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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF: )  
 )  
Commonwealth Edison Company, )  
 ) No. 05-0597  
Proposed general increase in )  
rates for delivery service )  
(tariffs filed on August 31, )  
2005.). )

Chicago, Illinois  
March 27th, 2006

Met pursuant to notice at 9:00 a.m.

BEFORE:  
MR. GLENNON DOLAN and MS. KATINA HALOULOS,  
Administrative Law Judges.

APPEARANCES:

MS. ANASTASIA POLEK-O'BRIEN  
MR. DARRYL BRADFORD  
10 South Dearborn Street, Suite 3500  
Chicago, Illinois 60603  
appearing for Com Ed;

MR. ROBERT KELTER  
MS. JULIE SODERNA  
MR. MELVILLE SODERNA  
208 South LaSalle Street, Suite 1760  
Chicago, Illinois 60604  
appearing for CUB;

FOLEY & LARDNER  
MR. E. GLENN RIPPIE  
MR. JOHN RATNASWAMY  
MS. CYNTHIA FONNER  
321 North Clark Street, Suite 2800  
Chicago, Illinois 60610  
appearing for Com Ed;

1 APPEARANCES (Cont'd):

2 MR. ALLAN GOLDENBERG  
MS. MARIE SPICUZZA  
3 Assistant State's Attorney  
69 West Washington, Suite 3130  
4 Chicago, Illinois 60602  
appearing for Cook County State's  
5 Attorney's Office;

6 GIORDANO and NEELAND  
MR. PATRICK GIORDANO  
7 MR. PAUL NEELAND  
MS. CHRISTINA PUSEMP  
8 360 North Michigan Avenue  
Chicago, Illinois 60601  
9 appearing for Building Owners and  
Managers Association of Chicago;

10 MS. CARLA SCARSELLA  
11 MR. JOHN FEELEY  
MR. CARMEN FOSCO  
12 MR. SEAN BRADY  
160 North LaSalle Street, Suite C-800  
13 Chicago, Illinois 60601  
appearing for Staff;

14 DLA PIPER RUDNICK GRAY CARY US LLP  
15 MR. CHRISTOPHER J. TOWNSEND  
MR. WILLIAM A. BORDERS  
16 203 North LaSalle Street, Suite 1900  
Chicago, Illinois 60601  
17 appearing for Coalition of Energy  
Suppliers;

18 LEUDERS, ROBERTSON & KONZEN  
19 MR. ERIC ROBERTSON  
PO Box 735  
20 Granite City, Illinois 62040  
appearing for IIEC;

21

22

1 APPERANCES (Cont'd):

2

MR. CONRAD E. REDDICK  
1015 Crest Street  
Wheaton, Illinois 60187  
appearing for IIEC;

5

SONNENSCHNEIN, NATH and ROSENTHAL  
MR. JOHN ROONEY  
MR. MICHAEL GUERRA  
233 South Wacker Drive, Suite 7800  
Chicago, Illinois 60606  
appearing for Com Ed;

8

MR. RICHARD C. BALOUGH  
53 West Jackson Boulevard, Suite 956  
Chicago, Illinois  
appearing for CTA;

10

11

MR. RONALD JOLLY  
MR. J. MARK POWELL  
30 North LaSalle Street, Suite 900  
Chicago, Illinois 60602  
appearing for the City of Chicago;

12

13

14

MR. MARK KAMINSKI  
MR. RISHI GARG  
100 West Randolph Street  
Chicago, Illinois 60601  
appearing for People of the State of  
Illinois;

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17

18

19 SULLIVAN REPORTING COMPANY, by  
Barbara A. Perkovich, CSR  
20 Carla Camiliere, CSR  
Steven Stefanik

21

22

1	<u>I N D E X</u>				
2	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
3	WITNESSES:				
4	JOHN LANDON	1476	1478	1504	
5	JAY BROOKOVER & CHRISTOPHER CHILDRESS	1505	1508	1528	1535
6	ALAN C. HEINTZ	1538	1541		
7			1547		
8			1552		
9	THOMAS GRIFFIN	1564	1567		
10			1574		1631
11					1633
12	GREG ROCKROHR				
13		1638	1644	1645	
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1	<u>E X H I B I T S</u>		
2	<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
3			
4	COMED		
5	#2.0, 15.0 & 32.0		1478
6	#8	1515	1528
7	#9	1517	1528
8	BOMA		
9	#1.0, 1.1, 1.2, 1.3, 1.4		1537
10	(Rubural exhibits)		
	#3.1 & 3.2		1537
11	COMED		
12	#11.0, 11.1, 11.2, 25.0		1541
	25.1, 42.0 & 42.1		1541
13	STAFF		
	#3 & 14		1566
14	IIEC CROSS		
	#1		1569
15	AG		
	#1, 3.0-R		1572
16	#1.2		1573
	ICC STAFF		
17	#11.0		1637
18			
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1 JUDGE DOLAN: By the direction and authority of  
2 the Illinois Commerce Commission, I call Docket  
3 No. 05-0597, Commonwealth Edison Company proposed  
4 general increases in electric rates, general  
5 restructuring of rates, price unbundling of bundled  
6 service rates and revisions of other terms and  
7 conditions of service to order.

8 Will the parties please identify  
9 themselves for the record.

10 MS. POLEK-O'BRIEN: Darryl M. Bradford, Anastasia  
11 Polek-O'Brien for Commonwealth Edison Company.  
12 Dale E. Thomas of the law firm of Sidley and Austin  
13 also for Commonwealth Edison Company. Michael  
14 Guerra and John Rooney of Sonnenschein, Nath and  
15 Rosenthal and E. Glenn Rippie and Cynthia Fonner of  
16 the law firm of Foley and Lardner.

