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SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter Ln. #084-002710
Laurel A. Patkes, Reporter Ln. #084-001340

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PROCEEDINGS

1
2 JUDGE WALLACE: Pursuant to the direction of
3 the Illinois Commerce Commission, I now call Docket
4 Number 05-0159. This is the matter of Commonwealth
5 Edison Company. It is a petition to implement a
6 competitive procurement process.

7 May I have appearances for the record,
8 please, starting with the company

9 MR. RATNASWAMY: John Ratnaswamy,
10 R-A-T-N-A-S-W-A-M-Y, and Glenn Rippie from Foley and
11 Lardner on behalf of Commonwealth Edison Company,
12 321 North Clark Street, Chicago, Illinois.

13 MR. LAKSHMANAN: On behalf of Dynegy, Inc.,
14 Joseph L. Lakshmanan.

15 MR. ROSEN: Larry Rosen on behalf of CUB.

16 MR. TOWNSEND: On behalf of the Coalition of
17 Energy Suppliers, the law firm of DLA Piper Rudnick
18 Gray Cary US, LLP, by Christopher J. Townsend.

19 MR. GOLLOMP: On behalf of the United States
20 Department of Energy, Lawrence A. Gollomp,
21 G-O-L-L-O-M-P.

22 JUDGE WALLACE: Anyone else?

1 MR. FITZHENRY: Edward Fitzhenry for the Ameren
2 companies, as well as Chris Flynn, Pete Trombley and
3 Laurie Earl from Jones Day on behalf of the Ameren
4 companies.

5 MR. JOLLY: Ronald D. Jolly on behalf of the
6 City of Chicago.

7 MS. BARRETT: On behalf of Midwest Generation
8 EME, LLC, Ronit Barrett.

9 JUDGE WALLACE: Anyone else? Anyone from the
10 Attorney General's office? Okay, let the record
11 reflect there are no other appearances at today's
12 hearing.

13 Mr. Gollomp, your witness is here?

14 MR. GOLLOMP: Yes, sir.

15 JUDGE WALLACE: Which one do you want to take?

16 MR. GOLLOMP: Swan.

17 JUDGE WALLACE: Okay, if Dr. Swan and Mr. Kahal
18 would please stand?

19 MR. GOLLOMP: They are in the back, Your Honor.

20 (Whereupon the
21 Witnesses were duly
22 sworn by Judge

1 Wallace.)

2 JUDGE WALLACE: All right. You may proceed.

3 MR. GOLLOMP: Thank you, Your Honor. I call
4 Dr. Swan.

5 JUDGE WALLACE: Again, I will note that we are
6 hooked up to our Chicago office, we are hooked up to
7 our ICC intranet, and I think we have the hook-up in
8 B if anyone wants to go in there. It is cooler. We
9 have the air conditioner guys working on this and
10 you can tell it.

11 MR. GOLLOMP: A little bit.

12 JUDGE WALLACE: Oh, you can. I was going to
13 say it was worse. So we will go with that.

14 MR. GOLLOMP: I may change my tune later in the
15 day.

16 JUDGE WALLACE: Okay, Mr. Gollomp.

17 MR. GOLLOMP: Thank you, Your Honor.

18 DR. DALE SWAN
19 called as a Witness on behalf of the US Department
20 of Energy, having been first duly sworn, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

1 BY MR. GOLLOMP:

2 Q. Dr. Swan, will you please state for the
3 record your full name.

4 A. My name is Dale Swan.

5 Q. Would you also state your occupation for
6 the record?

7 A. I am an economist and principle of the firm
8 Exeter and Associates.

9 Q. Dr. Swan, do you have before you a document
10 which is marked as DOE Exhibit 1.0 entitled Direct
11 Testimony of Dr. Dale E. Swan?

12 A. Yes, I do.

13 Q. Was that document prepared by you?

14 A. Yes, it was.

15 Q. Do you have any changes or additions to
16 make to that document?

17 A. I have one small change, yes.

18 Q. Would you please state that for the record?

19 A. On page 8, line 184, four words in from the
20 left margin, the word "two" should be changed to
21 "three," and after the word "ears" should be
22 inserted 1999 comma. So the sentence should read,

1 "In three of those years, 1999, 2001, 2003, DESC
2 received no bids in response to its RFPs."

3 Q. With that correction, Dr. Swan, do you
4 adopt DOE Exhibit 1.0 as your direct testimony in
5 this proceeding?

6 A. Yes, I do.

7 MR. GOLLOMP: Your Honor, I tender Dr. Swan for
8 cross examination.

9 JUDGE WALLACE: Who has cross of Dr. Swan?
10 Mr. Ratnaswamy. Could you pull the mic up so --

11

12 CROSS EXAMINATION

13 BY MR. RATNASWAMY:

14 Q. Good morning, Dr. Swan.

15 A. Good morning.

16 Q. If I could direct your attention to two
17 sections slightly apart in your testimony, lines 42
18 to 47 and lines 74 to 76, please?

19 A. I am sorry, the first was 40 --

20 Q. 42 to 47 and 74 to 76. is it correct, Dr.
21 Swan, that there you refer to two large Department
22 of Energy facilities as well as certain other

1 federal executive agency facilities?

2 A. That is correct.

3 Q. Is it correct that you are significantly
4 more familiar with the operations of the two large
5 DOE facilities?

6 A. That's a fair statement.

7 Q. If I could direct your attention to lines
8 81 to 84, please?

9 A. I am sorry?

10 Q. 81 to 84.

11 A. I am there.

12 Q. When you refer to an accelerator there, are
13 you referring to particle accelerators?

14 A. That's correct.

15 Q. In brief -- I am not a physicist, what is a
16 particle accelerator?

17 A. That makes two of us. All I know is that
18 they conduct high energy physics with that machine.

19 Q. Unless it is a secret, would it be correct
20 to assume that the other federal agencies'
21 facilities to which you refer in your testimony do
22 not have an operating particle accelerator?

1 A. Not to my knowledge.

2 Q. If I could direct your attention to lines
3 138 to 141, please?

4 A. Yes.

5 Q. There is a sentence there which states,
6 "Thus, it seems that there would be no cost or risk
7 to the company extending some kind of fixed price
8 POLR service to customers above three megawatts to
9 provide them with the price volatility safety net
10 that they also seek," is that correct?

11 A. Yes.

12 Q. First, could you tell us what is POLR
13 service?

14 A. Provider of Last Resort.

15 Q. Do you recall being asked a data request
16 which inquired as to whether that section of your
17 testimony was supported by any study, analyses or
18 data?

19 A. Yes.

20 Q. And is it correct that the gist of your
21 answer was that the entire basis of that statement
22 in your testimony was your reading of certain

1 testimony filed by ComEd in this case?

2 A. That is correct.

3 Q. If I could direct your attention, please,
4 to lines 164 through 167, please?

5 A. I am there.

6 Q. When you refer in line 165 and in 166 to
7 solicitations, is it correct that you are referring
8 to written requests for proposals?

9 A. Yes.

10 Q. These are publically available documents,
11 is that correct?

12 A. That's correct.

13 Q. Would you also agree that they are rather
14 voluminous?

15 A. Yes, I would.

16 Q. Did you testify in Illinois Commerce
17 Commission Docket 02-0479?

18 A. That was the declaration?

19 Q. Yes.

20 A. Yes, yes, that's correct.

21 Q. And without seeking to characterize the
22 nature of your testimony, is it correct that in that

1 document you also testified regarding certain
2 requests for proposals or RFPs issued on behalf of
3 some or all of these same DOE facilities?

4 A. I did.

5 Q. And in that docket you were asked or
6 received a data request to produce copies of the
7 RFPs that you had testified regarding, is that
8 correct?

9 A. Yes.

10 Q. And you produced copies?

11 A. Yes.

12 Q. And is it also true that in the instant
13 case, the one in which you are testifying today, you
14 were also asked in a data request to produce the RFP
15 to which you were referring?

16 A. I did.

17 Q. And is it correct you didn't do so?

18 A. I was unable to produce the 1999 GSA RFP.
19 They were unable to locate it and I didn't have a
20 copy in my files. And also the initial RFPs that
21 were issued in 2001 were unavailable for some
22 reason. I did provide what GSA provided to me.

1 Q. Have you reviewed the zip files that were
2 produced in electronic form in response to that data
3 request?

4 A. It depends on what you mean by a review. I
5 did examine them to make sure that they were the
6 documents that DESC said that they were. And I was
7 familiar with many of those RFPs and they seemed to
8 be correct. And I sent those documents on to you
9 folks.

10 Q. I have no personal knowledge of the facts.
11 I am not attempting to suggest otherwise. But it
12 did appear to me that for each year there was an RFP
13 document in there. Is that not correct?

14 A. Yes.

15 Q. Not correct, I said that in a way that is
16 confusing. For each year in those files is there a
17 copy of an RFP?

18 A. There certainly should have been.

19 Q. Would you agree that -- I am going to ask
20 you a series of questions, which I hope everyone
21 will bear with, about details of these RFPs. I have
22 printed out all of the pages I am going to ask you

1 about, and I have 20 copies of each of those pages.
2 I would have needed about 10 photocopies of each
3 RFP. But I would like to see how far we can get on
4 content without necessarily having to pull out the
5 language, with the understanding that if you need to
6 see the language, you get to see it.

7 Would you agree that in the 1999 Request
8 for Proposal, one of the provisions of the Request
9 for Proposal was that the government would reserve
10 the right to terminate the contract for its sole
11 convenience at any time

12 A. That particular term is included in all
13 government RFPs, all government contracts, as far as
14 I know. Any government contract that I am familiar
15 with, that language appears.

16 Q. I won't do it but I think I could cross
17 that quite a bit right now. Would you agree that in
18 the 1999 RFP there was not a provision that in the
19 event of such a termination the supplier would be
20 paid any sort of economic damages?

21 A. I can't speak to that. My understanding of
22 that particular contract clause in the years that I

1 look in particular at Subsection L, let me know.

2 A. I have looked at that.

3 Q. Before we talk about any details of Section
4 L, do you, without looking at the documents right
5 now, have any recollection as to whether in later
6 years this provision was changed in the RFPs to
7 which you are testifying?

8 A. I think a number of the provisions in the
9 DESC standard RFPs changed. They gained experience.
10 They began to understand what the concerns were of
11 suppliers. So, yes. In fact, I believe in the
12 termination clause there were more explicit
13 language, for example, in the 2005 RFP, regarding
14 the kind of compensation the suppliers would be able
15 to receive in the event of termination for
16 convenience, rather than having it implicit in the
17 federal acquisition regulations. So, yeah, there
18 were lots of modifications.

19 MR. RATNASWAMY: All right. Because you have
20 alluded to it I will mark as ComEd Cross Exhibit
21 Number 2 the 2005 provision. I intended to get to
22 it, but maybe we can do this right now.

1 (Whereupon ComEd Cross
2 2 was marked for
3 purposes of
4 identification as of
5 this date.)

6 MR. ROSEN: Your Honor, just for
7 identification, the witness hasn't identified this
8 Cross Exhibit Number 1 but I am assuming that this
9 was from the 1999 RFP?

10 MR. RATNASWAMY: That's right.

11 JUDGE WALLACE: The Cross Exhibit 1?

12 MR. ROSEN: Was from the 1999 RFP.

13 MR. RATNASWAMY: Mr. Gollomp, would you be
14 willing to stipulate subject to check that Cross
15 Exhibit Number 1 is from the 1999 RFP?

16 MR. GOLLOMP: I will accept subject to check.

17 BY MR. RATNASWAMY:

18 Q. Do you recognize Cross Exhibit Number 1,
19 Dr. Swan?

20 A. Yes.

21 Q. And do you recognize Cross Exhibit Number 2
22 as being a termination for government convenience

1 provision of the 2005 RFP?

2 A. It certainly looks like it.

3 Q. Would you agree at the moment without going
4 into the nature of the changes that there were
5 substantial changes from the '99 to the 2000 RFP in
6 this particular section?

7 A. Yes, as I said earlier there were
8 significant modifications.

9 Q. Would it be fair to say that the 2005 RFP
10 provides a remedy under which the supplier can
11 potentially recover economic damages in the event of
12 such a termination?

13 A. It is explicit in this RFP, that is
14 correct.

15 Q. And it was not in the 1999 RFP?

16 A. That is correct.

17 Q. Would you agree that it was in the 2003 RFP
18 for the first time that this section was amended to
19 include a termination value provision?

20 A. I can't recall what year it was. I am
21 willing to accept that subject to check, but I can't
22 recall at this point.

1 MR. RATNASWAMY: I will check this very
2 quickly.

3 (Pause.)

4 Your Honor, I would ask permission --
5 because I don't want to necessarily move in all the
6 exhibits to show Dr. Swan the provisions from 2001,
7 2002 and 2003 to confirm his recollection. If Your
8 Honor feels I do need to move them all in, I will do
9 that

10 JUDGE WALLACE: Any objection, Mr. Gollomp?

11 MR. GOLLOMP: No.

12 JUDGE WALLACE: Okay, go ahead. Let's go off
13 the record a minute.

14 (Whereupon there was
15 then had an
16 off-the-record
17 discussion.)

18 JUDGE WALLACE: Back on the record. Can we
19 possibly maybe stipulate to some of the -- if you
20 are just trying to get to a specific year.
21 Mr. Gollomp?

22 MR. GOLLOMP: Yes, we will stipulate.

1 MR. RATNASWAMY: So my proposed stipulation,
2 Mr. Gollomp may not agree, but in 1999, 2000 and
3 2001 the termination provisions were the same or
4 essentially the same, but in 2002 the termination
5 value agreement was added. It was amended in '03,
6 amended again in '04 and amended again in '05.

7 MR. GOLLOMP: DOE agrees with the stipulation.
8 I would like to have an opportunity subject to check
9 to object.

10 WITNESS SWAN: If I could just say, "amend"
11 isn't quite correct. You don't amend a new RFP.
12 The language changed; it evolved.

13 MR. RATNASWAMY: That is correct. Thank you,
14 Dr. Swan. I am sorry, is that acceptable?

15 MR. GOLLOMP: Yes.

16 BY MR. RATNASWAMY:

17 Q. Would you also agree, switching to a
18 different aspect of these RFPs now, that the 1999
19 RFP contained a provision under which the government
20 could unilaterally extend the term of the contract
21 for six months at the same price?

22 A. That clause was in some of the earlier

1 RFPs. I don't recall if it was in 1999, but it
2 could have been.

3 MR. RATNASWAMY: I will mark this excerpt from
4 the 1999 RFP as ComEd Cross Exhibit Number 3.

5 (Whereupon ComEd Cross
6 Exhibit 3 was marked
7 for purposes of
8 identification as of
9 this date.)

10 BY MR. RATNASWAMY:

11 Q. Dr. Swan, if I could direct your attention
12 to Section I209.15, Subsection A?

13 A. Yes.

14 Q. Would you agree that where applicable that
15 provision allows the government to extend the
16 contract up to six months at the same price?

17 A. I am not sure that's correct, because
18 Section B, Paragraph B, talks about firm-fixed price
19 extensions. My reading of that is that the
20 contractor has the ability to decline because it
21 says if the contractor declines to extend the
22 existing price, the government may propose a new

1 firm-fixed price for the extension. Extension of
2 firm-fixed price line items must be accomplished by
3 agreement of all parties.

4 Q. But would you agree that Section A and B
5 applies to different types of contracts. A applies
6 to fixed price with an economic price adjustment and
7 B applies to fixed price without such an adjustment?

8 A. That is correct.

9 Q. Would you agree, Dr. Swan, that provision
10 was also included in the 2000, sorry, 2001 and 2003
11 RFPs?

12 A. I can't say, sir. I mean, just my memory
13 isn't that good.

14 MR. RATNASWAMY: Mr. Gollomp, would you be
15 willing to stipulate to that without me showing Dr.
16 Swan the document?

17 MR. GOLLOMP: Again, I would subject to check.
18 The witness's memory is a little stale in this
19 matter. I would like to have the chance to review
20 the documents at a later date.

21 BY MR. RATNASWAMY:

22 Q. All right. Dr. Swan, would you agree that

1 the 2004 RFP did not include such a provision?

2 A. That's possible. I just -- I can't recall
3 the specific details of several hundred pages over
4 seven years.

5 MR. RATNASWAMY: Mark this excerpt from the
6 2004 RFP as ComEd Cross Exhibit Number 4.

7 (Whereupon ComEd Cross
8 Exhibit 4 was marked
9 for purposes of
10 identification as of
11 this date.)

12 BY MR. RATNASWAMY:

13 Q. Dr. Swan, would you agree that there is no
14 such unilateral extension in the 2004 RFP?

15 A. That appears to be correct.

16 Q. Would you agree that's also true of the
17 2005 RFP?

18 A. That's my recollection, yes.

19 Q. What is your recollection, without looking
20 at the documents, as to whether any or all of the
21 RFPs contained a preference for suppliers who
22 promised to incorporate a renewable percentage?

1 A. Which RFP?

2 Q. Do you recall whether that was in any of
3 them? Let's start there.

4 A. I recall that it was contemplated and there
5 may have been a preference. I don't think it was
6 found in all of those years, but it may have been.

7 MR. RATNASWAMY: Let me show you an excerpt
8 from the 2000 RFP. Mark this as ComEd Cross Exhibit
9 5.

10 (Whereupon ComEd Cross
11 Exhibit 5 was marked
12 for purposes of
13 identification as of
14 this date.)

15 BY MR. RATNASWAMY:

16 Q. Have you had a chance to look at that?

17 A. Yes.

18 Q. Would you agree that the 2000 RFP contained
19 a preference for renewables?

20 A. Well, let me at least understand the
21 context. The evaluation criteria do not include
22 provision of renewables. It includes such things as

1 technical capabilities, industry experience, price,
2 past performance. And if there is a tie between two
3 suppliers and one is offering some renewable energy
4 and the other is not, their preference would be
5 given to that supplier offering renewables for the
6 greater percentage.

7 Q. Would you agree that that provision is not
8 contained in the 2004 and 2005 RFPs?

9 A. I don't recall that it was, that is
10 correct.

11 Q. All right. If I could direct your
12 attention now back to your direct testimony, lines
13 188 to 191, you indicate there that a number of
14 conforming proposals were received in response to
15 the 2005 RFP, is that correct?

16 A. That's correct.

17 Q. And was one or more of them accepted?

18 A. A contract was entered into with Argonne, a
19 separate supplier. A contract was entered into with
20 a second supplier. Ordinarily, you have --

21 Q. Direct your attention to lines 194 to 196,
22 please. Is it correct that in all the years that we

1 have talked -- that you talk about in your testimony
2 for RFPs, 1999 through 2005, it was a requirement in
3 order for a -- I am sorry, I will start over.

4 In order to be a successful bidder under
5 the RFPs, did a supplier need to beat the power
6 purchase price option offered by Commonwealth Edison
7 as well as the Rate 6L price

8 A. That is correct, otherwise it would have
9 been an irrational choice.

10 JUDGE WALLACE: Irrational?

11 A. Irrational.

12 Q. In the states that you refer to in lines
13 194 to 196, would you agree that none of those
14 states have a POLR service equivalent to beat the
15 same ComEd power purchase option?

16 A. I don't know about the particular years.
17 Maryland had one for at least a year. I don't know
18 if that came into play that particular year.

19 Q. Okay, thank you. Would it be correct to
20 understand lines 214 to 216 of your testimony to
21 mean, among other things, that one of the reasons
22 that the bidders were successful in 2005 was that

1 DOE was no longer eligible for the PPO?

2 A. I am sorry, you are referring to --

3 Q. 214 to 216.

4 A. Yes, I am there.

5 Q. So was it a significant factor in 2005 in
6 terms of bidders being able to successfully bid
7 under the RFP that DOE was no longer eligible under
8 the PPO?

9 A. That's what the testimony says. I think
10 that there is two ways to look at this. One is that
11 it explains certainly why the choice was made as it
12 was made. There was no alternative choice other
13 than hourly energy pricing for the laboratories. In
14 the prior years it doesn't necessarily explain why
15 in certain years no bids were received at all.

16 Q. If you go back, please, sir, to your lines
17 181 to 184?

18 A. I am sorry, 180 --

19 Q. 181 to 184.

20 A. Yes.

21 Q. Is it correct that some or all of the bids
22 that you refer to there did beat the Rate 6L price

1 but failed to beat the PPO price?

2 A. That is correct.

3 Q. Was it all five?

4 A. I am sorry?

5 Q. Was it all five bids?

6 A. In no instance was a bid better than both
7 6L and PPO.

8 Q. As you sit here now do you recall how many
9 of them did beat 6L?

10 A. I don't recall the answer to that.

11 MR. RATNASWAMY: Excuse me for a moment.

12 (Pause.)

13 Q. How well do you recall your testimony in
14 Docket 02-60479?

15 A. Well, the general outlines I do.

16 Q. Would it be fair to say that at that time
17 you expressed concern that there might be
18 significant reductions in a number of retail
19 electric suppliers operating in Commonwealth
20 Edison's service territory?

21 A. I remember saying that, yes.

22 Q. Would you agree that that has not happened?

1 A. There may not have been reductions. I
2 don't think there have been dramatic increases in
3 the number, however.

4 Q. Okay. And do you recall, is it correct --
5 or, sorry, I will start over.

6 Is it fair to say that you expressed
7 concerns at that time about large numbers of
8 customers returning to Rate 6L

9 A. Yes.

10 Q. Would you agree that at least through the
11 current period that has not happened?

12 A. I would agree with that.

13 MR. RATNASWAMY: I have no further questions,
14 Your Honor.

15 JUDGE WALLACE: Thank you. Mr. Robertson.

16 MR. RATNASWAMY: Oh, I am sorry, Your Honor. I
17 do move the exhibit of ComEd Cross Exhibits, I
18 believe it is, 1 through 5.

19 JUDGE WALLACE: Any objection?

20 MR. GOLLOMP: No objection. Your Honor, while
21 we are moving exhibits, may I move exhibit DOE
22 Exhibit 1.0?

1 JUDGE WALLACE: All right. Any objection to
2 DOE Exhibit 1.0? Hearing none, that's admitted.

3 (Whereupon DOE Exhibit
4 1.0 was admitted into
5 evidence.)

6 JUDGE WALLACE: Any objection to ComEd Cross
7 Exhibits 1 through 5? Hearing none, those are
8 admitted.

9 (Whereupon ComEd Cross
10 Exhibits 1, 2, 3, 4 and
11 5 were admitted into
12 evidence.)

13 JUDGE WALLACE: Mr. Robertson, if you would
14 pull the microphone over there so you can -- thank
15 you.

16 CROSS EXAMINATION

17 BY MR. ROBERTSON:

18 Q. Good among, my name is Eric Robertson. I
19 represent the Illinois Industrial Energy Consumers,
20 and I would like to direct you to line 142 to 149 of
21 your testimony.

22 A. Yes, I am there.

1 Q. And looking specifically at line 146 you
2 indicate that in the absence of a one-year fixed
3 price service, the federal agencies would find some
4 degree of comfort in a quarterly type of offering as
5 a compromise between hourly spot pricing and a
6 one-year fixed price product. What do you mean by
7 the term "compromise" there?

8 A. Well, it was certainly our reading in
9 conversations that we had with certain members of
10 Commonwealth Edison staff that they were not
11 enthusiastic about offering a one-year fixed price
12 POLR for large customers three megawatts and above.
13 In that instance we explored with the two DOE
14 laboratories and also with GSA representatives
15 whether or not if a one-year fixed price product
16 would not be offered, would they gain any kind of
17 comfort, any kind of security, out of a shorter term
18 of fixed price POLR such as quarterly.

19 And it is in that sense that we refer to it
20 as a compromise. It is a compromise between
21 essentially the hourly industry pricing which is
22 what the company is proposing for these customers

1 and a one-year fixed price product

2 Q. Would it be correct in assuming that your
3 clients would prefer the one-year fixed price
4 product, all else equal?

5 A. Absolutely.

6 Q. In your discussions with ComEd or in the
7 context of your testimony, have they shown any
8 interest in offering anything other than an hourly
9 pricing product?

10 A. Not yet.

11 Q. Absent such an interest, would your client
12 prefer the Commission to, to the extent it is
13 permitted to do so, direct ComEd to provide the
14 one-year fixed price product or the quarterly
15 product?

16 A. Certainly, if the Commission felt it could
17 so direct Commonwealth Edison, we would certainly
18 prefer that they direct them to offer a one-year
19 fixed price product.

20 Q. Now, referring to, I am sorry, lines 157 to
21 164 of your testimony, at line 165 you use the term
22 "competitive." Is that term in quotation marks on

1 your copy?

2 A. No. It's the term that the government uses
3 as opposed to offering a sole source RFP.

4 MR. ROBERTSON: That's all I have.

5 JUDGE WALLACE: Any other cross of Dr. Swan?

6 MR. ROBERTSON: Your Honor, I marked off one
7 question I shouldn't have. It's just a one or two
8 question point.

9 JUDGE WALLACE: Okay.

10 MR. ROBERTSON: Thank you.

11 Q. At lines 181 to 184 of your testimony you
12 indicated that in six years your client had received
13 cumulatively just five bids from certified retail
14 electric suppliers in Illinois, is that correct?

15 A. That's correct.

16 Q. Now, do you remember whether or not those
17 were five different suppliers, the five same POLR
18 suppliers, or were two of them the same or do you
19 have any recollection?

20 A. There were different suppliers in different
21 years, as I recall.

22 MR. ROBERTSON: Okay, thank you.

1 JUDGE WALLACE: Any redirect?

2 MR. GOLLOMP: No, Your Honor.

3 JUDGE WALLACE: Thank you, Dr. Swan. You may
4 step down.

5 (Witness excused.)

6 Next witness?

7 MR. GOLLOMP: Yes, I call Mr. Kahal.

8 MATTHEW I. KAHAL

9 called as a Witness on behalf of the US Department
10 of Energy, having been first duly sworn, was
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. GOLLOMP:

14 Q. Mr. Kahal, would you please give your full
15 name for the record.

16 A. My name is Matthew Ian Kahal.

17 Q. And your occupation?

18 A. I am an independent consultant retained in
19 this case by Exeter and Associates.

20 Q. Mr. Kahal, do you have before you a
21 document which has been marked for identification as
22 DOE Exhibit 2.0?

1 A. I do.

2 Q. Entitled Direct Testimony of Matthew I.

3 Kahal?

4 A. Yes.

5 Q. Are there any changes or corrections you
6 want to make to Exhibit 2.0?

7 A. No.

8 Q. Was Exhibit 2.0 prepared by you?

9 A. It was.

10 Q. And you adopt it as your direct testimony
11 in this proceeding?

12 A. Yes.

13 MR. GOLLOMP: I move the admission of DOE
14 Exhibit 2.0.

15 JUDGE WALLACE: Any objection?

16 MR. LAKSHMANAN: No objection. I just want to
17 make sure I understand something. Was that document
18 a revised document or was that the original
19 document?

20 MR. GOLLOMP: Well, what happened, quick
21 explanation, when I filed my testimony in total,
22 unfortunately, due to some problems we had with our

1 computer, the lines and pagination were omitted.
2 And I subsequently refiled electronically through
3 the e-Docket system at the Commission a version
4 which included all the lines and pages. So there is
5 no amending of the testimony, just a correction in
6 format. I treat it as an amended, but it is not
7 really amended testimony.

8 MR. LAKSHMANAN: I want to make sure which one
9 was --

10 JUDGE WALLACE: Do you remember the date that
11 you refiled that?

12 MR. GOLLOMP: Can I provide Your Honor at the
13 end? I have it somewhere in my files.

14 JUDGE WALLACE: We can look it up. Just so we
15 are clear, we will admit the, I guess it would be --

16 MR. GOLLOMP: It was the later version, Your
17 Honor.

18 JUDGE WALLACE: The later version. Let's call
19 it the corrected version then. That's admitted.

20 (Whereupon DOE Exhibit
21 2.0 Corrected was
22 admitted into

1 evidence.)

2 Does anyone have cross of Mr. Kahal?

3 MR. RATNASWAMY: Yes.

4 JUDGE WALLACE: Mr. Ratnaswamy.

5

6 CROSS EXAMINATION

7 BY MR. RATNASWAMY:

8 Q. Good morning, Mr. Kahal.

9 A. Good morning.

10 Q. In line 42, I believe it is, of your
11 testimony you refer to Docket 02-0159. Do you see
12 that?

13 A. Yes.

14 Q. Is that a typo? Did you mean 02-0479? I
15 wondered if you mixed together the Docket Number of
16 this case and the previous case.

