STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	**)**	
	)	
	)	**Docket No. 05-0597**
Proposed general increase in rates for delivery service	**)**	
	)	

PRETRIAL MEMORANDUM OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

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STAFF OF THE ILLINOIS COMMERCE COMMISSION

Staff of the Illinois Commerce Commission ("Staff"), by and through its undersigned attorneys, hereby submits its Pretrial Memorandum in this investigation of the proposed general increase in rates for delivery service by Commonwealth Edison Company ("ComEd" or the "Company").

I. Introduction

II. Statement of Stipulations

There are no stipulations at this time between Staff and the Company that will be presented at the evidentiary hearing in this proceeding.

III. Statement of Uncontested Issues

A. Issues That No Party Contests

1. Test Year

2. Elements of Rate Base

a. 21 Capital Project Additions

ComEd witness David G. DeCampli, in his direct testimony (*see generally*, ComEd Ex. 4.0), proposes rate base additions that are associated with the twenty-one major capital projects. (ComEd Ex. 4.3, lists the twenty-one projects) Staff witness Linkenback reviewed this proposal, including a review of five projects constituting a cross section of both distribution plant and general and intangible plant projects, and does not oppose ComEd's proposed rate base additions. (ICC Staff Exhibit 8.0, pp. 2-6)

ComEd witness David G. DeCampli (ComEd Ex. 4.0, pp.12-14), in his direct testimony, stated that ComEd applies the FERC seven factor test to functionalize facilities between Illinois-jurisdictional assets and FERC-jurisdictional assets. Staff does not contest this issue. Staff witness Linkenback examined the ComEd workpapers documenting the functionalization of the plant additions between distribution and transmission function, per the seven-factor test identified in FERC Order 888, for two major capital projects; Installation of TSS 36 Substation (Madison), and Installation of TSS 65 Substation (Ohio). Staff witness Linkenback found that ComEd appropriately applied FERC's seven-factor test to these two projects. (ICC Staff Ex. 8.0, p. 17)

b. Staff Adjustment Related to ComEd Schedule B-2.1

3. Elements of Operating Expenses

a. Advertising Expense Adjustment

Staff witness Dianna Hathhorn proposed an adjustment to decrease the Company's operating expenses to disallow the Company's promotional and goodwill advertising costs. (ICC Staff Exhibit 1.0, Schedule 1.10) ComEd did not contest this adjustment in its rebuttal testimony. (ComEd Ex. 19.0, p. 58, lines 1291-1292) The revenue requirement impact is $317,000. (ICC Staff Exhibit 12.0, Schedule 12.10)

b. Staff 2005 Wage and Salary Adjustment

Staff witness Ebrey proposes an adjustment to correct an error in the Company's pro forma adjustment for 2005 wages and salaries. (ICC Staff Exhibit 2.0, p. 30) The Company reflected this correction in its December 14, 2005 errata filing and the adjustment is not contested. (ICC Staff Exhibit 13.0, pp. 1-2) This adjustment reduces the Company's revenue requirement by $1,174,000. (ICC Staff Exhibit 2.0, Schedule 2.9)

c. Post-Retirement Healthcare Benefits

The Company included in its December 14, 2005 errata filing a change to its post-retirement healthcare expense based upon an actuarial study from the summer of 2005. Staff did not contest this adjustment. (ICC Staff Exhibit 13.0, p. 2) This adjustment increases the Company's revenue requirement by $8,920,000. (ComEd Schedule WPC-2.11; December 14, 2005 Errata; line 6)

d. Tax Consultants

4. Elements of Rate Design and Tariffs

a. Rider PM

ComEd witnesses Lawrence S. Alongi and Timothy F. McInerney, in their direct panel testimony (ComEd Ex. 10.0, pp. 32; ComEd Exhibit 10.19 – Primary Metering Adjustment Determination), propose rate base additions that are associated with proposed Rider PM -- Primary Meter Adjustment. Staff witness Linkenback reviewed the accuracy of the distribution transformer loss value employed in the proposed Rider PM. Staff finds that ComEd sufficiently addresses this issue and therefore Staff does not oppose the proposed Rider PM. (ICC Staff Exhibit 8.0, pp. 16-17)

b. Rate MSPS7

ComEd witnesses Lawrence S. Alongi and Timothy F. McInerney, in their direct panel testimony (ComEd Ex. 10.0, pp. 35-36; ComEd Exhibit 10.27 – Determination of Meter Reading Charges, ComEd Exhibit 10.28 – Determination of the Meter Equipment Removal Charges, and ComEd Exhibit 10.29 – Meter Service Provider (MSP) Requested Work Charges), propose rate additions that are associated with adjustments to Rider MSPS7 -- Meter Service Provider Service 2007. Staff witness Linkenback reviewed the proposed charges in proposed Rider MSPS7. Staff finds that ComEd sufficiently addresses this issue and therefore Staff does not oppose the proposed Rider MSPS7. (ICC Staff Exhibit 8.0, p. 18)

c. Rate RESS7

d. Rider FCA

e. Rider RCA

5. Other

a. Adjustments to Construction Work in Progress Per Errata Filing

Staff did not object to the errata adjustments filed by the Company on December 14th to reduce the balance of Construction Work in Process ("CWIP") for: (1) Projects that should have been included in additions to plant in service to be closed in 2005; (2) Projects that have a 2006 in-service date and, thus, do not meet the requirements for CWIP in rate base; and (3) Projects included in CWIP that are to be cancelled in 2005. (ICC Staff Exhibit 3.0, p. 3)

B. Proposals To Which Certain Parties Have Agreed

1. Elimination of Rate 87

Staff witness Hanson did not oppose the elimination of Rider 87. However, he noted that ComEd would need to give a notice of termination of the contract to the customers in the City of Rockford taking service under Rate 87. Further, Staff witness Hanson, was not clear why ComEd seeks to eliminate the tariff since it could simply discontinue the service under the tariff on its own. (ICC Staff Exhibit 7.0, p. 6)

While ComEd did not disagree with Staff's interpretation, it stated that the existing Rate 87 should explicitly state that it will not be effective after January 1, 2007. Thus, ComEd is seeking Commission permission to revise the tariff sheet. (ComEd Ex.

