STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

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Commonwealth Edison Co.	)	
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Proposed general increase in rates for delivery service.	)	Docket No. 05-0597
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REBUTTAL TESTIMONY OF STEVEN W. RUBACK ON BEHALF OF THE CITIZENS UTILITY BOARD, THE COOK COUNTY STATE'S ATTORNEY'S OFFICE, AND THE CITY OF CHICAGO

CUB-CCSAO-CITY OF CHICAGO EXHIBIT 6.0

February 27, 2006

REBUTTAL TESTIMONY OF
STEVEN W. RUBACK

EXHIBITS

6.01 **COMMONWEALTH EDISON COMPANY ANNUAL REVENUES PER CUSTOMER**

Q. WHAT IS YOUR NAME AND ON WHOSE BEHALF ARE YOU TESTIFYING?

A. My name is Steven Ruback. I am testifying on behalf of the Citizens Utility Board, the Cook County State's Attorney's Office and the City of Chicago.

Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN THIS PROCEEDING?

A. Yes. I submitted CUB-CCSAO Exhibit 3.0 on December 22, 2003, which included my qualifications.

Q. DO YOU HAVE ANY CORRECTIONS TO YOU DIRECT TESTIMONY?

A. Yes. On page 15, lines 301 and 303, of my direct testimony, I inadvertently state Mr. Heintz instead of Mr. Crumrine, who should be properly attributed the quoted passage from ComEd Exhibit 9.0.

Q. WOULD YOU IDENTIFY THE RATE DESIGN ARGUMENTS INCLUDED IN COMED'S REBUTTAL TESTIMONY?

A. Two ComEd witnesses criticize my direct rate design testimony in their rebuttal testimony. Mr. Crumrine takes issue with my proposed interclass revenue allocation (See ComEd Exhibit 23.0, pages 37 and 38) and my proposed class risk differential adjustment (See ComEd Exhibit 23.0, page 39). Mr. Heintz disagrees with my proposed peak and average methodology for the allocation of distribution costs and my class risk differential adjustment. (See ComEd Exhibit 25.0, pages 5-8)

Q. WOULD YOU PLEASE RESPOND TO THAT PORTION OF MR. CRUMRINE'S REBUTTAL TESTIMONY THAT CRITICIZES YOUR PROPOSED INTERCLASS REVENUE ALLOCATION?

A. I will first respond to Mr. Crumrine's rebuttal to my proposed class revenue requirements. Mr. Crumrine argues that the Commission should not arbitrarily stray from standard cost allocation procedures and the benchmarks created by the cost study simply because it has the authority to do so. (See ComEd Exhibit 23.0, lines 789 to 804). Mr. Crumrine's criticism is perplexing. Of course, the Commission has the authority to set the interclass revenue allocation based solely on cost of service. However, Mr. Crurmine does not tell the complete story. The Commission also has discretion to set class revenue requirements based on cost of service principles *and* non-cost criteria such as gradualism, rate impact, fairness and equity.

Mr. Crumrine concedes that cost recovery is not the only goal that the Commission should consider in setting rates. Mr. Crumrine opines that there should be a reasonable apportionment of the revenue requirement among the customer classes, which is a primary objective in designing rates (ComEd response CUB 9.08). Mr. Crumrine does not, however, argue that a reasonable apportionment of the revenue requirement is only met by pure cost of service rates.

Mr. Crumrine's recommendation should not apply to *retail* rates. I am not aware of instances in which other Commissions have set *retail* rates based purely on cost of service studies. Commissions determine jurisdictional revenue requirements solely based upon cost of service. FERC sets *wholesale* rates based on pure cost of service. ComEd is proposing a radical change in ratemaking, not I.

Mr. Crumrine claims my recommendations are arbitrary. My recommendations are not arbitrary. To the contrary, arbitrary rates are rates that would be unjustly discriminatory. Traditionally accepted ratemaking principles dictate that if there is a good reason for treating the classes of service differently, they should be treated differently to avoid unjust rate discrimination. The most common tool for avoiding unjust rate discrimination is class cost of service. My interclass revenue allocation is the product of my alternative peak and average cost of service study and class risk differentials. ComEd's mere disagreement with my alternative study or my class risk differential adjustment does not make my recommendations arbitrary.

