

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	
Proposed tariffs filed pursuant to Article IX of the	:	No. 05-0159
Public Utilities Act defining a competitive supply	:	
procurement process and, pursuant to Section 16-	:	
112(a) of the Act, establishing a market vale	:	
methodology to be effective post-2006; providing	:	
for Power Purchase Options and for recovery of	:	
transmission charges post-2006; and enabling	:	
subsequent restructuring of rates and unbundling	:	
of prices for bundled service pursuant to Sections	:	
16-109A and 16-111(a) of the Act.	:	

Surrebuttal Testimony of
DR. CHANTALE LACASSE

1 **I. Introduction, Purpose of Testimony and Structure of Testimony**

2 **Q. Please state your name and business address.**

3 A. My name is Chantale LaCasse. My business address is 1166 Avenue of the
4 Americas, New York, NY 10036.

5 **Q. By whom and in what capacity are you employed?**

6 A. I am employed by National Economic Research Associates, Inc. (“NERA”) as a
7 Vice President.

8 **Q. Are you the same Dr. Chantale LaCasse that previously filed direct and
9 rebuttal testimony in this proceeding?**

10 A. Yes, I am.

11 **Q. What is the purpose of your surrebuttal testimony?**

12 A. The purpose of my surrebuttal testimony is to evaluate and consider the rebuttal
13 testimony of Illinois Commerce Commission Staff (“ICC Staff” or “Staff”) and
14 intervenors on various design aspects of the Auction Process as proposed by
15 Commonwealth Edison (“ComEd”). In addition, my surrebuttal testimony
16 introduces versions of the draft application forms and Illinois Auction Rules that
17 have been revised to incorporate the policy changes agreed to by ComEd in its
18 rebuttal filing in July.

19 **Q. What conclusions do you reach in your rebuttal testimony?**

20 A. I come to five general conclusions.

21 First, I review the modifications to the Auction Process that ComEd is
22 proposing to implement in response to the testimony of Staff and intervenors. I
23 assess the impacts of those modifications on the proposed Auction Process and

24 conclude that such proposed modifications could be implemented without any
25 adverse impact on the Auction Process. In my opinion, the modified Auction
26 Process that ComEd proposes should be expected to meet the objectives that I
27 describe in my direct testimony. (ComEd Exhibit 4.0, page 55, lines 1296 –
28 1310) I also note the considerable efforts of ComEd and the Ameren Companies
29 to harmonize various aspects of the Auction Process and I introduce updated
30 auction documents.

31 Second, I review the modifications to the auction format that Dr. Laffer
32 continues to argue are for the benefits of customers. I assess the revision that Dr.
33 Laffer makes to his proposal. I assess Dr. Laffer's claims concerning auction
34 theory and auction design and I find they suffer from serious misunderstandings. I
35 evaluate Dr. Laffer's proposal and I conclude that it is ill-conceived and should be
36 dismissed.

37 Third, I review the rebuttal testimony of Dr. Salant. I review the numerous
38 features of the proposed Auction Process to which Dr. Salant now agrees. I note a
39 few misunderstandings that Dr. Salant holds regarding the purpose of the auction
40 volume adjustment guidelines and I review his recommendations in this regard. I
41 assess his renewed arguments in favor of additional disclosures of contractual
42 arrangements underlying the bidders' supply at the auction and in favor of the
43 price-taker option. I conclude that his additional arguments are not persuasive and
44 that I continue to believe that these modifications would be harmful to the auction
45 process. I also review some of Dr. Salant's recommendations concerning auction
46 management details even though some of these recommendations are premature.

47 Fourth, I assess Dr. Steinhurst’s argument that customers are better served
48 by a utility portfolio management approach than by a competitive auction. I
49 examine his reasons for holding that view and find them to be illusory. I find that
50 Dr. Steinhurst completely discounts the benefits of the Auction Process that come
51 from competition for the management of the portfolio.

52 Finally, I review Professor Reny’s claims that an auction with bidder-
53 specific price caps or that multilateral negotiations could yield better results than
54 the proposed Auction Process. Although I understand the origin of Professor
55 Reny’s theoretical musings, I do not believe that ultimately Professor Reny
56 advances a proposal for the consideration of the Commission, and I believe that
57 his theoretical discussion does not correspond to the realities of the power markets
58 and has no practical importance.

59 **Q. How is your surrebuttal testimony structured?**

60 A. I present each of my five conclusions in turn. Section 2 addresses the proposed
61 modifications to the Auction Process and introduces the revised draft application
62 forms and draft Illinois Auction Rules. Section 3 addresses BOMA witness
63 Laffer’s proposed modification to a pay-as-bid auction format. Section 4
64 addresses Staff witness Salant’s recommendations. Section 5 responds to CUB-
65 CCSAO witness Steinhurst’s claims that utility portfolio management is likely to
66 be more beneficial to customers than the Auction Process proposed by ComEd.
67 Section 6 reviews Professor Reny’s testimony regarding theoretical selling
68 mechanisms.

69

70 **II. The Modifications Proposed by ComEd Are Consistent with the Objectives**
71 **of the Auction Process**

72 **Q. Some intervenors have proposed modifications that they believe will improve**
73 **the Auction Process. Please briefly summarize those modifications that are**
74 **being adopted by ComEd as part of this rebuttal testimony and that are**
75 **being primarily described by other ComEd surrebuttal witnesses.**

76 A. The modifications in question are described in detail in the testimony of Mr.
77 McNeil and by the panel of Messrs. Alongi and Crumrine. As I understand it,
78 ComEd is proposing to adopt the following package of modifications:

79 ■ Proposed Re-Alignment of the Product Definitions. Following the review of
80 direct and rebuttal testimony of Staff witness Schlaf and Coalition of Energy
81 Suppliers (“CES”) witness O'Connor, ComEd is modifying the product
82 definition. The load of commercial customers between 400 kW and 1,000 kW
83 who have not elected a real-time pricing service and who are not self-
84 generating customers will now be part of CPP-A load (instead of being part of
85 CPP-B load as initially proposed in direct testimony).

86 ■ Proposed Modification to the Election Procedure for Fixed-Price Service.
87 Under ComEd’s initial proposal in direct testimony, customers could elect
88 CPP-A service in a 30-day time window following the auction and if they did
89 not do so, they would default to real-time pricing service. In response to Staff
90 witness Schlaf’s argument that “bundled customers eligible for the CPP-
91 Annual Service should not be required to enroll in that service if they do not
92 wish to change to an alternative service” (ICC Staff Exhibit 13.0, page 2, lines

93 39-41), ComEd is now modifying its election procedure for the CPP-A fixed-
94 price service as follows.

95 If a CPP-A eligible customer does not elect real-time pricing service or
96 does not choose service from a RES during the 30-day enrollment period,
97 that customer will receive CPP-A service.

98 A 12-month minimum stay will be imposed on CPP-A customers.
99 Customers who did not elect an alternative service within the 30-day
100 enrollment window will be required to remain on CPP-A service until
101 May 31 of the following year. (For the first auction, CPP-A customers
102 will be required to remain on CPP-A service until December 31, 2007).
103 Notwithstanding this, customers who have been on CPP-A service for
104 more than 12 months may elect to switch to RES service at any time.

105 New customers will be granted an exemption from the 12-month
106 minimum stay rule, and will be permitted to switch to either RES service
107 or CPP-H service during the first 12-months in which they take CPP-A
108 service.

109 Any CPP-A customer – with the exception of new customers, as noted
110 above – wishing to switch from CPP-A service to CPP-H service may only
111 do so in the enrollment period.

112 Customers who wish to return to CPP-A service after previously switching
113 off of it may do so only in the enrollment period.

114 These switching restrictions are consistent with the recommendations of Staff
115 witness Schlaf who recognizes: “If there were no enrollment requirements –

116 that is, if there were no exit or entry restrictions – suppliers bidding to supply
117 generation services for the CPP-Annual service customers would likely add a
118 significant, and probably unacceptably large, risk premium to their bids to
119 compensate them for switching risk (i.e., “migration risk”).” (ICC Staff
120 Exhibit 5.0, page 5, lines 106-110.)

121 ■ Proposed Modification to Rate Design. ComEd can agree with Staff and
122 BOMA that the migration factors can be eliminated from the rate prism
123 (BOMA Exhibit 2.0, pages 15-16, lines 305-41 and Staff Exhibit 6.0, pages
124 25-30, lines 569-666). ComEd believes that the realignment of the product
125 definition as described above weakens much of the impetus that led ComEd to
126 propose the migration factors initially. ComEd is also committed to
127 implementing rate mitigation measures for residential customers, in a form
128 based on the proposal by Staff witness Lazare (ICC Staff Exhibit 6.0).

129 **Q. What do you mean when you say that these modifications are a “package”?**

130 A. My understanding is that ComEd continues to believe that its proposed Auction
131 Process – as described in the February filing of its direct case and reflecting the
132 modifications made in its July rebuttal filing – remains the best method of
133 procuring supply for ComEd customers. My understanding is also that ComEd is
134 willing to revise its proposed Auction Process as set forth above in response to
135 BOMA, Staff and CES witness who have put forth modifications that they believe
136 would improve the Auction Process. However, ComEd can only agree to these
137 modifications being adopted together, should the ICC decide that this is in the
138 best interest of customers. ComEd believes that these modifications are closely

139 related and its willingness to accept one modification is inextricably linked to its
140 proposing the others. ComEd believes that an Auction Process incorporating these
141 modifications can be successful and meet the objectives for the procurement
142 process and, as I explain below, I concur.

143 **Q. Please provide your assessment of the first proposed modification, the change**
144 **in the treatment of 400 kW to 1,000 kW customers.**

145 A. In my opinion, the proposed modification to the treatment of 400 kW to 1,000 kW
146 customers should not be expected to have an adverse impact on the participation
147 of bidders or their ability to evaluate the auction products. ComEd has committed
148 to providing bidders with the information required for them to understand the
149 product that they are bidding on, including load data series that reflect the
150 customer groups that make up the various products in the auction. With such
151 data, with clear customer switching rules and an election procedure that can be
152 communicated to bidders, and with well specified supplier forward contracts,
153 there is every reason to expect as much bidder participation and competition as
154 under the original proposal.

155 The experience in New Jersey with BGS Auctions supports the conclusion
156 that bidders will be able to respond to and price any changes in the product
157 definition. For example, the eligibility rules for fixed-price service have changed
158 a number of times since the first year where the load of large industrial customers
159 was bid out separately from the load of residential and smaller customers.
160 Participation and competition have remained strong.

161 **Q. Please address how the change in the product definition would impact**
162 **switching between ComEd and Ameren products in the proposed Auction**
163 **Process.**

164 It is difficult to predict precisely how suppliers will perceive the potential
165 change in ComEd's product definition, and how this will impact switching in the
166 proposed Auction Process. CES witness O'Connor argues that the changes make
167 the products more similar on the basis of the historical propensity to switch of
168 these customers (CES Exhibit 4.0, page 23, lines 489-496). I hesitate to agree as
169 the historical propensity to switch may not be indicative of the propensity to elect
170 RES service in the post-2006 world. There are other factors that bidders will take
171 into account in evaluating the substitutability across the products, including load
172 factor and the retail rates that customers face. Whether or not the modification to
173 the product definition makes the ComEd and Ameren product more or less
174 similar, I believe that on balance the proposed modifications should have only a
175 small impact on the ability of bidders to switch between the ComEd and Ameren
176 products and may have no impact at all. Any such impact, if there is one, could be
177 positive (i.e., encourage more switching) or negative (i.e., discourage switching).

178 Overall, I believe the proposed Auction Process can work with the
179 modified product definition and still achieve reliable supply at competitive prices
180 for both ComEd and Ameren customers.

181 **Q. Please provide your assessment of the second proposed modification, the**
182 **change in the customer switching rules.**

183 A. If the first proposed modification is made to the product definition (the treatment
184 of 400 kW to 1,000 kW customers), the second proposed change, I believe,
185 logically follows. Given the inclusion of the 400 kW to 1,000 kW customers in
186 CPP-A load, an election procedure and switching rules should be specified for
187 them. Further, having a single set of rules for all CPP-A customers will, I believe,
188 not only minimize customer confusion but also make the bidders' evaluations of
189 the risks of each product more tractable. Again given the inclusion of the 400-
190 1,000 kW group, which would include many smaller commercial customers, a
191 default to a fixed-price service seems appropriate.

192 As long as the products are clearly defined and bidders are provided
193 sufficient information to be able to evaluate them, I would not expect product
194 definition changes of this nature to adversely impact participation or bidding in
195 the auction.

196 **Q. Please provide your assessment of the third proposed modification, the**
197 **proposed elimination of migration factors and embedding of the mitigation**
198 **mechanism in the rate prism.**

199 A. With regard to rate design and the rate prism that translates auction prices into
200 retail rates, I believe it is most important for the translation mechanisms
201 (including any embedded mitigation) to be clear to bidders in advance of the
202 auction. Under ComEd's proposed Auction Process, a spreadsheet tool designed
203 to illustrate the rate prism will be made available to bidders prior to the auction.
204 Under this modified proposal, ComEd commits to including with the spreadsheet
205 tool for the CPP-B customers the mitigation plan for residential rates.

206 Furthermore, ComEd commits to modifying the rate prism of CPP-A customers to
207 include the 400-1,000kW classes. To the extent that bidders wish to ask clarifying
208 questions, they will be able to do so through the Auction Manager. Given this
209 level of transparency with respect to the setting of retail rates, I would not expect
210 the implementation of a mitigation scheme or the elimination of the migration
211 factors to compromise in any way the success of the auction.

212 One potential supplier, Constellation Energy Commodities Group
213 (“CCG”), supports this view. CCG witness Smith argues that a mitigation
214 proposal, if necessary, would be best implemented by fixing the rate prism in
215 advance and embedding any mitigation factors in that rate prism. This way, the
216 impacts of the mitigation on retail rates are known to potential bidders in advance
217 of the auction. (CCG Exhibit 2.0, pages 6-7, lines 178-192.) This enables bidders
218 to evaluate the retail rates at various potential auction clearing prices, and enables
219 an accurate evaluation of migration risk. ComEd’s proposal precisely tracks the
220 recommendations of CCG witness Smith, and in my view, is an appropriate
221 approach, given the information needs of bidders.

222 **Q. Are there any other modifications that have been proposed by intervenors to**
223 **improve the Auction Process and that ComEd is willing to adopt, at least in**
224 **part?**

225 A. Yes. A further modification to the handling of confidential information is
226 proposed in response to testimony by Peoples Energy Service Corporation
227 (“PES”) witness Bollinger.

228 **Q. Can you please summarize your understanding of PES witness Bollinger's**
229 **testimony (PES Exhibit 2.0, pp. 5-12, lines 112-222) on this issue?**

230 A. Certainly. PES witness Bollinger is concerned that communication between a
231 bidder in the auction and a Illinois retail market participant (a Retail Electric
232 Supplier or an Alternative Retail Electric Supplier) during the auction process
233 could provide an unfair advantage either to the bidder in the auction or to the
234 market participant in the retail market. PES witness Bollinger believes that, under
235 the Association and Confidential Information Rules included in the Illinois
236 Auction Rules (ComEd Exhibit 11.4 in the rebuttal testimony and as modified in
237 surrebuttal as ComEd Exhibit 19.3) such communications would be allowed
238 either if the Illinois retail market participant is an associated entity or if it is
239 named as an advisor to the bidder. PES witness Bollinger makes the point that the
240 FERC has wanted to address the problem of information sharing between
241 transmission service providers and Energy Affiliates so as to foster competitive
242 markets and that the rationale for his requested change is similar.

243 **Q. Do you agree with PES witness Bollinger assessment of the circumstances**
244 **under which a bidder in the auction would be able to communicate with a**
245 **retail affiliate without violating the Association and Confidential Information**
246 **Rules?**

247 A. I mostly disagree with PES witness Bollinger on this point.

248 The situation that PES witness Bollinger is concerned about here is a
249 situation where a wholesale supplier (who is a bidder in the auction) is affiliated
250 with an Illinois retail market participant (who is not a bidder in the auction). PES

251 witness Bollinger believes that the bidder can communicate confidential
252 information to the retail affiliate under the Illinois Auction Rules. For example, a
253 wholesale supplier could be bidding in the auction and providing round by round
254 results to its sister company, who is a RES and who is not bidding in the auction.

255 PES witness Bollinger's belief is based on the certifications that bidders
256 make in their Part 2 Application (see Section VII of the Illinois Auction Rules for
257 the certifications and for the definition of confidential information as used below).
258 These certifications prohibit the communication of confidential information
259 relative to the bidding strategy (which would typically include information to
260 develop the bid) and prohibit the communication of confidential information
261 regarding the Auction Process (which would include round by round results).
262 However, these certifications allow certain exceptions. These exceptions include
263 allowing the bidder to communicate confidential information to: 1) another bidder
264 in the auction if an association with that bidder has been disclosed to the Auction
265 Manager; and 2) another bidder in the auction if the two bidders are part of a
266 consortium for purposes of bidding in the auction that has been disclosed to the
267 Auction Manager (emphasis added).

268 The point that PES witness Bollinger misses here is that these exceptions
269 only refer to bidders in the auction if certain relationships among those bidders
270 exist and have been properly disclosed to the Auction Manager. The exceptions
271 do not extend to any affiliate. This means that a wholesale supplier who is a
272 bidder in the auction and who makes these certifications would only be able to
273 communicate confidential information regarding the auction to a retail affiliate if:

274 a) the retail affiliate is also a bidder in the auction; and b) an association or a
275 bidding arrangement with the retail-affiliate-bidder has been disclosed to the
276 Auction Manager.

277 PES witness Bollinger may also be concerned that a bidder could choose
278 not to make the certifications that require maintaining the confidentiality of
279 auction information because the bidder wants to communicate information to its
280 retail affiliate to provide this affiliate an advantage in the Illinois retail market.
281 For any failure to make a certification, the Auction Manager will typically require
282 additional information disclosures to understand the reasons for the inability of
283 the bidder to make the certification. The Auction Manager then decides on a
284 course of action on a case-by-case basis. To preserve the integrity of the Auction
285 Process, the Auction Manager would be expected to tolerate exceptions to
286 maintaining the confidentiality of information only if the bidder demonstrates a
287 clear business need for the exception that is directly related to its participation in
288 the auction. Trying to provide an advantage to a retail affiliate who is not a bidder
289 in the auction would not be considered a valid reason to grant an exception to the
290 certification.

