later to be discovered SAIDI score. IIEC points out similarly, ComEd's SAIDI score was 35 minutes in 2021, and now ComEd's forecasted 34.7 score, suggests a lower value should be taken into consideration when setting a firm baseline. IIEC asserts in order to ensure value to customers, greater or more challenging targets should be realized. IIEC Ex. 1.0 at 21-22.

IIEC, in order to highlight the inequity to ratepayers, points out ComEd expects to receive as much as 15 basis points or $13.3 million in 2024, should it reach a SAIDI score

between 33.6 minutes or lower, with the range of basis points beginning at 34.7 minutes. Yet, as noted by IIEC, in the recent past ComEd reached a score of 32 in 2020, and even in 2021 the score of 35 minutes, barely above the 34.7 minute threshold, suggesting that the target will be relatively easy for ComEd to meet as early as 2024. IIEC Ex. 2.0 at 27.

IIEC reasons it is not alone in its objections to the ComEd baseline and targets. IIEC points out ComEd defends the 2021-2023 baseline, stating that if performance for 2021-2023 is better than projected, then the baseline will be lower and the annual targets for 2024 to 2033 may be lower. Conversely, if performance is worse than projected in 2021-2023, then the baseline may be higher and the annual targets for 2024 to 2033 may be higher. IIEC Ex. 1.0 at 22, citing ComEd's Supplemental response to AG Data Request 1.03b. IIEC finds the problem with an unknown baseline is twofold. For one, ComEd's actions or inactions could influence the baseline over a future period, which obviously should be avoided. IIEC asserts the Commission needs to recognize the potential economic incentive to ComEd in influencing the baseline and targets. IIEC notes this is true in all other instances where ComEd is suggesting a 2021-2023 baseline. The second concern comes down to policy choice (i.e. should the Commission award a utility basis points in this docket without knowing the baseline and the actual targets?). IIEC Ex. 1.0 at 22. IIEC suggests affirming unknown baseline and targets is not in ratepayers' best interests.

IIEC argues ComEd's 1.5% reduction target is too modest. IIEC notes that if ComEd were to reduce the number of minutes of service interruption from 33 minutes in 2024 to 28.5 minutes or lower by 2033, it will receive 15 basis points, which equates to $12.3 million per year or $123 million over 10 years. Stating differently, IIEC concludes ComEd would receive $123 million by shaving 5.5 minutes over a 10-year period of time, when from 2010 to 2021 there has been nearly a 50-minute reduction in the average number of minutes already. IIEC Ex. 1.0 at 20.

In further support of the insufficient 1.5% reduction when comparing one year to the next, IIEC points out there had been several years where 5 minutes or more have been reduced year over year. *Id*. at 23. IIEC questions how then can ComEd be awarded $123 million for doing improving much less than it already has shown it is capable of improving? IIEC suggests it bears noting that several parties in the workshop process, and in this case, stated that the performance metrics should be challenging to meet. IIEC Ex. 1.0 at 8; Staff Ex. 2.0 at 6; *see* Staff Ex. 7.0 at 11, Attach. C at 1.

IIEC asserts an historical perspective lends further credence to its position. IIEC notes over a ten-year period, ComEd, at ratepayers' expense, has already significantly reduced the number of interruption minutes. IIEC concedes there may be some room for improvement, but it was difficult to see the value to customers going forward, due to diminishing returns. IIEC argues in order to ensure a meaningful challenge and value for customers, a target of 5% per year for each year of the 2023-2027 period is recommended. IIEC Ex 1.0 at 23.

IIEC observes that many of ComEd's metrics call for a 10-year period. IIEC argues the Commission should not put customers at risk for a decade, again noting the novelty of the subject matter, the fact ComEd has shared little detail, and considering significant

basis points expense foisted on ratepayers. ComEd offers no credible explanation for the time period.

IIEC recommends the metric apply over a 4-year period, as it will give the Commission and all parties an opportunity to better understand the metric's results and whether it should be carried forward. IIEC suggests any longer period of time introduces unnecessary uncertainty. IIEC Ex. 1.0 at 24. IIEC asserts limiting metrics to 4 years, better aligns them with the MRP. Further, IIEC points out it is reasonable to expect technology and best practices to change over time, and efficiencies might be gained, which would lead to better performance and potentially updated metrics. Finally, IIEC notes in many cases ComEd has doubts about the sustainability of its metrics, which places further doubt on the legitimacy of 10-year metrics. IIEC asserts ComEd has yet to offer any sound reasoning for 10-year metrics. IIEC Ex. 1.0 at 32.

IIEC notes that ComEd states the incremental costs to achieve targeted performance are "material," but has yet to estimate its annual costs for the metric in terms of how current budgets might be affected (including changes in allocations in order to support activities to implement the metric). In addition, IIEC points out ComEd suggests that there also are significant practical challenges with accurately estimating "costs to achieve" the proposed performance metrics and their goals at this time, stating that it has not developed all the details of how it plans to achieve the proposed performance metrics' goals. IIEC Ex. 1.0 at 24-25.

IIEC concludes in summary, ComEd does not know how it will achieve the metrics, and does not know, or has failed to provide any estimate of the costs. Yet in spite of these failings IIEC notes the Commission is being asked to approve metrics that would cost ratepayers as much as $123 million in basis points over a 10-year period, without knowing some detailed level of steps to be taken for the metric.

<u>Performance Metric 2</u>

IIEC observes this metric measures the aggregate SAIDI for customers located in EJ communities and R3 communities within ComEd's service territory for each calendar year during the ten-year period 2024 through 2033. ComEd Ex. 18.01 at 5.

IIEC notes ComEd calculated the 2021 SAIDI performance for EJ and R3 communities which was 35 minutes. The incremental annual targets over the 10-year period for EJ and R3 communities will be the same as Performance Metric 1, which is 1.5% each year. To earn an incentive in 2033, ComEd must achieve cumulative improvement of 15% from the baseline. IIEC Ex. 2.0 at 33.

IIEC witness Stephens explained that the metric is fundamentally no different than ComEd's Performance Metric 1, only measuring SAIDI for a subset of customers—the EJ and R3 community. Performance Metric 1 is "designed to measure continuous reliability improvement across the system in terms of both outage frequency and duration over the period of 2024-2033." Much the same, Performance Metric 2 is "designed to measure continuous reliability improvement for the EJ and R3 communities in terms of both outage frequency and duration," over the same period of time. The EJ and R3 communities are a subset of all communities served by ComEd. IIEC Ex. 2.0 at 34.

To illustrate, IIEC suggests that if ComEd were to make an investment in an EJ and R3 community, it would presumably reduce the SAIDI score. In doing so, that same investment would have an impact on the SAIDI score for Metric 1, as part of its system wide evaluation. Thus, IIEC points out the metrics are overlapping and, to a degree, duplicative. Consequently, IIEC explains that ComEd has the potential to be rewarded twice in basis points for the same investments. IIEC Ex. 2.0 at 34-35. IIEC notes ComEd witness Arns cannot dispute this comparison, and admits the metrics are "comparable." ComEd Ex. 19.0 at 28.

IIEC argues as was true with Performance Metric 1, this metric lacks meaningful detail. IIEC notes ComEd witness Arns' testimony speaks in terms of vague and undefined "rigorous goals in line with its overall reliability objectives." ComEd Ex. 5.0 (Corr) at 28. IIEC points out Mr. Arns admits the metric will not change system planning, and that ComEd will approach reliability improvement plans with a holistic approach to improve reliability across the system. Mr. Arns concludes that the metric will ensure that the EJ and R3 communities' aggregate reliability will improve at the same rate, if not better, as overall system reliability. *Id*. at 29-30; *see*, IIEC Ex. 2.0 at 35.

IIEC notes it is not just IIEC witness Stephens saying that the ComEd metric lacks explanation and detail. IIEC points out that when asked if there will be any specific investment required to achieve Performance Metric 2 that will not be necessary for Performance Metric 1, the best Mr. Arns could say was, "ComEd cannot address this question at this time. ComEd's grid investment plan has yet to be finalized and will be the subject of the forthcoming multi-year grid investment plan proceeding in 2023." ComEd Ex. 19.0 at 28. IIEC asserts all this uncertainty raises the question of how the Commission can approve a metric with so little information.

IIEC reasons that in short, there is no detail or indication of any substantive changes in ComEd's routine system planning, and so there is little if any merit to the metric. IIEC further asserts whatever benefits there are to the EJ and R3 communities as a result of the metrics, likely will be no different from what ComEd customers experience as a whole and so, again, there appears to be a lack of value to customers. IIEC Ex. 2.0 at 35.

IIEC concludes should the Commission approve what is essentially the same metric as Metric 1, ComEd should be required to use its score of 32 from 2020 as the baseline. IIEC notes ComEd is already forecasting a 34.7-minute time period, four years later. IIEC suggests even though ComEd failed to provide earlier SAIDI scores for EJ and R3 communities, it is reasonable to assume the prior year SAIDI scores for Metric 1 are the basis for the now 35-minute baseline. IIEC Ex. 2.0 at 36. IIEC argues 1.5% annual incremental improvement is wholly inadequate. IIEC finds a 5% improvement in each year is more in line with a true benefit to customers and the requested basis points. *Id*.

<u>Performance Metric 3</u>

The System Visibility Index metric evaluates visibility of system elements, and the health of the communication and control devices that can be used to diagnose and improve power quality. This metric measures the percent of distribution system sections (station bus, circuit mainstem, and lateral segments) visible, the communication health of

those sections, and the integrity and utility of that telemetry and control. ComEd Ex. 18.01 at 7.

Regarding the component percent of system visible (60%), IIEC notes ComEd has continually experienced year over year growth in this metric, between 1% and 3% per year. IIEC Ex. 1.0 at 34. As to the percent of network uptime (20%), IIEC points out ComEd achieved 93.5% average availability, and in 2021 increased it to 94.5%. Regarding the percent of segments controllable with communication times qualified below a power quality actionable threshold (20%), IIEC states ComEd has no historical performance data. IIEC Ex. 1.0 at 34-35.

IIEC argues this metric is another opportunity for ComEd to spend more money, whether invested capital or operation and maintenance expense (both of which would be drivers of cost for this metric) and is not in itself performance deserving of a basis point reward. IIEC notes that as the level of overall growth in total visible segments under Part i of this metric reveals, ComEd already has sufficient incentive to invest here with little additional benefit to be gained, as it does with the other reliability and resiliency efforts. Also, IIEC points out as ComEd invests in making sure the segments are visible, it is difficult to believe ComEd would install equipment that would not meet uptime and communications standards as well, meaning ComEd would be additionally compensated for what it was likely to do in any event. IIEC Ex. 1.0 at 36.

IIEC argues its other objection to this metric is, once more, based on ComEd's inability to estimate the net benefits due to customers as a result of achieving this metric. IIEC Ex. 1.0 at 36. IIEC notes ComEd Exhibit 11.03, which purports to identify qualitative and quantitative benefits, can only claim that the "quantitative benefits" of Performance Metric 3 enable Performance Metric 1 and Performance Metric 2 benefits. IIEC points out there are no quantitative benefits shown for Performance Metric 3 that are not already included in Performance Metrics 1 and 2.

Furthermore, IIEC asserts given that this proposed increase in visibility and communications likely would increase the utility's ability to respond in times of reliability concern, this investment would also help to decrease the ComEd's SAIDI score, thus helping ComEd achieve two performance metrics for the price of one, again. IIEC 1.0 at 36. IIEC points out AEE witness Waggoner also agreed the metric outcome is already found in ComEd's other metrics that reduce outage duration and frequency. AEE Ex. 2.0 at 10. Similarly, IIEC suggests CUB/EDF witness Barbeau best explained the duplicitous nature of the metric as follows:

> The installation of system visibility equipment is just one tool in the toolbox for a utility to reduce the actual outcome of outage frequency and duration, or to integrate distributed energy resources. There are many investment strategies to address those outcomes, including the use of distributed energy resources for enhanced reliability, and leveraging DER aggregators and other third parties to integrate distributed energy resources, and relying on fixed settings on customer-sited equipment for grid support or protection. . . . Further, this metric appears to create the opportunity for

> double-counting with other reliability metrics that the Commission may approve, which do measure the actual outcomes of improved reliability. If any improvements in reliability result from these distribution system investments, those outcomes would appear in the quantification of the frequency and duration of outages.

CUB/EDF Ex. 4 at 18-19.

IIEC argues that AEE and CUB/EDF are of the correct belief the metric will result in a double counting of basis points, is duplicative, and in the end has not been shown to provide net benefits.

h. JSP/ELPC/VS's Position

Solar Intervenors assert that while ComEd's Performance Metric 2 represents an improvement, it still does not fully meet the intent of the Act to establish Illinois as a leader in the area of locational reliability in environmental justice communities. As Mr. Kenworthy explains in his rebuttal testimony, ComEd's metric is "one-dimensional" in that it only considers SAIDI and therefore "ignores other important dimensions of reliability and resilience that are addressed in the [Reliability and Resiliency in Vulnerable Communities ("RRVC")] metric." ELPC/VS Ex. 2.0 at 7. Further, ComEd's metric does not distinguish between communities that have different geographical and population densities. *Id*. Therefore Mr. Kenworthy recommends approval of the alternative RRVC metric.

i. Commission Analysis and Conclusion

<u>Performance Metrics 1 and 2</u>

Staff's criticisms of ComEd's proposal to exclude MEDs is that excluding MEDs will result in degradation of ComEd's reliability performance.

ComEd asserts that its proposed metrics "raise the bar" from the reliability metrics established under EIMA because Performance Metrics 1 and 2 propose to use MEDs rather than EWEDs and exclude up to nine MEDs per year. ComEd notes the "extreme effect" MEDs have on reliability calculations. ComEd asserts that inclusion of all MEDs would result in a metric that is not reasonably within ComEd's ability to control and would result in requiring ComEd to overdesign its system at ratepayers' expense.

The Commission notes that EIMA allowed ComEd to exclude nine EWEDs. While ComEd claims that using MEDs rather than EWEDs is transformative because fewer events qualify as EWEDs than MEDs, Staff points out that data shows the IEEE standard (used to define MEDs) results in SAIDI values over the past ten years that are very similar to the values calculated under EIMA. The Commission agrees with Staff that changing the use of MEDs versus EWEDs in calculations does not appear to be a sufficient improvement over EIMA and thus would be against the Commission's directive to avoid degradation under P.A. 102-0662.

The Commission recognizes ComEd's concerns that including all MEDs may result in a metric that is not reasonably within ComEd's control. Staff supports, as an alternative to including all MEDs, an exclusion of up to 5 MEDs. Staff states its alternative proposal would result in a higher baseline while still reducing the variability in SAIDI scores. The

Commission agrees with Staff and finds that ComEd may exclude up to five MEDs in its SAIDI calculations. The Commission concludes that Staff's alternative proposal is supported by the record and results in a metric that is challenging but attainable. Staff's proposal will encourage ComEd to take measures to reduce the occurrence of MEDs, while also addressing ComEd's concerns regarding weather-driven volatility in reliability statistics.

Staff further criticizes use of the IEEE definition of MEDs because it does not distinguish between controllable (i.e. a mistake or oversight by ComEd) versus uncontrollable interruptions. The Commission concurs with this criticism and therefore adopts the following conditions for what qualifies as an MED:

(1) MEDs must result from outages that result from an event outside of the Company's control, such as an extreme weather event or terrorist or cyber-attack on the system.

(2) In the case of MEDs resulting from extreme weather, conditions must exceed National Electrical Safety Code requirements as specified in 83 Ill. Admin. Code 305 ("Part 305") and other provisions within the Code.

(3) MEDs may not result from a planned event within the Company's control, such as maintenance activities on a non-storm day.

The Commission also adopts the ComEd and Staff proposal to exclude interruptions lasting 1 minute or less in the calculation of SAIDI.

ComEd proposes to establish the baseline for the Performance Metrics 1 and 2 by averaging SAIDI performance from 2021 through 2023. To ensure that these performance metrics adequately challenge ComEd to meaningfully improve overall and locational reliability and resiliency, the Commission further finds that the separate baseline considerations for the Performance Metrics 1 and 2 are necessary.

For Performance Metric 1, baseline should be determined by averaging ComEd's SAIDI performance during the two years from 2021 through 2023 in which SAIDI performance is best (i.e., the lowest number of minutes). Establishing the baseline in this way will make achieving the performance metrics more challenging while also ensuring that doing so is within ComEd's power. Due to this modification of the baseline, the Commission rejects other proposed modifications to the baseline.

For the Performance Metric 2, the Commission finds that ComEd's proposed EJ/R3 reliability metric needs to be strengthened by incorporating important elements of CUB/EDF's Reliability and Resiliency in Vulnerable Communities ("RRVC") metric to increase the beneficial impact of reliability upgrades within EJ/R3 communities. The Commission incorporates additional indices to allow for more precise analysis of reliability and resiliency performance for vulnerable customers. In addition to SAIDI, Performance Metric 2 must focus on a 1% year-over-year improvement of SAIFI, CEMI4 and CELID. ComEd must set a baseline for each of these four indices using the average of the two best performance years between 2021-2023 as measured within EJ/R3 communities. Each index is allocated a maximum incentive/penalty of 1.25 basis points, for a total of 5 basis points allocated to Performance Metric 2. Establishing the metric's baselines in this

way will make the metric more challenging while also ensuring that doing so is within ComEd's power, as evidenced by its recent performance, and rewarded accordingly.

The Commission finds that the evidence in the record supports that SAIDI, SAIFI, CEMI4 and CELID indices will, to the extent practicable and achievable by the utility, encourage cost-effective, equitable utility achievement of the outcomes described in the reliability and resiliency metric category in Section 16-108.18(e)(2)(A)(i). The record evidence further demonstrates that they otherwise comply with the Section 16-108.18(e)(2) criteria for performance metrics.

The Commission shares CUB/EDF concern that EIECs are disproportionately burdened by longer and more frequent outages than non-EIECs. The Commission also agrees with CUB/EDF that measuring SAIDI, SAIFI, CEMI4 and CELID will ensure a better monitoring of the gap between reliability in EIECs and geographically similar non EIECs in compliance with the direction of the P.A. 102-0062 to improve reliability in the most vulnerable communities and ensure the reliability improvements are equitable.

IIEC argues that ComEd's proposed 10-year metric period is too long. The Commission finds that a 10-year metric period is within the statutory requirements and will allow ComEd to consider appropriate investments in improving reliability in the context of its long-term investment plan.

The Commission disagrees with arguments that Performance Metrics 1 and 2 are essentially the same. Performance Metric 1 is designed to improve overall system performance, while Performance Metric 2 is directed towards ensuring customers do not have below average service improvements especially in EJ and R3 communities. ComEd points out that it is possible to achieve one of these performance metrics and not the other. The Commission further finds, contrary to IIEC's assertion, that ComEd provided sufficient detail for the Commission to conclude that ComEd will be able to achieve the metrics.

IIEC and the AG claim ComEd's proposed performance metrics are not challenging enough to further the goals of P.A. 102-0662. The Commission disagrees. The Commission finds that ComEd's proposed Performance Metrics 1 and 2, as modified in this Order, meet the requirements of P.A. 102-0662 and will result in net benefits.

Performance Metrics 1 and 2, as modified herein, are adopted.

<u>Performance Metric 3</u>

The Commission agrees with intervenor arguments that proposed Performance Metrics 3 is not sufficiently ambitious and rejects it. Collectively, Performance Metrics 1 and 2, as modified, successfully meet the goals of P.A. 102-0662 and have a "transformative [effect] in urgently moving electric utilities toward the State's ambitious energy policy goals: protecting a healthy environment and climate, improving public health, and creating quality jobs and economic opportunities, including wealth building, especially in economically disadvantaged communities and communities of color." 220 ILCS 5/16-108.18(a)(4).

AEE and AG, and others, urge the Commission to reject Performance Metric 3 because it measures capital deployment and not the outcome.

While, as ComEd and Staff discuss, this metric may offer some benefits, including enabling ComEd to better measure reliability for EJ and R3 communities, ComEd has not shown that this metric will incentivize any behavior that will benefit the customers that would not happen but for this metric. Further, this metric may potentially create opportunity for double recovery because the proposed increase in system visibility would also impact ComEd's SAIDI score. With the approval of Performance Metrics 1 and 2, Metric 3 is rendered duplicative. Performance Metric 3 is, therefore, rejected.

2. Other Proposals

a. ComEd's Position

ComEd argues that the Commission should reject the respective alternative proposed reliability performance metrics proposed by the AG and CUB/EDF. ComEd contends the AG's proposed "geographically-targeted reliability improvements" performance metric is based on minimum service levels and is very similar to ComEd's original Performance Metric 2. ComEd notes that it modified its original Performance Metric 2 into Tracking Metric 12 (Customers Exceeding Minimum Service Levels). Tracking Metric 12 will also track service levels in EJ and R3 communities. Therefore, the AG's alternative metric is redundant. ComEd further argues that the AG's proposed "zonal" performance metric, which is also based on minimum service levels, should be rejected for the same reasons. ComEd contends that the asymmetrical "penalty-only" structure of the proposed metric is inconsistent with the statute, which calls for the total amount of potential incentives and penalties to be symmetrical. *See* 220 ILCS 5/16-108.18(e)(2)(B).

ComEd argues that CUB/EDF's alternative RRVC metric should also be rejected. ComEd contends that CUB/EDF's proposal is impractical from an engineering perspective because feeders and circuits that comprise ComEd's distribution network do not respect county boundaries – system facilities may be located geographically in one county but serve communities in other areas. Further, ComEd explains that CUB/EDF's proposal is overly complicated and requires ComEd to essentially meet four different sub-performance targets (based on SAIDI, SAIFI, customers experiencing four or more interruptions per year, and customers experiencing long interruption durations) to achieve one incentive.

b. Staff's Position

Several intervenors express concern that ComEd's proposed Performance Metrics 1, 2, and 3 are inappropriate or insufficiently ambitious. For example, the AG argues that Performance Metrics 1 and 2 "would incentivize the Company to overspend on reliability investments, without providing meaningful benefits to ratepayers." AG IB at 17. Similarly, CUB/EDF criticize ComEd's proposed Performance Metrics 1 and 2 as merely an extension of the reliability performance metrics created by the EIMA. CUB/EDF at 19. Several parties also criticize ComEd's Performance Metric 3 because it creates inappropriate incentives to increase spending, rather than to improve outcomes. *See, e.g.*, IIEC IB at 25; AEE IB at 8.

Staff recommends that the Commission reject these criticisms. Staff explains that ComEd's Performance Metrics 1 and 2 utilize reliability statistical measures that are well

understood by ComEd, stakeholders, and the Commission. These measures derive from measures that are already tracked under the Commission's Part 411 rules and in performance metrics created by EIMA. With the modifications recommended by Staff, however, ComEd's Performance Metrics 1 and 2 significantly exceed the requirements of EIMA by (1) requiring a 15% improvement on top of the significant improvements already made; (2) specifically targeting reliability and resiliency in EJ and R3 communities (Staff Ex. 11.0 at 28-31); and (3) incentivizing ComEd to take additional steps to improve its performance in situations of grid stress, such as extreme weather, by eliminating all exclusions for MEDs and EWEDs. Therefore, Staff recommends that the Commission approve these metrics, with Staff's modifications.

Several intervenors also express concerns with ComEd's proposed Performance Metric 3, the "System Visibility Index," arguing that this metric will only incentivize additional spending by ComEd without requiring improved outcomes for ComEd's customers. *See, e.g*., AG IB at 33-35; IIEC IB at 25. Staff explains that Performance Metric 3 offers several potential benefits, including that it will better enable ComEd to measure reliability specifically for EJ and R3 communities. Staff Ex. 11.0 at 5. Staff disagrees with statements by witnesses for intervenors who claim that the metric is not outcome based, and explains that the mere fact that a metric may require additional spending is not a sufficient basis for rejecting that metric, so long as it will also improve service to ComEd's customers. *Id*. at 8. Staff argues, even though the technologies to implement Performance Metric 3 are not new, the metric allows ComEd to use new techniques without necessarily requiring the installation of new and expensive electric lines (poles, wires, and other distribution line equipment) to provide reliable electric services to all ComEd's customers, including ComEd's customers in EJ and R3 communities. Staff Ex. 11.0 at 32. Staff argues the engineering to implement Performance Metric 3 is sound and implementing Performance Metric 3 is justifiable, reasonable, and meaningful. *Id*. at 32. Staff therefore recommends that the Commission reject the intervenors' criticisms and approve ComEd's proposed Performance Metric 3.

In addition to ComEd's proposed Performance Metrics 1-3, at least two parties proposed alternative performance metrics designed to improve ComEd's reliability, resiliency, and power quality. The AG proposes two metrics designed to improve reliability for customers in EJ/R3 communities and for customers residing in operating zones with the lowest reliability standards. The AG recommends that these metrics be adopted as penalty-only metrics, with no opportunity for ComEd to earn a monetary incentive based on improvements to its reliability performance. Staff recommends that the Commission reject the AG's proposed metrics, because Section 108.18(e)(2)(A) does not allow for "penalty only" metrics.

CUB/EDF also propose alternative performance metrics for the reliability, resiliency, and power quality category. CUB/EDF's metric relies on a variety of reliability measurements and is designed to compare reliability performance between R3 areas and non-R3 areas. In Staff's opinion, the formulas that CUB/EDF propose to use are too cumbersome and require ComEd to lump many reliability metrics together into a single performance metric. Staff Ex. 11.0 at 9. The cost of collecting data and using those data to determine success under what is ultimately a single performance metric might be too

high to make the performance metric reasonable. *Id*. Staff does not support the adoption of CUB/EDF's proposed metric.

c. AG's Position

The AG proposes the Commission adopt two performance metrics in the Section 108.18(e)(2)(A)(i) category. Rather than adopt the Company's proposed Metrics 1 and 2, Ms. Whited and Mr. Havumaki proposed that the Commission adopt reliability metrics to improve service for "vulnerable customers experiencing exceptionally poor service," because such metrics "would make more of a difference in the lives of customers than simply targeting broad-based reliability improvements." AG Ex. 1.0 at 35. The first of these metrics would target improvements for customers residing in EJ/R3 communities, while the second metric would target improvements for customers residing in operating zones with the lowest reliability standards.

Both of Ms. Whited and Mr. Havumaki's metrics are based on EIMA service reliability targets. Under EIMA, utilities are required to report the number of customers that experienced more than six interruptions in each of the last three years or more than 18 hours of total interruption duration in each of the last three years. 220 ILCS 5/16-108.5(f)(4), 83 Ill. Adm. Code 411.140. Ms. Whited and Mr. Havumaki recommended that this standard be raised so that the Commission would penalize ComEd if the number of customers residing in EJ or R3 communities who experienced four or more interruptions in each of the last two consecutive years, or 12 hours or more of interruption in each of the last two consecutive years, was greater than the systemwide average number of customers exceeding these standards. AG Ex. 1.0 at 35; AG Ex. 2.0 at 4. To facilitate this EJ/R3-to-systemwide comparison, ComEd would also need to track systemwide performance of Ms. Whited and Mr. Havumaki's proposed reliability targets. AG Ex. 1.0 at 40. Ms. Whited and Mr. Havumaki noted, "Customers residing in EJ and equity investment eligible communities are often more severely impacted when the power goes out since they may have fewer financial resources, have less access to transportation, live in more congested quarters, or otherwise face a range of complicating factors." Id. at 35-36. The AG maintains that improving service in EJ/R3 communities would better align utility and ratepayer interests and ensure that the utility maintains adequate reliability and resiliency as measured by the experiences of consumers in EJ and R3 communities. 220 ILCS 5/16-108.8(e)(2)(C).

In response, ComEd argues that the AG's proposed metrics "are inferior to ComEd's final proposed Performance Metrics 1 and 2." ComEd IB at 32. Specifically, ComEd argues its proposed Tracking Metric 12 will track minimum service standards for EJ and R3 communities, rendering the AG's proposed incentive metrics "redundant." *Id*. at 46. While ComEd plans to track minimum service standards, it still proposes to maintain a status quo incentive metric based on an aggregate SAIDI score, instead of the actual number of customers experiencing repeated and prolonged interruptions, as the AG proposes. The AG's proposed incentive metrics are not redundant or inferior to ComEd's metrics, because unlike ComEd's incentive metrics, they accurately reflect the experiences of customers and are more likely to identify pockets of poor service reliability that can then be addressed before the customers experience multiple years of poor service.

The AG asserts that one option available to the Commission is to assign between 5 and 10 basis points to this metric on a penalty-only basis (which matches ComEd's proposal to apply half of the basis point incentive to reliability). If the Commission chooses to assign a 5-10 basis point penalty to this metric, it would simply need to increase the number of rewards for other metrics by a total of 5-10 basis points to ensure overall symmetry, as required by P.A. 102-0662. Alternatively, the Commission could apply 2.5 basis points of a maximum of 20 basis points to each metric, consistent with Staff's recommendation to equally apply the basis point incentives/penalties to each metric.

Ms. Whited and Mr. Havumaki's second proposed metric would target reliability in operating zones with the least reliable service. Ms. Whited and Mr. Havumaki proposed this metric in light of the uneven reliability performance in ComEd's four operating zones, and in response to CUB witness Barbeau's concern that ComEd might allow service in other areas to deteriorate, while seeking to improve reliability in EJ/R3 communities. AG Ex. 2.0 at 4. ComEd has four operating zones across its service territory: Chicago, Northeast, Northwest, and Southern. AG Ex. 1.0 at 30. ComEd's reliability performance across these zones varied significantly from 2013-2021. AG Ex. 1.0 at 31-33.

The AG states that not all of ComEd's customers experience the same levels of reliability and resilience. AG Ex. 1.0 at 33; AG Ex. 2.0 at 5. Further, EIMA included separate reporting and penalties for performance in ComEd's Northeast and the Southern operating areas with greater improvements required. 220 ILCS 5/16-108.5(f)(3) and (3.5) (20% improvement in the Southern and Northeast areas compared to 15% systemwide improvement). In light of these differences, the existing metrics based on ComEd operating areas, and P.A. 102-0662's emphasis on equity and affordability, Ms. Whited and Mr. Havumaki proposed that the Commission adopt a metric to improve reliability in the Company's zones with the worst reliability and resilience performance. This metric would be based on minimum service standards, rather than the Company's SAIDI score, include all MEDs, and be penalty-only.

Under Ms. Whited and Mr. Havumaki's proposed Operating Zone PIM, the Commission would penalize ComEd if the percentage of customers experiencing four or more outages in three consecutive years or twelve or more hours of total interruption duration over three consecutive years exceeded 0.15% in Year 1, 0.14% in Year 2, 0.13% in Year 3, 0.12% in Year 4, or 0.11% in Year 5, based in part on the data in Table 3 above. AG Ex. 2.0 at 6-8:104-134. They noted that "Once the Commission, the Company, and other parties have more experience with this PIM, it may be appropriate to tailor the targets for each zone to make the performance targets more stringent." AG Ex. 2.0 at 7.

In response, ComEd witness Arns argued that the Company prioritized areas based on "needed reliability improvements, not based on geographic boundaries." ComEd Ex. 5.0 at 25. However, Ms. Whited and Mr. Havumaki pointed out, "A systemwide minimum service PIM fails to account for the fact that some zones experience much worse reliability than others." AG Ex. 2.0 at 7. The AG demonstrates that both Ms. Whited and Mr. Havumaki's EJ/R3 PIM and Operating Zone PIM "would help reduce the disparity in reliability performance observed across the Company's service territory, with a focus on addressing the customers suffering extremely frequent or long duration outages year after year." *Id*. at 7-8. Also, these PIMs are preferable to ComEd's SAIDI metrics because they more accurately reflect the experiences of customers and are more

likely to identify pockets of poor service reliability that can then be addressed before the customers experience multiple years of poor service.

The AG maintains that one option available to the Commission is to assign between 5 and 10 basis points to this metric on a penalty-only basis (which matches ComEd's proposal to apply half of the basis point incentive to reliability). If the Commission chooses to assign a 5-10 basis point penalty to this metric, it would simply need to increase the number of rewards for other metrics by a total of 5-10 basis points to ensure overall symmetry, as required by P.A. 102-0662. Alternatively, the Commission could apply 2.5 basis points of a maximum of 20 basis points to each metric, consistent with Staff's recommendation to equally apply the basis point incentives/penalties to each metric.

For these reasons, the AG requests that the Commission reject ComEd's proposed PBR structure, or in the alternative, reject ComEd's proposed Performance Metrics 1 and 2 and adopt the AG's proposed reliability incentive metrics.

d. CUB/EDF's Position

To address the particular hardships experienced by EIECs as a result of outages, and the evidence that EIECs experience more frequent and longer duration outages than their non-EIEC geographically comparable neighbors, Mr. Barbeau developed a metric to compare the Company's performance on reliability and resiliency in EIECs versus comparable non-EIECs.

CUB/EDF state that granular outage data of ComEd's service territory speaks to this comparison. More urban areas, with their topography, geographic location, higher population and lineman workforce, and embedded infrastructure, generally avoid more outages and restore outages more quickly. However, controlling for geography and comparing granular outage usage data revealed a disturbing trend. Mr. Barbeau analyzed outage data for the City of Chicago, which has a large percentage of the service territory's EIEC Census blocks, but also contains a significant population of non-EIECs. CUB/EDF Ex. 4.0 at 22. The weather and topography of EIECs is generally the same as in non-EIECs in Chicago. The results showed:

- EIECs in Chicago experienced outages 83% more frequently than non-EIECs in Chicago.
- EIECs in Chicago had outages 140% longer than non-EIECs in Chicago.
- EIECs in Chicago were 11.75 times more likely to have 4 or more outages in that year, as compared to non-EIECs in Chicago.
- EIECs in Chicago were 4.26 times more likely to have an outage lasting more than 12 hours than non-EIECs in Chicago.

CUB/EDF state that EIECs are most vulnerable to hardship from extended and frequent outages. CUB/EDF Ex. 1.0 at 16; *see also* CUB/EDF Ex. 2.0 at 5-8. Therefore, CUB/EDF contend it is critical that those communities should not only meet, but should exceed, reliability performance for other customers in similar geographic locations. CUB/EDF argue ComEd's metric does not offer an apples-to-apples comparison between reliability in EIECs versus non-EIECs with similar geographic areas. As a result, the

outcomes that would be rewarded by the two indices in ComEd's metric, systemwide SAIDI and systemwide improvements to SAIDI in EJ/R3 communities (rather than to geographically similar non-EJ/R3 communities) closely resemble the same actions ComEd would likely have taken under the EIMA structure. CUB/EDF conclude that does not meet the statute's goals.

CUB/EDF posit the General Assembly had good reason to specifically mandate equity in reliability metrics. Outages have an exponentially detrimental impact for vulnerable communities as compared to wealthier communities. Customers in EJ communities and EIECs experience higher levels of societal burdens that make them more susceptible to hardship related to extended service disruptions, including higher exposure to air toxics, respiratory hazards, surface-level pollutants such as particulate matter and ozone, lead paint, hazardous waste sites, and wastewater discharge. CUB/EDF Ex. 1.0 at 18-19. They also generally experience lower high school graduation rates, linguistic isolation, lower incomes, higher populations of young children and seniors, historical economic disinvestment, high levels of violence, unemployment, child poverty, and commitments to and returns from the Illinois Department of Corrections. *Id*. at 19. The cumulative impact of these existing burdens means the impacts of service disruptions are felt harder by environmental justice and EIEC communities. Therefore, Mr. Barbeau proposed a metric in his Alternative Plan that incentivizes improved reliability and resiliency in vulnerable communities while also ensuring no degradation to systemwide performance improvements achieved under the EIMA. The Alternative Plan metric compares reliability in equity investment eligible communities with non-equity investment eligible communities, while controlling for geography, and rewards the Company for performing better in EJ/R3 communities versus comparable customers.

The Staff Report recommended that multiple metrics and/or a multi-factor performance metric may be needed to meaningfully incentivize utility performance in the area of reliability and resiliency. Staff Report of December 1, 2021 at 16. Stakeholder participants in the workshops specifically recommended tracking SAIDI and SAIFI in disadvantaged and environmental justice communities. *Id*. at 17. In line with these recommendations, the Alternative Plan utilizes four equity-focused indices, as well as two indices that ensure there is no degradation in the significant performance improvement achieved through previously established performance metrics, per the requirements in 220 ILCS 5/16-108.18(e)(2). CUB/EDF Ex. 4.1 at 6-13. Recognizing the particular hardships experienced by communities and customers in EIECs due to power disruptions, the Alternative Plan metric seeks to measure whether the reliability and resiliency performance in EIECs is better than the reliability and resiliency in non-EIECs, controlling for geography.

With respect to mechanics, the metric consists of several indices that measure the number and duration of power interruptions, number of customers experiencing multiple interruptions, and number of customers experiencing long-duration interruptions. These indices allow for a comparison of reliability and resiliency performance for vulnerable customers. The indices are:

- SAIDI: System Average Interruption Duration Index, which is measured in minutes and represents the average length of outages for customers in a year

- SAIFI: System Average Interruption Frequency Index, which is the average number of outages in a year for customers
- CEMI4: Customers Experiencing Multiple Interruptions (four or more in a year)
- CELID: Customers Experiencing Long Duration Outages

For each index, ComEd's performance in EIECs vs. non-EIECs in comparable geographies is measured against the performance target; up to 10 basis point incentives or penalties are based on a sliding scale within a performance band of 90-110% of the annual target. CUB/EDF Ex. 4.0 at 32-33. Originally, Mr. Barbeau proposed a performance band of 75% to 125%, replicating the energy efficiency ("EE") performance metrics. In the spirit of compromise, Mr. Barbeau revised his proposal on rebuttal making it easier for ComEd to achieve the full performance bonus. *Id*. Ultimately, ComEd is eligible for the full performance bonus when SAIFI, SAIDI, CEMI, and CELID are each 19% better in EIECs than their same-county non-EIECs by year. *Id*. at 33. Because of the significant population difference between Cook County and other counties, the metric also includes a provision that allows for measurement within a designated geographic area other than a county when the county population exceeds 1 million. *Id*. That nuance separates the City of Chicago from suburban Cook County. *Id*.

CUB/EDF assert the reliability metric should track utilities' performance in EIECs versus non-EIECs in an apples-to-apples way. CUB/EDF argue this metric is a prime example of the importance of P.A. 102-0662's new framework and goals. Locational reliability matters; it is a key component of distributional equity in grid investments. CUB/EDF would consider it contrary to the statutory directives to adopt ComEd's metric, which would reward the Company for actions encouraged by the EIMA that the legislature explicitly deemed not sufficiently transformative. Instead, CUB/EDF urge the Commission to adopt the Alternative Plan's "Reliability and Resiliency in Vulnerable Communities," set forth in detail CUB/EDF Ex. 4.1 at 6-13.

e. JSP/ELPC/VS's Position

The Solar Intervenors support the RRVC metric proposed by CUB/EDF witness Barbeau (CUB/EDF Ex. 1.0 at 18) and supported by ELPC/VS witness Kenworthy (ELPC/VS Ex. 1.0 at 21).

Mr. Kenworthy discussed steps that other Midwest states have been taking to assess and improve locational reliability, including in Minnesota and Michigan. *Id*. He concluded that the proposed RRVC metric "improves on the recent work done in this area in Michigan and Minnesota." *Id*.

As noted by Mr. Kenworthy, "[P.A. 102-0662] launched Illinois into a leadership role" with a clear statutory intent to ensure equitable service quality in environmental justice and other disadvantaged communities. *Id*. Therefore, the Commission should approve Mr. Barbeau's proposed RRVC metric to "ensure that Illinois utilities do not lag behind utilities in neighboring states on developing tools to assess locational reliability and equity." *Id*.

f. Commission Analysis and Conclusion

The AG's proposed performance metric is similar to ComEd's Performance Metric 2, but it relies on an asymmetrical "penalty-only" structure. The Commission is not persuaded by this approach at this time and rejects the AG proposal.

ComEd and Staff both note that CUB/EDF's RRVC proposal combines multiple metrics together to form one metric. ComEd and Staff question whether the costs of collecting the data as CUB/EDF propose would be reasonable. The Commission, however, notes that ComEd's proposed approach to measuring the reliability improvements in EJ/R3 communities by using SAIDI only may result in presenting incomplete picture of actual changes in these communities as compared to system-wide improvements, and adopts some elements of CUB/EDF's proposed RRVC metric, with additional points to incentivize this metric as discussed in the Order.

3. Basis Points

a. ComEd's Position

ComEd asserts that the Commission should approve ComEd's proposed basis allocation for ComEd's final proposed Performance Metrics 1 (15 basis points), 2 (10 basis points), and 3 (five basis points) on a 60 total basis point scale. ComEd contends that the allocation is reasonable because reliability, resiliency, and power quality are critical to customers, and the basis points appropriately incentivize ComEd to align its interests with those of the customer, as identified in the statute.

ComEd notes that Staff and AEE take the position that ComEd has placed too much emphasis on reliability metrics – both in terms of number of metrics and basis point allocation. ComEd argues this position ignores both the impact of grid reliability and resiliency on customers and the increasing importance of the grid as a foundation for renewable energy growth. ComEd contends it also ignores the statutory requirements for metrics focused on reliability, resiliency, and power quality, as well as on EJ and R3 communities. ComEd explains that the record demonstrates that a focus on reliability, resiliency and power quality is warranted for many reasons, including: (1) that the metrics will encourage investments in grid reliability, resiliency, and power quality that promote and support renewable and distributed energy, which is a primary focus of P.A. 102-0662; (2) that ensuring reliability is critical to supporting various economic activities in our communities, and improving reliability and resiliency, both system-wide and specifically in EJ and R3 communities, also supports the equitable benefits across the utility's service area; and (3) that today's society is increasingly dependent on a reliable source of energy in all aspects of life, and customers expect utilities to meet their power needs at all times.

b. Staff's Position

Staff states that, in total, ComEd recommended that 30 of the 60 total basis points it requests be assigned to the three resiliency and reliability metrics. As explained in Section IV of this Order, Staff recommends that the Commission reject ComEd's proposed basis point allocation and instead assign a total of six basis points to this category, divided evenly amongst ComEd's three proposed metrics.

c. AG's Position

The AG requests that the Commission reject ComEd's proposal to assign thirty symmetrical basis points (half of its overall basis point assignments) across its three reliability metrics (15 basis points for Performance Metric 1, 10 for Performance Metric 2 and 5 for Performance Metric 3). The AG states that ComEd has a core obligation to provide safe and reliable service. ComEd already receives a return on reliably and resiliency investments through rate base. A key principle of P.A. 102-0662 is to align utility and ratepayer interests, provide incentives where none currently exist, and ensure that investments are equitable, affordable, and cost-effective. To this end, the AG maintains that ComEd should only be rewarded for investments that it would not make—absent the PBR structure. AG witnesses Whited and Havumaki noted "If a utility is rewarded for something that it would have achieved without the PIM, then the PIM does nothing to enhance performance, while increasing costs for ratepayers since they are paying more for what they would have received anyway." AG Ex. 1.0 at 15.

The AG notes that ComEd argues "the likelihood of a particular metric category being included in the utility's rate base is not relevant to the assignment of basis points" because "[t]he purpose of the statute is to provide incentives/penalties in addition to the normal rate base investment mechanism to further encourage utilities to improve and/or redirect performance." ComEd IB at 22. The AG points out that ComEd's position clearly contradicts P.A. 102-0662, which states that metrics should provide "targeted incentives to support change through a new performance-based structure to enhance ratemaking is intended to enable alignment of utility, customer, community, and environmental goals." 220 ILCS 5/16-108.18(a)(3). The Staff Report also emphasized that "[p]erformance metrics should incentivize utilities to achieve goals that are not otherwise incented elsewhere." Staff Report at 32. ComEd's proposed metrics, which would simply provide duplicative rewards to shareholders for continuing the status quo, do not "support change" or "enable alignment of utility, customer, community, and environmental goals," as envisioned by P.A. 102-0662. Further, the AG notes that ComEd has not calculated the costs associated with these metrics, making it impossible for the Commission or stakeholders to determine whether the benefits to ratepayers associated with these metrics outweigh their costs, as required by P.A. 102-0662. 220 ILCS 5/16-108.8(e)(2)(F).

The AG requests that the Commission only approve reliability metrics on a penalty-only basis, because ComEd already has ample incentives to maintain reliable and resilient service. The AG recommends that the Commission remove the incentive basis points for Performance Metrics 1 and 2, and instead adopt a penalty-only PIM. In order for the total number of basis points to be symmetrical, those penalty only basis points would then be added to the incentive for another metric or metrics that have more positive effects on ratepayers.

In response, ComEd argues that "[t]he Commission should reject the recommendations that call for 'lopsided' metrics as violative of Section 5/15-108.18(e)(2)(B)'s symmetry requirement." ComEd IB at 25. The AG maintains that ComEd misinterpreted the plain language of the statute which seeks to align ratepayer and utility interests through a series of incentives which may be "rewards or penalties or both" so long as "the total amount of potential incentives shall be symmetrical." 220 ILCS

5/16-108.18(e)(2)(B). The AG requests that the Commission disregard ComEd's erroneous and unreasonably constrained interpretation and instead assign "rewards or penalties or both" in a manner that best aligns utility and ratepayer interests in a cost-effective, affordable, and equitable manner and ensures that benefits outweigh costs to customers.