24.0, p. 14) Since it appears to be a housekeeping issue, Staff witness Hanson does not oppose the termination of the tariff. However, he adds that ComEd must still provide the City of Rockford adequate notice before cancelling the tariff. (ICC Staff Exhibit 18.0, p. 4)

2. Rider NS

In his direct testimony, Staff Witness Hanson stated that he believed Commonwealth's Edison's NS tariffs needed to be modified so that there would be no confusion that ComEd could not double charge for transmission and distribution capacity. (ICC Staff Exhibit 7.0, p. 9) In its rebuttal testimony, ComEd clarified some language in the tariffs to clarify that customers would not be double charged for transmission capacity. (ComEd Ex. 24.0, p. 20) Staff witness Hanson, in his rebuttal testimony, stated that the changes and clarifications by ComEd satisfied his concerns. (ICC Staff Exhibit 18.0, p. 2)

3. Condominium Common Area Reclassification

4. Modifications to ComEd Business Processes to Aid RESs and Customers

5. Other

a. Rider ZSS7

Staff did not object to ComEd's proposes Rider Zero Standard Service 2007 ("Rider ZSS7"), which replaces existing Rider ZSS ("Zero Standard Service"). (ICC Staff Exhibit 7.0, p. 10)

b. Rate BES-L

Staff does not object to ComEd's proposed Rate BES-L ("Basic Electric Service-Lighting"), which would replace two existing special contracts covering service for street lighting. (ICC Staff Exhibit 7.0, p. 10) It is Staff's opinion that since ComEd will be acquiring energy from third party providers beginning in 2007, it is not appropriate for them to be offering special services to selected customers. Provinding special contracts may result in other customers subsidizing the entities taking service under the special contracts. Rate BES-L ties the costs of serving these customers to ComEd's delivery services and to its costs under the procurement process. (*Id.*, p. 11)

IV. Statement of Contested Issues

A. Total Revenue Requirement and Base Rate Revenue Increase

B. Rate Base

1. Original Cost Audit

Staff witness Thomas Griffin recommends that an original cost finding not be made in this docket and that the Commission order an original cost audit to be conducted by a qualified entity under the supervision of the Commission Staff and paid for by ComEd. This audit should concentrate on additions to Distribution Plant in Service since December 31, 2000. (ICC Staff Exhibit 3.0, p. 13 and ICC Staff Exhibit 14.0, pp. 6-13)

2. Pro Forma "New Business" Plant Additions

3. Depreciation and Amortization Reserve

4. General Plant - Functionalization and Amount

Staff witness Lazare proposes an adjustment to General and Intangible plant to reflect costs that the Commission removed from the revenue requirement in Docket No. 01-0423 which ComEd seeks to restore in this proceeding. (ICC Staff Exhibit 6.0, pp. 5-16)

5. Intangible Plant - Functionalization and Amount

See 4 above.

6. Pension Asset

Staff witness Ebrey reversed the Company's pro forma adjustment to include a pension asset in its proposed rate base. (ICC Staff Exhibit 2.0, pp. 3-13) Ms. Ebrey proposed her adjustment because:

1) For ratemaking purposes the pension contribution allocated to ComEd should not be considered separately from the offsetting pension liability attributed to ComEd that gave rise to the contribution;
2) The pension trust to which the contribution was made does not represent funds within the Company's disposition; and
3) The contribution was discretionary in nature.

The Company has not provided adequate support for its proposal to include a pension asset in rate base. Even if the Company had provided adequate support regarding the existence of the pension asset, the discretionary nature of the pension contribution calls into question its inclusion in rate base. Further, even assuming *arguendo* that the pension asset exists, the detrimental impact on ratepayers (an increase to the revenue requirement of $27.9 million versus an increase of only $8.6 million if no pension contribution had been made) of the discretionary timing decision that led to the creation of the alleged asset is sufficient basis for its disallowance. (ICC Staff Exhibit 13.0, p. 10)

Various Company witnesses disagreed with Ms. Ebrey's adjustment, noting that it is important for the Company to recovery the costs associated with its pension plan. (ComEd Ex. 20.0, ComEd Ex 18.0, ComEd Ex. 22.0) In her rebuttal testimony, Ms. Ebrey explained how the Company witnesses failed to address the primary basis for her adjustment. Furthermore she agreed that the Company should recover the costs associated with its pension plan and explained how her proposal permits the Company to do so. (ICC Staff Exhibit 13.0, pp. 3-12)

This adjustment reduces the Company's rate base by $638,639,000 and therefore its revenue requirement by $49,530,286. (ICC Staff Exhibit 13.0, Attachment D, lines 3-5)

7. Accumulated Deferred Income Taxes

8. Customer Deposits

Staff witness Ebrey proposed an adjustment to the Company's rate base to reflect the December 31, 2004 balance of customer deposits. Customer deposits represent funds provided by ratepayers rather than shareholders and thus represent a cost-free source of capital for the Company. (ICC Staff Exhibit 2.0, p. 27)

The Company claims that Ms. Ebrey's adjustment should be rejected because the customer deposits balance is one element of the Company's cash working capital requirement. (ComEd Ex. 19.0, pp. 25-26)

This adjustment reduces the Company's rate base by $31,477,000 and increases the Company's operating expenses by $412,000. This adjustment reduces the Company's revenue requirement by $2,310,000. (ICC Staff Exhibit 13.0, Schedule 13.5, page 1, lines 3 and 6)

9. Budget Payment Plan

Staff witness Ebrey proposed an adjustment to the Company's rate base to reflect the 13-month average balance of budget payment plan balances ("BPPB") based upon the most recent 13-month period provided. (ICC Staff Exhibit 2.0, pp. 27-28)

The Company claims that Ms. Ebrey's adjustment should be rejected because the BPPB is one element of the Company's cash working capital requirement. (ComEd Ex. 19.0, pp. 26-27)

This adjustment reduces the Company's rate base by $529,000. (ICC Staff Exhibit 13.0, Schedule 13.6, page 1, line 18)