17 A. That's obviously not the correct docket.
18 The docket that I was referring to here was the --
19 it was the docket I believe it may have been in
20 early 2003 dealing with the HEP rate. I believe it
21 was a follow-on from that competitive declaration
22 docket. So, but I can't recall docket numbers but I

1 will take that subject to check.

2 Q. Okay. Could you look at your Attachment A,
3 line or item number 247?

4 A. Yes.

5 Q. Is that the docket number you meant?

6 A. That is correct. Thank you for that
7 correction.

8 Q. You refer to that docket as involving
9 changes to Rate HEP. Is it correct that your
10 involvement with that docket began after the
11 issuance of the Commission's Interim Order in that
12 docket?

13 A. Yes, that is correct. My recollection was
14 that that was in the fall of 2002.

15 Q. And actually in the succeeding question in
16 your testimony is the reference to provider of last
17 resort or POLR service. But what does that term
18 mean to you?

19 A. Provider of last resort service means the
20 electric supply service that a customer would obtain
21 usually from the customer's utility if that customer
22 does not take competitive service, either because

1 the customer is unable to obtain competitive service
2 or the customer does not elect competitive service.

3 Q. And is that --

4 A. It's sometimes called default service.

5 Q. Is it correct that you think of the instant
6 docket as also being one in which the subject matter
7 is POLR service?

8 A. Yes.

9 Q. On lines 98 to 100 you refer to Dr. Swan's
10 testimony. Do you see that?

11 A. Yes.

12 Q. Would it be correct to understand your
13 testimony when it refers to Dr. Swan's testimony to
14 simply be summarizing it or characterizing it, not
15 providing independent support for the things Dr.
16 Swan says in his testimony?

17 A. I can't recall absolutely every statement
18 Dr. Swan made in his testimony sitting here. Dr.
19 Swan's role was to describe the circumstances with,
20 particularly with the DOE large labs and their
21 procurement experience. In that sense I am not
22 supporting -- that is, I am not independently

1 supporting his testimony.

2 To the extent that he makes policy
3 statements about the type of POLR service he believe
4 the Department of Energy should be entitled to, I
5 would say I am independently supporting his
6 testimony

7 Q. Thank you for that clarification. If I
8 could direct your attention to lines 204 to 205,
9 actually 202 through 205, excuse me. Do you have
10 that?

11 A. Yes.

12 Q. Is the list that appears on lines 204 to
13 205 intended to be a complete list of reasons that
14 large business customers may not succeed in
15 obtaining a retail supply contract?

16 A. No. These are reasons that I have just
17 heard as being typically cited, just in the many
18 discussions I have had with large business
19 customers.

20 Q. In this section of your testimony where you
21 talk about large business customers, are you
22 intending that we should understand that to include

1 or exclude the federal agencies referred to in Dr.
2 Swan's testimony?

3 A. In a general way it includes them. I think
4 that one of the things that I have listed here,
5 included in this discussion, is credit quality, I
6 believe. I wouldn't think credit quality is a
7 problem for the federal government. I would like to
8 think it is not.

9 Q. I think we all do. Would you agree that
10 another reason a business customer might not succeed
11 in obtaining a retail supply contract is that the
12 customer issues an RFP that does not propose
13 commercially reasonable terms?

14 A. Sure, yes. I really haven't heard of that
15 as being a typical problem but, sure, that is
16 possible.

17 Q. I want to ask you a question generally
18 about what you are proposing. It relates mostly to
19 pages 7 and 14 through 19, but I am not -- I don't
20 have particular lines in mind at the moment.

21 A. Okay.

22 Q. Would it be accurate to say that the focus

1 of your testimony is on the type of service that you
2 desire ComEd to offer but not on the particular
3 means by which ComEd procures the requirements it
4 needs in order to provide that service?

5 A. I would say that the specifics of the
6 procurement details are probably secondary. In
7 general principles what I am advocating is that it
8 simply be an efficient competitive process. I think
9 that what my testimony tries to say is that there
10 could be more than one way of doing it, and that the
11 deal be as flexible concerning the details of
12 exactly how that is done.

13 Q. And would you agree that you have not
14 proposed a particular means of procurement?

15 A. I have identified two alternatives and
16 tried to, at least in a very summary way, discuss
17 the different attributes or pros and cons, the two
18 being the type of auction that the company supports
19 and the alternative being the use of a more
20 conventional RFP which is what most states are
21 doing, that is most retail access states are doing.

22 Beyond that, the only other point that I

1 would make is that I believe that the procurement
2 process probably should be separate for the three
3 megawatt and above rather than mixed in with the
4 other customers because of the problem of migration
5 risk

6 Q. Would you agree that it is generally the
7 case in the procurement process for electricity or
8 electric power and energy that load uncertainty
9 translates into higher prices, all else being equal?

10 A. Very much so. And by load uncertainty I am
11 really not referring to things like weather which
12 suppliers understand that weather is going to
13 fluctuate. But rather whether the customer is there
14 at all.

15 Q. Would you agree that most ComEd customers
16 three megawatts and above in demand have a strong
17 propensity to shop for generation supply that
18 provides savings relative to POLR service?

19 A. Yes, that has been my experience just from
20 interacting with large customers around the country.
21 I don't think there is anything unique in that
22 regard concerning Illinois.

1 Q. And that shopping activity creates load
2 activity for the wholesale supplier?

3 A. Yes.

4 Q. And that load uncertainty limits the
5 ability of the supplier to hedge commodity costs?

6 A. Yes. I think that's really what's been
7 discussed both by the company and by, I believe,
8 almost every party that's addressed this in the
9 context of large customers, and not just three
10 megawatts but I think even one megawatt and above,
11 if the customer takes POLR, then there must be some
12 sort of commitment on the part of the customer to
13 stay on it for some minimum period of time to
14 address that very problem. But even there it is
15 going to be addressed only to a limited extent
16 because of the window that exists which in effect
17 functions as a pre-call option for the customer.

18 Q. If I could direct your attention please,
19 Mr. Kahal, to lines 418 and 419 of your testimony?

20 A. Beginning at 418?

21 Q. Yes.

22 A. Sure.

1 Q. Do you recall being asked a data request
2 inquiring as to whether you had any studies,
3 analyses or other similar documents relating to the
4 operating or proposed effects of the quarterly POLR
5 service approach?

6 A. There was something along those lines. I
7 think that the question was probably somewhat longer
8 than that.

9 Q. Under comment, clause. Would you agree
10 that the gist of your answer would be that you did
11 not have in your possession any studies, analyses or
12 data or similar documents pertaining to POLR service
13 for large customers?

14 A. That's right. I don't recall my precise
15 answer. I think I might have the data response
16 somewhere. I thought I might have given a reference
17 to the Massachusetts quarterly model and indicated
18 that I thought that there might be some of that
19 information on the Massachusetts Commission website.
20 But I didn't have it specifically in my possession.

21 Q. Thank you. If I could direct your
22 attention to, I believe it is, lines 489 to 490.

1 Are those the lines -- I am sorry, this version
2 doesn't have the lines on it so I am trying to match
3 this up -- where you indicate that the quarterly
4 POLR is likely to be more expensive than the prices
5 a retail supplier could offer a customer?

6 A. Yes.

7 MR. RATNASWAMY: I would like to mark this as
8 ComEd Cross Exhibit 6.

9 (Whereupon ComEd Cross
10 Exhibit 6 was marked
11 for purposes of
12 identification as of
13 this date.)

14 BY MR. RATNASWAMY:

15 Q. Mr. Kahal, do you recognize this data
16 request and data request response?

17 A. Yes.

18 Q. Is this your answer to a data request that
19 was received from Commonwealth Edison Company?

20 A. Yes, it is.

21 Q. Did you intend that answer to be a complete
22 and accurate answer?

1 A. Yes.

2 MR. RATNASWAMY: Your Honor, I have no further
3 questions. I would move the admission of
4 Commonwealth Edison Company Cross Exhibit 6.

5 JUDGE WALLACE: Any objection?

6 MR. GOLLOMP: No objection, Your Honor.

7 JUDGE WALLACE: ComEd Cross Exhibit 6 is
8 admitted.

9 (Whereupon ComEd Cross
10 Exhibit was admitted
11 into evidence.)

12 JUDGE WALLACE: Anyone else have cross of
13 Mr. Kahal?

14 MR. TOWNSEND: No, I don't, Your Honor.

15 JUDGE WALLACE: Mr. Robertson?

16 MR. ROBERTSON: Just a few questions.

17 CROSS EXAMINATION

18 BY MR. ROBERTSON:

19 Q. Unfortunately, Mr. Kahal, I don't have a
20 copy of your testimony with the line numbers on it
21 so I am going to have to refer to what I believe is
22 the fifth page, lines 47-55. In the sentence that

1 begins on line 46 of your testimony you indicate
2 that at this location in your testimony you provide
3 background information on your participation in the
4 Maryland multi-phase settlement process to develop a
5 post-transition POLR service for Maryland customers,
6 is that correct?

7 A. That is correct.

8 Q. And you participated on behalf of whom in
9 that effort?

10 A. I participated on behalf of the state
11 agencies which were the Maryland Department of
12 Natural Resources and the Energy Administration
13 which represents the governor.

14 Q. Based on your experience were you familiar
15 with the POLR service Maryland offered to its larger
16 customers?

17 A. Yes.

18 Q. And what was the nature of that service?

19 A. Yes. Well, this process that I am
20 referring to was somewhat analogous to what we are
21 trying to do here. That is, Maryland, like
22 Illinois, had legislatively mandated rate caps

1 following the onset of deregulation, the onset of
2 retail access. And like Illinois the rate caps had
3 expiration dates. So the purpose of this process
4 was to determine where we go from there. That is,
5 what we do, how we provide POLR service after the
6 rate caps expire.

7 The process which successfully resulted in
8 a settlement, a series of settlements, that was
9 adopted by the Commission provided market-based POLR
10 service based on a competitive procurement process.
11 For the large customers the process established a
12 one-year fixed price POLR service. In Maryland we
13 call it standard offer service.

14 And at the conclusion of the settlement
15 period for the large customers which was one year,
16 it expired. It turns out that was just about two
17 months ago. And with the expiration, the large
18 customers to the extent that they required default
19 or POLR service, had available an hourly price
20 service.

21 But the settlement agreement that was
22 approved by the Commission started out with a fixed

1 price, one-year fixed price, POLR service

2 Q. Now, also let me refer you to lines 175 and
3 183 of your testimony. Now, at line 183 you
4 indicate that ComEd has not adequately explained the
5 policy process for making POLR service available
6 only on an hourly price basis, is that correct?

7 A. That is correct.

8 Q. Now, since you prepared your direct
9 testimony have you had the opportunity to review
10 ComEd's rebuttal and surrebuttal?

11 A. I have.

12 Q. Have they provided in your opinion an
13 adequate explanation of the policy reason for not
14 offering a fixed price product?

15 MR. RATNASWAMY: I object, Your Honor. The
16 Department of Energy had the opportunity to submit
17 rebuttal and chose not to do so. It is not
18 appropriate for Mr. Robertson now at the hearing to
19 give Mr. Kahal the opportunity for untimely
20 rebuttal.

21 JUDGE WALLACE: Mr. Robertson?

22 MR. ROBERTSON: Well, I believe you are

1 entitled to inquire of a witness whether or not
2 there have been any circumstances that would change
3 his opinion based on his direct testimony. I think
4 that's the purpose of cross examination. I would
5 like to know whether or not he has seen anything or
6 has change his mind. Let me ask it this way.

7 Q. Have you changed your opinion since you
8 wrote your direct testimony about whether or not
9 ComEd has provided an adequate policy explanation of
10 why it wishes only to offer the hourly product to
11 three megawatt and over customers?

12 MR. RATNASWAMY: Your Honor, I renew my
13 objection. Although the words have changed, the
14 problem is the same.

15 JUDGE WALLACE: I am going to overrule the
16 objection. Go ahead, Mr. Kahal.

17 A. The answer is no. I have seen nothing that
18 changes my opinion about that statement or any other
19 statement in my testimony, but particularly that
20 statement.

21 MR. ROBERTSON: That's all I have.

22 JUDGE WALLACE: Anyone else have cross of

1 Mr. Kahal? Any redirect?

2 MR. GOLLOMP: No, Your Honor.

3 JUDGE WALLACE: Thank you, Mr. Kahal.

4 (Witness excused.)

5 MR. GOLLOMP: Your Honor, when I moved the
6 admission of Mr. Kahal's Exhibit 2.0 you requested
7 the date the DOE filed the amended version of
8 Mr. Kahal's testimony. DOE filed an amended version
9 which included the lines and pagination on July 8
10 and the tracking number was the Commission's
11 e-Docket system 60189.

12 JUDGE WALLACE: Thank you. So we will use the
13 July 8 version. That's on e-Docket. And, Mr.
14 Gollomp, were you going to file a new e-version,
15 e-Docket version of Dr. Swan's testimony?

16 MR. GOLLOMP: I hadn't contemplated, Your
17 Honor. Should I?

18 JUDGE WALLACE: Yes. Either -- well, you will
19 need to do two things, either file a new one with
20 the corrections or give the court reporter a paper
21 copy with those corrections.

22 MR. GOLLOMP: I will file a corrected version

1 through the e-Docket system, Your Honor.

2 JUDGE WALLACE: Thank you. Then we will use
3 the corrected version.

4 Let's take a few minimums break and we will
5 begin with the panel testimony. I am going to see
6 if I can get a table in here that they can set at.

7 (Whereupon the hearing
8 was in a short recess.)

9 (Whereupon the
10 Witnesses were duly
11 sworn by Judge
12 Wallace.)

13 JUDGE WALLACE: Back on the record.
14 Mr. Ratnaswamy.

15 LAWRENCE ALONGI & PAUL CRUMRINE
16 called as Witnesses on behalf of Commonwealth Edison
17 Company, having been first duly sworn, were examined
18 and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. RATNASWAMY:

21 Q. Mr. Alongi, could you please state your
22 name and your business address.

1 A. (Mr. Alongi) Lawrence S. Alongi,
2 A-L-O-N-G-I. I work at Three Lincoln Center in
3 Oakbrook Terrace.

4 JUDGE WALLACE: All right. You are going to
5 have to pull the mic closer and speak into it. We
6 have some people in the Chicago office that are
7 listening in and we also have our intranet. So you
8 will have to speak into the mic and then switch it
9 over so that everyone can hear.

10 WITNESS ALONGI: Do you need me to repeat?

11 JUDGE WALLACE: Yes, if you would, please.

12 A. (Mr. Alongi) Lawrence S. Alongi,
13 A-L-O-N-G-I. I work at Three Lincoln Center in
14 Oakbrook Terrace.

15 Q. By whom are you employed, sir?

16 A. (Mr. Alongi) Commonwealth Edison Company.

17 Q. In what capacity?

18 A. (Mr. Alongi) Manager of Retail Sales.

19 Q. Mr. Crumrine, could you state your name and
20 your business address, please.

21 A. (Mr. Crumrine) Paul Crumrine,
22 C-R-U-M-R-I-N-E, business address is 440 South

1 LaSalle Street, Chicago, Illinois.

2 Q. By whom are you employed?

3 A. (Mr. Crumrine) Commonwealth Edison
4 Company.

5 Q. And in what capacity, sir?

6 A. (Mr. Crumrine) Director of Regulatory
7 Strategies and Services.

8 Q. Mr. Alongi and Mr. Crumrine, did you
9 prepare under your supervision, direction and
10 control the following exhibits for purposes of
11 admission in this docket: Commonwealth Edison
12 Exhibit 7.0 which is your direct panel testimony
13 with Attachments 7.1 through 7.7, e-Docket number
14 55889?

15 A. (Mr. Crumrine) Yes.

16 A. (Mr. Alongi) Yes.

17 Q. Did you also prepare or have prepared under
18 your direction, supervision and control Commonwealth
19 Edison Exhibit 13.0, your rebuttal panel testimony
20 and its two attachments, Exhibit 13.1 and Exhibit
21 13.2 Corrected, with Exhibits 13.0 and 13.1 having
22 the e-Docket number of 60092, and 13.2 corrected

1 having the number of 60790?

2 A. (Mr. Crumrine) Yes.

3 A. (Mr. Alongi) Yes.

4 Q. And, Mr. Alongi and Mr. Crumrine, did you
5 also prepare or have prepared under your direction,
6 supervision and control Commonwealth Edison Company
7 Exhibit 21.0, your panel surrebuttal testimony,
8 e-Docket number 61487?

9 A. (Mr. Crumrine) Yes.

10 A. (Mr. Alongi) Yes.

11 Q. And with the understanding of your rebuttal
12 and surrebuttal comments in certain respects on the
13 prior testimony, if I were to ask you the questions
14 which appear in the testimony which we have just
15 identified, would you give the answers that appear
16 therein and incorporate the attachments referenced
17 thereto?

18 A. (Mr. Crumrine) Yes.

19 A. (Mr. Alongi) Yes.

20 MR. RATNASWAMY: Your Honor, subject to cross
21 examination I would move the exhibit of Commonwealth
22 Edison Company Exhibit 7.0 through and including

1 7.7, 13.0, 13.1, 13.2 Corrected and 21.0.

2 JUDGE WALLACE: All right. And all these have
3 been filed on e-Docket?

4 MR. RATNASWAMY: That is correct, sir.

5 JUDGE WALLACE: All right. Any objection?
6 Hearing no objection, Exhibits 7.0 through and
7 including ComEd Exhibit 7.7, ComEd Exhibit 13.0,
8 13.1, 13.2 Corrected and ComEd Exhibit 21.0 are all
9 admitted.

10 (Whereupon ComEd
11 Exhibits 7.0, 7.1, 7.2,
12 7.3, 7.4, 7.5, 7.6,
13 7.7, 13.0, 13.1, 13.2
14 Corrected, 21.0 were
15 admitted into
16 evidence.)

17 Does anyone have cross of the panel of
18 Mr. Crumrine and Mr. Alongi

19 MR. GIORDANO: I do, Your Honor.

20 JUDGE WALLACE: All right, Mr. Giordano, you
21 may proceed, if you would speak into the microphone,
22 please.

1 MR. GIORDANO: Thank you, Judge Wallace.

2 CROSS EXAMINATION

3 BY MR. GIORDANO:

4 Q. Good morning, Mr. Crumrine and Mr. Alongi.
5 Congratulations on finishing your delivery services
6 rate filing.

7 As you said in your testimony, we now have
8 a complete picture, correct

9 A. (Mr. Crumrine) Yes.

10 Q. Let me refer you -- has it been filed yet?

11 A. (Mr. Alongi) It is in the process.

12 Q. And do you know when it is going to be
13 filed?

14 A. (Mr. Alongi) As soon as the chief clerk's
15 office completes the check-in.

16 Q. All right. Let me refer you to page 14,
17 lines 315 to 317, of your direct testimony. You
18 testify there that your methodology in conjunction
19 with the auction process enables bundled service
20 tariffs and Rider PPO-MVM to converge by virtue of
21 using common supply charges during the
22 post-transition period, thereby eliminating any

1 artificial price variances between the supply costs
2 of the two services, correct?

3 A. (Mr. Crumrine) that's correct.

4 Q. Now, and then I would like to refer you
5 also to page 3, same testimony, lines 63 to 64,
6 where you again say, and you are referring to PPO
7 and bundled service rates, that supply charges under
8 both are identical and cost-based, correct?

9 A. (Mr. Crumrine) That's correct.

10 Q. Now, is it true that there will be no
11 differences in charges between PPO-MVM service and
12 your proposed CPP-A service for customers with
13 between 400 kilowatt and three megawatts of peak
14 monthly demand?

15 A. (Mr. Crumrine) That's correct.

16 Q. Now, in your direct testimony, referring to
17 page 19, lines 420 to 422, you agree or you state
18 that ComEd is required under the Public Utilities
19 Act to offer a PPO after the current competitive
20 transition period, correct?

21 A. (Mr. Crumrine) That's correct.

22 Q. Since ComEd's proposed PPO-MVM charges will

1 be the same charges offered to consumers under your
2 proposed CPP-A service, what benefits will the
3 proposed PPO-MVM provide to retail customers that
4 they will not be able to achieve purchasing under
5 ComEd's bundled CPP-A tariff?

6 A. (Mr. Crumrine) I am not sure that there is
7 going to be a significant difference. The prices
8 will be the same. Switching rules are only slightly
9 different, and other than meeting the requirements
10 placed on the company by the Act, I am not sure if
11 there is a significant degree of difference between
12 the two.

13 Q. Now, isn't it true that the PPO is an
14 unbundled service under the Public Utilities Act?

15 A. (Mr. Crumrine) The non-lawyer in me says
16 yes, I believe that's correct.

17 Q. Now, on page 21, line 457, you testify that
18 one of the benefits of converging the PPO and
19 bundled service is that RESEs, retail electric
20 suppliers, will have fewer utility offerings against
21 which they must compete, isn't that correct?

22 A. (Mr. Crumrine) That's correct.

1 Q. It is your opinion that that's good for
2 consumers, to have less utility offerings or is it
3 good for suppliers only?

4 A. (Mr. Crumrine) I think because it is good
5 for retail competition, it is good for suppliers and
6 for customers.

7 Q. Let me refer you to page 62, lines 1392 to
8 1395. And you are talking here about the rate
9 translation mechanism and you state that the market
10 energy costs subsection contains provisions and
11 formulae that use specified data regarding forward
12 prices for electricity delivered into the northern
13 Illinois hub by peak and off-peak period for each
14 month for which retail supply charges are being
15 determined. So isn't that correct?

16 A. (Mr. Crumrine) That's correct.

17 Q. So you would agree then that these forward
18 prices for electricity delivered into the northern
19 Illinois hub are valid information for the purpose
20 of determining rates for Commonwealth Edison,
21 correct?

22 A. (Mr. Crumrine) As part of the translation

1 mechanism, that is correct.

2 Q. But I am asking you whether it is valid as
3 a method of determining rates for Commonwealth
4 Edison, a broader question than just the translation
5 mechanism.

6 A. (Mr. Crumrine) I think the only manner
7 right now that ComEd has proposed to use those
8 forwards is as part of the translation mechanism. I
9 can't answer the broader question.

10 Q. But you are using those forwards as a basis
11 for rates, ratemaking, correct?

12 A. (Mr. Crumrine) They are a component of the
13 translation mechanism.

14 Q. All right. Let me refer you -- let me
15 refer you, I asked a couple questions of Mr. Clark
16 about this issue and the issue of the impact of the
17 rate increase, the proposals on non-residential
18 space heating customers. Now, in their assumptions
19 Mr. Childress and Brookover, BOMA witnesses, used an
20 assumption of a delivery services rate increase of
21 17.78 percent in estimating the combined average
22 impact of the proposed changes on rates where a

1 random sample of non-residential space heating
2 customers of total rate increases of 17 percent at
3 an auction price of 4.5 cents to 46 percent at an
4 auction price of 6 cents.

5 Now, is this 17.78 percent assumption for
6 delivery service rate increase reasonable in light
7 of the rate increase filing being made today

8 A. (Mr. Crumrine) It is reasonable.
9 Depending upon the customer class, it depends. It
10 is sometimes a little bit high and sometimes a
11 little bit low.

12 Q. So what is the average delivery service
13 rate increase being filed today on a percentage
14 basis?

15 A. (Mr. Crumrine) I am not sure whether I can
16 answer that before the filing is actually accepted.

17 Q. But this 17.78 percent, that's a reasonable
18 assumption?

19 A. (Mr. Crumrine) As I said, depending upon
20 the class, it's a little bit high and other classes
21 it is a little bit low.

22 Q. And a little bit, you are talking about in

1 the one percent range?

2 A. (Mr. Crumrine) Again, I have been advised
3 that I have to be careful just how much detail we
4 provide before the filing is actually public and
5 accepted by the Commission's clerk. I am not trying
6 to be evasive, but we have been told for reporting
7 reasons we have to wait until the filing is
8 accepted.

9 Q. Did the delivery rate service filing
10 include any method of mitigating rate shock for
11 non-residential space heating customers?

12 A. (Mr. Crumrine) No.

13 Q. Now, let me ask you some questions about
14 ComEd's non-residential space heating tariffs, Rider
15 25 and Heat with Light. How long have those tariffs
16 been offered to customers by Commonwealth Edison,
17 generally, approximately, if you don't know the
18 specific date?

19 A. (Mr. Alongi) I don't recall exactly but I
20 think in the mid-70s.

21 Q. And isn't it true those tariffs do not have
22 demand charges for either supply or delivery of

1 electricity for space heating demand?

2 A. (Mr. Crumrine) No, that's not true.

3 Q. And you are saying that's not true because
4 the tariffs include a higher or a lower -- can you
5 please describe why you say that's not true?

6 A. (Mr. Crumrine) For the space heating,
7 other than Heating with Light, the rate is the lower
8 of a cent per kilowatt hour charge or the
9 combination of demand and energy charges that would
10 apply under the otherwise applicable rate. So
11 depending upon the particular circumstances of the
12 customer in a given month, the per kilowatt hour
13 charge may apply. In other cases the combination of
14 demand and energy charges may apply.

15 Q. And do you know how often the energy charge
16 is lower than the combined demand and energy charge
17 for customers in your service territory?

18 A. (Mr. Crumrine) It has been a number of
19 years since I have looked at that, but the last time
20 I did, which was quite awhile ago, the preponderance
21 of the months it is billed at the cent per kilowatt
22 hour value, not the combination of demand and

1 energy.

2 Q. And under that cent per kilowatt hour
3 charge there is no demand charge for either supply
4 or delivery of electricity, correct?

5 A. (Mr. Crumrine) Correct, there is no
6 separately stated demand charge.

7 Q. Now, how much lower are charges on the
8 average for Rider 25 customers compared with
9 customers using the same demand and usage on ComEd's
10 applicable bundled rates on average?

11 A. (Mr. Alongi) I have not looked at that.

12 Q. Do you know, Mr. Crumrine?

13 A. (Mr. Crumrine) No, not off hand.

14 Q. Why did ComEd offer these tariffs in the
15 mid-70s to non-residential space heating customers?

16 A. (Mr. Crumrine) It was to encourage the end
17 use of electricity in the non-summer months when
18 ComEd was a vertically integrated utility and its
19 growing nuclear generation portfolio had fairly low
20 costs of providing power in those non-summer months.
21 And it was designed to in part encourage electric
22 usage during those non-summer months, increasing the

1 utilization of the generation facilities.

2 Q. Was it also done to encourage buildings and
3 other consumers to construct all-electric
4 facilities?

5 A. (Mr. Crumrine) Well, I would say that is
6 the means by which customers obtained or met the
7 objective of an end use that was primarily used in
8 the non-summer months.

9 Q. So it is true that after that rate went
10 into effect, isn't it, that the vast majority of
11 buildings in Chicago were installed with
12 all-electric, correct?

13 MR. RATNASWAMY: Mr. Giordano, could you be a
14 little more precise about buildings? Because I
15 don't think that's exactly what you mean. Do you
16 mean commercial buildings or large buildings or
17 something.

18 Q. Yeah, sure, that's fine. Commercial
19 buildings in Chicago?

20 A. (Mr. Crumrine) Well, I don't know how to
21 generalize on the smaller, you know, two to five,
22 six story buildings. I don't know the answer there.

1 It is true that in the high rise commercial
2 buildings in downtown Chicago that they have, it is
3 my understanding, that the preponderance has been in
4 electric space heating.

5 Q. And that was after this rider went into
6 effect, correct? Before that there was a lot of gas
7 being put in the buildings, correct?

8 A. (Mr. Crumrine) That I don't know.

9 Q. Now, you testify that there is not a
10 specific rate class for Rider 25 customers, correct?

11 A. (Mr. Crumrine) That's correct.

12 Q. Now, since this rider is applied to
13 customers of very different sizes that receive
14 electricity under a number of different -- a number
15 of different sizes, wouldn't it have been
16 impracticable to create a specific rate class for
17 these customers and that's why ComEd chose a rider?

18 A. (Mr. Crumrine) It is not necessarily why
19 ComEd chose a rider rather than a rate, but it is
20 true that the electric space heat charges apply to a
21 wide range of customers from small, all the way up
22 to very large buildings. And it would have been

1 impractical from a ratemaking perspective to have
2 them as a separate class.

3 Q. Now, you are proposing the elimination of
4 Rider 25, correct?

5 A. (Mr. Crumrine) There is no separate -- in
6 Rider CCP there is no separate supply group for
7 Rider 25 customers, you are right. They would fall
8 into whatever size category they belong.

9 Q. And also the Heat with Light rate, you are
10 also proposing elimination of that rate, correct?

11 A. (Mr. Crumrine) That is part of Rider 25,
12 yes.

13 Q. Now, one of the benefits we have already
14 established is that, of these tariffs, is it allows
15 you to compete to supply buildings with electricity
16 for space heating rather than those choosing to heat
17 with another energy source. Now, wouldn't having
18 buildings heat with electricity also benefit ComEd
19 now, even when it is only a distribution company?