Even if the Commission fails to adopt penalty-only reliability PIMs, the AG requests that the Commission not assign such a high number of basis points to ComEd's reliability metrics. The AG shows that the Commission should not approve 30 basis points for the Company's three reliability metrics – half of the requested 60 basis points, when ComEd is already incented to invest in reliability, the metrics are not meaningfully stronger than existing service standards, and ComEd has not even estimated the costs to achieve these metrics. Instead, the AG asks the Commission to reject the Company's proposed PBR structure, or in the alternative reject ComEd's proposed reliability basis point allocation and approve the AG's proposed penalty-only reliability metrics.

d. CUB/EDF's Position

CUB/EDF argue due to the relative importance of this metric as compared to others in achieving the statutory goals, and the historical level of incentives for reliability improvements, it is appropriate to allocate 10 basis points of incentives or rewards to the Reliability and Resiliency in Vulnerable Communities metric.

e. Commission Analysis and Conclusion

The basis point allocation as it pertains to these metrics is discussed in Section IV.B and C of this Order. The Commission approves 5 basis points for Performance Metric 1 and 5 basis points for Performance Metric 2 and rejects Performance Metric 3 altogether, as noted above.

ComEd notes, and no party disputes, that performance metrics related to reliability and resiliency are more difficult to achieve than other metrics and most directly benefit ComEd's customers and the grid. Further, a more intense focus of the Performance Metric 2 on the EJ and R3 communities is directed by the P.A. 102-0062 itself. *See e.g.* 220 ILCS 5/16-108.18(c)(1). Accordingly, we find a greater allocation of basis points to these metrics reasonable and appropriate.

B. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(ii) (peak load)

1. ComEd Proposal

a. ComEd's Position

ComEd argues the Commission should approve ComEd's final revised peak load reduction ("PLR") performance metric, which complies with the statute and will achieve benefits for customers. ComEd states that it proposed a very robust PLR performance metric in its original January 20, 2022 filing. ComEd then made major changes to its proposal in its rebuttal and surrebuttal testimony in light of Staff and intervenor testimony. ComEd states that its final revised proposal reflects a net beneficial four-year PLR performance metric that reflects the best inputs from Staff and intervenors.

ComEd states that as a result, the final revised proposed PLR performance metric focuses on achieving reductions in peak load in the same way that PJM Interconnection, LLC ("PJM") (the regional transmission organization that includes the ComEd service territory) measures peak load for its wholesale capacity market. ComEd explains that the metric targets load reductions that can be associated with obtaining value in the PJM capacity market, resulting in potentially reduced capacity costs passed through to customers. ComEd states that this allows ComEd to focus its metric portfolio on a key value stream that allows a clear measurement framework to evaluate its performance.

ComEd removed the following programs from the portfolio as a concession to Staff and certain intervenors: (1) ComEd's existing or future EE and demand response efforts that are part of its EE and demand response plans adopted and compensated under Section 8-103B of the Act, 220 ILCS 5/8-103B; (2) ComEd's Voluntary Load Reduction ("VLR") program; and (3) existing private and community solar generation.

ComEd explains that the program design includes: (1) ComEd's existing demand response program portfolio with its Central AC Cycling – Direct Load Control, Peak Time Savings, and Dynamic Pricing ("Rider RRTP") programs that is not part of its plan adopted under Section 8-103B; (2) future new solar programs and projects that are verified by third-party analysis as being a direct result of ComEd's PLR performance metric activities; and (3) future EE programs developed for this metric that are not incentivized through the plans adopted and compensated under Section 8-103B. ComEd states that its final PLR metric design thus includes existing and future programs that are suitable and efficient means to achieve the targeted peak load reductions and that are not subject to the arguments made by Staff and some intervenors for removal of the programs that ComEd has excluded (referenced above). In the event that programs developed in the future are appropriate for this metric, ComEd states that it will add them to the PLR "stack" without making additional changes to the baseline, targets or incentives and penalties. ComEd argues that the flexibility to add new programs to the existing program stack is necessary for several reasons, e.g., some of the existing programs might experience a decline in customer usage or be discontinued.

ComEd's proposed baselines, deadbands, and targets are shown in the following table:

Peak Load Reduction Performance Metric Projected Baseline Target, Deadband, and Penalties/Incentives

Year	-2 to 0 bps	0 bps (Deadband)	0 to +2 bps
2024	0 MW to 99.8 MW	from 99.9 MW to 119.7 MW	119.8 MW to 171.8 MW or higher
2025	0 MW to 96.1 MW	from 96.2 MW to 116 MW	116.1 MW to 230.1 MW or higher
2026	0 MW to 92.4 MW	from 92.5 MW to 112.3 MW	112.4 MW to 288.4 MW or higher
2027	0 MW to 88.9 MW	from 89 MW to 108.8 MW	108.9 MW to 346.9 MW or higher

ComEd Ex. 20.0 at 10.

ComEd states that it has made the final baselines and targets more difficult to achieve in light of testimony from Staff and some intervenors asserting that ComEd's original or rebuttal proposals baselines or targets were too easy to achieve. ComEd explains that the expanded deadband is designed to accommodate variances and unknowns, and to only include penalizing or incentivizing changes in the existing program stack that exceed 10 MW. ComEd notes that the targets are not symmetrical around the baselines, but that is appropriate and necessary for a PLR performance metric designed around capacity pricing. Moreover, ComEd argues imposing such symmetry would require changes to the design that would be detrimental to customers.

To address concerns that utility incentives could exceed customer benefits, ComEd notes that the final metric design reflects a benefits-sharing model. ComEd explains that the model estimates the value to customers of the increase in the portfolio of peak load reduction in megawatts ("MW") compared to the incentives earned by ComEd. Conversely, ComEd states the model calculates the total penalty for underperformance and loss of portfolio size and looks to create relative symmetry with the incentives. ComEd explains that as a result of the model, ComEd proposed that the final PLR metric be allocated no more than 2 basis points, regardless of the total basis points. ComEd states that any concerns that the incentive paid for achievement of a target is larger than the estimated value to customers of the increase in PLR in MWs is thus ameliorated. Conversely, ComEd states the model calculates the total penalty for underperformance and loss of portfolio size and looks to create relative symmetry with the incentives.

ComEd argues the Commission should reject the proposal of CUB/EDF witness Barbeau, who claimed that ComEd's rebuttal revised proposal was flawed because it did not identify and address peak load impacts from EVs and building electrification. ComEd states that such a narrowly focused metric would not provide as much benefit as ComEd's final revised proposed PLR performance metric, which is designed to include all types of load, including load from EVs and building electrification. In addition, ComEd states that the flexibility provided by ComEd's final revised proposed metric allows for new programs to be added in the metric's program stack, including programs developed as electrification occurs and as cost-effective ways of reducing load attributable to electrification are identified. ComEd recommends the Commission should, instead, adopt ComEd's revised metric.

ComEd notes that Staff agrees with ComEd's proposal regarding the programs that comprise the metric, the program stack, and that it should be approved, but opposes ComEd's proposed penalty and reward structure.

First, ComEd disagrees with Staff's claim that the metric involves little or no risk, noting that programs within the current stack of the existing portfolio are at risk of being discontinued. Second, ComEd states that with respect to Staff's complaint about ComEd potentially being rewarded "year after year", the design of risks and rewards is reasonable and fair. ComEd explains that, in response to the request to align the incentives to the benefits the customer receives, it has designed the metric and incentives to be as closely related for incentives and benefits as possible within the bounds of a symmetrical metric design. Third, ComEd states that Staff's inference that ComEd assumes new enrollments will persist during the entire metric period is incorrect. ComEd explains that ComEd must

continue to add new MWs to the portfolio through expansion of existing programs or addition of new programs to alleviate issues of attrition of existing customers in order to meet the targets.

ComEd disagrees with NRDC's argument that the metric be modified to measure total demand, instead of a specific number of megawatts. ComEd contends that if NRDC's recommendation were to be adopted, then strides made toward beneficial electrification (i.e., more load) would necessarily penalize ComEd for achieving that goal by making it more difficult to achieve the target levels of its PLR performance metric.

ComEd states that AEE's opposition against the metric reflects a misunderstanding of ComEd's proposed approach to measuring the benefits. ComEd explains that the types of benefits of the PLR metric include the value of capacity as determined in the PJM Interconnection, avoided transmission and distribution costs, energy savings as valued in EE programs, avoided effluents and new taxes. ComEd states that not all solutions that ComEd could adopt would include all potential benefits. In addition, ComEd explains that the removal of programs that are designed to assist with distribution level congestion also changes the baseline that is used for this metric. ComEd notes that does not preclude ComEd from looking for ways to develop new programs that provide reductions in overall capacity as well as help with other benefits.

ComEd also rejects the AG's arguments on this metric. Specifically, the AG argues that: (1) if the Commission approves ComEd's proposal, then the Commission should order ComEd to reset the metric design based on the prior year results; (2) if ComEd is allowed to include in the program stack future new EE programs developed for this metric that are not incentivized through the plans adopted and compensated under Section 8-103B of the Act, the inclusion conceivably could violate the Section 8-103B "cost cap"; (3) the inclusion of such EE programs might lead to double recovery of incentives by ComEd under the metric and Section 8-103B; (4) if ComEd is allowed to include in the program stack future new solar programs and projects that are verified by third-party analysis as being a direct result of ComEd's PLR performance metric activities, the inclusion might lead to double recovery under the metric and Section 16-107.6 of the Act; (5) ComEd did not show that its proposal is net-beneficial; and (6) ComEd's cost-benefit analysis did not factor in the rewards that ComEd might earn for meeting the target levels.

First, ComEd explains that the AG's position on year-over-year resetting of the metric design suffers from the same flaws as Staff's, in that it fails to account for the value of peak load reductions that are added and sustained through the program years. ComEd explains that the AG's position of an incremental 60 MW from the previous year, while providing a mechanism to account for forecast variances, would actually provide fewer overall benefits to customers than a scenario where the full 240 MW of peak load reduction were achieved in year one and sustained through the performance years as explained in ComEd's Surrebuttal Testimony. ComEd notes that the AG has also failed to describe how the penalty structure would occur and remain symmetrical under its "annual resetting" proposal.

Second, ComEd states that the AG's Section 8-103B(m) cost cap argument does not make sense and is not applicable. ComEd notes that it previously removed all existing EE programs from the metric's program stack in ComEd's Rebuttal, and that it further

modified the metric design so that future new EE programs may be added to the program stack only if they are not incentivized through the plans adopted and compensated under Section 8-103B of the Act.

Third, ComEd states the AG's EE program double recovery concern lacks merit for those same reasons.

Fourth, ComEd argues that the AG's double recovery argument is incorrect because the relevant tariff provisions do not reward the same things as the proposed metric. Rather, ComEd explains that the tariff provisions compensate customers and the utility for specific grid services, and the metric incentivizes desirable utility performance in load reduction.

Fifth, ComEd states that it has shown that its proposed PLR performance metric is net-beneficial. ComEd notes that its final revised proposal is expected to have limited or no incremental costs associated with achievement of the targets, but also argues that it is not appropriate to expect ComEd to provide detailed cost information about these future programs (including programs that may not yet exist) in this proceeding.

Finally, ComEd states that the AG's argument, that ComEd's cost-benefit analysis from the outside experts is flawed for not factoring in the potential incentives for achieving the metric's targets, fails for two reasons. First, ComEd explains that the incentives properly are not factored into the cost-benefit analysis, for numerous reasons provided by the outside experts from Black & Veatch. Moreover, ComEd notes that the AG does not mention, much less address, the addition of the ComEd-customers benefits sharing feature to ComEd's proposal in Surrebuttal. That feature prevents incentives from exceeding customer benefits.

ComEd contends that its final revised PLR proposal meets the requirements of Section 16-108.18(e)(2)(A)(ii) of the Act, which calls for a performance metric that provides for "[p]eak load reductions attributable to demand response programs." ComEd notes that the statute does not define "peak load," which can have many possible meanings, but ComEd's selection of PJM's system-wide coincident peak level certainly comports with the language. ComEd notes that Section 16-108.18(b) defines "demand response" very broadly to mean "measures that decrease peak electricity demand or shift demand from peak to off-peak periods." ComEd states that its proposal meets that definition because it is designed to reduce peak load.

ComEd states that the benefits of ComEd's final revised proposed PLR performance metric are significant. Outside experts, Mr. Zarumba and Mr. Shields of Black & Veatch, identify several quantitative potential benefits of the final revised proposed PLR performance metric, including the value of capacity as determined in the PJM Interconnection market, potential avoided transmission and distribution system investments, potential energy savings, potential avoided effluents, and new tax revenues. ComEd explains Mr. Zarumba and Mr. Shields conservatively estimate the capacity market benefits of the final revised proposal as provided in the table below.

Updated Peak Load Net Benefits

Updated Peak Load Net Benefit Calculation	2024	2025	2026	2027
Target Load Reduction (MW)	**109.8**	**106.1**	**102.4**	**98.9**
Capacity Price - $/MW-year	$25,170	$25,170	$25,170	$25,170
Total Value	$2,763,666	$2,670,537	$2,577,408	$2,489,313

ComEd Ex. 25.0 at 6

ComEd explains the Black & Veatch calculation is inherently conservative: it does not reflect potential future capacity cost increases, nor does it include any of the other potential quantitative or qualitative benefits. ComEd states that its final revised proposal is expected to have limited or no incremental costs associated with achievement of the targets.

ComEd states that as the analysis above shows, contrary to the suggestion of IIEC witness Stephens that the metric's net benefits cannot be assessed with precision at this time, the Commission can conclude that ComEd's revised proposal is net-beneficial.

In its RBOE, ComEd notes it does not oppose Staff's compromise position regarding ComEd's final PLR performance metric. ComEd believes that Staff's compromise proposal will yield a PLR performance metric that is supported by the evidence in the record, practicable, and achievable.

ComEd understands Staff's compromise proposal includes the following modifications: (a) two basis points would be assigned to penalties and incentives for the PLR performance metric; and (b) the ranges for penalties, the deadband, and incentives would be as set forth in the Table below, where "actual PLR" means the actual peak load reductions achieved in a given year attributable to ComEd's final revised program stack for this metric.

ComEd's Understanding Regarding Staff Compromise Proposal

Year	-2 to 0 bps	0 bps (Deadband)	0 to +2 bps
2024	0 to 10 MW above 2023 actual PLR	10 to 50 MW above 2023 actual PLR	50 to 60 MW above 2023 actual PLR
2025	0 to 10 MW above 2024 actual PLR	10 to 50 MW above 2024 actual PLR	50 to 60 MW above 2024 actual PLR
2026	0 to 10 MW above 2025 actual PLR	10 to 50 MW above 2025 actual PLR	50 to 60 MW above 2025 actual PLR
2027	0 to 10 MW above 2026 actual PLR	10 to 50 MW above 2026 actual PLR	50 to 60 MW above 2026 actual PLR

ComEd adds that the following evidentiary citations are intended to show that Staff's compromise proposal meets the applicable evidentiary standards. ComEd notes the citations are not intended to be exhaustive. ComEd states the basis points component

of Staff's compromise proposal is supported by ComEd witness Kirchman's surrebuttal testimony in ComEd Ex. 20.0 at 3 and 15. ComEd concludes that the widths and formulae in Staff's compromise proposal's penalty, deadband, and incentive ranges are reasonable but very challenging compromises between the proposals of Staff and ComEd. *Id*. at 8, 16-19; ComEd Ex. 20.01 (CORR.). That conclusion takes into account ComEd's Surrebuttal Testimony regarding what is practicable and achievable based on ComEd's final revised program stack. That conclusion also factors in the differences in structures of the two proposals. ComEd's final revised proposal had a deadband centered on the expected results of the existing programs in ComEd's final revised program stack. Staff's compromise proposal ratchets up all three ranges each year based on the prior year's results. Accordingly, based on the foregoing considerations and in the interests of narrowing the issues, ComEd does not oppose Staff's compromise proposal.

b. Staff's Position

Staff recommends that ComEd's final proposal for a PLR performance metric be accepted but disagrees with its proposal for the related penalty and rewards structure. Staff notes that initially, ComEd's proposed PLR performance metric comprised of a composite of ComEd's load reduction capability across its Demand Side Management ("DSM") portfolio, including residential demand response, commercial demand response, dynamic pricing, EE, and additional programs including community and rooftop solar. ComEd Ex. 13.01 at 10-11. In its rebuttal testimony, ComEd agreed with Staff and other parties that EE and VLR programs should not be included in the metric. ComEd Ex. 6.0 at 3-4.

Staff explains that, as a result of ComEd's revisions, the Company's target is too low. Staff Ex. 12.0 at 4. Additionally, Staff notes that more than 80% of the projected reductions under ComEd's revised proposal were attributable to community and private solar. *Id.* Staff witness Brightwell noted that projections regarding the growth of solar are highly variable, and that it was possible that ComEd could meet or exceed the metric targets without any incremental effort, simply because the solar projections were too conservative. *Id.* at 5-8.

Staff notes Dr. Brightwell proposed a new structure for the performance targets in the PLR performance metric. Dr. Brightwell recommended a substantially increased "deadband" of 75 MW within which no penalty would be assessed, nor would any incentive be earned. *Id.* at 10. This larger deadband, Dr. Brightwell explained, would protect against the uncertainty in forecasts and provide a buffer to ensure that ratepayers are more likely to experience benefits from the peak load reduction metric. *Id.* Dr. Brightwell proposed incremental savings targets of 315 MW per year in order to achieve the full 5 or 6 basis point incentive. *Id.* at 10-11.

In surrebuttal testimony, ComEd proposed removing all of the solar programs from the PLR performance metric, revising the metric's targets, and reducing the basis points allocated to the metric. ComEd Ex. 20.0 at 8. Staff supports ComEd's revised proposal regarding which programs should be included in ComEd's PLR performance metric.

While Staff agrees with the composition of ComEd's proposed PLR performance metric, Staff recommends that the Commission reject the proposed performance targets and penalty/reward structure, as revised in the Company's surrebuttal testimony.

ComEd's proposal is not symmetric in any reasonable definition of the word, as there is virtually no possibility of ComEd ever being penalized for failing to meet its reduction targets. Additionally, under the Company's proposal, a reduction level achieved in one year may not only receive an incentive in that year, but it could also continue to earn an incentive in future years, even if no additional reductions are achieved.

Staff's proposed baseline for the penalty range of this structure (-2 to 0 basis points) is that the maximum value in the penalty section is 10 MWs less than the Company projects it would achieve from its "Peak Time Savings, Central AC Cycling – Direct Load Control and Real Time Pricing (Hourly)" programs if there was no performance metric in place. For example, in 2024 the Company projects that the Peak Time Savings, Central AC Cycling – Direct Load Control and Real Time Pricing (Hourly) programs will reduce peak load by 109.8 MW if there is no performance metric to motivate greater reductions. The 99.8 MW value in the -2 to 0 basis points column for 2024 in the table above represents 10 MWs less than the 109.8 MW reductions the Company projects to occur without a performance metric related to peak load reductions. Staff Cross Ex. 4.0. As a result, the chance of being penalized is virtually non-existent. The Company will only be penalized if: 1) the Company's projections have a forecast error of greater than about 10% (in absolute value terms) with no offsetting increase in peak load reductions from new customers; and/or 2) the results of the Company's efforts decrease rather than increase peak load reductions; and/or 3) a combination of a forecast error and Company efforts lead to reduced peak load reductions. All of these outcomes are so unlikely as to border on absurd; the Company will face no penalty in any realistic scenario.

Staff asserts that compounding the problem, if the Company achieves real reductions in one year but no reductions in any future years, the Company may still receive an incentive in the later years. For example, if the Company achieves 130 MWs of reductions in 2024 and maintains that level in 2025-2027 the Company (under the assumption of 2 basis points being assigned to the PLR performance metric) would receive 0.40 basis points for that reduction in 2024, another 0.24 basis points in 2025, another 0.2 basis points in 2026 and 0.18 basis points more in 2027. Staff Cross Ex. 2.0. Essentially the Company receives 1.02 basis points in rewards over four years for the 20.2 MW reduction (assuming no forecast error in the projection) that it achieved in the first year.

To remedy the problems with ComEd's proposed incentive structure, Staff recommends that the Commission adopt Dr. Brightwell's proposal presented in his rebuttal testimony Staff Ex. 12.0, with some modifications necessitated by ComEd's surrebuttal testimony. Dr. Brightwell proposed annual incremental increases of 0 to 120 MW would result in penalties that are linear and that depend on the level of reductions achieved. Dr. Brightwell also proposes a deadband from 120 to 195 MWs for which neither penalties nor rewards are assessed. Under his proposal, rewards are assessed for incremental savings of 195 to 315 MWs with any savings above 315 MWs receiving the full basis points rewards. Staff Ex. 12.0 at 14-15.

Dr. Brightwell's proposal assumes 5 or 6 basis points are assigned to the peak load metric and that about 30 MWs per basis point are needed for ratepayers to break even. Staff Ex. 12.0 at 11. A full reduction of 315 MWs is equivalent to 10.5 basis points of benefits, with 5 or 6 basis points of benefits going to the Company and 4.5 to 5.5 basis

points of benefits going to the ratepayers. If a lesser number of basis points are assigned to the peak load metric, Dr. Brightwell acknowledges that smaller amounts of reductions are necessary for both the Company and ratepayers to benefit. *Id.*

ComEd correctly points out that some of the savings acquired in a given year will persist into future years, but Staff calculated 30 MWs per basis points of savings assuming a one-year lifetime for the PLRs. ComEd Ex. 20.0 at 10. As a result, ComEd suggests that fewer than 30 MW per basis point are necessary for ratepayers to break even. *Id.* While Staff acknowledges that benefits may persist beyond the first year, ComEd's analysis is also flawed. The Company's analysis assumes all new enrollments will persist for the full life of the program, (for example, a MW reduction achieved in 2024 will continue to be active in 2027) despite simultaneously projecting a 2% to 5% decline per year in the number of MWs reduced by well-established enrollees in its peak load programs. *Id.* at 18.

In response to the new proposal offered by ComEd in its surrebuttal testimony, Staff recommends that the Commission assume 15 MW per basis point to break even as a compromise. For example, if the Commission were to assign 6 basis points to the PLR performance metric, the Company would need 150 to 160 MWs to bring meaningful benefits to both the Company and ratepayers. Staff Ex. 12.0 at 13. At 150 MWs of incremental reductions, the Company would receive 6 basis points of benefits and ratepayers would receive 4 basis points of benefits. The penalty phase could be 0 to 50 MWs, with the penalty calculated as 6*(1-.02*MWs reduced), the deadband would be 50 to 100 MWs, and the reward range would be 100 to 150 MWs of incremental savings each year with the reward calculated as 6*+.02*(MWs reduced-100). If the Company accomplishes no incremental reductions, it will lose 6 basis points from its return on equity. If it achieves 150 MW or more in incremental reductions, it will receive the full 6 basis point increase.

If the Commission were to assign 2 basis points to this metric, as proposed by ComEd in its surrebuttal testimony, the savings targets consistent with Staff's proposal, as modified above, would be 4 basis points of value for the Company to achieve the full 2 basis point reward, comprising 2 basis points of benefits to the Company and 2 basis points of net benefit to ratepayers. Achieving this goal would require 60 MWs of incremental savings per year. Splitting this into three groups to allow incremental rewards would mean 0 to 20 MWs of reductions are assessed a penalty; 20-40 MWs of reductions are neither rewarded or penalized; 40 – 60 MWs of savings provide a basis point benefit to the Company; and 60 or more MWs of reductions receive the full 2 basis points.

Staff agrees in principle with the AG's proposal to have the Company's goals be based on prior year's proposal. Staff in its Initial Brief proposed an alternative to ComEd's proposed goals that Staff believes provides a symmetric penalty and reward structure. Staff IB at 41-44.

Staff has practical concerns with the AG's proposal to set ComEd's goals based on the prior year's performance, however, because it is vague and can be interpreted in many ways. One way it could be interpreted is, if ComEd's peak load reductions in a given year are (X MW), then ComEd would be required to have (X + Incremental Goal MWs) of reductions the next year in order to achieve the full basis point incentive the

Commission approves. This type of approach would be acceptable in years where the Company did not achieve its incremental goal in the previous year but leads to perverse incentives for the Company not to achieve more than its incremental goal in any one year.

As an example, if the Commission approves an incremental goal of 60 MWs per year over the previous year, a load reduction of 110 MW in 2023 would set the goal at 170 MWs of load reductions in 2024. If the Company achieves 30 MWs in 2024, it would be appropriate to set the goal at 190 MWs in 2025 (60 MWs more than was achieved in 2024). The perverse incentive comes from a situation in which ComEd can achieve 200 MWs or any other reduction above 170 MWs in 2024. Achieving more than the goal one year makes it more difficult for the Company to achieve its goal the next year. After achieving 200 MWs in 2024, ComEd would need to achieve 260 MWs in total reductions to make its goal in 2025. As a result, the Company would have an incentive to achieve just enough to make its goals and then shut down enrollment in the programs until the next year.

Staff posits that an alternative would be to set an incremental goal. If the Company reaches the goal exactly or fails to achieve the full goal in a given year, the next year's goal would be the reduction achieved plus the incremental goal. If the utility exceeds the goal in a year, the next year's goal should be set as last year's goal plus the incremental goal. As an example, assume the baseline reductions are 100 MWs and the incremental goal is 60 MWs per year. The Company achieves the following outcomes:

	Reductions	Goal
Year 0	100	N/A
Year 1	110	160
Year 2	190	170
Year 3	240	230
Year 4	255	290

In this example the Company does not achieve its goal in year 1. In fact, it only achieved 10 MWs of incremental reductions. Under the reward and penalty structure proposed by Staff there would be a penalty assigned to the Company of .5 times the number of basis points allocated to PLR performance metric.

In year 2, the goal increases by 60 MWs over the reductions the Company achieved in Year 1. The Company exceeds the 170 MW reduction goal by 20 MWs. It would receive the full basis point reward in Year 2.

Since the Company exceeded its Year 2 goal, its Year 3 goal is 60 MWs more than its Year 2 goal of 170 MWs. In Year 3, the Company achieves reductions of 240 MWs. This reduction level provides the full incentive for the year.

In Year 4, the goal is again set at 60 MWs over the Year 3 goal rather than the Year 3 achievement. Although the Company's Year 4 achievement is only 15 MWs above its Year 3 achievement, it is 25 MWs above its Year 3 goal. This achievement should place the Company in the deadband area for year 4. No penalty or reward is issued.

By following this incentive structure, the Company has symmetric and realistic penalties and rewards and the Company is not discouraged from continuing to achieve additional reductions beyond the 170 MWs in Year 2. For these reasons, if the Commission decides to adopt the AG's recommendation to fix the incentive structure based on prior year's performance, Staff recommends setting the performance targets as presented here by incorporating Staff's incentive structure recommendations found in its Initial Brief.

Staff's proposal for the reward and penalty is superior to the Company's because 1) there is a legitimate possibility for the Company to receive at least a partial penalty for failing to achieve meaningful reductions; and 2) the incremental nature means that the Company is not rewarded year after year for making a modest reduction to its peak load in a previous year.

In its RBOE, Staff notes that, in explaining the penalty/reward structure, ComEd makes arguments that are worthy of consideration, specifically that achieving 150 MWs annually as Staff recommends in its BOE is unrealistic and likely unachievable. ComEd BOE at 32. Staff believes the penalty/reward structure presented by Staff is appropriate but the Commission should consider a lower performance metric target and fewer basis points. Accordingly, Staff modifies its recommendation and now recommends an annual goal of 60 MWs and two basis points. Staff explains this will make the metric meaningful and achievable while minimizing the risk to both the Company and to ratepayers.

Staff states that given the magnitude of the reduction requirements as articulated in ComEd's BOE, Staff no longer believes it is feasible to achieve 150 MWs annually. Staff's Initial Brief argued that 150 MWs of reductions would be needed for six basis points. The value of 150 MWs is approximately equivalent to six basis points of value for ComEd and four basis points of value for ratepayers. It is not practical to lower the peak load reduction target while maintaining six basis points for rewards/penalties.

As an alternative, Staff recommends the Commission lower both the target and the basis points associated with this metric so that the goal is more likely to be attainable for the Company and beneficial to ratepayers. ComEd witness Kirchman proposed about 60 MWs and two basis points in his surrebuttal testimony, therefore this calculation is supported by the record. Staff recommends that the Commission use these values along with Staff's penalty reward structure provided below.

Year	-2 to 0 bps	0 bps	0 to +2 bps
2024	B_{23} to B_{23} + 10 MW	B_{23} + 10 MW to B_{23} + 50 MW	B_{23} + 50 MW to B_{23} + 60 MW
2025	B_{24} to B_{24} + 10 MW	B_{24} + 10 MW to B_{24} + 50 MW	B_{24} + 50 MW to B_{24} + 60 MW
2026	B_{25} to B_{25} + 10 MW	B_{25} + 10 MW to B_{23} + 50 MW	B_{25} + 50 MW to B_{26} + 60 MW

2027	B_{26} to B_{26} + 10 MW	B_{26} + 10 MW to B_{26} + 50 MW	B_{26} + 50 MW to B_{26} + 60 MW

*B_{23} = baseline from 2023 reductions.
*B_{24} = minimum (2024 achieved reduction, B_{23} + 60 MW)
*B_{25} = minimum (2025 achieved reduction, B_{24} + 60 MW)
*B_{26} = minimum (2024 achieved reduction, B_{25} + 60 MW)

Staff explains in 2024 the target to achieve the full 2 basis points is 60 MWs more than ComEd achieves in 2023 from its three stack programs. The reductions come from the stack programs as well as incremental solar and EE. If the Company achieves less than a 10 MW increase its ROE is reduced between zero and two basis points depending on how little it achieves. If the Company achieves 10 to 50 MWs in reductions it is neither penalized nor rewarded. If it achieves more than 50 MWs it receives a reward based on size of the reduction.

In 2025, the target is based on the results of 2024. If ComEd achieves reductions in 2024 that are more than 60 MWs above its achievement in 2023, then the new target is 2023 reductions + 60 MWs. If ComEd achieves reductions in 2024 that are less than 60 MWs more than what was achieved in 2023, ComEd's 2025 goals are incremental to what is achieved in 2024. As an example, if the 2023 baseline is 100 MWs and ComEd achieves 130 MWs in 2024, the 2025 goals would be based on 130 MWs. The -2 to 0 basis points range would be 130 to 140 MW, the 0 basis points range would be 140 to 180 MWs, the 0 to 2 basis points range would be 180+ MWs. If ComEd achieves 200 MWs in reductions in 2024, the 2025 target would be based on 190 MWs (60 MWs more than the 130 MWs achieved in 2024). Likewise, the -2 to 0 basis points range would be 200 MWs or less, the 0 basis points range would be 200 to 250 MWs, and the 0 to 2 basis points range is 250+ MWs.

Staff notes an interesting feature of this proposal is that if ComEd achieves more than its target in one year, it lessens the probability of experiencing a penalty in future years; assuming the reductions persist. In the example where ComEd achieves 200 MWs in 2024, the 2025 penalty range is anything less than 200 MWs. As long as ComEd can maintain its 2024 reductions, it has no risk of penalty and only needs an additional 40 MWs of reductions to achieve a reward in 2025.

Staff contends this proposed penalty and reward structure places a narrow range on penalties and rewards and a large range for a zero basis point deadband. A large deadband is consistent with Dr. Brightwell's rebuttal testimony. It protects ratepayers if the Company is able to easily achieve a decent portion of the 60 MWs while also protecting the Company in cases where it is difficult to achieve any substantial reductions.

The Company avoids penalties if it increases its reductions by approximately 40% over four years. Meanwhile, the Company needs to achieve an approximately 50% increase over its currently forecasted reduction level to receive an annual reward. The most likely outcome is that both the Company and ratepayers are protected from rewards and penalties.

c. AG's Position

The AG requests that if the Commission approves ComEd's proposed PLR performance metric, the Commission should order the Company to fix its goals of the metric to prior year performance. Moreover, the AG adds that the Commission should recognize that future programs need to be closely reviewed to ensure that they do not allow double counting, provide ComEd with the ability to benefit from double incentives for the same underlying behavior, or otherwise violate P.A. 102-0662.

The AG notes the goal structure of ComEd's penalty and deadband ranges are roughly the same for each year of the metric, with the baseline declining each year and thereby slightly lowering the penalty and deadband ranges over time. The range over which the 2 basis points that ComEd allocated to the metric can be earned, however, increases by approximately 60 MW each year and the Company would earn the basis points proportionately over the larger range. For example, in 2024, ComEd could earn the 2 basis points proportionately over a range of 119.8 MW to 171.8 MW; however, in 2025, ComEd could earn the same number of basis points, but over a bigger range of megawatt reductions: 116.1 MW to 230.1 MW.

The AG explains that this goal structure likely disincentivizes the Company from continuing to seek PLR in the latter years of the metric because of ComEd's ability to create large single year increases in PLR. As a result, the AG requests that the Commission make the Company's goals incremental to prior year performance. The AG noted that the two program types which ComEd wishes to pursue in the future can generate large amounts of PLR that eclipse the goals currently contained in the PLR Metric. For example, the AG described that Company's EE program generated approximately 750 MW of peak load reduction in 2019 to 2021. Meanwhile, the Company's highest peak load reduction goal is 346.9 MW in 2027, with the existing programs generating around 100 MW of peak load reduction, thus leaving around 250 MW of peak load reduction for the Company to accomplish through new programs. The AG asserts that if a new ComEd EE program generates even one-third of the peak load reduction that the Company created in 2019 to 2021 through the existing EE program, the Company would be able to earn the 2 basis points allocated to the PLR Metric in each year of the metric. Similarly, the AG explains that solar programs also create large amounts PLR, with ComEd having 137.3 MW of load reduction associated with existing programs in 2021, and PJM projecting annual increases in distributed solar generation in ComEd's service territory to grow rapidly over time and total 733 MW in 2027.

The AG requests that the Commission order ComEd to make the goals in the PLR Metric incremental over prior year performance to address the possibility of large future programs and to also ensure that the PLR Metric continues to incentivize ComEd to generate PLR through the life of the metric. Otherwise, the Company could introduce an EE or solar program with substantial PLR in the first year of the metric (2024) and earn the 2 basis points thereafter without any additional behavior in the other years of the metric.

The AG supports Staff's goal adjustments, which largely corresponds to the proposal contained in the AG's Initial Brief to increase ComEd's peak load reduction goals by 60 MW over prior year performance in each year of the metric. The AG also agrees

with Staff that its proposal created a realistic penalty which does not exist under ComEd's surrebuttal position.

The AG expresses concern that ComEd's ability to add new programs may create double counting, double incentives, or otherwise violate P.A. 102-0662, and requested that the Commission be aware of these issues in its approval of any future programs. The AG explains that Section 8-103B(m) may limit ComEd's ability to create an additional ratepayer-funded EE program for any future EE programs. The Act caps how much money can be collected from ratepayers for the Company's statutorily mandated EE plans. 220 ILCS 5/8-103B(m). For example, ComEd can spend no more than 4% "of the average amount paid per kilowatt hour by residential eligible retail customers during calendar year 2015" on its Energy Efficiency and Demand Response Plan in each year of the 2022-2025 plan cycle. *Id.* The AG explains that ComEd already plans to spend up to this cap of $420 million in the 2022-2025 EE plan cycle, so any additional EE spending that the Commission determines is subject to this section would exceed the statutorily imposed cap.

The AG also explains that the Commission must remain vigilant to ensure that ComEd does not inappropriately increase its return on its spending for its statutorily mandated EE program by double counting the savings generated in any new EE program. The Act provides that ComEd can achieve a return on its spending for its statutorily mandated EE plans with the return corresponding to the amount of kWh the Company saves. *See* 220 ILCS 5/8-103B(g)(7). If the Company introduced a new EE program to generate PLR for the PLR performance metric, it would also generate kWh savings alongside the PLRs. *See* AG/COFI Ex. 1.0 at 14. As such, the AG states the Commission must ensure that there is no double counting, meaning that the Company is not allowed to count the kWh savings it would create through a new EE program towards the requirements for the statutorily mandated EE program detailed in Section 8-103B. If ComEd did inappropriately count the kWh savings from the new program in the existing EE program, this would impermissibly mix the existing and new programs and would allow the Company a greater return on its EE plan spending than it properly earned.

For any future solar programs, the AG explains that ComEd appears likely to receive two incentives for the same underlying behavior. Under Section 16-107.6(h)(1) of the Act, owners/operators who enroll in ComEd's community solar, non-residential rooftop solar, and residential rooftop solar programs can request a distributed generation rebate as compensation for their generation. *See* 220 ILCS 5/16-107.6(c)(1)–(2). Section 16-107.6(h)(1) allows ComEd to create a regulatory asset and receive a return on the rebate it pays to these owners/operators through a formula rate structure and automatic adjustment clause or rider. *Id.* ComEd represented that 61% of non-residential rooftop solar customers and 94% of community solar customers have received the rebate since June 1, 2017, meaning that ComEd is already enrolling solar customers in distributed generation programs and providing them the rebate on which ComEd is currently authorized to receive a return. AG/COFI Ex. 2.0 at 8. Moreover, after January 1, 2025, new residential rooftop solar customers will no longer have the option to receive delivery net metering and will only be entitled to, and will likely apply for, the distributed generation rebate. 220 ILCS 5/16-107.5(n) (providing that new residential rooftop solar customers will not be eligible for delivery net metering on and after January 1, 2025). *Id.* (stating

that residential rooftop solar customers can apply for the distributed generation rebate, even after January 1, 2025). This means that ComEd will be incentivized to enroll residential customers in its residential rooftop solar program starting in 2025 so that the Company can receive a return on the rebates paid to these customers.

The AG maintains that double incentives, like the one presented above, violate P.A. 102-0662 and the General Assembly's intent. The AG asserts that the legislature's goal in creating the performance metric system was to encourage utilities to take action that they otherwise may not be incentivized to take to benefit customers and accelerate Illinois' clean energy goals. Specifically, P.A. 102-0662 states that performance metrics should provide "targeted incentives to support change through a new performance-based structure to enhance ratemaking . . . [that] enable alignment of utility, customer, community, and environmental goals." 220 ILCS 5/16- 108.18(a)(3). The AG explains that double incentives violate the legislature's intent because they do not incentivize utilities to take any actions which the utilities are not already incentivized to take. Moreover, customers also receive no benefits when a performance metric creates a double incentive because when the utility already has a financial incentive to perform a particular activity, a second incentive is effectively charging ratepayers twice for the same activity.

Finally, the AG asserts that ComEd did not provide data that would allow the Commission to determine if the benefits of the PLR Metric exceed its costs because the Company provided no data on the costs of the metric. P.A. 102-0662 requires that the Commission "ensure[] benefits exceed costs for consumers" for each performance metric. 220 ILCS 5/16-108.18(e)(2)(F). However, ComEd did not introduce in its testimony or briefing any quantifiable cost estimates, and instead specifically calculated only one benefit: an estimate that consumers would save $10.5 million over the lifetime of the metric through lower capacity charges.

Instead of providing cost estimates, ComEd's witnesses simply stated in their surrebuttal testimony that there would be "no, or limited incremental cost associated with achieving the performance metric target." ComEd Ex. 25.0 at 14. The AG maintains that these cost estimates cannot be correct because ComEd does nothing to address the cost of new programs that it is likely to introduce. The AG explains that ComEd has requested the ability to introduce new programs to accomplish the targets contained in the PLR metric and will likely need to create new programs to earn any basis points because the existing programs have consistently averaged around 100 MW of peak load reduction. Inevitably, these new programs will cost money to run and operate. For example, ComEd requested the ability to operate an additional EE program. ComEd spent approximately $351 million on EE each year to generate load reduction of 748.4 MW in 2019, 773.8 MW in 2020, and 751.6 MW in 2021, or roughly $468,000 per MW of load reduction. AG/COFI Ex. 1.0 at 11. If the Company chose to achieve 40 MW of PLR through a new, but similar, EE program in a given year, ComEd would need to spend approximately $18.720 million to achieve this load reduction. This cost, for just one year of additional PLR, vastly exceeds the capacity savings of $10.5 million that ComEd calculated for the lifetime of the metric.

The AG further explains that the Company failed to account for the costs to consumers of paying for ComEd's reward if it accomplishes the PLR metric. If approved,

ComEd's incentive payments will cost ratepayers at least $818,480 per basis point. ComEd assigned 2 basis points to this metric, meaning that if it achieves its goals this metric will cost ratepayers an additional $1,636,960 per year, or $6,547,840 over the four years of the metric, without even accounting for the costs and expenses of achieving the metric.

Thus, the AG asserts that ComEd failed to provide the Commission with sufficient information to conduct a rigorous benefit-cost analysis regarding the PLR Metric and that this failure raises questions as to whether the Company can achieve its goals in a cost-effective way. The AG explains that the Commission must be vigilant in reviewing whether this metric satisfies P.A. 102-0662's requirement that metrics provide more benefits to consumers than costs.

d. CUB/EDF's Position

CUB/EDF state reductions in peak load create systemwide benefits. PLRs reduce costs for all customers, support energy system decarbonization, mitigate impacts of electrification, and help optimize utilization of utility infrastructure. CUB/EDF Ex. 1.0 at 29. The Act requires the Commission to establish a performance metric for PLRs attributable to demand response programs. 220 ILCS 5/16-108.18(e)(2)(A)(ii).

CUB/EDF note ComEd proposes a metric that would reduce peak loads by a small amount. CUB/EDF fault this approach for essentially creating a supplemental performance bonus for outcomes the Company already expects to achieve through its EE investments and adoption of rooftop and community solar in its service territory that CJEA enables. CUB/EDF Ex. 1.0 at 67.

CUB/EDF witness Barbeau noted that, per the Staff Report, most stakeholders in the workshop process that preceded this docket expressed an interest in "cleaning the peak" (reducing energy use during peak hours) with a focus on a target of the top 100 hours of 15% of the system peak. CUB/EDF Ex. 1.0 at 11. Further, stakeholders commented that the utilities' existing demand response programs and participants are not sufficient. *Id.* CUB/EDF posit these comments align with P.A. 102-0662's broader objectives. In addition to the requirements in Section 16-108.18, P.A. 102-0662 has several explicit goals relevant to PLR: Objectives of the new Multi-Year Integrated Grid Plans include reducing energy usage, especially during times of greatest reliance on fossil fuels, and enhanced customer engagement opportunities. 220 ILCS 5/16-105.17(a)(2); Multi-Year Integrated Grid Plans must "optimize utilization of electricity grid assets and resources to minimize total system costs," "reduce grid congestion," and "support the long-term growth of…demand response." 220 ILCS 5/16-107.17(d); Multi-Year Integrated Grid Plans must include a detailed analysis of flexible resources, and anticipated needs that can be met using flexible resources. 220 ILCS 5/16-105.17(f)(2)(J)(ii); Beneficial Electrification plans should include efforts to reduce increases to peak demand. 220 ILCS 627/45(a); Eligibility for energy storage distributed generation rebates require recipients to participate in one or more programs developed as part of the Multi-Year Integrated Grid Planning process that are designed to meet peak load reduction and flexibility. 220 ILCS 5/16-107.6(c)(1) and (2); Energy storage systems should provide opportunities to "reduce the use of fossil fuels for meeting demand during peak load periods," and should lower peak power costs and reduce capacity costs. 220

ILCS 16-135(a)(1)(A); and the IPAshould implement renewable energy procurement and training programs to, among other things, reduce peak demand. 20 ILCS 3855/1-5.

CUB/EDF note ComEd proposes 64 MW of PLR from the 2017-2021 average. CUB/EDF point out that other P.A. 102-0662 programs are already expected to exceed that total, without any additional utility action. CUB/EDF Ex. 1.0 at 68. The new PLR capability created by rooftop and community solar, as proposed in the IPA's Adjustable Block Program Reopening and 2022 blocks, is set to achieve a projected 406 MW of cumulative PLR in ComEd's service territory prior to 2024, even with delays. *Id.* ComEd's proposal would reward the Company with maximum performance bonuses for just 284 MW of cumulative peak load reduction by the end of 2027. *Id.* As a result, CUB/EDF maintain that ComEd's proposal all but assures the Company achieves its full performance rewards of $12 million over the four-year MRP without any significant effort beyond preexisting commitments. *Id.,* CUB/EDF Ex. 4.0 at 7. In fact, the Company would be eligible for a maximum performance bonus (5 basis points, under ComEd's plan) for getting only 75 percent of the P.A. 102-0662 distributed solar goals on the grid by 2024, 62% of the P.A. 102-0662 distributed solar goals online by 2027, and doing exactly zero other PLR efforts. CUB/EDF Ex. 4.0 at 7-8. Performance metrics serve to incentivize utility action beyond what it would have taken but for the incentive to meet the goals of the statute. CUB/EDF argue ComEd's proposal violates this principle.

e. COFI's Position

COFI contends ComEd's originally proposed PLR performance metric would have committed the Company to increasing its load reduction capability across the eight programs by an incremental 65 MW each year. This means that the performance target for a given year would be the Company's previous year total load reduction capability plus an additional 65 MW (i.e., if the 2023 total load reduction capability was 2,000 MW, the 2024 target would be 2,065 MW). ComEd Ex. 3.0 at 13.