10. Materials and Supplies Inventory

Staff witness Ebrey proposed an adjustment to decrease the Company's test year materials and supplies inventory balance based on an average of the most recent thirteen months of balances provided by the Company. The adjustment is warranted because the materials and supplies inventory balances are highly volatile and the year end balance is not representative of the balances throughout the year. (ICC Staff Exhibit 2.0, pp. 28-29)

The Company disagreed with Ms. Ebrey's proposed adjustment contending that the year-end balance better reflects the Company's current inventory management policies and practices and that the year-end balance is representative of balances throughout the year. The Company also took issue with the use of a four-year average for accounts payable associated with materials and supplies while using a 13-month average for materials and supplies itself. (ComEd Ex. 19.0, p. 29)

In response to the Company's rebuttal testimony, Ms. Ebrey revised the accounts payable portion of her adjustment so that it is based upon the average for the test year rather than a 4-year average. (ICC Staff Exhibit 13.0, pp. 28-29)

This adjustment reduces the Company's rate base by $1,609,000. (ICC Staff Exhibit 13.0, Schedule 13.7, page 1, line 21)

11. Procurement Case Expenses [Rate Base Effect]

Staff witness Dianna Hathhorn proposed an adjustment to the amortization of ComEd's estimated legal fees and expenses related to the procurement proceeding, Docket No. 05-0159, because the costs are not related to delivery services. Instead, she recommended these costs be recovered through the Supply Administration Charge. ComEd's position is that eligibility causes this cost, therefore it should be charged to all DST customers. (ComEd Ex. 23.0, p. 7, lines 142-144) Ms. Hathhorn's adjustment also removes the unamortized balance of procurement expense from rate base. (ICC Staff Exhibit 1.0, Schedule 1.11 and ICC Staff Exhibit 12.0, Schedule 12.11) The revenue requirement impact is $2.364,000 to operating expense and $2,849,000 to rate base. (ICC Staff Exhibit 12.0, Schedule 12.11)

12. Rate Case Expenses [Rate Base Effect]

Staff witness Dianna Hathhorn proposed an adjustment to disallow the Company's request to include its unamortized balance of rate case expense in rate base, to insure that there is a fair and equitable allocation of rate case costs between ratepayers and shareholders. This adjustment also removes rate case expense amounts estimated by ComEd but not yet substantiated. (ICC Staff Exhibit 1.0, Schedule 1.12 and ICC Staff Exhibit 12.0, Schedule 12.12) ComEd contends that shareholders receive no benefit from a rate case: therefore no sharing of costs is necessary. (ComEd Ex. 19.0, p. 30) The revenue requirement impact is $626,000 to operating expense and $3,693,000 to rate base. (ICC Staff Exhibit 12.0, Schedule 12.11)

13. CWIP vs. Pro Forma Capital Additions

Staff witness Thomas Griffin proposes an adjustment to eliminate the duplicate projects from ComEd's pro forma plant additions. (ICC Staff Exhibit 3.0, pp. 3-5 and ICC Staff Exhibit 14.0, pp. 2-5)

14. Other

C. Operating Expenses

1. Distribution O & M

2. Pension and Other Post-Retirement Expenses

Staff witness Ebrey proposed an adjustment to update the Company's pension expense based upon the most recent actuarial report for the 2004 test year. The Company reflected this same adjustment in its December, 14, 2005 errata filing. (ICC Staff Exhibit 13.0, p. 12)

In its rebuttal testimony, the Company criticized Ms. Ebrey for relying upon the actuarial study. The Company argues that the actuarially-determined pension expense should be increased if the funding of the "pension asset" is not added to the Company's rate base. (ComEd Ex. 18.0, pp. 17-18)

Ms. Ebrey, in her rebuttal testimony, noted that the Company's argument would tie the pension expense to the ratemaking treatment of the Company's discretionary funding of the pension fund rather than the pension expense as determined by the actuary. (ICC Staff Exhibit 13.0, pp. 11-12)

The adjustment to reflect pension expense as determined by the actuarial study reduces the Company's original revenue requirement by $21,623,000. (ComEd Schedule WPC-2.11; December 14, 2005 Errata; lines 4 and 5) The Company has not proposed an alternate pension expense based on its argument tying the ratemaking treatment of the pension asset to the appropriate level of pension expense.

a. Fair Value Adjustment to Pension Costs

3. Administrative & General Expenses

a. Functionalization

b. Overall Amount

Staff witness Lazare recommends that the Company not receive any increase in A&G expense for this proceeding because the Company has failed to establish a basis for its proposed increase in these expenses. (ICC Staff Exhibit 6.0, pp. 16-33)

c. Corporate Governance Expenses

Staff witness Dianna Hathhorn proposed an adjustment to reduce ComEd's corporate governance charges from Exelon Business Services Company ("BSC"). (ICC Staff Exhibit 1.0, pp. 8-12, Schedule 1.7) Staff's adjustment calculates ComEd's corporate governance charges using the most recent actual 2004 values for the inputs to the formula used to allocate corporate governance charges, to better match the historical test year with actual 2004 activity. (ICC Staff Exhibit 1.0, p. 9) The Company opposes the adjustment because its policy has been to use forecasted inputs prepared prior to the start of the year to calculate its allocation factors. (ComEd Ex. 18.0, p. 5) The revenue requirement impact is $663,000. (ICC Staff Exhibit 12.0, Schedule 12.7)

Ms. Hathhorn also recommended various reporting proposals to ComEd in light of the passage of the Energy Policy Act of 2005, which are partially accepted by and partially opposed by ComEd. (ICC Staff Exhibit 12.0, pp. 7-12)

d. Exelon BSC Expenses

Since the 2001 through the 2004 amounts varied greatly, Staff witness Dianna Hathhorn proposed an adjustment to reduce ComEd's affiliate charges from BSC to reflect a normal level of test year costs, rather than using the historical 2004 amounts. (ICC Staff Exhibit 1.0, Schedule 1.8 and ICC Staff Exhibit 12.0, Schedule 12.8) In her rebuttal testimony, Ms. Hathhorn modified her proposed adjustment to also account for Exelon Energy Delivery Shared Services ("EDSS") costs in the calculation of the four year average balance of Accounts 920, 921, and 923. ComEd's position is that the test year costs recorded in Accounts 920, 921 and 923 from BSC are representative of charges prospectively. The revenue requirement impact is $10,117,000. (ICC Staff Exhibit 12.0, Schedule 12.8)