20 A. (Mr. Crumrine) No, I don't believe so.

21 Q. So you are saying that less electricity
22 usage would not hurt Commonwealth Edison as a wires

1 company?

2 JUDGE WALLACE: It would not hurt or not help?

3 Q. Hurt.

4 A. (Mr. Crumrine) I don't think that's a
5 restatement of the question that I just answered.
6 What I said was that it would not help to. I mean,
7 we are going to deliver power to whatever customers
8 ask us to deliver. In that sense we are indifferent
9 to their supply arrangements.

10 Q. Well, let's put it this way then. What if
11 the building, commercial buildings, large buildings,
12 the new buildings in Chicago, for example, start to
13 put in gas as opposed to electricity. Would that
14 hurt ComEd as a wires company?

15 A. (Mr. Crumrine) Not necessarily.

16 Q. So you are indifferent to that; you don't
17 care any more whether, like you once did, whether
18 consumers install all electric facilities?

19 A. (Mr. Crumrine) As a wires company we are
20 indifferent to that, yes.

21 Q. Even though your business is still
22 delivering electricity, correct?

1 A. (Mr. Crumrine) That's correct.

2 Q. And you make money on sales of delivery of
3 electricity, not any other energy source, correct?

4 A. (Mr. Crumrine) We make sales but we also
5 incur costs to deliver. And to the extent that
6 people are not causing us to incur costs and we are
7 now making corresponding sales, we are close to
8 being indifferent.

9 Q. Now, to the extent that ComEd's tariffs for
10 space heating customers have encouraged a larger
11 demand for electricity, doesn't this also benefit
12 Exelon Generation which owns substantial generation
13 in this region?

14 MR. RATNASWAMY: Object to the relevance of the
15 question.

16 MR. GIORDANO: I think it is relevant. I think
17 it is very clear that Exelon Generation --

18 JUDGE WALLACE: Overruled, go ahead and answer
19 the question.

20 A. (Crumrine) Yes.

21 BY MR. GIORDANO:

22 Q. Now, let me refer you to page 57, lines

1 1245 to 1246, of your rebuttal testimony.

2 A. (Mr. Crumrine) I am sorry, what was that
3 page again?

4 Q. 57. Now, here you criticized Messrs.
5 Brookover and Childress for not providing a proper
6 frame of reference for the Commission to consider
7 because they provided bill calculations for Rider 25
8 customers without also providing the results for
9 similarly-sized customers without Rider 25, correct?

10 A. (Mr. Crumrine) That's correct.

11 Q. Now, you know, don't you, that in their
12 rebuttal testimony Messrs. Brookover and Childress
13 responded to this and did provide such a comparison
14 and that this comparison showed that a randomly
15 selected group of non-residential space heating
16 customers were to experience nearly an 11 percent
17 greater increase in electricity costs than an
18 otherwise similar group of non-residential,
19 non-space heating customers. You are aware of that,
20 correct?

21 A. (Mr. Crumrine) I am aware of the analysis.
22 I had forgotten the exact percentage difference.

1 But I am aware that they did provide those type of
2 results.

3 Q. But you would accept subject to check it
4 was 11 percent?

5 A. (Mr. Crumrine) Yes.

6 Q. And would you agree that this projection of
7 an 11 percent relative difference in rate increases
8 for non-residential space heating customers versus
9 non-residential non-space heating customers is a
10 reasonable estimate, wouldn't you?

11 A. (Mr. Crumrine) I have not had -- I have
12 not done an independent verification. I don't think
13 we have a position as to whether it is valid or
14 invalid. They have presented numbers that they
15 present. We have not attempted to validate them.

16 Q. But you have not challenged them, correct?

17 A. (Mr. Crumrine) That's correct.

18 Q. Now, even though you ask for such a
19 comparison in your rebuttal testimony, you still
20 opposed their proposal to mitigate the impacts on
21 non-residential space heating customers in your
22 surrebuttal testimony, correct?

1 A. (Mr. Crumrine) That's correct.

2 Q. Now, you justified your rejection of any
3 mitigation of the rate increase for non-residential
4 space heating customers in your rebuttal testimony
5 on the grounds in part that there is no separate
6 customer class for space heating customers, and
7 that's at ComEd Exhibit 21, lines 1053 to 1054,
8 correct?

9 A. (Mr. Crumrine) That's correct.

10 MR. GIORDANO: I would like to show you BOMA
11 Cross Exhibit 4, I think -- BOMA Cross Exhibit 5.

12 (Whereupon BOMA Cross
13 Exhibit 5 was
14 marked for purposes
15 of identification
16 as of this date.)

17 Q. Now, this is ComEd's filing of customer
18 transition charges for applicable Period A effective
19 for the company's customers as applicable during the
20 period beginning with the June 2004 billing period
21 and ending with the May 2005 monthly billing period,
22 correct?

1 A. (Mr. Alongi) That's correct.

2 Q. And you are familiar with this document,
3 correct?

4 A. (Mr. Alongi) Yes.

5 JUDGE WALLACE: Just a second, are those
6 spares? There might be some more people out in the
7 hallway that would like one.

8 BY MR. GIORDANO:

9 Q. Now, this document shows, doesn't it, that
10 Rider 25 customers had a separate customer
11 transition charge from other non-residential
12 customer classes, correct?

13 A. (Mr. Crumrine) It shows that a subset of
14 them did, yes.

15 Q. I am sorry. This applies to all Rider 25
16 customers, doesn't it?

17 A. (Mr. Crumrine) Well if you will notice
18 under the non-residential, other non-residential
19 customer group, the third grouping, there is a line
20 item for Rider 25. That's for customers who only
21 have Rider 25. There is also separate consideration
22 for customers who have Rider 25 in conjunction with

1 either what was then and experiment called Student
2 Power 2000. Another one where Rider 25 was used in
3 conjunction with a consolidated billing experiment,
4 and lastly in conjunction with Rider GCB. Those
5 four groups are mutually exclusive. They did sell
6 the -- that's what I meant when I said a subset of
7 the Rider 25 customers had a separate group. The
8 rest of them were in other categories where they
9 belong.

10 JUDGE WALLACE: Mr. Crumrine, when you testify
11 can you pull the mic a little closer?

12 WITNESS CRUMRINE: Sorry. Yes, sir.

13 Q. But all of the commercial space heating
14 Rider 25 customers had a different transition charge
15 than the commercial non-space heating customers,
16 correct?

17 A. (Mr. Crumrine) Not exactly because some of
18 them were also included in the consolidated billing
19 experiment and in Rider GCB and got separately
20 determined CTCs, separate and different from the
21 plain vanilla Rider 25 CTC.

22 Q. The vast majority of the Rider 25 customers

1 were in the Rider 25 space heating service CTC
2 category, correct?

3 A. (Mr. Crumrine) I have not done an analysis
4 to know whether it is the vast majority or not. I
5 suspect that it is the majority of them.

6 Q. All right. Now, this has been -- there has
7 been this separate space heating service CTC for
8 Rider 25 customers throughout the transition period,
9 correct?

10 A. (Mr. Crumrine) That's correct.

11 Q. Now, because of this customer transition
12 charge for Rider 25 customers, isn't it true that
13 many of these customers were able to achieve bill
14 reductions under the PPO relative to their bundled
15 rates during the competitive transition period?

16 A. (Mr. Crumrine) I presume that's the reason
17 why these customers chose the PPO, yes.

18 Q. And you would agree that this different
19 customer transition charge for non-residential space
20 heating customers, which is significantly lower than
21 the customer charge for the non-residential
22 non-space heating customers, has been a very fair

1 way to treat non-residential space heating customers
2 during the transition period, correct?

3 A. (Mr. Crumrine) For the purposes of CTC
4 calculations during the transition period, yes,
5 that's been a fair way of treating them.

6 Q. And the end result of this is that those
7 customers would be paying much less per kilowatt
8 hour during the transition period if they were
9 purchasing from competitive suppliers or under the
10 PPO than a similarly situated customer purchasing
11 from a competitive supplier of the PPO, correct?

12 Well, let me rephrase that. I'll withdraw
13 that question.

14 Now, Mr. Brookover and Mr. Childress
15 further maintain that their proposal, to continue
16 the exemption from demand charges for delivery of
17 electricity by ComEd for non-residential space
18 heating customers, would not affect electricity
19 supply prices and, therefore, would not distort the
20 incentives for space heating customers to seek
21 electricity supply from other suppliers. Do you
22 agree with that position of Mr. Brookover and Mr.

1 Childress

2 A. (Mr. Crumrine) I think that's generally
3 correct. As long as ComEd is receiving the lost
4 revenue from somebody else on the wires side and not
5 on the supply side, that's correct.

6 Q. And would you agree that BOMA's proposal to
7 mitigate rate shock and the relatively greater
8 increases for non-residential space heating
9 customers would not reduce ComEd's revenues since
10 this is a rate design issue?

11 A. (Mr. Crumrine) Are we still talking about
12 the exemption?

13 Q. Yes, sir.

14 A. (Mr. Crumrine) They could forego free
15 delivery or the exemption of demand charges in the
16 non-summer?

17 Q. Correct.

18 A. (Mr. Crumrine) Okay. Yes.

19 Q. Now, BOMA witnesses Childress and Brookover
20 have taken the position that if the Commerce
21 Commission adopts ICC Staff witness Lazare's
22 proposal to mitigate rate shock, it should be

1 applied to non-residential space heating customers
2 because these customers would receive rate increases
3 similar to the rate increases for residential space
4 heating customers under ComEd's proposal. Are you
5 familiar with that position?

6 A. (Mr. Crumrine) I am familiar with the
7 position.

8 Q. Now, and you disagree, don't you, saying
9 that there should be no mitigation plan for the
10 customers in the CPP-A auction, those are the 400
11 kilowatt to three megawatt customers, correct?

12 A. (Mr. Crumrine) That's correct. We
13 understand that to be what Mr. Lazare had been
14 proposing originally and we believe that that is
15 correct. That's appropriate, even with ComEd's
16 proposal to move down to 400 kilowatts as the
17 breaking point for those customers.

18 Q. So there is no plan to avoid rate shock for
19 any customers in the 400 kilowatt to three megawatt
20 class regardless of how high the rate increase is,
21 correct?

22 MR. RATNASWAMY: I object that the question

1 assumes a fact not in evidence. Mr. Alongi and
2 Mr. Crumrine have not yet accepted the premise that
3 the differential constitutes rate shock.

4 BY MR. GIORDANO:

5 Q. I can rephrase it. There is no plan in any
6 way to mitigate the rate increase for any
7 customers -- any customer, one customer, any group
8 of customers, non-residential space heating
9 customers, in the 400 kilowatt to three megawatt
10 class, regardless of what the rate increase is for a
11 particular customer or group of customers, correct?

12 A. (Mr. Crumrine) That's what we understand
13 Mr. Lazare's proposal to be and we agree with it.

14 Q. Now, your president, Mr. Clark, testified
15 on Monday that you were reconsidering the position
16 of whether or not to mitigate rate shock for
17 non-residential space heating customers. Are you in
18 the process of doing that now?

19 A. (Mr. Crumrine) Not being here, I am not
20 aware of that.

21 MR. RATNASWAMY: I object to the form of the
22 question again. These witnesses weren't here.

1 Also, no foundation for asking them that question.

2 MR. GIORDANO: Well, I disagree. It was the
3 testimony that he gave.

4 JUDGE WALLACE: And he has already answered
5 that he didn't -- objection overruled.

6 MR. GIORDANO: I have no further questions.
7 Thank you.

8 JUDGE WALLACE: Anyone else have cross of
9 Mr. Alongi and Mr. Crumrine? Okay, go ahead, Mr.
10 Townsend.

11 MR. TOWNSEND: Thank you.

12 JUDGE WALLACE: You seem to have a little bit
13 more than others but go ahead.

14 MR. TOWNSEND: I don't anticipate taking a full
15 hour and half, so hopefully we will still be able to
16 make it out for lunch.

17 CROSS EXAMINATION

18 BY MR. TOWNSEND:

19 Q. Good morning, Mr. Alongi and Mr. Crumrine.
20 Chris Townsend appearing on behalf of the Coalition
21 of Energy Suppliers. I would like to begin by first
22 clarifying a couple of things that are in your

1 direct testimony, if you have that in front of you.
2 If you tell me when you turn to lines 288 to 289,
3 please?

4 A. (Mr. Alongi) We have it.

5 Q. Can you please explain how restrictive
6 switching rules can dampen retail competition?

7 A. (Mr. Crumrine) Well, the testimony
8 referred to is highly restrictive which admittedly
9 has a bit of judgment to it. But if switching rules
10 are too restrictive, it limits customers' ability to
11 either leave the utility supply for the third party
12 or the reverse. And to the extent that that is
13 restricted to too great of an extent, that can
14 dampen retail competition.

15 Q. In your direct testimony at line 294 you
16 use the phrase "cost causation" or the principle of
17 cost causation. Could you explain what that
18 principle is?

19 A. (Mr. Crumrine) It is the general
20 ratemaking principle that is traditionally used by
21 the Commission. It is found in major textbooks by
22 James Bondright (sp) that cost causation is that

1 customers who cause the utility to incur costs
2 should pay as close to those costs as is reasonably
3 appropriate so that they understand the value or the
4 cost that their use of electricity places on the
5 utility.

6 Q. And would you agree with the phrase that's
7 been used elsewhere that the costs should follow the
8 cost causer as a general principle?

9 A. (Mr. Crumrine) It is one of the general
10 principles of ratemaking, yes.

11 Q. And you agree with that principle?

12 A. (Mr. Crumrine) Yes.

13 Q. When is it appropriate to recognize that
14 customer groups impose different costs?

15 A. (Mr. Crumrine) There are again traditional
16 ratemaking principles, and I keep going back to
17 Professor Bondright's textbook, it's the principles
18 that the Commission has traditionally used during my
19 experience, things like rate continuity, bill
20 impacts, simplicity in rates. You know, to get the
21 ultimate in cost causation we would need three and a
22 half million different rates, one for each customer.

1 So there is a balancing that one always has to do in
2 ratemaking between complexity, simplification and
3 getting the right costs to the right customers or
4 customer group. And those types of things all go
5 into the careful balancing that the Commission has
6 always done and that we agree with.

7 Q. At lines 307 to 308 of your direct
8 testimony you refer to the critical link between
9 wholesale markets and retail rates. Why is it
10 critical that there be a link between the wholesale
11 market and retail rates?

12 A. (Mr. Crumrine) Because ComEd through Rider
13 CPP is going to be procuring power from wholesale
14 markets in the auction, and we need to translate
15 those prices into retail rates. The linkage between
16 wholesale and retail is very important. Again, it
17 is not just a cost causation, but it has the very
18 important impact that customers understand what the
19 market price is for their use of electricity when
20 they choose to use it during the course of the day
21 and during the course of a year. And to the extent
22 that that appropriately matches the costs that ComEd

1 incurs during its purchases from the wholesale
2 market, customers are given the right price signals,
3 retail competitors have what I will call for
4 simplification terms a fair price against which to
5 compete, and both the retail and the wholesale
6 market are improved.

7 Q. What happens if there is not a link between
8 the wholesale market and retail rates?

9 A. (Mr. Crumrine) It depends on the extent to
10 which that link is broken. It can have detrimental
11 effects that potentially a utility may not incur all
12 of its costs for purchasing from the wholesale
13 market. Customers may not get the right price
14 signals. They may use too much or too little
15 electricity. Retail electric suppliers may be given
16 too much of an ability to compete or too little of
17 an ability to compete. There are many things that
18 happen when that linkage is broken, if it is broken,
19 particularly if it is broken to a great extent.

20 Q. In your direct testimony at lines 1130 to
21 1135 you talk about the credit worthiness of
22 bidders. Why is it important that bidders be credit

1 worthy?

2 A. (Mr. Crumrine) Because ComEd is purchasing
3 from these wholesale entities, it is important that
4 they be credit worthy so that they can live up to
5 the commitments contractually that they will make to
6 ComEd and ultimately to its customers to provide
7 supply. It is important that they be credit worthy
8 so that they can meet those commitments and not
9 impose additional costs on ComEd and ultimately its
10 customers for not being able to follow through on
11 its commitments for being uncreditworthy.

12 Q. How does ComEd facing more credit risk
13 impact rates?

14 A. (Mr. Crumrine) To the extent that -- and
15 creditworthiness, we are not professing to be
16 experts in creditworthiness but from our general
17 understanding the less credit worry a counter party
18 is, the general assumption is that there is a
19 greater risk that that counter party may not
20 actually live up to its contractual commitment,
21 leaving ComEd in a position of having to acquire
22 replacement power from alternative means at

1 potentially higher prices than were already
2 incorporated in the contract with that wholesale
3 entity. To the extent that that happens and ComEd
4 passes those costs on to customers, that is
5 detriment to both ComEd and its customers.

6 Q. Would you agree that ComEd also faces
7 credit risks on the retail side of the equation?

8 A. (Mr. Crumrine) Yes, that's true.

9 Q. Can you please explain?

10 A. (Mr. Crumrine) there is always a
11 percentage of retail customers that are either
12 unable or unwilling to pay the full amounts that
13 they owe ComEd. And that's just a fact of doing
14 business. It is a fact of doing business in any
15 industry.

16 Q. Did you perform any analysis associated
17 with the credit risks associated with ComEd
18 providing service under its hourly product that's
19 proposed in ComEd's auction?

20 MR. RATNASWAMY: Mr. Townsend, can you specify
21 are you are talking now about the wholesale risk or
22 the retail risk, you just asked them about?

1 MR. TOWNSEND: Either one, I guess.

2 Q. Let's start, did you perform any analysis
3 associated with the credit risk -- actually, let's
4 focus on the retail.

5 Did you perform any analysis associated
6 with the credit risk associated with ComEd providing
7 retail service underneath the hourly product that
8 will be generated as a result of the CPP-A auction

9 A. (Mr. Crumrine) Minor technicality, it will
10 be part of the CPP-H auction, but from a retail
11 perspective we did not do a specific analysis of the
12 credit risk that ComEd may face for those customers.

13 Q. Are you aware that one of the reasons that
14 ComEd has offered for rejecting the proposal of US
15 Energy Savings Corp. and Direct Energy is that there
16 is volatility that increases risk in the market?

17 A. (Mr. Crumrine) I am aware of our positions
18 on that, yes.

19 Q. And that would suggest that there is more
20 risk associated with providing an hourly product
21 than there is associated with providing a quarterly
22 or an annual product, correct?

1 A. (Mr. Crumrine) I think -- as I am
2 interpreting the question, that is a much broader
3 question of risk than the mere issue of credit risk
4 for retail customers. I think one of our
5 oppositions to those positions are that it imposes
6 risks on customers that face the uncertainty of
7 having prices set for shorter durations, so the risk
8 issue in terms of our opposition to those positions
9 is a much broader issue than just the credit risk of
10 customers.

11 Q. Well, if there is volatile hourly prices,
12 wouldn't that mean that the customers who are taking
13 service underneath your hourly products are facing a
14 more volatile price and thus incurring more
15 significant risk?

16 MR. RATNASWAMY: Your Honor, at this point I am
17 going to object unless it could be identified.
18 Because this is beyond the scope of their testimony.
19 Because at least the most recent reference was to
20 supplier credit risk and it was expressly stated
21 that they were relying on the testimony of two other
22 ComEd witnesses.

1 MR. TOWNSEND: And they do oppose the
2 adjustment that's been proposed by the Coalition of
3 Energy Suppliers. We can ask that foundational
4 question, if you would like, Your Honor. But that
5 is their position of these two witnesses, is that
6 that credit risk is not something that should be
7 specifically addressed within this proceeding, so.

8 JUDGE WALLACE: Go head.

9 WITNESS CRUMRINE: I am sorry. I have lost
10 track of which question is pending at this point or
11 even if there is one.

12 JUDGE WALLACE: Yeah, there is one. Can you
13 read it back, please?

14 (Whereupon the
15 requested portion was
16 read back by the
17 Reporter.)

18 A. (Mr. Crumrine) Yes.

19 BY MR. TOWNSEND:

20 Q. Can I refer you to your surrebuttal
21 testimony, lines 203 and 204, and let me know when
22 you are there.

1 A. (Mr. Alongi) We have it.

2 Q. And there you are talking about the
3 administrative burden that ComEd would incur if it
4 were to accept the Staff proposal to allow off-cycle
5 switching of CPP-H, correct?

6 A. (Mr. Alongi) Correct.

7 Q. Can you please describe what the
8 administrative burden is that you are referring to?

9 A. (Mr. Alongi) This particular section of
10 testimony deals with --

11 JUDGE WALLACE: Speak into the microphone.

12 A. (Mr. Alongi) I'm sorry. This particular
13 section of the testimony deals with customers
14 switching from the hourly bundled service to RES
15 supply service. And placing customers on and off
16 different rates is the administrative burden that
17 the company faces.

18 BY MR. TOWNSEND:

19 Q. What types of costs do you incur as a
20 result of that?

21 A. (Mr. Crumrine) Let's be clear that the
22 request here is for switching customers on a date

1 other than their normally scheduled meter reading
2 date. So we are talking about the administrative
3 burden of going out, taking a special meter read for
4 those customers so that they can go on the hourly
5 rate for as little potentially as two weeks, to go
6 off of it on an off-cycle basis, on it on an
7 off-cycle basis, and the point is administrative
8 burden is part of the point. It is not the complete
9 point made in that paragraph where we talk about the
10 fact that, when this happens, it could happen for
11 hundreds of customers simultaneously and that's a
12 significant administrative burden, to have meter
13 readers who are otherwise scheduled on a regularly
14 scheduled basis, to have to go out and read hundreds
15 of customers meters on one date certain because in
16 this case potentially a supplier using a general
17 account agency decided to move customers to that
18 rate for presumably some short duration.

19 Q. So one cost is the meter reading cost?

20 A. (Mr. Crumrine) That's correct.

21 Q. Are there other costs?

22 A. (Mr. Crumrine) Accounts set up, our group

1 that handles the switching that occurs which the
2 vast majority of switching happens on a regularly
3 metering scheduled basis. Our software systems are
4 designed to handle that without too much manual
5 intervention. Non-standard switching of this adds
6 to the administrative burden of people who have to
7 coordinate the switching, coordinate with the
8 customers, coordinate with our billing system, and
9 we have to make sure that the right customers are on
10 the right rates, being billed the right bills.

11 Q. So there are also personnel costs that you
12 have identified, correct?

13 A. (Mr. Crumrine) Yes.

14 Q. And software costs, correct?

15 A. (Mr. Crumrine) Well, it is the manual
16 work-arounds that you have to do because your
17 standard system doesn't function appropriately.

18 Q. So it is back to personnel then?

19 A. (Mr. Crumrine) Just the general category
20 of administrative costs can be a lot of things.
21 But, yeah, it is a lot of personnel cost.

22 Q. Is ComEd able to recover the costs that it

1 reasonably incurs?

2 A. (Mr. Crumrine) As a general statement,
3 that's correct.

4 Q. And under the theory of cost causation the
5 costs that you just identified would be recovered
6 from the CPP-H customers that were seeking to have
7 an off-system switch, correct?

8 A. (Mr. Crumrine) Assuming that the off-cycle
9 switch was set appropriately.

10 A. (Mr. Alongi) Assuming the feed that the
11 off-cycle switch be --

12 JUDGE WALLACE: Mr. Alongi, I didn't hear your
13 answer.

14 A. (Mr. Alongi) Assuming that the off-cycle
15 switch feed is set appropriately.

16 Q. In your surrebuttal testimony if you could
17 please turn to lines 261 and 262 and let me know
18 when you are there.

19 A. (Mr. Alongi) We are here.

20 Q. And there you are discussing the migration
21 risk premium adjustment that you have proposed in
22 your prism, correct?

1 A. (Mr. Crumrine) There is no premium in the
2 name. It is not a premium, but it is a migration
3 risk factor and we discussed it.

4 Q. I appreciate the clarification, thank you.

5 You conclude that underneath ComEd's
6 surrebuttal proposal that, while some of the risks
7 would remain, they would be diminished and that some
8 of the migration risks would be diminished, correct

9 A. (Mr. Crumrine) That's correct.

10 Q. What's the basis for that conclusion?

11 A. (Mr. Crumrine) The basis is, as Dr.
12 O'Connor correctly observed in his rebuttal
13 testimony, the customers over 400 kilowatts have
14 shown a high degree of propensity to switch. There
15 is a significant level of switching away from
16 ComEd's bundled product above 400 kilowatts. There
17 is a dramatically lower experience when customers
18 under 400 kilowatts are considered, especially when
19 you get down under a hundred kilowatts, and in the
20 non-entity residential sector where no customers
21 have switched.

22 Q. Would you agree that after the initial

1 auction the migration risk premium should be
2 re-examined and revisited in follow-up workshops or
3 proceedings?

4 A. (Mr. Crumrine) Other than wishing you
5 didn't call it a premium because it is not, we are
6 always open for it to be reviewed and revisited,
7 yes.

8 Q. I promise to catch that for my next
9 question. Would you agree that such revisiting of
10 the migration risk factor should be based at least
11 in part upon the switching levels experienced after
12 the first auction?

13 A. (Mr. Crumrine) I think that's a reasonable
14 presumption, yes.

15 Q. And that's true regardless of whether there
16 is a migration risk factor in the prism that's
17 approved for the initial auction, is that correct?

18 A. (Mr. Crumrine) Correct.

19 Q. Turning back to your direct testimony, you
20 do talk about the history of the PPO, correct, in
21 your direct testimony, lines 414, 418, 479, 491, you
22 talk about the evolving PPO, correct?

1 A. (Mr. Crumrine) That's correct.

2 Q. Can you explain the difficulties that the
3 Commission and Illinois market participants have
4 encountered in trying to properly design the PPO?

5 A. (Mr. Crumrine) Do we really want to spend
6 the next two hours discussing that?

7 Q. If you can do it in bulletpoints, that
8 would be helpful?

9 A. (Mr. Crumrine) Sorry for being facetious.
10 The marketplace --

11 JUDGE WALLACE: Mike will have a few.

12 A. I will do it in as few bulletpoints as I
13 possibly can.

14 Initially, the Commission set market values
15 based on what is called the neutral fact finder
16 process, the NFF, and the Commission concluded that
17 there were significant, as I interpreted,
18 significant drawbacks to that methodology, and has,
19 since the summer of 2001, approved, excuse me, it
20 was a 2000 docket, but has approved a series of
21 market value index-based algorithmic mechanisms that
22 have undergone revision and improvements over the

1 years up until today, until the last Commission's
2 order for ComEd was in March of 2003 when the latest
3 modifications to that algorithm were approved by the
4 Commission

5 Q. Would you agree that the Commission
6 experienced difficulty underneath the PPO in trying
7 to develop an off-peak market value number?

8 A. (Mr. Crumrine) I think that there has been
9 general concern that the off-peak numbers are not as
10 deeply traded as the peak period numbers, and that
11 has been one aspect of the difficulty, yes.

12 Q. And would you agree that ComEd has changed
13 the indices that it has relied upon because of some
14 of the indices unexpectedly going out of business or
15 not being as liquid as anticipated?

16 A. (Mr. Crumrine) Yes, the trading platforms
17 that we have used for NFF purposes have changed over
18 the years for those and depth of liquidity issues.

19 Q. And the PPO has changed dramatically in
20 short periods of time, hasn't it?

21 A. (Mr. Crumrine) It has generally followed
22 movements in the market price, yes.

1 Q. Well, I don't know if you were here for
2 yesterday's cross examination, but Mr. Robertson
3 referred to rocket dockets regarding the PPO. Do
4 you recall those?

5 A. (Mr. Crumrine) I recall Mr. Robertson's
6 concerns about the duration of certain dockets, yes.

7 Q. Well, we switched from an NFF process to an
8 MVI 1 as a result of the petition that was filed on
9 March 31, 2000, and approved in an interim order on
10 April 27, 2000, is that correct?

11 A. (Mr. Crumrine) I don't remember the exact
12 dates, but that sounds generally correct, yes.

13 Q. And the Commission then reopened that
14 docket to take additional evidence, correct?

15 A. (Mr. Crumrine) That's correct.

16 Q. And while pending, unexpectedly one of the
17 trading platforms went out of business, correct?

18 A. (Mr. Crumrine) Yes.

19 Q. Do you recall in 2002 there were issues
20 with establishing the MVECs and that the MVECs
21 figures were actually revised after they were
22 initially published?