17 MR. BRADY: Appearing on behalf of the staff of  
18 the Illinois Commerce Commission, John Feeley,  
19 Carmen Fosco, Carla Scarsella and Sean Brady, 160  
20 North LaSalle Street, Suite C-800 Chicago, Illinois  
21 60601.

22 MS. POLEK-O'BRIEN: I neglected to mention John

1 Ratnaswamy of the firm of Foley and Lardner.

2 MR. GIORDANO: For BOMA, the law firm of Giordano  
3 and Neeland, Patrick Giordano, Christina Pusemp and  
4 Paul Neeland.

5 MS. SODERNA: On behalf of the Citizens Utility  
6 Board, Julie Soderna, Melville Nickerson and Rob  
7 Kelter, 208 South LaSalle, Suite 1760, Chicago,  
8 Illinois 60604.

9 MR. JOLLY: On behalf of the City of Chicago,  
10 Ronald Jolly and J. Mark Powell, 30 North LaSalle,  
11 Suite 900, Chicago, Illinois 60602.

12 MR. GOLDENBERG: On behalf of the Cook County  
13 State's Attorney's Office, Alan Goldenberg  
14 Assistant States Attorney, 69 West Washington,  
15 Suite 3130, Chicago, Illinois 60602.

16 MR. GARG: From the office of the Illinois  
17 Attorney General, Rishi Garg and Mark Kaminski, 100  
18 West Randolph, Floor 11 Chicago, Illinois 60601 on  
19 behalf of the People of the State of Illinois.

20 MR. BORDERS: On behalf the Coalition of Energy  
21 Suppliers, William Borders, Christopher Townsend,  
22 DLA Piper Rudnick, Gray Cary, 203 North Lasalle,

1 Chicago, Illinois 60601..

2 MR. BALOUGH: On behalf of the CTA, Richard  
3 Balough, 53 West Jackson Boulevard, Suite 956,  
4 Chicago, Illinois.

5 JUDGE DOLAN: Let the record reflect no other  
6 appearances at this point.

7 MR. ROBERTSON: Sorry, your Honor. Eric Robertson  
8 and Conrad Reddick. Eric Robertson with the firm of  
9 Leuders, Robertson and Konzen on behalf of the  
10 Illinois Industrial Energy Consumers.

11 JUDGE DOLAN: Now, let the record reflect that  
12 there are no other appearances.

13 All right, Mr. Thomas, are we ready with  
14 our first witness?

15 MR. THOMAS: We are. My name is Dale Thomas,  
16 Sidley and Austin and I will be representing  
17 Commonwealth Edison and the witness I'll be  
18 presenting is Mr. John Landon.

19 (Witness sworn.)

20 JUDGE DOLAN: Thank you, proceed.

21

22

1                                 JOHN LANDON,  
2 called as a witness herein, having been first duly  
3 sworn, was examined and testified as follows:

4                                 DIRECT EXAMINATION

5                                 BY

6                                 MR. THOMAS:

7             **Q.**     Mr. Landon, would you please state your  
8 full name for the record?

9             **A.**     John, middle initial H, Landon,  
10 L-a-n-d-o-n.

11            **Q.**     With whom are you associated?

12            **A.**     Analysis Group.

13            **Q.**     What is your position there?

14            **A.**     I'm a senior advisor.

15            **Q.**     Mr. Landon, have you filed direct, rebuttal  
16 and surrebuttal testimony in this case?

17            **A.**     I have.

18            **Q.**     And are those pieces of testimony marked  
19 respectively, Com Ed Exhibit 2, Com Ed Exhibit 15  
20 and Com Ed Exhibit 32?

21            **A.**     They are.

22            **Q.**     And do they consistent, each, of questions

1 and answers and in some instances attachments?

2 A. That's correct.

3 Q. And if I were to ask you the questions and  
4 answers in these pieces of testimony, would the  
5 answers be the same?

6 A. Yes, they would.

7 Q. And are those answers true and correct to  
8 the best of your knowledge and belief?

9 A. They are.

10 MR. THOMAS: Your Honors, there is, on Com Ed  
11 Exhibit 32, which is the surrebuttal testimony,  
12 pursuant to the agreement concerning the mitigation  
13 issue, certain lines have been struck from this  
14 testimony. But it is our understanding that the  
15 e-docket already reflects the corrected version.

16 JUDGE DOLAN: Any objection? I take it you are  
17 going to tender these exhibits, Mr. Thomas, you are  
18 tendering these for admission?

19 MR. THOMAS: I tender these for entrance into the  
20 record and I tender Mr. Landon for cross  
21 examination.

22 JUDGE DOLAN: Any objection to any of these

1 exhibits? Then Com Ed Exhibit 2.0, Com Ed  
2 Exhibit 15.0 and Com Ed Exhibit 32.0, corrected,  
3 will be admitted into the record.

4 (Whereupon, Com Ed  
5 Exhibits Nos. 2.0, 15.0 and 32.0  
6 were admitted into evidence as  
7 previously marked on e-docket  
8 of this date.)

9 MR. THOMAS: Thank you.

10 JUDGE DOLAN: Mr. Giordano, do you want to  
11 proceed?

12 MR. GIORDANO: Thank, your Honor.

13 CROSS EXAMINATION

14 BY

15 MR. GIORDANO:

16 Q. I'm Pat Giordano, as you know, and I  
17 represent the Building Owners and Managers  
18 Association of Chicago. I would like to refer you  
19 to Page 10, Line 208 of your direct testimony. You  
20 state there, don't you, that you do not testify as  
21 an expert on Com Ed's tariffs, correct?

22 A. Yes.

1       **Q.**     Let me refer you to Page 26, Lines 434 to  
2     436.  You state that Com Ed estimates that tariffs,  
3     based on the representative price range, would  
4     result in various increases for residential  
5     customers and nonresidential customers for bundled  
6     service.  You did not confirm whether these price  
7     increase estimates by Com Ed were accurate, did  
8     you?