4. Salary and Wage Expense

5. Severance Expense

6. Employee Arbitration Settlements

7. Contingency Payments to Tax Consultants

8. Incentive Compensation

Staff witness Ebrey proposed an adjustment to disallow costs of the Company's Annual Incentive Plan ("AIP") and Long Term Incentive Plan ("LTIP") because:

4) The plans are dependent upon financial goals of the Company which benefit shareholders and not ratepayers;

5) The goals in the plans may not be met and thus no cost would be incurred by ComEd yet ratepayers would have provided funding;

6) The plans are discretionary and may be discontinued at any time;

7) There is not sufficient comparable historical data on which to determine if the test year level is reflective of a “normal” level; and

8) The disallowance of incentive compensation is consistent with prior Commission Orders. (ICC Staff Exhibit 2.0, pp. 15-24)

The Company opposes Ms. Ebrey’s adjustment. In his rebuttal testimony, Company witness Hill argued that half of the funding for the AIP hinges upon operational goals that benefit ratepayers. He notes that the LTIP is completely separate from the AIP and is therefore irrelevant. (ComEd Ex. 19.0, pp. 48-49) Company witness Hill further argues that Staff demands that ComEd quantify the benefits of incentive compensation. (ComEd Ex. 19.0, p. 50) In his rebuttal testimony, Company witness Costello contends that the evidence presented satisfies the Commission’s test for recovery of incentive compensation expense. (ComEd Ex. 13.0, p. 24)

This adjustment reduces the Company’s operating expenses requirement by $16,837,000 (ICC Staff Exhibit 12.0, Schedule 12.2, page 2, column (k), line 18) and reduces the Company’s rate base by $11,950,000 (ICC Staff Exhibit 12.0, Schedule 12.4, page 1, column (f), line 23).

9. Uncollectibles Expenses

Staff witness Ebrey proposed an adjustment to decrease the Company’s test year uncollectibles expense, based upon a five-year average that produces an uncollectibles rate of 0.72%.

ComEd bases its 0.85% rate on a detailed analysis of 2004 uncollectible accounts expense by customer class. (ComEd Ex. 19.0, pp. 52-53)

This adjustment reduces the Company's revenue requirement by $1,988,000. (ICC Staff Exhibit 13.0, Schedule 13.4, page 1, line 5)

10. Charitable Contributions

Staff witness Dianna Hathhorn proposed an adjustment to remove contributions to certain community organizations from the Company's miscellaneous general expenses. (ICC Staff Exhibit 12.0, Schedule 12.9) In her rebuttal testimony, Ms. Hathhorn modified her proposed adjustment to remove those organizations that ComEd substantiated as charitable contributions rather than memberships. (ComEd Ex. 19.0, pp. 56-57) Therefore, Staff's final adjustment consists of those contributions which ComEd agreed should be removed (ComEd Ex. 19.0, p. 57) and the contribution to the Illinois Manufacturers Association ("IMA"), since this contribution is for legislative strategies and barred from cost recovery under Section 9-224 of the Public Utilities Act (220 ILCS 5/9-224). The revenue requirement impact is $204,000. (ICC Staff Exhibit 12.0, Schedule 12.9)

11. Procurement Case Expenses

Staff witness Dianna Hathhorn proposed an adjustment to the amortization of ComEd's estimated legal fees and expenses related to the procurement proceeding, Docket No. 05-0159, because the costs are not related to delivery services. Instead, she recommended that these costs be recovered through the Supply Administration Charge. ComEd's position is that eligibility causes this cost, therefore it should be charged to all DST customers. (ComEd Ex. 23.0, p. 7) Ms. Hathhorn's adjustment also removes the unamortized balance of procurement expense from rate base. (ICC Staff Exhibit 1.0, Schedule 1.11 and ICC Staff Exhibit 12.0, Schedule 12.11) The revenue requirement impact is $2.364,000 to operating expense and $2,849,000 to rate base. (ICC Staff Exhibit 12.0, Schedule 12.11)

12. Rate Case Expenses

Staff witness Dianna Hathhorn proposed an adjustment to disallow the Company's request to include its unamortized balance of rate case expense in rate base, to insure that there is a fair and equitable allocation of rate case costs between ratepayers and shareholders. This adjustment also removes rate case expense amounts estimated by ComEd but not yet substantiated. (ICC Staff Exhibit 1.0, Schedule 1.12 and ICC Staff Exhibit 12.0, Schedule 12.12) ComEd contends that shareholders receive no benefit from a rate case; therefore, no sharing of costs is necessary. (ComEd Ex. 19.0, p. 30) The revenue requirement impact is $626,000 to operating expense and $3,693,000 to rate base. (ICC Staff Exhibit 12.0, Schedule 12.11)

13. Environmental Expenses

14. PSEG Merger Savings

15. Depreciation Expense

16. Payroll Taxes

Staff witness Ebrey proposed an adjustment to reflect the effect on payroll taxes of her adjustments to incentive compensation costs as well as for the Company's own pro forma adjustment to incentive compensation expense. (ICC Staff Exhibit 2.0, pp. 24-25)

The Company took issue with Ms. Ebrey's adjustment to the extent it is derivative of her adjustment to incentive compensation costs, which the Company also contests. (ComEd Ex. 19.0, p. 60) The Company did not address that portion of Ms. Ebrey's adjustment that is derivative of the Company's own pro forma adjustment to incentive compensation expense. (ICC Staff Exhibit 13.0, pp. 21-23)

This adjustment reduces the Company's revenue requirement by $2,310,000. (ICC Staff Exhibit 13.0, Schedule 13.3, page 1, line 8)