As I clearly explained in my direct testimony, annual use of the distribution system has been and should be considered in setting class revenue requirements. Relative annual class utilization of the different classes is a valid rate design criterion, and the Commission should not ignore this principle simply because Mr. Crumrine characterizes my testimony as arbitrary.

Mr. Crumrine also testifies that "[u]nder unique circumstances, generally to avoid large rate shock, this Commission has used other criteria, most often the judgment of the analyst, to allocate costs among customer classes." (See ComEd Exhibit 23.0, page 38, lines 802 thru 804). Mr. Crumrine misses the point. Even assuming his assertion is correct, it does not mean that absent rate shock there should be no consideration of other criteria or judgment in setting retail rates. Moreover, this case is unique and presents matters of first impression because only distribution costs are included in the cost of service study and this is the first rate case following the mandatory transition period.

Lastly, Mr. Crumrine testifies that any distribution issues related to residential prices should be addressed in the procurement case. Logic dictates otherwise. To relegate to the procurement case – in which the Commission already has issued a final order – the question of whether ComEd's proposed distribution rates for residential customers are fair would defeat the very purpose of unbundling ComEd's power procurement and delivery functions.

Q. WOULD YOU PLEASE ADDRESS MR. HEINTZ'S ARGUMENTS?

A. Mr. Heintz criticizes my recommended peak and average approach for allocating distribution costs among customer classes on the ground that it is arbitrary because of its weighting of demand and volumetric factors. In addition, Mr. Heintz believes that my peak and average approach is result oriented. He is wrong. I would recommend a peak and average approach even if that approach allocated more costs to residential customers because annual utilization of the distribution system should be a rate design consideration in setting distribution rates, whatever the effect.

My reasons for recommending a peak and average approach were spelled out in detail in my direct testimony. If Mr. Heintz believes annual utilization of the distribution system is a vague non-cost consideration, he is wrong. My testimony clearly states that the peak and average approach is related to annual use of the distribution system. That approach is directly used in my recommended cost study and my class revenue requirements recommendations are based on the results of my recommended cost of service study and class risk differentials.

Mr. Heintz also considers my weighting of demand and allocation factors arbitrary. I clearly explained in my direct testimony that my peak and average approach weights demand and usage equally, which I believe is fair and reasonable in the absence of an alternative. If Mr. Heintz would prefer a different weighting, as opposed to no weighting at all, he should propose an alternative and justify the same. He has not done so. Moreover, as I testified in my direct testimony, the Commission has discretion to require an alternative weighting.

Mr. Heintz also testifies that there is no nexus between revenue recovery and the cost of service. Apparently, Mr. Heintz believes that revenue recovery is independent from the cost of providing service. I disagree. Mr. Heintz ignores the straightforward connection -- that kilowatt-hour rates economically justify the cost of the distribution system. The nexus between revenue recovery and cost of service is about economically supporting distribution assets, which obviously have a cost of service. Without the kilowatt-hour rates there would be no distribution cost of service.

Mr. Heintz is correct that kilowatt-hour charges represent about one-third of the revenue requirement, not two-thirds, but he failed to mention that demand charges only represent about 42% of the revenue requirement. My position is the same; without kilowatt-hour charges the distribution system would not be economically justified.

Mr. Heintz argues on page 8, starting on line 161, that "[t]he mere fact that some portion of revenues is collected through kilowatt-hour charges reflects mainly the reality that many customers do not have demand meters, so, aside from customer charges, their rates must be designed as per kilowatt-hour charges." Residential demand billing would, however, violate the rate design criteria of public acceptability. Apart from the cost of demand meters, most customers will not recognize the difference between demand and consumption. There would be serious customer confusion and general displeasure with only demand rates. Customers are comfortable being billed on kWhs because they understand consumption; the same is not true for demand billing for Residential customers.

