

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	
Proposal to implement a competitive	:	Docket No. 05-0159
Procurement process by establishing Rider CPP,	:	
Rider PPO-MVM, Rider TS-CPP and revising	:	
Rider PPO-MI	:	

**APPLICATION FOR REHEARING OF
COMMONWEALTH EDISON COMPANY**

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Attorneys for
Commonwealth Edison Company

Dated: January 25, 2006

Commonwealth Edison Company (“ComEd” or the “Company”), by its counsel, under 220 ILCS 5/10-113(a), 83 Ill. Adm. Code § 200.880 and/or other applicable law, submits this Application for Rehearing (the “Application”) as to the Illinois Commerce Commission’s (the “Commission”) final Order of January 24, 2006 (the “Order”). This Application is filed to fulfill the statutory requirements to perfect an appeal.

ComEd supports or accepts numerous findings and conclusions in the Order. The main focus of this Application is on the erroneous ruling that would require a *post hoc* prudence review of the auction results. Such a review is neither required nor called for under the Public Utilities Act (the “Act”), nor supported by the record. Additionally, certain other provisions of the Order that would require changes in ComEd’s proposed Rider CPP-Competitive Procurement Process (“Rider CPP”) should be revised. The Commission should grant rehearing as to the issues specified herein.

ARGUMENT

Post Hoc Prudence Review Of Auction Results Is Unnecessary And Inappropriate

The Order appropriately approves ComEd’s tariffs incorporating the vertical tranche auction process, and explains that ComEd will be deemed to have made a *prima facie* showing of prudence if able to demonstrate that the power purchases were made in accordance with the auction process. Yet, the Order nevertheless requires an annual prudence review to address whether the purchased power costs being passed through to ratepayers were “prudent”. (Order at 51-55). No provision of the Act requires an annual prudence proceeding. Furthermore, annual *post hoc* prudence proceedings would serve no purpose and would be improper. The prudence of the auction process has already been reviewed and approved by the Order, and each use of the process and its results are already subject to further contemporaneous review by the

Commission. In addition, ComEd's proposal provides for extensive review of the auction itself by the Commission. *Post hoc* prudence review of the results of the auction would necessarily involve improper hindsight. Moreover, such review would conflict with the Federal Energy Regulatory Commission's ("FERC") exclusive jurisdiction to determine the justness and reasonableness of the wholesale rates paid by ComEd. This is underscored by the fact that FERC has now determined that the auction meets its established criteria and will result in ComEd's paying rates for supply that are just and reasonable. *Commonwealth Edison Company*, Docket No. ER06-43-000, 113 F.E.R.C. ¶61,278, 2005 FERC LEXIS 3026 (Dec. 16, 2005), at Para. 1. Furthermore, not only is the annual prudence review unnecessary, but it may also harm the very parties the procurement process is being established to benefit. The evidence showed that creating uncertainty about whether ComEd will recover the costs of, and therefore can pay for, its purchases of supply would increase auction prices, thereby raising rates for consumers. (Schnitzer Dir., ComEd Ex. 6.0, pp. 28:654 - 29:661).

ComEd also incorporates herein its arguments concerning prudence review made in its Initial Brief, Reply Brief, Brief on Exceptions, and Reply Brief on Exceptions. *See, e.g.*, Initial Post-Hearing Brief of Commonwealth Edison Company at 109-115; Reply Brief of Commonwealth Edison Company at 95-98; Brief on Exceptions of Commonwealth Edison Company ("ComEd BOE") at 12-26; Reply Brief on Exceptions of Commonwealth Edison Company ("ComEd RBOE") at 21-30. The Order errs in requiring an annual prudence review of the auction results.

