STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	)	
	)	
Proposed general increase in electric rates,	)	No. 05-0597
general restructuring of rates, price unbundling	)	
of bundled service rates, and revision of other	)	
terms and conditions of service	)	

Surrebuttal Testimony of

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I. INTRODUCTION AND PURPOSE

A. IDENTIFICATION OF WITNESS

Q. Please state your name.

A. Paul R. Crumrine.

Q. Are you the same Paul R. Crumrine who submitted direct and rebuttal testimony on behalf of Commonwealth Edison Company ("ComEd") in this Docket?

A. Yes.

B. PURPOSES OF TESTIMONY

Q. What is the purpose of your surrebuttal testimony?

A. The purpose of my surrebuttal testimony is to respond, on the traditional rate case subjects of cost allocation, rate design and tariff language, to certain portions of the respective rebuttal testimony of Illinois Commerce Commission (the "Commission" or "ICC") Staff ("Staff") witnesses Ms. Diana Hathhorn, Ms. Theresa Ebrey, Mr. Peter Lazare, and Mr. Ronald Linkenback; Attorney General ("AG") witness Mr. Scott Rubin; Building Owners and Managers Association of Chicago ("BOMA") panel witnesses Messrs. T.J. Brookover and Kristav Childress and witness Mr. David McClanahan; Chicago Transit Authority ("CTA") panel witnesses Mr. Dennis Anosike and Mr. Glenn Zika; City of Chicago ("City") witness Mr. Steven Walter; Coalition of Energy Suppliers ("CES") panel witnesses Dr. Philip O'Connor and Mr. John Domagalski, panel witnesses Mr. John Clark and Ms. Jennifer Witt, and witness Mr. Ken Hartwick; Citizen Utility Board ("CUB") witness Mr. Christopher Thomas; CUB and Cook County State's Attorney ("CUB-CCSAO") witness Mr. Steven Ruback; Illinois Industrial Energy Consumers ("IIEC") witnesses Mr. Robert Stephens, Mr. Alan Chalfant, and Mr. Michael

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Gorman; and Illinois Association or Wastewater Agencies ("IAWA") witness Mr. Nicholas Menninga.

C. SUMMARY OF CONCLUSIONS

Q. Please summarize the conclusions of your surrebuttal testimony.

A. I make the following conclusions:

(1) The parties raise many issues with respect to cost of service and rate design. Generally, advocates for one customer class or group of customers propose that costs be shifted away from them and onto other customers. ComEd's proposals use sound ratemaking principles to address these issues and are just and reasonable.

(2) The Commission should reject the intervenor proposal to maintain the current practice of calculating the Maximum Kilowatt Delivered ("MKD") during the demand peak period. This proposal perpetuates intra-class subsidies that favor those customers that have the flexibility to shift load to the off-peak period to the detriment of those customers that do not have the flexibility to shift load.

(3) ComEd's proposed over 1 megawatt ("MW") class is consistent with sound ratemaking principles and supported by the evidence in this case. The Commission should reject the proposals made by the large customer advocates to maintain a separate over 10 MW customer delivery class.

(4) If, however, the Commission does not accept ComEd's proposed over 1 MW customer delivery class, for the purpose of limiting the issues in this proceeding ComEd is willing to accept a separate over 10 MW customer delivery class, on the condition that its 24-hour MKD proposal be accepted and the Commission

moves the rates for the over 10 MW customer delivery class half of the way toward its cost of service.

(5) ComEd's proposed residential customer class is reasonable and should be approved. There has been no additional information provided that suggests otherwise.

(6) BOMA's proposal for ComEd to provide free delivery service to non-residential space-heating customers is flawed and should be rejected.

(7) ComEd's interclass revenue allocation is cost-based and reasonable. No adjustment to reflect alleged differentials in risk among customer classes is necessary.

(8) ComEd accepts, or can accept with modifications or conditions, certain recommendations proffered by CUB and Staff concerning CUB's hourly energy pricing program and proposed Rider ECR, respectively.

(9) The Commission should reject the Staff and intervenor proposals concerning the allocation of Procurement Case (Docket No. 05-0159) expenses; the shifting of costs reflected in the Rate RDS Customer Charge; the allocation of costs to, and calculation of, the Supply Administration Charges in the Basic Electric Service ("BES") tariffs; the creation of subsidies for Rider GCB7 customers; and the creation of non-cost based standard offer rates under Rider POG.

(10) ComEd's proposed technical modifications to Rider AC7 and Rider CLR7 are reasonable and should be approved. In addition, ComEd's modifications to Rider CLR7, creating a transitional offering to those customers taking service

under demand response tariffs that are being phased out, is reasonable and should be approved.

(11) Certain issues raised by CES witnesses should be addressed through separate statewide workshops.

Q. How is your testimony organized?

A. Section II of my surrebuttal testimony primarily responds to the respective rebuttal testimonies of the identified Staff and intervenor witnesses on a "tariff–by-tariff" basis and an "issue-by-issue" basis to facilitate the review of my responses.

Q. Please identify the attachments to your surrebuttal testimony.

A. ComEd Exhibit 40.1 contains revised calculations of the costs to be included in the residential revenue requirement should CUB's proposed expansion of the hourly energy pricing program for residential customers be approved. ComEd Exhibit 40.2 reflects the revisions to proposed Rider ECR that ComEd offers in response to Staff's rebuttal testimony.

Q. Are there any changes that would be required to the tariffs proffered by ComEd panel witnesses Messrs. Alongi and McInerney in ComEd Exhibit 10.1 as a result of your surrebuttal testimony?

A. Yes. If adopted by the Commission, these changes would be included as a part of ComEd's compliance filing, which would be made subsequent to the conclusion of this proceeding.

II. COST ALLOCATION, RATE DESIGN, TARIFF AND OTHER MATTERS

A. OVERVIEW OF SURREBUTTAL

Q. What is your overall response to the rebuttal testimony of Staff and the intervenors on the matters of cost allocation and rate design?

A. The issues of cost allocation and rate design are largely related to how much of the approved revenue requirement will be paid by each of the customer classes. (ComEd Ex. 23.0, 3:65-6:112). Advocates for various customer classes propose that costs be shifted to other customer classes.

Q. What is ComEd's overall position on these proposals?

A. ComEd has made proposals that will fairly allocate costs in a manner that is consistent with sound ratemaking principles. One key principle ComEd has used in making its proposals is that the cost standard is the primary tool the Commission should use to allocate costs and set rates. Staff agrees that ComEd's Embedded Cost of Service Study ("ECOSS") is properly done. (*See* Staff Ex. 6.0, 36:876-880). This study should be used for the allocation of costs and for pricing services. Staff also has supported the resulting class revenue allocations that result from the use of the ECOSS as proposed by ComEd. (*Id.*, 36:889-36:893).

Finally, rate subsidies can be very difficult to eliminate once established, as is witnessed by the strong opposition to the removal of existing rate subsidies in this case. The Commission has the opportunity to move rates to a cost basis in this case that will

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provide customers with the proper price signals as Illinois moves into the post transition-period. It should take that opportunity.

Table 1 illustrates the magnitude of the cost shifting that various parties propose.

Table 1: Proposed Revenue Shifting

Proposal	Magnitude ($ Million)	Revenue Recovery Shifts From:	Revenue Recovery Shifts To:
CUB-CCSAO: 97.5% Residential Return Index (RRI)[1]	$9.5	Residential Customers	All other customers
CUB-CCSAO: Peak and Average (P&A) [1]	$81.7	Residential Customers	All other customers
CUB-CCSAO: Sum of RRI + A&P[1]	$90.5	Residential Customers	All other customers
IIEC: Limit increase to over 10 MW class Version 1[2]	$22.2	Non-residential over 10 MW	All other non-residential customers
DOE: Limit increase to over 10 MW class Version 2[3]	$21.2	Non-residential over 10 MW	All other non-residential customers
IIEC: Minimum Distribution System[4]	??	Classes of Large Customers	Classes of Small Customers
BOMA: Free Delivery Service for Non-Residential Space Heating Customers[5]	$48.9	Non-Residential Customers with Electric Space Heat	Non-Residential Customers <u>without</u> Electric Space Heat
IIEC: Maintain Peak Period MKD[6]	$31	Customers with Highly Flexible Off-peak Usage	Customers Without Highly Flexible Loads
Staff: "Global Warming"[7]	$66.5	Fixed Rate Component (Customer Charge)	Variable Rate Component (Usage Charge)

1 CUB-CCSAO (Ruback) Exs. 1.0 and 6.0.
2 IIEC (Stephens) Exs. 1.0 and 5.0.
3 DOE (Swan) Ex. 1.0.
4 IIEC (Chalfant) Exs. 2.0, 15:297-301 and 6.0. MDS has not been calculated in this case.
5 BOMA (Brookover and Childress) Exs. 1.0 and 3.0. A small amount of the $49.6 million will be picked up from space-heating customers through higher peak season demand charges.
6 IIEC (Stephens) Exs. 1.0 and 5.0 (and others). This applies to those non-residential customers with interval recording meters. A small amount of the $31 million will be recovered from off-peak customers through higher on-peak demand charges.
7 ICC (Lazare) Ex. 6.0 and 17.0.

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B. RATE RDS – RETAIL DELIVERY SERVICE

1. Linkage of Issues Concerning Large Customers Over 10 MW

Q. Do you have any initial comments on the rebuttal testimony of the parties?

A. Yes. In particular, I will address the issue of maintaining a rate class for the over 10 MW customer group and its connection to ComEd's proposal to utilize a 24-hour clock to measure maximum billing demand (*i.e.*, the MKD). ComEd has reviewed the testimony on these issues and offers the following proposal for Commission consideration.

Under this proposal, ComEd would retain an over 10 MW customer class on a temporary basis, and phase-in the rate increases in two steps between this rate case and the next rate case, provided, however, that the MKD be calculated on a 24-hour basis as proposed in my direct testimony. The rate phase-in would provide for a significant half step toward fully cost-based rates in this case, with the full integration of the over 10 MW class with the over 1 MW class to be completed in ComEd's next rate case, whenever that might occur.

If the Commission finds such a phase-in appropriate, ComEd respectfully requests that the ICC make clear in its final order in this proceeding that this is a measured step toward cost-based rates and that it expects to complete this phase-in in ComEd's next rate case.

Q. What would be the new rate for the over 10 MW class under ComEd's proposal?

A. As noted above, this proposal would move rates for over 10 MW customers toward full cost-based rates by 50 percent, relative to ComEd's current proposal. Therefore, the Distribution Facilities Charge ("DFC") for the over 10 MW class would increase by $1.52/kW to $3.86/kW which is half of the distance between the current rate and the rate

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that results in ComEd's ECOSS (*i.e.*, $5.38-$2.34=$3.04, $3.04/2=$1.52, $2.34+$1.52=$3.86). The other applicable charges still would be based on ComEd Exhibit 41.7. As this price is still substantially below cost, ComEd proposes that the Commission approve the $3.86/kW price, under this proposal, regardless of the final revenue requirement approved by the Commission in this case. Any shortfall in revenue that results from this proposal should be allocated on a *pro rata* basis to the other non-residential customer classes. This proposal is not intended to be applied to the railroad class.

Q. Why is ComEd linking the 24-hour MKD and the over 10 MW class issue?

A. These two issues are necessarily linked by operation of the tariffs. Under certain intervenors' proposals in this case, the over 10 MW class would be retained, yet very little of the subsidy would be reduced. (I address the issue of the subsidy below.) This means that a substantial price differential would remain between the 1 to 10 MW class and the over 10 MW class (if the separate classes were to be retained). Certain intervenors also proposed to retain the existing definition of MKD, based on a peak period demand, which under the current Rate RCDS determines the tariff classification of a customer. This creates a perverse incentive to "game the system" for customers that have the flexibility to adjust their electric demand between the peak and off peak periods.

Q. How can some customers "game the system" if the Commission uses an MKD based on a demand peak period and retains an over 10 MW customer class with rates that are below cost?

A. The simple explanation is that under the existing tariffs, a customer can "game the system" by changing consumption patterns to use a high level of electricity during the

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demand peak period for just a single one-half hour each year in order to set its maximum demand. Playing this game allows a customer to be classified as an over 10 MW customer for the following twelve monthly billing periods. The customer avoids the higher DFC associated with the 1 to 10 MW customer classes that, if not for those 30 minutes of usage, would otherwise apply to such customer. Therefore, ComEd's proposed alternative links these two issues and should be approved as a package.

Q. Does this mean that if the Commission accepts the ComEd-proposed over 1 MW class, that the 24-hour MKD is less important?

A. No. As I have stated in my direct and rebuttal testimony, the 24-hour MKD is critical to setting an appropriate delivery service tariff structure. I will discuss this issue in more detail below.

Q. Has ComEd abandoned its proposal to create a single over 1 MW customer class?

A. No. ComEd continues to support its proposals, as defined in its direct testimony and supported by its rebuttal and surrebuttal testimony. The aforementioned proposal is a second-best option that ComEd offers in response to the proposals made by the intervenors and for the purpose of limiting the issues in this proceeding. ComEd presents this proposal in this fashion in order to make it clear to the Commission that these issues are critically linked and that any decision it makes about the 24-hour MKD has very important implications for the decision concerning the over 10 MW customer class. Nevertheless, I respond below to the issues raised by the parties to ComEd's original proposals.

Q. You noted above that this proposal is not intended to be available for the railroad customers. Would you please explain?

A. The proposed delivery service charges for railroad customers are increasing from the current delivery service charges by roughly 26 percent, which is substantially less than the increase faced by the over 10 MW class for fully cost-based rates and is on par with the average increases for other non-residential large customer classes. Consequently, a phase-in to cost-based rates is not necessary for the railroad customers.

2. 24-Hour Maximum Kilowatts Delivered

Q. Would you please identify the witnesses you will respond to concerning the proposed 24-hour MKD?

A. In this section, I respond to IIEC witnesses Mr. Stephens (IIEC Ex. 5.0, 3:55-10:209), Staff witness Mr. Lazare (Staff Ex. 17.0 (public), 37:929-39:962) and IAWA witness Mr. Menninga (IAWA Menninga Reb., lns. 77-86).

Q. Would you please provide a general response to these parties' rebuttal testimony?

A. In reading these testimonies, especially Mr. Stephens', it occurs to me that there is a misunderstanding of the purpose and rationale behind ComEd's proposal regarding the 24-hour MKD. While some witnesses seem to imply that rejection of ComEd's proposal is simply maintaining the *status quo*, this is incorrect. The issue is far more comprehensive than merely retaining a current condition. ComEd's proposal provides for a coherent basis for (a) the determination of the delivery classes applicable to customers, (b) the determination of the standard distribution facilities provided to customers, and (c) the determination of the charges applicable to customers for those standard distribution facilities. While I address these issues in detail below, it is important to keep the following facts clear in order to understand this issue:

- The Commission already has determined that customers should be grouped based on 24-hour demand for the creation of supply groups in ComEd's

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Procurement Case. In this case, ComEd has proposed a consistent approach to classifying customers, which minimizes customer confusion concerning rate classifications between supply and delivery categories and sends better price signals to customers.

- ComEd generally must size its local distribution system for the maximum demand of customers no matter when that demand occurs. Most customers do not have the flexibility to shift significant amounts of load to the off-peak periods and are currently being billed based on a 24-hour clock.
- For those few, mostly large sophisticated customers, that do have flexibility to shift significant amounts of load to the off-peak periods, ComEd still must size its distribution facilities to meet the peak load no matter when that demand occurs. Because ComEd cannot predict when load will be shifted between hours of the day, ComEd must size its system to be ready to serve those customers regardless of when load is actually used.
- Using a 24-hour MKD for both billing and determining the applicable customer delivery class eliminates an intra-class subsidy that benefits customers with the ability to shift load and that is paid for by those with less flexibility.

Q. Mr. Stephens suggests the movement from a vertically integrated utility to a distribution utility does not explain changes to certain tariff provisions you cited in your rebuttal testimony because ComEd had a rate case prior to divesting its generation. (See IIEC Ex. 5.0, 3:55-4:82). Does Mr. Stephens present an accurate story?