In response to ComEd's original proposal, AG/COFI witness Mosenthal expressed significant concerns that the proposal would reward the Company for PLRs that will occur without any performance incentive. AG/COFI witness Mosenthal examined the proposed metric and concluded that the Company will likely achieve, and significantly exceed, its entire load reduction capability metric targets through accomplishing the megawatt-hour reduction goals it must achieve under its current, Commission-approved 2022-2025 EE Plan under Section 8-103B of the Act without any performance incentive mechanism. *See* AG/COFI Ex. 1.0 at 1-2, AG/COFI Ex. 1.1. Mr. Mosenthal also testified that the targets in ComEd's proposed PLR performance metric will likely be accomplished, and exceed independently, just with the growth in Illinois solar programs, which the Company proposes to include in the metric. AG/COFI Ex. 1.0 at 3.

In response to Mr. Mosenthal's and other parties' criticisms, ComEd reconfigured its PLR performance metric in such a way so that the Company no longer proposed to achieve a portion of its load reduction capability targets through the EE program that ComEd must execute pursuant to Section 8-103B of the Act.

In his rebuttal testimony, Mr. Mosenthal testified that he continues to have concerns related to the continued inclusion of community and rooftop solar generation programs in the metric. Mr. Mosenthal noted that much like the EE programs, ComEd

already has an incentive to increase the installation of community and rooftop solar because it receives a return on the rebate it pays to a subset of these customers. AG/COFI Ex. 2.0 at 5-6. Specifically, Mr. Mosenthal explained that the revised PLR performance metric still allows ComEd to receive a return on the distributed generation rebate that it pays to the owners/operators of community solar and non-residential rooftop solar, and which residential solar customers post- P.A. 102-0662 can also elect to receive, pursuant to statute. *See* 220 ILCS 5/16-107.5(n); *Id.* at 5/16-107.6(c)(1); AG/COFI Ex. 2.0 at 7-8. These parties can request the distributed generation rebate pursuant to Section 5/16-107.6(h)(1) of the Act. *See Id*. at 5/16-107.6(h)(1) (allowing ComEd to collect a return on "all of the costs of the rebates made under a tariff or tariffs approved under . . . this Section.").

As such, COFI explained, ComEd already has an incentive to enroll as many customers as it can in its community and rooftop solar programs because the Company receives a greater return when it pays out more in total rebates. Thus, the inclusion of solar programs in any PLR metric allows a double return – one for the performance metric and one from the return on its rate base when more people subscribe to community solar programs and install rooftop generation pursuant to the rebate program. Mr. Mosenthal concluded that because ComEd is already incentivized to encourage people to subscribe to community solar programs and install rooftop generation via the return on the rebates it pays to these customers who apply for the rebate, it is inappropriate to provide a second incentive and allow ComEd to earn a double return on the same efforts through a PLR metric. AG/COFI Ex. 2.0 at 7-8.

In response to this criticism, ComEd asserts that "[n]ot every customer with distributed generation . . . receives a rebate. Customers must elect to receive the . . . customer rebate – it is voluntary and not automatic." ComEd Ex. 6.0 at 10. However, in response to data requests, the Company states that, since June 2017, 61% of solar customers and 94% of community solar projects collected the rebates. This high utilization shows that the Company is incentivized to enroll customers in its community and non-residential rooftop solar programs. Further, as described in Mr. Mosenthal's direct testimony, after January 1, 2025, new residential rooftop solar customers will no longer receive delivery net metering and will only be entitled to, and will likely apply for, the distributed generation rebate. Presently, residential rooftop solar customers can receive the distributed generation rebate but would in turn lose access to delivery net metering, which customers may determine to be a better incentive than the rebate. *See* 220 ILCS 5/16-107(c)(2). This means that ComEd will also be incentivized to enroll these customers in rooftop solar in the future so that it can receive a return on the rebates paid to these customers.

COFI notes that ComEd, in its surrebuttal, requested the flexibility to add new programs and proposed three changes to its rebuttal position by removing existing private and community solar from the program baseline, including a modified set of targets and an expanded deadband ROE basis point penalty/incentive allocation, and capping the basis points allocated to this metric for penalties and incentives to 2 basis points. COFI notes that the timing of ComEd's surrebuttal proposal did not permit Staff and intervenors an opportunity to respond to this latest proposal, putting the Commission in the difficult

position of weighing the reasonableness of the Company's latest proposal without input from other experts.

COFI argues that should the Commission adopt a version of ComEd's proposal, the Commission should incorporate NRDC witness Nelson's recommendation to account for the forecasted growth in EV impacts, particularly given the uncertainty surrounding what new PLR programs may be created over the four-year plan and any forecasted growth in the EV market. COFI adds this recommendation is rooted in the principle that the Commission must not reward the Company for business-as-usual or forecasted growth in PLR that would have occurred without the performance metric. The baseline for any metric must account for these forecasts (business-as-usual and forecasted growth in PLR) in order to provide a net benefit to ratepayers who are financing the incentive payments.

In addition, COFI states, given all of the uncertainties that accompany a PLR forecast and EV growth in the state, no more than the ComEd-proposed 2 basis point incentive should be established for this metric. COFI also recommends that the Commission continually monitor, throughout the life of any MRP, any claimed PLR savings to ensure that the payments are not providing double incentives to the Company, as AG/COFI witness Mosenthal warned against relative to including additional EE programs and solar program growth incorporated in earlier versions of the metric.

f. AEE's Position

AEE believes that the PLR benefits associated with solar and other forms of DER would be better measured and incentivized through the DERIUV metric proposed by JSP/ELPC/VS (discussed in more length below in the interconnection metric section) as their proposed metric would encourage ComEd to achieve incremental PLRs from DERs rather than merely benefit from growth in their deployment. AEE also contends the revised structure of the incentives would provide ComEd with a more consistent incentive to improve performance, avoiding the cliffs and plateaus of the stair-step design.

AEE notes the targets in ComEd's surrebuttal proposal maintain the cumulative schedule of annual baselines set years in advance of the performance periods rather than returning to the system ComEd endorsed in its original proposal. In direct testimony, ComEd proposed using prior year performance as the baseline and setting the target each year as a consistent increment on top of prior year performance rather than forecasting the target years in advance. AEE argue this would minimize the significant risk of forecasting error and also maintain a consistent incentive every year to achieve, regardless of ComEd's performance in prior years. Using the target system in ComEd's surrebuttal proposal, the feasibility of achieving a target in any one year could depend largely on over or under achievement in prior years, making the targets in the current year either out of reach or insufficiently challenging. The greater forecasting error associated with this method will only compound the problem.

Of greatest concern to AEE, however, is the lack of a comprehensive methodology to value PLRs. ComEd's valuation considers only wholesale market capacity, currently $25,170 per MW-year. In its Initial Brief, AEE provided examples of avoided transmission and distribution costs for a select group of New York utilities that it readily had available. They ranged from roughly $35,000 per MW-year to 310,000 per MW-year. AEE did not

provide this data to suggest that the value of avoiding transmission and distribution is within this range for ComEd, but rather to illustrate that this is a value that could be substantial and should be considered—especially for a transmission and distribution only utility—before a PLR metric is adopted. AEE recommends that the Commission either wait for a comprehensive valuation methodology before it approves a PLR metric or to approve one provisionally that can be updated once the methodology is available.

g. JSP/ELPC/VS's Position

JSP/ELPC/VS note that while ComEd's proposal indicates that certain verified solar programs and projects could count toward achieving the Company's proposed peak reduction targets, it does not appear that other DERs, such as battery energy storage are included in the Company's proposal. Moreover, it is not clear what criteria a third-party evaluator would use to determine which solar programs or projects are a direct result of "ComEd's metric activities." Thus, in the event the Commission adopts the Company's PLR proposal, "solar programs and projects" allowed to count toward PLR should include energy storage as well as solar.

h. NRDC's Position

NRDC proposes an alternative performance metric. *See* Section VI.B.2.g below.

i. Commission Analysis and Conclusion

ComEd's final proposed four-year PLR performance metric targets load reductions that can be associated with obtaining value in the PJM capacity market by implementing programs targeting ComEd's existing demand response program portfolio, future new solar programs and projects that are verified by third-party analysis as being a direct result of ComEd's PLR performance metric activities, and future EE programs developed for this metric that are not incentivized through the plans adopted and compensated under Section 8-103B. ComEd intends to organically grow existing programs that are not excluded and contends the flexibility to add new programs to the existing program stack is necessary as some of the existing programs might experience a decline in customer usage or be discontinued. ComEd adds in the event programs developed in the future are appropriate for this metric, ComEd intends to add those programs to the PLR metric without making additional changes to the baseline, targets or incentive/penalties.

ComEd notes it made major changes to its original proposed PLR performance metric so as to address some of Staff and intervenors' concerns, including the removal of ComEd's existing or future EE and demand response efforts that are part of its EE and demand response plans adopted and compensated under Section 8-103B of the Act, removal of ComEd's VLR program, and removal of existing private and community solar generation. In doing so, ComEd modified the targets and expanded the deadband to reflect the revised baseline and smaller number of programs included. ComEd explains that the expanded deadband is designed to accommodate variances and unknowns, and to only include penalizing or incentivizing changes in the existing program stack that exceed 10 MW. ComEd notes that the targets are not symmetrical around the baselines, but that is appropriate and necessary for a PLR performance metric designed around capacity pricing. Moreover, ComEd argues imposing such symmetry would require changes to the design that would be detrimental to customers.

ComEd introduces a benefits-sharing model that compares the value to customers with the incentives earned and penalties subjected to the Company. ComEd states the reduced capacity costs are passed on as a reduction to customers' bills.

The Commission agrees the general structure of ComEd's proposed PLR performance metric meets the requirements of Section 16-108.18(e)(2)(A)(ii) as it targets peak load reductions that measure DSM portfolio programs in an attempt to shift demand from peak to off-peak periods. The Company retains control of the metric as it evaluates the rollout and performance of programs. The Commission also notes it is reasonable to allow the Company some flexibility in which to add new programs to the program stack throughout the MRP to account for innovation and the use of new technology to further reduce peak load. ComEd's proposed use of a third-party evaluator would adequately ensure new EE and solar programs and projects are a result of the metric and would not result in double recovery under Section 8-103B. Although the costs of implementing new demand response programs in the future are currently unknown, ComEd shall keep an accurate accounting of the costs of these programs so that they may be appropriately evaluated at the next MRP.

Although the foundation of ComEd's proposed PLR performance metric is in line with the goals established in the Act, the Commission agrees the proposed incentive targets will be too easy to achieve. As noted by COFI, the Company would essentially be rewarded for the Company's business-as-usual or forecasted growth in PLR that would have occurred without the performance metric. The Commission agrees with Staff and the AG that it is appropriate to make the Company's goals incremental to prior year performance in this instance so that the Company remains consistently focused on achieving its targeted metric on an annual basis. The additional modifications presented by Staff in its RBOE, is not opposed by ComEd, and ensure the PLR metric continues to incentivize ComEd to generate PLR through the life of the metric. This measure proportionally balances the metric in a way that promotes aggressive utility action that is achievable and beneficial to ratepayers. Therefore, the Commission adopts ComEd's proposed PLR performance metric as modified by Staff in its Initial and Reply Briefs. ComEd is required to achieve 150 MWs of incremental reductions each year in order to earn the full 6 basis point incentive. The Commission further agrees with the Solar Intervenors that other DERs, such as battery energy storage, and solar plus storage, shall be included in this metric. As noted by CUB/EDF, this is consistent with the goals and policies of the P.A. 102-0062 that encourage energy storage systems integration as the means to reduce peak load, for example in 220 ILCS 5/16-135(a)(1)(B).

The Commission declines ComEd's modified annual incremental goal of 60 MWs with the allocation of +/- 2 basis points, as modified by Staff in its RBOE, as not overly ambitious. The Commission finds that evidence in this record supports a conclusion that a more robust and challenging PLR target is warranted with a greater allocation of basis points, to ensure that ComEd is sufficiently incentivized to expand upon existing and develop new programs, including programs that include battery energy storage.

2. Other Proposals

a. ComEd's Position

ComEd argues the Commission should not adopt the respective alternative proposed PLR performance metrics of CUB/EDF and NRDC. ComEd explains that CUB/EDF's proposal is actually two metrics: one for peak load in general, and one for load associated with electric vehicles and building electrification. ComEd notes that its final revised proposal includes some useful features of CUB/EDF's proposal. However, ComEd contends CUB/EDF have failed to identify quantifiable benefits for the remaining features of their proposal. ComEd also notes that the NRDC proposal, which relates to peak load associated with EVs, includes a baseline that would require data that does not exist and that would limit the PLR performance metric to load reduction improvement relating to EV charging only, without accounting for other means of PLR. Thus, ComEd argues, both proposals have significant shortcomings and neither proposal was demonstrated to be more appropriate than ComEd's final revised PLR performance metric.

ComEd also notes that the AEE urges the Commission to adopt a provisional PLR performance metric to be followed by a later but unspecified replacement metric that would include valuation of additional benefits and be put into effect as soon as possible. ComEd argues that the proposal should be rejected because AEE does not identify a legal basis for which the Commission may adopt a replacement PLR performance metric before the next performance metric utility filing, and that it does not supply sufficient information regarding the proposed alternative.

b. Staff's Position

Staff notes CUB/EDF propose an alternative metric that would incentivize reductions in existing peaks and new peaks. CUB/EDF IB at 26-28. Staff appreciates CUB/EDF's concern about the metric not being aggressive enough but believes it will be remedied if the Commission approves Staff's proposal for allocating basis points under this metric. Staff does not support CUB/EDF's alternative metric because the metric is overly complex and ambitious. CUB/EDF propose 1 basis point per 150 MWs (CUB IB at 15) which is 300 MWs of reductions if ComEd's 2 basis points is approved, 900 MWs if Staff's proposed 6 basis points is approved and 1500 MWs if the Commission approves the 10 basis points proposed by CUB/EDF. In contrast, Dr. Brightwell determined that 30 MW per basis point are needed for ratepayers to break even. ComEd notes that Dr. Brightwell's analysis overstates the breakeven value. CUB's proposal is 5 times greater than Staff's original breakeven value and more than 10 times greater than its proposed compromise for a breakeven value.

Staff does not support NRDC's proposed alternative metric because evidence to support the viability of achieving the intended results does not exist. Additionally, no information regarding costs to implement the proposal have been provided.

c. CUB/EDF's Position

CUB/EDF propose an alternative metric that encourages the Company to reduce baseline peak load as compared to business-as-usual PLRs (i.e., electricity loads that were included in energy load forecast for the 2020-2021 delivery year) as well as to

reduce new peak load from oncoming electrification loads. In other words, CUB/EDF's proposed alternative metric incentivizes PLRs from the utility's existing peaks and load reductions to new peaks created as a result of vehicle and building electrification. CUB/EDF Ex. 1.0 at 30. The baseline load measures actual load reductions from utility programs, incentives and investments that can be defined as demand response. To be considered demand response, they must qualify in the aggregate to participate in the Regional Transmission Organization ("RTO")-organized capacity markets, and/or otherwise contribute to a reduction in the generation, transmission, or distribution capacity needs of ComEd's service territory. *Id.* Event-driven demand response initiatives will be measured in accordance with PJM's policies and procedures. *Id.* EE-focused demand response initiatives, pricing- and rate-based demand response initiatives, and distributed generation demand response initiatives will be measured by a third-party administrator. *Id.* at 30-31. The business-as-usual baseline includes expected demand reductions from existing programs, policies, and investments, including peak time rewards, EE, voltage optimization, and distributed solar. CUB/EDF Ex. 1.0 at 34. Therefore, achieving CUB/EDF's performance metric only rewards the Company for increasing peak demand reduction beyond existing commitments.

CUB/EDF explain new load (i.e., electrification load) PLRs for transportation electrification initiatives are measured by comparing participating electric vehicle charging demand versus a baseline of the expected peak demand impact of electric vehicle charging in the absence of such initiatives, as determined by an independent third-party evaluator. The evaluator will analyze regional historical charging usage and/or control groups. Building electrification initiatives are measured by comparing participating building electrification demand versus a baseline of the expected peak impact of new electrification switching in residential, commercial, and industrial facilities in the absence of such initiative, as determined by an independent third-party evaluator. The evaluator will analyze comparable market electrification usage and/or control groups.

d. AEE's Position

AEE states that in order to avoid the significant risk to customers of deferring a full valuation of demand reductions until ComEd's next performance metric plan in 2028, AEE recommends that the Commission either approve a performance metric plan with a provisional PLR metric and update the metric once a comprehensive valuation for PLRs is available or wait to approve the metric until one has been developed using a comprehensive valuation. In either case, AEE recommends that the Commission reserve 15 basis points for the metric that is ultimately approved to avoid leaving insufficient incentive available should the PLRs prove particularly valuable to customers.

AEE continues to support its Targeted System Relief metric that it proposed in its initial testimony. AEE notes that the Targeted System Relief metric does not suffer from a lack of cost estimates for avoiding transmission and distribution build out like most other proposed metrics do, including ComEd's. The general valuation of PLR on ComEd's system would rely on an average value, while the Targeted System Relief metric relies on shared savings compared to an identified system cost that can be avoided through demand reduction. The cost of a specific system upgrade is easier to determine than the system-wide average that is necessary for a system-wide value. The Targeted System Relief metric is something that can be pursued now without waiting for a more expansive

methodology for value, and it would meet the statutory requirements of a PLR program under P.A. 102-0662. The value (the specific avoided upgrade cost) would be known and the shared savings mechanism would ensure that customers benefit. AEE recommends that the Commission adopt the metric as proposed in AEE Ex. 1.0.

e. JSP/ELPC/VS's Position

The Solar Intervenors support the adoption of metrics that specifically incentivize the use of DERs to provide PLR benefits. Solar, energy storage, and other DERs (including EVs) provide substantial PLR potential. JSP Ex. 1.0 at 37. Moreover, in the event the Commission approves a PLR metric that counts DERs toward the target goals, PLR from DERs that exceed the targets and available basis points approved for the PLR metric should be eligible for incentives under the DERIUV metric. This will ensure the Company is appropriately incentivized to maximize cost-effective PLR benefits from DERs, but that it is not double earning incentives for the same PLR benefits under both metrics.

Solar Intervenors urge the Commission to ensure the PLR benefits of DERs are captured under either (a) the DERIUV metric or (b) the PLR and the DERIUV metric and ensure the appropriate safeguards are in place to prevent double recovery.

Solar Intervenors also note that AEE recommends the Commission adopt PLR metric targets that take into account the avoided cost information and data that becomes available from the grid planning and related proceedings directed by P.A. 102-0662. As AEE points out, ComEd's proposed metric omits its own distribution system entirely. *Id.* at 14. Section 16-101A(g) of the Act specifically identifies the deployment of renewables and demand response resources to "reduce long-term direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure." *Id.* The Solar Intervenors support the Commission requiring an accurate and rigorous valuation that includes transportation and distribution benefits of PLR.

f. NRDC's Position

NRDC notes that at least one performance metric is required for "peak load reductions attributable to demand response programs." NRDC Ex. 1.0 at 7; 220 ILCS 5/16-108.18(e)(2)(A)(2). The statute defines "demand response" as "measures that decrease peak electricity demand or shift demand from peak to off-peak periods." NRDC Ex. 1.0 at 7; 220 ILCS 5/16-108.18(b).

NRDC witness Nelson recommended that the Commission set ambitious demand response targets based on his assertion that load flexibility, i.e., the susceptibility of electricity load to be shifted to different time periods, is rapidly increasing. NRDC points out that no other party refuted or took issue with that assertion. For support for his recommendation, Mr. Nelson described a recent study by The Brattle Group ("Brattle") identifying 200 GW of economically feasible load flexibility in the U.S. by 2030. The Brattle study suggests that 20% of peak load levels in 2030 are projected to be cost-effective flexible load. Based on this data, Mr. Nelson stated, and NRDC recommends, that the Commission set a target of 17.5%, or 3,500 MW, of ComEd's load that should be reduced or shifted from peak to off-peak periods by the end of 2027. NRDC Ex. 1.0 at

14-15. NRDC points out that, as the referenced Brattle report notes, load is rapidly becoming more flexible and cost effective for integration into demand response programs; that, without an ambitious, achievable target, utilities such as ComEd will not have a sufficient incentive to innovate and drive the costs of demand response down. *Id.* As NRDC noted, Mr. Nelson further testified that since ComEd claims it will have an operational Distributed Energy Resource Management System ("DERMS"), which, if leveraged to provide beneficial customer service options, the Company should be able to offer a suite of additional demand response offerings. As an example, Mr. Nelson suggested ComEd could likely expand upon non-firm capacity rate options which can promote locationally specific demand response at the feeder level and stack system values to benefit participating and non-participating customers. NRDC Ex. 1.0 at 14-15. NRDC points out that Mr. Nelson also described how the Commission should set a baseline and annual targets. NRDC Ex. 1.0 at 15-16. He recommended that, once the baseline is set in 2023, the total increase required to reach a 17.5% load reduction should be targeted and the four MRP years should achieve 15%, 20%, 30%, and 35%, respectively, of the total load reduction required to hit the goal of 17.5%. NRDC also recommends that the Commission require ComEd, in its annual performance review (*see* 220 ILCS 5/16-108.18(f)), to determine appropriate performance (and tracking) metrics for new demand response tariffs and programs. NRDC Ex. 1.0 at 17-18.

NRDC emphasized that the legislature established significant new findings and goals when it passed P.A. 102-0662, including, among other things: (1) rapid growth of distributed energy resources, electric vehicles, and other new technologies that substantially change the makeup of the grid; (2) urgency around addressing increasing threats from climate change and assisting communities that have borne disproportionate impacts from climate change, including air pollution, greenhouse gas emissions, and energy burdens; (3) addressing this problem requires changes to the business model under which utilities in Illinois have traditionally functioned; (4) understanding these measures [under EIMA] have not been sufficiently transformative in urgently moving electric utilities toward the State's ambitious energy policy goals.; and (5) that it is important to address concerns that these [EIMA] measures may have resulted in excess utility spending and guaranteed profits without meaningful improvements in customer experience, rate affordability, or equity. 220 ILCS 5/16-108.18(a).

NRDC contends that these ambitious legislative findings and espoused new public policy demand new, non-traditional approaches to electric utility performance and meaningful new incentives to encourage significant performance improvement. According to NRDC, Mr. Nelson's proposed PLR goals are consistent with the legislature's expressed findings, concerns, and intent. NRDC RB at 5.

Through Mr. Nelson, NRDC proposed significant performance metrics relating to increasing EV adoption and resulting charging load. NRDC claims that ComEd, however, gave short shrift to NRDC's proposed EV-related performance metrics. *Id.* As NRDC points out, when asked in his rebuttal testimony whether ComEd responded to NRDC's proposed EV PLR performance metric, Mr. Nelson responded, "No. ComEd provides no response to the proposed EV PLR Performance Metric." NRDC Ex. 2.0 at 13. NRDC further points out that, in his surrebuttal testimony, ComEd witness Kirchman did respond to Mr. Nelson's testimony but merely by citing the current absence of data and IT capacity

needed to collect EV charging load data. ComEd Ex. 20.0 at 22. NRDC further notes that, in its Initial Brief, ComEd similarly provided only brief comment concerning EVs. *Id.* NRDC notes that ComEd dismissively contended that no party has provided sufficient information to design an EV metric, and evidence is lacking to substantiate "its benefits to customers or society." ComEd IB at 4. ComEd's only other comment in its Initial Brief about Mr. Nelson's proposed EV PLR performance metric, as NRDC points out, was, "The NRDC proposal, which relates to peak load associated with EVs, includes a baseline that would require data that does not exist and that would limit the PLR performance metric to load reduction improvement relating to EV charging." ComEd IB at 55. NRDC asserts that ComEd did not find fault with Mr. Nelson's proposal conceptually and briefly stated reasons given in its surrebuttal testimony and Initial Brief for why ComEd does not want to adopt Mr. Nelson's proposal, as it is lacking in detail, analysis, and support.

To help counter ComEd's arguments, NRDC reiterates NRDC's proposed EV PLR performance metric. NRDC RB at 6-10. Mr. Nelson explained that EV demand is more flexible than many other traditional loads, meaning that in most cases, the customer, utility, or another third party (e.g., aggregator, fleet operator) can control the timing and speed of charging (or discharging, through vehicle-to-grid ("V2G") technology). Mr. Nelson stated that, for sufficiently educated customers who are provided useful load management offerings, the flexibility of EV load could (1) help reduce rate pressure by spreading recoverable costs and expenses over increased electric energy volumes, and (2) minimize peak demand impacts on the grid. NRDC Ex. 1.0 at 21. Mr. Nelson points out that the availability of load management options also allows customers to align their charging with grid needs and save on charging costs, thereby lowering the customer's total cost of electric vehicle ownership and facilitating increased transportation electrification. NRDC Ex. 1.0 at 22.

NRDC points out that Mr. Nelson described the adverse impacts from a utility not appropriately managing EV load. If unmanaged, the majority of EV load could occur during peak periods and create considerable rate pressure by (i) requiring a significant infrastructure buildout to accommodate the higher system peak load, and (ii) causing or encouraging customers to charge their EVs during periods of high electricity prices. Mr. Nelson referenced a study the Lawrence Berkeley National Laboratory conducted in 2020 that suggests California can save between $90 and $690 million (up to 10% of total grid operating costs) by 2025 with managed as opposed to unmanaged charging, resulting in a saving of about 50% of the incremental cost of adding new EV loads to the grid. While these figures may not be directly applicable to Illinois, according to Mr. Nelson, they illustrate the potential negative impacts of unmanaged EV load. NRDC contends that regulators must provide swift and focused attention to ensure that utilities manage EV load through several approaches. NRDC Ex. 1.0 at 22.

NRDC notes that the 2021 amendments to the Illinois Electric Vehicle Act (20 ILCS 627/45) require ComEd to file with the Commission a beneficial electrification plan ("B.E. Plan") by July 1, 2022. The B.E. Plan must "provide for incentives such that customers are induced to use electricity at times of low overall system usage or at times when generation from renewable energy resources is high," including through: (1) Time-of-use electric rates; (2) Hourly pricing electric rates; (3) Optimized charging programs or programs that encourage charging at times beneficial to the electric grid; (4) Optional

demand-response programs specifically related to electrification efforts; and (5) Incentives for electrification and associated infrastructure tied to using electricity at off-peak times. 20 ILCS 627/45(b); NRDC Ex. 1.0 at 23.

NRDC points out that Mr. Nelson proposed a performance metric for EVs as follows: the EV performance metric would incentivize the Company to limit EV charging load during the annual top 50 system peak hours. Specifically, the performance metric would require ComEd to limit the average MW demand from EV charging during the top 50 system peak hours of a given year to 10% of the average monthly peak demand from EV charging from the previous year. For example, if the average monthly peak demand from EV charging from the previous year is 100 MW, the Company would be required to manage EV load in the current year so that EV charging during the top 50 hours is limited to an average demand of 10 MW. The objective is to shift the majority of EV charging to off-peak hours, with EV charging during the high system peak demand limited to 10% of the demand that ComEd could expect to see from EV charging in that year. NRDC Ex. 1.0 at 23-24. The performance metric baseline would be calculated by averaging the noncoincident 15-minute EV charging load peak demands from each of the previous year's twelve months, which would give an annual EV peak demand baseline in MW. The annual time lag between the baseline and the percentage target would ensure that ComEd understands the specific MW target it needs to achieve in a given year, based on the data from the previous year. Importantly, Mr. Nelson stated that the load that is used to reduce or shift demand within the EV PLR performance metric should be removed from the PLR performance metric and reduce its overall target (i.e., the 17.5% aggregate target). NRDC Ex. 1.0 at 24.

Further describing the details, as NRDC notes, Mr. Nelson explained that the Company's performance would be calculated based on the average 15-minute EV demands from each of the top 50 system peak hours of the current year, resulting in a system peak EV demand in MW. The target for year n would be set at 10% of the MW baseline produced from year n-1 data. The percentage target would remain a constant 10%, while the actual MW target will most likely increase year-to-year as EV adoption and EV load in the Company's service territory increase. Thus, for year n+1, the percentage target will continue to be 10% of the MW target achieved in year n but the actual MW target set will be different than the actual MW target for year n. This would continue for year n+2, where the target will stay at 10% of the MW target achieved in year n+1 but the actual MW target will again likely be greater than the actual MW target for year n+1. NRDC Ex. 1.0 at 25. Mr. Nelson proposed incentives for ComEd to manage EV load as follows:

Company Performance (% of Baseline)	Performance Incentive (Basis Points)
> 20%	-3
17.5%	-2
15%	-1
10%	**0**

5%	1
2.5%	2
0%	3

NRDC Ex. 1.0 at 25.

Next, as NRDC points out, Mr. Nelson described how EV charging data should be collected. Mr. Nelson stated that ComEd should seek to collect 15-minute interval EV charging data from a combination of the following sources: (1) separately metered EV load; (2) networked chargers; (3) onboard vehicle telematics; and (4) AMI-based EV load disaggregation. NRDC Ex. 1.0 at 26. Mr. Nelson stated that, for this performance metric, ComEd should utilize EV charging data from all customer segments (residential, workplace, fleets, etc.), except for Direct Current Fast Charging ("DCFC") stations at public locations. As Mr. Nelson noted, public DCFCs are generally not suitable for load management given that they allow EV customers to charge up their vehicles when needed and as quickly as possible. However, Mr. Nelson recommended that ComEd create an EV tracking metric for the DCFC load. *Id.*

NRDC asserts that, in response to ComEd's concerns about its ability to collect the requisite data, Mr. Nelson stated that ComEd has a variety of approaches from which to choose to collect EV charging data needed for his recommended EV PLR performance metrics. Mr. Nelson noted that other utilities have used various EV charging data collection methods and described specific electric utility EV programs in Massachusetts as examples. NRDC Ex. 1.0 at 26. Finally, NRDC states that Mr. Nelson recommended that, if ComEd is not required to adopt his proposed EV PLR performance metric, then ComEd's PLR performance metric target be increased to account for EV load given its flexibility and the projected significant increases in EV load. Mr. Nelson provided the following specific recommended PLR performance target increases by year from 2024 – 2027: 2024 (30 MW); 2025 (18 MW); 2026 (22 MW); and 2027 (28 MW). NRDC Ex. 2.0 at 16.

Another justification NRDC offered for Mr. Nelson's proposed EV PLR performance metric is that ComEd has forecasted its EV charging peak load growing significantly, from 13MW to 264MW by 2030. NRDC Ex. 1.0 at 14. According to NRDC, Mr. Nelson believes that establishing an EV PLR performance metric such as what he proposes in this proceeding would ground ComEd's B.E. Plan in clear objectives and help inform the development and evaluation of future managed charging programs, as EV adoption and corresponding load grows. *Id.* NRDC asserts that, as Mr. Nelson points out, a separate EV PLR performance metric is important in that it is a primary component of creating a suitable PLR performance metric financial incentive mechanism. According to NRDC and Mr. Nelson, the uncertain near-term growth in EV load makes it extra challenging to set a PLR performance metric based on a measure of cost-effective demand response resources available within ComEd's service territory where such needed information is not available. NRDC contends that EV load growth, therefore, as uncertain as it is, would make cost-effective demand response very difficult to estimate accurately. *Id.* Continuing in its contentions concerning EV charging load, NRDC notes that Mr. Nelson asserts that the growth rate in EV load directly relates to the availability

of cost-effective demand resources. Additionally, as NRDC points out, Mr. Nelson explained that EV loads are highly flexible, and may constitute the majority of the load targeted for cost-effective demand response measures; consequently, very rapid EV load growth could therefore make any then-reasonable PLR performance metric target overly easy to achieve. According to NRDC, it is for these reasons that Mr. Nelson recommends that EV load, representing mostly newer load, be tracked separately from existing "embedded" load. NRDC Ex. 1.0 at 15.

NRDC also recommends, based on the testimony of Mr. Nelson, that ComEd's PLR performance metric should be based on a percentage of total demand, as opposed to a specific number of MW. NRDC notes that Mr. Nelson explained that a percentage of total demand allows for changes in load to be embedded and accounted for within the performance metric. NRDC Ex. 2.0 at 11. To illustrate, Mr. Nelson described a scenario in which ComEd experiences significant additional electrification before 2028; and in that case, a fixed MW target-based incentive, untethered to overall, potentially significant, load growth, would make the fixed MW target reduction much easier to achieve. *Id.* Such a result, in NRDC's view, would give ComEd an unfair financial benefit while adversely and unfairly affecting ratepayers. NRDC RB at 11.

g. Commission Analysis and Conclusion

CUB/EDF propose an alternative metric that would incentivize PLRs from the utility's existing peaks and load reductions to new peaks created as a result of vehicle and building electrification.

AEE recommends the Commission approve a performance metric plan with a provisional PLR for ComEd and reserve at least 15 basis points for a future PLR metric. AEE contends its Targeted System Relief metric is something that can be pursued now without waiting for a more expansive methodology for value.

NRDC proposes an alternative metric that recommends the Commission set a target of 17.5%, or 3,500 MW, of ComEd's load that should be reduced or shifted from peak to off-peak periods by the end of 2027. NRDC explain ComEd's DERMS will allow the Company to offer a suite of additional demand response offerings, providing beneficial customer service options. NRDC further recommends the Commission consider metrics designed around EV load.

The Commission agrees with the Company and Staff that CUB/EDF's proposal is narrowly tailored to only provide an incentive to improve building electrification and EVs, and introduces a metric that is arguably overly complex. NRDC's proposed metrics are also narrowly tailored towards EVs and founded on a number of assumptions and studies based on forecasted models. The Commission notes through the adopted metric above, the Company will be afforded the opportunity to expand its available program stack, which may include a future program designed at curtailing peak load usage by EVs. Limiting the metric to only include one program over the potential to add a number of others is not appropriate at this time. Therefore, CUB/EDF's and NRDC's proposed alternative metrics are not adopted.

The Commission also agrees with ComEd that AEE has not provided a legal basis for which the Commission may adopt a provisional metric until certain variables are

defined in a future docketed proceeding. This proposal is arguably outside the Company's control and would impede the Company's ability to meaningfully assess and plan to meet its MRP targets. As such, the alternative metric proposed by AEE, is not adopted.

3. Basis Points

a. ComEd's Position

ComEd argues the Commission should approve ComEd's final revised proposed penalties and incentives for the PLR performance metric at 2 basis points. ComEd recommends no more than 2 basis points be allocated to this performance metric, regardless of the final total possible basis points. ComEd states that the 2 basis-point cap makes sense in light of the capacity value of the programs included and includable in the portfolio, and takes into account the ComEd/customers benefits-sharing model. ComEd states that allocating more than 2 basis points would require detrimental and uneven changes to the metric's targets, and could result in ComEd receiving more incentives than customers receive in net benefits.

b. Staff's Position

Staff, as noted in its RBOE, provides an alternative recommendation that ComEd's proposed PLR metric be afforded 2 basis points. Staff does not support the Company's proposal on the total number of basis points or its proposal or how performance should be measured, and points should be awarded. These issues are addressed in Sections IV.B. and VI.B.1.b, above.

c. CUB/EDF's Position

CUB/EDF argue this metric is best incentivized as a shared savings mechanism of up to a 10-basis point reward or penalty. For both the baseline and new load peak reductions, the targets equate to approximately a 1-basis point incentive per 150 MW of peak load reduced, up to 5-basis point reward for exceeding the targets for each index (baseline peak load reductions and new load peak load reductions). CUB/EDF Ex. 4.0 at 8; CUB/EDF Ex. 1.0 at 34. ComEd proposes a structure whereby the incremental incentive value of exceeding their baseline is 1 basis point per 10 MW of peak load reduction. CUB/EDF Ex. 4.0 at 8. CUB/EDF calculate the Company would receive $818,460 in performance payments for every $274,307 in capacity reduction value – more than three times the value to customers. *Id.* at 8-9. Therefore, CUB/EDF consider the Company's proposal as violating P.A. 102-0662's net benefits requirement. CUB/EDF's proposed alternative metric's shared savings mechanism incentivizes demand response programs developed as part of, or distinct from, the utility's Multi-Year Integrated Grid Plan, rewarding the company with a 20% share of the net benefits of demand reductions achieved under such demand response programs. *Id.* at 35; CUB/EDF Ex. 4.0 at 8.

CUB/EDF contend the performance metric should evaluate the Company on actual PLRs, and compensate ComEd through a shared savings mechanism where its reward (or penalty) is based on the amount of PLRs achieved. CUB/EDF argue ComEd's proposal does not incentivize any new utility action, rewards the Company with an incentive that far exceeds its value to customers, and does not address efforts to mitigate the peak load impacts from new electric vehicle and building electrification efforts.

CUB/EDF conclude its alternative performance metric's approach to baseline calculation and new load PLR is more balanced, requires a much more substantial focus on peak demand reductions and demand response, and fairly rewards the Company for its actions as compared to the value created by those actions.

d. COFI's Position

See Section VI.B.1.e above.

e. AEE's Position

See Section VI.B.1.f above.

f. NRDC's Position

NRDC proposes that the incentive and penalty structure associated with the proposed 17.5%, or 3,500 MW, of ComEd load, should be a linear function as displayed below:

-5 bps	-2.5 bps	0 bps	2.5 bps	5 bps
-10% below target	-5%	Annual Aggregate Target	5%	10% above target

NRDC Ex. 1.0 at 16.

NRDC's proposed EV PLR performance metric, is discussed in Section VI.B.2.e above.

g. Commission Analysis and Conclusion

The Commission allocates 6 basis points to this Performance Metric 4, as noted in Sections IV.A, B, and C above, finding that achieving this metric as modified here will be more challenging and can potentially render greater benefits to the customers and the grid.

C. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(iii) (supplier diversity)

1. ComEd Proposal

a. ComEd's Position

ComEd states that its proposed supplier diversity performance metric is focused on increasing the percentage of ComEd's annual direct spending with diverse prime contractors and indirect spending by non-diverse prime contractors with diverse subcontractors between 2024 and 2028. In its original January 2022 proposal, ComEd proposed a 1% total increase over the 2020 level of 42%, to reach 43% by 2028. ComEd states that based on feedback from Staff and AG/COFI, in its rebuttal testimony, ComEd modified its supplier diversity performance metric target from 1% (in its original proposal) to 3% over the period 2024 through 2028, so that ComEd's goal under the final metric is to reach 45% diverse spend by 2028. ComEd states that achieving an additional 3% of diverse supplier spend is anticipated to be challenging because ComEd's existing diverse

supplier spend is already so high. ComEd notes that Staff supports this metric, as revised in ComEd's rebuttal testimony, and recommends that the Commission approve the metric. The final revised targets require a 0.6% increase annually over a 4-year period, from 42% to 45%. ComEd Ex. 18.01 at 11.

ComEd states that few intervenors oppose this metric, and those who have opposed the metric offer unsupported critiques, such as advocating for a different metric altogether, or for a higher goal without providing a recommended value. *See* AG/COFI Ex. 2.0 at 14-15. For instance, ComEd notes that AG/COFI suggests that supplier diversity gains from ComEd's new Market Development Initiative ("MDI") not be counted towards achievement of the metric. *Id*. at 15. ComEd states it is unclear why diverse MDI spend should be treated differently than any other diverse EE spend and that AG/COFI fails to appreciate that diverse spend in ComEd's EE portfolio (which will include the MDI in future years) is a small fraction of ComEd's overall diverse spend (less than 6% of diverse spend in 2021). ComEd Ex. 21.0 at 7. Furthermore, ComEd argues, it is not likely possible to quantify the exact impact of the MDI on ComEd's diverse spend, as the MDI program's development is incomplete, and its results are likely to be influenced by factors outside of ComEd's control. *Id*. ComEd states that as a result, AG/COFI's only detailed critique of the proposed metric should be rejected.

ComEd states that the record contains substantial evidence to demonstrate that Performance Metric 5, as amended in rebuttal testimony, is a challenging, worthwhile metric that meets the requirements of Section 16-108.18(e)(2)(A)(iii) of the Act. ComEd also states that its proposal is achievable, although the target, as increased in rebuttal testimony, is more difficult.

ComEd states increased supplier diversity provides economic and societal benefits. ComEd explains that its supplier diversity metric will provide general economic benefits including wages from jobs involved in the production of goods and services that the Company relies upon in delivering services to customers, wages from jobs created to support employees working in businesses downstream from the supplier, revenues earned downstream in the supply chain, and tax revenues generated by the forgoing. ComEd further notes that Black & Veatch identified qualitative benefits including expansion of the diverse business community, expansion of business opportunities in diverse communities, and a more equitable distribution of the economic benefits of ComEd's procurement expenditures. Using impact studies from other utilities, Black & Veatch estimated the net value of economic benefits (including direct, indirect and induced impacts) from achieving the performance metric as provided in the following table:

Estimated Benefits and Costs of Expanding the Diverse Supplier Program

Item	2024	2025	2026	2027	2028
2021 ComEd Total Spend - Diverse and Non-Diverse Vendors - $M	$2,126	$2,126	$2,126	$2,126	$2,126
Targeted Percentage in Diverse Supplier Spend	42.60%	43.20%	43.80%	44.40%	45.00%
Targeted Annual Spend in Diverse Supplier Spending - $M	$906	$918	$931	$944	$957
Benefits Multiplier	0.22	0.22	0.22	0.22	0.22
Annual Value of Diverse Supplier Benefit - $M	$199	$202	$205	$208	$210
Estimated Program Costs - $M	$ -	$ -	$ -	$ -	$ -
Net Benefits - $M	$199	$202	$205	$208	$210

ComEd Ex. 11.0 at 38.

b. Staff's Position

For Performance Metric 5, Staff notes that ComEd initially proposed tracking its direct spending with diverse prime suppliers and indirect spending by non-diverse prime contractors with diverse subcontractors. ComEd Ex. 1.01 at 6. ComEd planned to calculate diverse supplier spending by summing the total invoices paid by ComEd to diversity-certified suppliers, and the total invoices paid to diversity-certified subcontractors reported by ComEd's non-diverse prime contractors, to determine ComEd's total diverse supplier annual actual spend. ComEd Ex 2.0 at 19. The percentage of diversity-certified spend would then be calculated by dividing the total diverse supplier annual actual spend by the total invoices paid by ComEd to diverse and non-diverse suppliers. *Id*. The value of total spending will exclude areas where diverse supplier opportunities do not exist, such as taxes, utilities, customer rebates, and regulatory fees. *Id*. ComEd expects total supplier spending, diverse and non-diverse, to remain essentially flat over the next five years. *Id*. ComEd's original performance target, based on that information, was to maintain the 2020 level of diverse supplier spend of 42% for a four-year period, and achieve an increase of 1% in total diverse supplier spend by the end of year 2028. *Id*. at 19-20. Staff witness Robinson expressed concerns with the Company's initial proposal, stating that a 1% increase above the baseline of 42% was far too low when compared to ComEd's historical diverse spend percentages. Staff Ex. 5.0 REV at 2. Based on past performance, Ms. Robinson recommended that ComEd consider other metrics to help with an increased target goal. *Id*.

In response to Ms. Robinson's recommendation, ComEd proposed modifications to Performance Metric 5 to increase its target to a 3% total increase over the baseline in diverse spending by 2028. ComEd Ex. 7.0 at 6. Although the new proposed target is less than what Ms. Robinson recommended, 3% is higher than the Company's average year-over-year return for the past 10 years, which was approximately 2.1% (average). *Id*. at 7-8. Accordingly, Staff supports ComEd's revised goal. Staff Ex. 13.0 REV at 6-7. Staff recommends that the Commission approve ComEd's revised Performance Metric 5.

c. CUB/EDF's Position

CUB/EDF consider the metric requiring expansion to supplier diversity is far and away the most prescriptive, with the greatest detail on implementation, of all of the performance metric categories in P.A. 102-0662. 220 ILCS 5/16-108.18(e)(2)(A)(iii). In general, it requires increased economic opportunities for residents and businesses through expanded diverse supplier prime- and sub-contracting, programs that reduce barriers to access for diverse suppliers, and development of a contracting pool that mirrors the utility's service territory and demographics. *Id*. The statute specifically discusses several barriers to entry for diverse suppliers, and requires the utility to provide solutions, resources, and tools to address those barriers, including (but not limited to) mentorship programs. *Id*.

CUB/EDF argue that despite the Act's extensive prescriptions, ComEd proposed a metric that would simply increase utility spend on diverse suppliers, ignoring substantive statutory requirements. CUB/EDF maintain this disappointing proposal fails both the letter and the spirit of the statute and rewards the utility for actions rather than outcomes. CUB/EDF contend the Company's proposal boils down to simply continuing the reporting the utility has already been doing for the past decade.