17. Income Tax Expenses

18. Gross Revenue Conversion Factor

19. Exelon GSA

a. Reporting Requirements

20. Other

D. Revenues

1. Weather Normalization

2. Increase in Non-DST revenues

3. Other

E. Rate Of Return

1. Capital Structure

Staff recommends a capital structure for ComEd comprising 37.11% equity and 62.89% long-term debt. (ICC Staff Exhibit 4.0, Schedule 4.1) The Company recommends a capital structure comprising 54.2% equity and 45.8% debt. (ComEd Ex. 7.1) CUB-CCSAO-CITY and IIEC adopted Staff's recommendation. (CUB-CCSAO-CITY Exhibit 4.0, p. 2; IIEC Exhibit 7.0, p. 2)

The primary dispute with regard to the capital structure is the amount of the reversal of adjustments to common equity resulting from the Company's use of purchase accounting to record the merger of PECO Energy Company and Unicom Corporation (ComEd's corporate parent at the time of the merger). (See ICC Staff Exhibit 4.0, pp. 4-6) Purchase accounting restates a company's assets and liabilities to estimates of their fair values rather than their original cost. (*Id*. At 4) The excess of the purchase price over the estimated fair value of the purchased entity is booked as an increase to goodwill. Staff, CUB-CCSAO-CITY, IIEC, and the Company agree that the entire goodwill amount of $4.926 billion be removed from the balance of common equity. However, the Company suggests that the balance of common equity should be increased by reversing its write-off to utility plant that it no longer owns. (ComEd Ex. 7.0, pp. 6-7) Staff, CUB-CCSAO-CITY, and IIEC oppose this utility plant-related adjustment. (ICC Staff Exhibit 4.0, pp. 5-6, Schedule 4.1; CUB-CCSAO-CITY Exhibit 4.0, pp. 19-21; IIEC Exhibit 7.0, pp. 5-9)

2. Cost of Long-Term Debt

Staff recommends a 6.48% cost of long-term debt for ComEd. (Staff Exhibit 4.0, p. 3, Schedule 4.1) Staff's used straight line amortization of all discount, premium, and expense. (ICC Staff Exhibit 4.0, p. 3; ICC Staff Exhibit 15.0, pp. 5-6) IIEC adopted Staff's recommendation. (IIEC Exhibit 7.0, p.2) The Company estimates the cost of long-term debt is 6.50%. (ComEd Ex. 7.1) CUB-CCSAO-CITY estimates the cost of long-term debt is 6.23%. (CUB-CCSAO-CITY Exhibit 4.0, pp. 2, 22-23)

3. Cost of Common Equity

Staff witness Michael McNally estimates the investor-required rate of return on common equity for ComEd is 10.19%. (ICC Staff Exhibit 5.0, p. 18) Mr. McNally measured the investor-required rate of return on common equity for ComEd with discounted cash flow ("DCF") and Capital Asset Pricing Model ("CAPM") analyses, which he applied to a sample of utility companies chosen on the basis of the comparability of their financial and operating ratios to those of ComEd. (ICC Staff Exhibit 5.0, pp. 2-4) The Standard & Poor's credit ratings and business profile scores as well as the factor scores Staff developed for the companies in Staff's sample and for ComEd indicate that Staff's sample is similar in risk to ComEd. (ICC Staff Exhibit 5.0, p. 18)

ComEd witness Samuel C. Hadaway recommends an 11.0% rate of return on common equity for ComEd. (ComEd Ex. 8.0, p. 39) Dr. Hadaway's cost of equity analysis consisted of five DCF analyses and two distinct risk premium analyses performed on both a gas sample and an electric sample. He used his risk premium analyses as a “check of reasonableness” of his DCF analyses, eliminating from consideration the results of two of his DCF analyses because they were 100 basis points or more below his risk premium results. Thus, his ultimate recommendation was based on the results of the remaining three DCF models. (ComEd Ex. 8.0, pp. 16, 31-33)

IIEC witness Michael Gorman recommends a 9.9% cost of common equity. (IIEC Exhibit 3.0, p. 34) Mr. Gorman measured the investor-required rate of return on common equity for ComEd with a DCF model, a bond yield plus equity risk premium model, and a CAPM, which he applied to the same proxy groups used by ComEd witness Hadaway. (IIEC Exhibit 3.0, pp. 20-21)

CUB-CCSAO witness Edward C. Bodmer recommends a 7.75% cost of common equity. (CUB-CCSAO Exhibit 1.0, p. 6) Mr. Bodmer’s estimate was derived via inference from the low end of the results of a cost of capital analysis for ComEd and PECO performed by Morgan Stanley with regard to the Exelon and PSE&G merger. (CUB-CCSAO Exhibit 1.0, pp. 34-36) Mr. Bodmer backed out his cost of equity estimate from the Morgan Stanley cost of capital analysis based assumptions with regard to the tax rate, cost of debt, and capital structure assumed in the Morgan Stanley analysis. (CUB-CCSAO Exhibit 3.0, p. 38) Mr. Bodmer also presents market to book, CAPM, DCF, and price earnings ratio analyses that he claims verify his initial estimate. (CUB-CCSAO Exhibit 3.0, pp. 40-86)

a. Investment Bank Analysis

b. Market to Book Ratio

4. Overall Cost of Capital

Using Staff's recommended capital structure, cost of long-term debt, and cost of common equity, Staff recommends an overall cost of capital for ComEd of 7.86%. (ICC Staff Exhibit 4.0 Corrected, pp. 2, 11, Schedule 4.1; ICC Staff Exhibit 15.0, p. 1) Staff recommended a cost of equity equal to 10.19% (ICC Staff Exhibit 16.0, p. 2)

ComEd recommended a cost of equity equal to 11.0%. (ComEd Ex. 38.0, p. 1) ComEd's recommended overall rate of return equals 8.94% (ComEd Ex. 7.0, p. 2)

CUB, CCSAO and City recommended a cost of equity equal to 7.75% (CUB/CCSAO/CITY Ex. 4.0, p. 1) CUB, CCSAO and City's recommended overall rate of return equals 6.79% (CUB/CCSAO/CITY Ex. 4.0, p. 2)

IIEC recommended a cost of equity equal to 9.9% (IIEC Ex. 7.0, p. 2) IIEC's recommended overall rate of return equals 7.75% (IIEC Ex. 7.0, p. 2)