A. No. ComEd's movement toward pricing that is more reflective of a distribution-only utility clearly has occurred gradually. Mr. Stephens cites to the year 2000 as if the transition occurred all at once. This is not the case. While it is true that some tariff provisions have been in effect since ComEd's first Delivery Services Tariff ("DST") rate case, ComEd has offered proposals in each of its DST cases to move its rate design to be more fitting of the post-transition period. The conclusion of the transition period also coincides with changes in the method of procuring and pricing electricity, and also coincides with the removal of certain transition tariffs, such as Rate CTC. As part of this transition, ComEd has proposed changes to its tariffs in this proceeding that continues the transition for both ComEd and its customers.

Q. Intervenors have addressed the 24-hour MKD and the rates charged to the over 10 MW class as if they are separate and distinct issues. Is there, in fact, a linkage that is being overlooked?

A. Yes. In the Procurement Case, ComEd proposed and the Commission approved—with no opposition from any of the parties to that case—that customer supply groups should be determined based on the highest 30-minute demand established in the previous 12 months. In this case, ComEd has proposed that the Delivery Classes be determined on the same basis. If ComEd's 24-hour MKD proposal were to be rejected in favor of a peak period MKD, unfair cost shifting would occur. This cost shifting would have those customers with highly flexible loads being subsidized by those customers with less flexibility in their usage.

Q. How would this subsidy persist under a peak period MKD?

A. ComEd's current DST contains a differential in the prices between the over 10 MW class and the other non-residential classes that creates an opportunity for "gaming" by certain large customers with highly flexible loads. The current over 10 MW DFC is $2.34/kW, while the DFCs for the below 10 MW customers are around $4.50/kW, a difference of over a $2/kW differential. Such customers will "game" the DST by shifting load to the peak period for just a half hour each year in order to obtain the lower rate of the over 10 MW customer class, then resume its pattern of primarily off-peak usage. Nevertheless, ComEd must have distribution facilities in place to serve such customer's maximum load because it cannot predict when customers will shift load between hours of the day.

For customers with self-generation capabilities, ComEd's current DST enables "free-riding." For example, a customer with 20 MW of total load who utilizes self-generation may not have an on-peak demand over 10 MW during normal operations because the generator supplies the remaining portion. But, because that customer's generator could trip off line during on-peak hours, ComEd's system must be able to serve that demand. Under ComEd's current tariffs, that customer would be charged for that demand only in the month it occurs, even though ComEd has installed distribution equipment that stands ready to serve that load (*i.e.*, demand) in every month. In addition, for that month and each of the next eleven months, the load that the customer does actually use during the peak period would be charged the lower rate for the over 10 MW class even though its subsequent usage may never exceed 10 MW.

As Mr. Stephens' colleague Mr. Chalfant notes, costs on the distribution system are caused by "the demands of…customers." (*See* IIEC Ex. 6.0, 6:106-108). I agree, yet

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under the existing tariff provisions and Mr. Stephens' proposal, ComEd's tariffs would not fully recognize this fact. Customers with highly flexible usage could continue avoiding demand charges, while other customers would be required to pay more than they otherwise would.

Q. Mr. Stephens claims that ComEd's proposal ignores the benefits of demand diversity. (IIEC Ex. 5.0, 5:83-96). How do you respond?

A. I addressed this issue in my rebuttal testimony. (*See* ComEd Ex. 23.0, 10:202-11:215). As I noted, the vast majority of the large customers affected by ComEd's 24-hour MKD proposal do not provide any significant benefit to ComEd's delivery system from demand diversity. (*Id.*)

Mr. Stephens also attempts to bring in the benefits of demand diversity on the transmission system. (*See* IIEC Ex. 5.0, 5:93-96). This matter is not relevant in this case as Rider TS – CPP – Transmission Service (Competitive Procurement Process) already has been approved by the Commission as part of the Procurement Case and will send appropriate price signals for ComEd's provision of transmission service.

Q. Mr. Stephens states that "for the vast majority of ComEd's customers, the distribution facilities are already in place and were provided at a time when ComEd was a vertically integrated utility and customers have paid based on bundled service rates and, thus, ComEd has recovered and is recovering the cost of installing these facilities." (IIEC Ex. 5.0, 5:100-104). How do you respond?

A. Mr. Stephens appears to be confused concerning the issues here. The issue is not recovery of costs; it is recovery of costs from the right customers (*i.e.*, the cost causers). ComEd has never suggested, despite Mr. Stephens' statement, that the cost of new or

existing facilities could not be recovered through rates. Rather, ComEd is proposing that these costs be recovered from the customers that cause these costs to be incurred. This is a time-honored principle of sound rate design. Somewhat ironically, Mr. Stephens' colleague Mr. Chalfant states that "the only meaningful objective definition of fairness and equity in this context is that costs should be allocated to the customers responsible for their incurrence." (IIEC Ex. 6.0, 6:113-115). This is exactly what ComEd's proposal will do.

Q. Would you please explain why ComEd is recovering its distribution-related costs from the wrong customers under the current MKD definition?

A. As I have noted previously, ComEd must have distribution facilities sized to meet any customer's demand 24 hours a day, every day of the year. (ComEd Ex. 23.0, 10:211-11:215). For the vast majority of ComEd's nonresidential customers, there is little or no flexibility to shift load outside of the peak period and, therefore, the proposed MKD definition has no adverse impact.

However, there are certain large sophisticated customers that do have the ability to shift load and, in fact, have exploited the existing provisions of ComEd's tariffs. These customers can place large amounts of load on the local system and ComEd must have facilities sized, and in place, to meet this load no matter when it occurs. The effect of this load shifting is that billing kWs are removed from ComEd's calculation of the average cost and in turn the proposed price per kW is increased (that is, the distribution revenue requirement divided by the billing units). Since the total revenue recovered from the customer class is the same, if the billing units are reduced, the average cost, and in turn price, increases (by simple arithmetic). Note the key factor—total costs do not

change. The only effect of Mr. Stephens' proposal is lower the total bill for a very few customers while raising the average price for every other non-residential customer within that customer class.

Q. Mr. Stephens states that ComEd has not requested authorization to charge individual customers with dedicated facilities and charge them for those facilities. (See IIEC Ex. 5.0, 5:105-109). How do you respond?

A. Mr. Stephens is offering a red herring in that comment. ComEd's proposed distribution facilities charges are designed to recover costs for standard distribution facilities. ComEd has proposed a new Rider NS (to replace Rider 6) to recover costs for nonstandard facilities on a customer-specific basis. For certain customers for whom individually determined charges are appropriate, ComEd has proposed Rider ZSS7. It is not administratively appropriate to individually determine charges for the numerous large customers for whom ComEd installs dedicated facilities. ComEd's proposals are directed to appropriate cost recovery when rates are being set for classes of customers with an aim to minimizing both inter- and intra-class subsidies whenever practical.

Q. Mr. Stephens is skeptical that any subsidy (intra- or inter-class) exists in the current rate design. (IIEC Ex. 5.0, 6:110-7:144, 9:192-204). How do you respond?

A. I would point Mr. Stephens to the Commission's Order in ComEd's last rate case. In that Order, the Commission stated that it did not use either the embedded or marginal cost studies filed in the case to set rates. Rather, it used an "across the board" method. Docket No. 01-0423, Order, p.137 (Mar. 28, 2003). The obvious result of this approach is not to move the prices to cost, as the Commission did not use a cost study to set the price. In fact, all of the facts provided in this docket, as well as the facts I cited from the

previous rate case, indicates that the current rate is below cost—*i.e.*, other customers are subsidizing the over 10 MW customers. (ComEd Ex. 23.0, 23:491-25:541).

In addition, with respect to the application of the High Voltage Delivery Service ("HVDS") credit, the Commission spread the revenue shortfall among other customer classes stating that it "should not be constrained to a particular class." Docket No. 01-0423, Order, p. 152 (Mar. 23, 2003). The net effect of the decisions from ComEd's prior case has created a subsidy within the nonresidential sector that benefits customers in the Over 10 MW class at the expense of all other nonresidential customers.

Further, as I have noted above, those customers that can shift load are paying less than the cost that they cause ComEd to incur. That is, an intra-class subsidy that is directly paid through higher demand charges for other customers.

Q. Do you have any response to Mr. Lazare's use of the ComEd ECOSS to suggest that peak demand drives distribution investment and, therefore, the demand peak period should be retained? (See Staff Ex. 17.0, 38:953-39:962).

A. Mr. Lazare points to costs and allocation factors that have been aggregated over ComEd's entire distribution system, as is the common practice with these cost studies. (*Id.*) However, what these cost studies can obscure is that distribution facilities have to be sized for local peak load and different parts of ComEd's distribution system can experience peak loads at different times, even if in aggregate this does not appear to be the case. Further, the cost study does not allocate costs to customers on individual demand, but neither does it allocate costs on an individual customer's peak demand as it is currently defined. Obviously, it is true that customers cause a dedicated facility's costs, yet, the ECOSS does not reveal such relationships. Cost studies are used to

identify and allocate costs, however, in designing rates one also must take into account how customers can affect the system and its costs. The issue here is how these costs should be recovered once they are identified and allocated. I have provided an explanation in my direct, rebuttal and this testimony, of how customers affect ComEd's distribution costs and this explanation supports ComEd's proposed MKD definition.

Q. Is there another concern with Mr. Lazare's testimony?

A. Yes. The supply groups recently approved by the Commission in ComEd's Procurement Case classify customers based on a 24-hour clock. If the existing definition of MKD on a peak period basis is maintained, and the Commission orders ComEd to retain the use of demand peak period in its determination of delivery service classes in an attempt to "match" the class to the charges, then there will be undesirable consequences. Metering for customers at or near the supply group and delivery class demarcation points will be complicated and the prices will send poor price signals. For example, a customer that uses 400 kW at any time during the day one time in a twelve-month period will have to be provided with an Interval Data Recording ("IDR") meter in order to have the time of use supply charges applied to them for the 400 to 1,000 kW supply group (*i.e.*, the Large Load Customer Group). Yet, if this same customer uses 400 kW outside of the demand peak period, but only uses around 380 kW during the during the demand peak period, then the customer will only be charged a standard metering service charge for a cumulative demand meter based upon the 100 to 400 kW delivery class (*i.e.*, the Medium Load Delivery Class) that is applicable to the customer.

Q. Do you have a response to Mr. Menninga's concern that reliability issues have not been taken into account in the design of rates? (IAWA Menninga Reb., lns. 77-86).

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A. As I have explained above and in my direct and rebuttal testimony, using a 24-hour MKD determination is the appropriate method for setting the distribution tariff demand. Mr. Menninga's membership can use ComEd's tariffs as a barometer for the system costs, if designed as ComEd proposes, because they do represent the costs of the system.

Q. Has ComEd considered the changes that would be necessary should the Commission reject ComEd's proposal for the 24-hour MKD, and instead determine MKD based solely on a peak period demand?

A. Yes. Should the Commission reject ComEd's proposal, the necessary changes are described in the surrebuttal panel testimony of Messrs. Alongi and McInerney. (ComEd Ex. 41.0). Included in that testimony are both adjusted billing determinants that would have to be utilized to determine charges, as well as a description of the tariff changes that would be necessary to fully implement an MKD based on peak period demand.

3. Delivery Classes

Q. Please describe the issues you will be discussing in this section of your surrebuttal testimony.

A. Several witnesses take exception to ComEd's proposed rate classes. I will address each of the specific issues with the rate classes in turn.

a. Residential Delivery Class

Q. Would you please identify the witness you will respond to in this section?

A. I respond to AG witness Mr. Rubin's concerns over eliminating separate residential customer class distinctions between space heating and non-space heating usage and single- and multi-family dwellings. (AG Ex. 4.0, 5:91-14:299).

Q. Could you please summarize Mr. Rubin's rebuttal testimony on these issues?

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A. Mr. Rubin makes the following rebuttal arguments:

- ComEd has chosen to simplify the residential rate structure because "simplifying tariff administration is more important than retaining rate classifications that reflect real cost of service differences," and rate impacts are of minimal importance. (*Id.*, 5:106-108).
- ComEd has not shown that the "extra complexity" of maintaining these separate designations has any cost effect. (*Id.*, 6:112-7:132).
- The occupancy of multi-family units is not relevant to the analysis. (*Id.*, 7:133-8:158).
- Uncollectible expense may or may not be higher for multi-family customers. (*Id.*, 8:161-173).
- The number of utilities using these types of differentiated residential rates in the United States is not relevant to the question at hand. (*Id.*, 9:191-192).
- Low income customers may also be low-use customers. (*Id.*, 205-207).
- Because ComEd does not track the type of meter reading data needed to complete Mr. Rubin's analysis, he used the best available data. (*Id.*, 219-228).
- Because demand meters are not used for residential customers, maintaining separate space-heating and non-space heating distribution rates is cost based. (*Id.*, 11:229-14:299).

Q. Is Mr. Rubin correct that simplification is the driving factor in ComEd's residential rate structure proposal?

A. No. Of course, simplification is a desirable characteristic. I do believe that ComEd's proposal does meet the goal of simplifying the rate structure and simplification does support ComEd's proposal; however, it is not the primary reason for ComEd's recommendation.[1] My recommendation is based on the results of ComEd's cost studies and the necessary judgment that is required of the cost analyst in recommending any rate classification proposal. (*See e.g.,* ComEd Ex. 9.0 Corrected, 35:757-36: 780; ComEd Ex. 23.0, 15:297-313, 15:316-319, 18:371-383, 18:387-19:400, 19:403-418, 20:421-429).

Q. Is Mr. Rubin correct that ComEd believes rate impacts to be of minimal importance?

A. No. In fact, in the Procurement Case ComEd has accepted (and the Commission ordered implementation of) Staff's Mitigation Plan to limit bill impacts to the residential class, which shows that bill impacts are of importance to ComEd. ComEd does use rate impacts as one factor in designing rate classes and overall rates. However, rate impacts must be viewed in the overall context of the rate proposal. In this case, ComEd has determined that the impacts of these changes should not impede the movement to a better rate design. (*See e.g.,* ComEd Ex. 23.0 15:297-313, 16:335-355, 20:421-22:459).

Q. How do you respond to Mr. Rubin's claim that the additional costs that ComEd cites that are not generally taken into account by the cost study are not important for this discussion? (AG Ex. 4.0, 6:112-8:173).

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[1] Simplification and ease of implementation are among desirable characteristics in Bonbright's "Attributes of a Sound Rate Structure." J.C. Bonbright, *et al,. Principles of Public Utility Rates*, PUR Reports, Inc., 1988, pp. 382-384.

A. Mr. Rubin misunderstands my concern over these issues and attempts to take those statements out of context. In my rebuttal testimony, I make it clear that the cost studies performed by ComEd show that the costs for these customers, for the purposes of ratemaking, are similar enough as to justify a single rate class. In bringing up these other issues, I was making the point that cost studies of this nature, especially embedded cost studies, are not accurate enough to make the fine distinctions that Mr. Rubin claims should be made. I summarized my conclusions as follows:

> I am not suggesting that ComEd should attempt to separate each possible cost factor in the cost study in order to create customer classes; however, I think the Commission should understand, as I noted in my direct testimony, that creating rate classes is not an exact science due to the very nature of the process. [citation omitted]. The cost study itself is an estimate of costs based on the allocations chosen and the methods used in the study. Attempting to ascribe the kind of accuracy to a cost study that is necessary for Mr. Rubin's conclusion to have merit is inappropriate. Expert judgment always is a necessary part of the rate design process, especially in designing customer classes. ComEd has chosen to combine these classes because the cost to serve these customers [is] sufficiently similar to warrant combination into one class, especially in the light of the relatively small dollar amounts involved.

(ComEd Ex. 23.0, 16:321-331).

Q. How do you respond to Mr. Rubin's discussion of residential rate structures in other states? (AG Ex. 4.0, 9:174-192).

A. Mr. Rubin makes two points to support this conclusion. First, he suggests that at least two other utilities have separate multi-family rates. (*See Id.*, 9:177-183). Second, he says that without understanding the metering "environment" in each of these utility service territories, it is not clear why there is a lack of multi-family residential rates. (See *Id.*, 9:184-192). These statements notwithstanding, I believe it is meaningful that the overwhelming majority of utilities in the United States do not commonly differentiate

between multi- and single-family dwellings. First, citing to two other utilities hardly shows a pattern and, in fact, prior testimony in this proceeding makes clear that separate multi- and single-family rates are not the common practice in the U.S. Second, while master meters may exist in other jurisdictions, the fact remains that very few regulators have approved separate rates for these customers.