1 A. (Mr. Alongi) I don't recall that. That is
2 not to say it is not true but I don't recall.

3 Q. Mr. Crumrine?

4 A. (Mr. Crumrine) I don't recall it.

5 Q. ComEd filed to revise the MVI methodology
6 in October of 2002 in Docket 02-0671, correct?

7 A. (Mr. Crumrine) I will trust you have got
8 the right docket number but, yes, that's correct.

9 Q. And in that docket you proposed a 60-day
10 enrollment window, correct?

11 A. (Mr. Crumrine) As I sit here I don't
12 recall.

13 Q. Would you be willing to accept that subject
14 to check?

15 A. (Mr. Crumrine) Subject to the same subject
16 to check that we have been hearing about this
17 morning, yes.

18 Q. Did ComEd identify any specific costs
19 associated withholding the price for 60 days?

20 A. (Mr. Crumrine) I don't recall.

21 Q. Has ComEd ever advocated an upward
22 adjustment of the PPO price as a result of having an

1 enrollment window of 60 days or longer?

2 A. (Mr. Crumrine) No.

3 Q. In that docket, you, Mr. Crumrine, actually
4 sponsored testimony that advocated that the
5 Commission approve a 75-day enrollment window,
6 correct?

7 A. (Mr. Crumrine) Again, I am not sure
8 whether it was in that same docket but, yes, I did
9 advocate that in the last change -- not the last
10 change but the change that was approved in March
11 '03.

12 Q. And do you recall in 2003, after the MVECs
13 had been set, the data to set those MVECs were
14 reviewed and questioned?

15 A. (Mr. Alongi) Yes, I recall that.

16 Q. And those questions arose because
17 unexpectedly at least one of the indices was not as
18 liquid as anticipated, correct?

19 A. (Mr. Alongi) That I don't recall, but.

20 Q. There were not trades for days; that it was
21 anticipated that there would be trades, correct?

22 A. (Mr. Alongi) I think there was some

1 missing values, and the question arose as to how to
2 fill the gap.

3 Q. And ComEd's tariffs didn't specifically
4 address what to do if there was a gap in the data,
5 did they?

6 A. (Mr. Crumrine) I don't recall the exact
7 issue.

8 Q. Well, Mr. Alongi, if it did specifically
9 address those issues, then there wouldn't have been
10 any questions, right?

11 A. (Mr. Alongi) I think it did address it,
12 but I think the question arose because the Staff
13 didn't feel that we applied what was in the tariff
14 as it was written. That's my recollection.

15 Q. And that wasn't intentional ambiguity,
16 right? This was one that you hadn't anticipated,
17 correct?

18 A. (Mr. Alongi) That's correct.

19 Q. In 2005 earlier this year there was a
20 transparent process in setting the MVI, correct?
21 That is, ComEd shared the snapshot market
22 information with market participants, right?

1 A. (Mr. Alongi) Are you referring to the
2 five, ten, 15-day snapshots?

3 Q. Yes.

4 A. (Mr. Alongi) That is correct.

5 Q. Why did ComEd share that information with
6 Illinois market participants?

7 A. (Mr. Crumrine) Because we were asked to.

8 Q. Would you agree that one goal was to add
9 certainty in the Illinois retail electric market?

10 A. (Mr. Crumrine) My recollection was that
11 there were stakeholders who felt that being able to
12 see how the market values were developing during the
13 course of the 20-day snapshot period would be
14 helpful. I don't know what all reasons they might
15 have had.

16 Q. Wouldn't you agree that sharing that type
17 of information does add certainty to the Illinois
18 retail electric market?

19 A. (Mr. Crumrine) It adds information. I
20 leave it to suppliers to decide whether it makes
21 their lives more certain or not.

22 Q. During the snapshot period in 2005 it was

1 discovered that unexpectedly there was not
2 sufficient data to set an off-peak figure necessary
3 for calculating the MVECs, correct?

4 A. (Mr. Crumrine) Not during the snapshot
5 period that was defined by the tariff, that is
6 correct.

7 Q. And ComEd took the extraordinary step of
8 filing a request to change its tariffs during the
9 sunshine period, correct?

10 A. (Mr. Crumrine) I don't know whether I
11 would characterize that as extraordinary. I think
12 it was a smart thing to do. But, yes, we did make
13 that request.

14 Q. You requested that the tariff sheets go
15 into effect on less than 45 days notice, correct?

16 A. (Mr. Crumrine) Yes.

17 Q. Is that extraordinary?

18 A. (Mr. Crumrine) Not necessarily. There
19 are -- there are mechanisms that the Commission has
20 for dealing with tariff issues that come up. There
21 are special rulings for asking for special
22 permission. This is -- is it a common occurrence,

1 no. I don't know that it is -- I just don't know
2 that it is extraordinary.

3 Q. So even once tariffs have been approved by
4 the Commerce Commission, it is entirely possible
5 that ComEd could come back and change those tariffs
6 prior to the rates going into effect? That's not an
7 extraordinary circumstance, correct?

8 A. (Mr. Crumrine) It is kind of hard to
9 answer such a -- I am not sure I can answer such a
10 broad question with just a yes or a no.

11 Q. I haven't held you to that yet?

12 A. (Mr. Crumrine) The answer is we can ask
13 the Commission to do a lot of thing, whether we
14 would or could or should. Whether the Commission
15 would approve it would depend on it appropriateness.
16 So if it were -- if that unusual a circumstance were
17 to occur, my presumption would be that it is because
18 we felt that it was the right thing to propose,
19 given whatever sets of circumstances we faced.

20 Q. In your surrebuttal testimony at lines 185
21 to 187 you discuss agents, general account agents.
22 Let me know once you get there in your testimony.

1 A. (Mr. Crumrine) We are there.

2 Q. Under ComEd's auction proposal will
3 designated agents and general account agents be
4 allowed to enroll customers onto PPO-MVM?

5 A. (Mr. Crumrine) I don't know about
6 designated agents. I am not familiar with that
7 term. But an entity that has general account
8 agency, it is my understanding that they have the
9 ability to make decisions on the customer's behalf
10 and could enroll them in whatever service the
11 customer was eligible for.

12 Q. And under ComEd's auction proposal will
13 RESEs be allowed to act as general account agents or
14 GAAs

15 A. (Mr. Crumrine) I am not aware of any
16 restrictions on a RES being a GAA. So, yes, RESEs
17 could do that.

18 Q. And under ComEd's auction proposal could
19 GAAs enroll customers onto the CPP-A and CPP-B
20 products?

21 A. (Mr. Crumrine) If those are -- if they
22 have proper agency authority and if those rates are

1 available to the particular customer they are
2 dealing with, yes, they could.

3 Q. Other than any valid GAA form, will there
4 be any other required paperwork for customers or
5 RESEs to prepare or submit?

6 A. (Mr. Crumrine) We have not determined that
7 there would be anything different than today's
8 current requirements.

9 Q. Will there be any other paperwork required
10 for other non-RES entities?

11 A. (Mr. Crumrine) I don't know. I am not
12 suggesting that there will be. I am just saying
13 that right now I don't know.

14 A. (Mr. Alongi) I do think that there is a
15 contract requirement for the PPO.

16 Q. Could you elaborate a little bit further?
17 The contract requirement for the PPO, are you
18 suggesting that a GAA could not submit the PPO
19 contract on behalf of the customer?

20 A. (Mr. Alongi) No. I was just suggesting
21 that that's paperwork that would have to be
22 submitted.

1 Q. I am going to ask you to turn in your
2 rebuttal testimony, I am sorry, your surrebuttal
3 testimony, to line 1082 and the discussion that
4 follows that. Let me know when you are there.

5 A. (Mr. Crumrine) We are there.

6 Q. What is the purpose of the integrated
7 distribution company or IDC rules that prohibit IDCs
8 from advertising with their commodity product
9 component?

10 A. (Mr. Crumrine) To say it in a general way,
11 as I understand it, utilities have a choice of
12 either, under the rules, of either functionally
13 separating their marketing from their wires arms
14 and, two, they can avoid incurring the cost of
15 functionalization, functionally separating, if they
16 agree to and become an integrated distribution
17 company and be subject to those rules instead. They
18 do not have to functionally separate, but they
19 cannot act to obtain or retain customers on their
20 supply tariffs.

21 Q. I was asking specifically about the rule
22 that prohibits IDCs from advertising with the

1 component of their company that provides the
2 commodity products. What's the purpose behind that
3 rule?

4 A. (Mr. Crumrine) I am not familiar with the
5 exact terms of the prohibitions and exactly what
6 kind of advertising are prohibited. But, again, my
7 general understanding is that we are prohibited from
8 advertising in a way that would either seek to
9 obtain or retain customers on our supply service.

10 Q. In your surrebuttal testimony you testify
11 that you are fully cognizant or maybe it is somebody
12 else who is fully cognizant of the restrictions
13 regarding marketing. Is there somebody else who
14 knows more about that?

15 A. (Mr. Crumrine) Well, there are people in
16 the company that know a lot, lot more about it than
17 I do. They are experts in the rules.

18 Q. So you are not fully cognizant on those
19 restrictions?

20 A. (Mr. Crumrine) I was only referring to the
21 advertising issue that you described, and I gave you
22 my understanding of it.

1 Q. Would you agree that it is important that
2 ComEd's customers receive communications regarding
3 the way in which their commodity rate options and
4 rate structures are going to change after the
5 transition period?

6 A. (Mr. Crumrine) Yes, I do.

7 Q. Has ComEd begun preparing the material it
8 intends to distribute to customers regarding the way
9 in which their rate options and rate structures are
10 going to change after the transition period?

11 A. (Mr. Crumrine) Yes, we are in that
12 process.

13 Q. Please explain what steps ComEd has already
14 taken in preparing that material.

15 A. (Mr. Crumrine) We are very early in a very
16 long process that we will be undertaking between
17 basically now with the rate case filing, all the way
18 through and extending into and after the transition
19 period ends at the beginning of '07. Our initial
20 focus will be on the large customers so that we
21 can -- we will be bringing them in to large meeting
22 rooms to basically say here is what we have proposed

1 in the rate case with regard to your rate options.
2 And again it is an education and information session
3 so that they can understand what is being proposed.

4 And we planned a lengthy communication
5 process with, not just our large customers, but with
6 all of our customers. It is going to be an internal
7 communication/education process for our employees,
8 particularly those that deal directly with
9 customers, so that this dramatic change in the
10 market that is occurring here at the end of the
11 transition period can be as well understood by
12 customers as possible

13 Q. Has ComEd met with Staff or other
14 interested parties to discuss either the form or the
15 substance of that message?

16 A. (Mr. Crumrine) We have given Staff the
17 form and substance, the substance of that message.
18 We have met with other parties who have asked to
19 understand the substance of the message, yes.

20 Q. Have you set up formal or informal
21 workshops to discuss the form and substance of that
22 message?

1 A. (Mr. Crumrine) Not specifically yet.
2 Those types of things are still in process. We are
3 still planning the overall process.

4 Q. Would you anticipate that Staff and other
5 interested parties would be involved in workshops to
6 discuss the form and substance of that message?

7 A. (Mr. Crumrine) I would anticipate that we
8 will have information sessions that will be
9 available to a lot of stakeholders, whether they are
10 technically workshops or whatever they are. We are
11 going to have information sessions that interested
12 parties can come to and understand what we are
13 proposing in the rate case and in this docket.

14 Q. You are going to have information sessions.
15 But what about the way in which the information
16 sessions are set up? Are you going to have
17 workshops first in order to be able to identify the
18 form and substance of the message that's going to be
19 relayed to customers?

20 A. (Mr. Crumrine) We do not believe that is
21 necessary, no.

22 Q. How are the costs going to be tracked for

1 those workshops?

2 A. (Mr. Crumrine) Depending upon how the
3 costs are incurred, they will be charged wherever
4 they belong in our accounting system.

5 Q. So if you are talking about
6 generation-related rate options and rate structures,
7 those costs will be attributed to the commodity side
8 of the company, rather than the IDC side of the
9 company?

10 MR. RATNASWAMY: I object. I think this is
11 well beyond the scope of their testimony, the
12 question about the accounting for these costs. If
13 it can be tied to something, great. But I don't
14 know what it is.

15 JUDGE WALLACE: I'm sorry. It is beyond the
16 scope and what?

17 MR. RATNASWAMY: About how they are going to
18 account for these costs. If there is something in
19 their testimony that relates to that, fine. But I
20 am not aware of it at the moment.

21 MR. TOWNSEND: That's precisely why we want to
22 have the preceding, to set up the rules associated

1 with this. Their testimony here says don't worry
2 about it because we are fully cognizant of this. We
3 have got procedures in place. That is their
4 testimony. If they don't know what procedures are
5 in place and if you are willing to stipulate to
6 that, that's fine. It certainly discounts their
7 testimony but I am willing to accept that as a
8 stipulation.

9 MR. RATNASWAMY: Sorry, but that has nothing to
10 do with the question that was asked which is about
11 how they were going to account for the costs.

12 JUDGE WALLACE: Overruled.

13 A. (Mr. Crumrine) As best I understand it,
14 within the confines of what one can tell customers
15 as an integrated distribution company, informing and
16 educating customers as to their rate structure is an
17 appropriate communication obligation on the utility
18 and will be on the wires side of the business.

19 Q. So you anticipate that these workshops that
20 you are going to hold that you are going to talk
21 about the rate options and the rate structures on
22 the commodity side?

1 A. (Mr. Crumrine) We provide bundled service
2 to customers that want it. We have no choice but to
3 properly communicate with our customers.

4 Q. And you are going to charge all of those
5 costs back to the distribution side of the company
6 as opposed to segregating them into the economy
7 side.

8 A. (Mr. Crumrine) There is no commodity side
9 for ComEd. I don't understand the question.

10 Q. Well, there certainly is a generation
11 component of ComEd, isn't there? That's why you
12 have an IDC, to segregate aside the IDC from the
13 generation component, correct?

14 A. (Mr. Crumrine) I am sorry, but I was
15 really confused by the question.

16 Q. Is there a separate component of ComEd that
17 is not -- that addresses -- strike that. Is there a
18 separate component of ComEd that addresses
19 commodity-related questions that customers have?

20 A. (Mr. Crumrine) The IDC rules permit ComEd
21 and utilities to communicate with their customers
22 about their rate options. Many of those rate

1 options do require -- or many of those questions do
2 require ComEd to explain to its customers how they
3 can purchase -- under what rules and prices they
4 would face if they purchased the commodity from
5 ComEd and what they would avoid if they went to a
6 third party. That is exactly the type of thing that
7 we have to explain to customers when they want to
8 know what is in our rate base.

9 Q. You can explain it to them, but you can't
10 advertise it, right?

11 A. I didn't suggest we were going to advertise
12 that.

13 Q. You are going to hold workshops. Are you
14 going to provide lunches at the workshops?

15 A. (Mr. Crumrine) I don't know.

16 Q. Are you going to hand out materials at the
17 workshops?

18 A. (Mr. Crumrine) More than likely.

19 Q. Will those materials make the commodities
20 options that ComEd is offering look attractive?

21 A. (Mr. Crumrine) that will not be their
22 intention, no. It will be merely to educate and

1 inform.

2 Q. And if that material does advertise the
3 commodity option, then it would be a violation of
4 the IDC rules, correct?

5 A. (Mr. Crumrine) That sounds like a legal
6 question that I really can't answer.

7 Q. But again this is going back -- you are the
8 one that is not fully cognizant of the restrictions
9 regarding marketing?

10 A. (Mr. Crumrine) Is that a question?

11 Q. That is a question.

12 A. (Mr. Crumrine) I mean familiar enough with
13 the rules to know what general conditions we can and
14 cannot communicate with customers and the general
15 types of communications that are appropriate. I
16 answered your question with regard to advertising,
17 saying I don't know whether we were going to
18 advertise, whether that qualified as advertising.

19 We hand out -- utilities hand out pieces of
20 paper and information to their customers all the
21 time. We provide them with tariff sheets. We have
22 to be able to communicate with customers, and we do

1 so and the IDC rules allow that

2 Q. Would you agree that there is not a clear
3 line between what is communication with customers
4 and what is advertising?

5 A. (Mr. Crumrine) I would say it depends on
6 the party that wants to take a look at those
7 documents. Some people will consider them
8 advertising while we consider them educational
9 materials.

10 MR. TOWNSEND: No further questions.

11 JUDGE WALLACE: Mr. Rosen?

12 MR. ROSEN: I just have a few questions.

13 CROSS EXAMINATION

14 BY MR. ROSEN:

15 Q. First of all, I have never had two
16 witnesses in the box before. It reminds me of the
17 movie "Stuck on You." Who is the boss between the
18 two of you or are the two of you on equal levels?

19 A. (Mr. Crumrine) We are peers.

20 JUDGE WALLACE: Mr. Alongi is a little higher.

21 (Laughter.)

22 WITNESS CRUMRINE: That's only because the

1 Commission's child seat is being used somewhere
2 else.

3 MR. ROSEN: I have a book to sit on, if you
4 want. Just a few questions.

5 Q. Both of you are employed by Commonwealth
6 Edison?

7 A. (Mr. Crumrine) Yes.

8 Q. And how long have you been employed,
9 Mr. Crumrine?

10 A. (Mr. Crumrine) Thirty years.

11 Q. And how about you, Mr. Alongi?

12 A. (Mr. Alongi) Thirty-one.

13 Q. And I don't mean to get personal but when
14 you get paid, do you get paid by Commonwealth Edison
15 or do you get paid by one of the Exelon entities?

16 A. (Mr. Crumrine) We get paid by ComEd which
17 is one of the Exelon entities, but our check has
18 ComEd on it.

19 Q. It doesn't have Exelon Services or Exelon
20 Corp. or any other indication on the check of the
21 source other than ComEd as a payor?

22 A. (Mr. Crumrine) Well, the Exelon logo is on

1 the check but it also says ComEd on the check.

2 Q. Do either one of you ever provide services
3 to any of the other Exelon entities?

4 A. (Mr. Crumrine) No.

5 A. (Mr. Alongi) No.

6 Q. Have you ever been asked any questions from
7 someone from any of the other Exelon entities?

8 A. (Mr. Crumrine) Sure.

9 Q. And when you are asked those questions --
10 and I take it you answer those questions?

11 A. (Mr. Crumrine) when we can and when it is
12 appropriate under the relevant rules, yes.

13 Q. And when you answer those questions, do you
14 bill any of the Exelon entities?

15 A. (Mr. Crumrine) We do not, no.

16 Q. Do you know whether there is anyone at
17 Commonwealth Edison that manages a, I will call it,
18 a power portfolio? And if you don't understand the
19 term, you have a different term for it, maybe we
20 should use your term.

21 A. (Mr. Crumrine) I guess the position that I
22 would describe most closely is an Exelon energy

1 delivery position which is Exelon Energy Delivery is
2 the parent of ComEd and PECO, the two wires
3 companies, and there is a group that manages the
4 wholesale supply contracts that PECO and ComEd have
5 respectively. The majority of those purchases are
6 done under -- for ComEd are done under the power
7 purchase agreement with Exelon Generation. There
8 are others but they are in the minority.

9 Q. And how many others are there?

10 A. (Mr. Crumrine) How many other --

11 Q. Well, you said Exelon is in the majority
12 but how many other suppliers of power are there
13 other than Exelon?

14 A. (Mr. Crumrine) The requirement for retail
15 customers is primarily -- I think it is a hundred
16 percent for Exelon Generation through the current
17 PPA which expires December of '06. Other entities
18 from which we are obligated to purchase power tend
19 to be either qualified facilities under PURPA or
20 qualified solid waste facilities under Illinois law,
21 and there are some purchases like those that are not
22 used against to serve retail load but they are

1 obligations that the utility has to purchase.
2 Hence, that group manages those contracts as well.

3 Q. And how many employees serve in this
4 particular group that manage those portfolios?

5 MR. RATNASWAMY: I have to object, Your Honor.
6 We keep going farther and farther. This subject is
7 not within the scope of their testimony. It is
8 addressed by Mr. McNeil, not by Mr. Crumrine and
9 Mr. Alongi.

10 JUDGE WALLACE: Mr. Rosen?

11 MR. ROSEN: Well, I think this is fair game
12 based on the testimony of Mr. McNeil. And
13 Mr. Ratnaswamy can certainly contest with these
14 witnesses some things that those other witnesses
15 have said, especially since they are employees of
16 Commonwealth Edison and know what kind of structure
17 exists, not only there but at the other
18 corporations.

19 JUDGE WALLACE: Objection is sustained.

20 MR. ROSEN: Well, can I do an offer of proof?
21 And I will tell you why. There has been testimony
22 by Mr. McNeil and Ms. Jurassic that Commonwealth

1 Edison lacks people there who company manage a power
2 portfolio, which is one of the reasons why they are
3 proposing this auction. And based on the testimony
4 of the witnesses I am getting a different answer.

5 JUDGE WALLACE: You can make an offer of proof.

6 MR. ROSEN: I have to do it with these
7 witnesses.

8 JUDGE WALLACE: Right, go ahead.

9 OFFER OF PROOF

10 BY MR. ROSEN:

11 Q. And the individuals that you described at
12 Exelon Services, they are managing a portfolio where
13 they are acting as purchasers of power?

14 A. (Mr. Crumrine) I would characterize their
15 role more as contract administrators. The
16 management of the portfolio is done within Exelon
17 Generation. This group manages the contract but it
18 is really a contract administration. They are not
19 in my personal view managing a portfolio. The QF
20 contracts in general are as available energy that we
21 have an obligation to purchase. We do not manage it
22 in any way. Again, we administer the contracts

1 based on the generation that those suppliers put
2 into the system whenever they choose to put it in.
3 So I would characterize it more as a contract
4 administration role, rather than a portfolio
5 management role.

6 Q. But you just said that there are people at
7 Exelon Generation that manage power portfolios?

8 A. (Mr. Crumrine) That's correct.

9 Q. And how many people at Exelon Generation do
10 that?

11 A. (Mr. Crumrine) I don't know. There is a
12 large group at Exelon Generation that works in that.
13 I don't know exactly how large the group is.

14 Q. And do you believe that these individuals
15 have the skill in managing a portfolio being either
16 on the buyer side of power or the seller side of
17 power?

18 A. (Mr. Crumrine) Who are these people now?

19 Q. Well, the people at Exelon Generation, the
20 large number of people that you said manage the
21 portfolio there?

22 MR. RATNASWAMY: Your Honor, I think even in

1 the offer of proof there has to a foundation that
2 Mr. Crumrine has the knowledge and experience to
3 opine on the quality of these persons to perform a
4 job that he does not perform.

5 JUDGE WALLACE: Let's just go ahead with this
6 offer of proof.

7 MR. ROSEN: Thank you.

8 A. (Mr. Crumrine) I would presume that based
9 on the fact that Exelon Generation both buys and
10 sells power that they have people that are capable
11 of doing that in that organization.

12 Q. And before -- where are these people
13 located by the way? Are they located in Chicago or
14 are they located somewhere else?

15 A. (Mr. Crumrine) It is a centralized
16 facility located outside Philadelphia.

17 Q. Were any of these individuals and employees
18 of Commonwealth Edison before the divestiture of the
19 nuclear plant, if you know?

20 A. (Mr. Crumrine) I don't know.

21 Q. But in your opinion these individuals would
22 have the experience and knowledge to manage a power

1 portfolio both on the buyer and the seller side in
2 your opinion?

3 A. (Mr. Crumrine) I presume that because they
4 have to do that, that they are capable of doing it,
5 yes.

6 Q. Now, Mr. Alongi, you just heard
7 Mr. Crumrine answer a series of questions that I
8 asked. Are your answers any different than his?

9 A. (Mr. Alongi) I don't have the same level
10 of knowledge in that area that Paul does.

11 MR. ROSEN: I am done with my offer of proof,
12 Your Honor. I have nothing further.

13 JUDGE WALLACE: All right. Who else has cross?
14 Mr. Feeley?

15 MR. FEELEY: You want me to go ahead? It is
16 probably a half hour.

17 JUDGE WALLACE: Does anyone else have cross?
18 How much do you have, Mr. Reddick?

19 MR. REDDICK: I have a little less than a half
20 hour.

21 JUDGE WALLACE: Mr. Reddick, why don't you go
22 and then we will break for lunch after you, if you

1 will pull the mic over to you.

2 CROSS EXAMINATION

3 BY MR. REDDICK:

4 Q. Good morning, Panel. My name is Conrad
5 Reddick. I am representing IIEC and I want to talk
6 about two areas, one in your rebuttal testimony and
7 one in your surrebuttal testimony. Turning first to
8 your rebuttal testimony, I want to ask a series of
9 questions about the self-generation customers. So
10 which of you is the expert on that area of the
11 testimony?

12 A. (Mr. Crumrine) Ask your question; we will
13 get you an answer. It depend on your question.

14 Q. Are you equally knowledgeable about
15 self-generation customers and rates?

16 A. (Mr. Crumrine) Again, it depends on the
17 question. Just go ahead and ask. One of us will
18 answer the question.

19 Q. I feel like I am in a basketball golf
20 tournament here. You get two shots and take your
21 best answer.

22 A. (Mr. Crumrine) You are catching on

1 quickly.

2 Q. It is not that funny.

3 For self-generation customers, they
4 basically are in a stand-by situation. And assuming
5 that they can supply all of their ordinary load,
6 they would take load, take energy, from the grid and
7 pay ComEd only in situations where their
8 self-generation facilities were not in operation

9 A. (Mr. Crumrine) Right. They have
10 flexibility over when they can run those generators.
11 But when they don't run them, they purchase from
12 ComEd.

13 Q. And the charges they pay to ComEd under
14 proposal, speaking of the future now, the charges
15 they will pay for that energy would be based on the
16 PJM-LMP, Locational Marginal Prices.

17 JUDGE WALLACE: You are saying LMP?

18 MR. REDDICK: LMP, Locational Marginal Prices.

19 A. (Mr. Crumrine) The energy portion, yes.

20 Q. And those prices of the LMP prices are
21 generally higher in a peak period than in off-peak
22 periods, correct?

1 A. (Mr. Crumrine) Yes.

2 Q. So that if a self-generator had his
3 facilities out of service during a peak period, the
4 charges he would incur then would be higher than an
5 off-peak period?

6 A. (Mr. Crumrine) I would presume that. It
7 is -- I will give you a general answer to a general
8 question -- the specifics of exactly what hours and
9 when they occur during the off-peak and when they
10 occur during the peak period. If they occur in
11 hours where the peak period hourly prices happen to
12 be very low, they could still be lower than in the
13 off-peak, but it does depend on the hour by hour
14 prices that those customers would face.

15 Q. Correct, and that might also be affected by
16 the level of congestion in the system, couldn't it?

17 A. (Mr. Crumrine) The congestion in the
18 system is one aspect that goes into the LMPs, yes.

19 Q. Are you aware on the PJM system what the
20 highest per megawatt hour charge for energy has
21 been?

22 A. (Mr. Crumrine) What it has been? I have

1 only seen average data. I haven't personally seen
2 power data, so I don't know.

3 Q. If you can just identify the highest, can
4 you give me an indication of magnitude; you have
5 seen prices higher than X?

6 A. (Mr. Crumrine) I have seen prices higher
7 than a hundred dollars a megawatt hour in a given
8 hour.

9 Q. And have you ever seen higher than a
10 thousand?

11 A. (Mr. Crumrine) No, I believe PJM caps the
12 price at 999 or something in that general ballpark.

13 Q. So it goes up to that cap before the PJM
14 mechanism would kick in?

15 A. (Mr. Crumrine) Well, there are other PJM
16 mechanisms that kick in under certain circumstances,
17 depending upon where the generation is located. PJM
18 has a -- and I will tell you what I know about it
19 but it is a fairly sophisticated system for managing
20 congestion and price issues -- that they don't
21 always let it go all the way up to the cap.
22 Sometimes generators are capped. Even their bids

1 into the system are capped which would cause it to
2 be a lower price than the 999.

3 Q. Well, my question is really focused on the
4 customer side. So let me take it in that direction.
5 In any case, the potential price level is high
6 enough that there is a considerable economic
7 incentive for self-generators not to have their
8 power go out or their facilities go out during a
9 peak period?

10 A. (Mr. Crumrine) I would agree with that.

11 Q. Now, the rates you propose also include a
12 demand charge in addition to the energy charges to
13 recover capacity costs to certain customers, is that
14 correct?

15 A. (Mr. Crumrine) It is to recover capacity
16 and related ancillary transmission service costs,
17 yes. It is a demand-based cost.

18 Q. And that same capacity cost recovery in the
19 rates and the rate design that you propose is the
20 same for all customers?