CUB/EDF maintain that in addition to its failure to acknowledge the statutory requirements regarding barrier reduction and mentoring, ComEd's proposal would enable the Company to rely extensively on women-owned and veteran-owned businesses, with a significantly smaller percentage of businesses being minority-owned. CUB/EDF Ex. 1.0 at 69. P.A. 102-0662 emphasizes job creation for equity investment eligible persons and contractors and seeks to improve wealth-building opportunities for equity investment eligible communities. Therefore, CUB/EDF contend, it is more appropriate for this metric to measure participation of equity investment eligible persons and contractors than participation of businesses that qualify as minority-owned, woman-owned and veteran-owned business enterprises ("MWVBEs"). This aligns with stakeholder comments during the workshop regarding the importance of correctly defining "diverse contractor," and acknowledging that eligibility could be based on organization type, local demographics, employee diversity or use of a "minority vendors" metric. CUB/EDF Ex. 1.0 at 11 (citing Staff Report at 20).

d. COFI's Position

AG/COFI witness Mosenthal criticized ComEd's initial supplier diversity metric because it appeared to not offer a challenging goal. He testified that this was especially the case given that the Company has a ratepayer-funded program specifically designed to increase diverse supplier contracting in its EE program. AG/COFI Ex. 1.0 at 31. As part of ComEd's 2022-2025 EE plan, the Company will spend $4.0 million per year of the plan cycle on an MDI. *See Commonwealth Edison Co.*, Docket No. 21-0155, ComEd Ex. 1.01R at 22. The two goals of the MDI are to "(1) increase contracting opportunities for diverse business enterprises and [community-based organizations] and assist them in developing the necessary capabilities to participate in the delivery of the EE Portfolio; and (2) improve the diversity and inclusiveness of the ComEd EE Department's supplier and supplier workforce." *Id*. at 94-95. The program is a high-priority for both the AG and

COFI, who wish to improve contracting opportunities for diverse suppliers in the EE market.

Mr. Mosenthal testified that the MDI program will likely boost the Company's EE diverse supplier spend. AG/COFI Ex. 1.0 at 31. Moreover, spending on its EE Program appears to represent a significant amount of ComEd's total spend. Although the Company has not yet provided an exact percentage for how much of its total diversity is incorporated in its EE Program, ComEd stated in response to a data request that "EE makes up less than 20% of total ComEd spend," which Mr. Mosenthal read to indicate that the EE Program spend is near 20% of total ComEd spend. *Id*. Thus, investment in the MDI through the 2022-2025 EE Plan should, theoretically, drive a greater than 1% increase in diverse supplier spend from 2020 by the end of the supplier diversity metric in 2028.

Mr. Mosenthal noted, too, that it is likely that stakeholders will continue to support the MDI into the 2026-2029 EE Plan cycle, meaning that the MDI will receive ratepayer funding throughout the lifetime of the supplier diversity metric. *Id*. at 32. Thus, the concern is that the supplier diversity metric may not incentivize any behavior or outcome that will not already be accomplished through the normal operation of the 2022-2025 and 2026-2029 EE Plans. In addition, like other EE spending, the Company already receives a shareholder return on its MDI spending as part of its EE portfolio budget under Section 8-103B of the Act. *Id*. COFI notes any metric goal should reflect a significant improvement over what would otherwise be expected from the existing MDI and other activities already in place. Given these facts, Mr. Mosenthal recommended that the Commission reject the proposed supplier diversity metric unless ComEd establishes appropriate new goals for the metric that reflect a significant, but achievable, increase in diverse supplier spend over and above what the Company reasonably expects to achieve through its MDI program. *Id*.

COFI explains that, in response to criticisms of its proposed metric, ComEd maintained the baseline of 42% diverse supplier spend, but increased the diverse supplier spend goal to 45% for an increased goal of 3% over the four-year MRP. However, Staff requested that ComEd increase its goal to reflect an incremental gain of 5% (increasing the original target from 43% to 47%) based on the Company's historical performance wherein ComEd averaged annual increases of 2.1% from 2012 to 2021. ComEd Ex. 7.0 at 7-8; Staff Ex. 5.0 REV at 7. In response to Mr. Mosenthal's concerns about the MDI, ComEd asserted that it is a new program and "it is not clear exactly what the impact of the program will be on ComEd's overall supplier diversity efforts." ComEd Ex. 7.0 at 11.

While the increase in target diverse spending is appreciated, Mr. Mosenthal testified that ComEd still does not address in its revised supplier diversity metric the percentage increase in diverse supplier spend that the MDI is likely to create. If the EE spend is close to 20% of total spending, then it seems reasonable that the MDI should make a significant contribution to improving ComEd's total diverse supplier spending percentage. Mr. Mosenthal testified that ComEd should be required to meet supplier diversity metric targets that are more aggressive and will require incremental action over and above the MDI.

In its surrebuttal testimony, ComEd retained its rebuttal position, leaving the diverse supplier spend goal at 45% of total spending and asserted that the MDI is unlikely to produce significant gains in overall diverse contract spending. ComEd states it "has greatly increased diverse spend for [EE] in the last 5 years, increasing it by 90% to $51 million in 2021" and that EE diverse spending represents less than 6% of the Company's total diverse spend of $893 million in 2021. ComEd Ex. 21.0 at 7. ComEd witness White testified, too, that Staff had accepted this increase and that their concerns were resolved. *Id*. at 5. In COFI's opinion, it is unclear why Staff dropped its original proposal to set a target of 47% of total spending.

In response, COFI notes that the 6% level of diverse EE spending is significantly lower as a percentage of the total EE budget of $424 annually as compared to the existing 42% of total ComEd contract spending that now exists. ComEd has room to significantly step up its diverse spending in the EE program and increasing its metric goal above the proposed 45% may help to accomplish that goal. COFI urges the Commission to establish appropriate goals for the supplier diversity metric that are set at a level that incentivizes extraordinary commitment to increasing diverse contractor participation, and that recognizes the Company's MDI program and the growth in diverse supplier spend that will occur organically because of P.A. 102-0662. Establishing a metric of 47% rather than ComEd's proposed 45% will assist the Company in further committing to its goal of increasing diverse spending and is consistent with the Act's direction that PBR incent extraordinary achievement of P.A. 102-0662 goals.

e. Commission Analysis and Conclusion

The Commission adopts ComEd's proposed diversity supplier target of 45% by 2028, comprising of a 0.6% increase annually, and supported by Staff. ComEd's proposed metric is practicable and achievable and meets the goals of Section 16-108.18(e)(2)(A)(iii).

The Commission finds that an increase in overall spend should provide net benefits based on the information and evidence in the record. The Commission acknowledges the criticisms of ComEd's proposed metric in that it only increases overall spend. The difficulty with the supplier diversity metric is that it is inherently difficult to quantify benefits. Moreover, as ComEd points out, there is a limited pool of diverse suppliers available. There are many factors outside the Company's control, and therefore, for this first PBR metric, an increase in overall spend plus tracking metrics will give the Commission a better basis to make a more informed decision in the future. Specifically, more robust data collection, such as ComEd's proposed Tracking Metric 8, will enable the Commission and all the other parties to design a future metric that produces measurable, quantifiable benefits.

AG/COFI state that ComEd's target goal should be higher, due to the resources it is already putting into its EE MDI program. AG/COFI argue that the MDI will drive increases well above ComEd's proposed annual increase. The Commission disagrees. As pointed out by ComEd, the MDI consists of only 6% of ComEd's diverse spend. The AG does not propose alternative baselines or annual targets or any way to quantify the MDI's impact on the metric; it just states that the metric must foster "a significant but

achievable increase." The Commission finds that ComEd's proposal does meet this standard.

COFI suggests the Commission should accept Staff's original position in direct testimony to require a goal of 47% total spending. Record evidence shows Staff's original position was provided without a complete understanding of ComEd's proposed metric and, of course, without consideration of ComEd's later adjustment in response to intervenor testimony. The fact that Staff no longer supports its original position is notable. The Commission agrees with AG/COFI that it is not clear in the record the reasoning for which Staff's concerns were addressed by ComEd's modification. Nevertheless, the Commission is critical of and hesitant to support a position that was abandoned by the originating party, especially in a docket of first impression. Moreover, AG/COFI did not provide substantial evidence to support an alternative metric.

CUB/EDF argue that ComEd's proposal ignores the statutory requirements for the supplier diversity metric in part because it fails to reduce market entry barriers and mentor diverse contractors. The Commission disagrees that ComEd's proposal will not accomplish the goals of the statute. The record demonstrates both qualitative and quantitative benefits, such as "general economic benefits including wages from jobs involved in the production of goods and services that the Company relies upon in delivering services to customers, wages from jobs created to support employees working in businesses downstream from the supplier, revenues earned downstream in the supply chain, and tax revenues generated by the forgoing, expansion of the diverse business community, expansion of business opportunities in diverse communities, and a more equitable distribution of the economic benefits of ComEd's procurement expenditures." ComEd IB at 59, citing ComEd Ex. 11.0 at 49.

CUB/EDF also criticize the proposed metric because it does not focus on outcomes. The Commission disagrees. The metric's whole purpose is the outcome of increasing diverse participation and, if ComEd meets the threshold and annual targets, ComEd's diverse spend will increase by 3%, resulting in $210 million in net benefits.

2. Other Proposals

a. ComEd's Position

ComEd notes that CUB/EDF propose an alternative supplier diversity expansion metric that is comprised of three components: (1) supplier diversity performance; (2) reducing barriers to access; and (3) mentoring of diverse suppliers. CUB/EDF Ex. 4.0 at 3, 13. ComEd states that it reviewed the CUB/EDF recommendation with interest and will consider adopting these components in future metrics proceedings. However, ComEd states it is unable to adopt the suggested metric at this time because it does not have historical data for the second (addressing barriers to access) or third (mentoring) components, and therefore is not able to establish a baseline or appropriate goal, which are needed to propose a performance metric in this docket. ComEd Ex. 7.0 at 14. ComEd concurs with CUB/EDF that these are important topics to track and notes that is exactly why ComEd proposed a tracking metric for the number of diverse contractors completing ComEd development programs (Tracking Metric 8). Once ComEd has collected data that will allow it to establish a baseline, ComEd states it is open to considering a supplier diversity metric proposal as suggested by CUB/EDF in future metrics proceedings.

b. Staff's Position

Staff witness Robinson agrees the issues raised by AG/COFI are valid concerns in that ComEd's original proposal was not ambitious enough. Staff Ex. 13.0 REV at 5. COFI proposes that ComEd's increases to its metric target are insufficient and still don't account for MDI spending, and that Staff's original proposal of 47% should be adopted. Staff does not agree with COFI's proposal, and instead supports ComEd's revised proposal which could result in a 45% diverse spend level by 2028.

CUB/EDF point out that the metric ComEd proposes ignores extensive requirements of the statute regarding supplier diversity, and simply continues what it has done for the past decade. CUB/EDF instead propose a 3-part index, with 10% contracts in all programs, addressing barriers, mentoring, and participation. Staff supports ComEd's revised proposed metric and offers no opinion on the feasibility of the CUB/EDF alternative metric. Staff Ex. 13.0 REV at 5. Staff witness Robinson notes that CUB/EDF's suggestion of which groups to target "may not specifically fall under the Minority, Women, Veteran, Disabled-owned business enterprise categories and thus may create a challenge to ComEd's ability to reach the goal CUB/EDF suggests." *Id*. at 6. As such, Staff does not support the CUB/EDF proposal.

c. CUB/EDF's Position

CUB/EDF's proposed supplier diversity performance metric uses three indices to measure performance on the statutorily-mandated objectives. First, using the new definitions of equity investment eligible persons and equity investment eligible contractors in P.A. 102-0662, the metric sets a goal that at least 10% of utility contracts in a utility procurement or other vendor program be awarded to equity investment eligible persons or contractors. CUB/EDF Ex. 1.0 at 36. The goal increases for each delivery year thereafter for a goal of a systemwide average of 30% of contracts being fulfilled by equity investment eligible persons or contractors by 2030. *Id*. Second, the metric evaluates whether a utility has implemented programs that address barriers to supplier contracting opportunities, per the requirements of the statute. *Id*. at 37. A third-party evaluator will assess the extent to which utility programs were effective in increasing participation by addressing following barriers to entry: costly and time-sensitive cyber security requirements; complex information technology requirements; insurance barriers; service provider sign-up process barriers; administrative process barriers; and other barriers that inhibit access to RFPs and contracts. *Id*.; CUB/EDF Ex. 4.1 at 22. Third, for programs with contracts over $1,000,000, the metric evaluates the percentage of subcontractors participating in mentoring relationships, with a goal of 10% in the first year increasing to 30% by 2030. CUB/EDF Ex. 1.0 at 37. ComEd can receive up to a 5-basis point reward or penalty for its performance on these indices, calculated on a sliding scale based on performance. CUB/EDF Ex. 4.1 at 21.

Furthermore, the use of equity eligible contractors and equity eligible persons, as in the alternative performance metrics plan, solves what CUB/EDF consider a core deficiency of MWVBE classifications – which is that MWVBE classifications are not available for not-for-profit entities, co-ops, and other ownership structures, and the barriers to entry for certification are high for small businesses. CUB/EDF Ex. 4.0 at 28. CUB/EDF offer that, under ComEd's proposal, the Company would be disincentivized

from contracting with community-based organizations, not-for-profit program implementers, social good-structured companies, and others because of their inability to obtain an MWVBE certification.

The statute mandates that the metric measure performance on subcontracting support and mentoring. Mr. O'Donnell's testimony explains the importance of those requirements. He explained that there are disparities in resources and opportunities in Black and brown communities as compared to majority-white areas for things like formal education, certified businesses, and exposure to or awareness of certain career paths. CUB/EDF Ex. 3.0 at 3. Oftentimes, hiring and contractor selection decisions are made based on formal experience and formal education, but those are not necessarily good indicators of someone's abilities. *Id*. Rather, they are often indicators of lack of opportunity, lack of exposure, and lack of support and a strong network. *Id*. Many who have great potential simply have not had exposure to the same opportunities or have faced substantial barriers to starting and growing a business. *Id*. at 4. Mr. O'Donnell explained that many requirements for starting and growing a business are far out of reach for Black business owners, like insurance and cybersecurity requirements. *Id*. at 5. Even just getting proper certifications or a business license in Chicago can be a complicated and relatively expensive barrier. *Id*. These may seem like minor things individually, but in totality, he explained, they have a repressive effect on many businesses that would qualify as EIEC. *Id*. The explicit requirements in P.A. 102-0662 are critical to beginning to address those barriers so that local entrepreneurs can grow into full-fledged, expanding businesses, providing individual, community, and utility benefits. *Id*.

CUB/EDF conclude its Alternative Plan metric accomplishes the statutory objectives and incentivizes meaningful improvements to assist diverse contactors in overcoming systemic barriers to working for ComEd and building wealth through long-term business growth.

d. COFI's Position

See Section VI.C.1.d of this Order.

e. Commission Analysis and Conclusion

The Commission agrees with CUB/EDF that overcoming systemic barriers and growing a diverse workforce, supplier procurement base and vendor pools is one of the main objectives of P.A. 102-0662 and the performance metrics scheme. 220 ILCS 5/16-108.18(b). However, the Commission agrees with Staff that modifying the metric as CUB/EDF suggests and not using the MWVBE business enterprise categories may create a challenge to ComEd's ability to reach the target of 45%.

The Commission recognizes the limitations of using MWVBE certification. As CUB/EDF point out, there is no measurable classification for not-for-profit entities, co-ops, and other ownership structures, and the barriers to entry for certification are high for small businesses. Moreover, using the MWBVE certification as a diversity marker ignores the EIEC communities which are emphasized in P.A. 102-0662.

The Commission accepts ComEd's explanation why it is unable to adopt CUB/EDF's proposed metric at this time because it does not have historical data to measure barriers to access or mentoring, and therefore is not able to establish a baseline

or appropriate goal, which are needed to propose a performance metric in this docket. The Commission, however, directs ComEd to propose a metric in the next docket which is substantively similar to CUB/EDF's proposal here, and focuses on the 3 indices highlighted.

3. Basis Points

a. ComEd's Position

ComEd recommends that zero basis points be assigned to the Supplier Diversity performance metric because of legal concerns. In particular, if the Commission assigns basis points to a metric focused on percentage of diverse supplier spend, ComEd suggests that the Commission's decision could be vulnerable to an Equal Protection Clause challenge. According to ComEd, legal precedent does not allow state action that effectively sets racial quotas, absent a robust record that the state action is narrowly tailored to remediate past discrimination. ComEd states that by tying ComEd's legally authorized cost recovery to achievement of a particular percentage of diverse supplier spend, a challenger could argue that the state has effectively set a racial quota.

ComEd states that a state policy that draws racial classifications is subject to strict judicial scrutiny. This standard requires the State to show both a compelling governmental interest and that any racial classification is narrowly tailored to achieve the compelling governmental interest. In other words, ComEd states, the State must show that the racial classification is both necessary and no broader than necessary to achieve the goal of combating historical discrimination. ComEd Init. Br. at 61-62.

ComEd notes that in *Richmond v. J.A. Croson Co*., 488 U.S. 469 (1989), a plurality of the Supreme Court recognized that the goal of remedying past discrimination may, under some circumstances, constitute a compelling government interest. *See* 488 U.S. at 491-92. The Seventh Circuit has applied that holding. *See Wittmer v. Peters*, 87 F.3d 916, 918 (7th Cir. 1996) (recognizing that race-conscious action to remedy past discrimination may be permissible); *Billish v. City of Chicago*, 989 F.2d 890, 893 (7th Cir. 1993) (same). However, ComEd states, the narrow tailoring test is demanding. ComEd explains that the test requires the state to provide robust evidence that the racial classification is necessary to achieve the government's interest. ComEd states that to determine whether the law is narrowly tailored, courts in the Seventh Circuit consider: (a) "the necessity for the relief and the efficacy of alternative [race-neutral] remedies," (b) "the flexibility and duration of the relief, including the availability of waiver provisions," (c) "the relationship of the numerical goals to the relevant labor [or here, contracting] market," (d) "the impact of the relief on the rights of third parties," and (e) "the over- or under-inclusiveness" of the proposed remedy. *Midwest Fence Corp. v. U.S. Dep't of Transp.*, 840 F.3d 932, 942 (7th Cir. 2016) (internal quotation marks omitted) (citing United States v. Paradise, 480 U.S. 149, 171 (1987) and *Adarand Constructors, Inc. v. Slater*, 228 F.3d 1147, 1177 (10th Cir. 2000)). ComEd explains that the government entity enacting the race-conscious remedy must have a "strong basis in evidence that remedial action is necessary to remedy past discrimination." *Midwest Fence Corp*., 840 F.3d at 945 (internal citation omitted); *Wittmer*, 87 F.3d at 918-19.

ComEd explains that here, a challenger may argue, the narrow tailoring test has not been satisfied because the statute fails to directly link the supplier diversity

performance metric category in Section 16-108.18(e)(2)(A)(iii) to past discrimination. ComEd notes that while Section 16-108.18 does not define "diversity," the objectives of the statute include "maintain and grow a diverse workforce, diverse supplier procurement base and, for relevant programs, diverse approved-vendor pools, including increased opportunities for minority-owned, female-owned, veteran-owned, and disability-owned business enterprises." 220 ILCS 5/16-108.18(c)(6). ComEd states that the challenger would likely argue that this objective, while laudable, is distinct from remedying past discrimination and is overbroad in its attempt to do so. And, ComEd claims, a challenger may argue, that makes this situation similar to the kind of race-conscious preferential treatment that courts have invalidated.

For example, ComEd notes that the Seventh Circuit invalidated a "Minority-and-Women-Owned Business Enterprise Program," which established quotas for construction contracts in Cook County, requiring that a minimum of 30% of the total value of a construction contract made by the county be awarded to enterprises owned by members of specified minority groups or women. *Builders Ass'n of Greater Chicago v. Cty. of Cook*, 256 F.3d 642, 643 (7th Cir. 2001). ComEd explains that the Court found that the county failed to provide sufficient evidence that it previously discriminated against the groups favored by the program. *Id*. at 645. In addition, even if the county had made a case for remedial action, the program would fail the narrow tailoring test because the minority groups included in the program were too broad. *Id*. at 646. ComEd notes that the Seventh Circuit also pointed out that the county failed to show that the 30% quota would have been met in the absence of discrimination — and thus failed to show that the policy did no more than was necessary to remedy past discrimination. *Id*. at 647. ComEd states a challenger could argue that the supplier diversity performance metric fails the narrow tailoring test on similar grounds.

ComEd expresses no opinion on how any litigation attacking a supplier diversity metric might ultimately be resolved. But ComEd recognizes the risks and the questions that such litigation poses and the actual harm that such litigation – even if ultimately rejected – might cause to the goal of achieving supplier diversity. ComEd states that it proposes no basis points for this metric to minimize that risk without any loss of commitment to or action on this critically important goal.

ComEd states that the evidence – years of history and demonstrated performance – proves without doubt that ComEd needs no basis points to be assigned to the supplier diversity metric in order to prioritize supplier diversity. ComEd states diversity is a core value of ComEd and its strong commitment to increasing supplier diversity is demonstrated daily including through industry-leading performance. ComEd points out that its current level of diverse spend of total supplier spend (42% in 2021) is among the top in the industry, representing $893 million in 2021. This is an increase of 19% (or $640 million) since 2012. ComEd Ex. 21.0 at 6.

ComEd notes that it also maintains programs designed to increase supplier diversity. For example, ComEd's MDI is a new program designed to elevate diverse supplier and workforce participation. In addition, ComEd explains that it has proposed supplier diversity tracking metrics that will allow it to propose different supplier diversity performance metrics in future proceedings that would not present Equal Protection Clause concerns if basis points were allocated to them.

ComEd recommends that if the Commission does decide to allocate basis points to the supplier diversity performance metric, the Commission should allocate a small amount of basis points (e.g., no more than three basis points out of 60 total basis points, or alternatively, one basis point out of 40 total basis points – in each case taken from the affordability performance metric), to reduce the impact should the performance metric be successfully challenged.

b. Staff's Position

Staff does not agree with ComEd's proposal to allocate zero basis points to supplier diversity, or its proposal on how performance should be measured, and points awarded. Agreeing with the Company's position would require the Commission to take a stance regarding the constitutionality of the statute, and that is not something the Commission can do. The Illinois Supreme Court has held that administrative agencies "have no authority to declare statutes unconstitutional or even to question their validity. When they do so, their actions are a nullity and cannot be upheld." *Goodman v. Ward*, 241 Ill. 2d 398, 411 (2011) (internal quotation omitted); *see also Cinkus v. Vill. Of Stickney Mun. Officers Electoral Bd*., 228 Ill. 2d. 200, 214 (2008), as modified (Apr. 23, 2008).

Staff points out that, in the past, the Commission has declined invitations to narrow statutes based on constitutional arguments. For example, in Docket No. 01-0614, Illinois Bell Telephone Company ("Ameritech") argued that an Illinois statute should be interpreted by the Commission in a manner that would avoid imposing burdens on the company that were greater than those imposed by federal law. *Ill. Bell Tele. Co*., Docket No. 01-0614, Order at 12 (June 11, 2002). Reading the Illinois statute in any other manner, the company argued, "would violate the plain language of [federal law] and thus be preempted under the Supremacy Clause . . . ." *Id*. The Commission rejected Ameritech's argument and determined that the Commission has no authority to declare an Act of the General Assembly preempted or otherwise unconstitutional. *Id*. at 18-19.

Similarly, in Docket No. 12-0321, the Commission was not swayed by ComEd's argument that disallowance of out-of-state charitable expenses would violate the Dormant Commerce Clause. *Commonwealth Edison Co*., Docket No. 12-0321, Order at 46 (Dec. 19, 2012) ("the Commission has no authority to declare an Act of the Illinois General Assembly preempted or otherwise unconstitutional. . . . The Commission applies the statute, and does not make determinations on its constitutionality." (internal quotation omitted)).

Most recently, in Docket No. 21-0812, the Commission once again reiterated its position that "[t]he Commission's role [...] is to interpret and enforce the statute. The Commission cannot declare the statute to be unconstitutional, and no party disputes this proposition. […] [T]he Commission does not have to reach the question of constitutionality." *Commonwealth Edison Co*., Docket No. 21-0812, Order at 19 (Feb. 3, 2022).

Pursuant to the Illinois Supreme Court's *Cinkus* and *Goodman* decisions, and consistent with its own past practice, Staff states that the Commission should decline to address the constitutionality of assigning basis points to the supplier diversity performance metric based on ComEd's arguments. The legal authority dictates that the Commission is unable to rule on the constitutionality of a statute, and the Commission

has to apply the statute as written. It follows then, that if the Commission is unable to rule on the constitutionality of a statute, ComEd's argument that assigning any basis points to the supplier diversity metric because it is unconstitutional lacks merit, but ComEd offered no other evidence to support a finding that this metric alone should not have a financial incentive. It is Staff's opinion that performance metrics must have a financial incentive attached to them, in this case basis points, otherwise they are simply tracking metrics.

The Commission should reject ComEd's position and assign a symmetrical 6 basis point penalty and incentive structure for Performance Metric 5. Specifically, Ms. Robinson recommended that the Commission adopt a simple stair-step approach for this metric. Staff Ex. 13.0 REV at 9. This approach would award a maximum of 6 basis points if ComEd achieves the full 0.6% increase in each year, and assign a 6 basis point penalty, if ComEd's diverse supplier spend is 0.6% less than the baseline. *Id*. Staff's proposed approach includes an intermediate penalty/incentive of 3 basis points, as well as a deadband surrounding the baseline of 42.0%. Consistent with ComEd's suggestion that the performance target for subsequent years increase by 0.6% per year, Staff recommends that the baseline and each of the intermediate performance targets also increase by 0.6% per year as well. *Id*.

c. CUB/EDF's Position

CUB/EDF contend it is reasonable to approve up to a 5-basis point reward or penalty for ComEd's performance on the three indices which capture the extensive statutory requirements: supplier diversity performance, addressing barriers to access, and mentoring. CUB/EDF Ex. 4.1 at 22.

d. Commission Analysis and Conclusion

As Staff correctly points out, the Commission lacks the authority to make any determination as to whether a statute approved by the General Assembly is unconstitutional. The Commission's role is to interpret and enforce statutes within the Commission's jurisdiction.

The Commission is tasked with approving performance metrics, including supplier diversity, that have financial penalties/incentives attached to the metric. As such, the Commission rejects ComEd's recommendation to assign zero basis points to Performance Metric 5.

Mindful that supplier diversity expansion is a required performance metric category, and noting that ComEd did not demonstrate this to be a difficult metric to achieve, the Commission approves 3 basis points for this Performance Metric 5, as noted in Sections IV.B and C of this Order. The Commission finds this to be a sufficient incentive for ComEd to pursue the goals under this metric.

D. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(iv) (affordability)

1. ComEd Proposal

a. ComEd's Position

ComEd argues the Commission should approve ComEd's final revised proposed affordability performance metric. ComEd explains that the proposal is a slightly modified

version of the affordability performance metric originally proposed by COFI in its direct testimony. ComEd notes that it adopted and proposed limited changes to the COFI proposal in ComEd's rebuttal and surrebuttal testimony. ComEd states that COFI and ComEd have agreed on those changes, and that Staff also supports the agreed proposal.

ComEd notes COFI's direct testimony proposed and supported an affordability performance metric with a target of 10% annual reductions in residential customer disconnections in each of the 20 zip codes with the highest rates of disconnection based on 2017-2019 data. COFI Ex. 1.0 (2d CORR) at 5.

ComEd explains that its rebuttal testimony adopted COFI's proposed affordability performance metric, subject to two limited changes. First, ComEd proposed to change the COFI proposal so that the 10% target is calculated based on the aggregation of the results within the 20 zip codes, instead of requiring 10% decreases in each of the 20 zip codes. ComEd states that it did so in order to prevent the metric from in effect becoming 20 separate metrics, one for each zip code. Second, ComEd clarified that the 10% calculation would be measured on a year-over-year basis. Finally, while the steps to achieve the targets are not part of the metric design, ComEd agreed with COFI witness Howat that the means of achieving the targets should not be allowing arrearages to increase. ComEd explains that its goal is to connect customers with EE and financial assistance options in order to reduce customer arrearages and, as a result, to reduce disconnections. ComEd Ex. 8.0 at 12-13.

ComEd notes that ComEd and COFI resolved the final details of the agreed proposal, including: (1) a slightly revised list of the 20 zip codes and (2) a revised baseline based on 2019 data. 2019 is the year which has the highest number of residential customer disconnections for non-payment of the three years preceding the pandemic, meaning that the use of 2019 data yields a significantly higher baseline than COFI's original 2017-2019 baseline calculation. ComEd Ex. 22.0 at 8-10; ComEd Ex. 22.01 at 1-4.

ComEd states that the COFI/ComEd agreed-upon final revised metric incorporates revised baselines, deadbands, and targets that are reasonable and fair as provided in the table below.

Surrebuttal Affordability Performance Metric Projected Baseline Target, Deadband, and Penalties/Incentives

Year	Penalties -0.1 bps to -13 bps	Deadband (0 bps)	Incentives 0.1 bps to 13 bps
2024	42,805 to 44,281 or higher	41,329 to 42,804	39,853 or lower to 41,328
2025	38,525 to 39,853 or higher	37,196 to 38,524	35,868 or lower to 37,195
2026	34,672 to 35,868 or higher	33,477 to 34,671	32,281 or lower to 33,476
2027	31,205 to 32,281 or higher	30,129 to 31,204	29,053 or lower to 30,128

ComEd Ex. 22.0 at 15.

ComEd states it satisfied COFI's concern that, because of the aggregation of results of the 20 zip codes for metric purposes, some of the zip codes potentially could receive less or even no effort from ComEd. ComEd states that it showed that that potential concern would not be an issue for three reasons: (1) ComEd's proposed Financial Assistance Outreach & Education Tracking Metric (Tracking Metric 11) would track ComEd's efforts; (2) ComEd's monthly credit and collections data report to the Commission tracks data by zip code and would show how ComEd was performing in each zip code; and (3) ComEd is committed to making efforts in each of the 20 zip codes. *Id* at 10-12; ComEd Ex. 22.01 at 5.

ComEd explains that the COFI/ComEd proposal is supported by Staff, COFI, the AG (conditionally) and CUB/EDF, setting aside the subject of basis points. IIEC is the only intervenor that continues to oppose the metric in briefs, and ComEd states that IIEC's arguments are unpersuasive, unrealistic, and contradictory.

ComEd explains that IIEC's criticism that ComEd cannot provide granular strategy and implementation details for the metric at this time is unreasonable and unrealistic for several reasons. ComEd argues that his view places no weight on the inherent unknowns on this subject at this time in this first performance metrics case. ComEd states IIEC's criticism fails to acknowledge the indications of net benefits of this and other metrics based on the best available information. Moreover, ComEd contends, IIEC's demands regarding the level of detail required at this time appear to be an outlier view among the witnesses in this docket.

ComEd argues that IIEC's view that the metric's baseline should be established using data averaging 2015, 2016, and 2018 data (but not 2017 and 2019 data), is arbitrary and should not be adopted. Instead, ComEd suggests that the use of 2019 data agreed upon by ComEd and COFI provides a more reasonable baseline. See ComEd Ex. 8.0 at 14; ComEd Ex. 22.0 at 9-10.

ComEd notes the inconsistency between IIEC's suggestion that ComEd might rely only on existing efforts to achieve the metric, while at the same time expressing concern about the potential costs to achieve the metric. ComEd argues that if ComEd can achieve

the metric's targets solely with its existing efforts, then that still would mean that ComEd had achieved the target levels, which are significantly higher than the otherwise expected baseline level. ComEd states that it is consistent with the objectives of Section 16-108.18. Moreover, ComEd contends that if IIEC were being consistent, it ought to favor a metric with no incremental costs. ComEd states that the metric has multiple identified benefits and potential benefits to directly impacted residential customers and to residential customers as a whole. Thus, ComEd argues that it is reasonable to conclude this metric is net-beneficial.

ComEd argues that the AG's concern that ComEd could achieve the metric simply by letting arrearages increase is unwarranted, stating that ComEd has no intention of achieving the metric by letting arrearages increase. Moreover, ComEd explains that the AG's concern is addressed by: (1) the agreement between ComEd and COFI that ComEd will not seek to achieve the metric by letting arrearages increase; (2) ComEd's proposed Tracking Metric 11 (Financial Assistance Outreach and Education); and (3) ComEd's publicly available monthly credit and collections reports provided to the Commission.

ComEd states that the COFI/ComEd proposed affordability performance metric meets the requirements of Section 16-108.18(e)(2)(A)(iv) of the Act. ComEd states the proposal also is achievable.

ComEd explains that the COFI/ComEd agreed proposal benefits residential customers in the 20 zip codes, and potentially residential customers as a whole, although the benefits in many respects are difficult to quantify at this time. ComEd states that the successful implementation of the underlying activities that ComEd intends to undertake to achieve the COFI/ComEd agreed proposed metric – helping residential customers obtain financial assistance – will help reduce arrearages and disconnections. ComEd argues that this work: (1) benefits the directly involved customers; (2) reduces the amount of unpaid utility bills that are written off and socialized through rates across all customers; and (3) may reduce the time spent by customers and utility Call Center personnel dealing with arrearage and disconnection issues. ComEd conservatively estimates that, from an affected customer perspective, a day without electric service equals a cost of $100 per customer per day. ComEd claims that attainment of the COFI/ComEd agreed proposal will result in fewer disconnections, which also may reduce customer time spent with the Call Center discussing arrearage and disconnection issues. ComEd states the proposal also reflects conservative benefits to customers of $18.83 per hour and to ComEd of $51.92 per hour based on the fully loaded cost of Call Center staff. Mr. Zarumba and Mr. Shields conservatively estimate the annual benefits of the COFI/ComEd agreed proposal are provided in the table below.

Updated Affordability Net Benefits

Updated Affordability Net Benefit Calculation	2024	2025	2026	2027
Cost per Day of Service Disruption - 1 day average	$100	$100	$100	$100
Cost per Hour of ComEd Call Center	$52	$52	$52	$52

Average Duration of Call (hours)	0.1056	0.1056	0.1056	0.1056
Avoided ComEd Call Center Costs	$5.48	$5.48	$5.48	$5.48
Value of Customer Time per Hour	$18.83	$18.83	$18.83	$18.83
Avoided Cost of Low Income Customer on ComEd Call	$1.99	$1.99	$1.99	$1.99
Estimated Program Cost per Customer - *currently unknown*	**$ -**	**$ -**	**$ -**	**$ -**
Net Benefits	$107.47	$107.47	$107.47	$107.47
Annual Targeted Customers	**4,428**	**8,413**	**12,000**	**15,228**
Total Annual Benefits	$475,878	$904,168	$1,289,628	$1,636,544

ComEd Ex. 25.0 at 6.

In addition, ComEd notes that there are actual or potential qualitative (social) benefits, such as more efficient use of State and federal financial assistance dollars, avoided disruption in customers' lives, and avoided costs of alternative housing, although those benefits are difficult to quantify. ComEd Ex. 11.0 at 41; ComEd Ex. 11.03 CORR.

ComEd argues that, contrary to IIEC's suggestion, the COFI/ComEd proposed affordability performance metric may reasonably be concluded to be net-beneficial based on the available information, as is explained by outside experts, ComEd witnesses Zarumba and Shields. ComEd notes there are possible incremental costs to achieve the targets of this metric, but the costs are speculative at this time. ComEd states significant benefits can be expected for both directly impacted customers and customers as a whole. ComEd contends that based on the available information, the conclusion of net beneficiality is reasonable.

b. Staff's Position

Staff states that Performance Metric 6 should achieve affordable customer delivery service costs, with particular emphasis on keeping the bills of lower-income, equity investment eligible, and environmental justice communities within a manageable portion of their income. 220 ILCS 5/16-108.18(e)(2)(A)(iv). Additionally, the metric should require the utility to adopt credit and collection policies that reduce disconnections and ensure equitable disconnections, late fees, or arrearages. *Id*.

Ultimately, ComEd and COFI reached an agreement on the affordability metric. COFI Cross Ex. 1. Staff recommends that the Commission approve the revised proposed metric as negotiated and agreed to by ComEd and COFI. The revised metric measures outcomes and allows the Company to determine how best to accomplish its affordability goal.

c. AG's Position

The AG requests that the Commission approve ComEd's revised affordability metric because it will address affordability by reducing disconnections in some of ComEd's most vulnerable areas.

The AG supports ComEd's revised proposal and requests that the Commission approve this metric as presented in ComEd's surrebuttal testimony and COFI witness Howat's testimony. ComEd agreed with intervenors that this metric should not be achieved by "allowing arrearages to increase" and it should instead "connect customers with EE and financial assistance options in order to reduce customer arrearages and, as a result, to reduce disconnections." ComEd IB at 66. Therefore, in approving this metric, the Commission can expect ComEd to take active measures to reduce disconnections that include outreach to struggling ratepayers, offering lower cost deferred payment arrangements, connecting customers with financial assistance, and working to reduce delivery rates and make bills more affordable for all customers—consistent with the Company and COFI's agreed PIM.

The AG requests that the Commission either reject ComEd's entire proposed PBR structure, or in the alternative, approve ComEd's revised affordability metric, as presented in the Company's surrebuttal testimony and Initial Brief.

d. CUB/EDF's Position

CUB/EDF note that the legislature acknowledged concerns that formula rates may have resulted in excess utility spending and guaranteed profits without meaningful improvements in affordability, equity, or customer experience. 220 ILCS 5/16-108.18(a)(6). Throughout the new PBR framework, the General Assembly emphasized the importance of affordability.

CUB/EDF further note that the legislature also directed the Commission to establish a metric specifically designed to promote affordability, with a particular emphasis on the bills of lower-income households, households in equity investment eligible communities, and households in EJ communities within a manageable portion of their income and adopting fair and equitable utility credit and collection processes. 220 ILCS 5/16-108.18(e)(2)(A)(iv). CUB/EDF state that the legislation thus requires more than simply taking an action the utility expects to potentially increase bill payment rates across its service territory. The statute lays out several factors the performance metric must address. *Id*. P.A. 102-0662 calls for the metric incentives and penalties to be awarded based on performance both service territory-wide and specifically with lower-income and EIEC and EJ community households. *Id*. The Act also specifies equitable disconnections, late fees, and arrearages stemming from utility credit and collection practices and explicitly references consideration of zip code-level impacts. *Id*.

ComEd agreed in testimony to withdraw its original affordability performance metric proposal and adopt the alternative metric proposed by COFI witness Howat, with one modification. ComEd Ex. 8.0 at 5-6. CUB/EDF support adoption of the affordability metric originally proposed by COFI witness Howat in his direct testimony, as ComEd adopted with a slight modification in its rebuttal testimony. CUB/EDF Ex. 4.0 at 19. The affordability metric Mr. Howat proposed measures progress towards a 10% annual reduction in residential disconnections for non-payment over the 2024-2028 period in the ComEd service territory's 20 ZIP codes with the highest historical disconnection rates. *Id*. at 19. ComEd adopted this proposal, except it would measure only the reduction in total disconnection rate across the 20 ZIP codes, not necessarily requiring a reduction every year in each one of them. ComEd Ex. 8.0 at 6. CUB/EDF accept this modification

and further support adding a clause in the metric stating the utility must take proactive steps to reduce disconnections rather than merely allow arrearages to accumulate. CUB/EDF Ex. 4.0 at 19; CUB/EDF Ex. 4.1 at 24.

e. COFI's Position

COFI states that an affordability metric should follow the dictates of Section 16-108.18(c) and 16-108.18(e)(2)(A)(iv) of P.A. 102-0662, which give specific definition to the concept of affordability, with a particular emphasis on addressing past inequities that have negatively impacted low-income customers and environmental justice communities. Section 16-108.18(c) requires the utility choosing a PBR framework to focus specifically on the financial burdens financially struggling customers face and design a PBR framework that will achieve affordability for low-income customers, address the particular burdens faced by consumers in environmental justice and equity investment eligible communities, keep these customers' utility bills within a manageable portion of their income, and reduce disconnections. The statute specifically invites the utility and Commission to incorporate zip- code-level credit and collections data in formulating the affordability goal and metric set forth in Section 161-108.18(e)(2)(A)(iv).

COFI states that these provisions highlight the need to address the unaffordability of rates for "low," "lower-income," "equity investment eligible communities," and "households in environmental justice communities" as those terms are defined in Section 16-108.18(b) of the Act.

COFI explains that this focus on the welfare of low-income, financially struggling customers is consistent with other Illinois statutes that highlight the importance of maintaining uninterrupted access to essential utility service for all customers. For example, the General Assembly has recognized in the Energy Assistance Act ("EAA") that society benefits from affordable utilities with minimal disconnections and arrearages, stating that "the health, welfare, and prosperity of the people of the State of Illinois require that all citizens receive essential levels of heat and electric service regardless of economic circumstance." 305 ILCS 20/2(a)(1). The EAA also provides that "society benefits if essential utility services are affordable and arrearages and disconnections are minimized for those most in need," COFI notes. *Id*. at (a)(5).

COFI points out that ensuring that these customers' affordability challenges are addressed in the design of an affordability metric is consistent with the guidance provided in statutory interpretation law to apply the "plain language of the statute" and Staff's admonition that the language of Section 16-108.18 be the utility's and Commission's "North Star" when assessing performance metrics.

The COFI and ComEd recommended compromise affordability metric focuses on reducing disconnections for those customers zip codes with the highest rates of disconnection, consistent with the directives of Section 16-108.18(e)(2)(A)(iv) of the Act. In response to ComEd's original proposal, COFI witness Howat recommended that the Commission adopt a different approach to measuring affordability of electric service -- an approach that measures real outcomes, rather than processes that in and of themselves provide no indication whether financially struggling and environmental justice and equity communities are realizing tangible benefits, as required by Section 16-108.18 of the Act. Mr. Howat recommended that the Commission direct the Company to develop and adopt

an affordability performance metric based on a 10% annual reduction over a four-year period in residential disconnections for non-payment in the 20 zip codes in its service territory with the highest 2013 - 2019 disconnections ratios. He recommended that the baseline disconnections ratio should be calculated by totaling residential disconnections over the three-year period and dividing by the number of residential customers in the zip code. COFI Ex. 1.0 (2d CORR.) at 32-33.

COFI states that focusing on reducing disconnections in areas hardest hit by ComEd disconnection activity appropriately concentrates affordability efforts in low income areas where loss of essential home energy and utility services has been shown to be concentrated. In COFI's view, it is undisputed that the concepts of household income, affordability, and access are linked. Mr. Howat testified that keeping customers connected to the utility network is a critical indicator of the extent to which utility service is affordable. That fact points to the importance of creating an affordability metric that attempts to measure progress in reducing disconnections. ComEd adjusted its position and proposed a modified version of Mr. Howat's affordability metric in its rebuttal testimony. ComEd witness Chu testified that the Company would instead propose a metric that modified Mr. Howat's metric slightly by using a 10% decrease in the aggregate total of the top 20 zip codes instead of a 10% decrease in each zip code. ComEd Ex. 8.0 at 6.

In his rebuttal testimony, Mr. Howat responded to the revised proposal, noting that it is important to ensure that any reductions that ComEd achieve as it sets out to improve affordability not be concentrated in one or only a few zip codes. He testified that his review of both monthly zip code-level disconnection and other credit and collections data now being filed at the Commission reveals that affordability is a problem in more than just a few zip codes in the ComEd service territory. COFI Ex. 2.0 at 7.

After the filing of rebuttal testimony, COFI and ComEd reached a common understanding of a proposed affordability metric that incorporates that goal, along with specific terms, as provided in ComEd Ex. 22.01 (surrebuttal testimony of Ms. Chu). Those agreed-upon terms are:

- The metric would require the Company to achieve a 10% aggregate reduction annually in disconnections in the 20 zip codes with the highest rates of disconnection during the 2017-2019 time period. The metric baseline is comprised of the 2019 disconnection actual number of disconnects in those zip codes (rather than the originally proposed 2017-2019 average baseline). Should ComEd achieve this metric each year over the 2024-2027 MRPtime period, disconnections would be reduced by 34.4% in the aggregated 20 zip codes.
- This affordability metric would incorporate each year, as its new target, an aggregated 10% reduction from the prior year target in 20 ComEd customer zip codes. These zip codes represent the top 20 zip codes with the highest disconnection rates, excluding those zip codes with fewer than 50 customers.
- It should be noted that incorporating the 2019 actual disconnection numbers from these 20 zip codes raises the baseline from what had been previously proposed (2017-2019 average), as the year 2019 had the highest total number of disconnections for nonpayment.