Q. How do you respond to Mr. Rubin's discussion of low-income and multi-family customers? (AG Ex. 4.0, 10:195-11:216).

A. It proves the very point I was making in my rebuttal testimony. Low-income customers are not synonymous with multi-family customers. Mr. Rubin says that "several hundred thousand" of the low-use bills may be issued to low-income customers. (*See Id.*, 11:214–216). He also notes that he identified 5,351,397 bills issued to low-use multi-family customers. (*See Id.*, 3:59-60). Even if Mr. Rubin's calculations are correct, he has identified roughly 10 percent of the multi-family bills that may be sent to low-income households. It is very clear that the low-income and multi-family are not synonymous.

Q. Mr. Rubin defends his use of a generic meter-reading study on the basis that ComEd has refused to provide data on its meter reading costs. (AG Ex. 4.0, 11:219-228). How do you respond?

A. I addressed this issue, as well as the larger issue of metering costs in my rebuttal testimony and I will not repeat those conclusions here. (ComEd Ex. 23.0, 18:368–20:418). However, I would add that Mr. Rubin has not provided any improved data in his rebuttal testimony, nor has he claimed his data is accurate for the ComEd service territory. Rather he claims that he "did the best [he] could with the data that are available." (*See* AG Ex. 4.0, 11:219). The fact remains that Mr. Rubin's conclusions are

not based on data relevant for ComEd's service territory and do not support his conclusions.

Q. Mr. Rubin agrees with you that distribution costs are not generally related to how a customer uses electricity, but claims that because demand costs are recovered through a per-kWh charge, this argues for a separate charge for space-heating and non-space-heating customers because the space-heating customers use the system differently. (AG Ex. 4.0, 11:229-13:258). How do you respond?

A. Mr. Rubin makes three claims that need to be addressed to answer this question. Mr. Rubin claims that:

- the "distribution system must be designed to serve…high summer demand and, in the absence of demand meters for residential customers, it makes sense to recover distribution costs on a per-KWH basis, so higher users in the summer peak periods pay more of the cost." (*seeId.*, 12:242-245).
- there is an important exception for space heating customers because they are not typical customers because they peak in the winter and therefore have a better year-round utilization of the distribution system. (*See Id.*, 12:246-251).
- the distribution cost, *per customer*, is the same (*See Id.*, 12:253-254) and, therefore, recovering the same *per-kwh* revenue from small customers as large customers is unfair. (*See Id.*, 12:253-13:258).

First, the distribution system is not designed to serve high summer demand. It is designed to serve the highest demand, no matter when that occurs. This may occur in the summer or in the winter, but whenever it occurs, the local distribution system is designed

to handle that load. The per-kWh charge is applied during the entire year. Distribution costs are recovered on a per-kWh basis and do not include seasonality.

Second, Mr. Rubin, while agreeing that usage does not affect distribution costs, nonetheless, contends that usage of space-heating customers *does* change the distribution costs (apparently because of better utilization of the system) and, therefore, imposing the same distribution costs on these customers is unfair.[2] (*Id.*, 12:234-237). As I noted in my rebuttal testimony, the difference in per-kWh costs for these customers is minimal and, therefore, the average cost of providing service, no matter when the customer uses the system, is roughly the same. (ComEd Ex. 23.0, 20:421-429).

Third, Mr. Rubin claims that I argued that the cost per customer for the distribution system is roughly the same. He is wrong. What I actually said was that the "distribution costs are not, generally, related to the use of electricity (as is shown by the very small difference between space heat and non-space heat distribution costs cited by Mr. Rubin)." (*See Id.*, 20: 426-428). The cost per customer may be greater or smaller depending on the size of the load on the system as the cost is defined in terms of per-kWh costs, not per customer (actually the cost would be per kW). Therefore, if a customer used more demand, it would have a higher per customer cost, which is not the same as Mr. Rubin claims.

Q. How do you respond to Mr. Rubin's example concerning this issue? (AG Ex. 4.0, 13:260-273).

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[2] Better utilization of the system does not necessarily lower costs to the distribution utility. If a customer is on once a year at the peak or if the customer had the same demand for each hour of the year, a distribution utility would still have to size the system to meet that peak demand.

A. Under Mr. Rubin's assumptions, Jones would never be able to use the system as Mr. Rubin suggests. Mr. Rubin posits that the peak energy usage in each of the three summer months is 2,000 kWh (1,000 kWh for each Jones and Smith). However, he posits that in the four winter months (November through February), the peak energy usage is 3,875 kWh (3,125 kWh for Jones + 750 kWh for Smith). Yet, Mr. Rubin claims that "[t]he distribution system serving both customers would be designed to handle the peak load associated with a residential customer." (*See Id.*, 13:266-267). Presumably, Mr. Rubin means the summer peak load of 2,000 kWh (ignoring the difference between demand and energy). If this is the case, then Jones could not use the system as it was only designed for 2,000 kWh, not the 3,125 kWh that Jones uses. In theory, this system would be designed to meet the November through February load and not the lower summer load.

Q. What should the Commission take from this discussion?

A. Mr. Rubin has identified a potential issue with pricing related to the meters that ComEd, and nearly ever other utility in the country, uses for residential customers. However, solving the problem the way Mr. Rubin proposes, by using a slightly lower per unit cost for space-heating customers, does not provide any better price signal to customers. There is no way to know if the lower average costs for the space-heating customers (although as I noted in rebuttal the average costs are roughly the same) is because a given customer is actually using the system more efficiently or, similar to Mr. Rubin's hypothetical, Jones is creating a winter peak that requires additional investment. Therefore, Mr. Rubin's proposal should be rejected.

b. Very Large Load Delivery Class

Q. Would you please identify the witnesses you will respond to concerning the proposed Very Large Load Delivery Class?

A. In this section, I respond to IIEC witnesses Mr. Stephens (IIEC Ex. 5.0, 10:212-9:439) and Mr. Chalfant (IIEC Ex. 6.0, 4:58-82), BOMA panel witnesses Messrs. Brookover and Childress (BOMA Ex. 3.0, 7:152-9:186) and Mr. McClanahan (BOMA Ex. 4.0, 6:135-7:171), and the DOE witness Dr. Swan (DOE Ex. 1.0, 5:90-11:269).

Q. Do you have any general comments on the rebuttal testimony of these parties on this issue?

A. Yes. These parties are proposing that the over 10 MW customer class be maintained and be provided a substantial subsidy. While the level of subsidy requested varies among these parties, all of the witnesses maintain that the Commission should not price these services at the cost of service as shown by the ECOSS, an ECOSS that Staff has indicated has been properly performed and properly allocates costs among the customer classes. All of the cost studies or estimates provided in this docket indicate one thing: the current DFC for these customers is substantially below cost.

Q. Mr. Stephens claims that ComEd has been inconsistent in the use of its previous ECOSS. (IIEC Ex. 5.0, 10:223-244). How do you respond?

A. Mr. Stephens' claim has no bearing on the issue in this case. Mr. Stephens is suggesting that because ComEd did not propose this alignment of customer classes in the past that somehow makes alignment in this case inappropriate. I disagree. ComEd proposed the alignment of customers in this case based on the issues ComEd determined are important and need to be addressed in this case, subject to the objectives I articulated in my direct testimony. (ComEd Ex. 9.0 Corrected, 8:177-10:233). I already have explained that

customer classes that we employed during the transition period were designed for the transition period. In contrast, the rates proposed here will be for the post-transition period. Therefore, it is entirely appropriate to visit issues that may not have been litigated in past cases.

Q. Mr. Stephens also takes issue with your characterization of the DFC for the over 10 MW customers as "artificially low" and "temporary." (IIEC Ex. 5.0, 12:245-256). How do you respond?

A. Mr. Stephens states that he cannot find any evidence that the rate was "artificially low." Yet, in my rebuttal testimony, I provided a table that indicated, based on the ECOSS provided by ComEd in the last rate case, that DFC that is currently in effect (*i.e.*, $2.34/kW) is far below what the ECOSS would support. (ComEd Ex. 23.0, 24:506-508). Therefore, the rate is "artificially" low because it was based on a Commission decision that set charges in a manner I described earlier in this testimony and not directly on the cost study results. Moreover, the actual prices were based on a combination of old and new cost studies and a completely non-cost based "across the board" rate increase. Further, it was a temporarily low rate because, as a general principle, rates are to be set based on cost and the Commission has a long history of supporting cost-based rates. Therefore, parties should have been known that, at a minimum, these rates would be moved toward cost of service in future rate cases, which would require an increase in the DFC.

Q. Mr. Stephens' claims that ComEd has not shown that a subsidy is being provided to large customers (over 10 MW) under ComEd's current rate. (IIEC Ex. 5.0, 13:268-269). How do you respond?

A. This claim is incorrect. ComEd has provided an ECOSS study in this case that shows the unit DFC costs for the over 10 MW customers is over $5. (ComEd Ex. 24.2). ComEd also has provided a cost study that shows the Very Large Load Delivery Class DFC costs to be greater than $5 (ComEd Ex. 10.9). Even Mr. Stephens' colleague Mr. Chalfant calculated the cost to serve these customers far exceeds the current price. (IIEC Ex. 2.2, $5.28/kW v. current price of $2.34/kW). Although Mr. Stephens claims that the cost study provided by Mr. Chalfant only was for the purposes of establishing the "relative differences in cost of service, not…the absolute cost of service," the DFC cost Mr. Chalfant calculates far exceeds the current rates. (IIEC Ex. 5.0, 13:283-286). All of the evidence in this case indicates that the over 10 MW customers are not paying their cost of service. Therefore, by definition, this customer class is receiving a subsidy that is being paid for by other customers.

Q. Would this subsidy be perpetuated under Mr. Stephens' proposed over 10 MW DFC charge?

A. Yes. Mr. Stephens proposes that the current over 10 MW class be maintained and that "the Commission start with current (June 2006) rates, and increase or decrease the charges in proportion to ComEd's overall revenue increase or decrease that results from the Commission's determinations in this case." (IIEC Ex. 1.0, 16:302-304). Dr. Swan endorses this proposal with a minor modification and Mr. McClanahan proposes a similar equal percentage increase. (DOE Ex. 1.0, 10:258-11:264; BOMA Ex. 4.0, 7:167-171). Under Mr. Stephens' "across the board" proposal, the current $2.34/kW charge would increase, at most, roughly 25 percent. That is, the $2.34/kW would increase to $2.93/kW or 59 cents/kW. Therefore, the IIEC is proposing that the DFC charge for some of the

largest customers using ComEd's distribution system be increased by less than 60 cents/kW when the evidence provided in this case suggests that the current price is about $3 below cost. Under ComEd's ECOSS, the DFC rate was calculated at $5.42/kW. (ComEd Ex. 24.2). This means that the current rate is $3.08/kW below the cost-based rate. Mr. Stephens' proposal is to reduce that gap by less than one-fifth ($0.59/$3.08=19.2%). This is unreasonable, inappropriate, and unfair to the other customers that have to pay for Mr. Stephens' proposal. This proposal, as well as Dr. Swan's slightly higher increase, should be rejected by the Commission.

Q. Would you please summarize why the "across-the-board" proposal is inappropriate in this case?

A. An across-the-board increase to current DST rates would serve to perpetuate a rate design that is based upon an incongruous juxtaposition of: (1) an embedded cost study for a test year that will be a decade old at the time the increase becomes effective; (2) a split between residential and nonresidential cost allocations based upon the embedded cost study filed in Docket No. 01-0423 for the 2000 test year; (3) a marginal cost based high voltage credit computed in the last rate case and based upon 2000 test year data; and (4) a subsidy memorialized in the ICC order in the last rate case that benefits customers with demands over 10 MW at the expense of all other nonresidential customers. The result of this combination is the current rate design, which does not reflect ComEd's current costs. Approval of an across-the-board increase to current rates would not be reflective of ComEd's current costs to serve and it would result in the perpetuation of existing undesirable subsidies.

Q. Mr. Stephens suggests that ComEd has undermined one of the principles agreed to by the Post-2006 Rates Working Group ("RWG"). (See IIEC Ex. 5.0 14:302-305). How do you respond?

A. While I believe Mr. Stephens reads too much into my statement, in retrospect, I see the source of his confusion. ComEd, of course, did synchronize its unbundled and bundled customer classes to the extent possible, practical and reasonable. The consensus item Mr. Stephens cites states that utilities "should move toward synchronizing its bundled and unbundled customer classes." However, the RWG also recognized that certain exceptions or limitations to this principle exist, including where there are differences in the services or the costs of the services where synchronizing would "inappropriately group customers causing distinctive costs for the same service or inappropriately group customers receiving distinctive services." (*Id.*, 14:313-15:331). As noted in my testimony, the cost drivers for delivery service are "very different" from supply services and, therefore, a perfect synchronization would be inappropriate. Perfect synchronization would "inappropriately" group customers that cause distinctive costs for the same service (in this case delivery service). I also note that Mr. Stephens' proposal does not perfectly synchronize bundled and unbundled customer classes. Therefore, he apparently agrees, at least in practice, that perfect synchronization is not appropriate in this case.

Q. Mr. Stephens continues to claim an inconsistency between your testimony in this case and your testimony in Docket No. 99-0117. (IIEC Ex. 5.0, 15:335-376). How do you respond?

A. Mr. Stephens repeated the same argument found in his direct testimony, including the same quote from my previous testimony. (Compare IIEC Ex. 1.0, 13:243-14:275 with

IIEC Ex. 5.0, 15:341-16:376). I have addressed these issues in my rebuttal testimony. (ComEd Ex. 23.0, 26:556-27:570). I reiterate that the evidence provided in this case, for these customers, as shown by ComEd's cost studies, support ComEd's proposals. It does not point to a conclusion that ComEd's current proposal is inconsistent with my previous statements.

Q. How do you respond to Mr. Stephens' statements concerning the Customer Transition Charge ("CTC") and rate classes? (IIEC Ex. 5.0, 17:377-18:414).

A. As I noted in my direct and rebuttal testimony, the CTC (including the mitigation factor) was a factor considered in the creation of the existing non-residential customer classes. Mr. Stephens does not accept this fact and: 1) claims this does not comport with any Commission finding; 2) claims customers with load factors different than average were more likely to take advantage of customer choice; and 3) states that he is "troubled" by my statement that CTC calculations should not be the controlling factor in the decision. (*Id.*, 17:385-18:414). Again, this misses the point of my testimony.

ComEd took into account the fact that CTC would be charged based on classes, per the law, and that more classes were expected to provide a more accurate CTC (*i.e.*, in the extreme, every customer is its own class which is equivalent to a customer-specific CTC). It may be true that, due to the variations in load factors within a customer class, customers with load different than the average actually did take advantage of open access as Mr. Stephens suggests, but again that is beside the point. Finally, because he took my statement concerning the importance of the CTC out of context, Mr. Stephens' characterization of my statement as "troubling" is unfounded. My precise statement was:

> I am not claiming that the CTC calculations should be the controlling factor in this decision, as the cost evidence indicates

> that these classes should be combined. Rather, I was simply indicating that part of ComEd's rationale for maintaining multiple rate classes in the past was the concern over the calculation of CTCs. Because this concern is no longer relevant in the post transition period, and given that simplification is a goal of ComEd's rate proposals, removing artificial (*i.e.*, not cost based) distinctions between classes is a reasonable approach.

(ComEd Ex. 23.0, 27:585-591).

The point was that CTC classes, in the past, loomed large in the design of delivery service rate classes. On a prospective basis in a post-transition period in which CTCs do not even exist, the Commission should rely on the cost evidence as provided in this case and remove the artificial distinctions between rate classes. Therefore, ComEd's proposed rate classes are cost-based and reasonable.

Q. Mr. Stephens maintains that reviewing the average cost (per kWh) for large customers is irrelevant and that comparing those costs to smaller customers is misleading. (IIEC Ex. 5.0, 18:415-19:431). How do you respond?