21 A. (Mr. Crumrine) it is the same charge per
22 kilowatt. Of course, depending on the customer's...

1 Q. Actual kilowatt usage?

2 A. (Mr. Crumrine) ..actual kilowatt usage,
3 which can vary from customer to customer.

4 Q. But there is no difference in the per
5 kilowatt hour charge, depending on whether the
6 customer is a self-generator or someone who does not
7 have self-generation capability?

8 A. (Mr. Crumrine) It is a per kilowatt demand
9 charge.

10 Q. I'm sorry.

11 A. (Mr. Crumrine) But, yes, it is the same
12 charge regardless of whether they own generation or
13 not.

14 Q. Let me refer you to page 8 of your
15 rebuttal, line 597. And there you discuss IIEC's
16 recommendation respecting charges for
17 self-generators. Do you see that testimony?

18 A. (Mr. Crumrine) Yes.

19 Q. You comment there that although it is
20 understandable that Mr. Dauphinais, the IIEC
21 witness, interpreted your direct testimony as he
22 did, that ComEd actually intended to design the rate

1 so that it operated differently from the way he
2 described it, is that correct?

3 A. (Mr. Crumrine) Yes.

4 Q. And since you have made your filing and I
5 assume by now it is official, I don't know if anyone
6 here in the room is showing me a flag or anything,
7 but in the rates that you filed did you in fact do
8 that, in the DST case that you refer to in your
9 rebuttal testimony?

10 A. (Mr. Crumrine) Yes.

11 Q. And as filed does it -- and I want to quote
12 from your testimony -- apply for each month in which
13 a customer is receiving supply through the CPP-H
14 auction, the per kilowatt per month charge that is
15 based on each customer's load established during the
16 previous summer, is that the basis for the charge in
17 your filing?

18 A. (Mr. Crumrine) Yes.

19 Q. I want to understand what you mean by "is
20 receiving supply through the CPP-H charge" and does
21 that mean that the customer must actually receive
22 energy or are you referring to simply taking service

1 under the CPP-H auction and is eligible to receive
2 energy?

3 A. (Mr. Crumrine) We meant for customers that
4 are actually taking service under the bundled tariff
5 that receives the hourly price. You actually have
6 to be on the tariff to be charged under the tariff.

7 Q. Okay. But receiving supply is what your
8 testimony said?

9 A. (Mr. Crumrine) Yes.

10 Q. Does that mean actually taking energy?

11 A. (Mr. Crumrine) Yes.

12 Q. So that for a self-generation customer in
13 the month of June is not have an outage, his
14 facility covers load at all times, he does not
15 receive a charge?

16 A. (Mr. Crumrine) I want to make sure I
17 understood your question. On the assumption that
18 the customer took absolutely zero kilowatt hours
19 during the course of his billing period, the
20 customer would still face the demand charges based
21 on his demand established in the prior summer under
22 PJM rules.

1 Q. So it doesn't depend on receiving supply;
2 it is simply being on the service and eligible to
3 receive the energy?

4 A. (Mr. Crumrine) I didn't interpret the
5 language the way you just described it. I can see
6 where you would take it that way. But if you are on
7 the service, you are on the rate, you are receiving,
8 here is the way we meant it.

9 Q. You then say at line 608, still in the
10 rebuttal testimony, that the likelihood of such
11 customers experiencing generation outages during the
12 times of system peak and their ability to perform
13 generation maintenance during off-peak periods of
14 the year will be inherent factors to the
15 determination of their capacity charges. And I want
16 to ask you with respect to that section of your
17 testimony, if they are charged each month, whether
18 or not they actually take energy, are we looking
19 then at the customer's actual experience in the
20 previous summer? That is, for each individual
21 customer, that customer's actual experience in the
22 preceding summer?

1 A. (Mr. Crumrine) Yes. By taking service
2 under the hourly product, the customer is buying
3 capacity and energy. And even though they may not
4 be taking in your example any hourly energy, they
5 are still purchasing from ComEd capacity that they
6 will be paying for each month.

7 Q. And that charge, I am not focusing on the
8 determination of that charge; I understand they will
9 get it. Is that charge based on that particular
10 customer's actually experience the previous summer?

11 A. (Mr. Crumrine) Yes.

12 Q. So it is not based on a calculated
13 probability of a customer having an outage during a
14 particular period, but it is the customer's actual
15 experience?

16 A. (Mr. Crumrine) That's correct.

17 Q. So that if a customer -- accept for
18 purposes of this question that the probability of a
19 particular customer or a particular group of
20 customers going out, that is having their
21 self-generation facilities go down is one in a
22 hundred, but the actual experience in the previous

1 summer was that one chance of a hundred happened
2 during their peak period, the charge that customer
3 pays will be based on that peak period experience?

4 A. (Mr. Crumrine) Under PJM rules it is
5 actually not just a single occurrence. PJM averages
6 the experience on the five highest peak day
7 experience within the PJM system. So a single
8 outage would not have the full impact that you
9 describe. It would contribute one time to an
10 average of five observations.

11 Q. You are correct. I had forgotten that
12 part. But the gist of my question is whether or not
13 it is -- the basis is whatever happened to you that
14 previous summer, not for a group of customers,
15 self-generators as a group, or a group of -- any
16 group of customers. The probability is that that's
17 going to happen the summer in which the charges are
18 being assessed to the customer?

19 A. (Mr. Crumrine) Every customer under CPP-H
20 is going to get an individually calculated capacity
21 responsibility, whether they are generators or not.
22 It will be based on their actual experience on those

1 five highest days in the prior summer, customer by
2 customer determined.

3 Q. Do you feel you are -- excuse me. Are you
4 familiar with the PURPA related FERC regulations
5 quoted in Mr. Dauphinais' testimony respecting a
6 calculation of rates for stand-by customers?

7 A. (Mr. Crumrine) I don't remember the exact
8 reference at this point. I would have to see his
9 testimony to refresh my recollection. I did not
10 have it with me.

11 Q. Let me read you a brief portion and you can
12 tell me if it refreshes your recollection. "The
13 rate for sales of back up power or a maintenance
14 power shall not be based upon an assumption unless
15 supported by factual data. That forced outages and
16 other reductions in electric output by all
17 qualifying facility on an electric utility's system
18 will occur simultaneously or during the system peak
19 or both and shall take into account the extent to
20 which scheduled outages of the facilities can be
21 useful and coordinated with scheduled outages of the
22 utility." Have you heard about, read or been

1 familiar with that provision?

2 A. (Mr. Crumrine) I am generally familiar
3 with those long standing provisions from PURPA.

4 Q. Okay. And qualifying facilities are in the
5 group of self-generating customers we have been
6 discussing?

7 A. (Mr. Crumrine) They are a subset of them,
8 yes.

9 Q. And in the tariffs that you have filed in
10 this case and filed in the new case which we don't
11 have a number for yet, I assume it was Commonwealth
12 Edison's intent to comply with all acts, rules, laws
13 and regulations?

14 A. (Mr. Crumrine) That's a correct
15 assumption.

16 Q. And if it is determined by a competent
17 authority that ComEd did not comply, I assume the
18 company would be amenable to a change?

19 A. (Mr. Crumrine) Assuming the Commerce
20 Commission told us to do something differently in
21 our tariffs, we would certainly comply.

22 Q. Let's turn to your surrebuttal testimony.

1 And the subject here is the ALM customer. Page 18
2 of your surrebuttal testimony, surrebuttal, line
3 399, at line 399 you begin a sentence that in
4 essence says that IIEC's proposal would create an
5 opportunity for customers to choose between two
6 rates. If that is in fact not what IIEC is
7 proposing, and Mr. Dauphinais has not had an
8 opportunity to testify since your rebuttal
9 testimony, if he meant to substitute one proposal
10 for the other instead of offer them both, then would
11 you agree that lines 399 through 410 would not be
12 applicable to this proposal?

13 A. (Mr. Crumrine) Without hearing exactly how
14 Mr. Dauphinais might clarify what he really meant,
15 it is hard for me to answer how I would change that
16 sentence. We can't agree to a blanket change when
17 the hypothetical is a little bit vague.

18 Q. I am not asking you to agree to a blanket
19 change. The specific change that I am proposing is
20 that instead of proposing an option of A and B he
21 proposes his A instead of your A.

22 A. (Mr. Crumrine) If he is really only

1 proposing one alternative, our criticism that he is
2 proposing two alternatives would appear to be
3 invalid.

4 Q. Thank you. But since he hasn't done that
5 yet, let's talk about what's here. Let's look at
6 line 385. There you describe Mr. Dauphinais'
7 testimony as follows: That he asserts that his
8 proposal would eliminate the need for the existing
9 inefficient Rider CLR approach. Do you disagree
10 with his description since you put it in quotes?

11 A. (Mr. Crumrine) No, we put it in quotes to
12 make it clear that it was a quote and not a summary
13 or interpretation of what he said.

14 Q. Okay. And would his proposal eliminate the
15 need for Rider CLR?

16 A. (Mr. Crumrine) No.

17 Q. And you say the choices under his proposal
18 are service under the CPP-H auction as Option 1 or
19 service under his proposal. Does the CPP-H auction
20 option include the application of Rider CLR?

21 A. (Mr. Crumrine) Yes, any customer on
22 ComEd'S system, regardless of whom they take

1 service, supply service, whether it be a RES or
2 ComEd is eligible to take service under Rider CLR.

3 Q. And it is -- I interpret your previous
4 answers to that even under his proposal you would
5 still need Rider CLR?

6 A. (Mr. Crumrine) That's correct. Every
7 other customer that is not on an hourly product
8 would need to have that structure available.

9 Q. So that the only customers who would not be
10 Rider CLR would be those who would be affected by
11 his proposal for self-generating customers?

12 A. (Mr. Crumrine) I am not really sure how
13 you do Mr. Dauphinais' proposal without Rider CLR
14 even for the hourly product customers, because the
15 capacity costs incurred is to recover both capacity
16 and ancillary. And as I sit here I am not sure that
17 you wouldn't have to in some way refer to CLR, but
18 that is not a thorough evaluation because we have
19 not done that.

20 Q. Under Rider CLR customers pay for capacity
21 and later receive rebates for capacity not needed to
22 serve their load, is that a description of how CLR

1 works?

2 A. (Mr. Crumrine) No, Rider CLR is an
3 opportunity offered to customers who want to provide
4 interruptible load to the system so that they can
5 get, in fact, get paid for reducing their load. It
6 is a credit mechanism entirely where the revenues
7 flow back to the customers.

8 Q. And the revenues flowing back to the
9 customer is what?

10 A. (Mr. Crumrine) Whatever PJM's payment to
11 ComEd is for reducing that load.

12 Q. And PJM's payment to ComEd is based on
13 what?

14 A. (Mr. Crumrine) It is based on the PJM
15 auction in the spring.

16 Q. Auction of what?

17 A. (Mr. Crumrine) Capacity.

18 Q. So the customer gets back PJM's auction
19 costs through ComEd, capacity auction?

20 A. (Mr. Crumrine) In a simplified form, yes.

21 JUDGE WALLACE: In a simplified --

22 A. Form.

1 Q. At line 393 you say it is unclear whether
2 Rider CLR would result in higher bills to an ALM
3 customer than Mr. Dauphinais' proposal. Do you see
4 that?

5 A. (Mr. Crumrine) Yes.

6 Q. Would you agree that it is also unclear
7 whether ALM customers taking service under CPP-H and
8 Rider CLR will pay more or less than the cost of
9 capacity that they actually cause?

10 A. (Mr. Crumrine) I am a little confused by
11 your use of the term "cost of capacity that they
12 actually cause."

13 Q. I am sorry, capacity costs that they
14 actually cause?

15 A. (Mr. Crumrine) They are going to get
16 charged under the demand charge and they will get
17 credit under Rider CLR, and because those are not --
18 nobody has ever said -- we have never said that they
19 were going to be an exact perfect dollar match. The
20 credit could be a little bit higher or a little bit
21 lower than what happened in the auction that
22 acquired the capacity. So it could be a little bit

1 higher, it could be a little bit lower based on the
2 PJM auction for capacity that occurs after ComEd
3 acquires it in the CPP-H charge.

4 Q. Have you done any analysis that allows you
5 to say how much a little bit more or a little bit
6 less might be?

7 A. (Mr. Crumrine) No.

8 Q. So it could be more than just a little?

9 A. (Mr. Crumrine) Given the fact that we are
10 going to be procuring capacity in general in late
11 Januarys and the PJM auctions are run in the spring,
12 I find it difficult to think that there is going to
13 be a high probability of large deviations. They are
14 not perfectly contemporaneous but they are awfully
15 close. I would expect them to in general produce
16 reasonably close results, but they could be higher,
17 could be lower.

18 Q. And how much higher or lower, we really
19 can't tell?

20 A. (Mr. Crumrine) That's the study that we
21 haven't done.

22 MR. REDDICK: That's all. Thank you.

1 JUDGE WALLACE: All right. Why don't we break
2 for lunch, come back here at 1:32.

3 (Whereupon the hearing
4 was in recess for lunch
5 until 1:32 p.m.)

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CROSS-EXAMINATION

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BY MR. FEELEY:

Q. I direct your attention to your surrebuttal testimony; in particular, Page 21, Lines 470 through 473.

Do you have that?

A. (BY MR. ALONGI): Yes.

Q. On those lines, you state that only those expenses and revenues that are within the definitions and formulae for a calculation of that AAF in Rider CPP will be included in that calculation, and there's a reference to Exhibit 13.0, and attached to 13.0 is Exhibit 13.2.

MR. RATNASWAMY: Just to be clear, Mr. Feeley, are you asking about 13.2 Revised?

MR. FEELEY: Yes.

Q. Is it clear from a review of Exhibit 13.2 Revised which expenses would be included within the definitions and formula for calculation of the AAF in Rider CPP?

A. (BY MR. ALONGI): I think we need 13.2 Revised. I don't have it on me. I misplaced it.

1 (Whereupon the document was handed to Mr.
2 Alongi.)

3 A. (BY MR. ALONGI): 13.2 Revised identifies
4 the FERC accounts in which expenses, revenues will
5 be recorded for the components of the Rider CPP-AAF
6 calculation.

7 Q. Okay. And I guess my question is, is it
8 clear from a review of 13.2 Revised which expenses
9 would be included within the definitions and
10 formulae for the calculation of that AAF in Rider
11 CCP?

12 A. (BY MR. ALONGI): 13.2 does not identify
13 the expenses themselves. It just identifies the
14 FERC accounts.

15 Q. And looking at 13.2, in particular, FERC
16 Account 566, miscellaneous transmission expenses,
17 are all those expenses going into the AAF in Rider
18 CPP?

19 A. (BY MR. ALONGI): No.

20 Q. So just some of the expenses that show up
21 in that account are going into it?

22 A. (BY MR. ALONGI): And only under certain

1 circumstances, that's correct.

2 Q. (BY MR. ALONGI): Okay. So if one looks at
3 Exhibit 13.2 Revised, it's not clear which expenses
4 are going to go into the AFF in Rider CPP?

5 A. (BY MR. ALONGI): The intent of 13.2
6 Revised is only to identify the FERC accounts in
7 which expenses and revenues resulting from the AAF
8 will be recorded, so it's not intended to identify
9 the expenses themselves.

10 Q. But are all transmission expenses that show
11 up in FERC Account 566 going to go into the AAF in
12 Rider CCP?

13 A. (BY MR. ALONGI): No.

14 Q. So just some of the expenses that are
15 recorded in that account, correct?

16 A. (BY MR. ALONGI): Just some and only under
17 certain conditions.

18 Q. Okay. And Revised Exhibit 13.2 doesn't
19 identify which those some are or under what
20 circumstances, does it?

21 A. (BY MR. ALONGI): No.

22 Q. Please direct your attention to Page 37 of

1 your surrebuttal, particularly lines 863 through
2 867.

3 A. (BY MR. ALONGI): Okay.

4 Q. Do you have your testimony there?

5 A. (BY MR. ALONGI): Yes, I do. I'm there.

6 Q. In this testimony, is it correct that you
7 indicate that you cannot unbundle the cost of
8 transmission and ancillary services that suppliers
9 must provide in the SFC to recover the cost through
10 Rider TS-CPP?

11 A. (BY MR. ALONGI): That's correct. The full
12 requirements electric supply that we book here
13 through the auction will include certain
14 transmission services that we cannot unbundle from
15 that final clearing price.

16 Q. Okay. And going back to 13.2 Revised,
17 again, Account 555 and 566, the first column, post
18 AE under CDU, do you see that there?

19 A. (BY MR. ALONGI): Yes.

20 Q. If they can't be unbundled, how are you
21 going to unbundle the costs to record in Account
22 566, miscellaneous transmission expenses, to be

1 recovered through the CDU in the AAF as reflected on
2 this Exhibit 13.2 Revised?

3 A. (BY MR. ALONGI): In the circumstance in
4 which there is a default and ComEd can procure
5 directly from PJM, we would flow those ancillary
6 transmission services through the AAF.

7 Q. Okay. On Exhibit 13.2 Revised, the default
8 would be the CF column, right?

9 A. (BY MR. ALONGI): Yes.

10 Q. Okay. But if you look at the CDU column,
11 it's showing the same split as you just talked about
12 in the contingency factor column, so there's been an
13 unbundling there, correct?

14 A. (BY MR. ALONGI): It's separately procured.

15 JUDGE WALLACE: You're too soft-spoken. You
16 need to get really close to the microphone.

17 Q. So the transmission expenses are being
18 separately procured even under the CDU?

19 A. (BY MR. ALONGI): That's correct.

20 Q. I direct your attention to Pages 23 through
21 24 of your surrebuttal, Lines 528 to 537.

22 A. (BY MR. ALONGI): Okay.

1 Q. Your testimony there, you talk about the
2 proposed annual reporting process in lieu of an
3 annual docketed reconciliation proceeding that ComEd
4 has proposed that each year, Commission staff would
5 receive information supplied annually by ComEd and
6 within six months issue a report to the Commission
7 regarding the need for a formal Commission
8 investigation.

9 Is that your testimony on those lines?

10 A. (BY MR. ALONGI): Yes.

11 Q. Okay. What information would ComEd supply
12 annually?

13 A. (BY MR. ALONGI): I may defer part of this
14 answer to Mr. Waden who will testify to the
15 accounting of the AAF, but we would supply data with
16 respect to the expenses and revenues that flow
17 through the AAF through the prior year.

18 Q. And Mr. Waden you think will be able to
19 answer that same type of question, perhaps give more
20 detail?

21 A. (BY MR. ALONGI): Yes.

22 Q. And how would staff be able to determine

1 whether there was a need for a formal Commission
2 investigation based upon information that ComEd
3 provided?

4 A. (BY MR. ALONGI): If staff found a
5 computational error or expenses or revenues that
6 either were flowed through the AAF when they should
7 not have been or possibly some costs that should
8 have been that were not.

9 Q. And the information that ComEd would
10 provide would allow staff to make that type of
11 determination that the wrong costs may have flowed
12 through the AAF, sufficient detail to make that
13 determination?

14 A. (BY MR. ALONGI): I will defer to
15 Mr. Waden.

16 Q. Would a party other than staff be able to
17 recommend to the Commission that a formal
18 investigation be initiated?

19 A. (BY MR. ALONGI): I believe the answer is
20 yes.

21 Q. So parties other than staff would have
22 information available to make that type of

1 determination?

2 A. (BY MR. ALONGI): If the information
3 provided to staff is public, then other parties
4 could use that information.

5 Quite frankly, I don't recall if it was
6 available publicly or not.

7 Q. I didn't hear that last part.

8 A. (BY MR. ALONGI): Quite frankly, I was not
9 sure if the information submitted in the annual
10 reports would be public.

11 If it is, other parties would have access
12 to it.

13 Q. Still in the surrebuttal testimony, Lines
14 714 through 727, the testimony at those lines is
15 also addressing the AAF filing issue, correct?

16 A. (BY MR. ALONGI): I'm sorry. Where are you
17 at?

18 Q. Lines 714 through 727.

19 A. (BY MR. ALONGI): Yes. And the question
20 was --

21 Q. The testimony there is talking about an AAF
22 filing issue between staff and ComEd.

1 I'll ask a different question.

2 Is it basically the company's position that
3 AAF, in particular, original sheets 269 and 291,
4 that it states that ComEd proposes to submit to the
5 Commission as an informational filing the applicable
6 AAFs and supporting work papers at least three
7 business days prior to the start of the monthly
8 billing period to which they are applied?

9 A. (BY MR. ALONGI): Yes.

10 Q. And staff's position with regard to that
11 issue would you agree is as follows: That the three
12 business days does not provide staff sufficient time
13 to complete a review. Is that one of the staff's
14 issues --

15 A. (BY MR. ALONGI): Yes.

16 Q. Also, that it's also staff's position that
17 the monthly AAF informational filings should be
18 postmarked by the 20th day of the filing month?

19 A. (BY MR. ALONGI): That's staff's position,
20 that's correct.

21 Q. Okay. Now, in your rebuttal testimony
22 after seeing Mr. Knepler's testimony, ComEd still

1 proposes three business day filing period for the
2 AAF informational filing and rejects staff's 20th
3 day filing proposal, correct?

4 A. (BY MR. ALONGI): That's correct.

5 Q. And in your rebuttal testimony you cite
6 some reasons for why ComEd cannot file its AAF
7 informational filing on the 20th, and that's at
8 Lines 34 through 35, or I'm sorry, Pages 34 through
9 35?

10 A. (BY MR. ALONGI): That's correct.

11 Q. Okay. And one of the reasons at Line 730
12 is that's due to ComEd's current month accounting
13 close process?

14 A. (BY MR. ALONGI): That's one of the
15 considerations, yes.

16 Q. And another reason is at Line 731 which is
17 availability of the components of the calculation?

18 A. (BY MR. ALONGI): That's correct.

19 Q. And another reason stated is that ComEd
20 needs to extensively test any changes in its billing
21 system prior to the first day of the cycle?

22 A. (BY MR. ALONGI): That's correct.

1 Q. Okay. Is that a correct summary of all the
2 reasons for not filing the AAF informational filing
3 on the 20th as staff requests?

4 A. (BY MR. ALONGI): That and the time that it
5 takes to actually process the filing itself. Those
6 identify the main reasons.

7 Q. Due to the time that it takes to process
8 the filing, there's a built-in two-month lag of
9 actual costs and revenue, is that correct?

10 A. (BY MR. ALONGI): Correct.

11 Q. And for example, the March 2007 filing
12 would reflect actual data for the month of
13 January 2007?

14 A. (BY MR. ALONGI): Correct, the monthly
15 billing period.

16 Q. And staff in its rebuttal testimony propose
17 that ComEd could use -- strike that.

18 Staff in response to your testimony
19 proposed that ComEd could use a three-month lag
20 rather than a two-month lag, correct?

21 A. (BY MR. ALONGI): That was a proposal, yes.

22 Q. But ComEd doesn't accept that proposal,

1 correct?

2 A. (BY MR. ALONGI): Correct.

3 Q. And has ComEd offered any compromise
4 proposal other than its original position as stated
5 in your direct testimony?

6 A. (BY MR. ALONGI): No.

7 Q. Are you aware that in terms of monthly PGA
8 filings that four Illinois gas utilities, in
9 particular, Illinois Gas Company, AmerenIP,
10 Interstate Power Company, and South Beloit Water and
11 Gas use a three-month lag of actual data in the
12 computation of their monthly PGA filings?

13 A. (BY MR. ALONGI): I'm not aware of that.

14 Q. Do you agree that a three-month lag would
15 allow ComEd additional time to complete its
16 accounting close process?

17 A. (BY MR. ALONGI): Yes.

18 Q. Do you agree that a three-month lag would
19 provide ComEd additional time so that the components
20 of that calculation are readily available?

21 A. (BY MR. ALONGI): It would allow sufficient
22 time, yes.

1 Q. And do you agree that a three-month lag
2 would provide additional time for ComEd to
3 extensively test its billing system?

4 A. (BY MR. ALONGI): Yes.

5 Q. I direct your attention to Lines 54 through
6 57 of your surrebuttal testimony.

7 A. (BY MR. ALONGI): Okay.

8 Q. The testimony there states that the
9 remaining proposal should not or cannot be accepted
10 sometimes for technical reasons but in some
11 instances because the proposals are not consistent
12 with basic ratemaking principles or with the
13 objectives of Rider CPP.

14 Do you see your testimony there?

15 A. (BY MR. ALONGI): Yes.

16 Q. What's the technical reason why a
17 three-month lag could not be implemented?

18 A. (BY MR. ALONGI): This particular section
19 of testimony is speaking generically about a number
20 of different proposals but not specifically about
21 the filing, the timing of the informational filings
22 each month.

1 Q. So there's no technical reason for why a
2 three-month lag could not be implemented?

3 A. (BY MR. ALONGI): I think it's more
4 financial than technical.

5 Q. And is there a basic ratemaking principle
6 that would be violated if the three-month lag was
7 implemented?

8 A. (BY MR. ALONGI): Timely recovery of cost.

9 Q. Did you review the testimony of
10 Ms. Juracek, her surrebuttal testimony in this
11 docket?

12 A. (BY MR. ALONGI): Not in great detail.

13 Q. Do you recall in her testimony where she
14 stated that all ComEd has ever wanted to accomplish
15 through the accuracy assurance mechanism in Rider
16 CPP is to recover true costs, no more, no less? Do
17 you remember that in her testimony?

18 A. (BY MR. ALONGI): Not in particular but I
19 agree with it.

20 Q. Okay. How does the adoption of a
21 three-month lag prevent ComEd from recovering its
22 true costs?

1 A. (BY MR. ALONGI): The time value of money.

2 Q. And that being that revenues or expenses
3 incurred in one month aren't going to show up until
4 three months later on, correct?

5 A. (BY MR. ALONGI): As opposed to two,
6 correct.

7 Q. But would you agree that once you get three
8 months into the tariffs being into effect, money is
9 coming in?

10 A. (BY MR. ALONGI): It's a one-time delay so
11 to speak.

12 Q. Are you familiar with the filing made by
13 the Ameren Companies in their procurement dockets?

14 A. (BY MR. ALONGI): Again, not in great
15 detail.

16 Q. Do you know whether the Ameren Companies
17 have agreed to make its monthly informational filing
18 by the 20th day of the filing month?

19 A. (BY MR. ALONGI): Yes, I believe they have
20 agreed.

21 Q. I direct your attention still in your
22 surrebuttal to Line 509.

1 A. (BY MR. ALONGI): Okay.

2 Q. And in particular, well, at Lines 509
3 through 512, you state that staff asserts that the
4 Commission post 2006 initiative procurement working
5 groups goal transparency should be extended to
6 annual reconciliation proceedings.

7 The cite is given, and then you ask the
8 question, "Is the AAF calculation process
9 transparent?"

10 Do you see that in your testimony?

11 A. (BY MR. ALONGI): Yes.

12 Q. And you respond that it is transparent.
13 The revised formulae are set forth in ComEd
14 Exhibit 13.1.

15 Do you see that?

16 A. (BY MR. ALONGI): Yes.

17 Q. Now, you specifically refer to the revised
18 formula set forth in Exhibit 13.1.

19 Were the original formulae filed on
20 February 25, 2005 not transparent?

21 A. (BY MR. ALONGI): No, they were transparent
22 in the same manner as the formula, revised formula

1 in Exhibit 13.1.

2 Q. And is it your position that the
3 competitive procurement process is transparent?

4 A. (BY MR. ALONGI): Yes.

5 Q. And when you referred to the revised
6 formulae set forth in ComEd Exhibit 13.1, were you
7 specifically referring to original sheets Sheet Nos.
8 291 through 294?

9 A. (BY MR. ALONGI): Yes.

10 Q. I direct your attention, still on the same
11 page, on Lines 515 and 516, you state, "Indeed, it
12 is unclear how an annual docketed proceeding could
13 or would make the calculations any more
14 transparent."

15 My question to you is how does the formulae
16 demonstrate that the actual auction results were
17 translated into the correct rates?

18 A. (BY MR. ALONGI): It gives you the basis
19 from which to evaluate the data that went into the
20 formula.

21 Q. So you need to look at the data that goes
22 into the formula to determine that it's transparent,

1 correct?

2 A. (BY MR. CRUMRINE): Not necessarily. If I
3 could clarify that just a bit.

4 The translation mechanism itself is
5 separate and apart from the monthly filings for the
6 AAF.

7 The translation mechanism and the resulting
8 ratios that will set retail charges are known to all
9 parties months in advance before the auction even
10 occurs.

11 So when the auction is run and the winning
12 bids are announced, ComEd averages those prices and,
13 using those same ratios that every stakeholder has
14 available to them, will just be calculating rates
15 off of those ratios.

16 So the translation mechanism to set rates
17 is separate and apart from the monthly true-up
18 mechanism that we're talking about in the AAM, in
19 the accuracy assurance mechanism.