F. Cost of Service Issues

1. Embedded Cost of Service Study

2. Minimum Distribution System

3. Marginal Cost of Service Issues/Considerations

4. Other

G. Revenue Allocation

1. Equal Rates of Return

2. Class Risk Differentials

3. Other

H. Rate Design

1. Customer Class Delineations

a. Residential

b. Non-residential

(1) Railroad class

(2) Very Large Load Customers

(3) Other Classes

2. Relative class annual utilization of distribution facilities

3. Environmental Cost Rate Redesign

Staff witness Lazare recommends that 20% of customer costs be recovered in variable charges to recognize the environmental costs associated with electricity use. (ICC Staff Exhibit 6.0, pp. 37-43)

4. Rider ECR

Staff witness Ebrey supports ComEd's proposal to recover manufactured gas plant ("MGP") remediation costs (also known as "coal tar costs") through Rider ECR rather than through base rates. However, Ms. Ebrey disagreed with ComEd's proposal to recover internal Company costs and other costs in addition to coal tar costs through

Rider ECR rather than through base rates. Accordingly, Ms. Ebrey proposed the appropriate language changes to Rider ECR and an adjustment to include the internal Company costs in the Company's test year operating expenses. Ms. Ebrey also proposed language consistent with that in other coal tar riders to provide that:

a) Costs to be recovered should be limited to only costs associated with former MGP sites;

b) Costs to be recovered should be limited to those paid to outside vendors (Internal payroll related costs or payments to affiliates are not recoverable);

c) Insurance recoveries should be included in the calculation of net reimbursements as received;

d) The measurement period for costs and recoveries should be the calendar year January 1 – December 31 consistent with the Company's fiscal year;

e) The formula for the ECR charge should include a factor for a Commission ordered ECR charge reconciliation amount;

f) Provisions should be added to allow for mid-year revisions of the ECR charge in the event the Company determines such a revision is appropriate;

g) A provision should be added for an annual reconciliation proceeding to be conducted; and

h) A provision should be added for the filing date and effective date of ECR charge revisions. (ICC Staff Exhibit 2.0, pp. 30-39, lines 636-822)

In rebuttal testimony, the Company indicated that any costs excluded from Rider ECR should be added back to the test year jurisdictional operating expenses. (ComEd Ex. 19.0, pp. 59-60) The Company also accepted some of the proposed revisions to Rider ECR and rejected others. The Company accepted the following revisions proposed by Staff witness Ebrey:

a) Exclusion of internal wages and salaries (The Company does not address the exclusion of payments to affiliates in its rebuttal testimony (ICC Staff Exhibit 2.0, pp. 35 – 37, lines 743 – 769). I continue to propose that language change in Rider ECR (Attachment C)

b) Revisions of ECR Adjustment between annual calculation,

c) Prudence review and annual reconciliation process, and

d) Ordered Reconciliation Factor. (ComEd Ex. 23.0, pp. 65-67)

The Company rejected the following revisions proposed by Staff witness Ebrey:

a) The exclusion of non-MGP related costs,

b) The exclusion of land acquisition costs,

c) Effective date of the ECR,

d) Calendar year reconciliation cycle, and

e) Inclusion of all insurance recoveries. (ComEd Ex. 23.0, pp. 65-67, lines 1387-1431)

The adjustment to include internal MGP-related costs in the Company's base rates increased the revenue requirement by $338,000. (ICC Staff Exhibit 13.0, Schedule 13.8)

5. Rider AC7

6. Rider CLR7

7. Elimination of Riders ISS, 26, 27, 30, 32

8. Elimination of Rider 25

9. Customers on Eliminated Riders

10. Rider DE

11. Rider NS

a. Reserved Capacity Storage

b. Standard Service Construction Costs

c. Effect on Existing Contracts

12. Rider POG

Staff opposes ComEd's proposal to implement Rider POG and eliminate Rider 4. (Staff Ex. 19.0 at 2-5). There is no revenue requirement impact for this issue.

In direct testimony, the Company proposes replacing existing Rider 4 – Parallel Operation of Customer's Generating Facilities with Rider POG - Parallel Operation of Retail Customer Generating Facilities. (ComEd Ex. 9.0 Corrected, pp. 26-27; ComEd Ex. 10.14, p. 4) Illinois electric utilities are required to file terms and conditions of service to purchase output from a qualifying facility by the Commission's rules for "Purchase and Sale of Electric Energy from Cogeneration and Small Power Production Facilities," Part 430. (83 Ill. Adm. Code 430) By incorporation of 18 CFR 292.302(b)(1), Part 430 requires the provision of future avoided cost data on a cents per kilowatt-hour basis. Under proposed Rider POG, ComEd will price output that a qualifying facility sells based on rates set by PJM Interconnection ("PJM"). (ComEd Ex. 10.1, ILL. C. C.

No. 4, Original Sheet No. 459) The PJM marginal prices are not knowable in advance; therefore, Rider POG lacks any definite prices for energy.

In rebuttal testimony, Staff witness Linkenback explains that the rates proposed in Rider POG do not provide sufficient information to continue accomplishing one of the purposes of Part 430, which is to encourage small power production in Illinois. (ICC Staff Ex. 19.0, p. 4) Mr. Linkenback asserts that a potential small power producer would likely be discouraged by the absence of definite price information in proposed Rider POG and decide not to make the investment in generating equipment, which in turn would reduce the number of small power producers who choose to operate in ComEd's service territory. (*Id*.) Consequently, Staff proposes that ComEd continue to file annual Rider 4 rate updates to allow the Staff time to address the issue of how to consider the new power procurement process with respect to Part 430. (ICC Staff Exhibit 8.0, p. 7)

13. Rider GCB7

Staff did not object to ComEd's proposed Rider Governmental Consolidated Billing 2007 ("Rider GCB7"), which replaces existing Rider GCB ("Governmental Consolidated Billing"). (ICC Staff Exhibit 7.0, pp. 7-8)