291 **Q. Do you agree with PES witness Bollinger’s assessment that a bidder in the**
292 **auction could communicate confidential information to the Illinois retail**
293 **market participant by granting the Illinois retail market participant the**
294 **status of advisor?**

295 The term advisor is implicitly defined through the certifications as a person who
296 “who will be advising or assisting the bidder with bidding strategy in the Section

297 of the Auction, with estimation of the value of a system’s tranches, or with the
298 estimation of the risks associated with serving load”. (Section VII. D.) The
299 certifications also require each bidder to ensure that its advisor does not provide
300 similar advice to another bidder or, if that person will provide similar advice to
301 another bidder, that appropriate non-disclosure agreements are in place so that the
302 advisor does not serve as a conduit of information among bidders.

303 Although I believe that the Association and Confidential Information
304 Rules provide adequate protections as they stand, I do agree with PES witness
305 Bollinger that they can be additionally modified to further preclude the possibility
306 of improper disclosure of confidential information through an advisor. To this
307 end, Section VII. D of the Illinois Auction Rules has been modified:

- 308 • To define explicitly the term “advisor” as a person or persons (not an
309 entity) who provide(s) advice regarding the bidding strategy;
- 310 • To require each bidder to disclose the name of its advisor, to certify
311 that the person(s) named will serve the role of advisor as previously
312 defined, and to provide any non-disclosure agreements that are in
313 place if an advisor is also advising another bidder;
- 314 • To clarify that the person(s) serving as advisor cannot disclose any
315 confidential information, cannot discuss such confidential information
316 except with the bidder that it is advising, and cannot use such
317 confidential information for any purpose other than to provide advice
318 to the bidder ;

319 • To clarify that the bidder is responsible for ensuring that the advisor
320 does not disclose any confidential information and that, should the
321 advisor disclose confidential information, the bidder is subject to the
322 same penalties and sanctions as when the bidder itself makes the
323 disclosure.

324 **Q. Wouldn't it be simpler to take PES witness Bollinger suggestion to exclude**
325 **divisions or companies that are authorized to do business as Illinois retail**
326 **market participants from being advisors?**

327 A. I do not believe that Mr. Bollinger's alternative is simpler or any more effective.
328 By making clear that an advisor is a person and not an entity and that an advisor
329 cannot use any confidential information for any purposes other than providing
330 advice to the bidder, it is crystal clear that an advisor must protect confidential
331 information, could not reveal such information to others, including others at the
332 company where he or she is employed and that the advisor could not perform any
333 function where the confidential information would be useful. This is very
334 effective and very simple. Excluding as advisors divisions or corporate entities is
335 potentially less clear and potentially less effective as it is more difficult to apply
336 specific rules to corporate entities and employee mobility could undermine the
337 intent of the rules. Further, there may well be situations in which an advisor –
338 *i.e.*, a single individual – from a retail affiliate would be useful to a bidder in
339 developing and refining its bid strategy and it may be detrimental to the auction if
340 such an advisor were unavailable to the bidder, solely because they were
341 employed by an entity involved in retailing electricity in Illinois.

342 **Q. Do you believe that you have addressed all of PES witness Bollinger's**
343 **concerns?**

344 A. I believe that all of PES witness Bollinger's concerns relating to disclosure of
345 confidential information by auction participants, which he believes could have
346 been made to Illinois retail market participants and provided these participants an
347 advantage, have been addressed.

348 I realize that PES witness Bollinger has additional concerns relating to an
349 Illinois retail market participant providing market intelligence to a bidder in the
350 auction. PES witness Bollinger draws a parallel to FERC regulation of
351 information between transmission service providers and Energy Affiliates to
352 argue that such communications should be prohibited through the auction process.

353 I believe that the parallel is misplaced. The FERC regulation to which PES
354 witness Bollinger is referring is a code of conduct between a monopolist
355 providing an essential facility on the one hand and its energy affiliates on the
356 other, where these energy affiliates compete with other entities to use this
357 essential facility. There is no similarity to the situation at hand. In the situation at
358 hand, no party is in a regulated monopoly position; further, the bidders and the
359 RESs do not compete head to head. Only bidders in the auction are in the ambit of
360 the Illinois Auction Rules and the certifications that are made in the application
361 process; Illinois retail market participants that are not bidders fall outside the ambit
362 of the Auction Process. The Auction Manager has no authority and no way to
363 monitor market intelligence that an Illinois retail market participant is willing to
364 give or to sell to one or to many bidders in the auction. If PES witness Bollinger is

365 correct that such information can be beneficial to bidders, I would expect bidders
366 to seek to acquire such information and for this information to enable bidders to
367 better prepare their bids. I do not believe that a modification to the Illinois
368 Auction Rules is possible or desirable to address this issue.

369 **Q. You note in Section 1 that your surrebuttal testimony introduces revised**
370 **draft application forms and revised Illinois Auction Rules incorporating the**
371 **changes agreed to by ComEd in its rebuttal filing in July. Please explain.**

372 A. ComEd, in its rebuttal filing in July, agreed to an Auction Process that permits
373 switching between the fixed-priced products of ComEd and the fixed-priced
374 products of Ameren, and also permits switching between the hourly-priced
375 products of ComEd and the hourly-priced products of Ameren, but does not
376 permit switching between fixed-priced products and hourly-priced products.
377 Although ComEd's rebuttal filing did include draft Illinois Auction Rules and
378 draft application forms, the versions of these documents filed in July did not
379 reflect these modifications. (ComEd Exhibit 11.0, page 63, lines 1491 – 1495)
380 Since the filing in July, I have worked with ComEd and Ameren to refine these
381 auction documents and to produce documents that reflect the proposed Auction
382 Process with switching. I am including the following documents as exhibits to
383 my surrebuttal testimony.

- 384 • Revised draft Part 1 and Part 2 Application Forms (ComEd Exhibits 19.1 and
385 19.2 respectively), including revised draft appendices:
 - 386 ○ Description of Alternate Guaranty Process and Approval Criteria
 - 387 ○ Pre-auction Letters of Credit
 - 388 ○ Sample Letters of Reference
 - 389 ○ Sample Letter of Intent to Provide a Guaranty

390 ○ Description of Process and Approval Criteria for Modifications to the
391 Letters of Credit

392 • Revised draft Illinois Auction Rules (ComEd Exhibit 19.3)

393 • Joint Draft Auction Timeline (ComEd Exhibit 19.4).

394 **Q. Do these documents respond to calls from Staff and intervenors for**
395 **uniformity between ComEd and Ameren?**

396 A. Yes. In response to calls for uniformity from Staff and intervenors, ComEd and
397 Ameren have worked to reach agreement on those issues where there had
398 previously been differences in their proposed Auction Process. For example,
399 ComEd had included in its proposed Auction Process a bid participation fee that
400 would be paid by bidders with their Part 2 Application. Ameren's proposal had
401 no such fee. A consensus position was reached providing that a bid participation
402 fee will be required of bidders, but that it will be required with the Part 1
403 Application. Both companies support this position. Similarly, as described in
404 detail in the testimony of Ms. Juracek, ComEd and Ameren have achieved
405 considerable harmonization on the Supplier Forward Contracts. I understand that
406 revised Supplier Forward Contracts are attached as exhibits to the surrebuttal
407 testimony of Ms. Juracek. This harmonization is also achieved in the draft Illinois
408 Auction Rules, draft application forms, and draft Auction timeline.

409 **Q. Do the documents as exhibits to your testimony supersede all previous**
410 **versions?**

411 A. The draft Illinois Auction Rules and the draft application forms supersede all
412 previous versions. The draft Auction timeline is a first attempt to capture in a
413 detailed timeline most of the events of the Auction Process.

414 Q. **Does this draft Auction timeline imply changes to the Rider CPP or the Rider**
415 **MV?**

416 A. Yes. Some of the events in this common timeline are also represented in the
417 timelines included with the Rider CPP and the Rider MV.

418 Q. **Does this draft Auction timeline respond to some of Dr. Salant's concerns**
419 **that certain events, such as a period of comments by the bidders on the**
420 **Supplier Forward Contracts, had not been included in the proposed Auction**
421 **Process?**

422 A. I believe it will respond to some of his concerns. I note in particular that the draft
423 Auction timeline does include a period of time for prospective bidders to submit
424 comments regarding the Supplier Forward Contracts, although the proposed
425 process is a bit different from the one envisaged by Dr. Salant. The process
426 unfolds as follows. First, should the proposed Auction Process be approved in this
427 docket, ComEd and Ameren would file Supplier Forward Contracts with the
428 Commission within ten days of the Commission Order. Commission Staff would
429 review the Supplier Forward Contracts to ensure that they are fully compliant
430 with the Commission Order. The compliant Supplier Forward Contracts would
431 then be posted for prospective bidders and bidders would be invited to comment,
432 it being understood that no change could be made that would imperil the Supplier
433 Forward Contracts' compliance with the Commission Order. Bidder comments
434 would be submitted to the Auction Manager, and reviewed by the Auction
435 Manager, Staff, ComEd and Ameren. These parties, in consultation would
436 consider the comments submitted and respond to prospective bidders. Comments

437 could be incorporated to the extent that the parties would agree that they
438 improved or clarified the document without putting in jeopardy the compliance of
439 the documents with Commission Order.

440 **III. The Laffer Proposal Should Be Dismissed**

441 **Q. Please describe the purpose of this section of your rebuttal testimony.**

442 A. In this section, I respond to some of Dr. Laffer’s claims regarding the auction
443 literature. I assess Dr. Laffer’s modified proposal for a pay-as-bid format. I also
444 respond to Dr. Laffer’s claims that his proposal cannot be “bested by a descending
445 clock, uniform price auction” (BOMA Exhibit 3.0, page 11, lines 259-260)

446 **Q. Dr. Laffer quotes the following statement from your rebuttal testimony:**

447 **“absent very particular environments or special assumptions, the ranking of**
448 **pay-as-bid versus uniform price auction is essentially ambiguous” (ComEd**
449 **Exhibit 11.0, p. 69, lines 1629-1631). Does Dr. Laffer refute this statement?**

450 A. He does not.

451 It is my testimony that the auction literature does not yield clear
452 conclusions regarding the comparison of pay-as-bid and uniform auctions. In the
453 portion of my testimony that Dr. Laffer quotes in his rebuttal, I am paraphrasing
454 Professor Lawrence M. Ausubel and Professor Peter Cramton who share my
455 view, and who express it clearly in their article “Demand Reduction and
456 Inefficiency in Multi-Unit Auctions,” University of Maryland, mimeo, July 27,
457 2002. The only logical conclusion that I can draw is that Dr. Laffer’s claims that
458 his proposal will benefit customers are not supported by the scholarly literature on
459 auctions.

460 Dr. Laffer does not refute this statement from my rebuttal testimony. Dr.
461 Laffer does not present articles or models from the auction literature and he does
462 not cite from the available empirical evidence to refute my position or to support

463 his own. Dr. Laffer simply states that he does not accept this assessment of the
464 scholarly literature on auctions as being relevant. He does not accept it as being
465 relevant because the literature does not study precisely the case at hand, namely,
466 no one article compares the pay-as-bid auction format to a uniform price format,
467 for the particular context of a descending clock auction, and for the procurement
468 of electricity supply. This is an extremely narrow view and an untenable burden
469 of proof. Not accepting the general conclusions from a literature that is well
470 known and accepted by experts in the field on that basis is equivalent to Dr.
471 Laffer refusing to accept a drug as safe for himself because the drug had
472 undergone standard approval procedures rather than being tested on his identical
473 twin.

474 **Q. Are you saying that Dr. Laffer does not understand how to assess the**
475 **relevance of the existing literature?**

476 A. No, I am not saying that. I do not know whether Dr. Laffer understands how to
477 assess the relevance of the existing literature. I am saying that Dr. Laffer is taking
478 an extremely narrow view in his rebuttal testimony of what results from the
479 literature are relevant to his claims. Dr. Laffer did not produce any work papers
480 on direct. The work papers that Dr. Laffer produced in rebuttal show that Dr
481 Laffer has looked at surveys of the literature – these must be the papers that Dr.
482 Laffer refers to when he states that he has “reviewed a number of articles in the
483 economic literature concerning the design of auctions” (BOMA Exhibit 3.0, page
484 12, lines 278-279). This may be insufficient context for Dr. Laffer to be able to
485 grasp the implications of the main results of the literature.

486 I do know that his rebuttal testimony demonstrates to me that that he
487 misunderstands some key concepts of the auction literature.

488 **Q. Can you provide an example of a concept that Dr. Laffer misunderstands?**

489 A. Dr. Laffer misunderstands the relevance of the Revenue Equivalence Theorem.

490 The Revenue Equivalence Theorem says that on average, the price for an
491 item will be the same across different types of auction. The price on average for a
492 pay-as-bid and a uniform auction will be the same if the right assumptions hold.
493 Of course, the theorem does not hold true in all circumstances – no theorem does
494 that. Of course, the theorem makes simplifying assumptions – every theorem does
495 that.

496 Dr. Laffer is correct that the Revenue Equivalence Theorem is not directly
497 applicable to the ComEd situation in the sense that the assumptions of the
498 theorem do not precisely match the particulars of the ComEd auction or the
499 ComEd bidders. I have never made the claim that it does – in fact, I have plainly
500 stated that some of the assumptions of this theorem would not hold in ComEd’s
501 situation (see the response to BOMA 3.01).

502 But that’s not a reason for throwing out the baby with the bath water.
503 Saying that the assumptions of the theorem do not exactly match the particulars of
504 the ComEd auction does not mean that the theorem is completely irrelevant to Dr.
505 Laffer claims that the pay-as-bid format is better. Let’s examine the relevance of
506 the theorem. The result is extraordinary: how can it be that different kinds of
507 auction yield the same price? It seems to defy common sense. But the answer is
508 simple: bidders bid differently in response to different kinds of auctions, and

509 careful analysis of the bidding strategies shows that bidders adapt their bidding in
510 ways that gets the same price on average in the end (under the assumptions of the
511 theorem). It does not mean that all auctions yield the same price all the time.
512 What it does mean is that when proposing a change to the auction format as Dr.
513 Laffer does, analysis is needed to show how bidders would change the way they
514 bid, and how the price will change as a result. I have testified that Dr. Laffer
515 mistakenly assumes that bidders would bid the same under his pay-as-bid
516 proposal and under the ComEd auction; he does not refute this point in his
517 rebuttal testimony. I have testified that Dr. Laffer's "common sense" (BOMA
518 Exhibit 1.0, page 10, line 225) is not sufficient to support his conclusion that the
519 resulting price would be lower under pay-as-bid.

520 **Q. Dr. Laffer makes an additional point concerning the Revenue Equivalence**
521 **Theorem. He says that it "shows how restrictive the conditions would have to**
522 **be in order for ComEd's proposed uniform price auction to possibly be as**
523 **good as our descending clock, pay as bid auction" (BOMA Exhibit 3.0, p. 12,**
524 **lines 262-264). Do you agree with this point?**

525 A. Dr. Laffer makes an elementary error in logic. The fact that the assumptions of the
526 theorem yield the conclusion that pay-as-bid and uniform auctions yield the same
527 price on average does not mean that for the uniform auction to yield the same or a
528 better price than the pay-as-bid, those assumptions have to hold. For instance,
529 there are other theorems and other assumptions for which the uniform auction
530 yields a better price (ComEd Exhibit 11.0, page 69, lines 1623-1625). The
531 assumptions of the theorem are sufficient, they are not necessary to the uniform

532 price auction being as good or superior. The conclusion that Dr. Laffer draws is
533 like taking the fact that anything made of wood will burn, and concluding that the
534 only way that something will burn is if it is made of wood.

535 **Q. Is there another example of Dr. Laffer misunderstanding a central concept of**
536 **auction theory?**

537 A. Yes. Dr. Laffer does not appear to understand the winner's curse or its
538 implications for the ComEd auction.

539 **Q. How would you explain the winner's curse?**

540 A. The easiest way is to provide an example. Suppose bidders are bidding to buy a
541 jar of pennies. The bidders can look at the jar of pennies and estimate how much
542 money there is in the jar, but bidders do not have the time to precisely count how
543 many pennies it holds. If each bidder were to write down on a piece of paper his
544 or her estimate of how much money is in the jar, we would expect some estimates
545 to be high, and some to be low. If the jar in fact holds \$25.00, we would expect
546 roughly half the bidders to guess above \$25, and half the bidders to guess below.
547 Now suppose each bidder hands in to the seller the piece of paper with his or her
548 estimate as his or her bid. The bidder who will win is the bidder with the highest
549 bid. The bidder with the highest bid, the winner, is the bidder who was most
550 optimistic and who guessed that the jar of pennies had the most money in it.
551 Maybe the winner guessed that the jar had \$28.75 in it. But if the winner is the
552 bidder who was the most optimistic, and already half of the bidders' estimates
553 were too high, then the winner is the bidder who was the most wrong! In our

554 example, the winner loses \$3.75. That is the winner's curse: the winner's estimate
555 of the value is the most optimistic of all the bidders.

556 **Q. Why did you provide another example instead of using Dr. Laffer's example**
557 **of bidding on the Mona Lisa?**

558 A. I did not want to use Dr. Laffer's example as it muddies the context in which the
559 winner's curse applies. Dr. Laffer's example of the Mona Lisa gives me the
560 impression that bidders are bidding based on their tastes – they bid on the Mona
561 Lisa because they like her smile. This is different from the penny jar example I
562 just gave, where all bidders are evaluating a common opportunity and are trying
563 to estimate its value. In the former case there is no winner's curse as the bidding
564 is dictated by taste and how much someone likes the Mona Lisa really tells me
565 nothing about how much I like the Mona Lisa. In the latter case, when bidders are
566 all trying to estimate a common value, learning another bidder's estimate is
567 valuable to me.

568 I also note that the example appears mistaken – if the last bidder bidding
569 against the winner drops out at \$400, i.e., stops bidding at that point, then the
570 winner would get the Mona Lisa for \$400 and not \$500.

571 **Q. What is the effect of the winner's curse on bidding?**

572 A. Sophisticated bidders who understand the winner's curse will bid cautiously.
573 These bidders will understand that if they bid strictly on the basis of their
574 estimates, they will regret it. In the money example, if the winner's estimate is
575 \$28.75, the winner will bid cautiously by heavily discounting his estimate,
576 knowing that if he wins he will learn that his estimate was (overly) optimistic.

577 Of course, if bidders obtain additional information regarding the value of
578 what they are bidding on, they can sharpen their estimate, they can have more
579 confidence in their evaluation, and they can bid less cautiously and more
580 aggressively. For example, if bidders are told that the average of the estimates is
581 \$24.99, all bidders will revise their estimates on the basis of that information and
582 bid with more confidence.

583 **Q. Why is this relevant to the ComEd Auction? Dr. Laffer claims that bidders in**
584 **the ComEd auction “are hardly the type to be unsure of the value of the**
585 **contracts to supply power to ComEd for which they are bidding” (BOMA**
586 **Exhibit 3.0, p.13, lines 294-296) and will not be subject to the winner’s curse**
587 **(p. 14, line 321). Don’t you agree that this is irrelevant for the ComEd**
588 **auction because bidders are sophisticated?**

589 A. No, I do not agree. Bidders in the penny jar example could be experts in
590 evaluating how many pennies are in jar; that does not make each and every bidder
591 right every time.