- The proposed affordability metric would apply a linear basis points allocation of financial penalties and incentives that includes: (1) penalties (-0.1 to -10 basis points) tied to a 3.3% improvement (reductions in disconnections) or less; (2) a deadband (0 basis points) tied to a 3.3% to 6.7% improvement (reduction in disconnections); and incentives (0.1 to 10 basis points) tied to a 6.7% to 10% improvement (reduction in disconnections).
- Although COFI and ComEd initially agreed to support an allocation of 10 basis points for penalties and incentives associated with the affordability metric, ComEd now proposes an assignment of 13 basis points to this metric if the Commission approves a total of 60 basis points for all performance metrics in the aggregate, based on a proposed reduction to its Peak Load Reduction metric. It states that if the Commission were to approve 40 total basis points, ComEd proposes that 8 basis points be allocated to the affordability metric. COFI does not object to that alternative proposal. If some other total number of basis points were to be approved, ComEd and COFI have agreed to support an allocation of at least 1/6 of the total approved basis points.
- Importantly, this agreement with ComEd is premised on ComEd's agreement to monitor, each month, and work to reduce disconnections in all 20 zip codes included in the affordability metric. ComEd agrees not to achieve this metric by simply allowing arrearages in the top 20 zip codes to grow as a result of the reduction in disconnections, narrowly focusing its efforts on reducing disconnections in a select-few zip codes, or strategically timing disconnections for maximum company benefit, but instead will actively take other measures, such as improved outreach with customers whose ComEd arrearage levels indicate are struggling to afford essential utility service in order to connect those customers with financial assistance, and to adopt other measures that will improve long-term affordability of monthly electric bills for these customers.
- As part of the agreement, ComEd has agreed to meet with COFI and other interested stakeholders to address observed static or minimal disconnection reductions as compared to other zip codes (reductions that fall below 6.7% or greater) in any of the top 20 zip codes.
- Notwithstanding the basis point cap on the affordability metric, ComEd agrees that nothing in this agreement should be interpreted to preclude the Company from achieving reductions that exceed the 10% level incentivized through this metric in the 20 zip codes incorporated in the metric, or any other zip code within its service territory.

COFI requests that the Commission include each of these specific parameters to the agreed metric, if approved, as specific findings in its final Order in order to ensure that ComEd is accountable for these agreement terms.

COFI further states that ComEd's own disconnection data not only supports adoption of the COFI/ComEd proposed affordability metric, but also highlights the racial justice aspect of addressing affordability through a focus on reducing disconnections in the zip codes with the highest rates of disconnection. Based on his calculations, Mr. Howat testified that in each year between 2017 and 2019 ComEd's identified low-income

residential customers lost access to critical home energy service at a rate 2.6 to 3.1 times higher than that of customers identified as non-low-income. COFI Ex. 1.0 (2d CORR) at 13-14. The elevated rates of low-income customer disconnections provide evidence of affordability challenges faced by low-income customers, and support the development and implementation of an affordability metric that is directly linked to reducing the level of disconnections in low-income communities, such as the one proposed by COFI and ComEd.

As part of his analysis, Mr. Howat also testified that there are racial justice ramifications of unaffordable electric bills and elevated disconnection rates, COFI highlights. Mr. Howat's analysis entailed matching zip code-level American Community Survey race and population data with the zip code-level disconnections data provided by the Company. He then calculated total disconnections by zip code over the period from 2013 – 2019 and created a ratio of total disconnections to total residential accounts for each of the zip codes served by ComEd. Finally, he sorted and ranked zip codes by percent of the population consisting of people of color non-white population. The data show a striking overlap between race and service disconnections. *Id*. at 15-16.

COFI states that these findings and their unequivocal racial equity ramifications place added emphasis on the need for a targeted affordability metric that supports the reversal of disparities in utility credit and collections systems and outcomes, along with additional Commission findings. As Mr. Howat testified, reversing the inequities that permeate the existing home energy security landscape requires purposive corrective action. COFI states that this evidence of the racial justice implications of failing to address existing credit and collections policies not only points to Commission adoption of the COFI-ComEd-proposed affordability metric, put a re-evaluation of existing ComEd practices, as reference in Section 16-108.18(a)(8) and 16-108.18(e)(2)(A)(iv) of the Act.

COFI notes that IIEC was the only party to object to approval of the COFI/ComEd-proposed affordability metric, arguing ComEd failed to prove a net benefit – again because, like other ComEd-proposed metrics, costs were not fully defined. IIEC IB at 28-19. IIEC opines that because the costs to achieve the metric are speculative in amount, "the effort to be undertaken by ComEd is likely little more than maintaining the status quo." *Id*. IIEC then makes the cryptic comment that "the irony is not lost on IIEC that success in meeting ComEd's affordability metric has the result of its rates increasing to customers, or becoming less affordable." *Id*. In making this assertion, IIEC cites IIEC witness Stephens' testimony (IIEC Ex. 1.0 at 40), but that citation references testimony that addressed ComEd's original metric, which has been withdrawn. Moreover, IIEC fails to offer an alternative metric, COFI points out. In terms of costs and benefits, both ComEd and COFI witnesses testified that benefits would exceed costs. For these reasons, IIEC's criticisms of this metric should be rejected, COFI states.

It should be noted, too, COFI argues, that Mr. Howat provided several recommendations as to actions that the Company can take beyond customer outreach that are within the specific control of ComEd that will lead to fewer disconnections and improved affordability for the statutorily identified customer groups. Commission findings that encourage the Company to take these actions will assist the Company in not only achieving the metric, but improving affordability in general, thereby increasing the net benefits of the COFI/ComEd metric.

As noted in COFI's and ComEd's Initial Briefs, the COFI/ComEd-proposed affordability metric achieves the specific goals of Section 16-108.18(e)(2)(A)(iv) of the Act. COFI reiterates that it is supported by all but one party of all the parties that offered an opinion on the metric. It specifically measures outcomes, not processes or investments, consistent with Section 16-108.18(e)(2)(D). COFI asserts that the COFI/ComEd affordability metric should be approved.

f. IIEC's Position

IIEC explains that the affordability performance metric measures the number of customers with an arrearage over 90 days, divided by the total number of residential customers. ComEd's modified metric is based on an aggregated 10% reduction in residential disconnections over a (2024-2028) period, in the top 20 zip codes with highest historical disconnection rates. ComEd Ex. 18.01 at 11-12.

IIEC believes the metric suffers from the same flaws as do other ComEd metrics. For one, there is no detail, no plan of action, which would apprise the Commission of what efforts ComEd will undertake. IIEC notes ComEd admits it, "does not anticipate making major changes in its outreach practices and activities." ComEd Ex. 8.0 at 14. IIEC points out that little information ComEd does offer suggests, that its proposed activities are simply more of its current day to day operations. IIEC notes ComEd will continue to offer: its Smart Assistance Manager to help match customers with assistance options, waivers of late payment charges and deposits for low-income customers; its Supplemental Arrearage Reduction Program; and continue to focus on customer advocacy and outreach to connect customers to available assistance and EE programs. *Id*. at 8. IIEC asserts these initiatives are already in place, thus calling into question why ComEd would be deserving of performance incentives.

IIEC points out ComEd states that IIEC's position as to the lack of detail is in error because of the "inherent unknowns on this subject at this time in this first performance metrics case." ComEd IB at 68. Before addressing the comment in full, IIEC noteds that ComEd has agreed with one of the reasons why IIEC and Staff take issue with 60 basis points and argue for a far lesser amount by acknowledging there are unknowns and this being the first metric case. IIEC notes Staff witness Freetly testified: "ComEd's proposal to apply the maximum allowable basis points to the performance metrics does not seem to give due consideration to the novelty of either multi-year ratemaking or the incentives and penalties associated with new categories of performance metrics." Staff Ex. 10.0 at 2. IIEC witness Stephens testified: "Ultimately, I recommend that the total basis point incentive be minimized during the first MRP. This will help ensure customers are receiving value, at the lowest possible cost, and will ensure that the Commission has the opportunity to assess this new process while minimizing the risk of increased customer rates." IIEC Ex. 1.0 at 4.

In this respect, IIEC agrees with ComEd that the unknowns and this being the first metric case dictate against a 60 basis points award. When testing a new procedure, as the Commission ultimately is being asked to do here, one doesn't go straight to the maximum capability; rather, prudence demands starting with lower test levels and working their way up to the theoretical maximum over time, as successes at lower levels are achieved and refinements are made.

Continuing, IIEC notes Section 16-108.18(e)(2) requires the Commission only approve metrics that, based on substantial evidence, are both practicable and achievable. (220 ILCS 5/16-108.18(e)(2)). IIEC argues this particular metric requires that the utility "achieve" affordable customer delivery service costs. 220 ILCS 5/16-108.18(e)(2)(A)(iv)). IIEC asserts it stands to reason absent some explanation as to what are the action items for the metric, the Commission cannot make the requisite findings required by these statutes; the Commission cannot know how ComEd will achieve the metric.

IIEC notes ComEd suggests that Mr. Stephens' demands regarding the level of detail required at this time appear to be an outlier view among the witnesses in this docket. ComEd IB at 68. First, IIEC points out the other witnesses' testimonies cited are ComEd's witnesses, hardly a source for an unbiased opinion or basis for "outlier" claims. Second, IIEC notes a review of ComEd's Second Revised Performance Metrics Plan, which ComEd asks to be approved in this docket, contains not one word as to how the metric will be implemented. ComEd 18.01 at 8-10. Further, IIEC argues ComEd's casual reference as to the "level of detail" assumes there is some detail – there is no detail to the metric.

IIEC notes that ComEd complains, "Mr. Stephen's [sic] view that the metric's baseline should be established using data averaging 2015, 2016, and 2018 data (but not 2017 and 2019 data), is arbitrary and should not be adopted. The use of 2019 data agreed upon by ComEd and COFI provides a more reasonable baseline." ComEd IB at 68. IIEC finds ComEd's criticisms of IIEC's baseline is without any merit. IIEC's asserts its baseline is anything but arbitrary and not credibly challenged as explained.

IIEC states ComEd defends its lack of detail by asserting that only outcomes matter. ComEd Ex. 8.0 at 13. IIEC notes outcomes are important but so are the means by which those outcomes are to be realized. IIEC points out the Commission is required to find that the metric is achievable, yet the ability to know if that's the case is hampered, as the means by which the metric is to be implemented, are unknown.

And as true with other metrics, IIEC claims ComEd sees fit to avoid the cost issue. IIEC points out ComEd has indicated that it does not anticipate material incremental costs associated with this metric but believes that the possible incremental costs of increased customer outreach are somewhat likely to be incurred, but in any event are speculative in amount. IIEC Ex. 2.0 at 39. IIEC argues that the costs are both minimal and speculative in amount, suggests that the effort to be undertaken by ComEd is likely little more than maintaining the status quo.

To IIEC, while affordability is certainly a laudable goal, IIEC suggests ComEd has not made a compelling case of net benefit associated with this metric. The irony is not lost on IIEC that success in meeting ComEd's affordability metric has the result of its rates increasing to customers or becoming less affordable. *See*, IIEC Ex. 1.0 at 40. IIEC asserts the Commission should not approve the metric.

g. Commission Analysis and Conclusion

The COFI/ComEd affordability metric is largely supported by many parties in this proceeding. IIEC is the only party to object to the approval of the COFI/ComEd proposed affordability metric. IIEC argues that ComEd failed to prove a net benefit because costs

are speculative. IIEC acknowledges that affordability is a "laudable goal" but asserts that ComEd has not met its burden of proof and the metric should be rejected. Again, the Commission notes that it is required to approve, or approve with modifications, a performance metric in each of the six statutory performance metric categories. IIEC has not proposed an alternative metric. Nor has any other party. COFI, the AG, and CUB/EDF only propose additions to the COFI/ComEd metric, but all of them support the underlying agreed proposed metric itself. Based on record evidence, the Commission finds that the COFI/ComEd agreed affordability metric meets the requirements of Section 16-108.18(e)(2)(A)(iv) of the Act, can help make an important positive difference in directly impacted residential customers' lives, and is reasonably anticipated to result in benefits to ComEd's residential customers as a whole. The agreed affordability metric focuses on reducing disconnections within areas with high rates of disconnection, consistent with the directives of Section 16-108.18(e)(2)(A)(iv) of the Act. The Commission further finds that the agreed proposal will measure outcomes and allow the Commission to determine how to further accomplish this statutory goal going forward. The Commission approves the agreed COFI/ComEd affordability metric and the specific terms outlined by COFI with the exception of the basis point allocation.

2. Other Proposals

a. ComEd's Position

ComEd states that CUB/EDF's alternative affordability performance metric should not be adopted. ComEd notes that CUB/EDF witness Barbeau spoke favorably of ComEd's rebuttal revised proposal, although he expressed a concern about the potential of letting arrearages increase. ComEd explains that concern has been addressed fully by the COFI/ComEd discussions and agreement. ComEd notes that CUB/EDF continue to advocate an altered version of ComEd's rebuttal proposal, which appears to involve: (1) adding a clause to the metric to direct ComEd to take proactive steps to reduce disconnections, and (2) a vague undefined requirement that ComEd cannot achieve the metric simply by allowing arrearages to increase. ComEd states, however, that CUB/EDF's proposal, whether thought of as its own proposed metric or as proposing modifications to the COFI/ComEd proposal, is unclear, undefined, and unnecessary.

ComEd states that COFI's recommended changes to ComEd's credit and collection ("C&C") practices may not and should not be ordered or approved in this docket. ComEd contends these proposals are not within the scope of this docket and cannot be adopted as metrics. ComEd notes the Commission's authority in this docket is to approve performance and tracking metrics that comply with Section 16-108.18(e) of the Act, and, in particular, with respect to performance metrics, to approve, or to approve and modify, the utility's proposed performance metrics. 220 ILCS 5/16-108.18(e)(6)(A). ComEd states that the statute does not appear to permit the Commission to approve what would amount to (unnecessary) management of the utility's methods and underlying activities designed to achieve the performance metrics' targets. ComEd contends that directing the utility's actions would seem to be antithetical to the idea of a performance metrics structure with penalties and incentives that apply to the utility. ComEd notes COFI witness Howat did not frame his C&C recommendations as performance metrics – in fact, the information he provided is far too incomplete to establish a baseline and targets. ComEd argues that at most, these proposals might be thought of as suggestions to

ComEd as to how to achieve the affordability performance metric or otherwise to modify some of its C&C practices.

b. CUB/EDF's Position

See Section VI.D.1.d of this Order. CUB/EDF recommend that the Commission include the following proposed additional language in the affordability metric:

> The utility must take proactive steps to reduce disconnections, and is not allowed to achieve this metric simply by allowing arrearages to increase. In light of the fact that arrearages can fluctuate for reasons outside of the utility's control, the metric does not include a prohibition on arrearages increasing. However, for the utility to satisfy the intent of the Act to proactively promote affordability, the utility must demonstrate it has undertaken proactive measures to enable these customers to afford their bills, rather than simply allowing arrearages to accumulate longer before disconnecting service.

CUB/EDF Ex. 4.1 at 24.

c. COFI's Position

COFI recommends the Commission adopt the COFI/ComEd affordability performance metric; however, COFI makes further recommended changes to ComEd's C&C practices.

COFI asserts that ComEd's practice of accelerating disconnection of customers who have experienced difficulty in affording essential utility service and deemed "high-risk" is discriminatory and in violation of Section 9-241 of the Act.

In his assessment of the Company's affordability metric through discovery responses and disconnection data, Mr. Howat came across other factors that in his view impacted whether lower income customers remain connected to essential utility service. In its discovery responses, ComEd describes its use of a process of risk-ranking of its residential customers for purposes of establishing the timing of certain collection activities, including disconnections, for customers with arrearages. The facts as to how this two-tiered disconnection timeline works are not in dispute, COFI states.

Specifically, ComEd describes its use of a process of risk-ranking of its residential customers for purposes of establishing the timing of certain collection activities, including disconnections, for customers with a certain level of arrearages. These responses indicate that ComEd relies on the services of a third-party vendor, Total Solution Inc. ("TSI"), that utilizes an algorithm to create a risk-ranking for every one of its residential customers on a monthly basis.

COFI asserts that the evidence suggests that ComEd's residential customers proceed through the Company's disconnect practice on two separate tracks: one for customers whose credit scoring, based on TSI's less-than-transparent algorithm, are deemed low risk for non-payment ("most likely to pay") and a quicker path toward

disconnection for those customers whose credit ranking is considered higher-risk ("least likely to pay"), COFI states. *See* COFI Ex. 1.2.

Putting aside the legality of pushing a customer through the disconnection cycle faster than other customers based on a credit risk-ranking, COFI states that it is critical that there is transparency in how these assessments are made. But based on the Company's response to discovery, it appears that not even ComEd may know exactly how TSI establishes an individual customer's credit score given its "proprietary" status and the fact that no information is provided as to how each factor that enters into TSI's calculation is weighted, or how the calculated scores are segmented into the eight risk rankings that ComEd uses when determining how fast a customer moves through the disconnection process, COFI states.

The Company's risk-ranking methodology, in fact, contributes to the problem of unaffordability, according to COFI. Mr. Howat observed that one of the factors TSI incorporates into its risk-ranking algorithm is "length of time at the account." COFI Ex. 1.0 (2d CORR) at 21. This factor cannot help but negatively impact renters in terms of their credit risk-ranking, as renters tend to move more frequently than homeowners, and low-income customers are more likely to be renters than homeowners. *Id*.

Second, as detailed in a ComEd discovery response, ComEd makes clear that customers with a high risk-ranking move through the disconnection process at a significantly faster rate than customers with lower risk-rankings: 16 days vs. 40 days, and with this timeline triggered via a lower arrearage amount – $300 for low-risk customers ranked 1 or 2; $200 for customers ranked 3 or 4 and $100 for customers ranked 5 through 8. *Id*.; ComEd Ex. 8.0 at 13-14. Customers with high-risk rankings may receive a disconnection notice after a bill is 6 days past due. Low-risk customers, however, are not eligible for a disconnect notice until the bill is 30 days past due. While ComEd notes that its new "collection threshold" that would make customers with past due balances greater than two (2) times their average monthly bill eligible for disconnection is not yet incorporated into its risk-ranking timeline (ComEd Ex. 8.0 at 13-14), that change does not appear to alter the core flaw in the Company's existing risk-ranking methodology: that persons deemed high-risk are disconnected quicker than their lower-risk counterparts. That fact is uncontroverted, COFI points out.

Mr. Howat pointed out, too, that Low Income Home Energy Assistance Program ("LIHEAP") vendor payments take, on average, 30 days to process in the State of Illinois. COFI Ex. 1.0 (2d CORR) at 23. If a customer with a high-risk credit ranking is disconnected in less than 30 days, which ComEd's credit and collections processes appear to permit, then that customer, too, will not only experience the stress and public health threat that disconnection from essential electric service brings, but also the incurrence of reconnection fees and a demand for full payment of the arrearage prior to reconnection of utility service. *Id*. at 23-24. If a customer is not permitted the time needed to access the energy assistance that will help address an arrearage and keep the customer connected, then the value of ComEd customer outreach, to the extent it occurs, is diminished and the customer's arrearage only grows, according to COFI.

Another concern highlighted in these Company discovery responses is that due to the shorter timeline for disconnection action, customers with a low risk ranking (that is,

"most likely to make an on-time payment") are not mailed disconnection notices or, at the very least, receive them less frequently than higher risk customers due at least in part to the accelerated timeline that higher risk customers are moved through the "Collection Matrix," COFI points out. COFI Ex. 1.0 (2d CORR) at 22. That means, they are not experiencing one of the credit and collection factors taken into account by TSI – whether a customer has received a disconnection notice — when risk-ranking customers. Likewise, since these acceptable-risk customers are not considered accounts for which the Company needs to initiate collection treatment, they similarly are not being disconnected as often as customers with low risk-rankings, COFI states. *Id*. at 23.

Mr. Howat pointed out, too, that given this disparate treatment of lower- and higher-risk-ranked customers in terms of the pace and frequency of the application of the collection cycle, and the factors that TSI considers in assessing someone's credit risk, one can conclude that a customer who is considered a higher-risk-ranked customer will inevitably remain stuck in that category if collection activity is applied on an accelerated basis as compared to other lower-risk-ranked customers and assuming utility bills remain unaffordable. *Id*. The PBR statute's direction to focus on "adopting credit and collection policies that reduce disconnections for these (low-income) households specifically and for customers overall to ensure equitable disconnections" (220 ILCS 5/16-108.18(e)(2)(A)(iv)) suggests this two-tiered approach to initiating the disconnection cycle – one for customers whom ComEd has labeled as having "most likely to make an on-time payment" credit and another for those labeled as "least likely to make an on-time payment" – hardly ensures "equitable disconnections."

This evidence points to a conclusion that this two-tiered timeline constitutes unlawful discrimination in the provision of essential utility service, COFI states. Section 9-241 of the Act prohibits discrimination or granting of preference or advantage in the provision of utility services to customers. Specifically, that provision provides:

> No public utility shall, as to rates or other charges, services, facilities or in other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates or other charges, services, facilities, or in any other respect, either as between localities or as between classes of service.

220 ILCS 5/9-241.

Likewise, Section 8-101 of the Act provides that a public utility shall provide service that is adequate, efficient, just, and reasonable in all respects and shall furnish service "without discrimination." 220 ILCS 5/8-101.

COFI explains that Section 9-241 has been interpreted by Illinois courts to allow "reasonable" differences in rates (or policies). Only unreasonable differences in rates between customers of electric utility or classes of customers violates the Public Utilities Act prohibition on rate discrimination. *REACT v. Ill. Commerce Com'n*, 2015 IL App (2d) 140202, ¶ 83; *City of Chicago v. Ill. Commerce Comm'n* (First Dist.), 264 Ill.App.3d 403, 636 N.E.2d 704 (1993); *see also Citizens Utilities Co. v. Ill. Commerce Comm'n*, 50 Ill.2d

35, 46 (1971) (power to make rates, of necessity, requires the use of pragmatic adjustments required by the particular circumstances). But ComEd's creation of a two-tiered disconnection timeline – one for low-risk customers and another for those deemed high-risk – constitutes a discriminatory practice that cannot be justified based on any claim of reasonableness. There is nothing "reasonable" about placing residential customers on two differing timelines for disconnection of essential utility services when their arrearages are the same and based on an algorithm that even the utilities cannot explain, COFI states.

COFI urges the Commission to order ComEd to cease use of its risk-ranking algorithm and more specifically, its accelerated disconnection of customers deemed higher-risk for nonpayment, until a full investigation of these practices is resolved in the upcoming Part 280 rulemaking that Staff will begin this summer. Until that proceeding is completed, customers deemed high risk should enjoy the same benefit of the doubt that low-risk-ranked customers do - that nonpayment may have been an oversight. Allowing customers who struggle to afford essential utility service each month more time to pay bills is reasonable, given the need to allow these same customers time to access financial assistance through LIHEAP, PIPP program and utility-sponsored funding sources.

In response to COFI's argument, ComEd states that COFI's request to have the Commission revise the Company's C&C processes are outside the scope of this proceeding. ComEd IB at 72-73. ComEd states Mr. Howat's proposals might be thought of as suggestions to ComEd as to how to achieve the Affordability performance metric or otherwise to modify some of its C&C practices and can be discussed "in suitable future dockets and forums outside of this proceeding." *Id*. at 73.

The problem with that approach is that the evidence points to a conclusion that the risk-ranking criteria for accelerating disconnections constitutes an ongoing violation of Section 9-241 (and 8-101 by extension), COFI states. The Commission has an obligation to address unlawful practices when the facts themselves (ComEd's accelerates the disconnection timeline for customers considered high-risk for nonpayment) are uncontested and the Act prohibits them.

At a minimum, COFI states, the Commission should enter an order here that directs a further examination and litigation of this practice in the upcoming Part 280 proceeding, in which credit and collection practices will be revisited. The Commission, too, should order the Company, regardless of any reference to ComEd's risk-ranking process, to provide financially struggling customers with the time needed to obtain energy assistance – not accelerate the disconnection process based on some unsupported conclusion that doing so improves revenue collections. Moreover, it should revisit the disconnection trigger arrearage amounts that are, in COFI's view, too low to achieve P.A. 102-0662's goal of improving the outcomes of utility practices and encourage ComEd to adopt the practices COFI lists at pages 61-64 of its Initial Brief to help ensure achievement of the metric and overall improvement in affordability and connectivity to the utility network.

Addressing this inequity here and now, COFI states, is appropriate and consistent with the General Assembly's admonition that there is "urgency" in addressing inequitable practices that have impacted certain communities (220 ILCS 5/16-108.18(a)(2)) and its

requirement that "the breadth of this (PBR) framework should revise existing utility regulations to position Illinois electric utilities to effectively and efficiently achieve current and anticipated future energy needs of this State, while ensuring affordability for consumers." 220 ILCS 5/16-108.18(a)(8).

d. Commission Analysis and Conclusion

CUB/EDF and ComEd disagree on inclusion of CUB/EDF's proposed additional clause requiring the Company to demonstrate it took proactive steps to reduce disconnections and not merely allow arrearages to accumulate longer before disconnection of service. Staff does not oppose CUB/EDF's proposed clause. The AG also supports measures to prevent increasing arrearages.

ComEd argues that any arrearages issues have been adequately addressed by the proposed agreed COFI/ComEd metric. ComEd maintains this additional clause is not necessary and is undefined. The Commission finds no harm, and only potential benefits, in including the proposed clause. Furthermore, CUB/EDF's proposal does not impose a substantial burden on the Company, thus leading towards a net-beneficial result. While arguably "undefined," CUB/EDF's proposal gives ComEd flexibility to choose measures that will achieve the objective and thus promote net benefits. CUB/EDF's proposed clause is adopted.

COFI proposes that ComEd (1) cease and desist using the risk-ranking algorithm until a full investigation of this practice is complete in the upcoming 83 Ill. Adm. 280 rulemaking, (2) allow financially challenged customers more time to obtain energy assistance, and (3) reconsider the disconnection trigger for arrearage amounts. The purpose of this docket is to approve performance and tracking metrics that comply with P.A. 102-0662. COFI does not explicitly disagree with ComEd's argument that its additional proposals are outside the scope of this docket but instead stresses that ComEd's delay in addressing COFI's concerns is untenable because of alleged ongoing violations of Section 9-241 of the Act. The Commission finds that COFI's additional suggestions are not within the scope of this docket and cannot be adopted as metrics.

3. Basis Points

a. ComEd's Position

ComEd states the Commission should approve 13 basis points for penalties and incentives for ComEd's proposed revised affordability performance metric in the scenario of 60 total basis points for all performance metrics, eight basis points in the scenario of 40 total basis points, or at least 1/6 of total basis points in other total basis point scenarios.

ComEd notes that COFI originally proposed that its affordability performance metric be allocated 10 basis points for purposes of penalties and incentives. ComEd's rebuttal testimony agreed with COFI's proposal to allocate 10 basis points to this metric. ComEd Ex. 8.0 at 10.

ComEd and COFI continue to support allocation of at least 10 basis points to this metric in the scenario of 60 total basis points, and, otherwise, at least 1/6 of the total basis points. ComEd explained that the increase to 10 basis points is warranted because of the increased challenge created by the metric's focus on the 20 zip codes with the highest

rates of disconnection for non-payment, and because of the significant customer benefits, provided by the proposed metric. ComEd Ex. 18.0 at 23.

ComEd's surrebuttal testimony recommends allocating 13 basis points out of a total of 60, or eight basis points in the scenario of 40 total basis points. The figure of 13 basis points adds the three basis points that ComEd proposes to remove from its final revised proposed peak load reduction performance metric. ComEd Ex. 22.0 at 13-15; ComEd. Ex. 22.01 at 4; COFI Cross Ex. 1 at 4.

b. Staff's Position

With regard to the number of basis points allocated to the affordability metric, although Staff is not in agreement with the number of basis points ComEd proposes, Staff does agree with the Company on the rationale for determining how basis points should be awarded.

The AG recommends the Commission increase the incentive associated with this metric, in part to balance out the AG's recommendation that the reliability metrics include only penalties. Staff does not agree with the AG's argument that the incentives or penalties associated with individual metrics may be asymmetrical and thus does not agree that the incentive for this metric should be increased.

COFI recommends that the number of basis points should be doubled, while CUB/EDF recommend four to eight. Staff continues to recommend that the Commission divide the basis points of incentive/penalty equally across all six performance metric categories, assigning six points to each category, including ComEd's proposed Performance Metric 6.

c. AG's Position

The AG notes that ComEd asked for 13 basis points based on its request for 60 basis points, or 8 basis points if the Commission reduces the maximum basis points to 40. ComEd Ex. 18.01 at 9. The AG recommends that the Commission increase the basis points attributable to this metric as an incentive to balance the penalty-only reliability PIMs, while limiting total incentive basis points to 20.

d. CUB/EDF's Position

CUB/EDF recommend allocating 4 (for a 6.7% improvement) to 8 (for a 10% improvement) basis points to the affordability performance metric. CUB/EDF Ex. 4.0 at 41. ComEd proposes allocating 13 basis points to the same metric. ComEd Ex. 18.01 at 9. The Company previously requested 10 basis points for this performance metric, to match Mr. Howat's proposal, but then reallocated 3 basis points from the peak load reduction to the affordability metric without changing the target. ComEd Ex. 18.0 at 29. ComEd made this change in surrebuttal testimony and provided no explanation for why reducing basis points for peak load reduction metric necessitated adding those basis points to the affordability metric. See *id*. CUB/EDF do not consider COFI's proposed 10 basis points necessary. CUB/EDF maintain 8 basis points are enough to incentivize a 10% annual reduction in disconnections in the target ZIP codes, so any larger incentive payment erodes net benefit. CUB/EDF consider a 10-point allocation a more acceptable alternative than including ComEd's arbitrary late addition of 3 more basis points, for which the Company offers no rationale. ComEd adopted COFI's proposal, with the 10-basis

point allocation, before increasing the cost of the same program for no stated reason. CUB/EDF argue that, at the very least, the Commission should reject this arbitrary cost inflation.

Further, CUB/EDF note all these proposals are more generous to ComEd than the Company's own initial affordability performance metric proposal, to which ComEd had allocated 5 basis points. ComEd Ex. 3.0 (Corr.) at 8.

e. COFI's Position

See Section IV.D.1.e. of this Order.

f. Commission Analysis and Conclusion

The Commission allocated 5 basis points to this Performance Metric 6, as noted in Sections IV.B and C of this Order, finding this to be a significant incentive for the Company to achieve the goals of this metric, and also recognizing potential impact of achieving this metric on the EJ/R3 communities and overall impact on customer rates.

E. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(v) (interconnection)

1. ComEd Proposal

a. ComEd's Position

ComEd explains that its original January 20, 2022 filing proposed a "Days Saved" Interconnection performance metric centered on the following key elements: (1) the metric is designed around the utility's timeliness in handling customer requests for interconnection, (2) the metric has a scope that is reasonably within the ability of the utility to achieve (i.e., the metric is focused on the utility's role in the interconnection request approval process), and (3) the metric includes all four levels of interconnection defined in 83 Ill. Adm. Code 466 (the Commission's "interconnection rules" or "Part 466").

ComEd notes that its original proposal defined "Days Saved" in relation to the baseline number of business days allotted for the utility's performance of certain tasks associated with each interconnection level under Part 466. ComEd states that the original proposal used a target of ComEd performing 11 days better than the Part 466 requirements (ComEd's performance level as of 2021), with incentives if ComEd exceeded that level by the target amount and penalties if it performed worse than the Part 466 requirements.

ComEd states that the original proposal's target was appropriately based on ComEd's existing performance and not on a projected higher level of timeliness. ComEd explains that as a result of the September 2021 enactment of the interconnection provisions in the P.A. 102-0662 and recent amendments of Part 466, ComEd expects: (1) higher volumes of interconnection applications, (2) larger average capacity sizes of DER facilities that may require additional technical reviews, and (3) longer average approval times for all interconnection levels, although the exact increase is not yet known.

ComEd states that, in response to contentions made in Staff's and IIEC's direct testimony that the metric was insufficiently challenging, ComEd revised the metric to make the targets more difficult. In response to Staff, ComEd also revised the weighting

of the four interconnection levels in the metric to make Level 1, Levels 2 and 3, and Level 4 each a third of the weighting.

ComEd explains that the revised proposed Interconnection Timeliness performance metric has baselines, deadbands, and targets that are reasonable and fair as provided in the following table:

Surrebuttal Interconnection Timeliness Performance Metric Projected Baseline Target, Deadband, and Penalties/Incentives

Year	Penalties -0.1 bps or lower	Deadband (0 bps)	Incentives 0.1 bps to 10 bps
2024	-4.1 or lower to -0.1	0.0 to 11.9	12.0 to 16.0 or higher
2025	-3.6 or lower to -0.1	0.0 to 12.4	12.5 to 16.5 or higher
2026	-3.1 or lower to -0.1	0.0 to 12.9	13.0 to 17.0 or higher
2027	-2.6 or lower to -0.1	0.0 to 13.4	13.5 to 17.5 or higher

ComEd Ex. 23.0 at 6.

ComEd contends that Staff, JSP, and IIEC witnesses are mistaken in their concern that the targets might be too easily attainable. ComEd argues that the targets are challenging in relation to ComEd's historical performance and the new challenges posed by the interconnection provisions of P.A. 102-0662 and the amendments to Part 466, discussed above. ComEd states that as noted below, it is already experiencing a significant increase in interconnection requests, as anticipated. *See* ComEd Ex. 23.0 at 9. ComEd argues that the Staff and Intervenor witnesses place little or no weight on the changed circumstances as they continue to express their concerns without any valid justification.

ComEd argues Staff witness Rearden mistakenly contends that the ComEd Interconnection performance metric is problematic on the grounds that the deadband is not symmetrical. ComEd states that Dr. Rearden's testimony does not come to grips with the fact that if the deadband were centered as he proposes, then ComEd would be penalized under the metric even when it had significantly better performance than legally required by Part 466. ComEd states that having a penalty triggered if ComEd performed better than required by Part 466 but exceeded the requirements by fewer than 11.9 days would be unreasonable and anomalous. Also, ComEd argues that while Section 16-108.18(e)(6)(A) requires the basis points structure (the amounts of penalties and incentives) to be symmetrical, the statute contains no provision or suggestion that the deadband must be symmetrical.

ComEd disagrees with Staff that the metric's design allows "backsliding." ComEd states that the metric protects against backsliding because target levels are reasonably designed to increase (become more difficult) each year regardless of the prior year's performance. ComEd argues that Staff's rebuttal position also is detrimental because it would make the baselines, deadbands, and targets unknown from year to year, and thereby make it more difficult for ComEd to plan. ComEd states that baselines, deadbands, and targets should be established now to provide ComEd and stakeholders with certainty about what standards ComEd must meet in the years ahead. ComEd states

that the revised proposal plainly meets the requirements of the statute. In ComEd's view, the proposal also is achievable, yet challenging.

ComEd states that decreasing the time that it takes the utility to perform its steps in the interconnection request approval process benefits customers. ComEd explains that a faster process benefits the interconnection applicants whose interconnection application approval is accelerated, as well as the interconnection applicants who are later in the interconnection queue. ComEd claims the legislature recognized these benefits when it identified "interconnection timeliness" as one of the six mandatory areas for performance metrics. 220 ILCS 5/16-108.18(e)(2)(A)(v). Moreover, ComEd states that it received numerous rounds of feedback during the performance metrics workshops that reference interconnection timeliness as a key issue for stakeholders, as is reflected in the December 1, 2021, Performance and Tracking Metrics Workshop Summary Report to the Commission, co-authored by Staff and the Rocky Mountain Institute. ComEd Ex. 9.0.

Mr. Zarumba and Mr. Shields conservatively estimated annual net benefits of this performance metric as provided in the following Table:

Interconnection Timeliness Net Benefits

Updated Interconnection Net Benefit Calculation	2024	2025	2026	2027
Estimated Days Saved per Interconnection	12.00	12.50	13.00	13.50
Number of Installations	12,000	12,000	12,000	12,000
Total Installation Days Saved	144,000	150,000	156,000	162,000
Weighted Average Retail Supply Price	$0.09765	$0.09765	$0.09765	$0.09765
Estimated Average Output per Day	23.84	23.84	23.84	23.84
Total End-user Saving	$335,167	$349,132	$363,097	$377,063
Program Costs	-	-	-	-
Total Annual Benefits	$335,167	$349,132	$363,097	$377,063

ComEd Ex. 25.0 at 7.

ComEd explains that the metric also might have societal benefits in terms of DERs, but ComEd notes it is premature to seek to value DERs in this docket in light of the upcoming Commission investigation of that subject.

ComEd argues that the suggestions of ELPC/VS witness Kenworthy and JSP witness Rábago that improving interconnection timeliness lacks customer benefits plainly are incorrect given the above facts and contradicted by feedback presented by stakeholders, including Vote Solar, at the metrics workshops, as reflected in the Staff Report. *See* ComEd Ex. 9.0; *see also* ComEd Ex. 23.0.

ComEd argues that Staff's complaint, that the assessment of benefits of the final revised Interconnection performance metric by outside experts, Mr.Zarumba and Mr.

Shields, includes assumptions and some items (qualitative benefits) that are not quantified, has no weight. Staff complains that the outside experts assumed that, on average, reducing the duration of the utility's steps of the interconnection process by one day would result in the applicant's resources being operative one day earlier, when it is possible that some other factor might cause a delay in the applicant's steps of the process. ComEd states that Staff does not match that speculation with the equal and contrary speculation that exogenous factors also might speed up, rather than delay, the applicant's work on their parts of the process. ComEd notes that Staff offers no data to suggest that it is unreasonable to assume that, if one step of the process is shortened by one day, then, on average, the entire process will be shortened by one day. ComEd states that Staff also makes the related, but hollow, complaint that the outside experts' calculation assumes an average size for connected resources and capacity factors. ComEd argues that Staff does not identify any data suggesting that that assumption somehow biases the outside experts' calculation and, if so, in which direction. ComEd also notes that Staff claims that neither of the above assumptions is supported by testimony.

ComEd responds that in fact, the outside experts testified in support of using a calculation that multiplies the number of days saved times the average benefits per day. ComEd states that even if the outside experts had not done so, Staff's complaints about the outside experts' use of averages, coupled with no evidence that the use of averages biased the calculations, or in which direction(s), is unconvincing. Moreover, ComEd states that it has no control over the activities of third parties that could affect the timing of steps of the interconnection process performed by the applicant, and, therefore, it is reasonable for the metric to be based only on the activities of the utility.

Staff's rebuttal proposed an interconnection performance metric, which ComEd argues should not be adopted. ComEd states the proposed penalty structure is exceedingly harsh without justification, e.g., if ComEd achieves better performance than the Part 466 requirements by 9.9 days it still would be penalized (rather than incur neither a penalty nor an incentive, as ComEd's proposed metric provides). Also, ComEd contends the Staff rebuttal proposal inappropriately recommends resetting the deadband in the future based on the prior year's performance exceeding the deadband, which means that ComEd would not know in advance the annual goal to achieve. ComEd states the deadband should be established now to provide ComEd and other stakeholders with certainty as to what ComEd must plan to achieve. In contrast, ComEd claims, ComEd's proposal is reasonable and fair as well as clear and straightforward.

b. Staff's Position

ComEd presented the Commission with three varying versions of its metric in direct, rebuttal, and surrebuttal testimony. The rebuttal version included modifications made in reaction to concerns expressed about its original proposal by Staff and intervenors in direct testimony. The surrebuttal version included modifications of the rebuttal version in response to further criticisms from parties. While no party had the opportunity to respond on the record to the latest version of the metric, the Company's surrebuttal proposal does not address the concerns raised by Staff.

ComEd proposes a metric that compares the actual number of business days that ComEd takes to evaluate interconnection applications to the number of business days mandated by Illinois' DER interconnection rules, 83 Ill. Adm. Code 466. Staff recommends that the Commission reject ComEd's metric, as presented in its rebuttal testimony, because it is not symmetrical and does not protect against backsliding.

Staff explains Part 466 separates project applications into four levels, with Level 1 being the simplest applications and Level 4 being the most complex; the timeframe and scope of the ComEd's review of a DER application depends on the level of the interconnection project contemplated by the application. Staff Ex. 7.0 at 4.

A Level 1 interconnection application is for DER that are 25 kW or less. 83 Ill. Adm. Code 466.80. Level 1 projects do not require ComEd to modify its grid or construct any additional facilities, so they are generally easier to plan and implement. Accordingly, the screens or tests for whether the DER can be safely installed and operated are relatively straightforward. The result of an evaluation is generally an up or down decision: either the project fails, or it is approved. For larger projects at Levels 2 through 4, the evaluation process is more complicated. The Company explains that, for Level 1 interconnections, the average time to complete the evaluation in 2020 was 6.19 business days. Staff Ex. 7.0, Attachment A. For 2021, the average time to complete the evaluations was 2.55 business days. *Id.*

A Level 2 interconnection application considers projects up to 5 MW, depending on the circuit on which the project is located. In addition to the screens contemplated for Level 1 projects, the screens for Level 2 projects are intended to ensure projects do not require the utility to invest in its grid. Level 3 projects are those DER installations which do not export power to the grid. For these projects, the utility also needs to ensure that the utility does not have to expend resources to accommodate the project. Level 4 projects require investment by the electric utility. The utility must conduct several studies to determine what is required to accommodate a project, all of which can impact the length of time it takes to review an application. Staff Ex. 7.0 at 5.

ComEd proposes to measure interconnection performance for each interconnection level by comparing the actual days it takes to complete evaluations to the days allowed for the review set forth in Part 466. *Id.* at 6. The average number of business days saved equals the total number of days allotted minus total number of days taken, all divided by the number of applications ((days allowed-actual days)/number of applications).

In response to Staff's testimony, ComEd agreed to adopt a baseline based on its historical interconnection performance, rather than an arbitrary number of days saved to set the goal. ComEd Ex. 9.0 at 10; ComEd Ex. 23.0 at 5. Staff states this is an improvement over the Company's original proposal, because it requires ComEd's performance to exceed its current level before it can earn additional basis points. ComEd also agreed to Staff's proposed equal weighting of each of the Part 466 categories. ComEd Ex. 9.0 at 10. In addition, ComEd modified the metric to make the intervals outside of the deadband, which determines how basis points are awarded or penalized, equal in size, which is another improvement. Staff Ex. 15.0 at 2.

Staff agrees that ComEd's proposed metric addresses a relevant issue with respect to the "utility's timeliness to customer requests for interconnection in key milestone areas." Staff Ex. 7.0 at 3. It does not, however, advance the goals described in Section 16-108.18(e)(2)(A)(v), even with the modifications made by ComEd through three iterations. Accordingly, Staff recommends that the Commission reject ComEd's proposed Interconnection performance metric.

In the version of the metric presented by the Company in direct testimony, the targets in ComEd's proposed Interconnection performance metric did not require ComEd to improve its performance of interconnection application evaluations above current levels to generate a basis point bonus. *Id.* at 9. As a result, the proposed metric did not appropriately balance the reward of additional basis points with the risk of losing basis points. This failing was not remedied in subsequent versions of ComEd's proposed Interconnection performance metric. The original version was not symmetrical because, the incremental annual targets to determine whether basis points are gained or lost were unequal. *Id.* at 3-4.

In rebuttal testimony, ComEd amended its metric, and while the revised baseline goal is more challenging, the metric does not comply with all the requirements of the statute. Not only is it not symmetrical (220 ILCS 5/16-108.18(e)(2)(B)), it does not protect against backsliding (220 ILCS 5/16-108.18(e)(2)). ComEd appears to have formulated the metric to create a low risk of being penalized, while ensuring the Company can easily earn additional basis points. Staff Ex. 15.0 at 7.

ComEd proposes to formulate the baseline by calculating the number of days saved by interconnection level over the years 2019-2021, then averages the three figures. ComEd Ex. 9.0 at 10. It calculates the index for days saved equal to 11.03. *Id.* at 11. In ComEd's revised performance metric, it sets the goal for days saved to earn additional basis points in the year 2024 at 12. Staff Ex. 15.0 at 2-3. As noted above, ComEd revised it baseline goal in rebuttal testimony and made it more challenging.

Staff continues to recommend that the Commission not approve ComEd's metric as presented in its rebuttal testimony, because it is not symmetrical and does not protect against backsliding. Staff Ex. 15.0 at 7. The deadband – in which ComEd would neither incur a penalty nor receive a reward – stretches from zero days saved to 11.99, which means that ComEd's performance could fall well short of current performance of 11.03 days without penalty. In contrast, it only needs to increase its performance by approximately one day, from current levels, to gain five additional basis points. Staff Ex. 15.0 at 3. ComEd claims that its metric is symmetric if viewed in the right light, stating: "…while Section 16-108.18(e)(6)(A) requires the basis points structure (the amounts of penalties and incentives) to be symmetrical, the statute contains no provision or suggestion that the deadband must be symmetrical." ComEd IB at 77. It is possible, in the abstract, to distinguish between symmetry in the sizes of categories that add or subtract basis points and the symmetry in the deadband; however, under ComEd's proposal, the deadband stretches from zero days saved to 11.99. Thus, ComEd's performance could decrease by up to 12 days before it would face a penalty, while it need only increase performance from current levels by one day to add basis points. Staff IB at 53-54. This lopsided risk reward structure is neither symmetrical nor fair for ComEd's ratepayers.

Second, the metric uses only two steps to determine rewards or penalties, which could encourage ComEd to imprudently invest in evaluating interconnection applications to achieve more basis points or avoid losing them. *Id.* One change that ComEd made that Staff agreed with was to make the relationship between performance and basis points a continuous, or "linear," point reward/penalty structure. This is an improvement, but it does not fully resolve Staff's concerns.