A. I disagree that rate comparisons for demand tariffs are inappropriate on a cents per kWh basis. ComEd has provided those numbers in its rate filings for years and many industry publications, including those published by the Edison Electric Institute, use cents per kWh to compare utilities' rates for commercial and industrial customers across the country. However, his argument misses the point. My testimony stated:

> ComEd has provided ample evidence to show that its rate and charges are cost-based and appropriate…while these witnesses use their calculations to elicit optical appeal, it is important to point out that the proposed Very Large Load Delivery Class would pay less than 1.25 cents/kWh for delivery, under ComEd's proposal…the HVDS delivery class would pay less than half a penny per kWh for delivery under ComEd's proposal. Compare this to the residential class, which would pay over 3.50 cents/kWh, and the watt-hour non-residential class that would pay roughly 4 cents/kWh for delivery, under ComEd's proposal. The use of percentages in this case simply does not tell the whole story.

(ComEd Ex. 23.0, 28:596-605) (citations omitted).

This portion of my testimony illustrates two facts. First, ComEd has provided substantial evidence that its rate design is cost-based. Mr. Stephens and others may not agree with that evidence, but it has nonetheless been provided by ComEd and supported by expert witnesses. Second, the simple percentage increases used by Mr. Stephens and others to show the impact on large customers does not take into account the absolute (average) prices paid by these customers. The comparison to smaller customers is for the purpose of putting the average price for large customers in context. I agree with Mr. Stephens that smaller customers use more of the distribution system and, therefore, should have a higher average price. However, this is not relevant to the point made by this testimony. To further illustrate the point, from ComEd Ex. 10.9 and ComEd's load study (Schedule E-7), residential customers contributed roughly 43 percent of the system peak, but have been allocated 52 percent of the costs. The Very Large Load Class contributed 19 percent to the system peak, but pay only 15 percent of the costs, and the high voltage customers, who contribute roughly 4 percent to the peak, pay only about 1 percent of the costs. ComEd's proposals are cost based and Mr. Stephens' claims that this testimony "should be disregarded," are self-serving. This testimony paints a very clear picture of the prices paid by ComEd's largest customers.

Q. Mr. Chalfant claims he does not know how the computations were made to determine the DFCs of $5.46/kW and $5.45/kW cited in your rebuttal testimony and, therefore, concludes that these computations are "clearly incorrect." (See IIEC Ex. 6.0, 4:58-68). Is there any merit to Mr. Chalfant's conclusion?

A. No. My rebuttal testimony clearly cited to ComEd Ex. 24.2 for these numbers. (ComEd Ex. 23.0, 25:527-529). Column (A) of this exhibit provides the billing units for each class in the test year and column (C) calculates the unit cost. Mr. Chalfant's confusion is entirely of his own making. Furthermore, Mr. Chalfant uses incorrect billing demands in his Table 1 (IIEC Ex. 6.0, 4:Table 1), which, by simple arithmetic, causes his unit cost calculations to be incorrect. ComEd panel witnesses Messrs. Alongi and McInerney explain why Mr. Chalfant is incorrect. (ComEd Ex. 41.0). Mr. Chalfant then uses this incorrect table as a foil to make the claim that my cited figures are "clearly incorrect." (*See* IIEC Ex. 6.0, 4:63-65).

Q. Mr. Chalfant claims that his review of ComEd's illustrative ECOSS only "strengthens" his conclusion concerning the cost differences between the over 10 MW customers and the 1-10 MW customers. (IIEC Ex. 6.0, 5:78-82). Is this claim justified?

A. Not at all. It is unreasonable to conclude that the difference between $5.45/kW and $5.46/kW constitutes an important cost difference. Mr. Chalfant's conclusions on this matter are not supported by any compelling evidence.

Q. Dr. Swan makes very similar proposals to that of IIEC witness Mr. Stephens. (DOE Ex. 1.0 3:52-11:269). How do you respond to Dr. Swan?

A. While making similar proposals to IIEC witness Mr. Stephens concerning the need for rate moderation for the over 10 MW class, Dr. Swan comes to his conclusions from a very different approach. Dr. Swan suggests that because marginal cost pricing has been the standard for many years prior to the last two DST cases, and due to the fact that the Commission apparently moved away from marginal cost pricing during the transition period, in future DST cases a marginal cost study may be used once again. (*Id.*, 5:102-

6:128). If so, Dr. Swan is concerned that moving to full embedded cost rates for the over 10 MW class in this case may require large increases now, and should the Commission return to marginal cost, it may require decreases in the future. This concern is not without merit. However, the Commission has used the embedded cost study for rate design in the two previous DST cases. Moreover, since the inception of the last rate case, the Commission has concluded a rulemaking proceeding during which the submission of a marginal cost of service study was eliminated as a minimum filing requirement in rate cases. At this time, it seems unlikely, that the Commission will change its policies in the near future. The Commission cannot make decisions in this case based on uncertain outcomes of future cases.

Q. Do you have any other comments on Dr. Swan's testimony on this matter?

A. At its core, Dr. Swan makes the same appeal to rate stability and rate impacts similar to the other witnesses in this case. I have nothing further to add concerning these issues that is not in other portions of this testimony or my direct and rebuttal testimony in this docket.

Q. Dr. Swan proposes that the high-voltage delivery class be separated into two subclasses. (See DOE Ex. 1.0, 11:274-277). Is this proposal appropriate?

A. No. Dr. Swan's proposal would unnecessarily complicate billing and contravene the objective of simplifying rates. Dr. Swan's testimony makes it appear as if there are two types of customers—those that take service over 69 kV and those that do not. Therefore, he argues that not recognizing the difference in cost would create a $4 million intra-class subsidy. (*Id.*, 11:277-278). However, this argument does not tell the whole story. Often, customers in ComEd's service territory that are served at or above 69 kV also have some

load that is served below 69 kV, yet they will be placed in the HVDS class under ComEd's proposal. Therefore, this so-called subsidy is often on the bill of the same customer. If ComEd were to attempt to take every possible cost factor into account, it would end up with a rate class for every customer. Obviously, that would not promote the efficiency of administrating tariffs. Further, the HVDS class pays less than ½ cent per kWh for delivery service. (ComEd Ex. 24.2). In setting tariff structures, a reasonable trade-off has to be made between setting too many rate classes and setting too few. In this case, pricing signals would not be improved by accepting Dr. Swan's proposal and it would further complicate the billing process for ComEd. For all these reasons, Dr. Swan's proposal should be rejected

Q. Messrs. Brookover and Childress maintain that a HVDS credit be continued. (BOMA Ex. 3.0, 8:169-9:186). How do you respond?

A. I have responded to this proposal in my rebuttal testimony. (ComEd Ex. 23.0, 28:606-29:622). However, I will add that, as these witnesses point out, a level of "lost revenue" that will have to be allocated to other customers. (BOMA Ex. 3.0, 9:184-186). That is, these witnesses are asking that the Commission continue to subsidize the non-high voltage customers with loads over 10 MW and require other non-residential customers to pay for this subsidy. The Commission should reject this proposal.

Q. Mr. McClanahan claims that ComEd has not supported its proposal to combine the rate classes above 1 MW. (BOMA Ex. 4.0, 6:140-7:171). How do you respond?

A. Many of these issues have been addressed in my rebuttal testimony. (ComEd Ex. 23.0, 29:625-30:641). However, again, I would point out that ComEd has utilized all the information it has concerning costs, including its previous cost study and the costs studies

produced for this case. The conclusions from that cost evidence support ComEd's proposal as described in my direct and rebuttal testimony. Therefore, it is simply not true that ComEd has not supported its proposals as Mr. McClanahan states.

c. Non-Residential Space-Heating Customers

Q. Would you please identify the witnesses you will respond to concerning non-residential space heating?

A. In this section, I respond to BOMA panel witnesses Messrs. Brookover and Childress (BOMA Ex. 3.0, 3:49-7:150) and Mr. McClanahan (BOMA Ex. 4.0, 1:18-27, 3:67-4:92, 5:115-117).

Q. Would you please describe the proposal of the BOMA witnesses for non-residential space-heating customers and summarize ComEd's position toward this proposal?

A. BOMA is requesting that these customers receive free delivery service for eight months out of the year. For reasons that should be obvious, ComEd is opposed to providing free delivery services to these customers. BOMA's request for free delivery service is the most blatantly unreasonable proposal that the Commission faces in this proceeding. No other customer group has asked that perceived rate impacts be addressed by having ComEd provide free delivery service for eight months out of twelve. This proposal is plainly unfair to other non-residential customers that will have to fund BOMA's request for free delivery service. This issue has been addressed thoroughly in my rebuttal testimony, as well as in the Procurement Case, and the Commission should reject this completely unreasonable request. (ComEd Ex. 23.0, 30:651-35:749).

Q. Messrs. Brookover and Childress and Mr. McClanahan claim that ComEd has no cost study to justify the elimination of Rider 25. (BOMA Ex. 3.0, 3:49–65; BOMA Ex. 4.0, 1:18-20). How do you respond?

A. I have addressed this issue in rebuttal. (ComEd Ex. 23.0, 35:739-749). I would add that Messrs. Brookover and Childress, while claiming that load patterns may be different for different end-uses, do not suggest that end-use patterns matter, merely that a study should be done to understand the effect non-residential space-heaters have on the system. (BOMA Ex. 1.0, 3:61-65). As I stated in my rebuttal testimony and as other intervenor witnesses have also noted, distribution investment is driven by demand, not energy usage. Therefore, Messrs. Brookover's and Childress' question already has been answered. (ComEd Ex. 23.0, 35:742-747).

Furthermore, Mr. McClanahan's claims are equally off the mark and misleading. There is no need to present a separate cost analysis with respect to distribution-related costs for customers that use electricity for space heating. It is not uncommon for non-residential space heating customers to have demands in the nonsummer months that are at a similar level to their demands in the summer months. As I just noted, it makes no difference to the poles, wires, and transformers in place and ready to serve the customer how that customer uses electricity once it is delivered to the meter. The Commission, in both of ComEd's previous DST cases, has recognized this aspect of distribution rate design. There has been no separation or distinction made for non-residential space heating customers in the design of DFCs since the inception of open access in 1999, and there is no reason for ComEd to set its rates based upon what that customer does with the electricity on its own premises.

Q. Mr. McClanahan suggests that "it still is in the best interest of ComEd's consumers to have a rate structure which is designed to maximize electric use during off peak periods." (See BOMA Ex. 4.0, 5:115-117). Do you agree?

A. I am not sure what Mr. McClanahan is saying exactly. If he is saying that ComEd's customers would benefit from the peak occurring at a different time (*i.e.*, the current off-peak period), then I disagree. However, I can say that it is not in ComEd's customers' interests to provide free delivery service to a certain select group of customers. ComEd's proposal is cost-based and provides the right price signals for customers to use the system efficiently.

Q. Messrs. Brookover and Childress claim that Rider 25 issue is not merely a supply issue. (BOMA Ex. 3.0, 3:66-4:75). How do you respond?

A. I disagree. Off-peak season rates such as the space-heating Rider 25 rate were approved largely to recognize the low off-peak season costs of ComEd's generation fleet during the time when ComEd was a vertically integrated utility and owned generation. Any delivery costs embedded in Rider 25 were a result of the historical design of rates (*i.e.*, bundled).

Q. Messrs. Brookover and Childress also claim that the BOMA proposal has not been shown to create a subsidy. (BOMA Ex. 3.0, 4:76-90). How do you respond?

A. This claim is false. BOMA is requesting free delivery service for eight months out of the year for these customers. ComEd's costs are not zero to provide delivery service; therefore, BOMA's proposed prices are below cost—hence a subsidy. Messrs. Brookover and Childress claim that the provision of free delivery service creates similar rate increases for space-heating and non-space-heating non-residential customers proves nothing about the relationship of the BOMA proposed prices to cost and, therefore, nothing about whether the BOMA proposed prices are subsidy-free. (*Id.*, 4:81-84).

Q. Messrs. Brookover and Childress claim that the Commission approved bill impacts mitigation proposal is not sufficient to address the majority of the non-residential space-heating load. (BOMA Ex. 3.0, 6:122-7:150). How do you respond?

A. The Commission already has made its conclusion concerning this proposal and has determined that the bill impacts mitigation proposal, and the customers to which it applies, is appropriate. Docket No. 05-0519, Order (Jan. 24, 2006). I addressed this issue in my rebuttal testimony and have nothing further to add. (ComEd Ex. 23.0, 33:713-34:729).

d. Municipal Pumping Customers

Q. Will you be responding to Mr. Menninga's rebuttal testimony?

A. No. I have addressed the issues related to the Municipal Pumping Customers in my rebuttal testimony. (ComEd Ex. 23.0, 35:751-37:786). However, ComEd panel witnesses Messrs. Alongi and McInerney will address certain issues raised in Mr. Menninga's rebuttal testimony.

4. Interclass Revenue Allocation

Q. Could you please describe the issues you will discuss in this section of your testimony?

A. I will address the policy issues related to Interclass Revenue Allocation as found in the testimony of CUB-CCSAO witness Mr. Steven Ruback. (CUB-CCSAO Ex. 6.0, 2:27–4:80).

Q. What issues does Mr. Ruback raise in his rebuttal testimony?

A. Mr. Ruback makes the following points:

- The Commission has the authority and discretion to use cost and non-cost factors in designing retail rates and allocating revenue to customer classes; (*Id*., 2:27-42)

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- Mr. Ruback claims to be unaware of <u>any</u> state regulator that uses one cost of service to set rates; (*Id*., 2:44-3:48)
- Mr. Ruback claims his proposal is not arbitrary; (*Id*., 3:50-58)
- Mr. Ruback suggests that this case is "unique" and therefore non-cost factors are important (*Id*., 3:66-4:73); and
- Mr. Ruback claims that I have suggested the fairness of distribution rates should have been addressed in the Procurement Case (*Id*., 4:75-80).

Q. How do you respond?

A. I agree that the Commission has the authority and the discretion to make decisions based on the whole record and on factors in addition to cost. (ComEd Ex. 23.0, 37:794-38:804). But, Mr. Ruback misses my point. Just because the Commission has the authority to do something does not mean that it is good public policy to exercise that discretion. (*Id.*, 38:808-813). Further, while it is true that this is the first post-transition rate case, it is not the first DST case where distribution-only costs were included in the cost study. The Commission has addressed distribution pricing and revenue allocation in two previous cases and, therefore, it is hard for me to conclude that there is anything so unique about these issues that cost of service principles should be abandoned.

Furthermore, as I stated in my rebuttal testimony, the Commission has made it clear that its long-standing policy is to "base class revenue allocations on the cost-of-service." (ComEd Ex. 23.0, 37:fn. 8). The primary goal of ComEd's proposal in this proceeding is to set rates for delivery service based on the cost standard to the maximum extent practical. This is the fairest and most reasonable method, as it does not favor some

customers over others and it provides better price signals concerning the cost of a customer's decision to consume.

Mr. Ruback's proposal to adjust class revenue allocations based on the risk of the customer classes has no basis in fact, logic or any other form of evidentiary record. (Mr. Heintz will address Mr. Ruback's P&A methodology (ComEd Ex. 42.0).) Mr. Ruback has not provided any additional information to support this proposal and, therefore, I can only conclude that it has no basis and would result in unjust and unreasonable rates.

Mr. Ruback's proposal with regard to revenue allocation shifts costs away from the residential class, apparently in part to minimize rate impacts to the residential customer class. However, in its Procurement Case, ComEd supported Staff's mitigation plan that reduces the impacts on the total bill for small customers including residential customers. In addition, I understand the Commission will be able to address residential customer rate impacts in a separate docket.

This is a more appropriate means to deal with the issue of residential rate impacts than making an arbitrary adjustment to ComEd's ECOSS.

Q. Are there any other issues you need to address with respect to Mr. Ruback's testimony?

A. Yes. Mr. Ruback states the following:

> 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.

(CUB-CCSAO-City Ex. 6.0, 4:75-80).

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I have reviewed my direct and rebuttal testimony, as well as re-reading this paragraph in Mr. Ruback's testimony several times, and I must admit I cannot understand what Mr. Ruback is saying. First, Mr. Ruback states: "Mr. Crumrine testifies that any distribution issues related to residential prices should be addressed in the procurement case." There is no cite in Mr. Ruback's testimony to any portion of my previous testimonies to support this statement. Of course, I have never concluded that the distribution rate issues should be addressed in the Procurement Case. Second, and related to the first statement, Mr. Ruback states: "To relegate to the procurement case…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." Again, there is no cite to my testimony, and, of course, the Commission will determine the matter of just and reasonable distribution rates in this case. This passage in Mr. Ruback's testimony should be disregarded.