592 Dr. Laffer confuses being an expert with having a crystal ball. It is true
593 that, based on the participation in BGS Auctions, I would expect energy marketers
594 and financial players to form the bulk of the anticipating bidding pool. It is also
595 true that these bidders will have specialized skills in price-risk management. Yes,
596 they are experts. That does not mean that they know what the weather is going to
597 be like next summer, or that they know exactly how many customers will migrate
598 to and from CPP service, or that they have anticipated perfectly the value of each
599 alternative for their supply arrangements, or that they know with certainty all the

600 factors that may affect wholesale energy prices and the prices of other wholesale
601 products in the next year, or two years, or three years. Bidders do not have a
602 crystal ball. Bidders do not “know the value” of each and every auction product.
603 Bidders estimate all their market opportunities, including their opportunities in the
604 auction, with the best available skill and the best available information. They are
605 subject to the winner’s curse because each will be assessing the risks and the
606 conditions that underlie the same wholesale markets and similar opportunities to
607 sell their supply forward.

608 Just as in the penny jar example, bidders in the ComEd auction will bid
609 more confidently if additional information is provided to them during the auction.
610 They can sharpen their estimates, be more confident and bid more aggressively.
611 As I explain in my direct testimony, this is why an open auction format elicits the
612 best bids when bidders are evaluating a common market opportunity.

613 **Q. Isn’t this just theory? How do you know that bidders are not absolutely sure**
614 **of what they want to bid at the outset? Isn’t it possible that bidders know**
615 **exactly what their price is and simply stay in the auction until that point is**
616 **reached, without ever changing their bidding strategy in response to the**
617 **information that they learn through the auction?**

618 **A.** This is not just theory. The ComEd proposal includes ways in which bidders have
619 the flexibility to consider whether to modify their bidding strategies. Bidders can
620 take a short break during a bidding phase (an extension) to further consider their
621 bids. Later in the auction, bidders can take a longer pause (a recess) to consider
622 their bids. These features were included also in the New Jersey BGS Auctions and

623 they are included in the Illinois Auction Rules as well because these features have
624 value.

625 In taking time during a round to consider their bids, and in asking for
626 pauses within rounds, bidders are not only considering how low to bid. Bidders
627 are also considering which products to bid on. In ComEd's proposal, bidders can
628 switch their tranches from one product to another. I expect bidders to switch their
629 supply in response to the relative prices of the products. For example, if a product
630 garners more interest at the start of the auction, its price will tick down faster than
631 other products, and other products will become relatively more attractive to
632 bidders. Bidders will switch their bids to the higher price products in response,
633 and may even win tranches of these other products, even if they had not initially
634 planned to bid on them.

635 If Dr. Laffer's contention were true, bidders would know the value of the
636 contracts they were bidding on and once the auction started, bidders would be
637 little more than robots waiting for the price to tick down to the right level. Bidders
638 would never switch their tranches, bidders would never take extensions or
639 recesses to think about their bids. Experience has shown that this just not how
640 things work.

641 **Q. Let's be fair. Doesn't Dr. Laffer recognize that information can be of value to**
642 **bidders and doesn't the Laffer proposal allow bidders to use the information**
643 **revealed in each round's prices?**

644 A. In my opinion, Dr. Laffer's testimony is not completely consistent on this point.

645 Dr. Laffer, in his direct testimony, views information provided to bidders
646 in the ComEd proposal regarding supply at various price points as having no
647 value. He states that this kind of information “does not help consumers one iota”.
648 In his direct testimony, Dr. Laffer then proposes two modifications, one being to
649 make the auction pay-as-bid, and the other being not to provide information to
650 bidders. Dr. Laffer states: “bidders would be informed of the completion of the
651 auction only when the auction is complete, and not before. A bidder’s attention
652 will be focused solely on its own internal marginal cost and whether that bidder
653 can still make a reasonable profit by supplying a given number of tranches at the
654 price set for the current round.” (BOMA Exhibit 1.0, page 15, lines 330-334). If
655 as Dr. Laffer contends, a bidder would just stay in the auction as long as a
656 reasonable profit can be made, then presumably no information is required except
657 the current prices for the round. The price tick-downs cannot provide information
658 either so the prices would have to tick down mechanically by a fixed amount or
659 percentage regardless of the supply in the auction and regardless of the relative
660 interest in each product. This position from Dr. Laffer’s direct testimony is
661 consistent with Dr. Laffer’s statement in rebuttal bidders “knowing their value”
662 and his view that bidders are just robots with a pre-determined strategy that they
663 just apply throughout the auction.

664 However, if all this is true, then as I stated in my rebuttal testimony
665 (ComEd Exhibit 11.0, page 74, lines 1750-1755), and as Mr. Parece also
666 explained (ComEd Exhibit 12.0, page 40, lines 848-854), the pay-as-bid auction is
667 just a sealed bid auction. A bidder who has bid since the beginning, and who sees

668 the price tick down in a round learns nothing. He “learns” the price, but since
669 prices tick down the same amount every round, he could have predicted what all
670 the prices would bid. He “learns” that the auction is not over, but he knew that
671 already since he is still bidding, and one bidder still bidding is sufficient to keep
672 the auction open. He decides whether or not to bid given the pre-determined
673 strategy set at the beginning. Why then waste all this time? The bidder could just
674 submit a schedule of his bids to the Auction Manager before the auction starts,
675 detailing exactly at which points the bidder is pulling tranches out.

676 Dr. Laffer, in rebuttal, “clarifies” that his proposal allows bidders to jump
677 back in the auction after they had previously decided to pull out all of their
678 tranches: “when the price clicks down to a certain level in my proposed
679 descending clock, pay as bid auction a bidder may decide not to bid because the
680 bidder believes she will be successful at the prior higher price at which the bidder
681 did make a bid. If, however, the auction manager opens a new round of bidding at
682 an even lower price, that bidder may reconsider her judgment that she will be
683 successful in the auction at the last price the bidder bid tranches and decide to
684 reenter the bidding at the new, lower price.” (BOMA Exhibit 3.0, page 2, lines
685 39-45). It is understandable that the auction experts answering Dr. Laffer – Mr.
686 Parece, Dr. Salant and myself – would not have realized that this was a feature of
687 Dr. Laffer’s proposal. Indeed, to my knowledge, none of the open auctions that
688 have been conducted (for spectrum licenses or in electricity markets) have
689 allowed bidders to “jump back in”, or even more generally none of these open

690 auction have allowed bidders to increase the number of tranches that they are
691 eligible to bid from one round to the next.

692 Under this “clarification” then, bidders do have information. As before, a
693 bidder who has bid since the beginning, and who sees the price tick down in a
694 round learns nothing. But a bidder who stops bidding and then sees the price go
695 down learns an important piece of information. But that piece of information is
696 not the price as Dr. Laffer claims – the bidder knew what the price would be if
697 there was to be another round. What the bidder learns is that there is another
698 round, and that means that other bidders who are still bidding. The bidder learns
699 something about the market supply at that price – namely, that it is not zero. Dr.
700 Laffer seems to believe in rebuttal that this piece of information is important to
701 the bidder and could elicit a better bid. In my opinion, this new clarified view
702 from Dr. Laffer in rebuttal completely contradicts his claim from his direct
703 testimony that “a bidder’s attention will be focused solely on its own internal
704 marginal cost”. (BOMA Exhibit 1.0, page 15, lines 331-332) Either bidders can
705 usefully incorporate information about market supply to further revise their bids
706 downward, or they know their value and bid it, but both cannot be true at the same
707 time.

708 **Q. Now that you understand the true Laffer proposal, do you agree with him**
709 **that it will yield better results than the auction format proposed by ComEd?**

710 A. No, I do not. Dr. Laffer again fails to recognize the bidding incentives that this
711 auction format creates. There are three features of these incentives that I would
712 like to discuss.

713 First, Dr. Laffer has provided bidders a single opportunity for bidders to
714 learn information: they learn information by withdrawing all their tranches and
715 then coming back into the auction. There is little or no cost from doing so at the
716 earliest opportunity. Let's say in round 1 the price for each product is \$75/MWh
717 and all bidders submit bids for their full eligible amount. What does a bidder lose
718 from withdrawing all his tranches in round 2? If nobody else bids either, the
719 bidder will be assigned tranches at the highest price in the auction. If someone
720 else bids, the bidder has not lost anything, as the bidder will have another
721 opportunity to bid. I see a very clear gaming opportunity here that takes bidders
722 away from bidding on the basis of the opportunity cost of their participation in the
723 auction. And I see at least the possibility of a disastrous outcome, where all
724 bidders – in trying to get information at the same time – all withdraw all their
725 tranches and stop the clock at a very high price. I am not saying this will happen,
726 but if each bidder sees there is little to no cost to such a strategy, there is always a
727 chance that all bidders would make the attempt in the same round, well before
728 market prices were reached. The same incentives are not present in the ComEd
729 proposed auction. If a bidder withdraws his tranches, he cannot come back in.
730 There is a high cost to withdrawing tranches because doing so is an irrevocable
731 decision. Bidders will not withdraw their tranches just to get information and risk
732 precipitating an unacceptable outcome.

733 Second, Dr. Laffer's contention that bidders stay until the bitter end and
734 leave their tranches in until the lowest possible price that they are willing to offer
735 has been reached ignores the incentives that bidders face. Bidders will in fact pull

736 out when they believe that the requirements for the ComEd load have been met.
737 Let's suppose, just for the moment, that a bidder knew that he and possibly others
738 were still bidding, but that the supply bid was now below the ComEd
739 requirement. To make it more concrete, suppose that ComEd needed 100
740 tranches, and that two bidders were each bidding 45 tranches. The prices tick
741 down from \$44/MWh to \$43.50/MWh. Why would these bidders keep bidding? If
742 they stop bidding, they both win 45 tranches at \$44/MWh. If they keep bidding,
743 all they are doing is making sure that they will get a lower price for some or all of
744 the tranches that they have already won. Of course, Dr. Laffer would counter that
745 in the pay-as-bid descending clock – and this is the whole point, he would say –
746 bidders do not know when supply falls below the requirements, so bidders would
747 keep bidding. I disagree. Bidders know that once supply falls below the
748 requirements, any further bidding just diminishes the price they will get for
749 tranches they have already won. Bidders will try to guess when supply has met
750 the requirements, and they will cease bidding at that point. Bidders will usually
751 guess wrong – sometimes they will stop bidding early, and sometimes they will
752 stop bidding late. But something they will not do, is keep bidding when they
753 believe that all they accomplish is reducing the price they get paid without
754 increasing their probability of winning tranches.

755 Third, Dr. Laffer's pay-as-bid proposal does nothing to ensure that all the
756 products in the auction will be fully subscribed. In the ComEd proposed auction,
757 if a product has less interest at the beginning of the auction, its price will not tick
758 down, while the prices of the others products will. This will induce bidders to

759 switch their tranches into the higher price product. For this balancing mechanism
760 to operate, bidders must be provided relative price information – that is, bidders
761 must be able to see that interest in a product, and they see this because a price
762 differential opens between a less popular product and another one. An important
763 part of how bidders in the ComEd auction can revise their bidding strategies is in
764 changing the mix of products that they are offering in response to the information
765 that they get through the auction. This balancing mechanism is completely absent
766 from the Laffer pay-as-bid proposal. Bidders do not have relative price
767 information and do not have any information concerning the relative interest in
768 one product versus another. Bidders cannot react to information they do not have.
769 Bidders will not revise their product offering as the auction progresses. This can
770 only be to the detriment of customers. It makes the possibility that a product will
771 not be sufficiently subscribed in the auction – for example, there could be fierce
772 competition for the CPP-A product while the number of tranches bid on the CPP-
773 B products could fall short of requirements. This would require ComEd to procure
774 the missing supply in the spot market, which would be expected to raise cost and
775 price volatility for customers.

776 In sum, it is my opinion that the benefits that Dr. Laffer puts forth for his
777 pay-as-bid format are illusory and stem from a lack of analysis of bidder response.
778 Bidders will not offer a lower price unless they believe it will win them more
779 tranches. Once bidders believe the requirements are just filled, they will stop
780 bidding. Bidders will use the “jump back in” feature to game the auction, with the

781 possible result of a very early end to the auction as bidders costlessly try to get
782 information by withdrawing tranches and putting them back in.

783 **Q. What about Dr. Laffer’s contention that the uniform price auction offers**
784 **more opportunity for implicit collusion on a high price?**

785 A. I have already said that such an outcome is more likely in a pay-as-bid format as
786 bidders lose nothing by completely withdrawing in a given round, providing lots
787 of opportunities to try and coordinate at a high price. In the uniform price auction
788 as proposed by ComEd, there are many protections against such strategies,
789 including Association and Confidential Information rules, the form of the
790 decrements, the type of excess supply information provided to bidders (not to
791 mention federal and other laws). Dr. Laffer has stated, loudly and often, that the
792 ComEd auction proposal is vulnerable to collusive outcomes. Dr. Laffer has not
793 once explained how such outcomes are possible under the proposed rules, let
794 alone provided an argument to show that such outcomes are likely.

795 **Q. At lines 105 to 123, in referring to an article that you quote, Dr. Laffer notes**
796 **that the author of that article, Professor Paul Klemperer, also wrote that the**
797 **electricity regulator in the UK believed the market had fallen prey to implicit**
798 **collusion. He mentions that a repeated auction market such as that for**
799 **electricity as particularly vulnerable to collusion “because of repeated**
800 **interaction among bidders”. Were you aware of the quotes he references and**
801 **do they apply to the Auction Process?**

802 A. Yes, I was aware of these quotes. I do not believe that they are at all relevant as
803 the repeated interaction to which the alleged collusion is attributed does not apply

804 to the Auction Proposal. At the time of the article, the UK market had almost ten
805 years of operations with 17,520 half hourly bidding and pricing intervals each
806 year. The nature of the Auction Process, in which an auction is held once a year,
807 is radically different. Further, I am not aware that the regulator's belief of
808 collusion was ever substantiated. I believe that Dr. Hogan presents testimony
809 explaining that the claims that Dr. Laffer makes concerning the UK electricity
810 market are not accurate.

811 **Q. Do you think that Dr. Laffer's contention that the modification he proposes**
812 **to the ComEd auction is not a radical change?**

813 A. If Dr. Laffer believes that, his understanding of the ComEd auction rules is quite
814 poor. In addition to the significant differences that Dr. Laffer lays out in his
815 testimony, namely rules for assigning tranches at the end of the auction, the
816 information that is provided to all bidders concerning the market supply at
817 different prices, and the price decrements (BOMA Exhibit 3.0, page 4, lines 80-
818 91), I believe that there are a host of concepts that would require modification or
819 elimination. There would include: 1) volume reduction methodology; 2) switching
820 and switching priorities; 3) reports provided to privately to each bidder about his
821 bid; 4) ability to provide exit prices; 5) denied switches; 6) retained exits; 7)
822 eligibility and rules relating the tranches bid to the bidder's eligibility.

823 **Q. Does Dr. Laffer's example clarify any of the changes that would have to be**
824 **made to these concepts?**

825 A. No. Dr. Laffer's example provides only aggregate bids, and not bidder-by-bidder
826 data that would be needed to understand how his auction rules truly work. I have

827 examined his example in some detail. The only way that I can find for the
828 aggregate bids he provides to be consistent with the tranche allocation that he
829 provides is for each bidder to bid on each product only once. This is illustrated in
830 ComEd Exhibit 19.5 as method 1. The bidders are not bidding on tranches, and
831 pulling them out as they “reach their cost”; instead, bidders are coming in
832 randomly in a round to bid on a product only to withdraw all those tranches in the
833 following round. If instead we were to assume that each bidder bids tranches at
834 the beginning of the auction and gradually reduces its supply as the prices tick
835 down, then taking the aggregate bids provided by Dr. Laffer as given, I find that
836 the allocation of winning tranches would be quite different from the one he
837 provides. This is illustrated in ComEd Exhibit 19.5 as method 2. Either the
838 bidders underlying his example are not behaving in the way he describes they
839 would, or his example is mistaken.

840 **Q. What do you conclude?**

841 A. I conclude that Dr. Laffer’s proposal is ill-conceived, inconsistent, and in my
842 opinion will not result in benefits for customers.

843 Either Dr. Laffer’s proposal is as stated in his direct testimony, and is
844 equivalent to a sealed bid auction. I have explained in my direct testimony the
845 many advantages of providing information to bidders through an open auction,
846 and the many protections against collusion and anti-competitive behavior that are
847 part and parcel with the ComEd proposed Auction Process.

848 Or Dr. Laffer’s proposal is as stated in his rebuttal testimony, where he
849 tries to maintain some of the aspects of the open auction by giving bidders a way

850 to get information. Unfortunately, the proposal raises more difficulties than it
851 solves. The rebuttal proposal provides gaming opportunities that could result in a
852 disastrous outcome. Furthermore, the proposal offers no protection against the
853 need to procure in the spot market as the proposal includes no credible assurance
854 that all products in the auction will be fully subscribed.

855 **IV. Assessment of Salant Recommendations**

856 **Q. Please describe the purpose of this section of your rebuttal testimony.**

857 A. In this section, I review the rebuttal testimony of Dr. Salant. I review the
858 numerous features of the proposed Auction Process to which Dr. Salant now
859 agrees. I note a few misunderstandings that Dr. Salant holds regarding the purpose
860 of the auction volume adjustment guidelines and I review his recommendations in
861 this regard. I assess his renewed arguments in favor of additional disclosures of
862 contractual arrangements underlying the bidders' supply at the auction and in
863 favor of the price-taker option. I conclude that his additional arguments are not
864 persuasive and that I continue to believe that these modifications would be
865 harmful to the auction process. I also review some of Dr. Salant's
866 recommendations concerning auction management details even though some of
867 these recommendations are premature.

868 **a. Dr. Salant's General Assessment of the Proposed Auction Process.**

869 **Q. Dr. Salant's direct testimony indicated that he did not believe that the**
870 **Auction Proposal had been sufficiently specified in order to be accepted by**
871 **the Commission. Has his view changed as a result of ComEd's revised**
872 **proposal as presented in ComEd's rebuttal filing?**

873 A. Yes. On lines 44 to 45 of his rebuttal testimony, he states "ComEd has
874 adequately addressed most of the concerns raised in my direct testimony." (ICC
875 Staff Exhibit 11.0, page 2, lines 44-45) On lines 70 to 75, he identifies only three
876 features that in his opinion require significant modification. These are limited to
877 (1) auction volume guidelines, (2) contract disclosure requirements and (3)

878 ComEd's proposed task plan. I will address each of these issues in detail and I
879 find that in fact significant modifications are not needed, either because Dr. Salant
880 has misunderstood the proposal or because the modifications that Dr. Salant
881 proposes would be detrimental to the process.