ComEd defended its proposal by pointing out that P.A. 102-0662 has many provisions that "create significant uncertainty about ComEd's ability to maintain current performance without enhanced resources and/or improved processes." ComEd Ex. 9.0 at 7. No party to the docket has had a chance to respond to these numbers, which were first presented in ComEd's surrebuttal testimony, and there is no evidence that the May 2022 numbers represent a sustained increase in applications. Various IPA programs have restarted with the passage of P.A. 102-0662, and these increases may represent a "land rush" as those programs ramp up. While Staff agrees that there is potential uncertainty about volumes of interconnection applications and their average sizes, that does not necessarily imply uniformly higher volumes of applications in the future. Other factors such as supply chain issues and the result of the investigation into solar panel tariffs may limit the increases in applications. Therefore, while uncertainty may increase, that does not automatically mean that applications will increase. Staff Ex. 15.0 at 4. Additionally, one reason that uncertainty complicates metric design is because the baseline is set now, but the evaluation does not take place until 2024. To account for this effect, the baseline could be set based on more recent data. For example, it could use the data on times to evaluate interconnection applications for the period 2021-2023. Staff Ex. 15.0 at 4.

In its rebuttal testimony ComEd estimated the benefits of this metric measure out to $335,167. ComEd Ex. 11.0 at 45. That estimate is premised on the assumption that the number of days saved in reviewing all interconnection applications equates to an equal number of additional days of power generation, and then multiplying that number by the weighted average retail supply price. Staff asserts this calculation is questionable for several reasons. First, it is premised on an assumption that is not plausible; there are any number of reasons that a day saved in the application evaluation process may not actually result in an additional day of power production. For example, there can be delays related to possible inspections by local authorities or the utility, or there can be delays related to acquiring supplies to complete the facility. In addition, this calculation assumes both an average size for distributed energy resource facilities and a capacity factor. Neither of these assumptions is supported by testimony. Finally, the calculation assumes that there are no additional costs associated with the program, so total benefits are net benefits. Staff Ex. 15.0 at 5-6

According to ComEd, the interconnection performance metric's qualitative benefit is the potential reduction in the level of effluents emitted by regional generation. There is no attempt to estimate a value or the magnitude for this benefit, however, and there is no other consideration or discussion of other potential societal benefits. Staff Ex. 15.0 at 6.

With respect to the direct benefits and costs, it appears that the benefits exceed the costs. This is true regardless of how meager the benefits may be since the incremental costs are assumed to be zero. However, there is absolutely no evidence that

the qualitative benefits exceed the cost of awarding ComEd additional basis points. Staff estimates a single basis point to be worth $818,460 annually. Staff Ex. 10.0 at 8. This is significantly more than the $355,167 per year which ComEd calculates to be the benefits of achieving its goal. ComEd Ex. 25.0 at 7.

Staff proposed an interconnection performance metric for 2024, as illustrated below.

PERFORMANCE METRIC 7													
Metric range	<6.25	6.25-6.99	7.0-7.74	7.75-8.49	8.5-9.24	9.25-9.99	10-11.99	12.0-12.74	12.75-13.49	13.5-14.24	14.25-14.99	15.0-15.74	>15.74
Basis points	-6	-5	-4	-3	-2	-1	0	+1	+2	+3	+4	+5	+6

Staff Ex. 15.0 at 4.

Staff explains that for subsequent years, the top of the deadband would be reset each year based on the previous year's result. If ComEd's performance exceeds the deadband in a given year and it earns additional basis points, the top of the deadband is reset to that value for the next year. If the metric results in ComEd not earning additional basis points, or it is penalized basis points, then the metric is unchanged.

ComEd disagrees with Staff's proposal, suggesting that the start of the deadband should be the number of days established by Part 466 because Staff's recommendation would result in ComEd being penalized for having better performance than required by Part 466. ComEd Ex. 23.0 at 10. This logic completely ignores the fact that performance metrics are supposed to incent a company to do better, not reward them for existing performance levels. ComEd asks the Commission to ignore the fact that its current performance exceeds the Part 466 standards and instead lower the bar to make it easier for the Company to achieve the metric and the associated additional basis points. It is not clear what is unreasonable about providing an incentive for ComEd to maintain current performance levels. Indeed, the point of performance metrics is to improve outcomes and prevent backsliding. That should not be considered atypical or inconsistent with the approach that the Commission should take with respect to performance metrics.

With over $800,000 annually, funded by ratepayers, per basis point at stake, the suggestion that the starting point for this metric should be less than its current performance simply ignores the clear intent and language of the statute that this metric achieve cost-effective improvements to the utility's timeliness to customer requests for interconnection. 220 ILCS 5/16-108.18(e)(2)(A)(v). Further, ComEd's argument fails to recognize that performance metrics are supposed to incent a company to do better, not reward them for existing performance levels. The suggestion that the starting point for this metric should be less than ComEd's current performance simply ignores the clear intent and language of the statute that this metric should achieve cost-effective improvements to the utility's timeliness to customer requests for interconnection. 220 ILCS 5/16-108.18(e)(2)(A)(v).

c. CUB/EDF's Position

CUB/EDF agree with Staff that ComEd's proposed targets would reward the Company for roughly maintaining the status quo and reserve penalties for scenarios that already would constitute a violation of existing Part 466 regulations. The Company modified its Interconnection performance metric to address some but not all of Staff witness Rearden's other concerns. ComEd's proposal still utilizes an asymmetrical deadband that does not penalize backsliding, but it does increase the upper limit of the deadband and the maximum penalty threshold by 0.5 Days Saved each year to require continued improvement. *Id.* at 2. CUB/EDF note ComEd's proposal speaks to only one statutory factor: timely processing of interconnection requests. CUB/EDF Ex. 4.0 at 43.

CUB/EDF support the adoption of the DERIUV performance metric proposed by JSP/ELPC/VS in their rebuttal testimony, with slight modifications by CUB/EDF, as discussed below. If, however, the Commission elects not to adopt JSP/ELPC/VS and CUB/EDF modifications to the Interconnection performance metric framework, CUB/EDF support adopting Staff's modification. CUB/EDF explain Staff witness Rearden's proposal retains ComEd's focus on days saved, but with targets that are symmetrical, more granular, and centered on a baseline that updates annually to incorporate new data reflecting post-P.A. 102-0662 interconnection request volume. Staff Ex. 15.0 at 4. CUB/EDF consider Mr. Rearden's modifications an improvement on the Company's proposal.

CUB/EDF consider the symmetrical deadband and targets range correctly centered on the status quo, penalizing backsliding, and rewarding improvement. CUB/EDF posit the more granular assignment of an additional basis point to each of 6 targets in either direction ensures the Company retains an incentive to push for better performance throughout this range, whereas ComEd's proposal treats slight changes in performance the same as massive changes. Updating the baseline annually to reflect shifts in performance observed in the prior year both incentivizes continued improvement every year and accounts for the uncertainty ComEd references in attempting to forecast post-P.A. 102-0662 interconnection request volume while only pre-P.A. 102-0662 data is available. *See id.* at 3. CUB/EDF maintain that JSP/ELPC/VS approach would be more beneficial and better serve statutory objectives.

d. JSP/ELPC/VS's Position

The Solar Intervenors urge the Commission to reject ComEd's proposed Interconnection performance metric and approve its proposed DERIUV metric, explained below. The Solar Intervenors support improvements in the Company's performance in processing interconnection applications; however, the Company's proposed metric is unreasonably narrow and does not address the Act's clear intent that utilities also improve their performance in integrating DERs into system planning and operations to provide high-quality cost-effective service to customers and deliver on the state's clean energy goals. Moreover, the Company requests the Commission approve $8,185,000 (or $5,852,000 after taxes) per year in performance incentives for the Company to reduce the time it takes to process various interconnection-related tasks under the Part 466 rules. JSP Ex. 2.0 at 6-7. Improvements in interconnection processing are an important area of focus to support increased deployment of clean energy resources; however, standing

alone, these improvements do not deliver on the core objectives of P.A. 102-0662, which include the actual integration of DERs to maximize the grid modernization and clean energy benefits for ratepayers. Moreover, the undisputed evidence produced by ComEd in this docket reveals that its proposed Interconnection performance metric will result in significant net costs to customers, thereby violating the Act's cost-effectiveness requirement at 220 ILCS 5/16-108.18(e)(2)(F). JSP Ex. 2.0 at 8; ELPC-VS Ex. 2.0 at 12.

Rather than demonstrating the cost-effectiveness of its proposal, as required by law, ComEd cites only "feedback in the performance metrics workshops" that stakeholders consider interconnection timeliness to be important. ComEd Ex. 23.0 at 14 The Solar Intervenors indeed agree that interconnection timeliness is important. The key issue here, however, is whether ComEd has justified over $5 million in incentive payments per year for small improvements on the timelines required by Part 466 and whether such a performance incentive results in "benefits [that] exceed costs for customers" as required by Section 16-108.18(e)(2)(F). ComEd's proposal to earn more than $5 million in incentive payments in exchange for customer benefits of less than $500,000 per year fails to even come close to meeting this standard.

The Company proposes 10 basis points in incentives for achieving the incremental improvement target. This would put ratepayers on the hook for $23,400,000 in increased shareholder earnings after taxes (and $32,740,000 in total ratepayer costs) over the course of the four-year MRPin comparison to ComEd's estimated maximum end-user benefits of between $335,167 to $488,793 over the four-year period. ComEd Ex. 11.0 at 45. This is a grossly disproportionate level of utility reward to risk and utility reward to ratepayer benefit. In addition to violating the Act's explicit cost-effectiveness requirement, it would be unjust and unreasonable for the Commission to reward ComEd shareholders performance incentive worth between 16 to 23 times the estimated benefits resulting from the Company's activity.

e. IIEC's Position

IIEC observes the Interconnection performance metric is tied to Part 466, which prescribe limits on the number of business days ("Days Allotted") or performance of certain tasks associated with each interconnection request level (i.e., Levels 1, 2, 3, 4). ComEd's proposed metric is based on the mean number of business days saved for utility-performed interconnection tasks. ComEd Ex. 18.01 at 13.

IIEC notes for a number of years and for the different Levels of the interconnection requests, ComEd has already significantly reduced the days to complete the request as illustrated in the table below.

		Days Allotted under ICC rules	Average number of days to Complete						
			2015	2016	2017	2018	2019	2020	2021
Level 1	All tasks aggregated	22	n/a	n/a	n/a	15.68	9.44	6.19	2.55
Level 2, 3, 4	Completeness Review	10	n/a	n/a	n/a	6.19	7.67	7.04	6.34
Level 2, 3	Expedited Review	20	n/a	n/a	n/a	16.56	14.25	12.37	11.08
Level 2	Supplemental Review	30	n/a	n/a	n/a	28.41	26.54	23.36	21.57
Level 4	Feasibility Study	25	n/a	n/a	n/a	36.74	20.63	17.25	19.64
Level 4	System Impact Study	25	n/a	n/a	n/a	21.55	19.64	20.67	21.12
Level 4	Combined Study	50	n/a	n/a	n/a	75.14	59.13	N/A	58.65
Level 4	Facilities Study	30	n/a	n/a	n/a	19.44	24.22	43	25.3

IIEC Ex. 1.0 at 43-44.

IIEC asserts a closer look at the year 2021 is telling. IIEC notes for almost every level the number of Days Saved is significant. Comparing Level 1, the Days Saved in 2021 are 19.45; comparing Levels 2, 3, and 4 Completeness Review, the Days Saved is 3.66, comparing Level 2, 3 Expedited Review, the Days Saved is 8.92, and so forth. IIEC points out when all the Days Saved in 2021 are counted, there are already over 40 Days Saved. IIEC finds it hardly seems that 12 Days Saved in 2024, when more days are already being saved, is of any value to customers. IIEC Ex. 2.0.

IIEC is of the further opinion that the metric, aside from the questionable Days Saved deficiency, lacks in the way of a challenge. IIEC notes ComEd's original version of the metric was tempered because it claimed uncertainty created by impacts of the renewable energy incentives in P.A. 102-0662, as well as proposed changes to 83 Ill. Adm. Code 466, both of which may impact interconnection requests volumes and time to approve such requests. IIEC Ex. 1.0 at 45.

IIEC notes the connection or introduction of renewable energy is not new to the grid or ComEd, and ComEd has failed to explain the nature of its "uncertainty." For example, IIEC points out P.A. 99-0906, effective in 2017, created many renewable energy opportunities as well. Further, ComEd has been involved in the interconnection process covered by Part 466, but never explained with any specificity what proposed changes in the Part 466 rulemaking may affect the metric. IIEC observes ComEd never refuted these arguments that it has extensive history with renewable energy interconnections. IIEC Ex. 1.0 at 46; IIEC Ex. 2.0 at 41-42.

IIEC points to another flaw with the metric, the decreasing target or improvement level, starting with 4.17% by 2025 and reducing to 3.84% in 2027. IIEC indicates this is in contrast to other ComEd metrics that increase year after year. IIEC argues this metric should have targets that increase each year, and that it does not is but one more reason for its rejection. IIEC Ex. 2.0 at 43.

IIEC notes based on ComEd's preliminary judgment, there are currently no identified material incremental costs, though future costs might be incurred to address increases in volumes of interconnection requests or based on stakeholder feedback on the process. IIEC Ex. 1.0 at 46. IIEC finds that what becomes apparent from the fact that little, if any, additional expenses are to be incurred, is that, from a cost standpoint ComEd could continue with the status quo, considering that it can and has shown an ability to reduce the interconnection completion times with existing resources. IIEC contends ComEd should not be compensated with basis points for doing what it is already doing. IIEC concludes that although the reduction of the number of interconnection days to complete a task earlier than required by rule benefits the individual interconnection customer, the basis point adjustment borne by all customers is inequitable. *Id.* at 47. IIEC notes Staff witness Rearden, along with intervenors, took issue with the metric. IIEC agrees with Dr. Rearden on all counts. However, should the Commission decide not to reject the metric, IIEC recommends the Commission adopt Dr. Rearden's proposal that properly incentivizes ComEd to maintain and improve its timely performance in evaluating interconnection applications. *Id.* at 4-5.

f. Commission Analysis and Conclusion

ComEd's proposed Interconnection performance metric focuses on the timeliness of the utility's role in the interconnection request approval process for all four levels of interconnection defined in 83 Ill. Adm. Code 466. ComEd notes its proposed metric uses a target of ComEd performing 12 days better than the Part 466 requirements. Incentives would be rewarded if ComEd averages 12 or more days saved, with penalties incurred if the Company performs worse than Part 466 requirements. ComEd contends the deadband of 0 to 12 days saved is appropriate due to an anticipated large volume of interconnection applications, as a result of recent legislative changes. ComEd revised the weighting of the four interconnection levels in the metric to make Level 1, Levels 2 and 3, and Level 4 each a third of the weighting.

ComEd adds that a faster interconnection process benefits applicants by speeding up the time it takes to connect DERs. ComEd anticipates zero costs and explains that the metric also might have societal benefits in terms of DERs, but note it is premature to seek to value DERs in this docket in light of the upcoming Commission investigation of that subject.

Although Staff agrees that ComEd's proposed metric addresses a relevant issue with respect to the utility's timeliness to customer requests for interconnection, Staff contends it does not advance the goals described in Section 16-108.18(e)(2)(A)(v), even with the modifications made by ComEd throughout the three iterations. Staff recommends that the Commission reject ComEd's proposed metric because it is not symmetrical, as required by Section 16-108.18(e)(2)(B), noting ComEd's performance could decrease by up to 11.9 days before it would face a penalty, while it need only increase performance from current levels by one day to add basis points. Staff contends this lopsided risk reward structure is neither symmetrical nor fair for ComEd's ratepayers. Staff also argues that the metric does not protect against backsliding, as required by Section 16-108.18(e)(2).

CUB/EDF agree with Staff that ComEd's proposed targets would reward the Company for roughly maintaining the status quo and reserve penalties for scenarios that already would constitute a violation of existing Part 466 regulations. CUB/EDF add ComEd's proposed deadband is not symmetrical and does not penalize backsliding. CUB/EDF maintain that should the Commission reject JSP/ELPC/VS and Mr. Barbeau's proposed modifications to the Interconnection performance metric framework, as described below, the Commission should adopt Staff's proposed modification to ComEd's metric.

IIEC states that the 12 Days Saved target is not of any value to customers. IIEC argues this metric presents an unbalanced basis point adjustment borne by all customers, and that ComEd should not receive incentives for benchmarks it currently achieves. Should the Commission decide not to reject the metric, IIEC agrees with Staff's recommended incentive structure.

JSP/ELPC/VS urge the Commission to reject ComEd's proposed Interconnection performance metric and approve the DERIUV metric (described in Section VI.E.2.e below). Improvements in interconnection processing are an important area of focus to support increased deployment of clean energy resources; however, standing alone, these improvements do not deliver on the core objectives of P.A. 102-0662, which include the actual integration of DERs to maximize the grid modernization and clean energy benefits for ratepayers. The DERIUV metric is supported by AEE and CUB/EDF with slight modifications.

The Commission agrees with Staff that ComEd's proposed performance metric, as modified herein, adequately addresses the timeliness in which the Company reviews and approve interconnection applications, as required by Section 16-108.18(e)(2)(A)(v). All parties are in agreement to some extent that Days Saved is an appropriate means by which to measure the Company's performance. This metric is specific, measurable, and within the control of the utility to achieve. Although there are varying assumptions regarding the proposed net benefits afforded to customers, it is reasonable to assume that improving the speed in which DERs are connected will serve to quickly diversify the grid, protecting Illinois residents and business from increased economic and environmental harm.

Although the Commission agrees that the foundation of ComEd's proposed Interconnection performance metric is appropriate, the Commission shares the same concerns expressed by Staff and intervening parties that the targets, deadband, and reward and penalty structure are disproportionally weighted in the Company's favor. Although the Commission appreciates the Company's efforts to address Staff and interveners' concerns, the Commission disagrees with its contention that the Company should only be penalized for not complying with Part 466. Establishing a deadband just above the statutory requirement alleviates the Company of any accountability and only provides a means for which the Company may receive an incentive, contrary to the Act.

The Commission finds the proposed modification by Staff to ComEd's risk/reward structure and varied annual targets based on the prior year's performance is reasonable, accounts for projected and currently unknown cause and effect variables due to recent

legislative changes, and provide symmetry within the metric. Therefore, the Commission adopts ComEd's Interconnection performance metric, as modified Staff.

2. Other Proposals

a. ComEd's Position

ComEd notes that JSP/ELPC/VS jointly propose a DERIUV performance metric that really is two metrics, i.e., the combination of their respective direct testimony "DII" (DER Integration & Interconnection) and "DUV" (DER Utilization for Value) proposals, neither of which has merit whether as a standalone metric or in combination. ComEd states that the DUV proposal is not even an interconnection performance metric and provides for a metric based on unknown factors and yet-to-be determined outcomes. ComEd's rebuttal testimony refuted both proposals on numerous grounds and its surrebuttal testimony similarly refuted the combination.

ComEd notes Staff's rebuttal also recommended against adoption of the two ELPC-VS and JSP proposals that later were combined, because neither proposal is a fully formed performance metric, and because they are not designed to be achievable by the utility.

ComEd explains that ELPC/VS also suggests potentially measuring days saved as a result of "flexible interconnection," but disagrees with this alternative concept. ComEd asserts that the notion proposed by ELPC-VS is really focused on the value of DER, not on interconnection timeliness (or even interconnection), and it involves the construction of the DER, which is driven by variables not in the utility's control. Moreover, ComEd argues that under P.A. 102-0662, the value of DER is to be the subject of a forthcoming Commission investigation, 220 ILCS 5/16-107.6(e), and the value of DER therefore should not be the subject of a premature performance metric, whether within the DERIUV proposal or otherwise.

b. Staff's Position

Staff notes JSP/ELPC/VS recommend that the Commission reject ComEd's proposed Interconnection performance metric and instead approve its proposed DERIUV metric. JSP/ELPC/VS IB at 21. Staff notes, as argued by JSP/ELPC/VS, their DERIUV proposed metric will result in net-benefits to ratepayers by incentivizing the Company to not only improve interconnection performance, but also integrate DERs into its system planning and operations to deliver ratepayer savings, advance Illinois' ambitious clean energy and climate goals, and provide other public benefits.

Staff contends JSP/ELPC/VS fail to propose a fully formed, specific metric, that can be approved by the Commission in this proceeding. The proposal, which targets other more substantive and impactful aspects of the statute, is simply an outline of a framework for how some form of performance metric might be developed in a future proceeding. Additionally, it is not altogether clear how these outcomes are under the control of ComEd because results depend on how customers react to policy decisions made by ComEd rather than the policies themselves. Staff Ex. 15.0 at 9. According to JSP/ELPC/VS, "[t]he DUV component incentivizes ComEd to meaningfully engage in the Grid Plan and Additive Service investigation proceedings to identify that DER value and develop the programs and other market participation pathways to unlock that value. The

DERIUV metric is therefore reasonably within control of the Company to achieve." JSP/ELPC/VS IB at 40. However, it is not clear what is meant by "meaningful engagement" or what the Company would be required to do to obtain control over their performance. Staff disagrees with CUB/EDF's slightly modified version of the DERIUV metric for similar reasons. Therefore, Staff recommends that the Commisison decline to adopt these proposals.

c. CUB/EDF's Position

CUB/EDF support the adoption of the DERIUV performance metric proposed by JSP/ELPC/VS in their rebuttal testimony, but with slight modifications. CUB/EDF maintain that P.A. 102-0662's provision requiring an Interconnection performance metric calls for a robust approach incorporating several factors. CUB/EDF Ex. 4.0 at 42. Whereas the Company's proposal focuses entirely on timeliness in processing interconnection requests, the DERIUV metric addresses both interconnection and another objective from P.A. 102-0662's Interconnection metric provision: maximizing benefits.

CUB/EDF explain the DERIUV metric includes two indices that measure utility performance: the Interconnection Index, and the DUV Index. *Id*. at 43. Similar to the Company's proposal and Staff's modification, the Interconnection Index measures ComEd's performance in Days Saved processing interconnection applications under Part 466. *Id.* at 43. Like Staff's proposal, it requires continuous improvement relative to the previous year to earn incentives. *Id.* at 43. As provided in Mr. Barbeau's proposed alternative metric, this index would retain the Company's asymmetrical structure, awarding incentives for improvement over the status quo but only imposing penalties if performance falls below Part 466 compliance (negative Days Saved). CUB/EDF Ex. 4.1 at 30. However, unlike in ComEd's proposal, every incremental target except the 0-Days Saved lower end of the deadband would increase by 0.5 Days Saved each year. *Id.* CUB/EDF argue this improves on the Company's proposed framework by incentivizing continued improvements in performance over time.

The DUV Index incentivizes ComEd to maximize grid modernization benefits for ratepayers, as P.A. 102-0662 requires, by providing the Company a share of the achieved DER deployment and operation savings. CUB/EDF Ex. 4.0 at 44. The metric incentivizes ComEd to facilitate DER deployment by identifying grid needs that can be beneficially and cost-effectively served by DERs and implementing DER programs and other market participation pathways to unlock additional value from DERs serving those grid needs. *Id.* at 44.

The Interconnection Index and the DUV Index work together to incentivize timely interconnection of value-creating DERs. CUB/EDF Ex. 4.0 at 44. CUB/EDF argue neither ComEd's nor Staff's proposal touches on DER integration benefits. CUB/EDF contend the DERIUV performance metric's more holistic approach is the only proposal for the Interconnection category that incentivizes multiple statutory objectives and types of benefits. Accordingly, CUB/EDF urge the Commission to adopt it. If the Commission elects not to adopt JSP/ELPC/VS and Mr. Barbeau's proposed modifications to the Interconnection performance metric framework, CUB/EDF support adopting Staff's proposed modification to ComEd's metric, as discussed above.

d. AEE's Position

AEE supports the DERIUV metric as proposed by JSP/ELPC/VS. Part I of the metric improves upon ComEd's interconnection timeliness metric by creating an index that measures time saved during several stages of the interconnection process, and Part II introduces an additional component that provides incentives for achieving cost savings to all customers from distributed energy resources. The Part II incentive is designed so that the utility receives extra earnings only if utility customers benefit. If no savings are achieved, no incentives are earned. The positive only reward for Part II is reasonable because ComEd, and utilities generally, do not have much experience in developing programs to harness DERs for cost savings and additional value to the grid. Thus, the proposed design of the metric removes the risk to ComEd for trying something new while providing a positive incentive for achieving cost savings. Absent this incentive, the regulatory model encourages utilities to meet needs with their own capital, which receives a rate of return, rather than leverage the capital of others (in this case, customers). This metric also provides an additional opportunity to leverage this performance incentive plan to restrain transmission and distribution investment needs, a significant driver of customer bills. The incentive plan, the potential for an improved peak load reduction metric notwithstanding, otherwise lacks enough focus on transmission and distribution costs and their potential future impact on customer bills, especially given the potential impact of beneficial electrification loads.

e. JSP/ELCP/VS's Position

In contrast to the Company's proposal, JSP/ELPC/VS propose the DERIUV Metric, which results in net-benefits to ratepayers by incentivizing the Company to not only improve interconnection performance, but also integrate DERs into its system planning and operations to deliver ratepayer savings, advance Illinois' ambitious clean energy and climate goals, and provide other public benefits.

JSP/ELPC/VS note P.A. 102-0662's statutory language for the DER metric focuses on DER integration and customer value, not just interconnection timeliness. *See* 220 ILCS 5/16-108.18(e)(2)(A)(v). ComEd construes this section narrowly to allow for a metric focused solely on timeliness of various steps in the Part 466 interconnection process. However, interconnection "timeliness" is not the sole, or even the overarching, objective of the DER Metric paragraph in P.A. 102-0662. 220 ILCS 5/16-108.18(e)(2)(A)(v). Instead, the balance of the paragraph focuses on activities that create customer benefits from deployment of DERs, such as "improved average service reliability," and "maximizing the benefits of grid modernization and clean energy for ratepayers." *Id.*

JSP/ELPC/VS state several of the statutory elements in the DER Metric paragraph require the utility to adopt or implement new programs that create value and other benefits for customers—such as adopting "affordable rate options" such as "demand response, time of use rates, [and] real-time pricing" or "improving customer access to utility system information." *Id.* None of these statutory factors and programs have anything to do with "timeliness" of interconnection. They are all broader activities focused on creating customer and ratepayer value and other benefits.

JSP/ELPC/VS explain that ComEd witness Gabel, who admittedly is not a lawyer, designed the Company's metric based on an erroneous reading of the statute that led him to solely focus on "the utility's timeliness to customer requests for interconnection." ComEd Ex. 9.0 at 13. Mr. Gabel's narrow interpretation of the statute is incorrect. The plain language of the statute contemplates a much broader set of potential DER-related activities. Indeed, the concept of "timeliness" is limited to the first clause of the paragraph (behind the first semicolon). The words "such as" in the first sentence of the paragraph refer only to the three listed examples of interconnection-related "key milestone areas" under Part 466 — "initial response, supplemental review, and system feasibility study." JSP/ELPC/VS contend "Timeliness of customer requests for interconnection" has nothing to do with the other activities and statutory goals in the remainder of the paragraph, such as "offering a variety of affordable rate options" or "improving customer access to utility system information." *See* 220 ILCS 5/16-108.18(e)(2)(A)(v). JSP/ELPC/VS add it therefore would make no sense to read the "such as" clause in the first sentence to swallow the rest of the paragraph. As such, the performance metric adopted pursuant to the DER Metric category should include performance metrics targeting the broad scope of listed categories, including "maximizing the benefits of grid modernization and clean energy for ratepayers"; it is not limited to "timeliness of customer requests to interconnection."

The traditional rules of statutory interpretation support a broader reading of the statute than that offered by ComEd. First, the Commission "should construe a statute to give a reasonable meaning to all words and sentences so that no part is rendered superfluous." *People v. Glisson*, 202 Ill. 2d 499, 505, 782 N.E.2d 251, 255 (2002). ComEd's narrow focus on "timeliness" would render the majority of the paragraph superfluous. Second, the Commission "should evaluate a statutory provision as a whole rather than reading phrases in isolation." *Id*. at 506. When read in the context of P.A. 102-0662 as a whole, the DER Metric category clearly reflects the General Assembly's intent for the Commission to adopt metrics that advance fundamental objectives in improving utility performance in facilitating the interconnection and integration of energy storage, solar energy, electric vehicles, and other DER technologies into utility planning and system operations. The goal is not just "more" DERs interconnected more quickly, but the integration of these resources into the utility planning and system operations to "substantially change the makeup of the grid and protect Illinois residents and businesses from potential economic and environmental harm from the State's energy systems." *See* 220 ILCS 5/16-108.18(a)(1).

Indeed, P.A. 102-0662 directs that the PBR framework be designed to accomplish, among other objectives, directing "electric utilities to make cost-effective investments that support achievement of Illinois' clean energy policies, including, at a minimum, investments designed to integrate distributed energy resources . . .." and choose cost-effective assets and services, whether utility-supplied or through third-party contracting . . . to deliver high-quality service to customers at least cost." 220 ILCS 5/16-108.18(c)(3)-(4).

The "urgency around addressing the increasing threats from climate change and assisting communities that have borne disproportionate impacts from climate change" and the need for "urgently moving electric utilities toward the State's ambitious energy

policy goals" underscores the need to align the Company's earning opportunities with the integration of DERs through the metrics developed in this proceeding. 220 ILCS 5/16-108.18(a)(2), (4). The DER Metric approved by the Commission should therefore reflect the urgent need for the Company to integrate DERs into system planning and operations to deliver ratepayer savings, meet clean energy and climate goals, and provide other public benefits described in P.A. 102-0662.

Solar Intervenors assert that in light of this broader statutory context, it would lead to an absurd result to read the "such as" clause in the DER Metric category to swallow the entire paragraph in a way that would reduce the scope of the Metric to be merely about "timeliness" of customer interconnection. That is clearly not what the legislature intended when it adopted the broad DER-related goals in P.A. 102-0662. *Glisson*, 202 Ill. 2d at 505 ("courts may assume that the legislature did not intend absurdity, inconvenience or injustice to result from legislation"). The Commission should reject ComEd's unreasonably narrow reading of the DER Metric category and interpret this section of the Act to require a performance metric that includes steps the Company can take to integrate, deploy, and utilize DERs to "maximiz[e] the benefits of grid modernization and clean energy for ratepayers." 220 ILCS 5/16-108.18(e)(2)(A)(v).

Solar Intervenors explain that the DERIUV metric combines two of the major statutory elements identified in the Act's DER Metric category: improving utility performance in (1) interconnection processing and (2) integrating DERs to maximize the benefits of grid modernization and clean energy for ratepayers. *See* 220 ILCS 5/16-108.18(e)(2)(A)(v). Improvement in utility performance on interconnection timeliness improves the developer and customer experience in DER installation. Improvement in the integration of DERs to meet grid needs ensures that the deployment of DERs creates grid value in a manner that provides benefits of grid modernization and clean energy to all ratepayers. Together, the component parts of the DERIUV metric measure two performance categories specifically identified in the DER Metric category of the Act to deliver on key P.A. 102-0662 objectives.

ELPC/VS witness Kenworthy presents Part I of the combined DERIUV metric—the Interconnection Index. ELPC/VS Ex. 2.0. The Interconnection Index proposed by Mr. Kenworthy is based on ComEd's Baseline and Target Performance sections of ComEd's interconnection timeliness metric. Sections V(A)(i) and V(A)(ii) of ComEd Ex. 4.01 at 12-13. The specific methodology for calculating incentives and penalties is explained in JSP Exhibit 2.4.

JSP witness Rábago presents Part II of the combined DERIUV metric—the DER Utilization for Value ("DUV") component. JSP Ex. 2.0. The DUV component measures the utility's performance in utilizing DERs to maximize grid modernization and clean energy benefits for ratepayers. The DUV component incentivizes the utility to facilitate the integration and utilization of DERs by: (1) identifying grid needs that can be beneficially and cost-effectively served by DERs, and (2) implementing the programs and other market participation pathways needed to unlock that value. The DUV component is fundamentally anchored in aligning the utility's earning opportunity with achieving the P.A. 102-0662 goals of maximizing grid modernization and clean energy benefits. The Interconnection Index component of the metric provides incentives and penalties tied to the Company's performance in completing interconnection tasks (Tasks) identified in the

Part 466 interconnection rules. The Interconnection Index largely adopts the Metric Description and Baseline and Target Performance sections of ComEd's Metric 7 (Sections V(A)(i) and V(A)(ii) of ComEd Ex. 4.01 at 12-13) but proposes an alternative incentive and penalty structure discussed below.

The DUV component is an "upside only" component to the metric with earning incentives tied to the Company achieving net savings by utilizing DERs to provide grid services. As described in more detail in Mr. Rabago's testimony, the specific value of net savings from DER-related grid services will be established, in part, through the Commission-led investigation into DER value and "additive services" under Section 16-107.6(e) of the Act. Because no additive services value has been identified or captured in prior years, the baseline is $0. "Net savings" reflects the customer and system savings after accounting for program costs, including any return allowed on additive service rebates under 220 ILCS 5/16-107.6(e). To provide substantial benefits to customers and a reasonable earning incentive to the utility, customers would retain 75% of the net savings and the Company would earn 25% of the net savings, up to the cap of 5 basis points. The total incentive amount the Company can earn is calculated by multiplying the net savings times 25% (the Company's "Sharing Factor"). If net savings are greater than the amount equal to five basis points, 100% net savings greater than the 5-basis point cap would accrue to ratepayers.

The incentive level of compensation for DUV is calculated by the following formulae:

(1) Realized System Savings – Program Costs = Net Savings

(2) Net Savings X Sharing Factor = Incentive Amount ($)

(3) Incentive Amount / Revenue Requirement per Basis Point = Incentive Amount (BP)

ELPC/VS Ex. 2.01R; JSP Ex. 2.4.

The Interconnection Index component is calculated using data collected by the Company in its interconnection review process under Part 466. Data on interconnection application processing timelines, including all data required to calculate the metrics will be reported quarterly.

The DUV component is calculated using data collected through the Multi-Year Integrated Grid Plan and Additive Services processes under Section 16-107.6(e) of the Act, as well as data associated with DER deployment and operations through other utility tracking metrics. The utility would track interconnection rates, system sizes and design, operating hours, circuit conditions, and operation of DER programs and tariffs targeting specific grid needs in order to demonstrate savings achieved.

The Interconnection Index component uses the revised methodology proposed by ComEd in rebuttal, with some minor modifications. The output of that calculation is a "Days Saved" index that is a weighted average of the number of days saved for all interconnection customers. The baseline for this performance metric will be the total number of business days set forth in the Part 466 interconnection rules for utility-performed tasks related to interconnection requests. In order to earn an incentive in any year, ComEd must achieve an increase in the number of days saved, in comparison to

the days allotted under the Commission's Rules. The Part I performance target bands are the same as ComEd's proposal:

Performance Targets

Year	Incremental Annual Target	Performance Bands				
		Band 1	Band 2	Deadband	Band 3	Band 4
Yr 1	12	-4.01 or lower	-4.00 to -0.01	0 to 11.99	12 to 15.99	16.00 or greater
Yr 2	12.5	-3.51 or lower	-3.50 to -0.01	0 to 12.49	12.50 to 16.49	16.50 or greater
Yr 3	13	-3.01 or lower	-3.00 to -0.01	0 to 12.99	13.00 to 16.99	17.00 or greater
Yr 4	13.5	-2.99 or lower	-2.50 to -0.01	0 to 13.49	13.50 to 17.49	17.50 or greater

The DUV component is a shared savings mechanism that allows the utility to earn up to 5 basis points derived from the Company's Sharing Factor of the net savings achieved. The DUV metric would not take effect until rate-year 2 of the Company's MRP. This provides time to complete the Commission's Multi-Year Integrated Grid Plan and Additive Services Investigation proceedings, which will commence by no later than January 20, 2023 and June 30, 2023 respectively.

The combined interconnection and DUV components are designed to provide a penalty and incentive structure where the Company's exposure to both upside and downside risk are symmetrical.

The interconnection component includes both incentives and penalties based on the annual performance targets in the table above for ten years. For the first year of the Company's MRP, the maximum upside and downside potential is 2 basis points. For rate years 2-4, the upside remains at 2 basis points while the downside potential increases to 7 basis points for missing interconnection deadlines. The increase in downside exposure reflects the fact that the utility is required by regulation to meet the baseline interconnection timelines and provides for overall symmetry with DERIUV metric as a whole for rate years 2-4 when the DUV component becomes effective starting in rate-year 2.

The DUV component provides an "upside" incentive not to exceed 5 basis points calculated and adjusted annually based on prior year performance. There are no penalties associated with the DUV metric. When combined with the Interconnection Index, the overall penalties and incentives for the combined DERIUV metric are symmetrical.

P.A. 102-0662 requires that performance metrics be "reasonably within control of the utility to achieve" and not be "solely expected to have the effect of reducing the workforce." 220 ILCS 5/16-108.18(e)(2)(D). Both components of the DERIUV metric are within the "reasonable control of utility to achieve" and neither is expected to have the effect of reducing the workforce.

Solar Intervenors assert the interconnection component of the DERIUV metric is reasonably within control of the utility to achieve. The Company concedes through its own proposed interconnection metric that it controls the resources and time necessary to improve the processing of interconnection tasks.

The DUV component is also reasonably within the control of the Company to achieve. As discussed by JSP witness Rábago, the Company exercises enormous control over the individual customer experience from the time the customer applies for interconnection through the customer's participation in DER programs as well as the identification of grid needs and the implementation of programs that provide the market participation pathway for DERs to meet those needs. *See* JSP Ex. 1.0 at 55-57.

Solar Intervenors further assert that the Company's claim that it does not exercise control over key elements of DUV metric is unsupported and directly contradicted by other metrics proposed by ComEd. First, ComEd asserts the DUV component is not within its control because "utilities do not control how many customers actually adopt these technologies, or the extent to which they may sign up for programs that may influence ComEd's performance against goals of a DUV metric as described in Mr. Rábago's testimony." ComEd Ex. 9.0 at 20. This argument is contradicted by Company witness Kirchman's proposed peak demand reduction metric for which the Company proposes to achieve peak reduction targets through certain solar programs and projects and EE measures. ComEd Ex. 20.0 at 8-9. In response to information requests, the Company confirmed that the outcomes associated with the incentives and penalties in its rebuttal peak load reduction metric are within the Company's control. JSP Cross Ex. 7.

The Company cannot on the one hand argue that future DER programs and projects over which it does not control customer adoption or enrollment are sufficiently within its control to count toward its peak reduction metric, and then on the other hand credibly argue that future DER programs and projects are not sufficiently within its control to count toward the DERIUV metric. Further undermining the Company's argument is that the Company's role in facilitating the customer adoption and enrollment in DER programs is very similar to the Company's role in implementing EE programs.

Similar to customer adoption and installation of DERs, the Company does not ultimately control the installation and deployment of EE measures or whether any individual customer ultimately chooses to adopt an EE measure or enroll in an EE program. However, like with DER programs the Company plays an essential role in EE program development, education, marketing, working with third party installers, and multiple other facets of implementing statutorily required EE programs. *See* JSP Ex. 2.0 at 21-22. Through its essential role in EE program development and deployment, the Company exercises "reasonable control" over its ability to achieve the EE targets established by the Commission.

As such, similar to its EE programs, while ComEd does not directly control the installation or deployment of DERs, or whether any individual customer ultimately decides to adopt DERs or elect to participate in DER programs, it exerts enormous control over visibility into grid conditions and needs, DER hosting capacity, DER program design and implementation, customer outreach and education, working with third party installers, and multiple other facets of the grid planning and additive services investigation required by P.A. 102-0662. JSP Ex. 1.0 at 55-58; JSP Ex. 2.0 at 13-16. Through its essential role in DER program development and deployment, the Company has a strong influence on the overall growth of the DER market in its service territory. As such, the DUV component of the DERIUV metric is "reasonably within control of the utility to achieve" as that term is used in Section 16-108.18(e)(2)(D) of the Act.

JSP/ELCP/VS state that P.A. 102-0662 requires the Commission to approve performance metrics in this docket, but reserves the specific implementation details for future proceedings. *See* 220 ILCS 5/16-105.17(f)(2)(J) (identifying the Multi-Year Integrated Grid Plan as the place where the utilities must propose "[a] detailed plan" for achieving the performance metrics approved by the Commission in this docket); 220 ILCS 5/16-105.17(f)(1)(B) (requiring Grid Plans to "propose distribution system investment programs, policies, and plans designed to … achieve the metrics approved by the Commission" in this docket.).

ComEd's first Multi-Year Integrated Grid Plan (to be filed on January 20, 2023) will serve as the foundation for achieving the DERIUV metric proposed by Mr. Rábago and Mr. Kenworthy. Section 16-105.17 states that Grid Plans must include:

> An evaluation of the short-term and long-run benefits and costs of distributed energy resources located on the distribution system, including, but not limited to, the locational, temporal, and performance-based benefits and costs of distributed energy resources. The utility shall use the results of this evaluation to inform its analysis of Solution Sourcing Opportunities, including nonwires alternatives, under subparagraph (K) of paragraph (2) subsection (f) of this Section. The Commission may use the data produced through this evaluation to, among other use-cases, inform the Commission's investigation and establishment of tariffs and compensation for distributed energy resources interconnecting to the utility's distribution system, including rebates provided by the electric utility pursuant to Section 16-107.6 of this Act.

220 ILCS 5/16-105.17(f)(2)(G). Section 16-105.17(d)(1) specifically requires the Grid Plan be designed to "support efforts to bring the benefits of grid modernization and clean energy, including, but not limited to, deployment of distributed energy resources." 220 ILCS 5/16-105.17(d)(1). Section 16-105.17(f)(2) further requires ComEd's grid plan to include a comprehensive suite of information specifically related to DER integration with the distribution system. *See* 220 ILCS 5/16-105.17(f)(2)(B)-(E), (J), (K). In sum, the Grid Plans must include "holistic consideration" of all the other related utility programs and "comprehensively detail" and "coordinate" their implementation "in order to maximize the benefits" of each. 220 ILCS 5/16-105.17(f)(4).

Following approval of ComEd's first Grid Plan, the Act directs the Commission to open an investigation by no later than June 30, 2023 "into the value of, and compensation for, distributed energy resources." 220 ILCS 5/16-107.6(e). This DER value investigation must identify a "base rebate" for "system-wide grid services" but also additional compensation for "additive services," as follows:

> The Commission shall also determine, as a part of its investigation under this subsection, whether distributed energy resources can provide any additive services. Those additive services may include services that are provided

> through utility-controlled responses to grid conditions. If the Commission determines that distributed energy resources can provide additive grid services, the Commission shall determine the terms and conditions for the operation and compensation of those services. That compensation shall be above and beyond the base rebate that the distributed energy generation, community renewable generation project and energy storage system receives. Compensation for additive services may vary by location, time, performance characteristics.

220 ILCS 5/16-107.6(e)(3). "Additive services" include, but are not limited to, "any geographic, time-based, performance based and other benefits of distributed energy resources, as well as the present and future technological capabilities of distributed energy resources and present and future grid needs." 220 ILCS 5/16-107.6(a).

ComEd's additive service tariffs developed pursuant to the Section 16-107.6(e) investigation must use "inputs" derived from the Grid Plans. *See* 220 ILCS 5/16-107.6(e)(2), (5). The Act establishes a goal to have these new DER value tariffs in place by December 31, 2024. *See* 220 ILCS 5/16-107.6(a) (defining "threshold date" for implementation of "new compensation values" established by subsection (e) investigation.)

The DUV component of the DERIUV metric directly ties this metrics proceeding to achievement of the Grid Plan and Additive Service investigation proceeding goals by establishing meaningful and achievable targets for the Company to develop plans related to DER deployment and utilization to deliver the "grid modernization and clean energy benefits" of DERs to ratepayers. As explained in JSP Exhibit 2.4, the data collected and developed through the Multi-Year Integrated Grid Plan and Additive Services investigation proceedings, as well as data associated with DER deployment and operations through other utility tracking metrics will be used to support the DUV component. Ultimately, the DUV component provides ComEd with an opportunity to earn "shared savings" to the extent that it can create net customer value through "Additive Services" acquired through its DG rebate tariff. *Id*. Importantly, the metric is structured so that "Customers receive the majority of the benefits from success under the DUV metric," *id*.; thereby ensuring that the DERIUV metric as a whole delivers net benefits to ratepayers.

P.A. 102-0662's structure makes clear that the programs for achieving the utility's new performance metrics will be implemented over time, not created from scratch in this docket. P.A. 102-0662 establishes overlapping proceedings and deadlines and this PBR metrics docket is the first step in a series of proceedings that together are aimed at aligning the utility business model with achieving public interest goals defined in P.A. 102-0662. The Commission does not need to and should not try to solve every implementation detail in this case. Instead, the Commission should follow the process established in P.A. 102-0662 to adopt the goals and incentive framework set forth in the DERIUV metric, and allow additional implementation details (e.g., specific grid services, values and programs) to be defined through the Multi-Year Grid Plans and Additive Services investigation proceedings. *See* JSP Ex. 1.0 at 48-50.