Q. What do you conclude after reviewing Mr. Ruback's rebuttal testimony?

A. Mr. Ruback has provided neither additional analysis nor any compelling arguments to support his proposed interclass revenue allocation. It should be rejected.

Q. Have you reviewed Mr. Chalfant's testimony regarding Mr. Ruback's proposed risk adjustment? (IIEC Ex. 6.0, 9:163-11:205).

A. Yes.

Q. What is your opinion of this testimony?

A. Much of what Mr. Chalfant has to say on this issue has merit and comports with my rebuttal testimony and my comments above. I agree with Mr. Chalfant that Mr. Ruback's proposed "risk adjustment" has many problems and should not be used in this case.

5. Procurement Case Expense Adjustment

Q. How do you respond to the rebuttal testimony of Staff witness Ms. Hathhorn on this matter? (See Staff Ex. 12.0, 17:373-19:402).

A. Although it appears that Staff and ComEd still have differing views on how to properly allocate Procurement Case costs to all customers through the universally applicable Rate RDS, there is no disagreement that such costs are recoverable. (S*ee* Staff Ex. 12.0, 18:379-381). Instead of completely restating my rebuttal testimony on this matter (*see* ComEd Ex. 23.0, 6:113-9:169), I only will address two points that Ms. Hathhorn made in her rebuttal testimony.

Q. What is the first issue you would like to address?

A. Ms. Hathhorn mischaracterizes my testimony on this matter by suggesting that ComEd seeks to allocate Procurement Case costs to all customers solely because "eligibility causes the cost." (Staff Ex. 12.0, 18:385-389). As indicated in my rebuttal testimony, in light of the fact that ComEd currently has a statutory obligation to make supply service available to all customers (subject to service being declared competitive) and that all customers benefit either directly from the service or indirectly from the tangible value of this supply option, ComEd's proposal properly allocates the Procurement Case costs. These costs were incurred to fulfill this mandate and provide these benefits to the cost causers—all customers. Staff does not refute the fact that ComEd is under a State mandate to be the default service provider and that all customers are the beneficiaries of such mandate.

Q. What is the second issue that you would like to address?

A. Staff witness Ms. Hathhorn expressed some concern regarding the consistency of allocating Procurement Case costs to all customers and ComEd's calculation of the

Supply Administration Charges ("SACs"), which applies only to supply customers, and suggested that there was a lack of clarity. (S*ee* Staff Ex. 12.0, 18:393-19:402). As discussed below, ComEd allocation of the Procurement Case costs and calculation of the SACs are entirely consistent.

As indicated in my direct testimony (*see* ComEd Ex. 9.0 Corrected, 46:1007-47:1017) and the rebuttal testimony of Messrs. Alongi and McInerney (*see* ComEd Ex. 24.0, 10:275-11:291), and as reflected in ComEd Exhibit 10.7, ComEd seeks to allocate the costs associated with the actual provision of full requirements electric supply only to its supply customers through the Supply Administration Charge. The costs reflected in ComEd Exhibit 10.7 include the direct and identifiable costs associated with providing such supply, namely ComEd's Energy Acquisition Department costs and contract administration costs. These are distinguishable from the Procurement Case costs that were incurred to fulfill a State mandate to provide default service, the existence of which benefits all customers regardless of whether or not they take such service. Thus, there is a distinct difference between the existence of default service and the actual provision of such service, which ComEd's proposal appropriately addresses in its allocation of these two cost components.

6. Customer Charge

Q. What was Staff witness Mr. Lazare's response to your rebuttal testimony concerning his proposal to shift 20 percent of the costs reflected in the fixed Customer Charges to the volumetric DFCs?

A. Mr. Lazare begins by suggesting that ComEd's position on his proposal "impedes an effort to address this problem," global warming. (Staff Ex. 17.0, 28:700-701). While in his direct testimony, Mr. Lazare stated that "[t]he impact of electricity usage on global

warming is a factor to consider in the design of electricity rates" (Staff Ex. 6.0, 37:912-913) (emphasis added) and that the result of his proposal would be to "enable ratepayers to make consumption decisions that are more efficient from an overall societal standpoint" (*Id.*, 42:1043-1044) (emphasis added), he now backtracks from that position in his rebuttal testimony by stating that the purpose of his proposal is not to reduce customer usage. (Staff Ex 17.0, 28:705-706). "Rather, it is to incorporate into delivery charges environmental costs resulting from the generation of power to meet ratepayer demands." (*Id.*, 28:706-708) (emphasis added).

Mr. Lazare states that "considering the importance of the issue [global warming], it is far better to take this step than to do nothing at all." (*Id.*, 29:727-728) (emphasis added). However, in response to the concerns I raised in rebuttal testimony concerning the impact of his proposal on customer usage and, in turn, ComEd revenues and cost recovery, Mr. Lazare proceeds to explain how my concerns would be "mitigated" because there would be no impact on ComEd revenues: "If bills for some customers rise, then bills for others would decline. The proposal would be a zero sum game from a revenue standpoint." (*Id.*, 32:814-815).

Q. How do you respond to Mr. Lazare's rebuttal testimony?

A. As shown above, there is a complete lack of consistency in Mr. Lazare's arguments. On the one hand, Mr. Lazare identifies a problem, global warming, which he directly relates to customer usage and suggests a totally arbitrary upward adjustment to the usage component of the rate to give customers an incentive to reduce their consumption. Then, in responding to my rebuttal testimony, he does a complete turn-around and states that encouraging a reduction in demand was not the express purpose of his proposal.

Mr. Lazare cannot have it both ways. Indeed, all else being equal, the only way in which his proposal would be a "zero sum game" for ComEd is <u>if there is no change in customer usage</u>.

Furthermore, Mr. Lazare also chastises me for mischaracterizing his proposal by suggesting that its purpose was to reduce customer usage. (S*ee* Staff Ex. 17.0, 32:803-806). However, in light of his direct testimony, I believe my characterization was reasonable and accurate. In his direct testimony, Mr. Lazare offered a response to a problem, global warming, that was intended to give customers a price incentive to use less electricity. As I pointed out in my rebuttal, he made this express proposal without also offering the necessary adjustment to billing determinants to ensure that ComEd would be able to fully recover its authorized revenue requirement in the face of the resulting reduced customer usage. Rather than address this issue, Mr. Lazare now suggests that he was not intending to incent lower customer usage after all.

Indeed, the only alternative would be to assume he was <u>not</u> recommending a solution—albeit inappropriate—to the environmental problem he identified. Thus, Mr. Lazare is, at best, guilty of offering a proposal that, by his own admission, would do "nothing at all" to help global warming or, at worst, is guilty of being disingenuous about the impact on customer usage and failing to recognize the need to adjust the billing determinants accordingly.

Q. What is your response to IIEC witness Mr. Stephens' rebuttal testimony on this matter?

A. As IIEC witness Mr. Stephens recognizes, "[t]he most efficient pricing is to have delivery charges that are based on the cost of delivery and, more particularly, to have customer charges recover customer-related costs and to have demand charges recover demand-

related costs." (IIEC Ex. 5.0, 21:485-488). I generally concur with his statement, which is a reflection of traditional rate design principles.

Mr. Stephens also opines that it would be "purely speculative to assert that such marginal changes [on the total customer bills] (some of which are decreases) would elicit any meaningful reduction in pollutants . . ." (*Id.*, 22:500-502). Thus, it would seem that Mr. Stephens agrees that Staff's proposal would really do "nothing at all."

Q. If there is a possibility that Staff's proposal will have no impact on usage, what is the harm in experimenting with such a rate structure?

A. The reality is that (1) utility rates must be designed to recover costs; (2) the impact of shifting 20 percent of the fixed costs reflected in the fixed monthly Customer Charges to the volumetric DFC on usage and, in turn, ComEd revenues must be determined to ensure cost recovery; (3) the only way to determine the impact on usage is through a study of the price elasticity of demand; and (4) no such study has been produced by Staff, who is advocating this proposal. Therefore, it would be inappropriate to arbitrarily shift costs in this manner without considering the impact on usage and reflecting such impact in ComEd's billing determinants.

To the extent such a shift in costs causes a shortfall in ComEd's revenues, it would detract from ComEd's efforts to maintain a reliable delivery system in order to compensate for such shortfalls. Thus, blindly experimenting with rate designs in this fashion is harmful to both customers and ComEd.

7. Standard Metering Service Charge

Q. What rebuttal testimony was entered on the subject of CUB's proposal to encourage residential customer use of hourly energy pricing and spread the incremental costs

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associated with residential customer use of hourly energy pricing across all residential customers through the Standard Metering Service Charge?

A. CUB and ComEd appear to have achieved a consensus on several of the issues associated with the program costs estimates ComEd provided in response to CUB's direct testimony, but as discussed further below, there are a few issues that remain. The CES also expressed support for CUB's proposal, and now recommends that it be implemented in a competitively neutral fashion. Staff witness Dr. Schlaf, on the other hand, has expressed opposition to CUB's proposal, recommending instead that a two-year research program or experiment be conducted to gauge the changes in customer consumption patterns and their responsiveness to price signals.

Q. Have any of the positions taken in the rebuttal testimonies of Staff or the intervenors caused ComEd to withdraw its support for CUB's proposal?

A. No. ComEd continues to support the program outlined in CUB's direct testimony and can accept certain modifications made to that program. However, ComEd maintains that certain conditions should be imposed on CUB's proposal.

Q. Is there agreement between CUB and ComEd with respect to the cost estimates that ComEd provided in response to CUB's proposal?

A. For the most part. There is agreement between ComEd and CUB regarding the types of costs to be included in the estimate (CUB Ex. 2, 6:117-119) and the inclusion of such costs in the residential Customer Charge (not the Standard Metering Charge) in Rate RDS. (*Id.*, 6:129-131). With respect to the Customer Charge, however, CUB witness Mr. Thomas notes that if AG witness Mr. Rubin's proposal to create four residential classes within Rate RDS is approved, these costs should be spread across these

four classes proportionately. (*Id*., 6:132-7:138). While ComEd opposes the AG's proposal, ComEd would concur with CUB's recommendation in the event that the Commission adopts the AG's proposal. Thus, there appears to be resolution of these important issues.

Mr. Thomas also raises numerous issues with respect to the metering charges reflected in proposed Rider ML, which were the basis for both of the estimates included in ComEd Exhibit 23.1. These issues are specifically addressed in the surrebuttal panel testimony of my colleagues Messrs. Alongi and McInerney (ComEd Ex. 41.0). In light of their response to one of Mr. Thomas' recommendations concerning residential meter reading expenses and their proposed adjustments to the Rider ML charges for residential IDR meters, ComEd has revised its estimates accordingly and prepared a new exhibit, ComEd Exhibit 40.1.

Q. What are the results of ComEd's new cost estimates?

A. As shown in ComEd Exhibit 40.1, the impact on the Customer Charge would remain fairly modest under both scenarios. The annualized cost under the "Current Administrator High Estimate" decreases from $7.9 million under ComEd Exhibit 23.1 to $6.9 million under ComEd Exhibit 40.1. Under the "Current Administrator Low Estimate," the annualized costs would decrease from $4.3 million to $3.8 million.

Q. Which of the two estimates included in ComEd Exhibit 23.1 did CUB endorse?

A. CUB witness Mr. Thomas supports the "Current Administrator High Estimate," which is based on the Community Energy Cooperative ("CEC") estimate of 70,000 customers enrolling within 3 years (ComEd Ex. 23.2), noting that it "seems that the administrator's high cost estimate … is entirely plausible." However, CUB imposes three conditions on

its "support" for this estimate: (1) "ComEd should equally share the risk of the program with its customers;" (2) "IDR meters should be made available for RTP programs offered by alternative suppliers;" and (3) "the Commission should order ComEd to work closely with stakeholders in an effort to actively educate customers about the benefits of RTP programs." (*See* CUB Ex. 2.0, 7:144-155).

Q. The first condition CUB witness Mr. Thomas imposes on CUB's support for the high estimate is that "ComEd should equally share the risk of the program with its customers." (CUB Ex. 2.0, 7:151-152). How does ComEd respond to this condition?

A. ComEd objects to this condition on the grounds that it has nothing to do with the total number of customers one could expect to enroll on hourly energy pricing and, therefore, should be ignored when considering which of the only two customer enrollment forecasts in the record should be adopted. This condition is but CUB's response to the cap that ComEd proposed on the number of residential customers for whom monthly metering charges and meter exchange fees would be waived. (*See* ComEd Ex. 23.0, 47:998-1007).

The cap that ComEd proposes is based on the <u>maximum</u> number of participating residential customers that are included in the cost estimate adopted by the Commission. (*See* ComEd Ex. 23.0, 47:998-1007). That is, it only impacts the number of customers for whom charges and fees would be waived at any given point in time <u>after</u> the conclusion of the instant proceeding. Thus, it is inappropriate to tie support for a customer participation estimate to the elimination of the cap ComEd proposed.

Q. With respect to ComEd's proposed cap, CUB witness Mr. Thomas asserts that "[t]here is no reasonable explanation for limiting ComEd's exposure without similarly limiting

customers' exposure," citing ComEd's response to CUB Data Request 9.13 as support for this assertion. (CUB Ex. 2.0, 8:167-170). How do you respond?

A. As I indicated in my rebuttal testimony, the estimated number of participating residential customers is the "primary driver of the cost estimates" (ComEd Ex. 23.0, 46:987-989), and there are "obvious uncertainties surrounding when and how many customer[s] will respond to this program in the post-2006 environment . . ." (ComEd Ex. 23.0, 47:1005-1007). Indeed, the risk of over or under-recovery is the inherent problem with attempting to set charges to recover costs that are difficult to predict, as CUB proposes. These uncertainties are compounded by CUB's second condition on its support for the high estimate, which is discussed further below.

As indicated in the response to CUB Data Request 9.13, the estimate adopted should be as accurate as possible in order to minimize the risk of overpayment and underpayment for both customers and ComEd. However, ComEd believes that it is no more reasonable that residential customers bear the risk of overpayment if the Commission should adopt CUB's proposal and overestimate the number of residential participants than it is for ComEd to bear the risk of under-recovery if the Commission underestimates the number of residential participants. The difference between CUB and ComEd's position in this respect is that while CUB, in making its proposal, was evidently willing to accept the inherent risk associated with its proposal on behalf of its constituents (residential consumers), ComEd, in supporting CUB's proposal, is not willing to accept an uncapped risk.

Q. CUB witness Mr. Thomas' second condition on CUB's support for the high estimate is that "IDR meters should be made available for RTP programs offered by alternative

suppliers." (CUB Ex. 2.0, 7:152-153). CES witness Mr. Hartwick suggests that CUB's proposal be made "competitively neutral between ComEd and RESs." (CES Ex. 7.0, 14:317-15:327). How does ComEd respond to this condition and suggestion?

A. It should first be noted that Mr. Hartwick's rebuttal testimony does not explain what was meant by the phrase "competitively neutral," while Mr. Thomas only suggests making IDR meters "available" for Retail Electric Suppliers ("RES") RTP programs. Thus, it is unclear whether CUB and the CES' suggestions are the same or whether CUB's proposal is truly more limited. At the very least, because IDR metering is made "available" to all customers under Rider ML, CUB's second condition, as written, is satisfied.

For purposes of this surrebuttal testimony, I interpret "competitively neutral" to mean that if a RES were to provide residential customers a real time, market-based energy pricing service analogous to ComEd's Rate BES-H, then such customers also should receive a waiver on the otherwise applicable metering and meter exchange charges and fees. If the Commission accepts CUB's proposal, ComEd would have no objections to making the CUB proposal "competitively neutral" under two conditions.

The first condition is (again) that ComEd's proposed cap must be approved. ComEd was unaware that RESs were interested in offering hourly energy rates to residential customers at the time it prepared the cost estimates in ComEd Ex. 23.1. Therefore, the additional resources that the RESs potentially would bring to the promotion of hourly energy pricing in the residential market were not factored into the estimates of the number of participating customers provided to ComEd by the CEC. (S*ee* ComEd Ex. 23.2). Moreover, in making this recommendation, the CES did not offer any estimates of the additional number of customers they would expect to enroll in such

services and offered no information concerning their marketing plans. There is no doubt that including RESs in CUB's proposal would place upward pressure on the number of participating customers. As a result, there is no evidence in the record to support any cost estimate that may be adopted by the Commission in approving CUB's proposal with both Rate BES-H and RES customers. Thus, such a lack of evidence increases and further supports ComEd's concerns regarding cost recovery and its potential liability, as discussed above, and underscores the appropriateness of instituting a cap.