14. Rider QSW

Staff does not object to Rider QSW ("Qualified Solid Waste Energy Facility Purchases"), which replaces existing Rider 3. Rider QSW sets forth the conditions by which ComEd purchases electric power from retail customers who have been found by the Commission to be Qualified Solid Waste Energy Facilities under Section 8-403.1 of the Public Utilities Act. Staff recommends that if the Commission rejects ComEd's proposed Rider POG, the references to Rider POG in Rider QSW be changed to Rider 4. (ICC Staff Exhibit 7.0, pp. 12-13)

15. Rider TSS

16. Rider TAX

17. Rider ML

In direct testimony, Staff witness Linkenback reviewed the accuracy of the monthly rental charges for various meter classes and found no reason to contest ComEd's rates in Rider ML. (ICC Staff Exhibit 8.0, p. 18) In rebuttal testimony, Staff witness Schlaf stated a concern that if the Commission adopts CUB's real time pricing proposal that the metering costs for the IDR meter maybe overstated and that a somewhat lower charge maybe appropriate and that staff will be reviewing this charge. Dr. Schlaf's concern is based on ComEd's response to Staff Data Request RDL 7.01, which was received shortly before the filing of Staff rebuttal testimony and therefore was not incorporated into Staff's rebuttal testimony. (ICC Staff Exhibit 20.0, p. 9)

Pending review of ComEd's response to Staff Data Request RDL 7.01 and ComEd's discussion of Rider ML in its surrebuttal testimony, Staff has no objection to Rider ML.

18. Rider Resale

a. Issues That Have Been Resolved

b. Unresolved Issues

Staff witness Schlaf expressed concern that Rider Resale would permit building owners to resell electricity without first obtaining an Alternative Retail Electric Supplier ("ARES") certificate. Dr. Schlaf also stated the concern that, as proposed, Rider Resale would permit a building owner to charge wildly different rates to different customers. He added that he would not oppose Rider Resale if the Commission determined that building owners could resell electricity without receiving ARES certification. If the Commission does determine that certain building owners may resell electricity, then Dr. Schlaf's recommendation is the deletion of lines 610-613, and the first two words of line 614 of the proposed tariff language contained in the panel testimony of ComEd witnesses Alongi and McInerney, ComEd Ex. 24.0. (ICC Staff Exhibit 20, pp. 15-16)

19. Rate RDS (CTA)

ComEd witnesses Lawrence S. Alongi and Timothy F. McInerney, in their direct panel testimony (ComEd Ex. 10.0, pp. 17-18; technical data provided in ComEd Schedule E-7 and ComEd Exhibit 10.13), proposed rate base additions associated with a change in the delivery loss factor ("DLF") in Rate RDS -- Retail Delivery Service. Staff does not contest this issue but CTA witness Glenn Zika does. (CTA Exhibit 2 pp. 8) There is no revenue requirement impact associated with the CTA position. Staff does not take issue with the CTA position.

In his direct testimony, Staff witness Linkenback reported that he reviewed the technical data used to develop the DLF values. (ICC Staff Ex. 8.0, p. 19) Staff concluded that the procedure used by ComEd to calculate the distribution loss factors is reasonable. Staff clarified that it did not verify the specific DLF's that are being proposed by ComEd in Rider RDS. (*Id.*)

20. Rate BES-RR

Staff does not object to ComEd's proposed Rate BES-RR ("Basic Electric Service-Railroad"), which replaces two existing special contracts for rail service providers. (ICC Staff Exhibit 7.0, pp. 11-12) It is Staff's opinion that since ComEd will be acquiring energy from third party providers beginning in 2007, it is not appropriate for them to be offering special services to selected customers. Thus, tying the energy cost of the service to the auction process and serving the customer under delivery services tariffs appears to be appropriate. (*Id.*)

21. General Terms and Conditions

Staff did not object to increases in several charges contained in the General Terms and Conditions: (1) an increase in the rate for an invalid payment from $10 to $15; (2) an increase in the reconnection charge from $25 to $36; (3) an increase in the charge of providing a duplicate bill from $2 to $6; and (4) and increase in the charge for the Cable TV Power Supply Test fee from a capped rate of $85 (the charge could be lower than $85) to $106. In addition, Staff does not object to ComEd's proposal to add a charge for providing interval meter data of $22. (ICC Staff Exhibit 7.0, pp. 3-4)

However, Staff is opposed to the proposed elimination of the energy audit service, which ComEd currently offers for $15. (ICC Staff Exhibit 18.0, p. 3)

22. High Voltage Class Rates

23. Demand Charge

Staff witness Lazare opposed the Company proposal to institute a 24 hour demand charge for all non-residential customers and argued that these charges should bas based on peak period demands where possible. (ICC Staff Exhibit 6.0, pp. 49-51)

24. Proposed Change In Definition of Maximum kW Delivered

25. Single monthly peak vs. average of 3 peaks for municipal pumping

26. Municipal pumping class in demand-based categories

27. Credit for CTA's own transformation and distribution

28. Supply Administration Charge

Staff opposes the Company proposal to recover SAC costs from individual customers on a per-customer basis and recommends recovery instead on a usage, or per-kWh basis. (ICC Staff Exhibit 6.0, pp. 47-49)

29. Real Time Pricing Meters

Staff witness Schlaf recommended that the Commission not adopt the Citizen Utility Board ("CUB")/ComEd proposal to allow any residential customer to lease an Interval Demand Recording ("IDR") meter and to spread the meter leasing costs of meters among all residential customers. Dr. Schlaf recommended instead that the Commission direct ComEd to conduct a two-year load research program to determine whether the CUB/ComEd proposal could generate benefits that are greater than the metering-related costs that would be imposed on all customers. (ICC Staff Exhibit 20.0, pp. 6-7)

30. Energy Smart Pricing Plan

31. Distribution Loss Factors

32. Rider 8

Staff opposes elimination of Rider 8, and proposes an alternative to ComEd's proposal. (Staff Ex. 19.0 at 9). Staff recommends that all existing Rider 8 customers remain eligible to receive compensation under Rider 8, subject to the option for termination of such eligibility in the event that an existing Rider 8 customer and ComEd are able to agree on the size of a transition payment to terminate such eligibility. The revenue requirement impact for this position is zero.