To illustrate the substantial potential that DERs offer to provide these additive services, JSP witness Rábago described multiple services that are likely to be identified through Grid Plan and Additive Services investigation proceedings, including nonwires alternatives (NWAs), peak load reduction, and other temporal and locational values. Mr. Rábago also provided examples of programs implemented in other states to unlock and deliver that value to ratepayers. *See* JSP Ex. 2.0 at 11-15, 19-21, 32-33; *see also* JSP Ex. 2.1, JSP Ex. 2.2, and JSP Ex. 2.3. As summarized by Mr. Rábago, ComEd is not starting from scratch in exploring opportunities to maximize the benefits of grid modernization and clean energy through the use of DERs. Other states and utilities have demonstrated the opportunity and developed programs to unlock this value that could be adapted to meet needs in ComEd's service territory. JSP Ex. 2.0 at 20-21, JSP Ex. 2.1, JSP Ex. 2.2, JSP Ex. 2.3.

The DUV component incentivizes ComEd to meaningfully engage in the Grid Plan and Additive Service investigation proceedings to identify that DER value and develop the programs and other market participation pathways to unlock that value. The DERIUV metric is therefore reasonably within control of the Company to achieve.

Staff's testimony presents a slightly modified version of ComEd's interconnection metric, but Staff's modified "days saved" proposal continues to violate the Act's requirement that benefits exceed costs for customers. Staff criticized ComEd's proposal on multiple grounds, including that "there is absolutely no evidence that the qualitative benefits exceed the cost of awarding ComEd additional basis points"; and recommends the Commission reject ComEd's proposal in favor of Staff's proposal. Staff Init. Br. at 55-56. Staff's proposal suggests minor modifications to the deadband as compared ComEd's proposal but fails to explain how its modifications would fix the substantial gap between annual customer costs (in excess of $8 million per year) and annual participant benefits (of less than $400,000 per year). *Id*. IIEC recommends the Commission reject ComEd's metric, but in the event it approves an interconnection related metric, IIEC endorses Staff's proposal. IIEC's testimony also fails to explain how Staff's proposal could possibly be cost-beneficial, as required by the Act.

Solar Intervenors explain that the DERIUV metric is the only metric proposed in the DER Metric category that results in net benefits to ratepayers. The DERIUV metric incentivizes the Company to (1) improve interconnection performance, and (2) integrate DERs into its system planning and operations to deliver ratepayer savings, advance Illinois' ambitious clean energy and climate goals, and provide other public benefits. It is likely for this reason that the CUB–the entity that is statutorily required to "represent and protect the interests of the residential utility consumers of this State"–supports the DERIUV metric. 220 ILCS 10/5; *see* CUB/EDF Init. Br. at 36-38.

ComEd opposes the DERIUV metric on the grounds that it is (1) "two metrics, not one"; (2) the DUV component "is based on unknown factors and yet-to-be determined outcomes" and "is actually focused on the value of DER"; (3) the component parts "have inappropriately asymmetrical penalty and incentive structures"; and (4) the DUV component is focused on DER construction which is not under the control of the utility. ComEd Init. Br. at 80. Solar Intervenors explain that none of ComEd's criticisms have merit.

First, the DERIUV metric is a single metric that measures utility performance against two of the five target areas for utility performance improvement listed in the DER Metric category of the Act. Nothing in the statute prohibits the Commission from adopting a metric that achieves multiple target outcomes for any particular metric category. *See* 220 ILCS 5/16-108.18(e)(2)(A)(v). The plain language of the statute indicates the General Assembly's clear intent for this category to target multiple areas of utility performance from which the Commission must adopt metrics. The DERIUV metric combines two of these core topic areas into a single performance metric tying together utility improvement in interconnection (i.e., deployment of DERs) with maximizing the benefits of grid modernization and clean energy for ratepayers (i.e., integration and utilization of the interconnected DERs). The DERIUV metric is a substantial improvement over ComEd and Staff's proposals which focus solely on interconnection timeliness, which is just one of the multiple topic areas referenced by Section 16-108.18(e)(2)(A)(v). In addition to incentivizing interconnection performance improvement, the DERIUV metric incentivizes the Company to develop the programs and other market participation pathways necessary for DERs to deliver the broader grid modernization and clean energy benefits envisioned by P.A. 102-0662. Aligning utility earning opportunities with achieving these multiple goals—as the DUV component does—reflects the broader intent of the statute, which encourages metrics designed around "maximizing the benefits of grid modernization and clean energy for ratepayers." 220 ILCS 5/16-108.18(e)(2)(A)(v).

Further, assuming arguendo that the Commission agreed with the Company's suggestion that the DERIUV metric is "really two metrics, not one" and therefore cannot be approved (both suggestions Solar Intervenors reject), the Commission has discretion to adopt the component parts of the DERIUV metric as two individual metrics while maintaining the structure and respective basis point allocations. P.A. 102-0662 provides the Commission may approve up to eight performance incentive metrics, with at least one from each of six designated statutory categories. 220 ILCS 5/16- 108.18(e)(2). Given that DER integration is a core theme of P.A. 102-0662, it would be entirely in keeping with the statutory intent to develop multiple performance metrics targeting utility improvement under the DER Metric category.

Second, the Company's argument that the DUV component of the DERIUV metric "is based on unknown factors and yet-to-be determined outcomes" is inconsistent with its acknowledgment later in its brief (pp. 102-103) that multiple details critical to the implementation of the metrics approved in this proceeding will in fact be determined in future proceedings, including the Multi-Year Integrated Grid Plans, and that this feature is part of the intended design of P.A. 102-0662. Indeed, ComEd specifically cites P.A. 102-0662's statutory language requiring utilities to "submit a plan for achieving the metrics in a future proceeding" as a reason why all of the details regarding implementation of the performance metrics need not be worked out in this docket. ComEd IB at 102-103, citing 220 ILCS 5/16-105.17(f)(2)(H)(iii). ComEd explains that "detailed plans" for achieving the metrics are not required in this docket:

> Rather, the General Assembly intended to create a process sequence that first requires the establishment of performance metrics in the instant docket, based on substantial evidence showing that the metrics encourage cost-efficient

> achievement of the objectives of the statute, followed by the review of costs to implement the metrics in potential future multi-year grid and rate plans and later cost reconciliations – proceedings with their own standards of evidence. The plainest reading of these sections is that Section 16-108.18(e)(6)(A) intentionally does not require implementation plans in this metrics approval case, because these plans are subject to the Commission's consideration in the potential upcoming multi-year ratemaking process.

ComEd IB at 102-103.

Solar Intervenors agree that the metrics approved in this proceeding can and should be implemented through future proceedings like the Multi-Year Integrated Grid Plans.

Solar Intervenors further explain that Section 16-105.17(f)(2) requires ComEd's grid plan to include a comprehensive suite of information specifically related to DER integration with the distribution system, including the "Identification of potential cost-effective solutions from nontraditional and third-party owned investments that could meet anticipated grid needs, including, but not limited to, distributed energy resources procurements, tariffs or contracts, programmatic solutions, rate design options, technologies or programs that facilitate load flexibility, non-wires alternatives, and other solutions that are intended to meet the objectives described at subsection (d)."

In short, the framework for approval and implementation of the DUV component that Solar Intervenors propose is directly aligned with and predicated on the Commission's future Multi-Year Integrated Grid Plans and DER Value/Additive Services proceedings. ComEd's assertion that the DUV component seeks to prematurely set the value of DERs in this proceeding mischaracterizes Solar Intervenors' proposal. *See* ComEd Init. Br. at 6, fn. 2. The DERIUV metric does not set the value of DERs. Instead, the DERIUV metric creates a framework and formula for the Commission to insert the value of DERs once it is determined in the DER Value Investigation pursuant to Section 16-107.6(e) of the Act.

Third, ComEd's argument that the DERIUV metric creates an "inappropriately asymmetrical penalty and incentive structure" is incorrect. The DERIUV metric allocates 2 basis points (upside and downside) in 2024 and seven basis points (upside and downside) for 2025-2027. Solar Intervenors Init. Br. at 32, Table 4. As discussed in Section III.B above, nothing in the Act requires that each individual metric be symmetrical or that its component parts be symmetrical. Instead, the Act requires that the "total amount of potential incentives and penalties shall be symmetrical" and that "incentives shall be rewards or penalties or both, reflected as basis points added to, or subtracted from, the utility's cost of equity." 220 ILCS 5/16-108.18(e)(2)(B). The statute is clear: individual metrics can be incentive only, penalty only, or a combination of incentives and penalties; but nothing requires the individual metric to have a symmetrical incentive and penalty structure. The symmetry requirement applies only to the total amount of incentives and penalties for all performance metrics approved by the Commission. Contrary to ComEd's assertion, and while not required by statute, the DERIUV metric is

internally symmetrical by design. However, if the Commission elected to adopt the component parts of DERIUV metric as two separate metrics, the statute is clear that the Commission could retain the respective basis point allocation proposed by Solar Intervenors to maintain overall symmetry.

Finally, ComEd's argument that the DUV component is not designed to be achievable by the utility is simply false, as demonstrated by the record. P.A. 102-0662 requires that performance metrics be "reasonably within the control of the utility to achieve." 220 ILCS 5/16-108.18(e)(2)(D). It does not require that the utility have "sole" control over every single element of the metric. The Company's assertion that the DUV component "involves the construction of the DER" and therefore "not in the utility's control" (ComEd Init. Br. at 80) is (a) an incorrect characterization of the DUV component; (b) not true; and (c) absurd. ComEd is required by statute to facilitate the integration and utilization of DERs as a grid resource in its system planning and operations. 220 ILCS 5/16-105.17. Any suggestion that DER integration is "not in the utility's control" abdicates one of ComEd's core responsibilities as a distribution utility.

ComEd and Staff's criticisms fail to identify any statutory or other impediment that prevent the Commission from adopting Solar Intervenors' proposed DERIUV metric. The DERIUV metric provides net benefits to customers by virtue the shared savings mechanism of the DUV component, is strongly supported by record evidence, is designed to achieve core objectives of P.A. 102-0662 for the deployment and utilization of DERs to provide ratepayers benefits, is reasonably within the control of the utility to achieve, and meets the other requirements of the Act for approval. Solar Intervenors therefore request that the Commission adopt the DERIUV metric.

f. Commission Analysis and Conclusion

CUB/EDF, AEE, and JSP/ELPC/VS argue neither ComEd's nor Staff's proposal address DER integration benefits. Although each respective proposal differs in some aspect, they are both founded and rely on the adoption of the DERIUV metric.

The Commission agrees with Staff that JSP/ELPC/VS and CUB/EDF fail to propose a fully formed, specific metric that can be approved by the Commission in this proceeding. The proposed alternative metrics attempt to marry two separate and distinct metrics into one, unfairly requiring the Company to excel in two separate categories to earn an incentive. JSP/ELPC/VS, CUB/EDF, and AEE, in their respective proposals, rely to some extent on the value of DER, a variable not yet established or in the utility's control. Furthermore, no party has identified a legal basis for which the Commission may adopt a metric that is dependent on variables that will be defined in a separate proceeding following this docket but before the MRP begins. Accordingly, the alternative metrics proposed by JSP/ELPC/VS, CUB/EDF, and AEE are not adopted.

3. Basis Points

a. ComEd's Position

ComEd states that the Commission should approve ComEd's proposal that the Interconnection performance metric should be allocated 10 basis points in the 60 basis points total scenario and seven basis points in the 40 basis points total scenario (a close to pro rata reduction approximating the 1/6 ratio of the 10 out of 60 basis points total

scenario). ComEd also notes that ELPC/VS and JSP proposed seven basis points in the 40 basis points total scenario for their DERIUV metric.

b. Staff's Position

See Section IV.B.2 above.

c. CUB/EDF's Position

The DERIUV performance metric CUB/EDF endorse allocates up to 2 basis points of incentives or penalties (a 4-basis point range) in Year 1 and 7 basis points (a 14-basis point range) in Years 2 through 4. CUB/EDF Ex. 4.1 at 30. The Interconnection Index is allocated 2 basis points in Year 1. *Id*. In years 2 through 4, the Interconnection Index has an asymmetrical allocation of maximum incentives (still 2 basis points) and penalties (increased to 7 basis points). *Id*. However, the 5-basis point increase in maximum penalty for the Interconnection Index (imposed for missing Part 466 deadlines) is offset by the DUV Index, a shared savings incentive with no associated penalties and up to 5 basis points in bonuses, in each of Years 2 through 4. *Id*. at 30-31. As a result, the range of penalties and incentives is symmetrical for each year. Id. at 31.

ComEd proposes only one index. CUB/EDF point out it is analogous to the DERIUV performance metric's Interconnection Index, yet the Company assigns 5 times as many basis points (10 versus 2) to it. ComEd Ex. 18.01 at 11. CUB/EDF consider allocating 10 basis points to only a Days Saved index excessive, as illustrated by Staff's allocation of 6 basis points to its analogous Days Saved metric (Staff Ex. 15.0 at 5) and the DERIUV's allocation of 7 total basis point across both the analogous Interconnection Index and the DUV Index. CUB/EDF Ex. 4.1 at 30-31. Moreover, the basis points allocated to the DUV Index have the empirical basis of not being an "assigned" amount but rather are a set portion of the realized shared savings amount. CUB/EDF assert this guarantees significant net benefits. *Id*.

d. JSP/ELPC/VS's Position

ComEd proposes up to 10 basis points for its proposed Interconnection Performance Metric if the Commission approves a total of 60 basis points and seven basis points if the Commission approves a total of 40 basis points. Solar Intervenors propose seven basis points for the combined DERIUV Metric.

e. Commission Analysis and Conclusion

The Commission adopts 5 basis points for this Performance Metric 7, as noted in Sections IV.B and C above, finding this to be a sufficient incentive for the Company to achieve improvements under this metric, and recognizing P.A. 102-0662's overall goals in incentivizing improvements in integration of renewable resources into the grid.

F. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(vi) (customer service)

1. ComEd Proposal

a. ComEd's Position

ComEd argues that the Commission should approve ComEd's proposed Customer Service performance metric. ComEd notes that its proposal is focused on improvement

in the percentage of incoming customer contacts to ComEd (with certain important practical exclusions) that are resolved on the first contact. The metric applies to customer contacts with: (1) ComEd's Customer Service Representatives ("CSRs"), (2) Interactive Voice Response ("IVR") system, (3) ComEd's web site ("Web"), and (4) ComEd's mobile application ("Mobile App"). ComEd explains that the metric is limited to contacts regarding three subject areas: (1) billing and payments, (2) credit and collections, and (3) start/stop/move service.

ComEd explains that various types of customer contacts fall into those three subject areas. ComEd states that these three subject areas were selected because they are amenable to resolution on first contact. ComEd explains that the metric does not include contacts in subject areas that, by their nature, are unable or generally unlikely to be addressed directly by the customer's first contact, such as power outages and wire-down emergencies. For example, ComEd notes, a CSR does not have the ability to end an outage or repair a downed wire for a customer over the phone.

ComEd argues that its proposal uses a reasonable and fair baseline performance level of 86% first contact resolution at the beginning of 2024, which is based on the most accurate and appropriate historical data available, i.e., 2021 data. ComEd notes that the 2021 data is the only data that is close to comparable to the situation of the proposed metric. Years prior to 2020 only contain data related to CSRs. ComEd explains that the 2021 data does not include Mobile App data, because that data does not yet exist.

ComEd states that its proposal uses a challenging target of 0.4% annual improvement, which may be difficult to achieve, especially after the initial year of the metric. ComEd states the target levels thus are reasonable and fair, as shown in the following table:

Surrebuttal Customer Service Performance Metric Projected Baseline Target, Deadband, and Penalties/Incentives

Year	-5 bps to -0.01 bps	0 bps	0.01 to 5 bps
2024	85.90% or lower to 86.29%	86.30% to 86.39%	86.40% to 86.90% or higher
2025	86.30% or lower to 86.69%	86.70% to 86.79%	86.80% to 87.30% or higher
2026	86.70% or lower to 87.09%	87.10% to 87.19%	87.20% to 87.70% or higher
2027	87.10% or lower to 87.49%	87.50% to 87.59%	87.60% to 88.10% or higher

ComEd Ex. 18.01 at 12.

ComEd notes that Staff supports ComEd's proposed Customer Service performance metric. ComEd states that IIEC argues for a higher baseline of 91% in 2024, and targets of annual improvement of 0.5%, but ComEd contends the IIEC proposals lack support and are not reasonable and fair. ComEd argues that it has used a reasonable and fair approach to set the baseline and targets, with the latter being challenging. ComEd argues that IIEC fails to recognize the limits of the existing data, the non-

comparability of the data prior to 2021, and the challenging nature of the targets, especially in the later years. If the Commission were to adopt IIEC's proposals, then ComEd likely would be unable to meet the resulting metric. Setting a metric that ComEd likely cannot achieve would be contrary to Section 16-108.18(e)(2), which calls for Commission approval of achievable performance (and tracking) metrics.

ComEd notes that CUB/EDF do not support ComEd's proposal, but that is because CUB/EDF advocate a flawed and impractical alternative metric. ComEd states that CUB/EDF prefer a Customer Service performance metric that focuses on customer contacts during four types of heightened need and vulnerability (i.e., emergencies/"trouble," service disruptions during extreme weather events, low-income customer arrearages, and disconnections). ComEd contends that the four types of customer contacts raised by CUB/EDF cannot be resolved through the customer's first contact, such as power outages and wire-down emergencies. ComEd argues that CUB/EDF's proposal is unwarranted and impractical and should not be adopted.

ComEd states that its proposal meets the statute's requirements. ComEd also argues that the proposal is achievable, with reasonable and fair baseline and targets, although meeting the targets in later years of the metric may be difficult.

ComEd states that its proposal provides several customer benefits. ComEd explains that if its proposed Customer Service metric were achieved, it would improve customer service by reducing the time spent by customers, as well as utility personnel, on addressing and resolving the customer's concern. ComEd explains that customers directly benefit by virtue of their avoided costs, i.e., avoiding the loss of time spent on additional resolution efforts. Customers as a whole benefit by reducing time spent by utility personnel. ComEd states that Mr. Zarumba and Mr. Shields conservatively estimate the benefits of customers avoiding additional time on resolution and CSRs avoiding one additional call of average duration as provided in the following table:

Estimated Benefits for Customer Service Performance Metric

	Savings per Avoided Contact	2024 Targeted Savings	2025 Targeted Savings	2026 Targeted Savings	2027 Targeted Savings
Web Contacts	3.97	$ 43,939	$ 43,939	$ 43,939	$ 43,939
IVR Contacts	3.97	$ 35,006	$ 35,006	$ 35,006	$ 35,006
CSR	$ 9.45	$ 25,957	$ 25,957	$ 25,957	$ 25,957
Total		$ 104,902	$ 104,902	$ 104,902	$ 104,902

ComEd Ex. 11.0 at 47.

Moreover, ComEd claims that its proposal may reasonably be deemed net beneficial based on the available information. ComEd states that its current view is that it will not incur material incremental costs to meet the baseline, and that, while some incremental cost would likely be required to achieve the targets, such cost is unknown in

amount at this time. Accordingly, outside experts Mr. Zarumba and Mr. Shields reasonably assumed zero costs for the purposes of cost-benefit analysis at this time.

b. Staff's Position

Staff notes ComEd's proposed Customer Service performance metric involves customer service performance. 220 ILCS 5/16-108.18(e)(2)(A)(vi). As originally proposed by ComEd, this metric is based on first contact resolution and measures the percentage of customer contacts regarding 1) billing and payments, 2) credit and collections, and 3) start/stop/move that are resolved on the first contact with ComEd's CSRs, Interactive Voice Recognition system ("IVR"), Web, and mobile app within a window of 72 hours. ComEd Ex. 10.0 at 5.

IIEC witness Stephens, recommended that the metric's timeline be revised from 10 years to 4 years to better align with the MRP. IIEC Ex. 1.0 at 47-52. ComEd adopted Mr. Stephen's suggestion to change the timeline of this metric from 10 years to 4 years. ComEd Ex. 10.0 at 13. Staff witness Howard testified that she is not opposed to the modification adopted by ComEd. Staff Ex 14.0 at 7. In Ms. Howard's opinion, the metric as proposed by ComEd, is designed to measure the percentage of customer contacts resolved on first contact, appears to be measurable, achievable, and reasonably within the utility's control.

Staff adds ComEd's Customer Service performance metric measures customer interactions through automated self-service options which are available to customers and work well for transactions and matters that are easily resolved. It also measures first contact resolution through channels that offer ready access to a live representative, which is a feature that is important to customers who lack access to self-service options or find them difficult to navigate. Staff recommends that the Commission approve ComEd's customer service performance metric as described in ComEd's rebuttal testimony. Staff Ex 14.0 at 8.

c. CUB/EDF's Position

CUB/EDF request that the Commission reject this approach in favor of Mr. Barbeau's proposal described below. Mr. Barbeau's modified approach focuses on customer service response during potential crisis scenarios, such as when the customer is experiencing an emergency, a service disruption during extreme weather or major event days, when a customer is more than 60 days in arrears on their bill and/or when a customer has received a disconnection notice. CUB/EDF argue rather than rewarding the Company for its average responsiveness, this metric should incentivize responsiveness specifically during times of customers' highest need, which CUB/EDF argue provides the greatest net benefit for customers through a targeted allocation of incentives to high-leverage scenarios. These are the most critical customer contacts for ComEd to address. CUB/EDF argue resolving contacts within 72 hours is far too low a bar to ensure benefits for customers facing emergencies.

CUB/EDF understand that , for each month, the Company's metric would count unique customer contacts resolved on first contact and divide it by the total number of unique customer contacts. ComEd Ex. 18.01 at 15. No additional customer contacts for the given category within 72 hours count toward the metric. *Id.* Any additional contacts

by the customer for the given category within 72 hours count against the metric, once, regardless of the number of additional contacts. *Id.* The metric baseline, based on 2021 data, is 86.00%. *Id.* The Year 1 target for the minimum incentive payment is 86.40%, and penalties are triggered below 86.30%. *Id.* The target increases each year by 0.40%. *Id.*

d. IIEC's Position

For the reasons explained by IIEC witness Stephens, if the Commission approves ComEd's customer service performance metric, it should approve a starting baseline of 91% with targeted 0.5% improvements each year throughout the 2024-2027 multi year plan. IIEC Ex. 1.0 at 52.

IIEC notes ComEd asserts that the costs of the metric will be incremental but cannot quantify the costs. IIEC believes this contention is in serious doubt. IIEC points out the metric that measures the percentage of customer contacts has evolved since 2016. IIEC notes for 2016-2018, the metric was calculated on CSR calls resolved on the first contact, with no additional contacts within 72 hours. At that time, the metric did not include IVR, Web, and mobile app data as it now intends for the metric. For 2019-2020, IIEC points out ComEd moved to a new tracking methodology to calculate calls on the first contact, slightly impacting the results due to the new data structure. Again, IIEC notes the metric did not include IVR, Web, and Mobile App data during that period. IIEC further notes that for 2021, the metric evolved further, this time to include digital channels data (IVR and Web) into the metric calculation, in addition to CSR data. IIEC notes by 2021 ComEd had an 86% success rate, which is now the proposed baseline for 2024. IIEC Ex. 1.0 at 49-50.

Given the underlying history of the metric, IIEC argues ComEd should know what costs or expenses it has incurred since 2016, and in particular, it should know the costs and expenses it has incurred due to the more recent advanced digital channels. IIEC notes these costs are being collected in rates but for the cost of the mobile app. IIEC Ex. 1.0 at 50. Furthermore, IIEC points out ComEd Exhibit 11.03 suggests a reduced cost associated with staffing levels due to the metric. IIEC asserts given the recent history, which is essentially the same as the metric, minus the mobile app, ComEd is more than capable of identifying the costs associated with this metric, but chose not to do so.

IIEC notes CUB/EDF witness Barbeau also questioned the lack of cost data from ComEd. Mr. Barbeau testified, "it was exceptionally difficult to gather data from the utility to develop a benefit assessment of customer service responsiveness. IIEC points out even ComEd witnesses Zarumba and Shields could not identify quantitative benefits related to the customer service metric other than possible minutes of reductions on the phone by customers." CUB/EDF Ex.4.0 at 17. IIEC agrees with Mr. Barbeau's observations.

IIEC finds ComEd's 2021 First Contact Resolution ("FCR") rate of 86% is too modest. ComEd's own data make clear that it has seen significant improvement in calls resolved on first contact. IIEC notes from 2016-2018, the average performance rate was 75.7%, and from 2019-2020 the average rate was 79.5%, and finally it increased by more than 5%, to 86% in 2021. IIEC asserts ComEd has failed to adequately recognize the

upward trajectory in its FCR resolutions and, importantly, assumes a flat success rate—86% in 2021 that it expects will not increase in 2024. IIEC Ex. 1.0 at 50-51.

IIEC concludes, based on ComEd's historical performance, another 5% increase from 2021 is a reasonable baseline for 2024. IIEC notes ComEd's recommended targets would only see a 3.6% increase over a 10-year period, yet ComEd had shown a 5% increase in just two years, comparing the average of 2019-2020 to 2021. IIEC asserts the data suggests that the incremental target is too easy to meet. IIEC Ex. 1.0 at 51.

IIEC points out ComEd took issue with the .5% increase in the target levels suggested by IIEC. IIEC observes further that ComEd witness Menard noted that the FCR metric can be impacted by customer behaviors outside of ComEd's control. IIEC states in reply, if customer behaviors outside of ComEd's control may affect a 0.5% target, those same behaviors would bear upon a 0.4% target. IIEC witness Stephens added that if ComEd is so uncertain as to the metric's outcome, then perhaps it should be set aside. IIEC concludes ComEd knows from recent experience that its ability to increase the FCR will be further enhanced by the mobile app, suggesting a more challenging target is warranted. IIEC Ex. 2.0 at 46-47.

e. Commission Analysis and Conclusion

ComEd's proposed four-year Customer Service performance metric measures the percentage of customer contacts regarding billing and payments, credit and collections, and start/stop/move services. ComEd's proposed metric focuses on customer contacts with ComEd's CSRs, IVR system, Web, and Mobile App. that are resolved within 72 hours. The metric's baseline of 86% first contact resolution was based on historical data from 2021 and includes a .09% deadband. Under the Company's proposal, the Company will receive a penalty/incentive for every increase or decrease beyond the deadband by 0.4%. The metrics' baseline will increase each year by 0.40%. ComEd's proposed Customer Service Metric is supported by Staff.

IIEC contends the Company's proposed incremental target is too easy to meet, given the lack of costs compared to quantitative benefit of minutes of reductions on the phone by customers. As such, IIEC propose that ComEd's metric be modified to include a baseline of 91% in 2024 with an annual improvement target of 0.5%.

The Commission finds ComEd's proposed Customer Service metric complies with the goals prescribed under Section 16-108.18(e)(2)(A)(vi), and is reasonable, measurable, and within the Company's control. Striving to achieve exemplary customer service through first contact resolution affords customers with expedient and precise answers to questions and solutions to problems. If the targeted metrics are achieved by the Company, customers will enjoy short but productive interactions with CSRs and CSRs will be available to assist other customers in a timely manner. Therefore, the Commission adopts ComEd's proposed Customer Service performance metric as proposed.

2. Other Proposals

a. ComEd's Position

ComEd notes that CUB/EDF propose to substitute the Customer Service performance metric so that it focuses on customer contacts during four types of heightened need and vulnerability (i.e., emergencies/"trouble," service disruptions during

extreme weather events, low-income customer arrearages, and disconnections). ComEd argues CUB/EDF's proposal is unwarranted and impractical and should not be adopted.

ComEd states that CUB/EDF fail to effectively refute (and to some degree did not even address) ComEd's criticisms of its proposal. Moreover, ComEd points out that CUB/EDF inappropriately rely on data from Ameren to develop their proposal for ComEd. ComEd claims that this proposal would not even be achievable by ComEd because ComEd lacks the technology and thus the data needed (as CUB/EDF appear implicitly to acknowledge when seeking to explain the use of Ameren data).

b. Staff's Position

Staff notes CUB/EDF argue the Commission should reject ComEd's proposal and instead adopt a metric based on performance in times of heightened customer need and vulnerability. Staff does not support the proposal.

c. CUB/EDF's Position

CUB/EDF support Mr. Barbeau's proposed modifications to make the Customer Service performance metric require meaningful but attainable improvement in performance for the highest-impact customer service contacts. This modified metric would measure the percentage of customer contacts answered within 60 seconds, including web- and mobile-based contacts in addition to calls, and focuses on contacts concerning customers in crisis. CUB/EDF Ex. 4.1 at 32. These situations include service disruptions during extreme weather events and major event days, calls by low-income customers with 60+ days' arrears, disconnections and disconnection notices, and general emergencies/trouble. *Id.* The performance metric assigns each of these categories an index measuring the percentage of contacts responded to within 60 seconds, excluding automated or interactive response. *Id.* The performance metric targets are: (1) maintain the emergency/trouble response rate at 95%; (2) improve the service disruption during extreme weather events and major event days rate 3%per year before maintaining a 90%rate in Years 4 and 5; (3) increase the low-income customer arrearages response rate by 2% in each of Years 1 and 2 and then maintaining a 95% rate; and (4) achieve a 93% rate for disconnections-related contacts for Year 1 and maintaining a 95% rate thereafter. *Id. at 34*. CUB/EDF add each of the performance metric's 4 indices is worth up to 0.5 basis points per year. *Id.* Mr. Barbeau bases the indices' baselines on historical data for the years 2017 to 2021, rather than ComEd's proposal that only incorporates 2021 data. *Id.* at 34-35.

Accordingly, CUB/EDF request that the Commission adopt Mr. Barbeau's modifications to ComEd's proposed customer service performance metric.

d. Commission Analysis and Conclusion

CUB/EDF propose an alternative Customer Service performance metric that measures the percentage of customer contacts answered within 60 seconds, including web- and mobile-based contacts in addition to calls, concerning customers in crisis (i.e., emergencies service disruptions during extreme weather events, low-income customer arrearages, and disconnections).

The Commission finds the foundation of CUB/EDF's proposal is improperly based on data pertaining to Ameren and the assumption that ComEd can follow suit. Therefore,

CUB/EDF's proposal conflicts with the guidelines established under Section 16-108.18(e)(2)(D) and is not adopted. *See* CUB/EDF Reply Brief at 30.

3. Basis Points

a. ComEd's Position

ComEd argues the Commission should allocate five basis points to ComEd's proposed Customer Service performance metric in the scenario of 60 total basis points, and three basis points in the scenario of 40 basis points. ComEd explains that this reduction from ComEd's original proposal of 10 basis points reflects that this metric involves changing technology and customer behavior and notes that five basis points is consistent with the recommendation of AEE. ComEd also notes that CUB/EDF recommend 2 basis points or perhaps one or even less than one basis point, but his rationale is cavalier, and it lacks any substance.

If the Commission were to allocate three basis points, however, then ComEd argues that the design of the metric would need to change such that the performance targets for the penalty/incentive would be proportionately reduced to reflect the reduction in number of basis points and that the Commission should approve those changes.

b. CUB/EDF's Position

CUB/EDF request that the Commission adopt Mr. Barbeau's proposed Customer Service performance metric, which allocates a maximum of 2 basis points in incentives or penalties (a 4-point range) for each year, divided equally among the four indices (0.5 points each). *Id.* at 34. CUB/EDF contend the Company's proposed performance metric does not provide sufficient benefits to justify the up to 5 basis points per year in incentives ComEd requests and considers the Company's alternative request of 3 basis points is excessive as well. *Id.* at 13. If the Commission instead adopts the Company's proposed metric, CUB/EDF request the Commission approve the allocation of no more than 2 basis points to the metric, preferably 1 basis point or less. CUB/EDF argue this adjustment would reflect ComEd's inability to identify significant benefits to customers from achieving its proposed customer service performance metric target compared to what ComEd already is doing. See 220 ILCS 5/16-108.18(e)(2)(F) (requiring that the benefits of achieving the metric target outweigh the cost of the incentive payment the target triggers).

c. Commission Analysis and Conclusion

The Commission notes that ComEd recognized that this metric may not be as difficult to achieve, as compared to the other metrics, and finds 3 basis points for this metric as an adequate incentive (*see e.g.* ComEd Ex. 18.0 at 34). Thus, the Commission finds no need to award more basis points to this metric at this time and approves 3 basis points for this Performance Metric 8, as noted in Sections IV.B and C of this Order.

VII. PROPOSED TRACKING METRICS

Section 16-108(e)(3) states the "Commission shall approve reasonable and appropriate tracking metrics to collect and monitor data for the purpose of measuring and reporting utility performance and for establishing future performance metrics." 220 ILCS 5/16-108.18(e)(3). At least one tracking metric must be approved in each of the following five enumerated categories: (1) pollutant reductions; (2) grid flexibility; (3) cost savings;

(4) jobs and workforce; and (5) grid planning benefits. *Id.* ComEd proposed a total of 16 tracking metrics across the five categories listed in Section 16-108(e)(3) of the Act. Discussed below are the proposed metrics in the order of the statutory categories they fall under.

A. Proposed Tracking Metrics Falling Within Section 16-108.18(e)(3)(A) (minimize emissions)

Tracking metric category 1 involves minimizing emissions of greenhouse gasses. 220 ILCS 5/16-108.18(e)(3)(A). This metric specifically tracks the utility's efforts to minimize total emissions by accelerating electrification of transportation, buildings, and industries where such electrification results in net reductions, across all fuels and over the life of electrification measures, of greenhouse gasses and other pollutants; taking into consideration the fuel mix used to produce electricity at the relevant hour and the effect of accelerating electrification on electricity delivery service rates, supply prices and peak demand; provided the revenues the utility receives from accelerating electrification exceed the costs. *Id.*

1. ComEd Proposal

a. ComEd's Position

ComEd states that the Commission should approve its proposed Tracking Metric 1, Emissions Reductions Supported by ComEd Programs. This metric calculates annual net emissions saved by EVs and calculates annual savings from other beneficial electrification technologies. This metric not only incorporates Staff's recommendation to separately identify the annual net emission savings supported by ComEd's programs within EJ and R3 communities, but it also will provide two reports, one with relevant data from Section 8-103B energy efficiency programs, and one without such program data. In addition, it will track emission reductions attributable to programs that shift load from peak to off-peak periods.

ComEd states that the Commission should also approve its Tracking Metric 2, ComEd Net Greenhouse Gas ("GHG") Emission, which measures monthly net GHG driven by ComEd operations in metric tons of carbon dioxide equivalent.

b. Staff's Position

Staff recommends the Commission approve ComEd's proposed Emission Reductions Tracking Metrics 1 and 2. Staff witness Morris addressed ComEd's proposed Tracking Metric 1: Emission Reductions Supported by ComEd Programs, and Tracking Metric 2: ComEd Net GHG Emissions in her direct (Staff Ex. 8.0) and rebuttal testimonies. *See* Staff Ex. 8.0 and Staff Ex. 16.0.

Ms. Morris stated that the Commission should modify ComEd's Tracking Metric 1 to require ComEd to separately identify the annual net emissions supported by ComEd's programs within EJ and R3 communities, in addition to identifying the emissions reductions resulting from ComEd's programs throughout ComEd's entire service territory in order to more closely align with the statutory tracking metric's emphasis on emission reductions occurring "in environmental justice and equity investment eligible communities." Staff Ex. 8.0 at 9. In rebuttal testimony, ComEd witness Arns indicated that "ComEd agrees to separately identify and calculate emissions reductions enabled for

EJ and R3 communities" and further noted that "ComEd believes Staff's proposed modification aligns with the State's focus on these communities." ComEd Ex. 5.0 at 33. While ComEd agreed to separately identify and calculate emissions reductions enabled for EJ and R3 communities, ComEd's Revised Performance Metrics Plan only referenced environmental justice communities, and not R3 communities. ComEd Ex. 4.01 at 15. In surrebuttal testimony, however, Mr. Arns agreed to include information related to R3 in its tracking and reporting. ComEd Ex. 19.0 at 46.

Staff also recommended ComEd's Tracking Metric 1 be modified to exclude net emissions saved from ComEd's Section 8-103B EE programs because those efforts are not incremental. Staff Ex. 8.0 at 9. Mr. Arns disagreed with this recommendation, arguing that, since ComEd's proposed "Emission Reductions Supported by ComEd Programs" is a tracking metric and not a performance metric, the incremental requirement only applies to performance metrics. ComEd Ex. 5.0 at 33. Additionally, Mr. Arns noted that ComEd's EE portfolio is a key driver of emission reductions enabled by electrification of buildings and other industries, an area the statute explicitly mentions. *Id.* at 34. Given the potential for ComEd's Tracking Metric 1 to become a performance metric in the future, Staff believes it is appropriate to exclude net emissions saved from ComEd's Section 8-103B EE programs. Despite this, Staff recognizes that in its rebuttal testimony, ComEd excluded results from its Section 8-103B EE programs in its proposed revised Performance Metric 4 (Load Reduction Capability) as a compromise and not because ComEd actually agreed that the Section 8-103B EE efforts were not incremental. ComEd Ex. 6.0 at 7-8. Therefore, to reduce the number of contested issues in this proceeding, Staff witness Morris proposed as a compromise that ComEd be required to report its proposed Tracking Metric 1 in two ways: (i) excluding net emissions saved from ComEd's Section 8-103B EE programs, and (ii) including net emissions saved from ComEd's Section 8-103B EE programs. ComEd modified Tracking Metric 1 (Emissions Reductions Supported by ComEd Programs) to provide two reports, one with relevant data from Section 8-103B EE programs, and one without Section 8-103B EE program data. ComEd Ex. 19.0 at 46. This change is reflected in ComEd's Second Revised Performance Metrics Plan, ComEd Ex. 18.02.

In response to CUB/EDF witness Barbeau's testimony, ComEd revised Emission Reduction Tracking Metric 1 "to account for any incremental emissions reductions enabled by electrification programs that shift customer load off peak as proposed by Mr. Barbeau." ComEd Ex. 5.0 at 35. Staff does not object to this modification. Therefore, Staff and the Company are in agreement on this tracking metric.

In direct testimony, Ms. Morris stated that she did not have an opinion about ComEd's Tracking Metric 2 at that time and that she would review intervenors' proposals and the Company's rebuttal testimony and reserved the right to opine further in her rebuttal testimony. Staff Ex. 8.0 at 10. No concerns were raised regarding this metric. Staff therefore recommends the Commission approve ComEd's Tracking Metric 2 as set forth in ComEd's Second Revised Performance Metrics Plan, ComEd Ex. 18.02.

c. JSP/VS/ELPC's Position

The Solar Intervenors support the Company's proposals because those metrics will enable electrification and efficiency program improvements, consistent with Section 16-108.18(e)(3)(A.

d. Commission Analysis and Conclusion

ComEd's proposed Tracking Metric 1, Emissions Reductions Supported by ComEd Programs, and Tracking Metric 2, Net GHG Emissions, as supported by Staff and JSP/ELPC/VS, are uncontested and therefore adopted. The Commission finds these metrics to be consistent with Section 16-108(e)(3)(A) of the Act.

2. Other Proposals

a. ComEd's Position

ComEd argues that the Commission should not approve CUB/EDF's proposed alternative emissions reduction tracking metric. While ComEd does not necessarily disagree with CUB/EDF's proposal, ComEd states that ComEd's proposed Tracking Metric 1, along with other existing available reports, will sufficiently provide the information sought by CUB/EDF's proposed emissions reduction tracking metric, so that any additional tracking metric would be redundant. Further, ComEd points out that it modified its proposed Tracking Metric 1 to account for incremental emissions reductions enabled by electrification programs that shift customer load off peak as proposed by CUB/EDF's tracking metric.

ComEd argues that the Commission should not approve NRDC's proposed twenty-two alternative tracking metrics related to peak load reduction and electric vehicle load. ComEd agrees there is merit to a tracking metric related to EVs and peak loads, and states that this is why ComEd proposed Tracking Metric 16, which builds on an NRDC proposal. ComEd argues that NRDC's other proposed tracking metrics come across more as concepts rather than as sufficiently detailed items to be actionable, too vague and/or require non-existent data, and their use case has not been provided.

b. Staff's Position

Staff does not object to the Commission approving any of the Intervenor proposed tracking metrics related to Emission Reductions and EVs, provided those metrics exclude results from ComEd's Section 8-103B EE programs.

Staff does not oppose ComEd also reporting the CUB/EDF proposed Emission Reductions Tracking Metrics (excluding impacts from ComEd's Section 8-103B EE programs since those programs are not incremental).

NRDC witness Nelson proposes several new Tracking Metrics related to EVs. *See* NRDC Ex. 1.0 at 30. Staff does not oppose NRDC's proposed EV-related tracking metrics, but notes that, if the Commission does not approve all of the EV programs related to those metrics in ComEd's future Beneficial Electrification ("BE") Plan docket, the data ultimately reported under these metrics could be minimal.

c. CUB/EDF's Position

CUB/EDF request the Commission include the Emissions Reduction tracking metric Mr. Barbeau developed, which incorporates two indices: Marginal Greenhouse Gas Emissions Reduction and Emissions Reductions from Electrification. The Marginal Greenhouse Gas Emissions Reduction Index measures the sum of the change in load for program participants in each hourly time interval for the calendar year multiplied by emissions rate for each associated hourly interval. CUB/EDF Ex. 4.1 at 36. CUB/EDF note this index estimates the change in program participation load by calculating for each hour of the year, the usage of customers in a service class that are on a utility-offered program and compare that figure against a control group of customers in the same service class that are not in the program, while controlling for other variables. *Id.* CUB/EDF add the data for the fuel source on margin in 5-minute increments is provided by PJM. *Id.* at 37. Using the PJM margin data, the Company calculates the percentage of fuel source on margin for each hourly interval. *Id.* The United States Environmental Protection Agency ("EPA") provides the average heat rate by fuel source for coal for all domestic coal generation. *Id.* Finally, the Company leverages EPA average generation source emission data for the emission rate of fuel source. *Id.* ComEd then tracks the change in usage data and uses the marginal emissions rate approach to develop marginal reductions in greenhouse gas emissions by program and by rate class. *Id.* Tracked programs include any program established at any point prior to or during the MRPthat has the effect of reducing or shifting electric load. *Id.*

CUB/EDF contend this tracking metric index distills the impacts of various programs and emissions reduction mechanisms into one output measuring the emissions reduction impact of the Company's efforts. This index would be invaluable in verifying which programs contribute emissions reduction benefits and quantifying those benefits for comparison and refinement of programs and performance metric targets in future MRPs. CUB/EDF urge the Commission to include this tracking metric index as an invaluable yardstick by which to evaluate the actual value realized through emissions reduction programs.

CUB/EDF note Mr. Barbeau's Emissions Reductions from Electrification Index measures the reduction of greenhouse gases and other air pollutants that harm human health, particularly in EJ communities and EIECs, through accelerating electrification of transportation, buildings, and industries where such electrification results in net reductions. This index requires ComEd to report on the following information: (1) description of all programs and their relative impact in supporting the acceleration of electrification of transportation, buildings, and industries; (2) reduction in nitrous oxides ("NOx"), sulfur oxides ("SOx"), and particulate matter ("PM") for each program for the applicable year; (3) reduction in NOx, SOx, and PM in EJ communities and EIECs for each program for the applicable year; and (4) any estimated increases in NOx, SOx, and PM resulting from increased electricity use for each program for the applicable year.

CUB/EDF state this index would serve the same purpose as the Marginal Greenhouse Gas Emissions Index, but for the Company's electrification efforts. CUB/EDF argue both indices therefore are necessary to get a complete picture of the marginal benefits of ComEd's emission reduction initiatives. Together, these indices enable an apples-to-apples comparison of the relative marginal impacts of various

programs. CUB/EDF consider this tool a fundamental building block for evaluating and refining future performance metrics and MRPsgenerally. CUB/EDF posit including these indices in the tracking metric also would provide invaluable insights to other utilities and states exploring performance-based ratemaking and various emissions reduction program investments. Accordingly, CUB/EDF request that the Commission adopt them.

d. NRDC's Position

NRDC argues, as Mr. Nelson recommended, that the Commission should require ComEd to report tracking metrics for any demand response-related tariff or program. NRDC Ex. 1.0 at 18. Included in the NRDC-recommended tariffs or programs are peak time rebates, critical peak pricing, interruptible (non-firm) capacity offerings, time-of-use, actively managed load, EV load programs that throttle load, and scheduled/staggered EV charging. NRDC Ex. 1.0 at 19. As NRDC notes, Mr. Nelson testified that, because demand response provides many services, the Commission should adopt a table of tracking metrics and that metrics be reported as applicable. *Id.* NRDC points out that Mr. Nelson recommended adopting the below list of tracking metrics and that ComEd report on them by tariff, program, and customer class, where applicable as determined by the Commission. These tracking metrics include: (1) load reduction capability interval data and customer contracts; (2) load reduction capability measured as a weather normalized peak impact; (3) total MW participating in RTO capacity market; (4) total cost and revenue per MW participating in RTO capacity market; (5) number of times a contingency or other event is called; (6) total and percentage MW and MWh participating by tariff and program; (7) number of customers participating; (8) number of events called; (9) percentage of event hours called in top 100 ComEd and PJM system hours; and (10) kWh delivered by time period.