Second, it must be recognized that ComEd is not privy to the specific contractual relationship between any RES and its customers. Therefore, in implementing a competitively neutral program, ComEd recommends that any RES seeking to provide residential customers real time pricing must (1) provide a sworn statement that all such customers are, in fact, on an hourly energy pricing program, where the hourly prices directly reflect PJM Interconnection, L.L.C. ("PJM") spot prices; (2) provide advance notice of when pricing in the customer's contract changes to something other than hourly energy pricing, so that the IDR metering can be exchanged as it would for a Rate BES-H customer; (3) agree to submit to a periodic audit conducted by Staff (for which ComEd will reimburse the Commission for its travel and business expenses) of its applicable customer contracts; and (4) assume financial responsibility for all charges and fees waived for such customer in the event it is determined that such customers are not or are no longer on a legitimate hourly energy pricing service from the RES. The primary purpose of the foregoing requirements is to ensure that a RES is complying with the spirit of this program to make residential real time pricing more widely available and not simply attempting to obtain hourly energy usage information for such customers at the

expense of other residential customers. Moreover, in light of the need for a cap on the number of customers for whom the otherwise applicable charges and fees would be waived, such measures would ensure that RESs are not inappropriately displacing residential customers that seek to participate in a Commission-approved hourly energy pricing program (Rate BES-H).

Q. CUB witness Mr. Thomas' third and final condition on CUB's support for the high estimate is that "the Commission should order ComEd to work closely with stakeholders in an effort to actively educate customers about the benefits of RTP programs." (CUB Ex. 2.0, 7:153-155). How do you respond?

A. As evidenced by its support for CUB's proposal, ComEd is willing to work with stakeholders in an effort to educate customers about RTP. But, to be clear, such education efforts must fairly present <u>both</u> the potential advantages and disadvantages associated with RTP programs. Indeed, RTP may not be the right choice of rate for all residential customers, as Mr. Thomas recognizes. (*See* CUB Ex. 2.0, 8:178-9:182). Thus, this CUB condition should be a non-issue.

Q. Staff witness Dr. Schlaf suggests that further research is needed on residential real-time pricing to determine that "enough system-wide benefits would be gained to justify the proposed cross-subsidy, even at the very small level proposed by ComEd in ComEd Ex. 23.1." (Staff Ex. 20, 6:144-7:147). How does ComEd respond?

A. As indicated in my rebuttal testimony, "ComEd believes that this is a matter worthy of the suspension (at least, temporarily) of traditional ratemaking practices in light of its potential and heretofore unrealized benefits for the market as a whole and the environment." (ComEd Ex. 23.0, 44:946-949) (emphasis added). To clarify this point

further, ComEd's support for the CUB's proposal to spread the incremental costs associated with those residential customers electing hourly energy pricing across the residential class is not unlimited. It is ComEd's position that at some point, residential hourly energy pricing must be able to stand on its own economic merits, and the intra-class subsidies should end. I offer this clarification now in order to dispel any notions or misconceptions that ComEd is seeking to institute this intra-class subsidy as a permanent fixture in its rate design, and to the extent Dr. Schlaf may have predicated his alternative proposal on such a belief.

Dr. Schlaf offers a reasonable and thoughtful proposal that also is worthy of consideration should the Commission share Dr. Schlaf's opinion that further research is needed before implementing a program like the one CUB proposes. In fact, Staff's proposal also would alleviate ComEd's concerns with respect to the current uncertainty surrounding the reasonable number of customers to expect to participate. Again, ComEd only would expect that if the Commission were to institute an experiment such as that proposed by Dr. Schlaf, that ComEd's revenue requirement be adjusted to recover the costs associated with the experiment. Of course, should the Commission desire to proceed with both CUB's proposal and Dr. Schlaf's experiment, ComEd's revenue requirement should be adjusted to recover the costs of both programs.

C. BASIC ELECTRIC SERVICE TARIFFS

1. Supply Administration Charges

Q. In his direct testimony, CES panel witness Mr. Domagalski suggested that (1) the Commission should instruct ComEd employees to track their time and expense with respect to a list activities he identified, and (2) ComEd should allocate all of these

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"indirect" supply related costs to supply customers through the SAC. (See CES Ex. 3.0, 22:529-25:578). Does the CES continue to make this recommendation in their rebuttal testimony?

A. No. CES panel witness Mr. Domagalski, now joined by CES panel witness Dr. O'Connor in his rebuttal testimony, appears to have discarded all of the "examples" on the CES's list of indirect costs, except for one – call center operations. But, instead of continuing its original call to track such costs, the CES now offers a far more arbitrary and equally unsubstantiated recommendation: "[A]llocate no less than one-fourth of call center costs to supply." (CES Ex. 5.0, 11:226-227). Furthermore, Dr. O'Connor and Mr. Domagalski support Staff witness Ms. Hathhorn's position with respect to the allocation of Procurement Case costs, which I have already addressed above and will not repeat here.

The CES also make certain recommendations concerning the functionalization of General and Intangible ("G&I") plant and Administrative and General ("A&G") expenses and Staff witness Mr. Lazare's testimony on these matters (*see Id.*, 8:170-176 and 9:183-186), which are addressed in the surrebuttal testimonies of ComEd witnesses Mr. Costello (ComEd Ex. 30.0) and Mr. Hill (ComEd Ex. 36.0).

Q. CES panel witnesses Messrs. O'Connor and Domagalski suggest that you "plead ignorance" in your rebuttal testimony as to what ComEd call center costs should be allocated to the SAC. ComEd should have provided a "good faith estimate of these costs to the Commission" and ComEd's "monopoly on its own operational data should not be allowed to let it maintain an ability to pass along costs related to competitive

supply as expenses related to the monopoly delivery operations." (CES Ex. 5.0, 9:188-10:207). How do you respond?

A. ComEd's position with respect the CES's proposal to track costs, which it has now abandoned, was clear and reasonable. I indicated in my rebuttal testimony that:

- ComEd offered a reasonable allocation of the direct supply-related costs to be recovered through the SAC (ComEd Ex. 10.7).
- Many of the costs in Mr. Domagalski's list of "indirect costs" were either already reflected in ComEd's allocation of direct costs to the SAC or not reflected in ComEd's revenue requirement in the first place.
- The "examples" of indirect costs were too vague to formally "track" without further clarification.
- A specific Commission determination would be required to determine the exact costs that should be "tracked".
- In light of some of the "examples" given, such as customer communications, ComEd would oppose the blind allocation of such cost "examples" to supply customers through the SAC.
- To the extent ComEd is required to "track" such costs, consistency would dictate that costs directly attributable to RESs and RES customers also be tracked, so that they may also be allocated to RESs and RES customers. (*See* ComEd Ex. 23.0, 49:1056-52:1110).

As a wires company, ComEd would submit that all customers are delivery service customers and that call center operations are a part of the same job – providing delivery service.

Thus, the CES's criticisms and attempt to portray ComEd as obstructionist because it did not proffer cost estimates for "examples" of indirect costs—which the CES has not been proven to be supply-related and which ComEd does not believe should be allocated to supply customers only – is extremely unfair and incorrect.

Q. How does ComEd respond to the CES proposal to "allocate no less than one-fourth of call center costs to supply?" (CES Ex. 5.0, 11:226-227).

A. The proposal is completely without merit or foundation and should be seen for the obvious attempt to create "headroom" that it is. That a percentage of such costs could be essentially pulled out of thin air and held out as being representative of a reasonable allocation is just wrong.

That the CES abandon their cost tracking proposal in favor of an arbitrary allocation of costs related to just one of the several "examples" given in Mr. Domagalski's direct testimony is telling. Also telling is the fact that the CES do not offer any acknowledgement of the inherent reasonableness of my suggestion that if ComEd is required to "track" such costs, consistency would dictate that costs directly attributable to RESs and RES customers also be tracked, so that they may be allocated to RESs and RES customers. Indeed, under its new proposal, the CES continues to ignore to its convenience the "indirect costs" that RESs or RES customers create and should be similarly held directly accountable for paying. (Of course, ComEd has not attempted to directly allocate these "indirect costs" or establish direct charges for essentially the same reason it objects to the CES's proposals: all customers are delivery customers and RES and RES customer business operations and support services are all a part of the same job

– providing delivery service.) This only confirms my assertion in rebuttal that the RESs are seeking to create "headroom" by artificially increasing the cost of BES rates.

Q. CES panel witnesses Messrs. O'Connor and Domagalski suggest that ComEd is "accus[ing]" the CES members of wanting to "make money," as if to suggest that it would be inappropriate for them to do so. (CES Ex. 5.0, 18:392-396). Is his assertion correct?

A. No. As an Integrated Distribution Company, ComEd is a passive provider of mandatory supply services and is not attempting to compete with RESs to obtain or retain customers. Therefore, ComEd wishes the respective members of the Coalition well in their endeavor to "provide customers with opportunities for greater savings on their energy bills…." (*Id.*, 18:397-398). Where ComEd disagrees with the CES is in their efforts to create switching "headroom" through arbitrary and unfounded cost allocations. Indeed, RESs should focus on creating value for customers, not rely on government fiat to create retail market and profit opportunities.

Q. What is your response to Staff witness Mr. Lazare's rebuttal testimony concerning how the SAC should be assessed?

A. As I clearly and unequivocally stated in my rebuttal testimony, the cost reflected in the SAC "are relatively fixed. They do not vary with the volume sold … or the number of customers served . . ." (ComEd Ex. 23.0, 49:1044-1046). I refuted Mr. Lazare's suggestion that such costs bear a closer relationship to usage than to number of customers (*Id.*, 48:1028-49:1041), as evidenced by his lack of response to my rebuttal testimony on this matter. As a result, Staff has not substantiated its proposal to allocate and assess these costs on <u>solely</u> a per kilowatt-hour basis. Nevertheless, Mr. Lazare attempts to

claim victory by making note of my acknowledgement (*see* Staff Ex. 17.0, 37:917-919), as if to suggest that this somehow supports his proposal to assess the SAC on a per kilowatt-hour basis.

The reality is that ComEd's proposal is the only one that recognizes that the allocation of these fixed costs, solely on either a per customer or a per kilowatt-hour basis, is not reasonable. ComEd's proposal is the only one that strikes a reasonable balance by acknowledging the significance of both factors in calculating the SAC: first, by allocating these costs to the Customer Supply Groups based on the respective kilowatt-hour usage of such groups; and second, by allocating these costs within such classes equally on a per customer basis. As a result, all ComEd supply customers are allocated a reasonable share of the costs that comprise the SAC, which is not the case under Mr. Lazare's proposal, where some classes could avoid incurring any of these costs altogether. (*See* ComEd Ex. 23.0, 49:1052-1055). Furthermore, his attempt to refute the appropriateness of assessing each customer a share of a fixed cost through a fixed charge rings hollow (*see* Staff Ex. 17.0, 37:921-925) because, as Staff is well aware, there are fixed costs recovered through fixed charges in ComEd's rate structure.

2. Uncollectibles Adjustment Factor

Q. Are there any issues remaining with respect to ComEd's allocation of uncollectibles?

A. No. The CES and ComEd would appear to be in agreement on this issue. (*See* CES Ex. 5.0, 13:270-274).

3. Rate BES-H – Basic Electric Service – Hourly Energy Pricing

Q. Has there been any response to your rebuttal testimony on this subject? (ComEd Ex. 23.0, 54:1157-55:1174).

A. No.

D. RIDER GCB7 – GOVERNMENTAL CONSOLIDATED BILLING 2007

Q. City witness Mr. Walter opines that the purpose of Section 16-125A and Rider GCB is to allow for Alliance members to realize cost savings through bill consolidation and that ComEd has changed the cost structure in Rider GCB7 in a manner that is inconsistent with "the benefit contemplated when the City and the other Alliance members negotiated as part of the deregulation legislation." (City Ex. 2.0, 9:151-171). How does ComEd respond?

A. Again, Mr. Walter cites to no authority, legal or other, to support his notion that Alliance members are entitled to a continuing rate discount. It should be noted that Mr. Walter also does not respond to the question I posed in my rebuttal testimony: If the Alliance members are to receive an arbitrary discount, which customers should be required to pay for such discount? (*See* ComEd Ex. 23.0, 58:1231-1234). Last, it should also be noted that the City does not assert that proposed Rider GCB7 is not cost based.

Q. Are there any further issues raised in the rebuttal testimony of Staff witness Hanson concerning Rider GCB7 that you would like to address?

A. No. Mr. Hanson's rebuttal testimony (Staff Ex. 18.0) offers no further commentary on this matter. The Commission's Order in the Procurement Case has apparently resolved Staff's issues with respect to Rider GCB7, as I suggested in my rebuttal testimony.

E. RIDER ECR – ENVIRONMENTAL COST RECOVERY ADJUSTMENT

Q. Please summarize the ComEd's surrebuttal testimony concerning Rider ECR.

A. Three ComEd witnesses are responding to the rebuttal testimony filed by Staff witness Ms. Ebrey, IIEC witness Mr. Gorman, and City witness Mr. Walter with respect to Rider ECR. The panel surrebuttal testimony of Messrs. Fernandes and McCauley (ComEd Ex. 44.0) discusses further the volatile and fluctuating nature of the incremental

environmental costs that ComEd proposes be recovered through Rider ECR. They also provide other information as to how ComEd incurs and manages such costs. Finally, Mr. Hill (ComEd Ex. 36.0) addresses issues directly relating to the revenue requirement.

I explain below why: (1) it is appropriate to recover both Manufactured Gas Plant ("MGP") and non-MGP incremental environmental costs through a rider; (2) this rate case is the right forum for the Commission to approve rider recovery; and (3) various arguments made by Staff and intervenors to disallow rider recovery for some or all of these costs should be rejected. In addition, I address some issues related to specific tariff language that were raised by Staff witness Ms. Ebrey. Overall, I conclude that rider recovery for the incremental environmental costs as described in the panel testimony of Allan Fernandes and Peter McCauley best meets the State's policy of acting to promote environmentally safe service and is consistent with Commission precedent. Proposed Rider ECR is fair and beneficial to both customers and ComEd because a cost-tracking rider would only require customers to reimburse ComEd for the actual costs incurred for remediation of environmental contamination, no more and no less.

Q. Are you aware whether the Commission has allowed other utilities to recover MGP costs through riders?

A. Yes. While I am not an expert on this issue, under my supervision and direction, I had a list of utilities prepared which have had riders approved under which they can recover MGP remediation costs.

- Alliant Energy (Interstate Power & Light Co.): Rider C (Gas) and Rider 18 (Electric)
- Ameren CILCO: Rider TAR

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- Ameren CIPS: Rider GEAC (Gas) and Rider EEAC (Electric)
- Ameren IP: Rider GEA (Gas) and Rider EEA (Electric)
- Ameren UE: Rider GEAC (Gas) and Rider EEAC (Electric)
- MidAmerican Energy Co.: Rider 10 (Gas) and Rider 14 (Electric)
- Nicor Gas Co.: Rider 12
- North Shore Gas Co.: Rider 11
- Peoples Gas Light & Coke Co.: Rider 11

I am not aware of any case in which a utility has been denied general permission to recover MGP costs through a rider. In light of these facts, it would seem inappropriate for the Commission to single out ComEd by denying it the right to recover these costs through a rider.

Q. IIEC witness Mr. Gorman suggests that rider recovery is inappropriate unless a failure to provide for such recovery would impair the utility's ability to earn its return on equity and that ComEd is free to file for a rate increase. (IIEC Ex. 7.0, 24:567-25:596). How do you respond?