Other Provisions Of The Order Should Be Revised

Various other provisions of the Order should be corrected or modified, in whole or in part, as follows:

- Annual reconciliation proceedings regarding (1) the Supply Charges and the Accuracy Assurance Factor (“AAF”) charges/credits under Rider CPP and Rider PPO-MVM* and (2) the Transmission Service Charge under Rider TS-CPP† should not be mandated, as such proceedings are unnecessary, and would be unduly burdensome for ComEd, Staff, the Commission, and other interested parties. *See, e.g., ComEd BOE at 27-36.*
- ComEd’s existing Rider CLR – Capacity-Based Load Response & System Reliability Program compensates customers directly for curtailable capacity credits, making the requirement that ComEd provide an active load management (“ALM”) credit to the capacity billing units for hourly pricing customers who meet PJM ALM requirements unnecessary. (McNeil Sur., ComEd Ex. 18.0, 41:905–42:926; Crumrine, Tr. 820–824). Requiring ComEd to offer a direct pass-through service also violates Section 16-103 of the Act. *See, e.g., ComEd BOE at 36-42.*
- The longer the period between when the Supply Charges are billed and collected and when the AAFs are issued, the longer the time before a month’s costs and revenues are balanced. The Order’s provision designating the time by which ComEd must file monthly informational reports for AAF charges and credits is not in the best interest of ComEd or customers, in that it overlooks the critical steps relating to ComEd’s designing and testing of the changes in its billing system that are needed to avoid billing system errors and to implement and accurately issue the AAFs. *See, e.g., ComEd BOE at 46-54.*
- Hourly customers’ interest in switching to alternative service is reasonably served by allowing switching on as little as a 7-day direct access service request (“DASR”) basis, limited to on-cycle switching, and there has been no demonstrated benefit in allowing such customers to switch on an off-cycle basis. In contrast, the record demonstrates that the Order’s requirement that ComEd permit such off-cycle switching imposes the risk of significant and disproportionate burdens and costs on ComEd. *See, e.g., ComEd BOE at 58-60.*
- ComEd’s monthly demand charge applicable to hourly service customers “is based on each customers’ [peak] loads established during the previous summer.” (Crumrine/Alongi Reb., ComEd Ex. 13.0, 28:601-607). Billing self-generating customers on a per kW-day basis for those days that such customers take energy from ComEd results in charges that bear no relationship to costs imposed on the system, and should be rejected. *See, e.g., ComEd RBOE at 81-83.*
- ComEd should be permitted to procure capacity and related ancillary resources for CPP-H customers through alternative means once FERC has established a centralized market for capacity and related services. FERC’s jurisdiction is exclusive and plenary, and Illinois law cannot require review by this Commission as a condition

*Rider PPO-MVM – Power Purchase Option (Market Value Methodology) (“Rider PPO-MVM”)

†Rider TS-CPP – Transmission Services (Competitive Procurement Process) (“Rider TS-CPP”)

precedent to ComEd's compliance with, or exercise of its rights under, a lawful federal tariff. *See, e.g.*, ComEd BOE at 55-57.

In support hereof, ComEd incorporates into this Application applicable portions of its Initial Brief, Reply Brief, Brief on Exceptions, and Reply Brief on Exceptions.

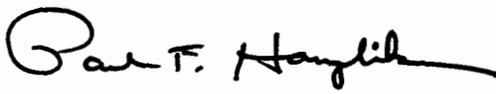
CONCLUSION

For the foregoing reasons, and all other grounds of record, the Commission should grant rehearing and the Order on rehearing should be corrected and revised as requested herein.

Dated: January 25, 2006

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

By: 

One of the attorneys for
Commonwealth Edison Company

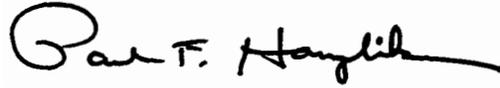
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CERTIFICATE OF SERVICE

I, Paul H. Hanzlik, do hereby certify that a copy of the foregoing Application For Rehearing Of Commonwealth Edison Company was served upon all parties on the attached Service List by electronic mail and by deposit in the United States Mail, first class postage prepaid, at 321 N. Clark Street, Suite 2800, Chicago, Illinois 60610, on January 25, 2006.

A handwritten signature in black ink that reads "Paul F. Hanzlik". The signature is written in a cursive style with a long horizontal stroke at the end.

Paul F. Hanzlik