Q. WHAT ABOUT COMED'S CRITICISM OF YOUR CLASS RISK DIFFERENTIAL ADJUSTMENT?

A. Both Mr. Crumrine and Mr. Heintz criticize my risk differential adjustment. They testify that there is absolutely no reason to believe from a delivery cost perspective that the residential class is less risky to serve than other classes. (See ComEd Exhibit 23.0, page 39, lines 832 thru 834 and ComEd Exhibit 25.0, page 6, lines 129 and 130). They do not, however, criticize my basic argument that risk and the cost of equity are standard considerations of traditional ratemaking. I propose that the same principles used in establishing the system wide cost of equity be applied to the rate classes.

Mr. Crumrine does, however, take issue with the proposition that the residential class and government service are less risky than large commercial service (See ComEd Exhibit 23.0, page 39, lines 837 thru 839). I disagree for what should be obvious reasons: distribution revenue, on a per customer basis, is much higher for the Residential, Watt-Hour, Small Load and Lighting classes than the for the Medium Load, Large Load, Very Large Load and High Voltage classes. CUB-CCSAO-City Exhibit 6.01 to my testimony shows the distribution revenue per customer in each of the rate schedules. Clearly, the revenue consequence of losing a larger customer, rather than a smaller customer, is greater.

Mr. Crumrine and Mr. Heintz also argue that there is no support for my recommended target indexed rate of return of 97.5% for residential customers. As explained in my direct testimony, industry analysts have been unable to quantify class risk differentials, but that does not mean that class risk differentials do not exist. If Mr. Crumrine or Mr. Heintz are able to show that residential service is riskier, they should do so. They have yet to do so.

My recommended target index rate of return is based upon my years of experience as an expert rate design witness and is an appropriate and reasonable method to recognize class risk differentials.

Mr. Crumrine also argues that the residential class is more risky, in terms of ComEd's cash flow, than other classes because the residential class does not have demand meters. As Mr. Crumrine no doubt is aware, installing demand meters on residential customers, other than for load research, is not cost effective. I know of no electric utility that does so.

Additionally, Mr. Crumrine argues that the type of metering used for residential customers focuses cost recovery on volumetric rates which are more volatile and therefore riskier than demand charges to larger customers. Mr. Crumrine, however, fails to note that the billing determinants have been weather normalized and the purpose of weather normalization is to blunt the effects of weather differences.

ComEd's *proposed* rates to larger customers do not have any kilowatt-hour charges; its existing rates have demand and kilowatt-hour rates. The Company's proposal for non-residential customers served on Rate BES-NRA and BES-NRB eliminates the kilowatt-hour charges. The absence of kilowatt-hour charges to larger customers is the apparent reason for ComEd's argument that the residential class may be more risky than larger customers.

The solution to this problem is not to ignore class risk differentials, but to reject the proposed Straight-Fixed –Variable (SFV) method of rate design and retain demand and kilowatt-hour rates for larger customers. The removal of kilowatt-hour charges is, however, a disincentive for large customers to improve load factor and reduce unit costs.

An important rate design principles is to set rates to encourage load factor improvement, which the Company has ignored. The appropriate solution to this problem is not to ignore class risk differentials, but to reject the SFV method of rate design for larger customers. The company is also eliminating the on-peak and off-peak rates that have been in place for decades,

Mr. Crumrine is also of the opinion that greater turnover inhibits cost recovery from the residential class. He is not opining about the loss of residential customers, but turnovers, or replacement, customers. As long as the fees necessary for turnover are fair, the risk to cost recovery should be negligible.

Lastly, Mr. Crumrine argues that uncollectibles are concentrated in the residential class. The risk of uncollectibles can easily be avoided, however, by a ratemaking treatment that treats uncollectibles as a social cost to be paid by all other customers on a per customer basis. It is my understanding that ComEd has proposed that the cost of delivery service uncollectibles be treated as an expense, which would significantly reduce the risk associated with uncollectibles.

Q. DOES THIS COMPLETE YOUR REBUTTAL TESTIMONY?

A. Yes, it does.