9       **A.**     I relied upon Com Ed for any of the  
10    information.  I looked at the calculations, but I  
11    have not independently confirmed them.

12       **Q.**     And do you know whether these estimates  
13    included the requested -- these estimates of rate  
14    increases included the requested increase in  
15    delivery service rates requested by Com Ed in this  
16    proceeding?

17       **A.**     They certainly appear to from the context,  
18    yes.

19       **Q.**     But you are not sure whether they do?

20       JUDGE HALOULOS:  Mr. Landon, can you please speak  
21    up.

22       THE WITNESS:  Sorry, your Honor.

1 THE WITNESS: It indicates in the context of my  
2 answer that these percentage increases reflect both  
3 proposed delivery services and a representative  
4 range of power costs. So I am assuming from that  
5 context that they apply to both the bundled service  
6 and the distribution rates.

7 BY MR. GIORDANO:

8 Q. But you didn't analyze these estimates in  
9 that level of detail to confirm that they included  
10 proposed delivery service costs and representative  
11 range of power costs, correct?

12 A. No, that's not correct. I did review the  
13 calculations to see that they were made, I did not  
14 test all the underlying assumptions as I would have  
15 had it been my responsibility to make the  
16 calculations.

17 Q. Did you look at a Com Ed estimate of the  
18 increase for the specific group of nonresidential  
19 consumers who heat their facilities with  
20 electricity?

21 A. I'm not aware of that calculation.

22 Q. So you don't know whether or not that's --

1 that rate increase is much higher for  
2 nonresidential customers who heat their facilities  
3 with electricity, correct?

4 **A.** Based on testimony that I read in this  
5 proceeding, I believe that the increases for those  
6 commercial customers who heat their buildings with  
7 electricity, pursuant to Rider 25, are increased  
8 quite significantly.

9 **Q.** Thank you. Now, let me refer you to Page  
10 40, Lines 529 to 530 of your direct.

11 **MR. THOMAS:** Pat, that was 529 to what line?

12 **BY MR. GIORDANO:**

13 **Q.** 530. The sentence starts on Line 527. You  
14 testify to the extent that Com Ed's rates are  
15 artificially low, i.e. do not properly reflect  
16 cost. And on 529 to 30, you state that as a  
17 consequence of rate reductions and rate freeze, the  
18 loss of the capability to pass through fuel cost  
19 changes on long lag between rate cases, correct?  
20 That's your testimony, right?

21 **MR. THOMAS:** Excuse me, Pat, I don't think you  
22 read the complete sentence.

1 BY MR. GIORDANO:

2 Q. It continues, development of competitive  
3 alternatives will be impeded.

4 A. The part that I think is relevant to  
5 interpreting that sentence is the part that begins  
6 at Line 527, to the extent that Com Ed's rates are  
7 artificially low i.e. do not properly reflect cost  
8 as a consequence of the rate reduction and rate  
9 freeze. And goes on.

10 Q. I think I read that part.

11 A. I just want to make sure that the whole  
12 thing was in the appropriate context.

13 Q. I understand, and it already is in the  
14 record. But I'm going to ask you about the part  
15 that says the loss of the capability to pass  
16 through fuel costs changes. You are testifying  
17 that this is one of the reasons, that you testify,  
18 that Com Ed's rates are artificially low, correct?

19 A. Correct.

20 Q. Now, are you aware that Com Ed voluntarily  
21 eliminated its fuel adjustment clause, which  
22 allowed Com Ed to automatically pass through

1 charges in fuel prices to consumers?

2 **A.** The extent of voluntariness is not  
3 something that I've studied.

4 **Q.** Did you know that Com Ed made a filing to  
5 eliminate its fuel adjustment cost?

6 **A.** I believe that's the case. I don't believe  
7 I've reviewed that particular filing, but my point  
8 is that all rate changes made by regulated  
9 utilities typically involve a weighing of  
10 advantages and disadvantages. And comprises on  
11 what issue may be in settlement of other issues and  
12 so these decisions are not necessarily made  
13 independently. I just wanted to make sure that one  
14 doesn't take actions with respect to fuel costs out  
15 of the context, the regulatory context in which  
16 those decisions were made.

17 **Q.** But you would agree, would you not, that if  
18 Com Ed voluntarily applied for the elimination of  
19 its fuel adjustment clause, that Com Ed believed  
20 that would be a good thing for Com Ed, correct?

21 **A.** In the context, yes.

22 **Q.** Now, I would like to refer you now to your

1 rebuttal testimony. And specifically, to Pages 9  
2 to 11, where you criticize BOMA's proposal to  
3 exempt nonresidential space heating customers who  
4 heat their facilities with electricity from demand  
5 charges used for space heating -- from demand  
6 charges for electricity used for space heating in  
7 Com Ed's delivery service tariffs. You do  
8 criticize that proposal, correct?

9 **A.** I do, but could you give me the reference  
10 again?

11 **Q.** I'm just referring you, initially, to those  
12 pages, it all addresses that. It starts out on  
13 Page 9, Line 195 on Page 9.

14 **A.** There is no sentence that starts on 195 on  
15 Page 9.

16 **Q.** I have it on the testimony of Mr. Brookover  
17 and Mr. Childress and Mr. McClanahan on behalf of  
18 the Building Owners and Managers Association. Do  
19 you see that?

20 **A.** I found it, yes.

21 **Q.** And you're asked, do you agree that Com Ed  
22 should modify its delivery tariffs so that

1 nonresidential space heating customers continue to  
2 receive rate treatment in relation to other  
3 customers, which is similar to the treatment  
4 nonresidential space heating customers have  
5 received in the past.

6                   And you are asked, do you agree that Com  
7 Ed should modify its delivery service tariffs for  
8 this reason. And you answer, no, and then you  
9 explain your reasons for taking that position,  
10 correct?

11       **A.**     That's correct.