20 Q. Well, I guess I'll ask a different
21 question.

22 How does the formulae demonstrate that the

1 actual auction results were correctly put into the
2 formulae as a result of incorrect rates?

3 A. (BY MR. CRUMRINE): Again, that's where I
4 was going back to the -- the translation mechanism
5 that sets the rates in the first place are known in
6 advance of the auction, and they directly
7 translate what those ratios are available to all
8 stakeholders with public information. Results
9 coming out of the auction will be public in terms of
10 the prices, and it's merely a weight averaging of
11 the prices times the ratios.

12 So the equations and the mechanisms in the
13 tariff that set the rates coming out of the auction
14 are going to be highly transparent then to the
15 stakeholders.

16 Q. With respect to Rider CPP, in order to make
17 a correct calculation, would you agree that that's
18 only possible when the inputs to the formula are
19 correct?

20 A. (BY MR. ALONGI): Yes.

21 Q. And a correct calculation will only occur
22 when the mathematical operations are performed

1 correctly?

2 A. (BY MR. ALONGI): Yes.

3 Q. And the resulting rate -- strike that.

4 Would you agree that an annual docket
5 reconciliation proceeding would provide a voice for
6 other interested parties to express their interests,
7 whatever they may be?

8 A. (BY MR. ALONGI): I think ComEd also
9 proposed to have annual, I think they're called
10 workshops to provide a forum for improvement.

11 Q. But do you agree that an annual docket
12 reconciliation would provide a forum for other
13 interested parties to express their opinions?

14 A. (BY MR. CRUMRINE): Could you clarify what
15 opinions that you'd be seeking in that docket?

16 Q. What disputes over the charges, whether the
17 charges were correct, did they follow the formulas,
18 did the correct costs go into the formulas.

19 A. (BY MR. CRUMRINE): I'm sorry but we're
20 sometimes talking about two different things. We're
21 talking about setting the charges coming out of the
22 auctions that will be based on spreadsheets that

1 will be known to people. They can verify the
2 calculations, and they'll be known to all
3 stakeholders in advance so that when the auction is
4 run five months later, everybody will be able to see
5 very clearly that ComEd translated those charges
6 correctly.

7 That's separate and apart from the annual
8 report that ComEd has committed to file for the AAF
9 that we propose to show in sufficient detail for
10 staff to verify that the right costs and right
11 revenues went through the right accounts.

12 And I'm sorry but sometimes I'm getting
13 confused when we talk about rates versus the AAF,
14 and I tend to distinguish those two very different
15 processes, and I don't want confusion to result from
16 that answer.

17 Q. Well, with respect to the AAF, would you
18 agree that an annual docketed reconciliation
19 proceeding would provide a forum to settle disputed
20 issues?

21 A. (BY MR. CRUMRINE): What kind of disputed
22 issues are you suggesting?

1 Q. Whether customers, the amounts that
2 customers pay to ComEd were the correct amounts.

3 A. (BY MR. CRUMRINE): All we're suggesting is
4 that you don't need a formal docket to do that.
5 We're providing an annual report going to staff and
6 available to others, but you don't automatically
7 need to go into a docket to do that.

8 Q. But a docketed proceeding would provide a
9 forum to settle disputed issues, correct? It's an
10 alternative to what ComEd proposes?

11 A. (BY MR. CRUMRINE): It's an alternative to
12 what we're proposing, yes.

13 Q. And would you agree that an annual docketed
14 reconciliation proceeding would validate the
15 openness of the competitive procurement process?

16 A. (BY MR. CRUMRINE): I don't think you need
17 a docket to validate that transparency.

18 Q. Would you agree that during the existence
19 of ComEd's fuel adjustment clause, ComEd
20 participated in annual FAC reconciliations?

21 A. (BY MR. CRUMRINE): That's correct.

22 Q. And do you know whether in Ameren's

1 procurement docket the Ameren Companies have agreed
2 to annual docketed reconciliation proceedings?

3 A. (BY MR. CRUMRINE): I believe they have.

4 Q. I'm almost done here.

5 Lines 544 through 546, do you see that
6 testimony there?

7 A. (BY MR. CRUMRINE): Yes.

8 Q. There's a reference to an unnecessarily
9 burdensome process each year.

10 Do you see that?

11 A. (BY MR. CRUMRINE): Yes.

12 Q. Does ComEd find the filing of annual
13 corporate income tax returns to be a burden?

14 A. (BY MR. CRUMRINE): I think you'd have to
15 ask the people that file our income taxes.

16 Q. Do you believe filing reports with FERC are
17 a burden?

18 A. (BY MR. CRUMRINE): I don't know that I
19 would characterize them as a burden. There's
20 certain requirements of our business.

21 Q. Are you familiar with the Sarbannes Oxley
22 Act?

1 A. (BY MR. CRUMRINE): Only generically.

2 Q. Do you believe whether filing reports to
3 comply with the Sarbannes Oxley Act are a burden?

4 A. (BY MR. CRUMRINE): I don't know whether I
5 would characterize it that way. I know that that's
6 caused a lot of companies to spend a lot of money
7 and a lot of effort, but whether we would call that
8 a burden or just another legislative requirement is
9 open for debate.

10 MR. FEELEY: That's all I have, thank you.

11 JUDGE WALLACE: Redirect?

12 MR. RATNASWAMY: Yes, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. RATNASWAMY:

15 Q. What is an ICC Form 21?

16 A. (BY MR. CRUMRINE): My understanding, it is
17 the annual report that ComEd files with the Illinois
18 Commerce Commission with certain categories of
19 revenues, costs, and assets defined that ComEd
20 reports each year its results and the proper
21 accounting results for that year.

22 Q. Does the ICC each year open an automatic

1 docketed proceeding to review the accuracy of the
2 Form 21?

3 A. (BY MR. CRUMRINE): No.

4 Q. What's a FERC Form 1?

5 A. (BY MR. CRUMRINE): It's a report similar
6 to the Form 21 that ComEd files each year with the
7 FERC that again has categories of accounts that must
8 be reported, and ComEd reports its revenues,
9 expenses and balance sheet items and other related
10 information in that report.

11 Q. Does FERC each year open an automatic
12 docketed proceeding to review the accuracy of the
13 Form 1?

14 A. (BY MR. CRUMRINE): No.

15 Q. Okay. Go back to the questions that you
16 were asked by counsel for CES related to -- I know
17 it's Lines 307 to 308 but I forgot which testimony
18 it was. I believe it's the direct.

19 Do you have Lines 308 of your direct?

20 A. (BY MR. CRUMRINE): Yes.

21 Q. One of the questions you were asked is --
22 and I don't have this verbatim -- what happens if

1 that critical link does not exist.

2 Do you remember that?

3 A. Yes, I do.

4 Q. And among the things you said in response
5 to that answer, did you say the utility may not
6 incur all of its costs?

7 A. (BY MR. CRUMRINE): I believe I misspoke
8 and said the word incur.

9 What I meant to say was that the utility
10 may not recover all of its costs.

11 Q. With regard to Exhibit 13.2 Revised, do you
12 have that?

13 A. (BY MR. CRUMRINE): Yes.

14 Q. Does the fact that there is an X mark in
15 the AE column and the Account 566 row mean that it
16 is your intention to attempt to unbundle the prices
17 charged by suppliers under the SFCs resulting from
18 the auction?

19 A. (BY MR. ALONGI): No.

20 Q. You were asked by Mr. Feeley some questions
21 about the timing of the filing of the monthly
22 informational reports related to the AAF.

1 Do you remember that?

2 A. (BY MR. ALONGI): Yes.

3 Q. If the report is filed with the staff three
4 business days in advance as you proposed and the
5 staff identifies an error after the bills have
6 already gone out, does that mean there is nothing
7 staff or ComEd can do about the error?

8 A. (BY MR. ALONGI): The error would result in
9 a different AAF factor in the next month through the
10 AB component.

11 Q. You were asked also some questions by
12 Mr. Feeley in which there was a reference to the
13 accounting close.

14 Do you recall those?

15 A. (BY MR. ALONGI): Yes.

16 Q. Okay. In brief, what does that term mean,
17 accounting close? Is that a Mr. Waden question?

18 A. (BY MR. ALONGI): That's a Mr. Waden
19 question.

20 Q. You were asked some questions also by
21 Mr. Feeley about the three-month versus two-month
22 lag, and you referred to there being a one-time

1 delay.

2 Do you recall that?

3 A. Yes.

4 Q. Is it correct that the one-time delay
5 relates to any particular AAF?

6 A. (BY MR. ALONGI): No.

7 Q. If you could explain to me then, as the
8 process works forward with the three-month lag that
9 is proposed by staff, wouldn't whatever the
10 corrections are that are to be made for the relevant
11 billing period always occur one month later than
12 they would with the two-month lag?

13 A. (BY MR. ALONGI): That's correct.

14 Q. And those corrections could be corrections
15 that favor customers in the sense of the AAF being,
16 in effect, a credit?

17 A. (BY MR. ALONGI): Yes.

18 Q. I'd like to direct your attention to your
19 surrebuttal, Page 21.

20 You were asked some questions by Mr. Feeley
21 relating to the need to have data inputs be correct
22 as well as for computations to be correct.

1 Do you recall that?

2 A. (BY MR. ALONGI): Yes.

3 Q. Is the language that is proposed on Lines
4 454 to 464 of your surrebuttal intended to permit
5 staff and the Commission to review whether the data
6 inputs and the math are correct for the AAF?

7 A. (BY MR. ALONGI): Yes.

8 Q. You were asked I believe by Mr. Reddick
9 some questions about the ALM credits.

10 Mr. Crumrine, is there a correction you
11 want to make on that?

12 A. (BY MR. CRUMRINE): Yes. It's a subtlety
13 but I realize in my attempt to be simple, I was a
14 little bit inaccurate.

15 I characterized the ALM credits as being
16 received by ComEd directly from PJM when, in fact,
17 the way we have structured the hourly auction, those
18 credits will be paid to the suppliers of the hourly
19 product who will then in turn pass them on to ComEd
20 who will then credit customers.

21 Q. I'm sorry. If I could return to the
22 previous subject for one more moment.

1 Is there anything in the proposed Rider CPP
2 as revised including in your surrebuttal which would
3 prevent the staff or another party from proposing
4 that a docket be opened to review the correctness of
5 the math and data inputs referred to on Page 21 of
6 your surrebuttal?

7 A. (BY MR. ALONGI): No.

8 Q. You were asked some questions by
9 Mr. Giordano related to nonresidential space heating
10 customers.

11 Do you recall that?

12 A. (BY MR. CRUMRINE): Yes.

13 Q. In light of those questions and the
14 information which you've previously discussed on
15 that subject, what is your belief regarding whether
16 ComEd's proposed tariffs treat those customers
17 fairly?

18 A. (BY MR. CRUMRINE): We believe that they
19 are being treated fairly because just like all the
20 other customers that would be in the annual auction,
21 they would be paying a market-based price based on
22 their load shape, and to the extent that their load

1 shape was more or less favorable or provided a more
2 or less favorable price based on that market price,
3 they would be paying accordingly, and we believe
4 that that is a fair way to treat all customers in
5 that annual product auction.

6 Q. Okay. This is the last subject.

7 You were asked by Mr. Rosen some questions
8 regarding ComEd's capabilities and the ability of
9 other Exelon business units in relation to portfolio
10 management.

11 Do you remember that?

12 A. (BY MR. CRUMRINE): Yes.

13 Q. What is your understanding of why ComEd has
14 proposed the particular competitive procurement
15 process that it has proposed in this proceeding?

16 A. (BY MR. CRUMRINE): Stated simply, ComEd
17 believes that the auction process that it's
18 proposing is the best mechanism for it to procure
19 power from wholesale suppliers and provide the best
20 possible price to consumers.

21 MR. RATNASWAMY: I have no further questions on
22 redirect, Your Honor.

1 JUDGE WALLACE: Does anyone have any recross?

2 MR. ROSEN: I'm sort of confused, Your Honor.

3 On the one hand, my questions on that subject were
4 sustained. It seems to me that he's opened the door
5 back up.

6 MR. RATNASWAMY: Your Honor, there was between
7 four to six questions asked by Mr. Rosen on that
8 subject that were allowed into evidence before the
9 offer of proof.

10 MR. ROSEN: I don't remember asking that
11 subject.

12 JUDGE WALLACE: Well, if you have questions,
13 ask them. Then we'll see.

14 MR. ROSEN: I'll wait.

15 JUDGE WALLACE: Do you have questions?

16 MR. GIORDANO: No, Your Honor.

17 JUDGE WALLACE: All right. Go ahead.

18 RE-CROSS-EXAMINATION

19 BY MR. ROSEN:

20 Q. Okay. Is one of the reasons why you think
21 this auction proposal is the best way of going is
22 that you believe that ComEd lacks the people who can

1 go out and purchase electricity and manage a
2 portfolio without the use of an auction?

3 A. (BY MR. CRUMRINE): No. That's not one of
4 the major considerations.

5 Q. And why is that -- because ComEd does have
6 the skill and capability of going out and acquiring
7 electricity and managing a power portfolio in your
8 opinion?

9 A. (BY MR. CRUMRINE): No. That aspect was
10 really only a minor consideration.

11 Major considerations were questions
12 relating to what the best mechanism was for ComEd to
13 procure power in the wholesale market and get it at
14 the best possible price, and those were the major
15 considerations.

16 The considerations about where particular
17 talents reside today in Exelon was only a small
18 consideration in that overall picture.

19 Q. Well, do you think that ComEd utilizing its
20 resources or the resources of any of its affiliates
21 or sister corporations does have the talent and the
22 skills and the ability to acquire power on its own

1 and manage a power portfolio?

2 A. (BY MR. CRUMRINE): I'm not sure how an
3 affiliate manages a power portfolio on behalf of
4 ComEd that is going to involve the auction winners
5 and other things like that. I don't know how that
6 works.

7 Q. All right. Let me restate the question.

8 Do you think that the individuals that are
9 employed by either Commonwealth Edison or Exelon or
10 its affiliates has had the skills and the
11 capabilities of acquiring electricity without the
12 auction in managing its own portfolio?

13 A. (BY MR. CRUMRINE): I presume they do
14 because that's what they're doing today.

15 MR. ROSEN: Thank you.

16 EXAMINATION

17 BY JUDGE WALLACE:

18 Q. Mr. Crumrine, you indicated in your
19 surrebuttal testimony that ComEd is not willing to
20 continue to offer the ISS service.

21 Consider a hypothetical. If more and more
22 residential customers switch, what are they going to

1 come back to if they have to come back to ComEd?

2 A. (BY MR. CRUMRINE): The IIS service itself,
3 we will still offer that service. We will just not
4 offer it as a separately procured and separately
5 priced service. The bundled tariffs, we'll provide
6 that.

7 They will come back to the blended product.
8 They will be able to return to that. Whenever
9 they're dropped by the supplier or if they
10 affirmatively decide to come back to the supplier,
11 they will just come back to the blended product.

12 So the service is being provided. We just
13 don't need to procure it and price it separately
14 like we do today.

15 Q. All right. And so you're not really
16 disputing that you would have a provider of last
17 resort requirement?

18 A. (BY MR. CRUMRINE): As to whether it's a
19 requirement or not, I'll leave that to the lawyers,
20 but for all practical purposes, we have an available
21 tariff for interim supply service to every one of
22 our customers.

1 It may be priced differently, again,
2 depending upon what they're eligible for, but we do
3 offer POLR service to every one of your customers.

4 Q. And you've offered I guess what you've
5 described as concessions or agreements to various
6 parties' terms but you've offered that as a package,
7 right?

8 A. (BY MR. CRUMRINE): Are you talking about
9 the group of items that Mr. McNeil referred to in
10 his surrebuttal?

11 Q. Yes.

12 A. (BY MR. CRUMRINE): Yes, that's correct.

13 Q. Are you taking the position that the
14 Commission has to take all of that package or none
15 of it?

16 A. (BY MR. CRUMRINE): We are recommending
17 that the Commission take the package or none of it.

18 Q. And you would agree that this is not like
19 the market value cases where if the Commission
20 suggests or recommends changes that ComEd or Ameren
21 or IP at the time could reject those changes?

22 A. (BY MR. CRUMRINE): Again, I'm not a

1 lawyer.

2 My sense is those are changes that are
3 within the Commission's jurisdiction and ability to
4 make.

5 We're just recommending that they be
6 accepted as a package or that our prior position be
7 our recommended position.

8 Q. And then on Page 33 of your rebuttal
9 testimony, the content of monthly AAF filings, I'm
10 concerned that this item should be resolved in this
11 docket, and I'm not sure why you would not want to
12 come up with a solution.

13 A. (BY MR. CRUMRINE): I think what our view
14 is --

15 Q. I mean, you indicate that you'll work with
16 staff, but it doesn't sound like you would want to
17 do it in this docket.

18 Wouldn't it be better to complete that at
19 this time?

20 A. (BY MR. CRUMRINE): Personally, I'm a
21 bigger believer that if you can deal with people
22 outside of a docketed proceeding that you have

1 greater flexibility in discussions and working with
2 them. You can more easily give and take, and we
3 felt that that could be done informally.

4 Especially as we go through this and
5 ultimately find out what the Commission's final
6 determinations are, those will in some cases as I
7 understand, you know, not being an accountant but as
8 I understand it, some of the Commission's decisions
9 may drive different treatments in the accounting or
10 the number of sub-accounts and things like that.

11 And we just felt that it would be better to
12 be able to work in a less formal manner directly
13 with staff once we know everything we need to know
14 from an accounting standpoint so that we can give
15 them all the detail that they want, as much as
16 detail as we can reasonably provide.

17 JUDGE WALLACE: Okay. Thank you, Mr. Crumrine
18 and Mr. Alongi. You may step down.

19 (Witnesses excused.)

20 JUDGE WALLACE: I suppose we should take
21 Mr. Waden.

22 Raise your right hand.

1 (Whereupon the witness was sworn by Judge
2 Wallace.)

3 JUDGE WALLACE: Mr. Ratnaswamy?

4 MR. RATNASWAMY: Good afternoon.

5 KEVIN J. WADEN

6 called as a witness herein, on behalf of
7 Commonwealth Edison Company, having been first duly
8 sworn on his oath, was examined and testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MR. RATNASWAMY:

12 Q. State your name and business address.

13 A. My name is Kevin J. (W-a-d-e-n), and my
14 business address is 3 Lincoln Center, Oakbrook
15 Terrace, Illinois.

16 Q. And in what capacity are you employed and
17 by whom?

18 A. I'm employed by EED or Exelon Energy
19 Delivery as the director of financial reporting and
20 accounting research.

21 Q. Did you prepare or cause to prepare under
22 your direction, supervision and control surrebuttal

1 testimony to be submitted in the proceeding which
2 you are testifying today?

3 A. Yes, I have.

4 Q. And if I were to ask you the questions that
5 appear in that testimony today, would you give the
6 answers that appear in that testimony?

7 A. Yes, I would.

8 Q. And would that surrebuttal testimony of
9 ComEd, Exhibit 22.0, be Docket File No. 61487?

10 A. That's correct.

11 MR. RATNASWAMY: Your Honor, I'll move the
12 admission of Commonwealth Edison Company
13 Exhibit 22.0 in Docket File No. 61487.

14 JUDGE WALLACE: Any objection?

15 Hearing none, ComEd Exhibit 22.0 is
16 admitted.

17 (Whereupon ComEd Exhibit 22.0 was admitted
18 into evidence at this time.)

19 JUDGE WALLACE: Ms. Scarsella, do you have some
20 cross?

21 MS. SCARSELLA: Just a few questions.

22 JUDGE WALLACE: Go ahead, please.

1 MS. SCARSELLA: Good afternoon.

2 THE WITNESS: Good afternoon.

3 MS. SCARSELLA: My name is Carla Scarsella, and
4 I represent staff of the Illinois Commerce
5 Commission in this proceeding, and I just have a
6 couple of questions for you.

7 CROSS-EXAMINATION

8 BY MS. SCARSELLA:

9 Q. You address that portion of staff witness
10 Selvaggio's rebuttal testimony that relates to the
11 revenue and cost accounts and sub-accounts that
12 should be included as components of the CPP rate,
13 correct?

14 A. That's correct.

15 Q. Referring to your surrebuttal testimony,
16 Page 2, Lines 31 to 32, do you have that before you?

17 A. Yes, I do.

18 Q. All right. You testify that, and I quote,
19 "When those sub-accounts are created, ComEd will
20 promptly inform staff and discuss any concerns, if
21 any, that staff may have," correct?

22 A. Yes.

1 Q. What resource would staff have if after
2 raising its concerns with ComEd staff continues to
3 disagree with ComEd's proposed accounts?

4 A. I think it would be very unlikely that we
5 would not be able to come to an agreement with
6 staff.

7 Q. But it's a possibility that staff could not
8 agree after discussions with ComEd with the proposed
9 accounts?

10 A. I believe it's a possibility but I would
11 put a low probability around that.

12 Q. Well, should that low probability occur,
13 what recourse would staff have in that event?

14 A. I'm assuming that they could start with
15 something more formal and set up a proceeding if
16 necessary.

17 Q. But other than staff, would any other party
18 be able to have access to know what revenues and
19 expenses were being included within the definitions
20 and formulae for calculation of the AAF in Rider
21 CPP?

22 A. As part of our process where we are going

1 to file on a monthly basis, the calculation will be
2 public information.

3 Q. And it would specify the revenue and
4 expenses?

5 A. Any appropriate level of detail.

6 Q. And who's to determine the appropriate
7 level of detail?

8 A. The actual report that will be provided has
9 not been created as of this point in time, so it's
10 hard for me to answer that question.

11 Q. Would the sub-accounts be included?

12 A. Again, we have not created that report. If
13 the staff thought that that would be a valuable
14 piece of information, we would consider that in
15 drafting the report.

16 Q. Referring to Page 6, Lines 121 through 124
17 of your surrebuttal testimony, you testify in part,
18 and I quote, "Only those expenses and revenues in
19 the accounts identified in ComEd Exhibit 13.2
20 Revised that are within the definitions and formulae
21 for calculation of the AAF in Rider CPP will be
22 included in that calculation." Is that correct?

1 A. Yes.

2 Q. In preparing your testimony, you obviously
3 reviewed Exhibit 13.2 Revised?

4 A. Yes, I did.

5 Q. Well, 13.2. I don't know if it was revised
6 by the time you filed surrebuttal.

7 But is it clear from a review of ComEd
8 Exhibit 13.2 Revised which expenses would be
9 included within the definitions and formulae for
10 calculation of the AAF in Rider CPP?

11 A. That was not the intention of Exhibit 13.2
12 Revised.

13 Exhibit 13.2 Revised was set to limit the
14 accounts that we will be using. The FERC chart of
15 accounts has a number of other accounts which will
16 not be part of the calculation.

17 So what we were attempting to do with that
18 exhibit is to narrow and allow staff to see
19 directionally where we were going.

20 Q. So basically, you wouldn't be able to
21 determine from that schedule which expenses would be
22 included within the definitions and formulae for

1 that calculation?

2 A. No, nor was that the intention of the
3 exhibit.

4 Q. Now, these are a couple questions left over
5 from the examination of Mr. Alongi and Mr. Crumrine
6 and they deferred to you so I will ask them of you.

7 Regarding the information that ComEd
8 intends to supply in its annual report, what
9 information basically would be supplied?

10 A. Again, we need to determine what the report
11 will look like and we'll work with staff to do that,
12 but the intention would be to identify the
13 appropriate expenses that we are incurring as part
14 of the auction process as well as the revenues that
15 we bill to our customers.

16 Q. Based on this information, would staff or
17 any other party who received it determine whether
18 there was a need for a formal Commission
19 investigation? Would there be enough?

20 A. I can't speak to what the staff would need
21 or anyone else would need, but we believe it will be
22 a public document. The staff will have the ability

1 to ask questions of us, and we'll provide, as
2 appropriate, the data to support if necessary.

3 MS. SCARSELLA: Staff has no further questions.

4 JUDGE WALLACE: Any redirect?

5 MR. RATNASWAMY: Yes, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. RATNASWAMY:

8 Q. Mr. Waden, what is the Uniform System of
9 Accounts?

10 A. The Uniform System of Accounts is
11 established by the Federal Energy Regulatory
12 Commission, and it establishes all of the different
13 accounts that are kind of the buckets if you will
14 for the non-accountants in the room where a company
15 is a required to record expenses, revenues, assets
16 and liabilities on its income statement or balance
17 sheet.

18 Q. Does the Uniform System of Accounts specify
19 sub-accounts?

20 A. In limited cases it does but normally it
21 does not.

22 Q. How many sub-accounts does ComEd have in

1 its accounting system?

2 A. I don't have an exact figure but it's
3 several hundred.

4 Q. How many of them were the product of a
5 formal proceeding before either the FERC or the ICC?

6 A. None to my knowledge.

7 Q. You indicated that Exhibit 13.2 in response
8 to a question by Ms. Scarsella does not indicate
9 which expenses and revenues are intended to pass
10 through the AAF, is that right?

11 A. That's correct.

12 Q. Where does one look for the definitions of
13 what revenues and expenses are expected to pass
14 through?

15 A. Definitions should be within the tariffs
16 where we've defined the different revenues and
17 expenses.

18 MR. RATNASWAMY: No further questions, Your
19 Honor.

20 JUDGE WALLACE: Any recross?

21 MS. SCARSELLA: No, Your Honor.

22 JUDGE WALLACE: Okay. Thanks, Mr. Waden. You

1 may step down.

2 (Witness excused.)

3 JUDGE WALLACE: Let's take a few minutes break
4 and then we'll get to Mr. Childress and
5 Mr. Brookover.

6 (Recess taken.)

7 JUDGE WALLACE: Mr. Giordano?

8 MR. GIORDANO: Yes, Your Honor. They're
9 already sworn?

10 JUDGE WALLACE: Oh, raise your right hand.

11 (Whereupon the witnesses were sworn by
12 Judge Wallace.)

13 T. J. BROOKOVER & KRISTOV CHILDRESS
14 called as witnesses herein, on behalf of BOMA,
15 having been first duly sworn on their oath, were
16 examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. GIORDANO:

19 Q. Mr. Brookover, please state your name and
20 business addresses?

21 A. (BY MR. BROOKOVER): T.J. Brookover, One
22 North Wacker, Chicago, Illinois 60606.

1 Q. And who are your employers?

2 A. (BY MR. BROOKOVER): The John Buck Company.

3 Q. And what's your position there?

4 A. (BY MR. BROOKOVER): Senior vice president
5 and director of property management.

6 Q. Mr. Childress, please state your name and
7 address?

8 A. (BY MR. CHILDRESS): Kristov M. Childress,
9 360 North Michigan Avenue, Suite 1005, Chicago,
10 Illinois 60601.

11 Q. And your employer and position with that
12 company?

13 A. (BY MR. CHILDRESS): GED Corp. I'm the
14 technical director.

15 Q. Thank you.

16 Now, if I would show you BOMA Exhibit 2.0,
17 this is the direct panel testimony of T. J.
18 Brookover and Kristov M. Childress on behalf of the
19 Building Owners and Managers Association of Chicago,
20 and I ask you the same questions today, would your
21 answers be the?

22 A. (BY MR. BROOKOVER): Yes. We would like to

1 submit two changes though to that exhibit.

2 Q. Okay. And what are those?

3 A. (BY MR. BROOKOVER): The first can be found
4 on Page 13, Line 271. The second word should read
5 "risers" and not "riders."

6 And on Page 23, we would like to remove in
7 their entirety Lines 487 through 507.

8 Q. Now, other than those changes, if I would
9 ask you the same questions in BOMA Exhibit 2.0
10 today, would your answers be the same?

11 A. (BY MR. BROOKOVER): Yes, they would.

12 Q. I show you Exhibit 2.1. This is a cost
13 comparison for randomly selected electric space
14 heating customers under current ComEd bundled rates
15 for electricity and supply and delivery versus an
16 estimated unbundled bill in 2007.

17 Was this prepared by you or under your
18 supervision?

19 A. (BY MR. CHILDRESS): Yes, it is.

20 Q. I show you Exhibit 2.2. These are the data
21 sources and assumptions used in BOMA Exhibit 2.1.

22 Was this prepared by you or under your

1 supervision?

2 A. (BY MR. CHILDRESS): Yes, it was.

3 MR. GIORDANO: With that I'd like to move for
4 the admission of BOMA Exhibits 2.0 through 2.2.

5 JUDGE WALLACE: Any objection?

6 Hearing none, BOMA Exhibits 2.0, 2.1, and
7 2.2 are admitted.

8 (Whereupon BOMA Exhibits 2.0, 2.1 and
9 2.2 were admitted into evidence at
10 this time.)