882 **Q. What are the numerous elements of the proposed Auction Process that Dr.**
883 **Salant now believes require little or no modification?**

884 A. There is a broad agreement on most features of the proposed Auction Process and
885 this is evident in the eleven (11) features that Dr. Salant lists as requiring little or
886 no modification, including the basic auction design, load caps, post-auction
887 review criteria and the Auction Manager's role and coordination between the
888 Auction Manager and ICC staff.

889 **Q. Does Dr. Salant make suggestions with respect to these features even though**
890 **he believes that they have been adequately specified?**

891 A. Yes. Dr. Salant, while in agreement on most features and while suggesting no
892 further modification on many of those, does still make some suggestions on some
893 of the remaining features.

894 **Q. Do you believe that the "relatively minor modifications" that he offers in**
895 **Section 3 of his testimony are appropriate modifications to make to the**
896 **Auction Process at this time?**

897 A. No, and I am not entirely certain that he is suggesting that they are either. Many
898 of the issues he raises under these relatively minor modifications appear to be his
899 thoughts and reflections; most of these are items are in my view best resolved
900 later, as implementation issues once more information is available, to be

901 appropriately designed and resolved by the Auction Manager and the Staff. Other
902 ideas are refinements that are best examined in the post-auction review process
903 and perhaps adopted in future auctions. My concern is that his testimony can be
904 read to imply that there are still unresolved issues, when in actuality that is not the
905 case.

906 **Q. Can you go through Section 3 of his testimony feature by feature to illustrate**
907 **these points?**

908 A. Certainly. I will go through these features one by one.

909 • On lines 112 to 114, he unequivocally agrees with the use of the clock
910 auction as designed.

911 • On lines 139 to 143, he recognizes the 35% load cap as reasonable and
912 clearly recommends that it be approved.

913 • On lines 173 to 174, he recommends approval of ComEd's decrement
914 formula. However, this is somewhat confused by lines 167 to 171 where he
915 states that further refinements are desirable and that the Auction Manager and
916 Staff should work together. For the sake of completeness, I note that this is
917 an implementation issue: it is expected that decrement formulas would be
918 finalized closer to the auction, based on final information concerning the
919 number of tranches, bidders in the auction, etc.

920 • On line 207 to 208 he recommends approval of ComEd's revised proposal
921 with respect to information disclosures to the public. However, this is
922 somewhat qualified by a complex and contradictory discussion set forth on
923 lines 176 to 207 and again on lines 1031-1074. I do not see how Dr. Salant

924 discussion contradicts ComEd's revised proposal and I therefore take his
925 recommendation for approving the revised proposal at face value.

926 • On lines 240 to 242, he recommends approval of ComEd's proposal to
927 combine auctions with Ameren, even though the fixed and hourly products
928 are to be auctioned separately, doing so on practical grounds rather than on a
929 theoretical basis. However, he recommends that for future auctions ComEd
930 explore ways of separating capacity and ancillary services from energy. I
931 believe such a recommendation is best left to the post auction review process.

932 • On lines 272 to 273 he concurs with ComEd's auction date. He goes on in
933 the next few pages to raise numerous issues with respect to whether the fixed
934 and hourly auctions should be sequential or simultaneous. These issues are
935 strawmen and I assure the Commission that they can be easily worked out
936 between the Auction Manager and Staff without the complexity that he
937 suggests.

938 • On lines 327 to 335, he recommends approval of the 50 MW tranche size,
939 although he makes clear that he personally favors smaller tranches. I have no
940 problem with his suggestion that the post-auction review encompass tranche
941 size.

942 • On lines 360 to 361, he recommends that ComEd's revised proposal with
943 respect to auction duration be approved. However, in a prelude to this
944 recommendation he repeats his June testimony that implies that bidding
945 procedures should be identified now, that there should be no need to check
946 results during rounds, and that bidders should not require a lot of time

947 between rounds. I have replied to all these points in my rebuttal testimony
948 and do not see a need to repeat the responses here. While I take at face value
949 his recommendation that ComEd’s revised proposal for auction duration be
950 approved, I note that it obscures the record for him to repeat all the arguments
951 he made earlier in objection to the auction duration on the one hand, while
952 approving the revised proposal for auction duration on the other.

953 • Dr. Salant provides a very specific process for finalizing SFCs. I do agree
954 with Dr. Salant’s testimony on lines 385 to 386 that “What is essential from
955 an auction timing perspective is that the SFCs be finalized before they are
956 distributed as part of the final bidder application package.” That essential
957 element and a process for feedback from potential bidders are incorporated in
958 to a modified proposal that I present later in the testimony.

959 • While generally agreeing with ComEd’s post-auction review process in
960 Section 3, Dr. Salant provides some specific recommendations in Section 4. I
961 do not agree with all of those recommendations and will address these below.

962 • On lines 437 and 438, Dr. Salant recommends that ComEd’s auction calendar
963 be approved subject to certain minor recommendations on reporting dates. I
964 will respond to the changes he makes to the proposed calendar below.

965 • On lines 457 to 460, Dr. Salant recommends approval of ComEd’s revised
966 proposal with respect to the Auction Manager’s role and requirement to
967 coordinate with ICC Staff and the Auction Advisor. He does so “subject to
968 my recommendations in Section IV. Below.” However, I find no relevant
969 recommendations on this topic in Section IV below except observations on

970 the task plan that material be provided to the Staff with certain lead times. I
971 will address those later, but I fail to see how the qualification to his
972 recommendation on the Auction Manager role is relevant. Further, I note that
973 while approving the proposed Auction Manager he renews the objection
974 made in his direct by noting that he “continues to favor a truly independent
975 auction manager”. (ICC Staff Exhibit 11.0, pages 20-21, lines 453-454) I
976 testified in my rebuttal that I believe a utility-appointed Auction Manager can
977 be truly independent. Given that the comment is uncontrovertibly directed at
978 me, I repeat that I am and will be a truly independent Auction Manager.

979 b. Volume Adjustment Issues

980 **Q. Have you reviewed Dr. Salant’s rebuttal testimony regarding volume**
981 **adjustments?**

982 A. Yes, I have.

983 **Q. You testified in rebuttal that Dr. Salant and you disagreed on the purpose of**
984 **the volume adjustment guidelines. Having reviewed Dr. Salant’s rebuttal, do**
985 **you still believe that this is the case?**

986 A. Yes. As I testified in rebuttal (ComEd Exhibit 11.0, pages 39-41, lines 926-988),
987 and I will not repeat the arguments and explanations here, Dr. Salant and I
988 conceive of the auction volume guidelines very differently. This fundamental
989 different in perspectives is again apparent in Dr. Salant’s rebuttal.

990 Dr. Salant conceives of the auction volume guidelines as a weapon that
991 should be used liberally in a battle of wits between ComEd (with supposedly
992 market power on the buying side of the market) and the bidders (presumed to

993 have market power on the selling side). Dr. Salant advocates reducing the volume
994 at auction as punishment for bidders attempting to withdraw tranches at prices
995 greater than their cost, apparently even if there is ample supply to cover the
996 volume at the auction. I do not see where his analysis considers the fact that any
997 volume reduction subjects customers to additional price volatility since any
998 volume not procured at auction is purchased in the spot market. I do not see where
999 Dr. Salant considers the other competitive safeguards that are proposed in the
1000 Auction Process as measures that can promote competitive bidding. I believe that
1001 the auction and all its competitive safeguards are designed to provide reliable
1002 supply at competitive market prices. The auction volume guidelines serve the
1003 important role of ensuring a competitive bidding environment when interest in the
1004 auction is insufficient.

1005 **Q. Is Dr. Salant asking for significant modifications to the auction volume**
1006 **adjustment guidelines as incorporated in the proposed Auction Process?**

1007 Dr. Salant has included his comments and recommendations regarding the
1008 auction volume adjustment guidelines in the section of his testimony where he
1009 deals with features of the Auction Proposal that he believes require “significant
1010 modification”. That being said, I believe that the gap in Dr. Salant and my
1011 perspectives on the auction volume guidelines is much wider than the gap in our
1012 actual recommendations. Dr. Salant at times appears to oversimplify the auction
1013 volume guidelines in the proposed Auction Process and I believe that, in fact,
1014 some of his recommendations are already part of the proposed Auction Process.
1015 At other times, Dr. Salant appears to want to debate parameter settings and

1016 methodologies that both he and I agree should be kept confidential from bidders.
1017 In those cases, to preserve the integrity of the Auction Process, I cannot and will
1018 not have much to say in response. Finally, there are a few instances of genuine
1019 disagreement between Dr. Salant and me, where Dr. Salant is requesting
1020 modifications that are not, in my opinion, to the benefit of the Auction Process
1021 and customers.

1022 **Q. Please explain the recommendations that Dr. Salant puts forward and that**
1023 **you believe are already incorporated in the auction volume guidelines that**
1024 **are part of the proposed Auction Process.**

1025 A. I explained in detail in my rebuttal testimony (ComEd Exhibit 11.0, pages 79-82,
1026 lines 1857-1924) the mechanics and elements of the auction volume guidelines
1027 incorporated into the Auction Process; I will not repeat this testimony here. I
1028 would like to clarify three points that Dr. Salant may have missed and that I
1029 believe reduce the gap between Dr. Salant's and my position on a practical level.

1030 First, Dr. Salant states that "My concern with volume adjustments has
1031 been to address concentration among the auction participants" (ICC Staff Exhibit
1032 11.0, page 25, lines 555-556) and he provides as an example of a situation where
1033 he would have a concern: "if there are five bidders each seeking 35% of the
1034 load..." (ICC Staff Exhibit 11.0, page 27, lines 595-596). Dr. Salant believes that
1035 the current proposal does not include a consideration of the concentration among
1036 auction participants, the number of bidders, or any characteristics that would
1037 typically be called "structural" characteristics of the pool of bidders. He believes

1038 that the only thing that is considered is the overall level of interest compared to
1039 the volume at auction.

1040 In making this assessment, Dr. Salant has overlooked some of the details
1041 of the auction volume guidelines as presented in my rebuttal testimony. To decide
1042 whether the bidding environment is competitive or whether a volume cutback is
1043 needed, the Auction Manager looks at the supply bid relative to the volume
1044 sought. This measure of the competitiveness in the auction is the target eligibility
1045 ratio. I point out in my rebuttal testimony that one outstanding task is to formulate
1046 a methodology to set the target eligibility ratio, *i.e.*, to set the competitiveness
1047 standard for the auction. I also point out that “The value of the target for the
1048 eligibility ratio could depend on various factors, *such as the number of bidders or*
1049 *the characteristics of individual bids*” (ComEd Exhibit 11.0, page 79, lines 1871-
1050 1872, emphasis added). That is, the competitiveness standard may depend on
1051 various factors, the most obvious of which would be certain structural variable
1052 concerning the pool of bidders, that would in part measure the concentration of
1053 supply.

1054 Second, Dr. Salant recommends “some reduction in volume whenever
1055 there is precipitous, and what appears premature, withdrawal of tranches, even if
1056 this occurs after the first few rounds of the auction” (ICC Staff Exhibit 11.0, page
1057 31, lines 684-686). This recommendation touches on what I believe to be the most
1058 sensitive area of the auction volume adjustment guidelines, namely the
1059 methodology for a further adjustment in volume. As I have explained in my
1060 rebuttal testimony (ComEd Exhibit 11.0, page 80, lines 890-897), there are

1061 excellent reasons to keep such methodology confidential from potential suppliers,
1062 and therefore I believe it is unwise to pursue the point here. However, I do note
1063 that, to the extent that such “precipitous” reduction in volume would reveal a lack
1064 of interest in the auction and would mean a bidding environment that is less than
1065 competitive, then the principles for the auction volume guidelines already
1066 incorporated in the proposed Auction Process are consistent with Dr. Salant’s
1067 recommendation. Similarly, as I have already testified, the auction volume
1068 adjustment guidelines incorporate the possibility for a further adjustment, and this
1069 is also consistent with Dr. Salant’s recommendation.

1070 Third, Dr. Salant states that that the auction volume adjustment guidelines
1071 should “mitigate the exercise of market power during the auction” (ICC Staff
1072 Exhibit 11.0, pages 21-22, lines 476-477), which he explains as a situation where
1073 “a bidder believes that it can stop the auction at a particularly high price by
1074 pulling the excess supply” (ICC Staff Exhibit 11.0, page 24, lines 529-530). I
1075 agree that the behavior that Dr. Salant describes is an issue and that the Auction
1076 Process must have a way to safeguard the competitiveness of the auction from it.
1077 However, we disagree on what the appropriate safeguard is. Dr. Salant believes
1078 that the auction volume adjustment guidelines will be effective in this regard: if
1079 the auction volume can be reduced in response to the pulling of excess supply,
1080 this will serve as a deterrent to the bidder. The bidder will know that any
1081 reduction in its bid is met by a reduction in auction volume. As I explain below, I
1082 do not agree with the perspective behind this recommendation, which is to use the
1083 auction volume adjustment guidelines as a punishment against particular

1084 individual bidders, and I do not agree that putting the auction volume guidelines
1085 to this use can be beneficial to the Auction Process. The Auction Process has
1086 multiple competitive safeguards and the auction volume adjustment guidelines do
1087 not have to do all of the work. In particular, As I have testified in rebuttal (ComEd
1088 Exhibit 11.0, pages 26-27, lines 621-650) and as I have testified elsewhere in this
1089 testimony, the appropriate safeguard to perform this particular function of limiting
1090 attempts by bidders to influence the auction price is a combination of the load cap
1091 and the information that is provided regarding excess supply at the auction. It is
1092 my opinion that the load cap of 35% and limits on the excess supply information
1093 as have been proposed are sufficient to limit the ability of bidders to influence the
1094 auction price through strategic withdrawals. I believe that these competitive
1095 safeguards will be effective.

1096 **Q. Please point to the recommendations of Dr. Salant for which you will not**
1097 **elaborate because you believe you could imperil the integrity of the auction**
1098 **process.**

1099 **A.** As I have testified above, Dr. Salant demands details on the methodology to effect
1100 a further volume adjustment – at the same time, and somewhat contradictorily,
1101 Dr. Salant refuses to debate particular formulas and methodologies on the grounds
1102 that bidder should not be able to know these. I agree with his latter opinion and I
1103 will not further discuss either the further volume adjustment or the setting of the
1104 target eligibility ratio.

1105 **Q. Are there recommendations and requests for modifications that you feel**
1106 **would not be beneficial and on which to which you cannot agree?**

1107 A. Yes. In general, I believe that the load cap and the reporting of excess supply
1108 sufficiently guard the auction from any one bidder influencing the auction price,
1109 and I do not see the value in deploying the auction volume adjustment guidelines
1110 for precisely that same purpose.

1111 In particular, I believe that one of Dr. Salant's core principles in
1112 articulating the auction volume adjustment guidelines is quite simply nonsense.
1113 This principle is that "any tranche withdrawal that is not for the reason that price
1114 has fallen below costs (or opportunity costs of the resources elsewhere), should be
1115 countered by a proportional auction volume reduction whenever the excess
1116 demand [sic] for the product is low." (I assume Dr. Salant means excess supply;
1117 ICC Staff Exhibit 11.0, page 30, lines 671-674)

1118 I believe that this principle is deeply misguided and harmful to the auction
1119 process. Reading this literally, the auction could be competitive with plenty of
1120 excess supply in the auction as a whole, but if the Auction Manager sees a bid
1121 reduction in a product at a price that might be above cost, then the Auction
1122 Manager should immediately reduce the volume. I have one question: why? With
1123 healthy competition left in the auction, there is no reason to believe that a
1124 withdrawal from a particular product in a particular round will negatively impact
1125 the ultimate auction price for that product or for any other product in the auction.
1126 With healthy competition in the auction, there is every reason to believe that
1127 filling the volume will mean competitive market prices, and this should be
1128 preferred to cutting the volume and serving the load in PJM-administered
1129 markets, exposing customers to the volatility of spot market purchases. The

1130 auction volume reduction will not penalize that particular bidder, but it may well
1131 penalize customers.

1132 The most generous reading of this principle that I can conjecture is to
1133 imagine that what Dr. Salant is really saying is that, at the end of the auction, if
1134 one or a few bidders withdraw tranches, then the bidders must be together trying
1135 to manipulate the price, and the Auction Manager should strategically counter this
1136 move, and punish the bidders by withdrawing tranches from the auction. I will not
1137 belabor the point that the customers are the ones being punished here. I will say
1138 that at the end of the auction, if bidders are estimating a common value
1139 opportunity, if bidders have obtained information throughout the auction
1140 regarding the excess supply at various price points, if bidders are being squeezed
1141 by the auction prices slowly down to their cost, if the bidding is competitive, it
1142 should not be a shock to see several bidders starting to withdraw tranches at
1143 similar price points. There is nothing sinister about this. One must remember that
1144 the bidders are the experts at assessing the risks of the market and evaluating the
1145 opportunity of providing full-requirements service. Seeing several withdrawals as
1146 excess supply falls, my first hypothesis would not be strategic price manipulation.

1147 Dr. Salant acknowledges that under his proposal, there is a risk of
1148 reducing the volume when bids are being withdrawn because “auction prices have
1149 fallen below costs.” (ICC Staff Exhibit 11.0, page 29, lines 654-655) He proposes
1150 that the Auction Manager respond to withdrawals with a volume cut back if these
1151 withdrawals are made before “price has fallen below costs” (ICC Staff Exhibit
1152 11.0, page 30, line 672). I personally hope that the bidders do not wait to exit the

1153 auction for the price to have actually fallen below costs, otherwise they may not
1154 be in this business for very long. All levity aside, It is my opinion that believing
1155 that the knowledge of one expert, be it the Auction Manager or another party, can
1156 best the market knowledge of a group of sophisticated bidders who will have
1157 learned from the information provided through the auction process, is froth with
1158 peril. It is also my opinion that should the knowledge of this one expert be used to
1159 determine “costs” and should these “costs” be used to punish bidders who
1160 withdraw before those “costs” are reached, then the bidders will ask to understand
1161 the methodology that is behind the calculation of these costs, and I believe they
1162 will be justified in doing so. The actions of the Auction Manager would no longer
1163 be simply directed at maintaining a competitive bidding environment in the
1164 auction as a whole and for the clear benefit of customers, the actions of the
1165 Auction Manager would be responding to the actions of specific bidders who
1166 would reasonably expect to understand what they were and were not allowed to
1167 do. It is worth pointing out that this situation is inherently different from other
1168 types of mitigation measures aimed at specific market participants. Mitigation
1169 measures typically aim to limit the price obtained by certain market participants to
1170 the clear benefit of customers; here, even if the auction prices are somewhat lower
1171 because of the volume reduction, the fact that they will be supplemented by spot
1172 purchases means that the benefit to customers is less than clear. Finally, enacting
1173 this type of principle is putting the auction results at serious risk of challenge from
1174 bidders and customers alike – bidders who will want to understand why their

1175 actions precipitated the reduction in volume and the customers who will want to
1176 understand how such an action would benefit them.