12       **Q.**     Now, is it your understanding that under  
13 Com Ed's current Rider 25, that's the electric  
14 space heating bundled tariff for nonresidential  
15 customers, Com Ed does not charge for kilowatts of  
16 demand for electricity used for space heating?

17       **A.**     I think that's generally correct, yes.

18       **Q.**     When you say generally, I mean that is  
19 correct, there is no demand charge for electricity  
20 used for space heating in Com Ed's Rider 25,  
21 correct.

22       **A.**     I believe that's correct, yes.

1       **Q.**     And you are also aware that Com Ed is  
2     proposing to eliminate Rider 25 as part of its  
3     proposed unbundling of electric rates beginning in  
4     2007, correct?

5       **A.**     Yes.

6       **Q.**     And so you are also aware that Com Ed is  
7     proposing to charge current Rider 25 customers,  
8     post 2006, that is beginning January 1, 2007, for  
9     demand charges on electricity used for space  
10    heating, even though those customers are not  
11    currently charged demand charges on that  
12    electricity, correct?

13      **A.**     Yes, but those customers, I believe, have  
14    the ability under Illinois law to go to alternative  
15    suppliers if they don't want to buy electricity  
16    from Com Ed.  And Com Ed is not an electricity  
17    supplier anymore, it's basically a conduit between  
18    state approved auction and deliveries to customers.

19      **Q.**     But Com Ed still has a monopoly on delivery  
20    of electricity, correct?

21      **A.**     That's correct with respect to customers  
22    who do not choose to generate themselves.

1       **Q.**     And that's what's at issue in this  
2 proceeding, correct, Com Ed's delivery service  
3 rates, correct?

4       **A.**     That's correct.

5       **Q.**     And you understand that BOMA witnesses  
6 Brookover and Childress' proposal applies only to  
7 Com Ed's delivery service charges, correct?

8       **A.**     Yes.

9       **Q.**     And you made a general comment earlier, but  
10 you also -- you agree -- well, strike that.

11                    You testified earlier that your review  
12 shows that these Rider 25's space heating customers  
13 will see significantly greater overall increases in  
14 their Com Ed charges than nonresidential Com Ed  
15 customers who do not heat their facilities with  
16 electricity, correct?

17       **A.**     Yes.

18       **Q.**     Now, let me refer to you Page 11, Lines 237  
19 to 238 of your testimony, where you testify that  
20 phasing in the rate changes may be called for for  
21 some classes of customers, such as those below 400  
22 kilowatts, correct?

1       **A.**    Yes.

2       **Q.**    So it's your testimony that you do not  
3 believe that the rate increase should be phased in  
4 for larger nonresidential space heating customers,  
5 regardless of how large it is?

6       **A.**    I don't think I've testified that that  
7 shouldn't be considered, but my general principle  
8 is that all customers should end up paying rates  
9 that are equal to the cost of providing service to  
10 the class in which they reside.

11                   And since these customers are going to  
12 be wire only customers of Com Ed, they should pay  
13 rates equivalent to those customers who get similar  
14 wire services. I have no strong opinion as to  
15 whether those rates should go into effect  
16 immediately or whether they should be phased in  
17 over some period of time. That is an issue I have  
18 not looked at. My general hope would be that rates  
19 can get to the appropriate cost base levels as soon  
20 as possible.

21       **Q.**    But there is certain cases where that can't  
22 happen because of rate shock, correct, or shouldn't

1 happen, correct?

2 **A.** There are certainly situations in which  
3 some mitigation might be looked at.

4 **Q.** And rate shock can happen for large  
5 customers as well as small customers, correct?

6 **A.** Well, under the case of Rider 25, I  
7 think -- I don't think I would call it shock. It  
8 might be rate impact, but I don't think it comes as  
9 a shock. Because I understand -- Rider 25 has not  
10 been offered to new customers since 1977. And  
11 since that time, at least those customers on that  
12 rate, have known that this rate was no longer  
13 economic, was basically increasingly a dinosaur,  
14 and therefore that ultimately they would end up  
15 paying rates that more closely reflected the cost  
16 actually imposed on the system.

17 And therefore I don't think that they  
18 would be shocked that this phase out is going to  
19 occur. But I -- but I still think that in some  
20 circumstances the Commission ought to consider or  
21 the parties ought to consider some plan whereby  
22 there could be some mitigation of how rapidly that

1 change in situations might occur.

2       **Q.** Now, Dr. Landon, I believe you testified in  
3 that last answer that this Rider 25 has not been  
4 available to -- since 1977 to new customers. I  
5 would like to show you Rider 25. And I believe  
6 that you are referring to the heating with light  
7 service under Rider 25, but not the general Rider  
8 25 electric space heating service that is available  
9 now and has been available since the early '70s to  
10 any customer using the Company's electric service  
11 to provide all the space heating requirements of  
12 his premises or any part of his premises, which is  
13 sufficiently separated from the remainder, so there  
14 will be no material heat transfer between such part  
15 and the remainder.

16                   And if you look at the general part of  
17 the tariff, that's where it refers to the heating  
18 with light being available for buildings prior to  
19 '77. I think that's what you were referring to,  
20 correct?

21       **A.** The question I asked the Company was, is  
22 Rider 25 available and they said that it ceased

1 being generally available in 1977. Exactly what  
2 they meant by that, I didn't cross examine them  
3 because I was aware that there were extensions.

4 **Q.** Okay, thank you. All right, let me refer  
5 you to Page 11 of your rebuttal testimony, Lines  
6 228 to 229 where you state that with this rate  
7 case, Com Ed is proposing to unbundle and  
8 separately price the delivery and supply components  
9 of price to more correctly reflect their cost,  
10 correct?

11 **A.** Yes.

12 **Q.** And you go on, on Lines 232 to 233 on that  
13 page, and just testify that Com Ed's realignment of  
14 customer classes is to assure that rates reflect  
15 cost, correct?

16 **A.** Correct.