11 Q. BY MR. GIORDANO: You also have rebuttal
12 testimony in this docket, correct?

13 A. (BY MR. BROOK): Yes, we do.

14 Q. I'd like to refer to BOMA Exhibit 4.0, the
15 rebuttal panel testimony of T. J. Brookover and
16 Kristov M. Childress, and ask you if you were asked
17 the same questions today would your answers be the
18 same?

19 A. (BY MR. CHILDRESS): Yes, with the
20 following changes:

21 On Page 12, Line 265, should begin with the
22 word "to" so that it reads "to continue to provide

1 PPO-MI."

2 On Page 14 on Line 300, strike the next to
3 the last word, "that", so that it reads now to
4 expect the.

5 On Page 14, Line 311, the fourth from the
6 last word, definitions, strike the "s" so it reads
7 definition, a single definition of P periods.

8 And on Page 17, Line 380, change CPP in the
9 middle of the sentence to CPP-B so that it reads
10 even if the CPP-B rate is extended.

11 Q. Other than those changes, if I were to ask
12 you the same questions in BOMA Exhibit 4.0 today,
13 would your answers be the same?

14 A. (BY MR. CHILDRESS): Yes.

15 A. (BY MR. BROOKOVER): Yes, they would.

16 Q. I show you what's been marked as BOMA
17 Exhibit 4.1. This is a cost comparison for randomly
18 selected electric space heating and nonelectric
19 space heating customers under current ComEd bundled
20 rates for electricity supply and delivery versus an
21 estimated unbundled bill in 2007 at an auction price
22 of \$50 per megawatt hour.

1 Was this prepared by you or under your
2 supervision?

3 A. (BY MR. CHILDRESS): Yes, it was.

4 A. (BY MR. BROOKOVER): Yes.

5 Q. I show you Exhibit BOMA 4.2 which is the
6 data sources and assumptions used in BOMA
7 Exhibit 4.1.

8 Was this prepared by you or under your
9 supervision?

10 A. (BY MR. CHILDRESS): Yes.

11 A. (BY MR. BROOKOVER): Yes, it was.

12 Q. And finally, I show you BOMA Exhibit 4.3
13 entitled "Calculating order of magnitude estimates
14 of incremental effects of ComEd's proposed migration
15 risk factors."

16 Was this prepared by you or under your
17 supervision?

18 A. (BY MR. CHILDRESS): Yes, it was.

19 A. (BY MR. BROOKOVER): Yes.

20 MR. GIORDANO: I'd like to move for the
21 admission of BOMA Exhibits 4.0 through 4.3 and
22 tender these witnesses for cross-examination.

1 JUDGE WALLACE: Any objections to those
2 exhibits?

3 Hearing none, BOMA Exhibit 4.0, 4.1, 4.2
4 and 4.3 are admitted.

5 (Whereupon BOMA Exhibits 4.0, 4.1 and
6 4.2 were admitted into evidence at
7 this time.)

8 JUDGE WALLACE: Who has cross of this panel --

9 MR. RATNASWAMY: I do.

10 JUDGE WALLACE: Mr. Ratnaswamy, go ahead.

11 Please use your mikes.

12 MR. RATNASWAMY: I do have somewhat less
13 because you struck that one Q and A.

14 MR. GIORDANO: Okay. Good.

15 CROSS-EXAMINATION

16 BY MR. RATNASWAMY:

17 Q. If I could direct your attention,
18 gentlemen, to lines 26 to 28 of your direct
19 testimony. This is intended to be a clarifying
20 question.

21 When you refer to line item expense there,
22 are you talking about operating expenses?

1 A. (BY MR. BROOKOVER): That's correct.

2 Q. If I could direct your attention to Lines
3 276 to 280 of your direct.

4 Is it correct that when you refer to
5 average rate increases -- again, I'm sorry, this is
6 intended just to clarify -- that you were talking
7 about increases in a bundled bill?

8 A. (BY MR. CHILDRESS): Yes, that's true, a
9 bundled, current bundled, traditional bundled
10 electricity bill, yes.

11 Q. All right. And is that also true of, if I
12 may characterize it this way, the revised analysis
13 you presented in your rebuttal?

14 A. (BY MR. CHILDRESS): One more time.

15 MR. GIORDANO: Objection. I think we need a
16 definition of bundled bill.

17 MR. RATNASWAMY: I think the question was
18 answered, but let me try it this way.

19 Q. In Line 279, you're saying something is
20 going up 17.6 percent to 46.5 percent.

21 What is that thing which is increasing by
22 17.6 to 46.5 percent?

1 A. (BY MR. CHILDRESS): Our projection of the
2 increase in the bill of a customer comparing from
3 current bundled rates under these rates and riders
4 to what we are projecting would be the case under
5 the assumptions made in our analysis post 2006.

6 Q. And when you presented an additional
7 analysis in rebuttal, were you again comparing those
8 same things?

9 A. (BY MR. CHILDRESS): In each case, it was
10 comparing to the current bundled bills.

11 Q. All right. If I could direct your
12 attention to BOMA Exhibit 2.2, the footnote.

13 In the context of this document, what did
14 apparent irregularities mean?

15 A. (BY MR. CHILDRESS): I avoided a few cases
16 when a customer would have what I would consider an
17 unusual bill.

18 The case that comes to mind is we had some
19 bills or some data I had looked at where there, for
20 example, was a large amount of non-peak usage in an
21 account that was predominantly peak and off peak;
22 just if there was something that seemed very unusual

1 about that and seemed out of norm for the customers
2 at this time.

3 Q. All right. Was that a judgment you made
4 based on a review of the bill and nothing other than
5 the bill?

6 A. (BY MR. CHILDRESS): Well, I shouldn't say
7 the bill. I used the data, in those cases, the data
8 was from ComEd's customer transition charge,
9 historical data.

10 Q. You did not investigate further the reasons
11 for any of the irregularities you're referring to?

12 A. (BY MR. CHILDRESS): No, and I think I can
13 only think of one case when that was -- there was
14 only one bill or one analysis that I dropped an
15 account for that reason.

16 Q. Did you perform the analysis with that data
17 point or data set in it as well?

18 A. (BY MR. CHILDRESS): I'm sorry. One more
19 time.

20 Q. Did you perform the analysis with that data
21 point also included?

22 A. (BY MR. CHILDRESS): I don't recall doing

1 that. I believe I excluded that before I even began
2 performing the analysis.

3 Q. Okay. And with regard to BOMA Exhibit 4.2,
4 the term apparent irregularities is also used.

5 A. (BY MR. CHILDRESS): Yes, and I believe it
6 was in reference to the same case because I
7 considered 4.2 to be a continuation so I used the
8 same basic notes on that.

9 Q. In your direct testimony, if we could go
10 back to that, please, Lines 219 to 225, is the
11 definition of rate shock that you use there based on
12 any particular legal provision, Commission order,
13 any other outside source?

14 A. (BY MR. BROOKOVER): It's not.

15 Q. Okay. Do you see in Lines 222 through 225
16 where you state, "While few customers imagine that
17 prices for commodities can remain unchanged forever,
18 they do not expect an abrupt and extreme change in
19 prices that causes them significant financial
20 distress."

21 Do you see that?

22 A. (BY MR. BROOKOVER): Which lines again?

1 Q. 222 through 225.

2 A. (BY MR. BROOKOVER): I see it.

3 Q. Do you agree that nonresidential customers
4 that have considered taking services from regional
5 electric suppliers or considered taking service
6 under the PPO do take into account the fact that
7 ComEd's bundled rates have been frozen and will be
8 frozen through 2006?

9 A. (BY MR. BROOKOVER): I don't know that they
10 take that into account.

11 Q. If I could direct your attention to Lines
12 344 through 355 of your direct testimony.

13 Do you agree that in those lines, you are
14 discussing nonresidential customers searching out
15 lower cost electricity supply options?

16 A. (BY MR. BROOKOVER): Will you repeat the
17 question?

18 Q. Sure.

19 Do you agree that in those lines, you are
20 discussing the subject of nonresidential customers
21 searching out lower cost electricity supply options?

22 A. (BY MR. BROOKOVER): Yeah, that's correct.

1 Q. And would you agree that on Line 351
2 through 353, you do state when these decisions are
3 made, the decision-maker takes into account the fact
4 that ComEd's bundled rates have been frozen and will
5 be frozen through 2006?

6 A. (BY MR. BROOKOVER): Yes.

7 Q. When you refer to the decision-maker in
8 that sentence, who or what do you mean?

9 A. (BY MR. BROOKOVER): The decision-maker in
10 this case could either be a building owner or
11 manager representing a building owner or a
12 consultant representing a building owner or a
13 building manager.

14 Q. Did the work papers that you produced in
15 discovery in this case include any survey data or
16 similar data regarding what customers do or do not
17 expect in terms of changes in rates?

18 A. (BY MR. BROOKOVER): It did not include it.

19 Q. Would you agree that your definition of
20 rate shock which you referred to in response to an
21 earlier question does not include any component of
22 how long the existing rates have been in effect?

1 A. (BY MR. BROOKOVER): It doesn't include a
2 component of how long the existing rates have been
3 in effect.

4 Q. I'm sorry. I didn't hear that.

5 A. (BY MR. BROOKOVER): It doesn't include
6 that component.

7 Q. It does not?

8 A. (BY MR. BROOKOVER): No.

9 Q. Okay.

10 And would you agree that it also does not
11 include any component for whether the existing rates
12 are frozen by law?

13 A. (BY MR. CHILDRESS): I'm not sure I
14 understand that question.

15 When you say component, can you clarify?

16 Q. Sure.

17 Does your definition have any criterion,
18 component, clause, phrase, qualifier of any kind
19 that takes into account whether the existing rates
20 are frozen by law?

21 A. (BY MR. CHILDRESS): Can you refer me back
22 to the lines that you went back to?

1 Q. Sure. The definition of --

2 A. (BY MR. CHILDRESS): 220?

3 Q. I believe it's 219 through 225.

4 A. (BY MR. CHILDRESS): Okay. And repeat the
5 question if you would one more time.

6 Q. Sure.

7 Does the definition contain any component,
8 clause, factor, criterion or qualifier related to
9 whether the existing rates are frozen by law?

10 A. (BY MR. CHILDRESS): No, it does not.

11 Q. Is either of you knowledgeable on the
12 subject of ComEd's distribution planning criteria?

13 A. (BY MR. BROOKOVER): I am not.

14 A. (BY MR. CHILDRESS): Nor am I.

15 Q. If you could turn to your rebuttal, please.

16 Were you here during the cross-examination
17 that Mr. Giordano conducted of Mr. Crumrine and
18 Mr. Alongi?

19 A. (BY MR. CHILDRESS): Yes, I was.

20 Q. Do you agree that under Rider 25 as to the
21 charge for space heating other than heating with
22 light, the charges are the lower of the charge

1 stated in cents per kilowatt hour or the otherwise
2 applicable charges?

3 A. (BY MR. CHILDRESS): Yes, we do.

4 Q. And the otherwise applicable charges would
5 typically include a combination of demand and energy
6 charges, is that correct?

7 A. (BY MR. CHILDRESS): May I refer to the
8 tariff itself just to clarify that point?

9 Q. Sure. I have a copy if you need it.

10 A. (BY MR. CHILDRESS): Yeah if you would,
11 that would be great.

12 (Whereupon Mr. Ratnaswamy handed the
13 document to Mr. Childress.)

14 A. (BY MR. CHILDRESS): And the question you
15 were asking was -- can you clarify that one more
16 time?

17 Q. Would the otherwise applicable charges
18 typically contain a combination of demand and energy
19 charges?

20 A. (BY MR. CHILDRESS): I don't see that
21 explicitly specified in the tariff, but it is
22 reasonable that those would be there if I'm reading

1 the tariff correctly here.

2 MR. RATNASWAMY: If I could mark this just to
3 confirm it. I believe this would be ComEd Cross
4 Exhibit 7.

5 (Whereupon ComEd Cross Exhibit 7 was marked
6 for identification as of this date.)

7 Q. Do you recognize ComEd Cross Exhibit 7?

8 A. (BY MR. CHILDRESS): Yes, I do.

9 Q. Okay. Does that refresh your recollection
10 as to whether the otherwise applicable charges
11 typically contain a combination of demand and energy
12 charges?

13 A. (BY MR. CHILDRESS): As I said, yes, that's
14 my understanding.

15 Q. If I could direct your attention in your
16 rebuttal to Lines 90 and 92, do you recall being
17 asked a data request asking for the grounds of --
18 I'm sorry. I'll show it to you.

19 I'll mark this as ComEd Cross Exhibit 8.

20 (Whereupon ComEd Cross Exhibit 8 was marked
21 for identification as of this date.)

22 Q. Do you recognize ComEd Cross Exhibit 8?

1 A. (BY MR. CHILDRESS): Yes, I do.

2 Q. Would you agree that you were asked there
3 what is the cost basis -- I'm sorry. Let me start
4 over.

5 Would you agree that the data request,
6 referring you to Lines 90 to 92 of your rebuttal,
7 asks you what is the cost basis for the current
8 exemption that you refer to on those lines?

9 A. (BY MR. CHILDRESS): I'm sorry. One more
10 time. I didn't follow the question.

11 Q. Well, let me try to make it a little
12 shorter.

13 Would you agree that this data request asks
14 you what is the cost basis that you refer to on
15 Lines 90 to 92?

16 A. (BY MR. CHILDRESS): Yes, it does.

17 Q. And did you intend the answer that you
18 supplied to be a complete and accurate answer?

19 A. (BY MR. CHILDRESS): This response was I
20 think just an effort to reference an earlier final
21 order docket. I don't believe it was an effort to
22 outline every detail and answer on that question.

1 Q. Have you reviewed that order?

2 A. (BY MR. CHILDRESS): No, I personally have
3 not reviewed that order. I'm not an attorney.

4 Q. Has Mr. Brookover reviewed that order?

5 A. (BY MR. BROOKOVER): I have not.

6 Q. If I could refer you to your rebuttal,
7 Lines 163 through 262. I'm sorry. That's quite a
8 lengthy section. I actually only have one question
9 about it.

10 Would you agree that you do not know the
11 likelihood that bidders in the proposed auctions
12 will factor in a premium for migration risks in
13 their bid?

14 A. (BY MR. BROOKOVER): Define bidders.

15 JUDGE WALLACE: Answer the question, please.

16 A. (BY MR. BROOKOVER): We don't know what
17 will be factored in.

18 Q. With regard to Lines 211 through 213, is it
19 correct that there you state, "As we discussed
20 previously, the key point is that it is reasonable
21 to expect significantly less uncertainty concerning
22 the size of ComEd's electricity supply post 2006."

1 A. (BY MR. CHILDRESS): We did write that,
2 yes.

3 Q. Okay. And is it correct that you were
4 asked a data request that asked you for all grounds
5 for that statement, and you indicated that all
6 grounds were the grounds stated in your testimony?

7 A. (BY MR. CHILDRESS): Yes, that's correct.

8 Q. If you could turn back to your direct,
9 Lines 407 to 421.

10 What assumptions, if any, does your direct
11 testimony make of whether the market index
12 methodology that you reference there would take into
13 account the supplier forward contracts resulting
14 from the proposed auctions?

15 A. (BY MR. CHILDRESS): We were not really
16 looking at it in that respect. We were considering
17 the PPO-MI to be based on the traditional PPO-MI
18 methodology, and it would be based on supplier
19 forward or supplier prices that would have been
20 published on Platt's or ICE or another exchange as
21 it's specified in the tariff.

22 Q. Are you stating that it was your assumption

1 that the existing indices would continue to be used?

2 A. (BY MR. CHILDRESS): Within the
3 specifications of the tariff. I was involved in the
4 settlement discussions, and I know that it is
5 possible in the future for other indices to be
6 proposed and to be approved by the Illinois Commerce
7 Commission.

8 Q. Is it within your knowledge and experience
9 to know whether those indices would include the
10 supplier forward contracts in their data?

11 A. (BY MR. CHILDRESS): No, I don't know
12 anything that said that that would be the case. I
13 haven't seen anything to the effect that that would
14 be the case. I don't know that that's true.

15 Q. Are you saying they would not be or are you
16 saying you don't know whether they would be?

17 A. (BY MR. CHILDRESS): I have not seen
18 anything that would indicate that they would be.
19 No, I don't know.

20 Q. And similarly, with regard to the neutral
21 fact-finder methodology, what assumption, if any,
22 does your direct testimony make about whether the

1 neutral fact-finder would take into account the
2 contracts resulting from the proposed auctions?

3 A. (BY MR. CHILDRESS): I would give the same
4 answer. We don't know that that would be the case.

5 Q. Are you familiar with the grounds stated by
6 the Illinois Commerce Commission in its orders when
7 it moved from the NFF methodology to the market
8 index methodology?

9 A. (BY MR. CHILDRESS): That was before either
10 of our times as we say, so only in a very general
11 sense from discussions later; nothing specific.

12 Q. What is your understanding, if you have
13 one, of whether the ICC found that the neutral
14 fact-finder methodology was flawed?

15 A. That's been my understanding, that the
16 PPO-MI replaced the neutral fact-finder methodology
17 because there were flaws in it.

18 Q. I recognize you removed a question and
19 answer from your testimony.

20 Does the removal of that question and
21 answer indicate that you are making any different
22 recommendations than you previously were making?

1 MR. GIORDANO: Objection. It's beyond the
2 scope of the testimony. They've removed it, and
3 today was the day that obviously they were sworn in
4 and testified.

5 JUDGE WALLACE: Well, I think the answer is
6 obvious but the objection is overruled.

7 WITNESS CHILDRESS: Would you rephrase the
8 question one more time so I make sure I understand
9 it?

10 MR. RATNASWAMY: Let me try it another way.

11 Q. Are your recommendations any different
12 without that question and answer than they were
13 previously?

14 A. (BY MR. CHILDRESS): No. We would still be
15 supportive.

16 Q. If I could direct your attention to your
17 direct, Lines 552 to 561.

18 A. (BY MR. CHILDRESS): I'm sorry. 552 to
19 551?

20 Q. 552 to 561.

21 A. (BY MR. CHILDRESS): Oh, I'm sorry.

22 Q. And if you could simultaneously take a look

1 in your rebuttal at Lines 452 to 471, is any of your
2 testimony regarding Rider ISS intended to contend
3 that ComEd has a legal obligation to offer Rider ISS
4 as a separately tariffed service?

5 MR. GIORDANO: Objection. It calls for a legal
6 conclusion from a nonlawyer.

7 MR. RATNASWAMY: I think that's not correct.
8 I'm asking them if their testimony is making a legal
9 conclusion.

10 If they want to say, no or that's correct,
11 great.

12 JUDGE WALLACE: Overruled.

13 A. (BY MR. CHILDRESS): Neither Mr. Brookover
14 nor I are attorneys, and we are not venturing a
15 legal opinion.

16 MR. RATNASWAMY: No further questions.

17 JUDGE WALLACE: Anyone else have cross of this
18 panel?

19 MR. RATNASWAMY: I'm sorry, Your Honor.
20 Although I do not intend to move ComEd Cross
21 Exhibit 7, I am now moving ComEd Cross Exhibit 8
22 into evidence.

1 JUDGE WALLACE: Okay. You're not moving 7?

2 MR. RATNASWAMY: That's correct, sir; just 8.

3 JUDGE WALLACE: Any objection to ComEd Cross
4 Exhibit No. 8?

5 MR. GIORDANO: No objection.

6 JUDGE WALLACE: ComEd Cross Exhibit No. 8 is
7 admitted.

8 (Whereupon ComEd Cross Exhibit 8 was
9 admitted into evidence at this time.)

10 JUDGE WALLACE: I thought someone else had some
11 cross.

12 MR. FEELEY: We have no cross.

13 JUDGE WALLACE: Any redirect?

14 MR. GIORDANO: I have a few questions on
15 redirect.

16 JUDGE WALLACE: Go ahead.

17 MR. GIORDANO: Thank you, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. GIORDANO:

20 Q. Just to be clear, Mr. Ratnaswamy asked you
21 questions about what you were comparing making a
22 bundled rate comparison.

1 Can you please explain exactly what you did
2 in your analysis and what you were comparing to
3 what?

4 A. (BY MR. CHILDRESS): What I did is what I
5 do very commonly in analysis that I do as part of my
6 job is I was comparing, based on historical data on
7 a randomly selective group of accounts, what their
8 charges are or would be under current ComEd bundled
9 rates, what Mr. McNeil calls traditional bundled
10 rates, the current Rider 25 and general service
11 rates to what we project those costs would be based
12 on the output of ComEd's worksheets or the PRISM
13 worksheets for translation of auction prices into
14 customer charges and also based on a 17.78 percent
15 projected increase in delivery service charges from
16 what they are currently, and that was to project the
17 post 2006 expected charges for these customers as
18 comparison to what they would be now under ComEd's
19 bundled rates.

20 Q. And you also were asked a similar question
21 about your rebuttal testimony of what you compared
22 to what.

1 Q. Now, if you had taken that account into
2 your analysis, would that have changed your basic
3 conclusions that the average estimated rate increase
4 for nonresidential space heating customers would be
5 27 percent compared to an average rate increase for
6 the nonresidential non-space heating customers of
7 approximately 16 percent?

8 A. (BY MR. CHILDRESS): I do not believe it
9 would have had a substantive effect. Obviously, a
10 different account would yield a somewhat different
11 number, but I don't believe it would have had any
12 substantive effect on that analysis.

13 Q. Now, Mr. Brookover, you were asked
14 questions about not including a component of how
15 long the existing rates have been in effect in your
16 definition of rate shock.

17 Why did you not include such a component in
18 your definition of rate shock?

19 A. (BY MR. BROOKOVER): Again, I believe that
20 sharp increases from one year to the next
21 constitutes shock regardless of, you know, how long
22 rates had been frozen prior to that time.

1 So steep increases from year to year create
2 the shock, not necessarily what's occurred prior up
3 to that time.

4 Q. Now, you were also asked questions about
5 the tariff, the nonresidential space heating tariff
6 Rider 25, and whether or not there could be a demand
7 charge under certain conditions.

8 In your experience, have you ever seen the
9 demand charge apply to a Rider 25 customer?

10 A. (BY MR. CHILDRESS): I have never seen
11 that. I have looked at thousands of months between
12 ComEd's power path and the customer transition
13 charge calculations and bills, and I do not recall
14 ever seeing a month in which there was a specific
15 demand charge for space heating usage.

16 Q. Now, you were also asked questions about
17 Rider PPO.

18 What is your position on what tariff should
19 be in place for Rider PPO at the end of the
20 transition period?

21 A. (BY MR. CHILDRESS): We believe that the
22 Rider PPO-MI should be continued post transition

1 after 2006.

2 Q. Without change?

3 A. (BY MR. CHILDRESS): Without change except
4 those that are specified in the tariff in terms of
5 looking at alternate indices as I specify.

6 Q. That would be a change in the tariff or
7 that's already in the tariff?

8 A. (BY MR. CHILDRESS): No, as currently in
9 the tariff, as currently defined in the tariff.

10 MR. GIORDANO: Thank you, Your Honor. I have
11 no further questions.

12 JUDGE WALLACE: Any recross?

13 MR. RATNASWAMY: No, sir.

14 EXAMINATION

15 BY JUDGE WALLACE:

16 Q. If you gentlemen are recommending the
17 continuation of the PPO, are you also recommending
18 that the Commission undertake additional market
19 value or we would have to have another round of the
20 market value index?

21 A. (BY MR. CHILDRESS): Well, as someone who
22 participated in the last round of the market value

1 index, I would not advocate something, but that
2 obviously would be a decision of the Commission as
3 to whether they deem that necessary or not.

4 JUDGE WALLACE: Thank you.

5 You may step down.

6 (Witnesses excused.)

7 JUDGE WALLACE: Mr. Bollinger?

8 MR. TOWNSEND: Chris Townsend appearing for
9 purposes of the examination of Mr. Bollinger on
10 behalf of Peoples Energy Services Corp, not the
11 Coalition of Energy Suppliers.

12 We call witness Wayne Bollinger, and I
13 don't believe he's been sworn yet, Your Honor.

14 JUDGE WALLACE: Okay. Remain standing and
15 raise your right hand.

16 (Whereupon the witness was sworn by Judge
17 Wallace.)

18 MR. FEELEY: Judge Wallace, one question.

19 ComEd and staff have a stipulation that
20 we'd like to get in the record. I don't know if
21 this is a bad time, but if we could do it now before
22 we get into the direct of this witness.

1 MR. TOWNSEND: I don't have a problem with
2 that, Your Honor.

3 JUDGE WALLACE: Okay. What's the stipulation?

4 MR. FEELEY: The stipulation between staff and
5 ComEd is to certain amendments to portions of
6 Original Sheet No. 269 as filed by ComEd on
7 February 25, 2005.

8 We have copies of those, copies for the
9 court reporter.

10 In particular, it's to the first paragraph,
11 the second sentence, and that's Sheet No. 269 and
12 the fourth paragraph, also the second sentence.

13 JUDGE WALLACE: Why don't you let me have a
14 look at that.

15 What staff witness would this be?

16 MR. FEELEY: It concerned staff witness Knepler
17 and ComEd witness Juracek and Alongi and Crumrine;
18 mostly Alongi and Crumrine.

19 MR. RATNASWAMY: And Mr. Crumrine has stayed in
20 case anyone wants to reopen cross of him on this.

21 MR. TOWNSEND: Can we take a look?

22 JUDGE WALLACE: Let's mark this as Joint

1 Exhibit No. 1.

2 (Whereupon Joint Exhibit 1 was marked
3 for identification as of this date.)

4 JUDGE WALLACE: All right. If any of the
5 parties want to take more time, we can defer this --
6 I didn't know what this was going to be -- or do any
7 of the parties have objections?

8 MS. SATTER: I'd like to have time to look at
9 it and see what it is. Maybe tomorrow morning.

10 MR. TOWNSEND: Your Honor, I'm not sure that
11 all of the parties are actually in the room right
12 now, so it might make sense for this to be served
13 upon the parties and provide an opportunity, if
14 people wanted to object, set a time.

15 JUDGE WALLACE: Well, since we just passed it
16 out, let's defer it and go on with Mr. Bollinger.

17 MR. FEELEY: Thank you.

18 MR. TOWNSEND: Good afternoon, Mr. Bollinger.

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22

1 WAYNE BOLLINGER

2 called as a witness herein, on behalf of Peoples
3 Energy Services Corporation, having been first duly
4 sworn on his oath, was examined and testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. TOWNSEND:

8 Q. Could you please state your name and spell
9 your last name.

10 A. Wayne Bollinger (B-o-l-l-i-n-g-e-r).

11 Q. And what is your position and employer?

12 A. I'm the director of electric supply for
13 Peoples Energy Services.

14 JUDGE WALLACE: Could you move closer to the
15 mike?

16 Q. Do you have before you a document labeled
17 PES Exhibit 1.0 entitled "Direct testimony of Wayne
18 Bollinger, P.E. on behalf of Peoples Energy Services
19 Corporation" with a one-page attachment labeled PES
20 Exhibit 1.1?

21 A. Yes, I do.

22 Q. And do you have also before you another

1 document labeled PES Exhibit 2.0 and entitled
2 "Rebuttal testimony of Wayne Bollinger, P.E. on
3 behalf of Peoples Energy Services Corporation"?

4 A. Yes, I do.

5 Q. Were these documents prepared by you or
6 under your direction and control?

7 A. Yes, they were.

8 Q. And do you intend for these documents to be
9 your prefiled testimony in this proceed?

10 A. Yes.

11 MR. TOWNSEND: Your Honor, these documents were
12 filed timely via e-docket.

13 At this time, we would move for the
14 admission of PES Exhibits 1.0, 1.1 and 2.0.

15 JUDGE WALLACE: What was 1.1 again?

16 MR. TOWNSEND: It's an attachment to his
17 testimony entitled "Proposed Customer Grouping."

18 JUDGE WALLACE: Okay. Any objection to PES
19 Exhibits 1.0, 1.1, and 2.0?

20 MR. BERNET: No objection.

21 JUDGE WALLACE: What's your name?

22 MR. BERNET: Richard Bernet, Exelon Business

1 Services Company, on behalf of Commonwealth Edison.

2 JUDGE WALLACE: Have you entered an appearance
3 earlier?

4 MR. BERNET: I believe my appearance was
5 entered, yes.

6 JUDGE WALLACE: Okay. And you're --

7 MS. BARRETT: Ronit Barrett on behalf of
8 Midwest Generation.

9 JUDGE WALLACE: Hearing no objection, PES
10 Exhibits 1.0, 1.1, and 2.0 are admitted.

11 (Whereupon PES Exhibits 1.0, 1.1 and 2.0
12 were admitted into evidence at this time.)