1177 **Q. Is there another of Dr. Salant’s recommendation related to the volume of the**
1178 **auction of Dr. Salant with which you disagree and that you believe may be**
1179 **harmful to the Auction Process?**

1180 **A.** Yes. I continue to believe my concerns associated with “rebalancing of the
1181 portfolio” as the auction proceeds continue to outweigh any potential benefits. My
1182 concerns, explained in rebuttal, are largely misquoted by Dr. Salant or are not
1183 being addressed. (ComEd Exhibit 11.0, pages 53-54, lines 1257-1277)

1184 I appreciate that although Dr. Salant reiterates most of his arguments from
1185 his direct testimony, he does admit that there are both advantages and
1186 disadvantages to establishing a procedure to rebalance the portfolio. He moves
1187 away from a formulaic approach to rebalancing the portfolio and now believes
1188 that an action should only be taken when there is a consensus between the
1189 Auction Manager and Staff that such an action is appropriate. Rebalancing would
1190 be used “as a last resort, if and when, it is obvious ... that a product is going to be
1191 significantly undersubscribed or only acquired at unreasonable premiums.” (ICC
1192 Staff Exhibit 11.0, page 52, lines 1182-1185). As I discuss below, using the
1193 measure as a last resort is not practical as there may not be sufficient excess
1194 supply on other products to make rebalancing possible.

1195 I still believe that this approach is not advisable, for several reasons. First
1196 and foremost, the rebuttal testimony of Staff witness Zuraski leads me to believe
1197 that the concern, which is expressed generically about the under-subscription for

1198 some products, in fact centers on ComEd's 5-year CPP-B product (ICC Staff
1199 Exhibit 12.0, pages 8-20, lines 176-425). I would like to strongly reiterate my
1200 direct testimony on this matter (ComEd Exhibit 4.0, page 57, lines 1356-1363).
1201 From my experience as New Jersey Auction Manager, I see no reason to doubt
1202 that there will be interest in the 5-year product and that this interest will outpace
1203 the requirements for that product in the first auction. Furthermore, I have every
1204 reason to believe in the rationality of the market participants' bidding: if no
1205 interest is initially shown on the five-year product, and if the prices of all other
1206 products are ticking down, bidders will reconsider their bids and switch into the
1207 five-year product. Bidders typically do not dismiss products out of hand or
1208 believe there is no way that they will bid on them. If my assessment turns out to
1209 be unrealistic, and no rebalancing takes place, and, if absolutely no bids
1210 whatsoever are received on the 5-year products at any time during the auction
1211 regardless of the price differentials that open up in favor of the five-year CPP-B
1212 tranche – then 700 MW (out of over 26,000MW in the Fixed Price Section) will
1213 be purchased through the contingency plan for a period of exactly one year. The
1214 workshop process for the second auction can then address anew the composition
1215 of ComEd's portfolio, and the thoughtful input of all parties can be solicited.

1216 Using the contingency plan is always a cost to customers, at least in terms
1217 of the price volatility it implies. However, re-balancing the portfolio also has a
1218 cost, namely that the prices of the other products (the products for which the
1219 number of tranches is increased) will be higher than they otherwise would have
1220 been. Furthermore, I do not believe that there would a “good time” in the auction

1221 to attempt a re-balancing. As Dr. Salant himself admits, at the start of the auction,
1222 or even in the middle, the bids may not be all that indicative of final interest. At
1223 the end of the auction, re-balancing presents two difficulties. First, the other
1224 products may not have sufficient excess supply left to absorb the extra tranches of
1225 demand – there is a risk of waiting too long. Second, knowing that the rebalancing
1226 cannot occur too late, but knowing that it should occur late enough to be based on
1227 true and well considered proofs of interest or lack thereof, rebalancing may well
1228 serve as an unfortunate signal to bidders that the auction is ready to close, and
1229 may well precipitate a premature end to the bidding by providing bidders with a
1230 coordinating device.

1231 In sum, I believe that a rebalancing policy offers new gaming
1232 opportunities for bidders. Especially given the limited scope of the concern
1233 leading to this recommendation, it is my opinion that the benefits of not
1234 rebalancing are higher than the benefits from balancing the portfolio.

1235 c. Information Disclosures.

1236 **Q. Have you reviewed Dr. Salant’s rebuttal testimony, in particular his**
1237 **recommendation that bidders be required to disclose to the Auction**
1238 **Manager, the ICC Staff and the Auction Advisor certain contractual**
1239 **relationships?**

1240 A. Yes.

1241 **Q. Do you agree with his recommendation?**

1242 A. No.

1243 **Q. Please explain why you do not agree.**

1244 A. I have explained in detail in my rebuttal testimony (ComEd Exhibit 11.0, pages
1245 51-52, lines 1224-38) that requiring contract disclosures is inadvisable and I will
1246 not reiterate all these reasons here.

1247 Generally speaking, the reasons fall in two categories. First, it is my
1248 opinion that required supply contract disclosures will deter auction participation
1249 or raise the cost of participation in the auction for suppliers, which would have the
1250 effect of raising auction prices to the detriment of customers. Second, the
1251 proposed Association and Confidential Information rules have been carefully
1252 crafted to foster competition in the auction and to ensure the fair and equal
1253 treatment of all bidders; additional contract disclosures are not needed, are not
1254 likely to be effective, and are likely to be harmful to the Auction Process.

1255 Dr. Salant has changed and clarified his recommendation since his direct
1256 testimony. Specifically, he is now recommending requiring disclosure only of
1257 contracts that are a full-requirements product and contingent on the auction
1258 outcome. The process he is recommending is a staged disclosure. In Stage 1, if a
1259 bidder has a full-requirements contract, the bidder would disclose this fact. If
1260 there are any such contracts, then in Stage 2, the bidders would be asked to
1261 identify the counter-party. If in aggregate the full-requirements contracts with a
1262 given counter-party exceeded the load cap, the affected bidders would be asked to
1263 reduce their eligibility or to take some other action (including presumably
1264 withdraw from the auction) to stay under the load cap. Dr. Salant makes this
1265 revision after noting that he “recognize(s) that the need for stronger affiliation

1266 disclosure requirements must be handled carefully so as to not discourage bidder
1267 participation”. (ICC Staff Exhibit 11.0, page 35-36, lines 797-799)

1268 We both agree that forced contract disclosures will negatively affect
1269 participation. Dr. Salant in rebuttal narrows his focus to full-requirements
1270 contracts contingent on the auction outcome, reducing the amount of forced
1271 disclosure from his position in the direct testimony (ICC Staff Exhibit 11.0, page
1272 36-37, lines 820-823). He clarifies the procedure for these disclosures, which
1273 include penalizing bidders who have collectively contracted with the same
1274 upstream supplier for more than the load cap.

1275 The clarification of Dr. Salant’s position only makes me believe more
1276 strongly that his recommendations on contract disclosures are not well founded,
1277 have no benefits, and certainly can be harmful to the auction.

1278 **Q. Why are Dr. Salant’s recommendations not well founded?**

1279 A. Dr. Salant’s recommendations are based on two premises. First, he assumes that
1280 without these disclosure requirements “a large supplier could circumvent the load
1281 cap, and hence exercise market power in the auction, even while not participating
1282 in the auction” (ICC Staff Exhibit 11.0, page 32, lines 713-716). Second, he
1283 believes that an upstream supplier offering contracts to multiple bidders is
1284 collusion – specifically, he states that: “collusive agreements of the type I
1285 described above could undermine the integrity of ComEd’s CPP.” (ICC Staff
1286 Exhibit 11.0, page 36, lines 816-817). The collusive agreement he is referring to
1287 consists of multiple bidders contracting – unbeknownst to each other – with a

1288 single common supplier. It is my opinion that both of these premises are
1289 incorrect.

1290 I will discuss the load cap issue first. I have discussed extensively the
1291 functions of the load cap (ComEd Exhibit 11.0, pages 21-34). I believe that the
1292 ability of the load cap to perform these functions would not be impaired if some
1293 bidders had an upstream supplier in common. I will briefly review these functions
1294 here.

1295 One function of the load cap is to achieve a degree of diversity in the
1296 supplier pool so as to protect customers from the price variability that could result
1297 from supplier default. It is the credit of the winning bidder who signs the Supplier
1298 Forward Contract and provides financial security that supports performance of the
1299 Supplier Forward Contract – not the credit of its upstream supplier. Even if
1300 multiple winning bidders with a common upstream supplier serve tranches in
1301 excess of the load cap, the credit diversity protection of the load cap would still be
1302 achieved.

1303 The load cap, together with the amount of excess supply information that
1304 is provided to bidders, aim to defeat any attempts to influence the auction price by
1305 a strategic and profitable withdrawal of tranches as the auction is coming to a
1306 close. As explained at pages (26-28 and 29) of my rebuttal testimony, the
1307 information provided to bidders regarding excess supply is coordinated with the
1308 load cap, as these two instruments work together toward this common goal. A
1309 bidder, if it had precise enough information concerning excess supply at the end
1310 of the auction, could attempt to withdraw tranches to accelerate closing and to

1311 obtain a higher price. This strategy could be profitable if the sacrifice that the
1312 bidder in terms of volume was limited. As the excess supply information becomes
1313 less precise, the risk to the supplier that the withdrawal will reduce the amount
1314 won without affecting the price increases, and the benefit from using such a
1315 strategy is correspondingly reduced. As the load cap is reduced, the sacrifice that
1316 the bidder must make in terms of volume is a higher proportion of the bid, and the
1317 benefit from using such a strategy is reduced. Even if some bidders were supplied
1318 through a common upstream supplier, even if such supply is collectively in excess
1319 of the load cap, the competitive safeguard would still be effective. Each bidder is
1320 subject to the load cap; in the auction, the load cap is designed so that a bidder
1321 would not find it profitable to withdraw tranches for the purposes of influencing
1322 auction price, and it is irrelevant whether or not the bidder is one of several being
1323 supplied by a common upstream supplier. The upstream supplier does not
1324 similarly attempt to influence the price (“exercise market power”) in the auction.
1325 The upstream supplier certainly cannot itself withdraw tranches as the excess
1326 supply decreases since the upstream supplier is not actually bidding in the
1327 auction. The upstream supplier cannot withdraw tranches as the excess supply
1328 decreases by giving directives to coordinate the bidders it is supplying: the
1329 Association and Confidential Information Rules expressly preclude an upstream
1330 supplier providing instructions to bidders on how to bid, preclude a bidder from
1331 having a supply contract that would provide such instructions, and preclude a
1332 bidder from providing to the upstream supplier the excess supply information that
1333 it would need to coordinate the withdrawal of tranches and influence the price. It

1334 is far-fetched at best to imagine that an upstream supplier could engineer the same
1335 results from outside the auction even through careful planning. The upstream
1336 supplier would somehow need to be able to predict perfectly the excess supply
1337 that will prevail at various price points, to decide at what price tranches should be
1338 withdrawn to influence the ultimate auction price given its perfect predictions of
1339 excess supply, to succeed in negotiating with bidders exactly the contracts that the
1340 upstream supplier imagines will perfectly produce this pattern of withdrawals at
1341 various price points (or would the supplier want all bidders to be at the same price
1342 point?), and finally the upstream supplier would somehow need to prevent bidders
1343 from considering or using any other source of supply for the auction so that the
1344 bidders' behavior is completely and only determined by the contract terms. I do
1345 not deny that the upstream supplier will have information concerning the bidding
1346 strategy of the bidders it supplies by virtue of having contracted with them. I do
1347 not deny that the auction price emerges as bidders bid on the basis of their supply
1348 arrangements coming into the auction (should they have any) and this is true in
1349 particular if a bidder holds a full-requirements contract. But that is a long way
1350 from an upstream supplier determining or exerting direct influence over the
1351 auction price. The upstream supplier may be supplying some of the bidders at the
1352 auction, but it will not know who the other bidders are, let alone know how they
1353 will be bidding their supply. Without that information, predictions of excess
1354 supply at the auction are precarious at best. Without such predictions, calculating
1355 withdrawals needed to obtain a given price would be unlikely if not impossible.
1356 Even if such predictions were possible, negotiating with a bidder to ensure that

1357 price is not only under the control of the upstream supplier. A bidder will choose
1358 the offer of an upstream supplier offering full-requirements if it is the lowest cost
1359 option among all the ways in which the bidder could put together its supply
1360 portfolio for the auction. Bidders are not required to contract with any supplier. A
1361 bidder, especially an experienced bidder, will have other options in assembling
1362 products from the wholesale market and will by that very fact have a solid
1363 bargaining position with any upstream supplier – it is illogical to believe that the
1364 upstream supplier will be able simply to dictate the price. Even bidders who may
1365 be newer and who would find the possibility of a full-requirements deal attractive
1366 would not sign this deal unless it believed the supply arrangements would make it
1367 competitive at the auction: these bidders would not be willing to incur
1368 participation cost to bid at prices that they suspect would not win. Furthermore,
1369 even if the upstream supplier were able to obtain exactly the price it wanted for its
1370 full-requirements contract, the bidder hardly becomes an auction automaton that
1371 bids precisely down to the contract price. No bidder is precluded from contracting
1372 with multiple suppliers and to be able to use multiple sources of supply to bid in
1373 the auction. A bidder may well have alternate supply arrangements or
1374 supplemental supply arrangements that the upstream supplier does not know
1375 about and that the bidder could well use in addition or instead of the full-
1376 requirements deal, depending on the precise terms of the agreement. The open
1377 auction format allows the possibility that the bidder will reconsider its assessment
1378 of the market, revise its bidding strategy, and re-think its supply arrangements on
1379 the basis of the round results as the auction unfolds. No bidder is precluded from

1380 re-assessing its supply arrangements and even waiting until after the auction to
1381 completely line up its supply. There is a wide, and in my view un-bridgeable gap,
1382 between multiple bidders with a common upstream supplier on the one hand, and
1383 an upstream supplier actually exerting market power on the auction price on the
1384 other.

1385 The load cap remains effective in its other functions, whether or not it is
1386 the case that some bidders are supplied by a common upstream supplier. The load
1387 cap remains effective to limit the ability of a bidder to over-state their initial
1388 interest in the auction; whether or not several bidders have a common source of
1389 supply is irrelevant to their providing a realistic picture of their initial interest in
1390 the auction, and to their being constrained by the load cap. Similarly, the
1391 effectiveness of the load cap in attracting smaller or newer suppliers is not
1392 compromised. Smaller or newer suppliers will view positively a load cap that
1393 allows them a chance to compete. To the extent that such a load cap constrains an
1394 upstream supplier who then makes available wholesale products such as full-
1395 requirements supply to auction participants instead of participating directly, the
1396 load cap may further favor the participation of smaller suppliers rather than
1397 deterring it.

1398 Dr. Salant is wrong that an upstream supplier selling full requirements
1399 products to multiple bidders would circumvent the effectiveness of the load cap
1400 and he is wrong that the upstream supplier would either want or be able to
1401 exercise market power in the auction. This error stems from the fundamental
1402 misunderstanding he still has – despite his claims to the contrary – concerning

1403 competition in the auction and competition in the wholesale market. I discuss this
1404 misunderstanding in my rebuttal testimony (ComEd Exhibit 11.0, pages 88-80,
1405 lines 2068-2084) and will not repeat that testimony here. The load cap is
1406 designed to ensure competition *in the auction* and is a limit on the amount that
1407 any one party will bid and win *in the auction*. The load cap is not designed to
1408 operate at the wholesale level. The load cap is not designed to limit the wholesale
1409 products that a wholesale supplier can offer to bidders. The load cap is designed
1410 to be an effective competitive safeguard in the auction itself; it is designed to be
1411 effective whether or not some bidders have a common source of supply.

1412 The second premise of Dr. Salant’s argument is that when an upstream
1413 supplier provides a full requirements product to multiple bidders, this is collusion.
1414 I simply cannot understand this. I understand how a collusive result could obtain
1415 if bidders conspired to behave in concert in the auction and keep prices high. I
1416 understand how a collusive result could obtain if bidders with a common source
1417 of supply knew that each had the same source of supply, knew the price structure
1418 of the contracts, and used this information to implicitly coordinate. But neither of
1419 these situations will obtain because both of these situations are prohibited under
1420 the Association and Confidential Information Rules. The plain and ordinary
1421 meaning of collusion is a “secret agreement between two or more persons for a
1422 deceitful or fraudulent purpose” (American Heritage dictionary). The synonym is
1423 “conspiracy”. The upstream supplier is not colluding using the bidders as a
1424 conduit – who is it colluding and conspiring with, itself? The bidders who buy
1425 full-requirements from the same upstream supplier are not colluding either,

1426 whether in the ordinary sense of the word, or in any antitrust sense; these bidders
1427 are not conspiring, they do not have an agreement, they do not even know that
1428 they share a common source of supply! Branding bidders that happen to have the
1429 same upstream supplier as participating in a collusive agreement is simply wrong.
1430 It is wrong and it is needlessly inflammatory. Dr. Salant states that if his
1431 recommendation is not adopted “collusive arrangements of the type I described
1432 above could undermine the integrity of ComEd’s CPP.” (ICC Staff Exhibit 11.0,
1433 page 36, lines 816-817) It is certainly true that collusive arrangements can
1434 undermine the integrity of the auction. But multiple bidders in the auction with a
1435 common upstream supplier just is not a collusive arrangement. Dr. Salant defining
1436 this situation to be a collusive agreement (ICC Staff Exhibit 11.0, page 34, lines
1437 765-769) does not make it so.

1438 **Q. You testified that Dr. Salant’s recommendation could in fact be harmful.**
1439 **Other than having the effect of discouraging participation, as Dr. Salant**
1440 **himself acknowledges, how are his recommendations harmful?**

1441 A. I believe Dr. Salant’s recommended disclosure rules are harmful for two reasons.
1442 First, it is my opinion that these rules are neither transparent nor fair to bidders,
1443 and could perversely lead to a facilitation of (true rather than imagined) collusion.
1444 Second, I believe that these rules put unnecessary hurdles in the path of bidders
1445 trying to make the least cost supply arrangements in preparation for the auction,
1446 and in so doing are likely to raise the auction price.