17 **Q.** Are you aware that Com Ed witness  
18 Mr. Crumrine has testified that Com Ed has not kept  
19 records of the cost of serving electric space  
20 heating customers?

21 **A.** I am aware of that issue being raised. I'm  
22 not aware of the facts of the matter.

1       **Q.**     And in the absence of records related to  
2 the cost of serving electric space heating  
3 customers, wouldn't you agree that Com Ed cannot  
4 show that its elimination of the current exemption  
5 of charges for nonresidential space heating demand  
6 will result in rates that more accurately reflect  
7 its costs for nonresidential space heating  
8 customers?

9       **A.**     I don't think that's necessarily correct.  
10 I think that the Company knows what its costs are  
11 without a cost study in a general -- in a full  
12 enough way that they can make a judgment as to  
13 what -- whether there is a significantly different  
14 area of costs for particular buildings than in  
15 others.

16       **Q.**     Have they showed you what those costs were,  
17 even in a general way, nonresidential versus space  
18 heating customers, versus other nonresidential  
19 customers?

20       **A.**     I have looked at no cost studies. You are  
21 trying to get me in areas that other people have  
22 greater expertise than I, but I generally believe

1 that customers that have similar demands and  
2 similar situations, at least at the distribution  
3 level, should be classed together unless their  
4 distinction is proven with respect to cost  
5 characteristics that make them much more expensive  
6 or much less expensive to serve. And I'm not aware  
7 of any study that shows that in this case.

8 **Q.** But the utility, in all the testifying that  
9 you've done, and you are a well respected expert  
10 throughout the country, but in every case you've  
11 ever testified in, the utility has the burden of  
12 proving the cost of service in the rates, correct?

13 **A.** The utility has the burden of providing  
14 cost of service for those classes of customers that  
15 they are going to be establishing rates for. I'm  
16 not sure that the utility specifically has a  
17 responsibility to establish cost of service for  
18 rates that are going to be discontinued.

19 **Q.** So you believe that a utility has no burden  
20 of proving that a rate should be discontinued?

21 **A.** That's not what I'm suggesting, at all.  
22 I'm suggesting that the rate that the Rider 25

1 customers have had is, on its face, a subsidy rate  
2 that provides preferential service for some  
3 customers for what was, in the early to mid '70s, a  
4 reasonable cost.

5           The factors that would have made that a  
6 reasonable cost in the early to mid '70s no longer  
7 exist. And therefore the assumption that absent  
8 that, these customers should be returned to a  
9 distribution tariff that reflects the cost of  
10 distribution companies similarly situated, without  
11 regard to those special considerations, seems to be  
12 appropriate.

13           What level of study is required to  
14 provide the cost basis for the new rate is  
15 something that I haven't had any part in  
16 formulating, so I don't have any particular  
17 knowledge or views with respect to that.

18       **Q.** Well, let's ask you about that. You are  
19 testifying that there is changes in the situation  
20 that mean that nonresidential space heating  
21 customers should no longer have separate rate  
22 treatment. And let me refer you to Page 11, Lines

1 224 to 226 of your testimony related to that issue.  
2 Where you testify, don't you, that it's no longer  
3 necessary to promote the local use of nuclear and  
4 large coal base load power during some seasons to  
5 support operational efficiency, correct?

6 **A.** Correct.

7 **Q.** Is this because nuclear generation with  
8 load generating costs can now be sold in other  
9 markets, rather than in Com Ed's service territory?

10 **A.** Not solely, there are many reasons for  
11 this. Do you want me to explain?

12 **Q.** But that's one of the reasons, correct, one  
13 of the reasons that you're testifying it's no  
14 longer necessary to promote the local use of  
15 nuclear large coal base load, one of the reasons  
16 for that is because nuclear generation with low  
17 generating costs can now be sold in other markets,  
18 rather than in Com Ed's service territory. Your  
19 counsel can have you elaborate on redirect.

20 **A.** That isn't the principal reason, and I  
21 haven't testified that that is the case, I just  
22 want that to be clear.

1           **Q.**     But you testify on Line 227 that Com Ed's  
2 recent entry in the PJM ISO.  Doesn't that entry in  
3 the PJM facilitate the ability of -- well, strike  
4 that.

5                         Doesn't the PJM ISO facilitate the  
6 ability for nuclear generation to be sold into  
7 other markets, rather than Com Ed's service  
8 territory?

9           **A.**     It makes more efficient use of generation  
10 throughout the eastern and midwestern areas, but  
11 nuclear -- keeping nuclear plants busy hasn't been  
12 the problem for the last 20 years.  The demand  
13 grew, we haven't built nuclear plants for 30 years.  
14 As a consequence nuclear plants are useful and  
15 provide lower rates for customers 24 hours a day,  
16 7 days a week, around the year.  And there is no  
17 longer a reason to do anything to keep them  
18 operating during the winter months.

19                         And, therefore, the rates that were  
20 sensible to try to get those plants utilized in  
21 months when otherwise they might not be operating  
22 at an efficient level, have long been unnecessary.

1 The PJM -- the addition of PJM and the broadening  
2 of interconnections throughout the eastern part of  
3 the United States makes for more economic exchange  
4 between these areas. But that by itself wasn't  
5 necessary to obsolete -- the reasons for the  
6 original Rider 25.

7 **Q.** And you said it hasn't been a problem for  
8 20 years. And the reason it hasn't been a problem  
9 is because buildings stepped up in response to Com  
10 Ed's Rider 25 and put in expensive electric space  
11 heating systems that utilized Com Ed's nuclear  
12 plants during non-summer months; isn't that  
13 correct?

14 **A.** No.

15 **Q.** Okay. So you're saying that the buildings  
16 did not install electric space heating systems in  
17 response to Rider 25?