In addition, Mr. Nelson recommended that, where the Company can use a third-party verification process, or the Commission desires additional information, the following PLR tracking metrics should be included: (1) Average and hourly peak impacts; (2) Peak impacts as a function of temperature; (3) Pre- and post-event impacts; (4) Energy shift by hour; (5) Total annual energy impacts; (6) Peak impact persistence; (7) Generation resource mix in ComEd's PJM zone during top 100 system hours; (8) Generation resource mix in ComEd's PJM zone during hours when DR was called; and (9) Circuit-level peaks. NRDC Ex. 1.0 at 19-20; see NRDC Ex. 2.0, at 12. NRDC contends, as Mr. Nelson testified, that adoption of the above list of tracking metrics is justified as constituting another oversight mechanism on utility performance and their usefulness for setting future baselines and targets. NRDC Ex. 1.0 at 20.

NRDC, through Mr. Nelson's testimony, also provided a tracking metric recommendation related to EV load. He proposed adoption of the following EV load management tracking metrics:

Tracking Metric	Details
Managed EV Charging	• Number and percentage of EV customers/kWh/kW on time-varying rates and/or participating in other managed charging programs and tariffs • Percentage of total kWh of EV charging that occurs by time period within each tariff and program

	• Total EV load participating in active managed charging programs in MW and MWh • Total EV demand response performance in MW and MWh and RTO revenues and costs
V2G Export Compensation	• Total EV demand enrolled in V2G export programs in MW and MWh • Total MWh of V2G exports • Total payment for V2G exports
EV EMS Cost Savings	• Number and percentage of EV charging installations with EV EMS • Total utility-side and customer-side make-ready cost savings enabled by EV EMS • Average utility-side and customer-side make-ready cost savings, per port and per site, enabled by EV EMS

NRDC Ex. 1.0 at 30-31.

NRDC asserts that ComEd did not address NRDC's proposed PLR tracking metrics in its Initial Brief, and did so only briefly in its Reply Brief, wherein ComEd acknowledged, "ComEd agrees there is merit to a tracking metric related to EVs and peak loads, which is why ComEd proposed Tracking Metric 16, which builds on an NRDC proposal." ComEd RB at 85. NRDC noted that ComEd's acknowledgement reflects ComEd witness Kirchman's statement that, based on Mr. Nelson's recommendation, ComEd proposed one new metric for the Grid Flexibility metric. ComEd Ex. 20.0 at 25. The new metric will track new self-identifying EV owner-customers who are enrolled in one of ComEd's time-of-use supply rates and/or an EV-related demand side management program. *Id.*

As for Mr. Nelson's other proposed tracking metrics, NRDC noted that Mr. Kirchman criticized what he characterized as the lack of "specific reasoning" behind the metrics. *Id*. Mr. Kirchman also claimed that the proposed tracking metrics were too vague or required data that does not exist, and further contended that Mr. Nelson did not include reasoning for how the data may be used to develop future performance metrics or why the information is important. ComEd Ex. 20.0 at 26.

NRDC contends that Mr. Kirchman's criticisms are unfounded. NRDC points out that, in support of his proposed EV-related tracking metrics, Mr. Nelson first discussed the importance of EV load management and the many EV load management programs he believes ComEd should adopt in the near future. NRDC Ex. 1.0 at 26-30. In addition, Mr. Nelson discussed both passively and actively managed EV charging programs to help ensure that EV charging occurs as much as possible during off-peak periods and avoid on-peak EV charging. Mr. Nelson further stated that rate design and other financial incentives can be employed to alter customer behavior, which are passively managed approaches. NRDC Ex. 1.0. NRDC asserts that Mr. Nelson provided specific examples of such programs offered by other electric utilities. NRDC Ex. 1.0 at 27-28. Mr. Nelson also described actively managed EV charging programs; that, as the name implies, such programs allow active control of a customer's charging, which utilize communication/dispatch signals from the utility or from an aggregator to control EV

charging, thereby providing more flexibility to shift load away from peak periods. Mr. Nelson referenced other electric utilities utilizing such actively managed programs. NRDC Ex. 1.0 at 28.

NRDC further asserts that Mr. Nelson also described how V2G technologies effectively turn electric vehicles into battery energy storage, giving it the ability to provide energy, capacity, and ancillary services to the grid. NRDC Ex. 1.0 at 29. NRDC additionally points out that Mr. Nelson next described EV Energy Management Systems ("EV EMS"), also called Automated Load Management ("ALM"), which include behind-the-meter software and hardware designed to limit EV charging demand at the service connection. Mr. Nelson explained that EV EMS can safely connect multiple charging ports, whose total nameplate load would otherwise exceed the rated capacity of the customer connection, thereby constituting technology which can serve to avoid or delay upgrading customer or utility-side make-ready infrastructure, resulting in ratepayer savings. NRDC Ex. 1.0 at 29-30. NRDC contends the justification for and use of the tracking metrics proposed by Mr. Nelson are present, either now or in the future. NRDC RB at 17

e. Commission Analysis and Conclusion

CUB/EDF propose an additional Emission Reductions Tracking Metric that includes two indices, which Staff does not oppose. ComEd contends these tracking metrics will be redundant as the information will be sufficiently provided in other tracking metrics. The Commission finds the additional track metrics proposed by CUB/EDF are relevant to the goals of the Act, are measurable, and will provide valuable information to better understand the impact on emissions by utility programs, policies and initiatives, and how accelerating electrification of transportation, buildings, and industries affect greenhouse gases and other air pollutants that harm human health, particularly in environmental justice and equity investment eligible communities. Therefore, the Commission adopts CUB/EDF proposed tracking metrics, excluding results from ComEd's Section 8-103B EE programs.

NRDC recommends the Commission require ComEd to report tracking metrics for any demand response-related tariff or program and four EV-related tracking metrics. Staff does not oppose NRDC's recommendation, but notes if the Commission does not approve all of the EV programs related to those metrics in ComEd's future BE Plan docket, reporting could be minimal. ComEd contends some metrics are vague, rely on non-existent data, and are incorporated within other tracking metrics.

The Commission finds that although some of NRDC's recommendations may be arguably vague, redundant, or based on non-existent data, the Commission sees that Staff accepts these metrics and notes that the data produced may be minimal. Any redundancies or duplication, as argued by ComEd, can be resolved by cross-reference. Moreover, any specific aspect of a tracking metric that may fall outside the control of the utility may be noted as such in the respective tracking metrics. Therefore, NRDC's recommended proposal appears to be in line with the goals of Section 16-108.18(e)(3)(A) and is hereby adopted.

B. Proposed Tracking Metrics Falling Within Section 16-108.18(e)(3)((B) (grid flexibility)

Tracking metric category 2 involves grid flexibility. 220 ILCS 5/16-108.18(e)(3)(B). Specifically, this metric should indicate whether the grid is flexible enough to adapt to increased deployment of non-dispatchable resources, improve the ability and performance of the grid on load balancing, and offer a variety of rate plans to match consumer consumption patterns and lower consumer bills for electricity delivery and supply. *Id.*

1. ComEd Proposal

a. ComEd's Position

ComEd states that the Commission should approve its proposed Tracking Metric 3, DERMS and Managed Charging Network Availability, which incorporates JSP's recommendation to include the performance of DER devices to which the network is connected. This metric measures and tracks the probability that a system is operational at a given time based on the advanced communication system network availability, i.e., the amount of time a device is actually operating as a percentage of total time it should be operating.

ComEd states that the Commission should approve its proposed Tracking Metric 13, DERMS Participation, which will track DERMS participation by MW by DER type and was prompted by a suggestion from NRDC. ComEd points out that NRDC later questioned whether the proposed metric is vague, but did not offer a clear suggested modification. ComEd argues that the metric is sufficiently defined, and it will provide useful information for planning purposes in relation to DERs and "non-wires" alternatives to the distribution system investments.

ComEd states that the Commission should approve its proposed Tracking Metric 14, Cumulative DER Interconnected to ComEd Distribution System, and Tracking Metric 15, Annual DER Interconnected to ComEd Distribution System. Tracking Metric 14 involves annual reporting of cumulative quantity and capacity (kW/MW) of DER facilities interconnected to the ComEd distribution system, broken out by interconnection level. Tracking Metric 15 involves annual reporting of the same data for the prior year. ComEd points out that, in the spirit of compromise, those two metrics are adapted from three tracking metrics proposed by JSP.

ComEd states that the Commission should approve its proposed Tracking Metric 16, EV Load and Participation, which is based in part on a proposal by NRDC. The metric will provide useful information on how electrification load (including EV charging load) may affect peak loads.

b. Staff's Position

Staff does not object to ComEd's proposed Tracking Metric 3, DERMS and Managed Charging Network Availability. ComEd witness Fluhler explains that the metric determines the percentage of time a device is actually working relative to the time it should be working. Then the average percentage of all devices is determined from the percentages of each individual device. ComEd Ex. 2.0 at 24.

c. JSP/ELPC/VS's Position

In surrebuttal testimony, ComEd proposes five Grid Flexibility tracking metrics under Section 16-108.18(e)(3)(B), two of which were specifically adapted from tracking metrics that JSP proposed (Cumulative DER Interconnected to ComEd Distribution System and Annual DER Interconnected to ComEd Distribution System). ComEd Ex. 23.0 at 24-25 and ComEd Ex. 18.01 at 15-16. The Solar Intervenors support ComEd's proposed tracking metrics in this category and appreciate the Company's efforts to strengthen its tracking metric proposals in this category over the course of this proceeding based on intervenor feedback.

d. Commission Analysis and Conclusion

ComEd's proposed Tracking Metric 3, DERMS and Managed Charging Network Availability, Tracking Metric 13, DERMS Participation, Tracking Metric 14, Cumulative DER Interconnected to ComEd Distribution System, Tracking Metric 15, Annual DER Interconnected to ComEd Distribution System, and Tracking Metric 16, EV Load and Participation, as supported by Staff and JSP/ELPC/VS, are uncontested and therefore adopted. The Commission finds these metrics to be consistent with Section 16-108(e)(3)(B) of the Act.

2. Other Proposals

a. ComEd's Position

ComEd argues that the Commission should not approve CUB/EDF's alternative flexibility tracking metric. ComEd contends CUB/EDF's proposed alternative tracking metric is composed of sixteen indices that ComEd states would not be viable for reporting purposes for many reasons, including concerns about technology limitations, incompatible data reporting format and design, and the inclusion of activity outside of ComEd's purview or control.

While ComEd agrees with NRDC that there is merit to a tracking metric related to EVs and peak loads (see ComEd's Tracking Metric 16, which builds on an NRDC proposal), ComEd argues that the Commission should not approve NRDC's other specific proposed tracking metrics. ComEd points out that NRDC's other proposals are too vague and/or require non-existent data. ComEd also states that NRDC also did not show that the proposals would be worthwhile.

ComEd argues that the Commission should not adopt any of JSP's nineteen proposed tracking metrics other than those ComEd modified and adopted as its Tracking Metrics 14 and 15, discussed above. ComEd states that the other JSP proposed tracking metrics are duplicative of ComEd tracking metric proposals and/or other information that already is tracked and reported.

ComEd notes ELPC/VS made a request for more reporting by ComEd, that, if it were to be treated as a proposed tracking metric, ComEd argues should not be adopted by the Commission. ComEd states that ELPC/VS has not shown the relevance or benefit of the requested information, and it would be unduly burdensome on ComEd to have to comply with these items if they were to be made reporting requirements.

b. CUB/EDF's Position

CUB/EDF support Mr. Barbeau's Flexibility Tracking Metric, which incorporates the following indices tracking ComEd's progress over time: (1) Customers eligible for the peak time rebate tariff; (2) Customers signed up for the peak time rebate tariff; (3) Customers on Power Smart Pricing, Real Time Pricing, or other real time rates; (4) Total MW of peak load reduction capability by customers by all applicable programs and initiatives by customer class; (5) Total MW of load shifting capability by customers by program and by customer class; (6) Total estimated capacity and load shifting capability (in MW) of customer-sited energy storage systems; (7) Total estimated capacity and load shifting capability (in MW) of customer electric vehicles participating in optimized charging programs; (8) Customers with AMI meters who have viewed their data on the applicable web-based portal at least once during the calendar year, by customer class; (9) AMI metered customers with a consumer device registered to receive information from the AMI meter; (10) A list, by device type, of the consumer devices that have been certified as capable of receiving information from its AMI meters; (11) As applicable, AMI metered customers who download data through the Green Button Initiative format at least once during the calendar year; (12) Circuits that enabled back-feed; (13) Circuits that have reached hosting capacity; (14) Hourly energy import and export from ComEd's service territory for 8,760 hours in a year; (15) The PJM-acknowledged or -established transmission import and exports constraints from ComEd's service territory; and (16) Annual combined load factor for all its AMI metered customers, by customer class, and its entire system annual load factor. Annual load factor is defined as total consumption in MWH divided by the hourly peak demand at the time of system peak in MW multiplied by 8,760 hours per year.

CUB/EDF add these indices provide an overview of ComEd's progress over time in adapting its grid to changing conditions and needs. CUB/EDF further assert they also track growing areas of concern to be addressed in future MRPs.

c. JSP/ELPC/VS's Position

JSP witness Rábago proposed a series of tracking metrics to support the Company's achievement of its goals under the Solar Intervenors' proposed DERIUV metric and enhance future iterations of that metric. Those tracking metrics are detailed in Table KRR-1 in Mr. Rábago's direct testimony. JSP Ex. 1.0 at 62-66. Mr. Rábago's proposed tracking metrics are organized in four categories of the utility's suite of DER-related administrative and operational responsibilities: (1) interconnection; (2) implementation of DER programs; (3) identification of grid needs; and (4) utilization of DERs to meet grid needs. Mr. Rábago's proposed tracking metrics create a feedback structure that will not only enhance the likelihood of ComEd achieving the goals of the DERIUV metric, but will also provide the data necessary to calibrate and improve the DERIUV metric over time. JSP Ex. 1.0 at 61.

JSP also assert tracking several aspects of the utility's execution of its DER-related administrative and operational responsibilities will help inform the development of additional performance incentives, or other incentives necessary to achieve the public interest goals set forth in P.A. 102-0662. While ComEd's proposed surrebuttal tracking metrics in this category are an acceptable substitute for Mr. Rábago's first three proposed

tracking metrics (Total front-of-the-meter DERs deployed; Total behind-the-meter DERs deployed; Total of new front-of-meter and behind-the-meter DERs deployed in the last calendar year), the Solar Intervenors request that the Commission approve the remainder of Mr. Rábago's proposed DER-related tracking metrics and direct the Company to make the data and information tracked publicly available through a dedicated part of the Company's website.

d. NRDC's Position

As NRDC notes, ComEd proposes adopting an EV-related Grid Flexibility tracking metric and acknowledges the merit in tracking metrics related to EV charging load. NRDC, however, proposes additional tracking metrics in this category. NRDC points out that Mr. Nelson explained that ComEd should foster grid flexibility by facilitating an efficient, bidirectional grid. NRDC Ex. 1.0 at 32-33. As NRDC notes, Mr. Nelson asserted that ComEd should start to consider the role that export services play in the interconnection of exporting facilities, including those participating in wholesale electricity markets. NRDC Ex. 1.0 at 32. NRDC points out that Mr. Nelson explained that export services would allow ComEd to increase its distribution system utilization as well as avoid triggering expensive system upgrades, and that he further described other benefits of export services. NRDC Ex. 1.0 at 32. Through Mr. Nelson's testimony, NRDC recommends that ComEd create and implement tracking metrics that measure and track how ComEd is utilizing DERMS to integrate distributed energy resources while avoiding the costs of system upgrades. More specifically, NRDC notes that Mr. Nelson recommends tracking metrics that measure both the percentage and MW values of exporting facilities, such as energy storage and solar photovoltaic facilities, which have opted for non-firm and firm export service, by facility size and type. NRDC Ex. 1.0 at 33.

NRDC states that ComEd also acknowledged another NRDC recommendation and proposed a new tracking metric to track DERMS participation according to the aggregate nameplate MW capacity by distributed energy resource type for participating customers. NRDC Ex. 2.0. NRDC contends, however, that ComEd's proposal does not go far enough and is vague. NRDC points out that Mr. Nelson stated that a meaningful DERMS metric would track DERMS-enabled outcomes with respect to the specific distributed energy resource. DERMS and other technologies (e.g., smart inverters) can together monitor and sometimes control distributed energy resources, which can increase distribution load and host capacity using more granular data, such as real-time voltage and loading data. According to NRDC, to accomplish this and maximize benefits, however, ComEd must have in place a tariff broadly available for flexible interconnection. NRDC Ex. 2.0 at 17-18. NRDC further notes that, in his rebuttal testimony and in response to what he believes to be ComEd's insufficient proposal, Mr. Nelson recommended that ComEd develop and offer flexible interconnection tariffs, and that the Commission adopt a tracking metric that will monitor the number of facilities and corresponding capacity of each participating facility. Additionally, according to NRDC, curtailment data by facility should be measured and monitored that will provide associated costs and benefits. NRDC Ex. 2.0 at 18.

e. Commission Analysis and Conclusion

The Commission adopts CUB/EDF's Grid Flexibility tracking metric as it tracks specific features that may be of particular interest in future MRPs. The Commission finds CUB/EDF's proposed metric is reasonable and conforms with the goals established under Section 16-108.18(e)(3)(B).

NRDC appears to recommend ComEd first initiate a flexible interconnection tariff and then the Commission approve a tracking metric based on that tariff. The Commission notes the tariff referred to by NRDC currently does not exist. Approving a tracking metric that is based on a non-existent tariff is improper. Therefore, NRDC's proposed tracking metric is not adopted.

JSP/ELPC/VS propose a series of tracking metrics that would create a feedback structure and provide necessary data to calibrate and improve the DERIUV metric, as proposed above. ComEd notes it modified its Tracking Metrics 14 and 15 to incorporate relevant tracking metrics proposed by JSP/ELPC/VS. The Commission notes it rejected JSP/ELPC/VS's proposed DERIUV performance metric above. Requiring the Company to track indices related to a performance metric that was not adopted is unwarranted. Therefore, JSP/ELPC/VS's proposed tracking metrics are not adopted.

C. Proposed Tracking Metrics Falling Within Section 16-108.18(e)(3)(C) (grid modernization cost savings and use of DERs to forego investments)

Tracking metric category 3 involves cost savings attributable to grid modernization. 220 ILCS 5/16-108.18(e)(3)(C). Specifically, this metric should indicate whether rates are indicative of the cost savings attributable to grid modernization and whether the utilization of distributed energy resources allow the utility to defer or forgo traditional grid investments that would otherwise be required to provide safe and reliable service, and in turn increase rate base resulting in higher customer bills. *Id*.

1. ComEd Proposal

a. ComEd's Position

ComEd states that the Commission should approve its Tracking Metric 4, Avoided Outage Cost Due to Grid Modernization Investments. The avoided outage cost tracking metric measures avoided outage costs due to grid modernization investments in the following categories: (i) substation resiliency and hardening; (ii) distribution automation; (iii) underground cable replacement; (iii) distribution resiliency; and (iv) enhanced vegetation management.

ComEd states that the Commission should approve its Tracking Metric 5, Number of NWA Opportunities. ComEd notes this tracking metric measures the number of NWA opportunities according to the number of capacity expansion projects with expected capital investment of over $3 million that were evaluated for NWA opportunities (i.e., the use of battery energy storage systems, DER enabled by DERMS, managed charging, or similar alternative investment technologies).

b. Staff's Position

Staff recommends that ComEd's proposed Tracking Metric 4, Avoided Outage Costs Due to Grid Modernization be approved. The purpose of Tracking Metric 4 is to measure avoided outage costs due to grid modernization investments related to substation resiliency and hardening, distribution automation, underground cable replacement, distribution resiliency, and enhanced vegetation management. Mr. Fluhler provides a formula for how cost savings are measured. *Id.* at 24-25. In response to discovery, the Company expanded on its explanation of how this metric performs. Staff Ex. 4.0. ComEd explains that Avoided Customer Interruptions ("ACI") is an estimate of how many fewer interruptions occur relative to a baseline period. The estimated value of an avoided interruption ("$/ACI") is generally defined as the avoided customer cost from interruptions associated with an improvement in a reliability metric. *Id.* The ICE calculator is used to develop estimates of these costs. The Company provided an explanation of how these estimates of ACI and $/ACI are developed in the ICE calculator and how the ICE calculator is developed. *Id.*

Staff also recommends that ComEd's proposed Tracking Metric 5, NWA Opportunities be approved. ComEd witness Newhouse noted that the metric specifically measures the number of projects to expand capacity with an expected cost that is more than $3 million that are evaluated for NWA. ComEd Ex. 1.0 at 13. As part of its approval, the Commission should require ComEd to provide its evaluation of the NWA for each capacity expansion project with an expected cost of at least $3 million along with supporting workpapers to the Commission. Staff Ex. 7.0 at 11.

c. CUB/EDF's Position

CUB/EDF support the inclusion of ComEd's proposed Cost Savings tracking metric, including indices A (Avoided Outage Cost Due to Grid Modernization Investments) and B (Number of NWA Opportunities). CUB/EDF Ex. 4.0 at 45. The Company describes the tracking metric in detail in its Second Revised Performance Metrics Plan. ComEd Ex. 18.01 at 17.

d. JSP/ELPC/VS's Position

ComEd proposes two metrics under Section 16-108.18(e)(3)(C): "Avoided Outage Cost Due to Grid Modernization Investments" and "Number of NWA Opportunities." ComEd Ex. 18.01 at 20. The Solar Intervenors support these tracking metrics because they will provide valuable baseline information for DER deployment and operation. JSP Ex. 1.0 at 40.

e. Commission Analysis and Conclusion

ComEd's proposed Tracking Metric 4, Avoided Outage Costs Due to Grid Modernization, and Tracking Metric 5, Number of NWA Opportunities, as supported by Staff, CUB/EDF, and JSP/ELPC/VS, are uncontested and therefore adopted. The Commission finds these metrics to be consistent with Section 16-108(e)(3)(C) of the Act.

2. Other Proposals

a. ComEd's Position

As discussed above, ComEd argues that the Commission should not adopt any of JSP/ELPC/VS's 19 proposed tracking metrics other than those ComEd modified and adopted as its Tracking Metrics 14 and 15. While JSP/ELPC/VS do not specify which statutory category their proposed metrics fall into, it appears that some may be intended for this category.

b. JSP/ELPC/VS's Position

JSP witness Rábago recommends that the Company propose additional tracking metrics relating to marginal distribution costs under Section 16-108.18(e)(3)(C) that would allow the Company to compare the costs of interconnecting DERs as they are interconnected. JSP Ex. 1.0 at 41. Mr. Rábago states that "In this way, the Company can assess whether DERs added to the grid provide locational and temporal value to the grid that can help defer or avoid traditional investment costs." *Id.* In rebuttal testimony, the Company objected to JSP's proposed addition, stating that "additional tracking metrics related to the locational and temporal value for DERs to the grid are related to the "Value of DER" proceeding which is set to begin no later than June 2023 with implementation by 2025." ComEd Ex. 9.0 at 23. On that basis, the Company asserts that JSP's proposal is "premature."

ComEd is correct that assessing whether DERs provide locational and temporal value to the grid will be within the scope of the "Value of DER" proceeding required by Section 16-107.6 of the Act. The fact that the Value of DER investigation has not yet begun (but will begin soon), however, only emphasizes the value of ComEd tracking data on marginal distribution costs now. The Value of DER proceeding will not result in the Commission approving tracking metrics—that must happen here. JSP/ELPC/VS contend that by directing ComEd to track marginal distribution costs at the feeder level in no way requires the Commission to prematurely rule on a methodology or formula to establish the value of DER in this proceeding as ComEd suggests. The Commission should therefore adopt JSP's recommendation and direct ComEd to track marginal distribution costs at the feeder level in addition to the Company's proposed tracking metrics under Section 16-108.18(e)(3)(C).

c. Commission Analysis and Conclusion

The Commission notes the tracking metrics proposed by JSP/ELPC/VS are in relation to the DERIUV performance metric described above. Although the Commission did not adopt the DERIUV metric, certain aspects were adopted in terms of the utilization of the measurement "Days Saved." Nine of the Solar Intervenors' proposed tracking metrics are related to items approved in ComEd's Interconnection performance metric. Therefore, the Commission adopts the first nine tracking metrics (Interconnection Category) proposed by the Solar Intervenors as part of the Interconnection Index. *See* JSP. Ex. 1.0.

D. Proposed Tracking Metrics Falling Within Section 16-108.18(e)(3)(D) (jobs and opportunities)

Tracking metric category 4 involves jobs and the workforce. 220 ILCS 5/16-108.18(e)(3)(D). Specifically, this metric should indicate whether full-time-equivalent jobs and opportunities are being created and sustained for all segments of the population and workforce and do not discriminate based on race, gender, disability, socioeconomic class, or one's status as a veteran. *Id.*

1. ComEd Proposal

a. ComEd's Position

ComEd proposes three tracking metrics in the "jobs and opportunities" category, each of which relate to supplier diversity. ComEd states that the Commission should approve its proposed Tracking Metric 6, Tier 1 Spend with Illinois Businesses, which measures the percentage of ComEd's spending directly contracted with diverse Illinois businesses ("Tier 1 Spend"). The Tier 1 Spend tracking metric calculates the percentage of spend with suppliers with a "Remit To" address within the State of Illinois in relation to ComEd's total Tier 1 Spend.

ComEd states that the Commission should approve its proposed Tracking Metric 7, Diverse Professional Services Spend, which measures ComEd's spend on professional services, using ComEd's spend with diversity-certified suppliers as a percentage of total professional services contracting. ComEd indicated that professional services spend generally includes: Advertising and Marketing, Business Consulting, Engineering and Technical Consulting, Financial Services, HR Services, and IT Professional Services.

ComEd states that the Commission should approve its proposed Tracking Metric 8, Diverse Contractors Completing the ComEd Development Program, which measures the total number of current and aspiring future diverse contractors that complete a ComEd development program. The metric is simply the number of current and aspiring future Tier 1 and Tier 2 diverse contractors that within the year complete an engagement in a ComEd or Exelon program.

b. Staff's Position

Staff states that upon review, Staff supports the adoption of Tracking Metrics 6, 7, and 8.

c. Commission Analysis and Conclusion

ComEd's proposed Tracking Metric 6, Tier 1 Spend with Illinois Businesses, Tracking Metric 7, Diverse Professional Services Spend, and Tracking Metric 8, Diverse Contractors Completing the ComEd Development Program, as supported by Staff, are uncontested and therefore adopted. No additional tracking metrics were proposed by any other party under this category. The Commission finds these metrics to be consistent with Section 16-108(e)(3)(D) of the Act.

E. Proposed Tracking Metrics Falling Within Section 16-108.18(e)(3)(E) (allocation of grid planning benefits to environmental justice and economically disadvantaged customers and communities)

Tracking metric category 5 involves grid planning benefits. 220 ILCS 5/16-108.18(e)(3)(E). Specifically, the metric should indicate whether planning benefits are being maximized and prioritized in environmental justice and economically disadvantaged communities, and that all metrics are increasing access and providing equitable benefits across the utility's service territory. *Id*.

1. ComEd Proposal

a. ComEd's Position

ComEd states that the Commission should approve its Tracking Metric 9, IEEE and All-In Regional SAIDI. This metric will track both: (i) SAIDI as defined by IEEE (which excludes MEDs, interruptions lasting five minutes or less in duration, and planned interruptions); and (ii) an all-in tracking amount that does not contain any such MED exclusions. In addition, ComEd will provide SAIFI and CAIDI for each of the SAIDI metrics to better understand the impact those metrics have on SAIDI. ComEd will provide the same metrics for EJ and R3 communities. For comparison purposes, ComEd will also provide SAIDI, SAIFI, and CAIDI as defined by Part 411 of the Commission's rules. The Part 411 metrics will include indices with and without MEDs. ComEd modified the proposed Tracking Metric 9 from its original filing (ComEd Ex. 1.01), expanding it to include SAIFI and CAIDI, to measure SAIDI, SAIFI, CAIDI using the Part 411 definition with and without MEDs and to provide the same metrics for EJ and R3 communities.

ComEd states that the Commission should approve its unopposed Tracking Metric 10, DSM Program Equitable Participation. This metric involves measuring the percentage of residential customers that are economically disadvantaged and also participating in a qualifying DSM program, and tracks the number of customers that satisfy that definition who are located in an EJ Community.

ComEd states that the Commission should approve its unopposed Tracking Metric 11, Financial Assistance Outreach and Education. This metric measures outreach to customers regarding financial assistance, including availability, eligibility requirements, and methods to apply. This metric will provide data about ComEd's efforts in each of the 20 zip codes under the Affordability performance metric.

ComEd states that the Commission should approve its Rebuttal proposed Tracking Metric 12, Customers Exceeding Minimum Service Levels. This tracking metric will track the number of customers whose reliability performance does not meet minimum service level targets for reliability and resiliency. These levels for reporting are: (1) customers experiencing four or more interruptions per year for three consecutive years, and (2) customers experiencing at least one 12-hour interruption per year for three consecutive years. This tracking metric was adopted from ComEd's originally proposed Performance Metric 2.

b. Staff's Position

Staff notes for Tracking Metric 9, Staff witness Balogun recommended ComEd add and modify its proposal to track SAIDI, SAIFI, and CAIDI of both its overall distribution

systems and local distribution systems that serve customers in EJ and R3 communities with the inclusion of MEDs and the exclusion of interruptions lasting one minute or less in duration. Staff Ex. 3.0 REV at 30-31. In response to Staff's recommendations, ComEd agreed in its rebuttal testimony to expand the tracking metric to include IEEE SAIDI, SAIFI, and CAIDI, with and without MED, excluding planned interruptions and interruptions lasting one to five minutes in duration, and Part 411 SAIDI, SAIFI, and CAIDI, with and without MED, including interruptions lasting one to five minutes, and the same metrics for EJ and R3 communities. ComEd Ex. 5.0 (CORR) at 39. Mr. Balogun noted that in its surrebuttal testimony, ComEd modified its performance metrics 1 and 2 to use Staff suggested 1 Minute Standard for purposes of reliability calculations. ComEd Ex.19.00 at 22. Staff recommends that the Commission adopt ComEd's proposed Tracking Metric 9.

Staff states that upon review, Staff does not object to and supports the adoption of Tracking Metrics 10, 11, and 12.

c. CUB/EDF's Position

CUB/EDF state that by recognizing the disproportionate burdens borne by EJ and R3 communities, the General Assembly directed the Commission to approve a tracking metric that collects and monitors data for the purpose of establishing a future performance metric for utility performance on maximizing and prioritizing the allocation of grid planning benefits to those communities, such that all metrics provide equitable benefits across the utility's service territory and maintain and improve customers' access to uninterrupted utility services. 220 ILCS 5/16-108.18(e)(3)(F). CUB/EDF support the inclusion of indices B (Tracking Metric 10) and C (Tracking Metric 11) of ComEd's proposed Equity tracking metric. CUB/EDF Ex. 4.0 at 45. The Company describes these indices in detail in its Second Revised Performance Metrics Plan. ComEd Ex. 18.01 at 19-20

d. Commission Analysis and Conclusion

ComEd's proposed Tracking Metric 9, IEEE and All-In Regional SAIDI, Tracking Metric 10, DSM Program Equitable Participation, Tracking Metric 11, Financial Assistance Outreach and Education, and Tracking Metric 12, Customers Exceeding Minimum Service Levels as supported by Staff and CUB/EDF, are uncontested and therefore adopted. The Commission finds these metrics to be consistent with Section 16-108(e)(3)(E) of the Act.

2. Other Proposals

a. ComEd's Position

ComEd argues that the Commission should not approve CUB/EDF's alternative equitable grid planning tracking metric. ComEd reasoned that it has voluntarily adopted sufficient tracking metrics to satisfy the statutory requirement that at least one tracking metric related to Equitable Grid Planning be adopted (i.e., ComEd proposed Tracking Metrics 9 through 12). ComEd states that it is unclear what the CUB/EDF proposed tracking metric asks ComEd to track, as CUB/EDF assert generally that the metric should track the "total amount of distribution system investments that have a direct, locational impact on the reliability, safety, affordability, environmental objectives, and economic objectives of equity investment eligible communities" without providing any further

recommendation for determining how utility investments are to be reviewed for determination of whether they meet the proposed criteria.

b. CUB/EDF's Position

CUB/EDF support the adoption of Mr. Barbeau's proposed Equitable Grid Planning tracking metric, which requires ComEd to report on: (1) total amount of distribution system investment, by investment category; (2) total amount of distribution system investments that have a direct, locational impact on the reliability, safety, affordability, environmental objectives, and economic objectives of EIECs; and (3) total amount of distribution system investments that have a systemwide impact on the reliability, safety, affordability, environmental objectives and economic objectives of EIECs, multiplied by the share of customer electricity load by customers in EIECs. CUB/EDF Ex. 4.1 at 39. CUB/EDF explain these indices provide a much broader view of whether grid planning benefits are, as a whole, directly benefiting EJ communities and EIECs. Reliability and resiliency, while important, are not the only benefits of grid planning. CUB/EDF argue these indices provide ComEd data to establish robust performance metrics in the future that incentivize the Company to achieve the statutory goals.

c. Commission Analysis and Conclusion

CUB/EDF recommend the Commission approve their Equitable Grid Planning Metric as it targets and compares distribution investments in EJ communities and EIECs. ComEd notes it voluntarily adopted sufficient tracking metrics to satisfy the statutory requirement that at least one tracking metric related to Equitable Grid Planning be adopted. The Commission finds the tracking metric proposed by CUB/EDF is reasonable and will provide additional information that may be enlightening in the establishment of future performance metrics. Any redundancies or duplication, as argued by ComEd, can be resolved by cross-reference. Therefore, CUB/EDF's tracking metric is adopted.

VIII. INDEPENDENT EVALUATOR

ComEd notes that it reached an agreement with Staff concerning the scope of and protocols related to the independent evaluator that ComEd will hire pursuant to Section 16-108.18(f)(3). Specifically, ComEd and Staff recommend that the Commission include in its final Order particular language related to the independent evaluator hired pursuant to Section 16-108.18(f)(3). That language is as follows:

> In the event that ComEd elects to file a multi-year rate plan with the Commission pursuant to 220 ILCS 5/16-108.18(d), ComEd shall implement the following evaluator independence protocols to ensure that evaluator independence is maintained, as required by 220 ILCS 5/16-108.18(f)(3):
>
> > i. Any contract between ComEd and the independent evaluator shall provide that:
> >
> > > a. The Commission has the right to direct ComEd to terminate the contract if the Commission determines the evaluators were not acting independently.

b. The evaluator must act independently from ComEd and be able to independently evaluate ComEd's performance on metrics.

c. All data used in the evaluations must be made available to the Commission or Commission Staff upon request.

d. With the exception of communications related solely to contractual or other administrative issues, all written communications between the independent evaluator and ComEd (or contractor acting on ComEd's behalf) and/or Commission Staff shall be copied to ComEd and Commission Staff.

e. With the exception of any phone, webinar, or in-person meetings related solely to contractual or other administrative issues, ComEd and Commission Staff will be made aware of, and invited to, all meetings between the independent evaluator and ComEd (or contractor acting on ComEd's behalf) and/or Commission Staff.

ii. ComEd will work with Commission Staff to determine the role of the independent evaluator in any docketed proceeding and include such provisions in any contract with the independent evaluator.

iii. ComEd shall submit the finalized but not yet executed contract with the independent evaluator to the Commission by letter to the Executive Director. Commission Staff will submit a report to the Commission containing its assessment of the contract and/or scope of work and describing its recommendations for Commission action, if any. In addition, ComEd will submit any fully executed contract and scope of work with the independent evaluator as a compliance filing in ICC Docket No. 22-0067 within fourteen (14) days of execution. Such compliance filing will be treated as public information, subject to redactions approved by the Commission of provisions deemed confidential.

ComEd IB at 109-110.

As noted by Staff witness Morris, the proposed protocols are similar to the procedures in place for other independent evaluators that ComEd hires in connection with its EE programs. The Commission also notes that no other party opposed (or even commented on) the agreement reached by ComEd and Staff. Therefore, the Commission approves the protocols, without modification.

The agreement between ComEd and Staff regarding the scope of and protocols related to the independent evaluator that ComEd will hire pursuant to Section 16-108.18(f)(3) is uncontested and hereby adopted.

IX. PROPOSED PERFORMANCE METRICS PLAN AND RIDER PIM COMPLIANCE FILINGS

In direct testimony, ComEd provided Rider PIM, which states,

> [t]he purpose of this Rider is to determine the Total Performance Adjustment, which is reflected as basis points added to, or subtracted from, the Company's cost of common equity (COE) used in the determination of the Company's net revenue requirement in accordance with the provisions of Rate MRPP – Multi-Year Rate Plan Pricing (Rate MRPP) and Section 16-108.18 of the Public Utilities Act (Act).

ComEd Ex. 1.02.

Staff notes Rider PIM sets forth terms pertaining to determination of the Total Performance Adjustment, reporting and review requirements, and other provisions associated with the operation of the tariff. Staff witness Tolsdorf noted that Rider PIM is likely to change throughout the remainder of this proceeding. Staff Ex. 9.0 at 2. Moreover, Staff notes that Rider PIM will not be filed with the Commission as a proposed tariff unless ComEd files an MRP. *Id.* Staff explained that even if ComEd files an MRP, the MRP tariff may include the performance metrics approved in this docket and obviate the need for a separate rider. Additionally, whether the performance metrics are included in the MRP tariff or in Rider PIM, the tariff would not become effective until ComEd's first MRP is approved by the Commission. *Id.* Given the uncertainty surrounding the prospective MRP tariff, Staff recommends the Commission direct ComEd to file an exemplar Rider PIM pursuant to the final Order in this proceeding as a compliance filing in this docket. *Id*.

ComEd states that it intends to submit an updated version of ComEd's proposed Rider PIM as a compliance filing following the final Order of this proceeding. The original Rider PIM was submitted with the initial filing on January 20, 2022. ComEd explains that while the metric-specific details contained in the final Rider PIM will reflect the final Order and likely differ from the metrics details presented in the originally proposed January 20, 2022 Rider PIM, the concepts and structure presented in the original Rider PIM remain the same. ComEd proposes, and Staff agrees, that the Commission should adopt the performance metrics and the associated incentives and penalties as presented in ComEd's surrebuttal testimony and the Second Revised Plan, and direct ComEd to submit a compliance filing to update its Rider PIM following the final order in this proceeding. This would allow the final Rider PIM to be implemented concurrently with any future MRP. If ComEd ultimately does not file an MRP, ComEd intends to eliminate the tariff with a housekeeping filing.

ComEd and Staff have agreed to the following compliance filing schedule: (1) ComEd will provide a draft copy of Rider PIM and the Final Metrics Plan to the service list for Docket No. 22-0067 by October 31, 2022; (2) Comments and suggested corrections from Staff and intervening parties will be provided to ComEd by November 10, 2022; and (3) ComEd will incorporate corrections and comments, as appropriate, and work to resolve any disagreements, and file the compliance Rider PIM and Plan no later than November 22, 2022. ComEd IB at 111-112, Staff Ex. 18.03 at 1.

In addition, if a final Order on Rehearing necessitates an update to either the compliance Rider PIM and/or the Plan, the compliance filing schedule outlined above should be repeated under similar timeframes relative to service of the final Order on Rehearing. ComEd Ex. 18.03 at 1.

Staff states in response to ComEd's request for the Commission to approve its Metrics Plan, Ms. Morris explained in her rebuttal testimony that she did not have concerns about the Commission approving a Metrics Plan that describes the metric, and identifies a calculation method, a data collection method, annual performance targets, and any incentives or penalties for the utility's achievement of, or failure to achieve, their performance targets. Staff Ex. 16.0 at 15. Ms. Morris also stated that ComEd's Metrics Plan contains information such as a description, baseline and target performance, and incentives and penalties for each performance metric, and these items are statutory requirements that are to be included in this proceeding along with the metrics. 220 ILCS 5/16-108.18(e)(2)(B). Ms. Morris explained that such an approved plan will be beneficial to ComEd, parties, and ultimately the independent evaluator, since details concerning how calculations are supposed to be performed would all be set forth in one document. Staff Ex. 16.0 at 15. In addition, finalization of a Metrics Plan shortly after this proceeding is desirable in order to provide greater clarity and certainty for all parties and such that differences of opinion related to interpretation of Commission adoption of specific metrics can be resolved now, as opposed to waiting for these differences of opinion to manifest two years later during the course of the evaluation of ComEd's performance against metrics.

Ms. Morris noted that her opinion of approval of a Metrics Plan is informed by her experience with the Commission's approval of other manuals. Over the past decade, the Commission has annually approved updated versions of the Illinois Statewide Technical Reference Manual for Energy Efficiency ("IL-TRM"). Staff Ex. 16.0 at 16. Ms. Morris explained that this technical manual has proven to be a tremendous resource for the utilities, independent evaluators, and other stakeholders in that it clearly documents assumptions that should be used in measuring utility performance against its energy savings goals, which then feed into financial performance incentive calculations for the electric utilities. *Id.*

Staff notes that if a final Order on Rehearing necessitates an update to either the compliance Rider PIM and/or the Metrics Plan, the compliance filing schedule outlined above should be repeated under similar timeframes relative to service of the final Order on Rehearing. Moreover, in order to provide greater clarity and certainty for all parties, the Commission should further direct ComEd and its independent evaluator to follow the compliance Final Metrics Plan in measuring ComEd's performance. Staff Ex. 16.0 at 18.

The Commission finds ComEd's proposed process to update the Rider PIM and Metrics Plan to be reasonable and adopts it in this Order. Therefore, ComEd is directed to provide a draft copy of Rider PIM and the Final Metrics Plan to the service list for this docket by October 31, 2022. Staff and parties to the proceeding may provide comments until November 10, 2022, and ComEd is required to file the final compliance Rider PIM and Metrics Plan by no later than November 22, 2022.

X. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the record herein, is of the opinion and finds that:

(1) Commonwealth Edison Company is an Illinois corporation engaged in the sale and distribution of electricity in the State of Illinois and, as such, is a public utility within the meaning of Section 3-105 of the Act;

(2) the Commission has jurisdiction over Commonwealth Edison Company and the subject matter of this proceeding;

(3) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;

(4) Commonwealth Edison Company's performance metrics appendices are approved as modified, consistent with the findings in this Order;

(5) Commonwealth Edison Company's tracking metrics appendices are approved as modified, consistent with the findings in this Order;

(6) on or before October 31, 2022, Commonwealth Edison Company will share a draft copy of Rider PIM and the Final Metrics Plan to the service list in this docket. Staff and intervenors will provide Commonwealth Edison Company comments and suggested corrections, if any, on the draft Rider PIM and Final Metrics Plan regarding whether the compliance filings accurately reflect the Commission's final Order by November 10, 2022; and

(7) Commonwealth Edison Company will incorporate corrections and comments, as appropriate, and work to resolve any disagreements, and file the compliance Rider PIM and Final Metrics Plan no later than November 22, 2022; and

(8) if a final Order on Rehearing necessitates an update to either the compliance Rider PIM or Final Metrics Plan, the compliance process outlined in Findings (6) and (7) would repeat under similar timeframes relative to service of the final Order on Rehearing.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Commonwealth Edison Company's proposed performance metrics as modified by the Commission in this Order, are approved.

IT IS FURTHER ORDERED by the Illinois Commerce Commission that Commonwealth Edison Company's proposed tracking metrics as modified by the Commission in this Order, are approved.

IT FURTHER ORDERED that on or before October 31, 2022, Commonwealth Edison Company will share a draft copy of Rider PIM and the Final Metrics Plan to the service list in this docket. Staff and intervenors will provide Commonwealth Edison Company comments and suggested corrections, if any, on the draft Rider PIM and Final Metrics Plan regarding whether the compliance filings accurately reflect the Commission's final Order by November 10, 2022.

IT IS FURTHER ORDERED Commonwealth Edison Company will incorporate corrections and comments, as appropriate, and work to resolve any disagreements, and file the compliance Rider PIM and Final Metrics Plan no later than November 22, 2022; if a final Order on Rehearing necessitates an update to either the compliance Rider PIM or Final Metrics Plan, the compliance process outlined in Findings (6) and (7) would repeat under similar timeframes relative to service of the final Order on Rehearing.

IT IS FURTHER ORDERED that Commonwealth Edison Company shall comply with Findings (6) and (7) of this Order.

IT IS FURTHER ORDERED that pursuant to Section 10-113(a) of the Public Utilities Act and 83 Ill. Adm. Code 200.880, any application for rehearing shall be filed within 30 days after service of the Order on the party.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 27th day of September, 2022.

(SIGNED) CARRIE ZALEWSKI

Chairman