1447 **Q. Can you please elaborate on the first point, the fact that the recommended**
1448 **rules lack transparency and are unfair to bidders?**

1449 A. Dr. Salant is proposing that, once contract disclosures have been made, if the
1450 Auction Manager finds that in aggregate the full-requirements contracts of bidders
1451 with a given counter-party exceed the load cap, the Auction Manager would ask
1452 the affected bidders to reduce their eligibility or to take some other action
1453 (including presumably for some of these bidders to withdraw from the auction) to
1454 stay under the load cap. I would ask you to put yourself in the position of such a
1455 bidder. The bidder has read carefully the auction rules and the supplier forward
1456 contract. The bidder has analyzed the auction opportunity. The bidder has lined up
1457 the least costly supply it could find for purposes of bidding in the auction; part or
1458 all of that supply is a full-requirements contract with an upstream supplier. In all
1459 aspects of his preparation for the auction, and in particular in lining up supply for
1460 the auction, the bidder has taken all due precautions not to contravene the
1461 Association and Confidential Association rules. The bidder has made sure that it
1462 did not reveal confidential information regarding its bidding strategy and has
1463 made sure that it did not learn any information regarding the bidding strategy of
1464 another bidder – for example, it has not asked the upstream supplier whether it
1465 was providing supply to other bidders in the auction. Through this careful
1466 preparation, the bidder was able to make certifications that were required in the
1467 Part 2 Application. The bidder has carefully determined its indicative offer and
1468 obtained a letter of credit for the requisite amount. After submitting the Part 2
1469 Application, the bidder gets a call from the Auction Manager. The bidder learns
1470 that it must reduce the amount it is bidding in the auction, or it must agree not to
1471 participate, or it must agree not to use the full-requirements deal to support its bid

1472 and go instead to another source of supply that it had determined was higher cost.
1473 This is through no fault of its own: short of dismissing out of hand the option of
1474 taking a full-requirements contract from any upstream supplier at the very
1475 beginning of the process, there is nothing the bidder could have done in its
1476 preparation for the auction to avoid this situation or to ensure that its costly
1477 preparations for the auction were not made in vain. The bidder is penalized and
1478 must re-organize its bid while having taken all possible actions to conform to the
1479 Association and Confidentiality Information Rules and all other requirements of
1480 the Auction Process.

1481 Dr. Salant's recommended disclosure rules and procedures are
1482 wholeheartedly and uncontrovertibly aimed at constraining and limiting the
1483 upstream wholesale supplier rather than being aimed at ensuring competition in
1484 the auction. Dr. Salant's recommendations cannot directly aim at the upstream
1485 supplier who is not bidding in the auction and thus is outside the ambit of the
1486 auction rules. So his recommendations aim at the bidders in the auction – but
1487 these bidders could not possibly have done anything to avoid the penalty he is
1488 recommending be imposed. The proposed rules are unfair and lack the
1489 transparency that bidders need to be able to conform and comply with the
1490 competitive safeguards of the auction process.

1491 Furthermore, once the Auction Manager tells bidders to re-organize,
1492 abandon their supply contracts, or reduce their participation, the Auction Manager
1493 has now revealed to those bidders information that they were prohibited by the
1494 Association and Confidential Information Rules from revealing themselves. The

1495 bidders have now learned that 1) other bidders also have full-requirements
1496 contract with the same upstream supplier and 2) the indicative offers of all such
1497 bidders after they comply with the requirement to re-organize will be precisely
1498 equal to the load cap. Arguably, each bidder has now both quantity and price
1499 information about some of its rivals: the bidder knows that the other affected
1500 bidders' indicative offers are equal to the load cap minus its own offer, and the
1501 bidder may surmise that the contract that other affected bidders were able to
1502 obtain from the upstream supplier is probably similar to its own. The Auction
1503 Manager has now given these affected bidders some highly confidential
1504 information that other bidders will not have, and that provide affected bidders
1505 with tools to attempt to implement a collusive agreements if they so wish.

1506 **Q. Can you please elaborate on the second way in which Dr. Salant's**
1507 **recommendations are harmful, namely the point that the recommended rules**
1508 **can lead to a higher price in the auction?**

1509 A. As I have testified above, bidders would only be expected to contract with an
1510 upstream supplier for full-requirements if the supplier offered the least cost
1511 arrangement for the bidder to participate in the auction. I see no reason why it
1512 makes sense to put hurdles in the path of bidders trying to make the least cost
1513 supply arrangements in preparation for the auction by putting bidders contracting
1514 with an upstream supplier for full-requirements supply at risk of a penalty.
1515 Bidders will be led to choose other, higher cost supply arrangements either at the
1516 outset or once it has been determined that arrangements of multiple bidders with
1517 the same upstream supplier exceed the load cap. This will tend to raise the price

1518 of the auction. As I have also testified above, smaller or less experienced bidders
1519 may well be more likely to favor a full-requirements deal with an upstream
1520 supplier until they acquire more experience in assembling wholesale products to
1521 be able to supply the auction product. Such disclosure rules will tend to
1522 discourage the participation of smaller or newer players – any such restriction on
1523 the participation of bidders can only further raise the auction price. Furthermore,
1524 to the extent that an upstream supplier has an advantage in portfolio acquisition
1525 and price-risk management so that it has an advantage in supplying the auction
1526 product, the best avenue for these benefits to get to customers may well be
1527 through full requirements deals in support of the bids of multiple bidders.

1528 **Q. Doesn't Dr. Salant have the perfect solution to harness the advantage of the**
1529 **upstream supplier, namely the price-taker option?**

1530 A. Dr. Salant certainly believes he has the perfect solution. I have a different view.

1531 I believe that a price-taker option is worse than allowing competitive
1532 forces to dictate whether an upstream supplier can be successful in selling a full-
1533 requirements contract to multiple bidders in the auction. I think that Dr. Salant –
1534 aside from clarifying that even with a price taker, at least one tranche for each
1535 product would remain in the auction – has not addressed the multiple concerns
1536 that I raised in rebuttal regarding this proposal, which I will not address in detail
1537 here.

1538 I continue to believe that the price-taker option will deter participation.
1539 This is supported by Midwest Generation witness Frank C. Graves (MWGen
1540 Exhibit 2.0, page 4, lines 70-82). Dr. Salant disingenuously argues that his

1541 proposal cannot affect participation since bidders will have already submitted
1542 their Part 2 Applications before they learn that there will be a price-taker: “as
1543 other bidders only learn of a price-taker after the Part 2 application deadline, I
1544 would not anticipate any significant reduction in bidder participation” (ICC Staff
1545 Exhibit 11.0, page 59, lines 1333-1335). In this case, I will let Dr. Salant himself
1546 rebut this point: “Participation of all qualified suppliers is not guaranteed. In
1547 virtually every auction in which I have acted as an advisor, participation has been
1548 a concern prior to the auction and there are always bidders who do not show up.”
1549 (ICC Staff Exhibit 11.0, page 25, lines 559-562) I agree with the latter. A filled
1550 out Part 2 Application should not be equated with a bidder who shows up at the
1551 auction and competes. The existence of a price-taker and a reduction in the
1552 volume at the auction will certainly deter bidders from participating at that stage.
1553 Furthermore, the fact that a supplier could go through both stages of the
1554 application process only to find out that there is a price-taker and volume is cut
1555 back can only reduce the attractiveness of the auction opportunity at the outset
1556 and lessen the probability that an interested party becomes engaged in the process.
1557 Dr. Salant has a solution if low participation does materialize because of the
1558 price-taker option – it’s his usual panacea, a volume reduction, and some spot
1559 purchases to increase the price volatility for customers (ICC Staff Exhibit 11.0,
1560 page 60, lines 1369-1371). I believe that it would be better to let bidders and their
1561 upstream suppliers contract on the best possible terms and for bidders to compete
1562 for the full volume, so as to provide customers with reliable supply at competitive
1563 market prices, than to have a price-taker option.

1564 Dr. Salant, in rebutting the point that the price-taker results in a high
1565 default risk, admits that this option carries additional risks for the price-taker,
1566 because the price-taker is committed to taking a price it cannot influence. (Dr.
1567 Salant does not, having admitted this, explain why an upstream supplier would
1568 take this option in the first place). Dr. Salant dismisses this point by citing the
1569 creditworthiness evaluation of the Part 1 Application. Clearly, Dr. Salant is
1570 unfamiliar with the terms of the Supplier Forward Contracts, otherwise he would
1571 know that although there are reasonable collateral requirements, there is no
1572 minimum rating, and no provision that would eliminate the possibility of supplier
1573 default to the degree envisaged by Dr. Salant. Obviously, the creditworthiness
1574 evaluation in the Part 1 Application (it is an evaluation of whether the party is
1575 creditworthy, not a certification that it is) follows the principles of the Supplier
1576 Forward Contract.

1577 Dr. Salant does not rebut many of the points that make the price-taker
1578 proposal impractical and harmful to the process as explained in my rebuttal
1579 testimony (ICC Staff Exhibit 11.0, pages 42-46). Dr. Salant does not rebut the
1580 point that the price-taker option negates the advantages of the open auction, that
1581 the price-taker option means that the auction price is potentially no longer a
1582 market-based price, and that there are practical problems apportioning the
1583 indicative offers, especially for multiple price-takers, across the various products
1584 to ensure that all are subject to the discipline of bidding from the auction.

1585 **Q. Does he have any new arguments to support the price-taker proposal?**

1586 A. Yes, there is one. He now claims that the price under a price-taking option cannot
1587 be higher than when the price-taker participates directly in the auction.

1588 **Q. Are the assumptions that lead to this conclusion reasonable?**

1589 A. No. He assumes that the supply at the auction is the same whether or not the
1590 price-taker is present. As I and Midwest Generation witness Graves have
1591 forcefully argued, this assumption is unrealistic. The price-taker option can be
1592 expected to reduce supply from bidders – in the face of such reductions, Dr.
1593 Salant’s conclusions simply do not hold.

1594 d. Auction Management Issues

1595 **Q. Section 4 of Dr. Salant’s rebuttal testimony discusses features of the ComEd**
1596 **Revised Auction Proposal that Dr. Salant believes require significant**
1597 **modification. In part 3 of this section entitled “ComEd’s proposed task**
1598 **plan” he outlines a series of process changes. Please comment on that**
1599 **testimony and his recommendations.**

1600 A. Both in this section and scattered at various points in earlier parts of his
1601 testimony, Dr. Salant makes numerous recommendations concerning the timing of
1602 certain documents and activities and the process by which certain activities should
1603 be carried out. In fact he goes so far as to condition his agreements with the
1604 major elements of ComEd’s revised proposal with acceptance of these detailed
1605 process suggestions and timeline.

1606 I disagree that it is either necessary or practical to specify this level of
1607 operational detail at this time and I disagree that the most efficient way to resolve
1608 these issue is for the Commission to consider and rule on the operational details.

1609 Taken as a whole, these represent a disturbing tendency to micro-manage the
1610 conduct of the auction. The problem is that such micro-management can be
1611 counter productive and potentially harmful. It is counter productive in that in
1612 time, the Auction Manager working with Staff will be able to agree to practices
1613 and deadlines that fit the actual circumstances and have not been set months in
1614 advance without the benefit of actual conditions and the working relationship.
1615 They are potentially harmful in that bidders may have negative reactions to the
1616 uncertainty created by interim check points and will wonder if these bode ill for
1617 possible delay or substantial revision of the auction.

1618 Moreover, many of the recommendations simply don't make sense. For
1619 example Dr. Salant both recommends that Staff attend the bidder information
1620 sessions and that the Auction Manager provide a written account of the sessions
1621 (ICC Staff Exhibit 11.0, page 38, lines 898-899). Either is fine, but it makes no
1622 sense to summarize for Staff a session that they attended. More substantively, Dr.
1623 Salant recommends a complex procedure in which the Auction Manager would
1624 make a compliance filing summarizing bidder information sessions and auction
1625 promotion activity within one week of the last bidder information session. He
1626 then holds out the possibility of a filing by Staff within 21 days to object to
1627 promotional activities. The timing simply does not work as the final bidder
1628 information session may well be less than 21 days prior to the auction.
1629 Furthermore, it is not clear what such an objection would accomplish as there
1630 would be no time to remedy the situation before the auction was to take place. I
1631 believe that the Auction Manager and Staff should keep Staff informed

1632 throughout the process and throughout the various promotional activities, to seek
1633 and incorporate their feedback as the process unfolds; I believe that this would
1634 render the burdensome process that Dr. Salant proposes unnecessary.

1635 He recommends that practice auctions occur prior to the final bidder
1636 information session. In practice the final session prepares bidders for the practice
1637 auctions. Additionally, bidders benefit from a practice auction held as close as
1638 possible to the actual auction.

1639 It appears that Dr. Salant would like to control and adjudicate every aspect
1640 of the auction process and every decision taken as soon as it is taken. Many of
1641 these suggestions are offered under the guise that it will be too late to correct any
1642 mistake that the AM makes so interim checks are needed to spot and correct
1643 problems before any damage is done. The problem is that this approach quickly
1644 devolves to and is indistinguishable from having the Staff and Auction Advisor
1645 managing the auction. While I have no problem with that, if the Commission
1646 prefers to have Staff take on that responsibility, it should be done upfront. It is
1647 not workable to hand responsibility to the Auction Manager and then have each
1648 action or decision subject to review and modification in near real time. I don't
1649 believe this is a workable process and I do believe it would be of concern to
1650 bidders as a result of uncertainty being introduced.

1651 I recommend that the numerous process and timing recommendations that
1652 Dr. Salant makes be rejected and that the Staff and Auction Manager work
1653 together to develop reasonable and efficient procedures for managing the auction
1654 process.

1655 **Q. Have you reviewed Exhibit 10.1, Dr. Salant's mark up of the Content of the**
1656 **Confidential Staff Report?**

1657 A. Yes.

1658 **Q. Do you agree with the suggestions he makes?**

1659 A. I have no problem with the majority of those suggestions. There are a handful of
1660 suggestions that I don't agree are necessary or appropriate. The changes he
1661 suggests that I recommend be rejected or modified are as follows:

1662 1. Dr. Salant adds a sentence that contains the phrase "the Staff will rely on
1663 the expertise of the Auction Advisor" and adds a requirement that the
1664 Auction Advisor and other Advisors Staff may retain "will certify under
1665 oath that the report is to the best of his or her knowledge accurate." The
1666 word "will" in the first change should be changed to "may" and the second
1667 addition should be dropped. These changes impinge on the ability of Staff
1668 to use its advisors in general and the Auction Advisor in particular as it
1669 best sees fit. Further, it is Staff and not the Auction Advisor that has
1670 responsibility to report to the Commission, and Staff that will be in a
1671 position to decide if the Auction Advisor needs to make any certifications
1672 under oath.

1673 2. In Section 2, Dr. Salant has changed question 10 from "Was round by
1674 round data provided on a timely basis to the Staff?" to "Did Staff receive
1675 the same access to data as the AM?". The question should be changed to
1676 "Did Staff receive the same round result data as the AM?" This makes it
1677 clear that Staff should receive the same data as the AM, but does get in to

1678 the mechanics of how the data was accessed. The AM may be the entity
1679 with data access and it would provide the data to the Staff.

1680 3. In Section 4, Dr. Salant adds the phrase “as well as any other answers to
1681 questions that Staff may incorporate into its report.” I suggest adding to
1682 that phrase “in connection with Section 2, the Evaluation of the Conduct
1683 and Competitiveness of the Auction”. As Exhibit 10.1 is written, it is only
1684 in that section that discretion is provided to add questions, and this should
1685 be clarified. It is important to bidders that the Commission review criteria
1686 be well specified. While I agree that there should be no limits on
1687 questions concerning the conduct and competitiveness of the auction, I
1688 believe that an open invitation to add any question as the language added
1689 by Dr. Salant to Section 4 extends, would create substantial uncertainty for
1690 bidders and that the change should be clarified to apply the questions that
1691 may be added in Section 2.

1692 I have provided as Exhibit ComEd 19.6 a revised version of Exhibit 10.1 that
1693 marks the changes that I suggest.

1694 **Q. Does your review of Exhibit 10.1 give rise to any other issues?**

1695 A. Yes. I believe it is implied that if all questions are answered so as to indicate a
1696 valid result, the presumption is that the Staff would not recommend further action
1697 but if some questions cannot be answered so as to indicate a valid result, Staff
1698 would be expected to review the materiality of any exceptions and decide in the
1699 context of the entire Auction whether to recommend further action, retaining the

1700 discretion to decide that issue either way. However, it may be worthwhile to
1701 clarify this. I have added this to the mark up as well.

1702 V. **A Utility Portfolio Management Approach Will Not Benefit Customers**

1703 Q. **Please summarize the issues that you will address in this section of your**
1704 **surrebuttal testimony?**

1705 A. In this section of my testimony I will address claims made in rebuttal
1706 testimony that the impact of the market power intervenors allege exists in
1707 wholesale markets can be diminished or controlled through the auction in
1708 particular, and through ComEd's method for procuring power for its
1709 customers in general. The witness that propounds this point of view most
1710 prominently is Dr. Steinhurst. Dr. Steinhurst also for the first time presents a
1711 specific proposal for ComEd procurement. Hence, in this section I will also
1712 review and assess Dr. Steinhurst's proposal that ComEd undertake an active
1713 portfolio management role.

1714 Dr. Steinhurst argues that a diverse portfolio of resources that is
1715 actively managed by ComEd would result in lower costs for customers.
1716 (CUB-CCSAO Exhibit 4.0, pages 18-31) He does this while acknowledging
1717 that "[it] is true that the wholesale markets are there as backdrop to whatever
1718 other resource procurement strategies might be selected" (CUB-CCSAO
1719 Exhibit 4.0, page 16, lines 358-359) and while arguing that "Witnesses Fagan
1720 and Rose make a compelling case that there exists a potential for serious
1721 market power problems in the wholesale electric markets". (CUB-CCSAO
1722 Exhibit 4.0, page 14, lines 293-295)

1723 Dr Steinhurst is arguing that while he believes market power exists in
1724 wholesale electric markets, the impact of the alleged wholesale market power

1725 problems can be diminished through active portfolio management. The
1726 reasons he gives in support of this proposition are that ComEd as an active
1727 portfolio manager could use its buying power (CUB-CCSAO Exhibit 4.0,
1728 page 20, lines 435-436), could use its special financial advantages (CUB-
1729 CCSAO Exhibit 4.0, page 26, line 570), could buy a diverse set of products
1730 (CUB-CCSAO Exhibit 4.0, page 20, lines 437-441) that is optimized around
1731 customer needs (CUB-CCSAO Exhibit 4.0, page 26, lines 574-577) and that
1732 ComEd could make the best trade-offs from various power products available
1733 in the market including the exchange of non monetary benefits (CUB-CCSAO
1734 Exhibit 4.0, page 24, lines 532-535). Dr. Steinhurst even extends the range of
1735 options that he believes should be considered to include “above the line”
1736 regulated investment in new generating plant (CUB-CCSAO Exhibit 4.0, page
1737 24, lines 522-523).