18 **A.** No, I'm not suggesting that at all. I'm  
19 suggesting that there is no nexus between the  
20 development of greater demand in the midwest and in  
21 the east, which uses up all of the nuclear capacity  
22 that we have in that area, independent of what's

1 going on in Chicago with commercial buildings.  
2 That happened quite independently of whether or not  
3 the buildings in Chicago converted to electric  
4 space heating.

5 **Q.** But isn't that why Com Ed put the Rider 25  
6 in in the first place, to encourage those buildings  
7 to use power in non-summer months and utilize those  
8 nuclear plants?

9 **A.** I've already testified in my testimony  
10 that's true, yes. The question is why has that  
11 become obsolete? And the answer is because the  
12 growth of demand is now using that nuclear power  
13 24 hours a day, 7 days a week, so we no longer need  
14 to give people special inducements to use  
15 electricity during winter months.

16 **Q.** Have you reviewed the direct testimony of  
17 BOMA witnesses Brookover and Childress in this  
18 proceeding?

19 **A.** Yes, I have.

20 **Q.** Do you know that they testify that the  
21 installation of new electric heating systems or new  
22 heat systems in general is very expensive, so it's

1 therefore prohibitive of buildings that have  
2 installed electric nonresidential space heating  
3 equipment to switch to alternative systems?

4 **A.** I haven't reviewed that particular point of  
5 their testimony nor have you done any analysis of  
6 that.

7 **Q.** So you don't know one way or another  
8 whether that's a true statement?

9 **A.** That's correct.

10 **Q.** Now, Com Ed, in response to a data request,  
11 referred to Com Ed's current Rider 25 electric  
12 space heating tariff as an uneconomic promotional  
13 rate to encourage use at one time as opposed to  
14 another, are you familiar with that?

15 **MR. THOMAS:** Can you direct the witness to the  
16 particular question?

17 **MR. GIORDANO:** Yeah, it's BOMA -- Request  
18 No. BOMA 3.01, related to the rebuttal testimony of  
19 Mr. John Landon.

20 **THE WITNESS:** , yes, I have it in front of me.

21 **BY MR. GIORDANO:**

22 **Q.** What documentation do you have to show that

1 Com Ed's Rider 25 electric space heating tariff was  
2 an uneconomic promotional rate?

3 **A.** None that it wasn't an uneconomic  
4 promotional rate, it probably was economic at the  
5 time, as I've testified in my testimony, when it  
6 was instituted. What I've testified to is that the  
7 economic circumstances that made it economic have  
8 long vanished. And there is no economic reason for  
9 that subsidized tariff to remain on the books.

10 In fact, to the extent that these  
11 customers are subsidized, some other customers are  
12 going to have to pay above their cost to make up  
13 for that, and I don't see any rationale for that  
14 happening over a long period of time.

15 **Q.** You would agree that -- it's your  
16 testimony, then, that now that Com Ed has  
17 encouraged buildings to install facilities to heat  
18 with electricity, that the so-called promotional  
19 rate treatment that got them to do so should be  
20 eliminated?

21 **A.** Well, again, I think we're talking about an  
22 incentive that was offered in the mid '70s for

1 conditions in the mid '70s. I have a good friend  
2 who bought a Lincoln -- a Chrysler Imperial about  
3 the same time that these buildings got their rider.  
4 And that car gets about 4 miles to the gallon and  
5 they bought it in a period when gasoline was 25  
6 cents, 30 cents a gallon.

7           And they are today feeling a little  
8 distressed that going out for a joy ride in the old  
9 Imperial isn't as economic as it use to be. But as  
10 economic circumstances change, people have to make  
11 adaptions to those economic circumstances, and pay  
12 market rates if we're not going to distort the  
13 whole economy to make everybody's investments  
14 economic at all times, if they were economic  
15 originally when they made them.

16           And I'm suggesting that's not what we  
17 ought to be about in this proceeding. We ought to  
18 be about setting rates that going forward make  
19 sense. And we ought to fairly consider the issues  
20 that you've raised with respect to mitigation and  
21 determine whether that's appropriate in this case.  
22 But there is no evidence that I'm aware of that the

1 Rider 25 has any economic reason to continue to  
2 exist at this point, in terms of its incentive.  
3 Just like we can't legislate that people who have  
4 Chrysler Imperials should be able to buy gasoline  
5 for 30 cents a gallon.

6 **Q.** Although that Chrysler Imperial is a cool  
7 car, it's true, is it not, that that Chrysler  
8 Imperial owner can trade in that car for another  
9 model, but the Sears Tower can't trade the building  
10 in for another building?

11 **A.** The owners of the Sears Tower can put it on  
12 the used building market, just like the Imperial  
13 owner can put his Imperial on the used automobile  
14 market. If they don't choose to continue to  
15 operate it, given the present operating  
16 circumstances, they can exit the market.

17 **Q.** And that's exactly what we're trying to  
18 avoid here in Chicago, isn't it, that the Sears  
19 Tower become a used building that's not utilized by  
20 enough tenants, Dr. Landon, isn't that correct,  
21 isn't that what we like to avoid?

22 **A.** Well, I don't think we are trying to avoid

1 buildings changing hands. I think buildings  
2 changing hands is usually useful. People with new  
3 ideas and better technology buy buildings and  
4 retrofit them and make a whole lot more money.

5 I work in the Market Aero Center in San  
6 Francisco and a Boston company bought our property  
7 from the Rockefeller people about 10 years ago and  
8 they retrofitted the heating system and the cooling  
9 system and made some changes in the way the  
10 elevators ran and made some changes in the way the  
11 garage ran. And my understanding is they've cut  
12 the costs for maintaining the building by a very  
13 large fraction. And as a consequence they have  
14 been able to maintain better rates and make pretty  
15 good money.

16 So I think buildings and Chrysler  
17 Imperials do change hands, they tend to go to  
18 people who can find creative ways to make money  
19 with them. And I'm really not worried about the  
20 Sears Tower closing down, I don't think the  
21 economics of that would work.