13 MR. TOWNSEND: We tender the witness for
14 cross-examination.

15 JUDGE WALLACE: All right. Who has cross for
16 Mr. Bollinger?

17 MR. BERNET: ComEd.

18 JUDGE WALLACE: Go ahead.

19 MR. BERNET: Good afternoon, Mr. Bollinger.
20 Richard Bernet from Commonwealth Edison Company.

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CROSS-EXAMINATION

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BY MR. BERNET:

Q. I'd like to direct your attention to Lines 154 to 157 of your direct testimony.

A. Yes, I have it.

Q. You're recommending that the Commission eliminate the five-year contract from the blended auction, isn't that right?

A. That is correct.

Q. You're also recommending that the Commission eliminate the three-year contract from the blended auction too, right?

A. That is correct.

Q. Directing your attention specifically to Lines 159 to 163, and I quote, says, "ComEd's proposal for a five-year contract as part of the blended portfolio would impact this group of customers until 2012 unnecessarily retarding the development of competition for these customers."

That's your testimony, right?

A. That is correct.

Q. And then at Lines 184 through 187, you

1 testify that given the level of uncertainty in both
2 the wholesale and retail markets, the Commission
3 should not lock in a regulatory concept that
4 purports to set rates until the middle of 2012.

5 That's your testimony?

6 A. Yes.

7 Q. Let's assume the Commission approved
8 ComEd's auction as proposed and that after ComEd
9 signed the five-year contracts, wholesale prices
10 went up an average of ten percent a year for each of
11 those five years, the first five years of the
12 contract.

13 In that scenario, customers would have
14 benefited from the CPP-B five-year auction, right?

15 A. That's a hypothetical question, and in that
16 guise, yes, they would, but the market is the market
17 and very unpredictable.

18 Q. But your answer to that question is yes?

19 A. Yes.

20 Q. Thank you.

21 And in that situation, customers would have
22 benefited from competition, right?

1 A. They would have benefited from the initial
2 price set by the auction, yes.

3 Q. Now, in the initial auction, only five
4 percent of the load for the CPP-blended auction is
5 being acquired through a five-year contract, isn't
6 that right?

7 A. That is correct.

8 Q. So when you tell the Commission that it's
9 locking in a regulatory concept to set rates through
10 2012, that only applies to five percent of those
11 rates, right?

12 A. There are other issues besides the 2012 but
13 that is correct. It's only five percent of the
14 supply.

15 Q. So 95 percent of the supply would not be
16 locked in through 2012, right?

17 A. That is correct.

18 Q. And, in fact, in ComEd's proposal, only
19 five percent of the load each year would be acquired
20 through five-year contracts, isn't that right?

21 A. That's the proposal, yes.

22 Q. And it's your testimony, directing you to

1 Line 55 to 57 of your direct, it's your testimony --
2 I'm sorry, I apologize. It's your rebuttal.

3 A. Oh, okay.

4 Q. Lines 55 to 57.

5 Do you have that?

6 A. Yes.

7 Q. It's your opinion that that will decrease
8 the Commission's flexibility to develop alternative
9 products, right?

10 A. It could possibly decrease the Commission's
11 flexibility.

12 Q. Well, in Lines 55 through 57, you don't say
13 possibly.

14 A. No.

15 Q. Correct?

16 A. That's correct.

17 Q. It would decrease?

18 A. Correct.

19 Q. And directing your attention to Lines 71
20 through 73, you state that the first opportunity for
21 new auction products would not be until 2012, right?

22 A. That is correct.

1 Q. And that's because the Commission would
2 have approved a five-year contract for five percent
3 of the load in the first year?

4 A. Yeah. That last line in 73 where it talks
5 about future competitive declarations by ComEd could
6 be limited because you may not want it to interfere
7 with that five-year practice that's already been out
8 there that's already been approved to be supplied by
9 a supplier till 2012.

10 Q. Right. I know you give reasons but your
11 opinion is the first opportunity for the Commission
12 to develop new auction products would not occur
13 until 2012?

14 A. Taking into account that possible
15 restriction, yes.

16 Q. So is it your opinion, given the fact that
17 there will be five-year contracts in each of the
18 subsequent options, that the only opportunity the
19 Commission has to make a decision about the
20 five-year contracts is right now in this docket?

21 A. No, not necessarily.

22 My concern is that the Commission may

1 consider that they'll place the suppliers at
2 regulatory risk by eliminating or by making a
3 declaration or changing the product, whatever it
4 might be, the process might be, and put the
5 suppliers at risk, and they may not want to do that.

6 Q. No, but you're saying that the Commission
7 can't make a decision about changing products.

8 A. Oh, no. They can make a decision whenever
9 they want to.

10 My concern is that this may be an important
11 issue to them.

12 Q. Okay. So in your testimony at Lines 71
13 through 73, you're not saying that the first
14 opportunity for new auction products would be 2012.
15 You're saying that there could be other reasons that
16 could change products before 2012.

17 A. Right. In the contract that I put forward
18 here, and that is in terms of the five-year product,
19 outside of the five-year product or any other type
20 of product, the Commission may decide to have a new
21 auction product or propose one.

22 Q. So you're saying that sometime before 2012,

1 the Commission could come up with a new auction
2 product?

3 A. Possibly.

4 Q. Well, is it your opinion that the
5 Commission can do that?

6 A. Well, it has to be directed I guess by the
7 auction manager, and there has to be a set process
8 to do that.

9 Q. But you're not saying that because the
10 Commission is locking in a five-year product for
11 five percent of the load that its hands are tied?

12 A. No, I'm not.

13 Q. Okay. And you know that ComEd has proposed
14 an annual auction improvement workshop process to
15 provide a forum for ongoing discussions relating to
16 these issues and including the choice of the
17 products in the auction, right?

18 A. Yes.

19 Q. And there's nothing in ComEd's proposal
20 that would preclude the Commission from eliminating
21 the five-year product after the first auction?

22 A. No.

1 Q. Directing your attention to your direct
2 testimony, Lines 177 to 180.

3 A. I have it.

4 Q. You testify that the five-year product will
5 result in additional risk premiums that will be
6 added to the wholesale cost by suppliers, right?

7 A. Yes.

8 Q. And one of the reasons you give is because
9 load could be declared competitive during the
10 five-year term. This will result in additional
11 added risk premiums, right?

12 A. Yes.

13 Q. And the lack of a robust transparent
14 five-year market would also result in additional
15 costs by the suppliers, right?

16 A. Yes. Lack of discovery and liquidity, yes.

17 Q. You also testify at lines 173 to 175 of
18 your direct that with the longer time commitment,
19 suppliers likely would add additional risk premiums
20 to their bids. Higher rates may be locked in for
21 five years.

22 That's your testimony?

1 A. That's likely, yes.

2 Q. Your testimony contains no quantitative
3 analysis of how prices will be affected by these
4 factors, does it?

5 A. It does not.

6 Q. And when you say higher prices, you're
7 talking about higher prices for consumers, right?

8 A. Incremental costs to the consumer, yes.

9 Q. And those consumers that are on CPP-B
10 service, right?

11 A. That is correct.

12 Q. Now, directing your attention to your
13 direct testimony at Line 165.

14 A. I'm there.

15 Q. You agree that a five-year product would
16 add another element of stability to the overall
17 rate, right?

18 A. Yes.

19 Q. And when you say rate, you mean the rates
20 charged to energy consumers, right?

21 A. That is correct, to the customers being
22 supplied by the procurement product.

1 Q. You'd agree that having a three-year term
2 in the wholesale auction -- strike that.

3 You agree that a three-year forward
4 contract in the CPP-B auction would also add some
5 level of stability, is that right?

6 A. It will levelize out the rate, yes.

7 Q. Now, Peoples Energy Services Corporation
8 participated in the Commission's workshops last
9 summer, the post 2006 initiative, is that right?

10 A. That is correct.

11 Q. And you know that price stability is one of
12 the consensus items that was agreed upon by the
13 procurement working group?

14 A. Yes. That was one of the items that came
15 out in the group.

16 Q. And you know that -- have you read the ICC
17 staff report as a result of that process?

18 A. I've skimmed it.

19 Q. Do you know that the Commission staff
20 stated that price stability is an important
21 consideration for all ratepayers large and small?

22 A. Yes.

1 Q. Can you tell me -- you're recommending that
2 customers in the 25 to 400 kW grouping have a
3 different auction in this case, right?

4 A. That is correct. I'd like to have them be
5 separated out at their own auction.

6 Q. I'm sorry?

7 A. I'd like to have them separated out and
8 have them have their own auction product.

9 Q. All right. And the products that would be
10 acquired by ComEd under your proposal for that
11 auction would be one-year products, right?

12 A. Yes, preferably.

13 Q. Have you negotiated contracts with the
14 customers for RES supply?

15 A. Yes.

16 Q. Approximately how many?

17 A. Individual customers or -- we would have
18 pricing programs for people as well. We can have
19 pricing programs for groups of customers as well.

20 So if I look at our entire book of
21 customers, you can say extending out that
22 relationship, it would be thousands.

1 Q. Over what period of time roughly?

2 A. I guess since 2004.

3 I know PES has been doing it before that
4 point in time but that's when it became a part of
5 PES.

6 Q. Okay. And I take it that you've had
7 experience negotiating contracts for RES supply for
8 customers in the 25 kW to 400 kW class?

9 A. That is correct.

10 Q. How many customers in that class?

11 A. Are you -- I'm sorry. I didn't realize you
12 were differentiating between the different classes.
13 Are you?

14 Q. Yeah, I mean in the class of customers that
15 would be 25 kW to 400 kW, the class that you
16 identify in your testimony.

17 A. Okay. Yes. I can say there's a couple
18 thousand customers in that class that we've
19 approached and offered products to.

20 Q. A couple thousand?

21 A. Yes.

22 Q. And can you give us an example of a

1 customer that would fall into the lower range of
2 that spectrum?

3 A. Sure. Like, for example, 25 to 100
4 kilowatt customer, that might be like a storefront
5 retail group, retail customer.

6 Q. Like a mom and pop?

7 A. Yes.

8 Q. And under your proposal, the electric
9 supplier for that customer for example would be
10 acquired through the auction in a one-year contract,
11 right?

12 A. Yes.

13 Q. So there would be no three-year wholesale
14 supply contract to stabilize prices for that
15 customer?

16 A. The price would be stabilized for the year,
17 through the one year, yes.

18 Q. Stabilized through the one year?

19 A. Yes.

20 Q. But not a three year and not a five year,
21 correct?

22 A. That's correct.

1 Q. If a customer, if that customer was
2 interested in more stability than what is provided
3 by a one-year contract, what option would that
4 customer have under your proposal?

5 A. I guess that customer would have to look
6 for an alternative supplier.

7 Q. A RES?

8 A. A RES.

9 Q. Would there be any other options?

10 A. I think that probably would be it.

11 Q. And that customer would have to make, if
12 they didn't sign up with you, they'd have to make a
13 decision about purchasing electricity every year,
14 right?

15 A. Yes, unless they searched alternative
16 products.

17 Q. Through a RES?

18 A. Through a RES, right.

19 Q. Now, customers in this class have had the
20 right to buy power from a RES for more than four
21 years now, haven't they, in Illinois?

22 A. That's correct.

1 Q. And in his surrebuttal testimony,
2 Mr. McNeil pointed out that only one percent of
3 customers in the class up to 400 kW had selected a
4 RES supplier, right?

5 A. That is correct.

6 Q. Do you have any basis to dispute that?

7 A. The number is pretty solid. This one
8 percent number?

9 Q. Yes.

10 A. Those are numbers that were provided by
11 ComEd in a data request.

12 Q. But is that consistent with your
13 understanding of the current market conditions in
14 ComEd's service territory?

15 A. Yes.

16 Q. Under your proposal, the auction manager
17 would have to run a total of five auctions in the
18 first year, isn't that right?

19 A. How do you suppose five auctions?

20 Q. I'm sorry. I'll direct your attention to
21 Peoples Exhibit 1.1 where you're identifying the
22 various products.

1 A. Right, so it would be five.

2 Q. Five auctions, right?

3 A. Yes.

4 Q. Now, in your direct testimony, directing
5 you to your direct at Lines 120 through 132.

6 A. Yes.

7 Q. In that portion of your direct testimony,
8 you're suggesting to the Commission that customers
9 in the 25 to 400 kW grouping would be interested in
10 alternative products because you've identified a
11 comparison of customers switching in gas supply, is
12 that right?

13 A. That is correct; that they are exposed to
14 other products than gas, yes.

15 Q. And you didn't provide any examples of
16 customer data from any electricity market, right?

17 A. No.

18 Q. Do you know whether data concerning
19 customer switching was produced by ComEd in
20 connection with this case in discovery?

21 A. Yes.

22 Q. Yes, it was?

1 A. Yes, it was.

2 Q. Now, isn't it true that Peoples will be
3 competing against the prices resulting from the
4 auction?

5 A. Yes, they will be and other suppliers as
6 well, other RESs.

7 Q. Other RESs, but Peoples will be competing
8 against whatever results from the auction, right?

9 A. Yes.

10 Q. And the higher the default products prices,
11 the greater the chance that Peoples will be able to
12 undercut that price, right?

13 A. That is correct.

14 Q. Now, you testified that you've negotiated
15 thousands of contracts with RES customers.

16 A. I'm sorry. I probably misspoke. We have
17 put out proposals to thousands of customers, and we
18 have contracts with a couple thousand customers.

19 Q. Okay. Well, let's talk about the ones you
20 have contracts with, a couple thousand. Did you say
21 a couple thousand?

22 A. Yes.

1 Q. Okay. Are any of those customers on
2 five-year contracts?

3 A. No.

4 Q. Are any of those customers on three-year
5 contracts?

6 A. No.

7 Q. Do you have any responsibility for
8 acquiring wholesale power on behalf of Peoples?

9 A. Yes.

10 Q. And how long have you had that
11 responsibility? Is that from 2004?

12 A. Roughly, yes.

13 Q. And in that time, have you acquired --

14 A. I'm sorry; from roughly 2002.

15 Q. Okay. So since 2002, you've been
16 responsible for acquiring wholesale power on behalf
17 of Peoples?

18 A. Yes.

19 Q. And have you acquired any five-year
20 contracts on behalf of Peoples during your tenure?

21 A. No.

22 Q. Any three-year contracts?

1 A. No.

2 I will say that we had the ability to do
3 that but our customers didn't request it.

4 Q. When was the last time you negotiated a
5 contract with a RES, with a party that was
6 interested in RES supply in buying power from
7 Peoples?

8 A. Just last month.

9 Q. And how long did the negotiations last?

10 A. It lasted over 60 days.

11 Q. And at some point during that 60-day
12 period, did Peoples make an offer of a specific
13 price to buy power?

14 A. During negotiations, yes.

15 Q. And were you present when that offer was
16 made?

17 A. Yes.

18 Q. And when that offer was made, how long did
19 Peoples give the customer to make a decision?

20 A. That's a difficult question to answer
21 because of the way the negotiations went with this
22 particular customer.

1 Initially we had to hold the price for five
2 days, and then later on, the customer asked for what
3 the price was and then we settled on that price.

4 So when you ask that type of question, it's
5 different for each customer.

6 Q. But just so we're clear, when you initially
7 went to the customer, you told them the price was
8 older than five days?

9 MR. TOWNSEND: I'm going to object. I've given
10 some latitude here but we really are getting into
11 competitively sensitive questions. In particular
12 here we've got a specific customer that Mr. Bernet
13 is asking about.

14 MR. BERNET: Your Honor --

15 MR. TOWNSEND: It goes beyond the scope of his
16 testimony.

17 MR. BERNET: I haven't asked about any
18 particular customer. It's generic information. He
19 hasn't disclosed the name of the customer.

20 MR. TOWNSEND: Two objections, Your Honor;
21 again, relevance is first. He have did ask about a
22 customer, and we were talking about a specific

1 negotiation. I'm not sure what relevance that has.

2 And secondly, it goes beyond the scope of
3 his testimony.

4 MR. BERNET: I'll move on.

5 JUDGE WALLACE: All right.

6 Q. BY MR. BERNET: If the Commission accepts
7 Peoples proposal of proposed customer segmentation
8 and does not offer or ComEd does not offer five-year
9 contracts as part of the CPP-B auction, would
10 Peoples be in a position to offer longer term
11 contracts to customers?

12 A. Yes.

13 MR. TOWNSEND: I'm sorry. I'm going to --
14 you're just asking if they'd be in a position to be
15 able to?

16 MR. BERNET: Did you misunderstand the
17 question?

18 MR. TOWNSEND: I misunderstood the question.
19 What do you mean in the position to? You mean
20 legally able to?

21 If you do, then I object to it as asking
22 for a legal conclusion.

1 MR. BERNET: He's testifying about contracts
2 the company offers. I asked him if they'd be in a
3 position to offer a contract for five years.

4 MR. TOWNSEND: I'm just asking for a
5 clarification.

6 JUDGE WALLACE: Overruled. You can answer that
7 question.

8 THE WITNESS: All right. Peoples would be able
9 to offer a contract longer than one year. It could
10 go up to five years. It depends on the situations.
11 It's a hypothetical question.

12 Q. BY MR. BERNET: Do you know whether Peoples
13 plans to offer contracts of that length after the
14 auction?

15 MR. TOWNSEND: Objection. Asks for
16 confidential information. It's also not relevant to
17 any issue that's in this.

18 JUDGE WALLACE: Sustained.

19 Q. BY MR. BERNET: Now, no customer in the
20 grouping that you refer to has come into this, has
21 intervened in this case and testified that they want
22 the proposal that you're proposing, isn't that

1 right?

2 A. I wouldn't be aware of that.

3 Q. You don't know one way or the other?

4 A. No, I do not.

5 Q. Mr. Bollinger, have you reviewed the
6 surrebuttal testimony of Dr. LaCasse?

7 A. I haven't reviewed it but I've skimmed over
8 it, yes.

9 Q. And in your prior testimony, you had raised
10 issues concerning confidentiality, the
11 confidentiality of the auction rules, right?

12 A. Yes.

13 Q. And can I give you a copy of Dr. LaCasse's
14 surrebuttal?

15 A. Sure.

16 Q. I'd like to direct you to Page 12, please.

17 A. Okay.

18 Q. And specifically Pages 12 to 18.

19 Do you recall reviewing that portion of her
20 testimony?

21 MR. TOWNSEND: Can you hold on one moment,
22 please, Mr. Bernet?

1 MR. BERNET: Sure.

2 MR. TOWNSEND: It's Exhibit 19.0?

3 MR. BERNET: Yes.

4 MR. TOWNSEND: And what was the cite for the
5 line number that you're referring to or pages?

6 MR. BERNET: Page 12, line number 243 to 368.

7 MR. TOWNSEND: Thank you.

8 THE WITNESS: No, I don't recall reviewing
9 this, no.

10 Q. BY MR. BERNET: So in your surrebuttal
11 testimony, you raise concerns about the
12 confidentiality, certain confidentiality rules,
13 right?

14 A. In my rebuttal testimony.

15 Q. I mean rebuttal. I apologize.

16 And so to the extent Dr. LaCasse attempts
17 to address those concerns, you have not read those
18 yet? You have not read her response?

19 A. No, I have not. I was only aware of
20 witness Juracek's where she had mentioned that she
21 agreed with them.

22 Q. Okay. Mr. Bollinger, you've never given

1 written or oral testimony in connection with any
2 case or legislative proceeding involving the
3 procurement of electric power and energy by a
4 utility, isn't that right?

5 A. That is correct.

6 Q. And you've never given written or oral
7 testimony in connection with any case or legislative
8 proceeding involving any mechanism or regulatory
9 system for procurement for any other subjects
10 addressed in your testimony, right?

11 A. No, I have not.

12 MR. BERNET: Nothing further.

13 JUDGE WALLACE: Ms. Barrett?

14 CROSS-EXAMINATION

15 BY MS. BARRETT:

16 Q. Mr. Bollinger, do you believe that there
17 are any advantages or benefits to five-year
18 contracts in addition to price stability as
19 referenced in your testimony?

20 A. No, I do not.

21 Q. How do you balance this benefit against the
22 disadvantages that you identify in your testimony?

1 A. I have a difficult time balancing it
2 because of the unknown of the five-year product.

3 To me, it's almost an experiment because
4 elsewhere in the country, I don't know of anyone
5 procuring five-year product for customers in this
6 fashion.

7 We do have an example three-year and we
8 have examples of smaller periods of time.

9 So I view it as an experiment. It's
10 untried, and you're coming into a new market, and I
11 don't think that's a great time to do this.

12 Q. Because only five percent of the load will
13 be allocated in the initial auction to five-year
14 contracts, would you agree that the impacts that you
15 discuss in your testimony will be diluted?

16 A. If it's down to five percent, that's
17 correct, from that aspect it would be diluted.
18 There exists other issues with it though that I was
19 concerned about as well.

20 Q. Would you also agree that this staggering
21 that leads to only five percent of the load being
22 apportioned to five-year contracts, would you agree

1 that this will provide time for a more robust market
2 for five-year contracts to develop?

3 A. I think you may have a robust market for 11
4 days of five-year contracts.

5 Q. Why is that?

6 A. The reason being is that I guess it's the
7 definition of robust.

8 My definition of robust is that I won't
9 have to pick up the phone to get a market indication
10 of prices.

11 What I mean by that is that for
12 transparency and liquidity of a market, if I have to
13 go pick up a phone and call suppliers, I don't think
14 that's a good way to go about it, whereas if I look
15 at a one-year product or look at a two-year product,
16 and most of the time a three-year product, I can
17 look in Platt's for megawatt daily. I can see what
18 the prices are for on peak. I'll have a pretty good
19 idea of what prices are going up forward through
20 time.

21 If I look at the five-year product, 60
22 percent of the pricing information won't be

1 available to me unless I make a call to suppliers.

2 Q. Is that the only reason that you believe it
3 will not lead to development of a more robust
4 market?

5 A. That's a strong reason, yes.

6 Q. Would you agree that the staggering of
7 five-year contracts will allow the ICC and all
8 stakeholders to see how the market develops and
9 identify any actual problems, if any, with the
10 five-year contracts?

11 A. It's possible.

12 Q. Would you agree that any such problems
13 could be dealt with in post-auction auction
14 improvement workshop?

15 A. That's the opportunity for stakeholders to
16 be involved, yes.

17 Q. In your direct testimony on Pages 9 to 10,
18 you list seven independent reasons why the
19 Commission should reject five-year contracts.

20 A. Yes.

21 Q. Would you agree that what you have
22 identified as reasons 2, 3, and 7 all relate to the

1 concern that there may not be much interest by
2 suppliers in five-year products?

3 A. I think there will be interest in five-year
4 products if the price is high enough but I don't
5 think they'll be available with a lot of liquidity
6 year round.

7 Q. But would you agree that reasons 2, 3 and 7
8 all relate to interest or competition for five-year
9 products?

10 A. Yes.

11 Q. Would you agree that reasons 4, 5, and 6
12 all relate to your concern that locking in contracts
13 can lead to inclusion of risk premiums by suppliers?

14 A. Yes.

15 Q. Could you explain on Page 9 of your
16 testimony beginning on Line 159, your first reason,
17 please explain how this retards development of
18 competition?

19 A. My concern is that I tried to take a
20 grouping of customers 25 kilowatt to 400 kilowatt,
21 and it was brought up that less than one percent of
22 these customers have switched.

1 Well, my concern is that I identify these
2 customers as customers that will have a propensity
3 to switch because I feel that they are more
4 sophisticated than what was originally thought by
5 ComEd, and that is because today they're making
6 energy decisions on the gas side.

7 And so trying to think toward the future,
8 and I don't like to have something that may retire
9 that participation by having a five-year contract
10 out there, that may retire it just by the fact that
11 suppliers have committed supply. Yes, it's only
12 five percent, but it's big to them because it's
13 their deal, and we may decide not to, not me, but it
14 may be decided not to eliminate the five-year
15 contract because of that regulatory risk.

16 Q. Would you agree that even if there are
17 five-year contracts, customers are free to switch?

18 A. Yes, they are.

19 MS. BARRETT: I have no further questions.

20 JUDGE WALLACE: Thank you.

21 THE WITNESS: Some clarification. That would
22 be perceived -- I guess it's for any customer. I'm

1 sorry.

2 JUDGE WALLACE: Ms. Satter, did you have any
3 questions?

4 MS. SATTER: No.

5 JUDGE WALLACE: Any redirect?

6 MR. TOWNSEND: I do have a couple of questions.
7 Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. TOWNSEND:

10 Q. Mr. Bollinger, why do you believe that a
11 five-year contract is inappropriate even though it
12 only represents five percent of the initial auction?

13 A. I think it's inappropriate because it's
14 experimental, and I like to go with what we know
15 which is one-year products, and we know about
16 three-year products in New Jersey for example.

17 Q. How would the five-year contract reduce the
18 Commission's flexibility?

19 A. It could potentially reduce the
20 Commission's flexibility by being concerned about
21 the regulatory risks that would be borne by
22 suppliers, and they may consider that if they decide

1 they want to change a product and get rid of a year
2 or two of an existing five-year product.

3 Q. Mr. Bernet asked you about whether the
4 products could change before 2012.

5 Do you believe that it's likely that the
6 products would change before 2012 underneath ComEd's
7 proposal?

8 A. It's hard to say but there probably would
9 be modifications to the products before 2012, some
10 type of modification.

11 I think we've seen that through our MBI
12 process going through time that there are changes
13 because the market changes.

14 Q. Why do you believe that only one percent of
15 the customers in the 25 kW to 400 kW class have
16 switched?

17 A. There is just a tremendous amount of
18 customers in that group, and I think that it can be
19 a lot of different issues, but I think that being
20 able to contact all of them and be able to get a
21 product in front of them is a difficult situation.

22 Like right now we have our issues about

1 when you can put a customer on and be able to
2 contact them in time.

3 Q. In response to a question from Mr. Bernet,
4 you indicated that Peoples Energy Services Corp will
5 be competing against the auction price and against
6 other RESs.

7 Do you recall that?

8 A. Yes.

9 Q. So just because the auction price or the
10 default product price is set high, do you believe
11 that Peoples will be able to under all circumstances
12 charge just below the auction price?

13 A. No.

14 Q. Why not?

15 A. Because there is very robust competition
16 among the RESs. It's the same argument that's being
17 said for the supply procurement process. You'll
18 have many suppliers come in, and we already have a
19 lot of RESs, and more RESs have registered with the
20 State of Illinois to compete.

21 Q. And how does that affect the price that
22 Peoples Energy Services Corp can charge?

1 discussion transpired at this time.)

2 JUDGE WALLACE: Let's go back on the record.

3 First of all, Ms. Satter, did you want to
4 enter an appearance?

5 MS. SATTER: Yes. I'm sorry. I came in a
6 little late today. Susan L. Satter appearing on
7 behalf of the people of the State of Illinois.

8 JUDGE WALLACE: We'll start at 9 tomorrow, and
9 Mr. Rippie has something that he wants to put on the
10 record.

11 MR. RIPPIE: Glenn Rippie for Commonwealth
12 Edison.

13 During earlier proceedings today, a
14 stipulation between staff of the Commission and
15 Commonwealth Edison regarding a specific technical
16 tariff issue was discussed.

17 We are going to file that stipulation of
18 record, and I would just ask Your Honors and the
19 parties if you wish us to keep a witness here who
20 would be available for testimony on the subject of
21 that stipulation tomorrow or whether we can release
22 any witnesses that know that tonight.

1 JUDGE WALLACE: Is that the one that --

2 MR. RIPPPIE: Yes, it is.

3 JUDGE WALLACE: I went ahead and had it marked
4 as Joint Exhibit 1, and I don't need a witness but I
5 can't speak for any of the parties that might
6 want --

7 MR. RIPPPIE: I just want to I guess offer that
8 we can keep a witness overnight if anyone thinks
9 that they have an objection to Joint Exhibit 1 based
10 on not having an opportunity to examine a witness,
11 but if they do not have such a concern, then the
12 unnamed witness whose initials are REC and who is
13 standing in back of the room would be happy to go
14 home tonight.

15 JUDGE WALLACE: Well, no one is jumping in.

16 I tell you what we'll do. Mr. Crumrine can
17 go ahead home and if anyone has any questions, he
18 could go over to our Chicago office and we can ask
19 him there.

20 Is that a little better or do you want to
21 stay overnight?

22 MR. CRUMRINE: I'll do whichever you prefer.

1 JUDGE WALLACE: All right. We're adjourned
2 until 9 o'clock tomorrow.

3 (Whereupon the hearing was continued
4 to September 1, 2005 at 9:00 a.m.)

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