1738 **Q. Please summarize your reaction to Dr. Steinhurst’s argument that as an**
1739 **active portfolio manager ComEd could diminish market power in ways**
1740 **not available through the proposed Auction Process.**

1741 A. While I do not agree with that argument and will explain why in detail, my
1742 primary reaction is that none of his proposals are actually geared to
1743 diminishing the impact of alleged market power in wholesale generation
1744 markets. While he offers these ideas justified based on the potential
1745 mitigation of alleged market power in wholesale markets, he never explains
1746 how his proposals would in fact help control alleged wholesale electric market
1747 power. Hence, while I believe his contention that active portfolio

1748 management is superior for customers can and should be addressed, his
1749 rationale for active portfolio management is misportrayed and it should not be
1750 viewed as an antidote to alleged market power or disguised under the cloak of
1751 a market power justification.

1752 Dr. Steinhurst is entitled to propose that ComEd actively manage a
1753 supply portfolio that includes a diverse set of resources and ‘above the line’
1754 generation, and that ComEd exchange both monetary and non monetary
1755 benefits with suppliers and recover costs under a prudence standard applied
1756 retroactively. However, Dr. Steinhurst has presented no evidence that such an
1757 approach to procurement would be superior to ComEd’s proposed Auction
1758 Process that uses strictly defined contracts and a price only evaluation (CUB-
1759 CCSAO Exhibit 4.0, page 24, lines 526-532) and that is designed to be a
1760 prudent procurement method. More troubling is the fact that he
1761 disingenuously uses market power as the justification for his proposal that
1762 ComEd actively manage a supply portfolio of diverse resources. Dr.
1763 Steinhurst neither establishes that a portfolio management approach to
1764 procurement is preferable to the proposed Auction Process nor does he create
1765 a credible nexus between the choice of procurement method and the potential
1766 exercise of market power in the wholesale market.

1767 It is clear that Dr. Steinhurst’s proposal is motivated by a belief that
1768 the most efficient procurement alternative and the alternative best for
1769 customers is to have ComEd actively manage a portfolio, constantly fine tune
1770 and adjust that portfolio, make portfolio decisions considering monetary and

1771 “non-monetary” factors and recover the costs of that portfolio under a
1772 prudence standard applied retroactively. This portfolio management proposal
1773 should be evaluated on its own merits, and should not be confused with the
1774 separate question of whether market power exists in the wholesale market.

1775 To obtain a better idea of Dr. Steinhurst’s views on this matter, I
1776 reviewed a report that he co-authored with others at Synapse Energy
1777 Economics on the issue of Portfolio Management: *Portfolio Management:*
1778 *How to Procure Electricity Resources to Provide Reliable, Low Cost, and*
1779 *Efficient Electricity Services to All Retail Customers*, Synapse Energy
1780 Economics (Steinhurst, Biewald, Woolf, and Roschelle, October 10, 2003). I
1781 do note that control of market power is one reason cited in that report for the
1782 use of Portfolio Management. However, the rationales offered are limited to:
1783 1) when the utility has resources under contracts of various terms, there is a
1784 limit on the profitability of exercising market power in the spot market (page
1785 10); and, 2) since most default plans procure supply every six months to one
1786 year on a single day this procurement may enable market manipulation on that
1787 day and the laddering of or use of multi-period contracts may help to decrease
1788 market power as well as price volatility (page 48). Neither assertion is
1789 explained in detail or supported. That report does show that Dr. Steinhurst has
1790 a consistent position on the impact that Portfolio Management may have on
1791 alleged wholesale market power, but it also shows that there is neither
1792 substance in support of these claims nor any comparative analysis between the
1793 proposed Auction Process and the Portfolio Management proposal. In fact,

1794 the same sweeping assertions that portfolio management curbs alleged
1795 wholesale market power would also apply to the proposed Auction Process.
1796 The proposed Auction Process will result in term commitments that would
1797 reduce the profitability of exercising market power in the spot markets;
1798 similarly, ComEd’s proposed Auction Process also includes a laddering of
1799 contracts. Any proper comparative assessment would demonstrate that the
1800 portfolio management approach offers no specific advantage in addressing
1801 alleged market power in the wholesale spot market.

1802 **Q. Can you explain briefly why the presence or absence of market power is**
1803 **irrelevant to the merits of his proposal?**

1804 A. Yes. Dr. Steinhurst acknowledges that his proposal for active portfolio
1805 management and the proposed Auction Process both access the same
1806 wholesale markets. (CUB-CCSAO Exhibit 4.0, page 16, lines 358-359) His
1807 allegations of market power in those wholesale markets is supported by
1808 reference to Mr. Fagan’s testimony. Let’s look at that testimony:

1809 My primary contention is that any ability to exercise market power
1810 in the physical spot markets in PJM through physical or economic
1811 withholding of resources in the Northern Illinois region can result
1812 in the potential for higher Northern Illinois spot market prices
1813 during any period in which transmission is constrained “into
1814 ComEd”. This translates in to a potential for forward market
1815 prices that would reflect the potential for such market power
1816 exercise in the spot market. This in turn would lead to auction
1817 offer prices benchmarked (as described above) on spot market
1818 prices in Northern Illinois that reflect the potential for the exercise
1819 of market power. (CUB-CCSAO Exhibit 3.0, page 29, lines 659-
1820 667)

1821 **Q. Are you asserting that market power can be explicitly**
1822 **exercised in the BUS auction itself?**

1823 A. No. My direct testimony is based on the potential for the
1824 exercise of market power in the physical spot markets. (CUB-
1825 CCSAO Exhibit 3.0, page 31, lines 691-694)

1826 The presence of market power potential in the spot market will
1827 influence forward market prices and thus drive up the clearing
1828 prices in the auction beyond what would be expected if the supply
1829 market was less concentrated structurally, even if the auction
1830 vehicle itself was operationally sound. (CUB-CCSAO Exhibit 3.0,
1831 page 4, lines 69-73)

1832 It could not be clearer that Mr. Fagan's testimony on which Dr.
1833 Steinhurst relies is based on the premise that any market power that may exist
1834 in forward markets is derived from market power in physical spot markets.
1835 Mr. Fagan testifies that an operationally sound auction vehicle will still be
1836 infected by market power in physical spot markets. That argument would
1837 clearly extend to any approach to forward procurement that relies on
1838 wholesale markets in the region, including those made under portfolio
1839 management. Mr. Fagan is clear that it is not the forward procurement
1840 method, but the alleged physical ownership concentration and alleged
1841 transmission constraints from which market power flows. Drs. Hieronymus
1842 and Hogan and Mr. Naumann rebut the testimony of Mr. Fagan with respect to
1843 market power in the physical spot market. My point is simple. The source of
1844 the alleged market power is the physical spot market and, if market power
1845 does exist in the spot market, then the forward procurement method -- i.e., the
1846 auction vs. portfolio management -- is irrelevant to addressing the fundamental
1847 problem and should not be offered as a solution. As Mr. Fagan's testimony
1848 indicates, he is in agreement with Drs. Hogan and Hieronymus on this issue as
1849 he recognizes that auction prices will be linked to forward prices and forward

1850 prices will be benchmarked to physical spot prices. (CUB-CCSAO Exhibit
1851 3.0, page 4, lines 69-73 and CUB-CCSAO Exhibit 3.0, page 28, line 639 to
1852 page 29, line 656). Dr. Steinhurst ignores the testimony of his fellow witness
1853 Mr. Fagan on this issue, despite the fact that he relies on that testimony to
1854 support the allegation of market power.

1855 **Q. How does Dr. Steinhurst's proposal hold up relative to the Auction when**
1856 **evaluated on the merits of whether it is more efficient than the proposed**
1857 **Auction Process and when it is removed from the cloud of alleged market**
1858 **power?**

1859 A. When properly scrutinized, not well. The proposed Auction Process has many
1860 strengths that are missing from his proposal. Strictly defining the contract
1861 terms in the SFC and the product to be bought at the auction is a strength, not
1862 a weakness. This enables a transparent price-only evaluation that will lead to
1863 selection of the most efficient suppliers and obtain the best price for
1864 customers. The bidders/suppliers will each be actively managing a portfolio
1865 that is assembled using their buying power and strategies, combining a diverse
1866 set of resources, and assessing and pricing risks. Those that effectively
1867 compete on price in a competitive process will win. I note that no one, not
1868 even Dr. Steinhurst, has suggested that there will not be vigorous competition
1869 among bidders to provide these services; it is only the underlying wholesale
1870 physical spot power market that has been alleged to be infected by market
1871 power.

1872 Dr. Steinhurst argues that ComEd should conduct and present to the
1873 ICC analyses to determine whether the results of such competition in the
1874 Auction would be better than an actively managed portfolio with an after-the-
1875 fact prudence review. He does not explain how such an analysis would be
1876 done and I don't believe a reasonable analysis of this type could be conducted.
1877 As I note in my rebuttal testimony, when competitive markets can be relied
1878 on, they should be relied on. Competition is better than regulation in
1879 achieving an efficient allocation of resources and prices that track economic
1880 realities. The fall of the Soviet block economies in the late 1980s and early
1881 1990s clearly demonstrated that market solutions were preferable to central
1882 planning in the context of overall economies. These same principles apply to
1883 portfolio management. It may be easy to imagine that in theory a utility with
1884 only the most beneficent motives overseen by equally beneficent regulators
1885 and with involvement from all stakeholders would always reach the optimal
1886 portfolio result. Constant adjustments could be made and complex trade-offs
1887 that consider price and non price factors perfectly accounted for. However,
1888 gambling that this will actually result in practice is just that, a gamble, and is
1889 not advisable. None of the intervenors have rebutted the substance of my
1890 argument that if competition is workable, it will produce a superior result to a
1891 regulated result. Dr. Rose has properly, but irrelevantly, testified that this
1892 does not apply in the case of unregulated monopolies or oligopolies. Of
1893 course that is true, but it is also irrelevant as it is true that the competition in

1894 the auction to assemble portfolios and price risk involves neither an
1895 unregulated monopoly nor an oligopoly.

1896 The essence of Dr. Steinhurst's argument is that central portfolio
1897 planning, when buttressed by the incentive of a potential prudence
1898 disallowance, is more efficient than competition in assembling portfolios,
1899 managing risks and pricing risks. This simply defies logic, unless Dr.
1900 Steinhurst is claiming that this is a natural monopoly function. By its nature
1901 prudence is a lenient standard based on "reasonable" decisions. Prudence
1902 disallowances are in fact rare and for good reason. The range of reasonable
1903 options is wide and disallowing costs flowing from decisions made by
1904 regulated entities that fit in to the zone of reasonableness would simply act to
1905 increase utility risk and cost of capital, and be counter productive.

1906 Further, the world which Dr. Steinhurst postulates in which ComEd
1907 would be constantly adjusting its portfolio and making non monetary trade-
1908 offs necessarily involves a degree of subjectivity, discretion and complexity
1909 that would appear to challenge any reasonable regulatory oversight. It
1910 certainly would not yield a more transparent result, as Dr. Steinhurst alleges.
1911 (CUB-CCSAO Exhibit 4.0, page 27, lines 608-609) If a utility like ComEd,
1912 whose load obligation is uncertain due to retail choice, were to manage a
1913 supply portfolio using a wide range of physical and financial contracts, as Dr.
1914 Steinhurst recommends, the subjectivity of decision-making would be
1915 enormous. The range of outcomes that could be prudent is equally enormous.
1916 Many decisions could be justified after the fact, based on various sets of

1917 assumptions or on various claims of possible non monetary benefits and many
1918 of the same decisions could be challenged. Dr. Steinhurst looks at one side of
1919 the coin only -- the potential theoretical improvement in efficiency that comes
1920 from the ability to fine tune and exercise subjective judgments and trade-offs.
1921 He fails to examine the inevitable consequence – a decision-making
1922 framework that requires regulators to review and assess complex and
1923 subjective decisions after the fact and review those decisions on the basis of
1924 what information was knowable at the time and whether the decision was
1925 “reasonable”, a standard that a wide range of decisions may well fit and that is
1926 especially expandable when it includes “non monetary factors” as
1927 recommended by Dr. Steinhurst. This process would not increase
1928 transparency for retail ratepayers relative to the proposed Auction Process, it
1929 would decrease it.

1930 While I disagree with Dr. Steinhurst that his proposal would be
1931 efficient and best for ratepayers, I also understand that there is a long
1932 historical perspective with respect to regulation employing a prudence
1933 standard applied retroactively. I have explained above why I believe his
1934 proposal is not beneficial for customers. What I do not understand is how his
1935 proposal can be advocated as a way to control market power. Dr Steinhurst
1936 himself acknowledges that: “It is true that the wholesale markets are there as a
1937 backdrop to whatever resource procurement strategies might be selected”
1938 (CUB-CCSAO Exhibit 4.0, page 16, lines 358-359). All of his arguments in
1939 favor of central procurement simply argue that it is better than the proposed

1940 Auction Process, but don't substantively address market power or explain how
1941 his proposal would better control market power in wholesale markets. I would
1942 urge the ICC to decide this issue on its own merits and not be influenced by
1943 the claim that central procurement can control wholesale market power. As I
1944 establish above, every benefit that Dr. Steinhurst attributes to portfolio
1945 management in terms of its ability to control market power is equally present
1946 in ComEd's proposed Auction Process. Dr. Steinhurst's attempt to
1947 differentiate the portfolio management approach on these grounds is all flash
1948 and no substance.

1949 **Q. You testify that all of his arguments simply argue that central**
1950 **procurement is better, but do not substantively address market power.**
1951 **Please provide some examples.**

1952 A. On page 19 to 21, Dr. Steinhurst presents as a virtue of portfolio management
1953 the fact ComEd can buy a diverse mix of wholesale products. He goes on to
1954 discuss how this will enable ComEd to tailor the portfolio to customer needs
1955 and to take advantage of buying power. That is all well and fine and I address
1956 later how the proposed Auction Process does this as well. The point that is
1957 missing from this discussion is any description of how buying a diverse set of
1958 products controls market power in wholesale markets. The only mention of
1959 market power on these three pages is in connection with the auction being a
1960 single annual event. From page 21, line 468 through the end of page 22, he
1961 discusses how under his proposal ComEd would reduce portfolio risk. Again
1962 that is fine, but no where in there does he mention market power. On pages 23

1963 and 24, Dr. Steinhurst presents his view of how a diverse portfolio can be
1964 better for customers than the Proposed Auction. Again, I understand that this
1965 is his view, but nowhere in this discussion does he explain how this
1966 diminishes the impact of market power. There is simply no logical or
1967 substantive nexus created by Dr. Steinhurst between his Proposal and the
1968 control of market power. At best, there are scattered, unexplained and
1969 unsupported assertions.

1970 **Q. How does the proposed Auction Process compare to Dr. Steinhurst's**
1971 **proposal in this regard?**

1972 A. It relies on strictly defined products, solicits bids on these products and makes
1973 an objective and transparent comparison of bids. Dr. Steinhurst seems to
1974 imply that constant fine-tuning of the portfolio and the use of non monetary
1975 trade-offs don't apply to, or are precluded by, the auction. He is wrong. They
1976 do apply. The auction product is perfectly tailored to meet the demands of
1977 ComEd's customers: ComEd's customers will not pay for a single kilowatt
1978 hour in excess of their demand. The difference is that the fine-tuning and the
1979 use of non-monetary trade-offs are made by bidders and their impact is
1980 reflected in the bids that bidders make, which are compared on a price-only
1981 basis.

1982 The issue is not whether these efficiencies will be exploited. It is
1983 whether they are best exploited using a competitive process that relies on a
1984 standard product, that relies on a transparent price-only evaluation, and that
1985 leaves competitors to take advantage of these efficiencies and reflect them in

1986 the price, or whether they are best exploited by a single regulated entity under
1987 the guise of prudence regulation applied after the fact. I do not see how there
1988 can be any doubt that the auction is the better choice.

1989 **Q. Please compare the proposed Auction Process and Dr. Steinhurst's**
1990 **proposal as to how well they meet certain of the objectives set forth in**
1991 **your direct testimony in this proceeding** (ComEd Exhibit 4.0, lines 1296-
1992 310).

1993 A. In my direct testimony, I explained how the Auction Process met all of the
1994 objectives. Dr. Steinhurst's proposal clearly fails to meet some key
1995 objectives. For example, his proposal would not necessarily obtain supply at
1996 prices that are the result of competition and reflective of market conditions as
1997 it envisions the possibility of one-off negotiations that incorporate non
1998 monetary considerations. It would not provide information to all prospective
1999 bidders and promote the participation of all market participants in a fair and
2000 equal basis as negotiations would be one-off and entities could be subtly and
2001 even not so subtly favored. It would most definitely not provide an objective
2002 and clear method for determining winners and final auction prices. Further, I
2003 do not believe it would allow for open communication with stakeholders. It
2004 simply requires too much subjectivity and has too little structure to achieve
2005 these objectives.

2006 **Q. Is it your testimony that the proposed Auction Process captures the**
2007 **benefits of ComEd's buying power, ComEd's special financial**

2008 **advantages, and the diversity of supply options, which Dr. Steinhurst**
2009 **attributes solely to central procurement?**

2010 A. Yes. I will address these one by one.

2011 • ComEd buying power. The proposed Auction Process does
2012 leverage the buying power of both ComEd and Ameren by
2013 procuring all load in a single auction process. This creates a
2014 competitive environment and will ensure that ComEd can obtain
2015 the best price for customers. Dr. Steinhurst fails to recognize that
2016 the proposed Auction Process itself takes advantage of buying
2017 power by pooling all load purchases. He implies that if ComEd
2018 were to strike individual transactions with potential suppliers it
2019 would do better as a result of buying power, but offers no
2020 explanation of how or why this would happen. There is no reason
2021 to believe that ComEd would achieve a better result from an
2022 exercise of buying power in a series of procurements of different
2023 products than in a central large auction where it is buying all its
2024 load. The buying power is reinforced by the Contingency Plan.
2025 To the extent that a volume reduction is made, the volume that is
2026 cut will be procured in the spot market. This will further enhance
2027 ComEd's and Ameren's consolidation of buying power.