In its direct testimony, the Company proposes to discontinue Rider 8 and to serve the ex-Rider 8 customers under applicable BES tariff. (ComEd Ex. 10.0, p. 36)

Rider 8 provides compensation to those customers that furnish, install, and maintain their own transformers instead of taking ComEd's standard transformer allowance.

In its rebuttal testimony, ComEd offers two alternatives, (1) discontinue Rider 8 but provide a one-time transition payment to each existing Rider 8 customer in an amount equal to one year of credit the customer is entitled to receive under Rider 8, and (2) limit the availability of Rider 8, in the future, to only those existing Rider 8 customers that own all of the transformers at their premises. (ComEd Ex. 24.0, p. 25-27).Staff opposes the alternatives offered by ComEd because discontinuing Rider 8 will raise the monthly electric cost for a large percentage of the existing 225 Rider 8 customers. (ICC Staff Exhibit 19.0, p. 13) ComEd's first alternative strands a portion of the costs of the transformers for which these customers had a reasonable expectation of receiving an offsetting credit through Rider 8. ComEd's second alternative does not provide reasons for denying continued Rider 8 service to customers that own some but not all of the transformers at their premises.

33. Replacement of Rider 28 with Rider LGC

Staff witness Hanson examined the differences between Rider 28 and its intended replacement, Rider LGC. Mr. Hanson expressed concern that some of the language contained in Rider LGC that was not in Rider 28 was unduly vague. (ICC Staff Exhibit 7.0, p. 7) In its rebuttal testimony, ComEd clarified certain aspects of how it will implement Rider 28 and how the language in the new tariff is unchanged from Rider 28. (ComEd Ex. 24.0, p. 16) Staff witness Hanson, in his rebuttal testimony, stated that ComEd's clarifications had addressed his concerns. (ICC Staff Ex. 18.0, p. 2)

34. Other

V. Retail Competition Issues

A. Clarification of tariffs for post-transition period

B. General Account Agency

Staff witness Schlaf supports the ComEd proposal to discuss the Coalition of Energy Suppliers' suggestions regarding General Account Agency in an informal workshop setting, rather than in the instant case. (ICC Staff Exhibit 20.0, p. 13)

C. Electronic Data Interchange

Dr. Schlaf recommended that the Commission encourage interested parties to re-form the working groups established by the utilities and Retail Electric Suppliers ("RES") to discuss EDI issues. (ICC Staff Exhibit 20.0, pp. 13-14)

D. Data Exchange for PowerPath

E. Improved electronic communication with customers/RESs

F. Utility Consolidated Billing with Purchase of Receivables

Staff witness Schlaf does not support the CES proposal to require Utility Consolidated Billing with a Purchase of Receivables. Dr. Schlaf stated his understanding that the proposal would constitute a new service, which ComEd cannot be compelled to offer. (ICC Staff Exhibit 20, p. 11)

G. Other

VI. Staff Reports on ComEd's Performance

1. Tree Trimming

Staff witness James D. Spencer presented testimony regarding Staff's most recent assessment of the current state of the Company's tree trimming. (ICC Staff Exhibit 9.0) In his testimony, Mr. Spencer did not suggest any changes to the Company's revenue requirement, however, he did find that although ComEd has made significant improvement in its tree trimming ComEd is still not in compliance with National Electric Safety Code ("NESC") which the Commission has made a part of its Administrative Code Part 305. He recommended that ComEd investigate its problem areas, take steps to corrects its problem areas and prevent recurrence of the problems.

While Company witness Costello did dispute Mr. Spencer's findings (ComEd Ex. 13.0, Appendix, p. 10) he did indicate that ComEd has already started working on addressing Mr. Spencer's recommendations. (ComEd Ex. 13.0, p. 38)

2. Reliability Performance

Staff witness John V. Stutsman presented testimony regarding Staff's most recent assessment of the Company's Reliability Report and Reliability Performance for Calendar Year 2004. (ICC Staff Exhibit 10.0 Corrected) In his testimony, Mr. Stutsman did not suggest any changes to the Company's revenue requirement; however, he did recommend that the Company take the following actions:

- Continue its focus on improving customer service.
- Continue improving its vegetation management program and address the concerns of Staff in the vegetation management report [Appendix A].
- Inspect insulating oil levels of substation equipment as appropriate and make adjustments as necessary.

Company witness Costello is in agreement with Staff's recommendations (ComEd Ex. 13.0, p. 37) and the Company is working to address each recommendation.

3. Electric Metering

Staff witness Greg Rockrohr presented testimony regarding Staff's most recent routine audit of the Company's electric meter shops and electric metering practices. (ICC Staff Exhibit 11.0) In his testimony, Mr. Rockrohr did not suggest any changes to the Company's revenue requirement, however, he explained that the Company's electric metering practices did not comply with the Commission's electric metering rules in four specific areas, and described five recommendations Staff made to the Company that were intended to help the Company more fully comply with the Commission's rules (ICC Staff Exhibit 11.0, Schedule 11.1)

Company witness Costello did not dispute Staff's findings or recommendations as presented in Mr. Rockrohr's testimony with the exception of Mr. Rockrohr’s finding concerning 83 Illinois Administrative Code Subsection 410.120(e), and in his rebuttal testimony provided the Company's plans to address each of them (ComEd Ex. 13.0, Appendix, pp. 15-18, and ComEd Ex. 13.2)

VII. Other Issues

VIII. Acronyms and Terms

ARES	Alternative Retail Electric Supplier
CPCN	Certificate of Public Convenience and Necessity (Section 8-406 of the Illinois Public Utilities Act)
DLF	Distribution Loss Factor, distribution system losses found in Rate RDS
EDI	Electronic Data Interchange
FERC	Federal Energy Regulatory Commission
GAA	General Account Agency
IDR meter	Interval demand recording meter
PJM	PJM Interconnection, a regional transmission organization (RTO)
POG	Proposed Rider POG – Parallel Operation of Retail Customer Generating Facilities
RES	Retail Electric Supplier
RTP	Real-time Pricing
UCB/POR	Utility Consolidated Billing/ Purchase of Receivables

IX. Conclusion

Staff respectfully requests that the Illinois Commerce Commission approve Staff's recommendations in this docket.

Respectfully submitted,

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