22 Q. Well, we're worried about it here,

1 Dr. Landon and that's the end of my cross. Thank  
2 you.

3 JUDGE DOLAN: Thank you. Any redirect?

4 MR. THOMAS: One second.

5 REDIRECT EXAMINATION

6 BY

7 MR. THOMAS:

8 Q. Dr. Landon, I just have one question for  
9 you. You may recall there was a question asked  
10 about whether Rider 25 had been available, at least  
11 to some customers, since 1977?

12 A. That's correct.

13 Q. And assuming that's true, does that change  
14 your analysis of what should be done in this case  
15 with respect to Rider 25 customers?

16 A. No, it does not.

17 MR. THOMAS: I have no more questions.

18 JUDGE DOLAN: Thank you. Thank you, Dr. Landon,  
19 you're excused.

20 (Witness excused.)

21 JUDGE DOLAN: Are you ready to present your panel  
22 testimony?

1 MR. GIORDANO: Absolutely, thank you.

2 JAY BROOKOVER and CHRISTOPHE CHILDRESS,  
3 called as a witnesses herein, having been first  
4 duly sworn, were examined and testified as follows:

5 DIRECT EXAMINATION

6 BY

7 MR. GIORDANO:

8 Q. Mr. Brookover, please state your name,  
9 business address and title.

10 WITNESS BROOKOVER: Jay Brookover, 1 North  
11 Wacker, Suite 2400, Chicago 60606, vice president  
12 of John Buck Company.

13 Q. Mr. Childress, please state your name and  
14 business address and title.

15 WITNESS CHILDRESS: Christophe Childress, 360  
16 North Michigan Avenue, Suite 1005, Chicago 60601.  
17 I'm the technical director for GV Corp.

18 JUDGE DOLAN: Again do you want to raise your  
19 right hands.

20 (Witnesses sworn. )

21 BY MR. GIORDANO:

22 Q. And on whose behalf are you testifying

1 today?

2 WITNESS BROOKOVER: On behalf of the Building  
3 Managers and Owners Association of Chicago.

4 Q. I show you what's been previously marked as  
5 BOMA Exhibit 1.0, 1.1, and 1.2. And ask you if I  
6 were to ask you the same questions that are  
7 contained in that document, entitled the Direct  
8 Panel Testimony of T.J. Brookover and Christophe M.  
9 Childress today, would your answers be the same?

10 WITNESS BROOKOVER: They would, with one  
11 exception.

12 Q. And what is that exception?

13 WITNESS BROOKOVER: On Page 13 of 19, Lines 276  
14 and 277, reads including Sears Tower and the  
15 Merchandise Mart, One IBM Plaza, Three First  
16 National Plaza and 55 East Monroe. It should read  
17 including the Sears Tower, Merchandise Mart, One  
18 IBM Plaza, Chase Plaza and 55 East Monroe.

19 MR. GIORDANO: With that I move for the admission  
20 of BOMA Exhibits 1.1 -- 1.0, 1.1, 1.2, and 1.3.  
21 And 1.4. Do you want me to go ahead with the other  
22 one?

1 JUDGE DOLAN: Yeah, go ahead, we'll just get it  
2 all.

3 BY MR. GIORDANO:

4 Q. I refer you to BOMA Exhibit 3.0, the  
5 rebuttal panel testimony of T.J. Brookover and  
6 Christophe M. Childress and the attached exhibits,  
7 BOMA 3.1 and 3.2. And ask you if I were to ask you  
8 the same questions contained in this testimony  
9 today, would your answers be the same?

10 WITNESS CHILDRESS: Yes, they would.

11 MR. GIORDANO: I move for the admission of BOMA  
12 Exhibits 3.0, 3.1 and 3.2 and tender Mr. Childress  
13 and Mr. Brookover for cross examination.

14 JUDGE DOLAN: I think we had discussed last week,  
15 and you may not have been here, Mr. Giordano, but  
16 for panel testimony we are going to ask that it be  
17 adopted at the end so there is no question about  
18 who adopted who, what's the topic, what testimony.  
19 So that's fine, we'll just have the introductions  
20 here, but then when they're done testifying we'll  
21 admit their testimony into the record, okay?

22 MR. GIORDANO: That's fine. Is there any

1 particular procedure or can we respond to the  
2 questions, whoever they believe is most appropriate  
3 to respond?

4 JUDGE DOLAN: Yes.

5 MR. GIORDANO: Okay, thank you.

6 JUDGE DOLAN: Go ahead, Mr. Ratnaswamy.

7 CROSS EXAMINATION

8 BY

9 MR. RATNASWAMY:

10 Q. Can I refer to Lines 27 to 28 of your  
11 direct, please? Is it correct there when you refer  
12 to line item expenses you are including capital  
13 investments and you are talking about operating  
14 expenses?

15 WITNESS BROOKOVER: That's correct.

16 Q. And also to be clear, are you referring  
17 there to total amounts paid for electricity demand  
18 and usage, including electricity plus the delivery  
19 of the electricity?

20 WITNESS BROOKOVER: That's correct.

21 Q. Given the significance that you identified  
22 there and elsewhere in your testimony, of

1 electricity expense as an operating expense, would  
2 you agree that it's reasonable to assume that most,  
3 if not all, of the people who have decision making  
4 authority for BOMA members in relation to  
5 electricity supply, are aware of the fact that Com  
6 Ed's bundled rates have been frozen since 1997?

7 WITNESS BROOKOVER: I don't want to make that  
8 assumption for most or all decision makers within  
9 BOMA buildings. I believe some would have that  
10 knowledge, but I don't want to make the assumption  
11 for all.

12 Q. Mr. Childress, if I could refer you to  
13 Lines 54 through 66 of your direct.

14 WITNESS CHILDRESS: Yes.

15 Q. Would you agree that you, yourself, have  
16 counseled many BOMA members on alternative  
17 suppliers opportunities versus Com Ed's existing  
18 bundled rates?