2028 One could analogize to the federal government buying
2029 power with respect to bonds. The federal government has buying
2030 power and is interested in getting the lowest interest rate and it

2031 chooses to pool its demand in an auction, by selling issues of a
2032 single bond at the same time in a single auction open to both
2033 individual and institutional investors through an internet auction
2034 software package as opposed to striking individual and more
2035 costly transactions. “Treasury auctions are designed to minimize
2036 the cost of financing the national debt by promoting broad,
2037 competitive bidding.” (see
2038 http://www.ny.frb.org/research/current_issues/ci11-2/ci11-2.html)
2039 Why would he think ComEd should do differently?
2040 • ComEd special financial advantages. Dr. Steinhurst fails to
2041 explain specifically what these are or how they lead to better
2042 purchase prices. He also fails to recognize that many potential
2043 bidders have financial strength equal to or better than ComEd.
2044 Further, ComEd’s financial strength will not be independent of the
2045 procurement method. Under the procurement method
2046 recommended by Steinhurst, ComEd’s financial strength may be
2047 weakened. The reliance he espouses on long term contracts,
2048 above the line construction of generation, and his
2049 recommendations with respect to prudence, may well significantly
2050 diminish ComEd’s financial strength. There are at least two
2051 reasons why ComEd’s financial strength may be weaker under Dr.
2052 Steinhurst’s proposal. First, ratings agencies perceive utilities
2053 with owned generation to be riskier than wires-only utilities,

2054 which leads to higher financing costs. Second, the fixed
2055 obligations of long-term contracts tend to be viewed by analysts as
2056 debt, thereby adding risk to the Company's financial structure.
2057 Hence his claims with regard to financial advantages are
2058 undocumented and speculative, and ignore the need for a
2059 comparative assessment of his proposal relative to ComEd's
2060 proposed Auction Process.

- 2061 • Diversity of Supply Options. Dr. Steinhurst attributes the benefits
2062 of having diverse supply options to utility portfolio management
2063 and ignores the fact that it is present in ComEd's proposed
2064 Auction Process as well. By nature, the product proposed by
2065 ComEd for its Auction Process creates strong incentives for
2066 suppliers to optimize the use of available products in the
2067 wholesale market and to offer customers the lowest price for a
2068 fixed-price product for a given term. Under ComEd's proposed
2069 Auction Process, suppliers will be accessing the market and
2070 acquiring the diverse set of products that minimize costs. By
2071 optimizing to offer the lowest fixed price, suppliers are meeting
2072 customer needs. The entire range of products outlined at lines 418
2073 to 428 of Dr. Steinhurst's testimony is available to suppliers for
2074 developing a portfolio, and the optimal aggregation of these
2075 diverse products will be made by suppliers.

2076 **Q. Dr. Steinhurst claims that the first Proposed Auction is risky because all**
2077 **of ComEd's default load will be procured in a single auction. Please**
2078 **respond.**

2079 A. I disagree. Serial auctions for the same products will not produce a superior
2080 result. ComEd has a need to buy 100% of requirements for the period
2081 beginning January 1, 2007. This is an unavoidable result of the transition
2082 plan. The proposed Auction Process provides for a transition to laddering.
2083 However, it can't be changed that 100% of ComEd's position is open as of
2084 January 1, 2007. ComEd can procure this all at once or it could have a series
2085 of procurements. There has been substantial research done comparing a single
2086 auction to serial auctions. This research identifies the strategic scope gaming
2087 opportunities that exist with serial auctions and the problems that this
2088 engenders, which do not exist in the case of a single auction.

2089 Serial procurements mean that suppliers have a choice of auctions and
2090 that suppliers can pass up the first procurement and have the same economic
2091 opportunity in a future procurement. The existence of multiple procurements
2092 for the same product creates confusion for bidders, and leaves them with
2093 uncertainty regarding *how to bid* and *when to bid* (i.e., in which auction). A
2094 NERA study on serial capacity auctions found:

2095 A bidder will need to consider two opposing effects. On the one
2096 hand, in later auctions, other bidders may have already sold all, or
2097 some, of the capacity that they intended to sell; a bidder selling in
2098 later auctions can then face less competition and potentially be able
2099 to obtain a better price. On the other hand, in later auctions, there
2100 may be fewer or no future opportunity to sell capacity; a bidder
2101 selling in later auctions will then face more aggressive bidding and
2102 potentially get a worse price. (E. Meehan, C. LaCasse, P. Kalmus,

2103 and B. Neenan. "Central Resource Adequacy Markets For PJM,
2104 NY-ISO and NE-ISO: Final Report." NERA February 2004:
2105 40.Meehan et al., page 40.)

2106 This complexity leads to unpredictable bidding in serial procurements, which
2107 in turn leads to prices that do not necessarily reflect the economic realities of
2108 the market for the product being procured. In the case of a single auction, the
2109 predictability and simplicity is an advantage to the buyer and the bidders alike.
2110 Further, to the extent that there are multiple products and that a bidder would
2111 want to acquire a combination of such products, a single auction affords this
2112 opportunity while a serial auction may not. The price resulting from a single
2113 procurement will be a result of the competition among bidders and their
2114 evaluation of committing their resources as a function of the market
2115 fundamentals.

2116 Staff witness Salant, in his rebuttal testimony, underscores this point
2117 when asked if he supports the recommendation that ComEd hold more
2118 frequent auctions:

2119 "No. As discussed above and in the testimony of Dr.
2120 LaCasse, ComEd's proposal requires bidders in its auction to
2121 undertake the risks associated with portfolio management.
2122 As discussed above, Mr. Salgo, in recommending more
2123 frequent auctions appears to be concerned about temporary
2124 market conditions that may adversely affect the final auction
2125 prices in ComEd auction. However, nothing prevents
2126 bidders from hedging the risks associated with temporary
2127 market conditions, and for that reason holding more frequent
2128 auctions is not necessary to reduce the risks associated with
2129 temporary market conditions. Moreover, the auction volume
2130 adjustments provisions allow the Auction Manager to reduce
2131 volume if participation is limited to temporarily adverse
2132 market conditions." (ICC Staff Exhibit 11.0, page 69, lines
2133 1564-1574.)
2134

2135 **Q. Please continue.**

2136 Dr. Steinhurst argues against the single auction because it puts too
2137 much risk on a single day. As I explain above, there is no benefit to spreading
2138 out the risk over multiple auctions, since this would impact how bidders bid
2139 and can be expected to produce unpredictable results that do not necessarily
2140 reflect the economic value of the auction product.

2141 Certainly, I am sympathetic to the concern that it would not be wise to
2142 follow through on the procurement if there were an adverse market disruption
2143 or other extraordinary event. However, the Auction Process proposed by
2144 ComEd addresses this contingency head on. The Auction Process provides
2145 for suspending the auction in the case of an extraordinary event. An
2146 extraordinary event is agreed to by ComEd, Ameren, the Auction Manager
2147 and the ICC Staff. Such events could include, for instance, the advent of war,
2148 the disruption of a major supply source for potentially extended periods, or
2149 other similar events that could significantly impact the cost of supply. In the
2150 occurrence of an extraordinary event, the Auction Manager, in consultation
2151 with ComEd and Ameren, and with the ICC Staff, may revise key parameters
2152 of the auction (such as starting prices) or may revise the schedule. Hence there
2153 is protection against transient market events embedded in the proposed
2154 Auction Process.

2155 Lastly, as noted above, a single auction is the best use of ComEd
2156 buying power. ComEd's proposed Auction Process does not, as Dr.
2157 Steinhurst alleges, "make it easier and more profitable for suppliers with

2158 market power to drive up prices.” (CUB-CCSAO Exhibit 4.0, page 21, lines
2159 457-458) Rather, the fact that there is a single procurement – a single
2160 opportunity for suppliers to lock in term contracts to serve ComEd’s
2161 customers – assures maximum competition in the auction and assures that this
2162 competition will be harnessed for the benefit of ComEd’s customers. The
2163 leverage that ComEd has in purchasing all of its load in a single auction is
2164 reinforced through the Contingency Plan. The Contingency Plan takes
2165 unsubscribed tranches to the spot market, providing a clear signal to suppliers
2166 that the Auction Process is their only opportunity for forward sales to ComEd
2167 and that they will need to bid competitively at the auction.

2168 **Q. Dr. Steinhurst claims that utility portfolio management is the industry**
2169 **“norm” and auctions are the exception. Please comment?**

2170 A. I disagree. In many states that have enacted restructuring legislation and are
2171 currently in post-transition regimes where the incumbent utility or an
2172 alternative entity is the default supplier, procurements for full requirements
2173 power are the norm rather than the exception, especially in those states that are
2174 members of strong functioning Regional Transmission Organizations (RTOs),
2175 such as PJM. For example, New Jersey, Maryland, the District of Columbia,
2176 Delaware, Massachusetts, Maine, Pennsylvania and Rhode Island all procure
2177 or are planning to procure full requirements power to meet their default
2178 supplier obligations. (See Ameren Exhibit Ex. 7.2. in ICC Docket 05-0160)
2179 Only New York and Montana are different in that they utilize portfolio
2180 management or variations thereof to meet their default supplier obligations.

2181 These eight jurisdictions where the proposed full requirements product is in
2182 use or planned all have similarities to Illinois in that there is widespread retail
2183 access, generation divestiture or spin-off and a functioning RTO. Utility
2184 portfolio management is most often reserved for integrated utilities that still
2185 own rate-based generation, or are not subject to widespread retail competition,
2186 or operate in areas without an RTO market. This is not the situation that
2187 ComEd is in. While there are exceptions such as New York, the norm for
2188 utilities that are similarly situated to ComEd is full requirements procurement.
2189 Ameren Exhibit Ex. 7.2. (in ICC Docket 05-0160, et. al.) provides a
2190 description of procurement practices in various states. I have relied on that
2191 exhibit as well as my general knowledge in formulating this answer.

2192 **VI. Professor Reny's Theoretical Suggestions Have No Practical Import**

2193 **Q. Please describe the purpose of this section of your rebuttal testimony.**

2194 A. In this section, I assess and respond to Professor Reny's testimony that it is
2195 possible for other procurement methods, including auctions with price caps and
2196 multilateral negotiations, to yield lower prices than either a uniform price auction
2197 of the type proposed by ComEd or a pay-as-bid auction as proposed by Dr. Laffer.

2198 **Q. Does Professor Reny make a specific proposal?**

2199 A. No. Professor Reny does not make a specific proposal. He simply observes that
2200 it is possible that other procurement methods such as multilateral negotiations and
2201 procurement methods that incorporate reserve prices might result in a lower price
2202 than either ComEd's proposal or Dr. Laffer's proposal. He does not describe and
2203 advocate a particular procurement method; in fact, he testifies that multilateral
2204 negotiations could take many forms and he presents no description of any of these
2205 alternative procurement methods. Similarly, he does not definitely recommend
2206 the use of reserve prices, he only notes that the use of reserve prices in an
2207 unspecified procurement method may result in better prices.

2208 **Q. Does Professor Reny discuss how the realities of the power market may affect
2209 his observations?**

2210 A. No. He does not at all relate his observations to any market, let alone the power
2211 market. Professor Reny recognizes that he has no experience in the power
2212 markets in response to ComEd Data Request AG 4.09: "I have no professional
2213 experience in electricity markets per se. However, my theoretical work in

2214 auctions, like auction theory in general, can be applied to many markets,
2215 including electricity markets.”

2216 **Q. Please refer to Professor Reny’s testimony, p. 3, lines 16-19, and to p. 4, lines**
2217 **7-8. Can you please summarize Professor Reny’s testimony in those two**
2218 **passages?**

2219 A. Professor Reny states that there is no guarantee that the lowest price will be
2220 obtained with the auction proposed by ComEd because it is possible that a lower
2221 price can be obtained by setting a price cap (i.e., a reserve price). By “price cap”
2222 (if as I suspect it is to be understood as it generally is in the auction literature), he
2223 means the highest price that the Commission will accept. If a supplier bids above
2224 the price cap, the Commission would automatically reject the bid, and conversely,
2225 if the final auction price were at the price cap or below, the Commission would
2226 automatically accept the bid.

2227 **Q. Does Professor Reny present the references to the literature that allow him to**
2228 **make this statement?**

2229 A. No. Professor Reny may have several studies in mind.

2230 Certainly, there is a well-established result that, under very specific
2231 conditions, the best way to sell an item is to use a standard auction (like the one
2232 used at Christie’s) with an announced reserve price. This result is shown by Riley
2233 and Samuelson (Riley, John G & Samuelson, William F, 1981. "Optimal
2234 Auctions," American Economic Review, American Economic Association, vol.
2235 71(3), pages 381-92) and Myerson (Roger Myerson, “Optimal Auction Design”,
2236 Mathematics of Operations Research, 1981, 6, pp. 58-73). These studies are

2237 couched for an item for sale – they can be translated for procurement to say that
2238 the best way to procure an item (in terms of getting the best price for the buyer) is
2239 to use a standard auction with an announced price cap.

2240 **Q. Why do you specify that the price cap is “announced”?**

2241 A. According to these studies, for the best price to be achieved under those specific
2242 conditions, generally speaking the buyer has to: 1) set a price cap below the
2243 amount at which the buyer would personally be willing to purchase; 2) announce
2244 this price cap to the sellers; and 3) absolutely commit to buying if the price cap is
2245 met and to not buying if it is not. In the context of procurement for ComEd, it
2246 would mean that the Commission would pre-announce a price and would
2247 relinquish any other ability to review the bids. As long as the announced price cap
2248 were met, the Commission would not have the ability to reject the bids.

2249 **Q. What are the “very specific conditions” that you refer to above?**

2250 A. The specific conditions needed are the following:

- 2251 1. There is a fixed number (“*n*”) of bidders at the auction.
- 2252 2. The bidders bid independently.
- 2253 3. The bidders are risk-neutral.
- 2254 4. The “independent private values” model describes the uncertainty faced
2255 by bidders.

2256 These conditions mean the following. The first condition means that the
2257 number of bidders is given; in particular, the number of bidders cannot be
2258 influenced by the choice of qualification criteria or auction format. The second
2259 condition means that bidders are not colluding and are competing vigorously
2260 against one another. The third condition means that bidders would neither be

2261 willing to pay to avoid risks nor would they be willing to pay to be allowed to
2262 take risks. The last condition means that the evaluations of the n bidders for the
2263 tranches at auction can be usefully modeled mathematically as n independent
2264 draws from a given probability distribution. When this condition holds, it is not
2265 valuable for a bidder to learn another bidder's evaluation of the item in the
2266 auction.

2267 **Q. Do you find that these conditions are applicable in the case of the**
2268 **procurement of full-requirements tranches?**

2269 A. These conditions are also the conditions of the Revenue Equivalence Theorem,
2270 which I discuss in Section 3 of my testimony above. As I say there, and as I state
2271 in response to BOMA 3.01, these conditions are unlikely to apply to the
2272 procurement of full-requirements tranches. Most obviously, the last condition is
2273 unlikely to hold because many bidders in the proposed auction will make an
2274 assessment of the same future market opportunities and risks in putting together
2275 their bids. When assessing a common market opportunity, one bidder's evaluation
2276 is useful information to another bidder, and the last condition discussed above
2277 would fail.

2278 **Q. Please refer to Professor Reny's testimony, p. 4, lines 22-23 and p.5, lines 1-5.**
2279 **Can you please summarize Professor Reny's testimony in those two**
2280 **passages?**

2281 A. Professor Reny states that there are conditions under which, compared to an
2282 auction without a price cap, a lower price can be achieved by negotiating with
2283 each potential supplier one by one. These conditions include a wide disparity of

2284 supplier costs, the availability of information concerning supplier costs, and an
2285 absence of bargaining power on the suppliers' side.

2286 **Q. Is it your opinion that these conditions are likely to hold for the procurement**
2287 **of ComEd full-requirements tranches?**

2288 A. In my opinion, it does not seem likely that all these conditions would hold. For
2289 example, I believe that reasonably accurate information about each supplier's cost
2290 of providing full requirements service is unlikely to be available. Furthermore,
2291 although I discuss in Section 5 of this testimony ComEd's "buying power", i.e.,
2292 the manner in which ComEd can leverage its ability to buy all load in a single
2293 auction, this does not necessarily mean that there would be an absence of any
2294 bargaining power on the other side of the market. Finally, I would expect that
2295 suppliers costs could more accurately be described as closely clustered than
2296 widely disparate. A supplier's costs in the auction are really their opportunity cost
2297 of participation. Although all bidders do not face the same exact opportunity cost,
2298 they are all evaluating a common market opportunity on the basis of a common
2299 forward market.

2300 **Q. Please refer to Professor Reny's testimony, p.5 lines 19-21, p. 6 lines 2-9. Can**
2301 **you please summarize Professor Reny's testimony in those two passages?**

2302 A. Professor Reny states that an auction could in principle achieve prices as low as
2303 multilateral negotiations. To achieve these low prices, the Commission would first
2304 imagine that it is negotiating with each supplier one-by-one and it would
2305 determine a take-or-leave-it offer for each supplier. The Commission would then

2306 use the take-or-leave-it offer for each supplier as an individualized price cap in an
2307 auction.

2308 **Q. Why do you refer to the Commission setting price caps rather than referring**
2309 **to the buyer, which is ComEd, as setting price caps?**

2310 A. It is true that ComEd is the buyer. However, it is the Commission who has the
2311 ability to decide whether the results of the procurement should be accepted so that
2312 the customers will pay rates based on these results. If a price cap must be set, and
2313 if this price cap represents a true commitment, i.e., a tranche is purchased as long
2314 as the price cap is met and it is not purchased if the price cap is exceeded, then
2315 this is equivalent to setting in advance the kind procurement results that will be
2316 acceptable. This is a decision that only the Commission can make.

2317 **Q. Do you believe that such a procedure could be practically implemented for**
2318 **the procurement of the needs of ComEd customers?**

2319 A. I don't believe so. As I have testified earlier, I do not believe that it would not be
2320 feasible for the Commission or anyone else to set a price cap – let alone
2321 individualized price caps for each supplier – in the manner that appears to be
2322 envisaged by Professor Reny. The exercise would require a great deal of
2323 information regarding supplier costs that will simply not be available to the
2324 Commission. The exercise would also require a proceeding in which the price cap
2325 would be unlikely to ultimately be set on the basis of a “take-it-or-leave-it” offer
2326 in a hypothetical negotiation.

2327 **Q. Please summarize your opinion of Professor Reny's testimony.**

2328 A. Professor Reny provides highly theoretical testimony that is basically of the
2329 “anything’s possible” nature. He provides no proposal, no recommendation or no
2330 definite opinion that the two general items that he describes – bidder-specific
2331 price caps and multilateral negotiations – are in fact superior to the proposed
2332 Auction Process, to each other, or to any other procurement method. He does not
2333 relate his musings to the actual market in question. He does not relate his ideas
2334 to the multiple goals of the procurement process nor does he address practical
2335 issues such as cost recovery approvals. His testimony provides no plausible basis
2336 to suspect that the broad and unspecified ideas he discusses would be beneficial to
2337 customers or should be considered further, let alone any basis to actually
2338 incorporate these concepts into the proposed Auction Process.

2339 **Q. Does this conclude your surrebuttal testimony?**

2340 A. Yes.