A. I would first like to note that Mr. Gorman continues to support the fact that remediation expenditures will fluctuate significantly from year to year. (*See id.*, 25:580). However, the impact on a utility's ability to earn its authorized return has never to my knowledge been the standard for approving such riders. Furthermore, the inconsistency between his testimony in this proceeding and the Coal Tar Case (Docket Nos. 91-0080 through 91-0095) is again striking. In the Coal Tar Case, Mr. Gorman argued that remediation expenditures will fluctuate significantly from year to year, including a representative amount as a test year expenditure would in effect be asking the Commission to allow an

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expense that is not known and measurable. (*See* ComEd Ex. 23.0, 62:1320-1337). In addition, his suggestion that ComEd simply could file more rate cases is completely unreasonable and extremely inefficient. In essence, he is suggesting that the simple solution is for ComEd to expend millions of recoverable dollars to conduct more frequent rate case proceedings to address any shortfalls related to MGP costs. Clearly, the rider mechanism is the more reasonable and efficient approach to addressing such costs.

Q. Staff witness Ms. Ebrey and City witness Mr. Walter each argue that non-MGP costs should not be recovered through Rider ECR because the Commission's Order in the Coal Tar Case was limited to the recovery of MGP costs. Why is it appropriate to recover both the MGP and non-MGP incremental environmental costs through a rider?

A. While I am not an attorney, it is my understanding that the Commission approved the recovery of MGP remediation expenses through a rider specifically because they were legally mandated expenses that were volatile and fluctuating, unpredictable in amount, and beyond management control. (*See* ComEd Ex. 23.0, 60:1284-61:1300). As the rebuttal and surrebuttal panel testimonies of Messrs. Fernandes and McCauley make clear, this is true of both MGP and non-MGP expenses. Notably, no witness has claimed or shown that the non-MGP costs are not volatile, fluctuating and beyond the utility's control. Therefore, both the MGP and non-MGP expenses, as described in the panel rebuttal testimony, meet this standard. To the extent that these issues involve legal matters, they will be more fully addressed in briefs.

Q. City witness Mr. Walter suggests that it would be more appropriate to consider rider recovery of non-MGP costs through a separate proceeding, noting that such a rider

would "place a very large fraction of the utility's cost recovery beyond traditional Commission review." (City Ex. 2.0, 4:57-5:81). How do you respond?

A. This rate case proceeding is exactly the appropriate place to consider the implementation of such a rider mechanism. It should be noted the genesis of MGP riders was, in fact, utility rate cases. *See* Docket No. 90-0127, Order on Remand (June 8, 1994). *Also see* Docket No. 91-0010, Order (November 8, 1991). Moreover, it should be noted that Mr. Walter does not refute the fact that ComEd is incurring incremental environmental remediation costs and that those costs meet the standard for rider recovery.

Mr. Walter also ignores the fact that approval of the rider is not the same as approving the actual costs to be recovered through the rider. The annual Commission review of the costs incurred would actually lead to greater Commission scrutiny, not less. Therefore, the exact nature and purpose of such costs could also be more thoroughly considered on a case-by-case basis.

Mr. Walter acknowledges that a separate proceeding is not legally required. (City Ex. 2.0, 4:64-67). But, were ComEd to have filed the rider separately, it is my understanding that such a filing would likely have been attacked as forbidden "single-issue ratemaking"—an argument that has been used to challenge riders in the past. Therefore, while this case is the appropriate venue in which to consider ComEd's rider proposal, the Commission should make clear in its order in this proceeding that such legal challenges will not be allowed in the event it concludes that a separate proceeding is necessary.

Q. Both Staff witness Ms. Ebrey and IIEC witness Mr. Gorman suggest that non-MGP costs should not be recovered from delivery service customers because they are not

related to such services. (Staff Ex. 13.0, 31:645-649; IIEC Ex. 7.0, 28:647-660). How does ComEd respond?

A. As ComEd witnesses Messrs. Fernandes and McCauley indicate in their rebuttal testimony (ComEd Ex. 28.0), non-MGP remediation, like MGP remediation or paying taxes, is legally mandated and, therefore, is appropriately considered a general ComEd business obligation. It is appropriate to allow the recovery of environmental remediation costs. Such costs benefit all of a utility's customers because they are legally mandated and payment allows a utility to remain in business and to continue to provide service to its customers.

Ms. Ebrey and Mr. Gorman's characterization of these costs as "generation" or "non-generation" is an irrelevant distinction. The facts are: ComEd is incurring incremental environmental costs; these costs are legally mandated; they cannot be passed off to others; ComEd must comply with the law if it is to stay in business; and its staying in business benefits all of its customers – as all customers are "delivery service" customers.

It also should be noted that the Commission rejected virtually identical arguments in ComEd's last delivery service rate case, finding that environmental remediation expenses are "corporate expenses that should not be bypassed by any retail customer." Docket No. 01-0423, Order at 105 (March 28, 2002).

Q. City witness Mr. Walter questions why ComEd waited almost fourteen years after the Commission approved rider recovery to propose Rider ECR, suggesting that this delay suggests that costs are not as volatile or unpredictable as ComEd alleges. (City Ex. 2.0, 2:23-3:40). How does ComEd respond?

A. The inference that Mr. Walter draws is unfounded and ignores the history of the Coal Tar Case and the restrictions of the 1997 Restructuring Act. As indicated in response to Staff Data Request TEE 16.08, ComEd has been subject to a "rate freeze" since December 1997 or, stated differently, during roughly the last eight of the over thirteen (or almost fourteen) years since the Commission first entered its Order in the Coal Tar Case.

Moreover, ComEd has been subject to a "rate freeze" during the last eight of the over ten years since the Illinois Supreme Court affirmed the Commission's use of such riders and eliminated the "cost sharing" element that had been included in the Commission's 1992 Order. Thus, with the end of the mandatory transition period, ComEd now seeks to avail itself of the standing Commission policy regarding the use of riders for the recovery of manufactured gas plant site remediation costs, as well as other difficult to predict incremental environmental costs.

Q. Which of the changes that Staff witness Ms. Ebrey proposes to Rider ECR (ComEd Ex. 23.3) in Staff Exhibit 13.0, Attachment C is ComEd willing to accept?

A. The tariff language changes that ComEd is willing to accept, or accept in principle with language modifications, are set forth in ComEd Exhibit 40.2. ComEd's objections to certain language changes that Ms. Ebrey proposes and its bases for making modifications are set forth below by subject:

<u>Non-MGP Costs</u>: The bases for ComEd's objection to the changes made to exclude recovery of non-MGP costs and reimbursements are set forth above. Should the Commission disallow rider recovery of such costs, I offer alternative language for effectuating the necessary changes below.

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Land Acquisition Costs: Staff proposes to strike from the list of Incremental Costs that are recoverable under the rider the "acquisition costs of land purchased, leased, or otherwise" (Staff Ex. 13.0, Attachment C), citing as support a recent Commission Order in an Ameren UE reconciliation case. (*Id.*, 34:715-35:747). Although the tariffs of Ameren IP and Nicor Gas explicitly provide for rider recovery of land purchase costs, as I indicated in my rebuttal testimony (*see* ComEd Ex. 23.0, 66:1410-1414) and Ms. Ebrey acknowledges (Staff Ex. 13.0, 35:741-747), ComEd is willing to accept Staff's proposal with respect to land acquisition costs (with certain language modifications, as discussed below) solely in the interest of narrowing the issues on this matter. However, ComEd reserves the right to seek explicit tariff language permitting recovery of such costs at a later date and hopes to work with Staff to clarify and resolve this matter.

While Staff now offers some explanation for its proposal to not allow the recovery of land acquisition costs in its rebuttal testimony, it still offers no support in its surrebuttal testimony for excluding the cost of land leases. The Order quoted by Staff does not specifically address the cost of leased land. (*See* Staff Ex. 13.0, 35:721-739). Therefore, Staff's proposed language changes in this regard are overly broad and unsupported. As shown in ComEd Exhibit 40.2, ComEd seeks to retain explicit authority to recover such costs through Rider ECR.

Affiliated Vendors: ComEd accepts in principle Staff's proposal with respect to the recovery of costs billed by affiliated parties. However, as written, Staff's language could be construed as precluding recovery of costs performed by unaffiliated third parties for ComEd, but billed to ComEd through Exelon's Business Services Company ("BSC"). Therefore, as reflected in ComEd Exhibit 40.2, ComEd proposes modifications to Staff's

language that would enable ComEd to retain the purely administrative role that BSC plays in processing certain ComEd bills (*e.g.*, legal) and the administrative efficiencies associated therewith. To be clear, ComEd's proposed language would exclude from rider recovery "any amounts for work performed by affiliated parties that are billed to the Company," just as ComEd's internal payroll costs are to be excluded.

Insurance Recoveries**:** Ms. Ebrey proffers language that would call for the adjustment of the ECR in the event of an insurance recovery. Specifically, if an insurance recovery large enough to offset two full years of costs is received, then under Staff's proposal, the ECR (Environmental Cost Recovery Adjustment) would be set to "zero" (*i.e.*, 0 cents per kilowatt-hour) for the remainder of the year in which the award is received and remain at zero in subsequent years until such recovery is depleted. ComEd would also be required to pay interest on any unexpended amounts. (*See* Staff Ex. 13.0, 37:785-38:793). As indicated by my colleagues Messrs. Fernandes and McCauley, insurance recoveries have been exhausted. Therefore, Staff's proposal is moot and should be rejected.

Reconciliation Cycle: ComEd (again) objects to Staff's proposed changes to the reconciliation cycle. Staff's notion that ComEd is somehow seeking "preferential treatment" because other utilities chose to follow a calendar year reconciliation cycle (Staff Ex. 13.0, 36:753-763) is unfounded. Indeed, ComEd is simply proposing an innovative processes that would help it to reduce the need to increase staffing—which is the main purpose of ComEd's proposal. (*See* ComEd Ex. 23.0, 68:1457-1462). Furthermore, it should be noted that Staff has not responded to my rebuttal testimony or asserted that the quality of the data available on September 30 would in any way be inferior to the data available on December 31. (*See Id.*, 68:1466-69:1471).

Reconciliation Process: Because "[t]he Commission historically initiates the annual reviews of the coal tar reconciliations," as Ms. Ebrey acknowledges (Staff Ex. 13.0, 39:815-816), there is no need to include a provision for ComEd to initiate such proceeding. Therefore, to insure finality to the reconciliation, ComEd has retained the language in ComEd Exhibit 23.3 that would provide the Commission 6 months to initiate such a proceeding. (*See* ComEd Ex. 23.0, 68:1446-1456).

Q. Should the Commission reject non-MGP cost recovery via a cost-tracking rider, what would be ComEd's proposal with respect to Rider ECR?

A. In the event the Commission does not approve the use of a cost-tracking rider for the recovery of non-MGP costs, ComEd would propose the Commission approve the recovery of non-MGP costs through base rates. Specifically, in that event, ComEd would propose that the Commission (1) allow a representative amount for such costs to be included in the revenue requirement, as discussed further in the surrebuttal testimony of ComEd witness Hill and (2) approve the following changes to the following sentence that appears in the second paragraph under the Overview section of Rider ECR:

> Environmental Activities **~~include, but~~** are **~~not~~** limited to**~~,~~** such activities conducted or implemented to address contamination at, or associated with, former manufactured gas plant (MGP) sites.

The changes proffered by Staff greatly exceed what is necessary to narrow the scope of the rider to only MGP cost recovery.

Q. Is there anything in your rebuttal and direct testimony that you would care to clarify?

A. Yes. While I am not an attorney, it is my understanding that ComEd is not relying on Section 9-220.1 of the Public Utilities Act (220 ILCS 5/9-220.1) as the basis for Commission approval of proposed Rider ECR. In my corrected direct testimony, a second erroneous reference to Section 9-220.1 was inadvertently left uncorrected. My

apologies to Mr. Walter, Mr. Gorman and Ms. Ebrey for any confusion or additional work this oversight may have created and for having suggested in my rebuttal that their references to my corrected direct testimony were erroneous.

F. RIDER SBO7 – SINGLE BILL OPTION 2007

Q. CES panel witnesses Messrs. O'Connor and Domagalski suggest that ComEd provide the changes to Rider SBO7 that ComEd agreed to make through your rebuttal testimony to "ensure that there is no lingering uncertainty or lack of clarity" regarding the agreed-upon revisions. (CES Ex. 5.0, 6:112-116). Does ComEd offer the agreed to revisions?

A. Yes. The changes are attached to the surrebuttal testimony of ComEd panel witnesses Messrs. Alongi and McInerney.

G. RIDER POG - PARALLEL OPERATION OF RETAIL CUSTOMER GENERATING FACILITIES

Q. What was Staff witness Mr. Linkenback's response to your rebuttal testimony on the matter of Rider POG?

A. In my rebuttal testimony, I provided an overview of ComEd's position regarding the legal issues Mr. Linkenback raised in his direct testimony with respect to Rider POG and the requirements of 83 Illinois Administrative Code Part 430 ("Part 430"), which ComEd will offer in its briefs, if necessary. (*See* ComEd Ex. 23.0, 70:1510-73:1579). However, it is unclear from Mr. Linkenback's testimony whether the discussion I provided was sufficient to address Staff's concerns on this legal matter, as there is no further mention of the legal issues he raised in his rebuttal testimony. Rather, his rebuttal testimony seems to raise new policy-related arguments for a fixed avoided energy cost rate, as discussed further below.

Moreover, Mr. Linkenback does not refute the problems that I identified with respect to his proposal to delay consideration of Rider POG. (*See* ComEd Ex. 23.0, 73:1562-1579). Rather he continues to insist that ComEd's existing Rider 4 does not need to be considered in the instant proceeding. (*See* Staff Ex. 19.0, 5:97-102).

Q. What is Staff witness Mr. Linkenback's position with respect to the use of hourly spot market prices from the PJM to determine ComEd's avoided energy costs and payments under Rider POG?

A. The answer to this question would seem to depend on whether one reads his direct testimony or rebuttal testimony. In direct testimony, Mr. Linkenback stated that "in general, it does appear that the method to determine the avoided cost values described in the proposed Rider POG is reasonable." (Staff Ex 8.0, 11:253-254). (Also see Staff Ex. 8.0, 7:145-146). However, in his rebuttal testimony, Mr. Linkenback states that an annual fixed avoided energy cost rate is needed "[i]f the Commission wants to continue to promote small power producer production in Illinois . . ." (Staff Ex. 19.0, 4:79-81).

Q. Is an annual fixed avoided energy cost rate under Rider POG needed to promote small power production in Illinois?

A. No. The simple answer is that the avoided energy cost rates that ComEd and other Illinois utilities must offer under a combination of state and federal laws and regulations is not the only means for the Commission to promote renewable generating resources,[3] as Mr. Linkenback seems to suggest. There are other, more effective means of doing so. In

[3] Only Qualifying Facilities ("QFs") are eligible for Rider 4 or its proposed successor, Rider POG. Therefore, I must interpret Mr. Linkenback's phrase "small power producer production" as really referring to the promotion of QFs and/or renewable generating technologies.

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fact, with respect to generating facilities, like QFs, that employ renewable energy technologies, it should be noted that the Commission has already initiated a concerted effort to promote the use of renewable energy in Illinois. The Commission's Order in ComEd's Procurement Case required the initiation of a rulemaking proceeding concerning the procurement of energy from renewable resources, wherein the appropriate means of promoting renewable generation obviously will be considered in great detail.[4] Thus, there is absolutely no reason, legal or policy-oriented, to postpone the implementation of Rider POG as proposed by ComEd in this proceeding. Should any rules promulgated by the Commission subsequent to these proceedings or actions taken pursuant to such rules ultimately require modifications to be made to Rider POG, such revisions should be considered at that time.

Q. Does Mr. Linkenback assert that Rider POG would not reflect ComEd's true avoided energy costs, as required under Part 430?

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[4] Specifically, the Commission's Order (at page 246) in Docket No. 05-0159 states:

> The Commission hereby takes Administrative Notice of the Resolution that we adopted on July 19, 2005 which affirmed the State of Illinois' commitment to a Sustainable Energy Plan. The plan, as adopted, sets for goals for procuring a certain amount of power from renewable resources and for achieving reductions in load growth. We believe that the record in this docket indicates that the auction process approved herein will be sufficiently flexible to incorporate renewable and alternative energy resources to the State of Illinois and lends itself to the development of demand response/energy efficiency programs. To prepare ourselves for the eventual filings encompassing aspects of the Resolution, we deem it prudent to initiate rulemakings to develop the rules that will be necessary for the implementation of those plans. To that end, we direct Staff to present initiating orders to the Commission, initiating three rulemakings using the Sustainable Energy Plan resolution as a basis. One rulemaking will develop rules concerning demand response programs. The second rulemaking will develop rules concerning energy efficiency. The third rulemaking will develop rules concerning renewable energy. The rules developed will provide guidelines for implementing demand response and energy efficiency programs, as well as guidelines for incorporating renewable energy resources into the generation portfolio.

A. No. In fact, it cannot be asserted that PJM hourly spot market prices are not representative of ComEd's actual avoided energy costs.

Q. Can you explain why PJM hourly spot market prices are representative of ComEd's actual avoided energy costs?

A. While I am not an expert in PJM matters, I can explain why this is the case in layman's terms. First, it is important to recognize that in PJM, QFs fall into two categories: those that have a large enough generation capacity (generally ten MW or greater) to be recognized as generation sources on the PJM grid for reliability purposes, and those that are not large enough to be recognized on the PJM grid. Those that are large enough to be recognized have their output metered and specifically accounted for by PJM. Meanwhile, the output of those that are not large enough essentially appears as a reduction to the load of the utility or Load Serving Entity purchasing such energy. In other words, in terms of how PJM accounts for generation, QFs large enough to be recognized by PJM do not displace ComEd load, while those that are not large enough do.

In fact, per the terms of the CPP-H Supplier Forward Contract approved by the Commission in the Procurement Case (Docket No. 05-0519), those QFs not large enough to be recognized by PJM will be displacing energy that would otherwise be purchased from CPP-H Auction suppliers, offsetting the amounts of energy purchased from such suppliers at the zonal Locational Marginal Price ("LMP"). The rationale behind this aspect of ComEd's proposal in the Procurement Case was to utilize the energy purchased from QFs in a manner that would avoid the creation of additional load uncertainty and risk for the fixed-price auction suppliers (*i.e.*, suppliers to the CPP-A and CPP-B Auction segments), which could in turn translate into higher final auction prices for such auction

segments. Thus, the avoided energy cost for such customers is the zonal LMP because the energy purchases their output will displace are priced at the zonal LMP.

With respect to those QFs large enough to be recognized by PJM, the fact that the output of large QFs do not technically displace ComEd load under PJM rules creates an interesting wrinkle to the concept of avoided cost pricing. ComEd's solution for its standard offer buy-back rate is to act as a middleman for those QFs electing to sell their output to ComEd under Rider POG during the post-transition period by essentially accepting PJM payments at the applicable nodal LMP and related PJM charges on behalf of the QFs and passing them through to them, respectively. The effect of this solution would essentially be the same if ComEd were to have used this output to offset purchases from CPP-H Auction suppliers – a PJM spot market-based avoided energy cost rate. However, this solution more efficiently addresses any disparities that might arise between the zonal LMPs that ComEd will pay CPP-H Auction suppliers and nodal LMPs that will be applied to their output by PJM—and complicated ratemaking questions concerning who should bear the burden or incur the benefit associated with any disparities, otherwise known as "congestion"—by simply employing the applicable nodal LMPs for these customers. Moreover, it should also be noted that while these QFs are free to sell their power directly to PJM,[5] Rider POG offers them the opportunity to avoid the expense of managing PJM accounts, which ComEd already has in place.

[5] In fact, the U.S. Congress, in passing the Energy Policy Act of 2005, and the FERC, in its initiating Order establishing the NOPR to implement Section 210 (m) of this Act (RM06-10-000) have found that the obligation to purchase from QFs could be removed from utilities located in independently administered, auction-based day-ahead and real-time wholesale markets, such as PJM. This rulemaking continues at FERC.

Thus, as a result of the decisions made by the Commission as a part of the Procurement Case, ComEd's avoided energy costs are the PJM spot market prices.

Q. Does an hourly spot market based purchase rate send the appropriate price signals to QFs?

A. Yes. Spot market prices would create a clear incentive for QFs to manage their planned outage schedules and produce at times when there is a scarcity of supply – that is, when prices are high. In a market environment, this is the price signal that should be sent to generators, generally speaking. While a fixed annual purchase rate, with seasonal and/or time-of-day differentiation, would also tend to send the appropriate price signals, these signals would be greatly muted by the averaging that normally occurs in such calculations. From a policy perspective, the Commission should give QFs the maximum incentive to actually be on the system and generating at the times of highest market prices. Using the PJM spot prices provides this maximum incentive. In addition, in ComEd's Procurement Case, the Commission has already determined that the appropriate price that ComEd should offer to retail customers that utilize self-generation is an hourly price based on the PJM spot price. There is no reason that small generators taking service under Rider POG should receive any different price signal than that which the Commission has already determined to be appropriate for self-generating customers.

Q. What would be the impact of the creation of fixed annual purchase rates, as Staff witness Mr. Linkenback proposes?

A. In essence, Mr. Linkenback's recommendation would have the effect of unraveling the intricate decisions made as part of the Procurement Case and jeopardizing ComEd's full cost recovery. The notion underlying Mr. Linkenback's recommendation is that ComEd

or Staff could accurately predict ComEd's avoided energy costs—PJM spot market prices—in order to create a fixed annual QF purchase rate is unreasonable. Thus, his proposal to hold out for such a rate is unreasonable. Finally, as I mentioned above, it is good public policy to provide QFs with the incentives that the PJM spot prices provide.

H. RIDER CLR7 – CAPACITY-BASED LOAD RESPONSE & SYSTEM RELIABILITY PROGRAM 2007 AND RIDER VLR7 – VOLUNTARY LOAD RESPONSE AND SYSTEM RELIABILITY PROGRAM 2007

Q. Does ComEd have any revisions to offer to proposed Rider CLR7? (ComEd Ex. 10.1).

A. Yes. My colleagues Messrs. Alongi and McInerney sponsor revisions to the Compensation section of Rider CLR7 in their surrebuttal testimony.

Q. What is the purpose of these changes?

A. Through IAWA Data Request 1.02, the IAWA brought to ComEd's attention the possibility that the Compensation section could be erroneously construed as providing payments to participating customers only if an "event" is called (*i.e.*, if the CLR Program is activated and a reduction in load is required). As indicated in my rebuttal testimony (ComEd Ex. 23.0), it was not and is not ComEd's intention to pay customers only if an event is called. (However, to clarify further, if an event is called and the customer is in noncompliance, the customer would be responsible for the penalties or other economic consequences that stem from such event.) Therefore, ComEd proposes that the Compensation section of proposed Rider CLR7 (namely ILL.C.C. No. 4, Original Sheet No. 433) be revised to more clearly comport with ComEd's proposal in the instant proceeding and the manner in which customers are compensated today under Rider CLR today (*see* ILL.C.C. No. 4, Original Sheet No. 243).

Q. Why is it <u>not</u> ComEd's intention to pay customers enrolled in Rider CLR7 only if an event is called?

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A. Rider CLR7, like its predecessor Rider CLR, is designed to directly pass through the market value of firm demand response (*i.e.*, capacity) to participating customers. Because ComEd will be procuring full-requirements electric supply through the auction process approved in the Procurement Case, ComEd has no direct need for such capacity. However, ComEd will "cash-in" this capacity for participating customers by essentially selling the credits received under PJM's Active Load Management program to the CPP-H Auction suppliers at the same Capacity Auction Values set forth in the contracts with Rider CLR7 customers. (*See generally* Docket No. 05-0159, ComEd Exs. 9.0 and 9.3). The credits ComEd receives on its bills from these suppliers will be used to fund the payments made pursuant to Rider CLR7 on a dollar-for-dollar basis. Such bill credits are not dependent on an event being called. Therefore, it is appropriate to pass through to customers the entire compensation ComEd receives from suppliers regardless of whether or not an event is called.

However, if an event is called and a participating customer does not comply, penalties or other economic consequences will be assessed to ComEd. ComEd, in turn, will charge such penalties or other economic consequences directly to the non-complying customer, which may offset either partially or in full, the credits earned by such customer.

Q. Are there any other changes to Rider CLR7 that ComEd is offering?

A. Yes. There are two changes. First, with respect to customers taking service under existing Riders 26, 27, 30 and 32 through 2006, there would appear to be a 5-month period, January 2, 2007 through May 31, 2007, during which time the customers that were previously enrolled in these riders will have firm demand response to offer, but no

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tariff under which to offer it. This is due to the fact that, as proposed (*see* ComEd Ex. 10.1), Rider CLR7 would take effect January 2, 2007; however, the first agreement under which such customers could be compensated would be for the June 1, 2007, through May 31, 2008, PJM planning period. To fill this five-month gap, ComEd proposes to revise Rider CLR7 in order to allow for agreements to be entered for the five-month "stub" period and provide these customers with an opportunity to be compensated for their ability to firmly curtail demand. While we recognize that this change does not resolve the general concerns Mr. Menninga expressed regarding the phase-out of these antiquated tariffs (*see* IAWA Ex. 1.0, 9:166-10:191), ComEd offers this additional tariff option to help ease the transition for these customers.

The second, an additional minor issue concerns Rider CLR customers. In beginning to implement the auction process pursuant to the Commission's Order in the Procurement Case and further reviewing ComEd's proposal to replace Rider CLR with Rider CLR7 effective January 2, 2007, ComEd discovered that it had not provided for the appropriate transfer of the customers enrolled in Rider CLR through 2006 to its successor, Rider CLR7, for the remainder of the 2006-2007 PJM planning period (*i.e.*, the five-month stub period). This is largely the resolution of a technicality stemming from the creation of the new rate book and will not impact the compensation to such customers.

Again, my colleagues Messrs. Alongi and McInerney sponsor the appropriate revisions to the Program Provisions section of Rider CLR7 in their surrebuttal testimony.

Q. Are there any aspects of IAWA witness Mr. Menninga's rebuttal testimony that you would like to address?

A. Yes. Mr. Menninga notes that the exclusive use of PJM market-based pricing for demand response will materially alter the economics of equipment investments and create a "speculative component of planning for future improvements." (IAWA Ex. 2.0, 5:87–94). While the aforementioned clarification and revisions to Rider CLR7 are the most ComEd has to offer at this time, it should be noted that PJM is evaluating changes in how firm demand response (capacity) is priced and is looking to create long-term price signals for customers. As PJM policies in the area of demand response continue to evolve, ComEd's demand response tariffs and programs will also evolve.

I. RIDER AC7 – RESIDENTIAL AIR CONDITIONER LOAD CYCLING PROGRAM 2007

Q. Are there any other changes to Rider AC7 that ComEd would like to make at this time?

A. Yes. In beginning to implement the auction process pursuant to the Commission's Order in the Procurement Case, and further reviewing ComEd's proposal to replace Rider AC with Rider AC7 effective January 2, 2007, ComEd discovered that it had not provided for the appropriate transfer of the customers enrolled in Rider AC through 2006 to its successor, Rider AC7. This is largely the resolution of a technicality stemming from the creation of the new rate book and will not impact the compensation to such customers. My colleagues Messrs. Alongi and McInerney sponsor the appropriate revisions to the Program Provisions section of Rider AC7 in their surrebuttal testimony

J. RIDER ZSS7 – ZERO STANDARD SERVICE 2007

Q. Has there been any response to your rebuttal testimony on this subject? (ComEd Ex. 23, 76:1641-77:1670).

A. No.

CORRECTED

K. OTHER MATTERS

1. General Account Agents

Q. Has any support been entered for ComEd's recommendation that the issues raised by the CES regarding General Account Agents ("GAA") be considered in a "separate statewide workshop process involving all Illinois electric utilities, Staff and particularly consumer advocates . . ."? (ComEd Ex. 23.0, 80:1726-1729).

A. Yes. Staff witness Dr. Schlaf has entered Staff's support for ComEd's recommendation. (*See* Staff Ex. 20.0, 12:263-13:287).

Q. How does ComEd respond to the list of conditions that CES panel witnesses Messrs. O'Connor and Domagalski and Mr. Clark and Ms. Witt impose on the CES's willingness to address GAA in a workshop? (CES Ex. 5.0, 20:442-21:464; CES Ex. 6.0, 7:162-8:185).

A. I begin by noting that is not clear from its rebuttal testimony whether the CES is contemplating workshops involving only RESs and ComEd or statewide workshops. Therefore, I will reiterate that in light of the nature of the issues raised by the CES, ComEd is suggesting statewide workshops, including participation by other Illinois utilities, governmental and consumer advocates, agents, Staff and, of course, RESs. ComEd will be an active participant in whatever process that the Commission may determine is appropriate in its final order in this proceeding.

With respect to the first condition the CES seeks to impose, ComEd would be willing to host some of the workshop meetings, along with the members of the CES. However, actual leadership of the workshops is an issue best left to the Commission, who may prefer to have Staff lead the workshops rather than one of the utilities. With respect

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to its second condition, the April 1, 2006 commencement date is unrealistic. The Commission will not even have entered an order in this proceeding until late July.

With respect to its third condition concerning the "timely" conclusion of such workshops, it should be noted that ComEd simply cannot commit to implement consensus items by the expiration of the mandatory transition period. ComEd's inability to make such a commitment stems in large part from the facts that (1) ComEd is in the midst of preparing for the post-transition period and its professionals are fully absorbed in that endeavor and (2) ComEd does not know in advance the amount of time that will be required to obtain consensus on any item or what that consensus item may contain and, therefore, does not know how much time it would take to implement such changes to its business systems and/or tariffs.

Last, ComEd objects the CES's forth condition, which would require ComEd to file a report in this docket summarizing the consensus and non-consensus items, subject to confirmation from the participating RESs. As in the Post-2006 Workshops, such a report should either be a joint effort in which all parties' opinions are reflected in one document or it should be prepared by Staff, in order to address any concerns regarding potential bias.

2. Utility Consolidated Billing and Purchase of Receivables

Q. Have the parties expressed any opinions concerning ComEd's legal obligation to implement an optional Utility Consolidated Billing ("UCB") with a Purchase of Receivables ("POR") program as part of the instant proceeding?

A. Yes. Staff witness Dr. Schlaf expressed Staff's opinion that UCB with POR would represent a new service that the Commission cannot compel ComEd to offer. CES witness Mr. Hartwick acknowledges that the CES "has not ever stated that ComEd has a

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legal obligation to implement a POR/UCB program" and "is merely recommending that ComEd adopt this proposal . . ." (CES Ex. 7.0, 4:89-5:94). CUB witness Mr. Thomas, on the other hand, simply suggests that the Commission should adopt the CES's recommendation. (CUB Ex. 2.0, 16:372-374).

Q. Do any of the parties acknowledge the need to establish the appropriate rules before a UCB with POR is ever implemented?

A. Yes. Staff witness Dr. Schlaf, CUB witness Mr. Thomas and even CES witness Mr. Hartwick acknowledge the need to establish the appropriate rules before initiating such a program. (*See* Staff Ex. 20.0, 11:254-257; CUB Ex. 2.0, 16:375-377; and CES Ex. 7.0, 8:173-9:186).

Q. CES witness Mr. Hartwick claims that "ComEd's assertion that it lacks information on UCB and POR strains credibility . . ." (CES Ex. 7.0, 9:192-193). How does ComEd respond?

A. Mr. Hartwick mischaracterizes my testimony on this matter. As I indicated in my rebuttal testimony, even if ComEd were amenable to offering such new service, there is insufficient information (*i.e.*, record evidence) provided by the RESs concerning the appropriate terms and conditions of such service to actually implement a tariff as part of the instant proceeding. As indicated above, the parties all agree that the appropriate rules must be set before such service is ever offered. Indeed, Mr. Hartwick even offers to work with ComEd to develop the terms and conditions of such service. (*Id*., 9:194-202).

Q. CES witness Mr. Hartwick suggests that you wrongly imply that ComEd would bear the costs associated with this program because the CES "clearly proposed that RESs should bear the costs of the program." (CES Ex. 7.0, 5:101-103). How do you respond?

A. Unless Mr. Hartwick is suggesting that the RESs would be willing to commit to pay for all costs incurred by ComEd to implement such a program, regardless of whether or not they actually take such a service, then as an optional service, ComEd most certainly would stand to under-recover such costs. I do not believe that the CES is making such a commitment. Moreover, Dr. Schlaf also expressed concerns regarding the potential cost of ComEd's modifying its billing systems to implement this optional service. (Staff Ex. 20.0, 11:247-248).

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Q. Does that conclude your surrebuttal testimony?

A. Yes.