19 WITNESS CHILDRESS: Yes, I have.

20 Q. Would you agree that the BOMA customers  
21 you've counseled understand that Com Ed's existing  
22 bundled rates are frozen?

1           WITNESS CHILDRESS: I'm not sure that's always  
2 the case. It hasn't been the purpose for my  
3 counseling then to clarify the length of time that  
4 Com Ed's bundled rates have been frozen.

5           **Q.** In giving them counsel on whether to choose  
6 an alternative supplier, don't they need to know  
7 whether Com Ed's rates are open to change?

8           WITNESS CHILDRESS: We've explained to them the  
9 difference between the current bundled rates and  
10 Com Ed's currently available unbundled rates for  
11 supply and delivery and how that impacts their  
12 building, and the fact that if they can purchase  
13 electricity currently at lower costs than Com Ed's  
14 bundled rates. But we generally don't get into the  
15 issue of how long those rates have been bundled in  
16 the past.

17           **Q.** Well, let me try that question again.  
18 Don't you discuss with them the fact that those  
19 rates are frozen through the end of this year?

20           WITNESS CHILDRESS: Yes, we have talked about the  
21 fact in some cases that those rates are frozen  
22 through the end of 2006 and many of them are aware

1 of that, yes.

2 Q. When was the last time that the both of you  
3 reviewed -- I suppose either of you, that one or  
4 both of you reviewed your testimony from what is  
5 sometime calls the procurement case, Docket  
6 05-0159?

7 WITNESS CHILDRESS: We looked at that when we  
8 were crossed in Springfield back last summer.

9 Q. Was that the last time you looked at it?

10 WITNESS CHILDRESS: I may have reviewed it  
11 briefly at different times since then.

12 Q. Well, I do have copies here, but I'll try  
13 this before I hand them out. Would you agree that  
14 you testified in your direct testimony in that case  
15 that when customers make decisions about whether to  
16 purchase electricity from a competitive supplier,  
17 that the decision maker for the customer takes,  
18 quote, takes into account the fact that Com Ed's  
19 bundled rates have been frozen and will be frozen  
20 through 2006, unquote?

21 MR. GIORDANO: Can you give us a reference?

22 MR. RATNASWAMY: Do you have a copy or do you

1 need a copy?

2 MR. GIORDANO: Sorry, we need a copy of that.

3 Can you give us the lines?

4 MR. RATNASWAMY: Sure, Lines 550 to 553.

5 MR. GIORDANO: You can answer it.

6 WITNESS CHILDRESS: I'm sorry, can you ask the  
7 question again?

8 BY MR. RATNASWAMY:

9 Q. Would you agree that in that docket, the  
10 two of you, as a panel, presented direct testimony  
11 in which you indicated that when customers make  
12 decisions about whether to purchase electricity  
13 from a competitive supplier, the decision maker for  
14 the customer, quote, takes into account the fact  
15 that Com Ed's bundled rates will be frozen until  
16 the end of 2006, end quote?

17 WITNESS BROOKOVER: Yes, it states that.

18 Q. Would you agree that that's true?

19 WITNESS BROOKOVER: Yeah, relative to the fact  
20 that it is true and that rates will be frozen  
21 through the end of this year.

22 Q. Thank you. I don't know if you remember

1 the exact date, but do you recall your direct  
2 testimony in this case, in the written form, was  
3 filed in December?

4 WITNESS CHILDRESS: The direct in the delivery  
5 service case, yes.

6 Q. Would you agree it was roughly a month  
7 before the Commission issued its order in the  
8 procurement case?

9 WITNESS CHILDRESS: Yes.

10 WITNESS BROOKOVER: Yes, roughly.

11 Q. Are you familiar with the mitigation plan  
12 that was approved in that order?

13 WITNESS CHILDRESS: Yes, general terms, yes.

14 Q. I'll try to make all the questions general,  
15 then. In brief, would you agree that a mitigation  
16 plan was approved that related to all residential  
17 customers, plus those eligible nonresidential  
18 customers with demands of no more than 400  
19 kilowatts?

20 A. That's our understanding, yes.

21 Q. And would you agree the plan applies to  
22 specific groups, the way it's calculated?

1 WITNESS CHILDRESS: My understanding is that they  
2 are making -- they are including a separate  
3 grouping or classification for nonresidential space  
4 heating customers, yes.

5 Q. Right. So would you agree that the plan  
6 applies to the customer supply groups that Com Ed  
7 proposed in that case, plus, as a separate group,  
8 residential space heating customers and plus as  
9 another separate group, nonresidential space  
10 heating customers, as long as they are eligible and  
11 the demands aren't over 400 kW?

12 WITNESS CHILDRESS: Yes.

13 Q. Is it correct to say that a large part of  
14 your testimony concerns what you believe to be rate  
15 shock in relation to Rider 25 customers?

16 WITNESS BROOKOVER yes.

17 Q. And Mr. Giordano earlier asked Dr. Landon  
18 some questions about Rider 25. Do you have a copy  
19 of it?

20 MR. GIORDANO: Copy of what, of Rider 25? Yeah.

21 MR. RATNASWAMY: This one I would like to mark as  
22 Com Ed cross Exhibit 8.

1 (Whereupon, Com Ed Cross  
2 Exhibit No. 8 was  
3 marked for identification  
4 as of this date.)

5 BY MR. RATNASWAMY:

6 Q. Have you had a identify chance to look at  
7 that?

8 WITNESS BROOKOVER: Yes.

9 Q. First, what is your understanding, if any,  
10 the distinction between a rate and a rider in Com  
11 Ed's schedule of rates?

12 WITNESS CHILDRESS: I wouldn't venture a detailed  
13 answer to that question, except that we have an  
14 understanding that rates and riders are both part  
15 of the rates that customers are required to pay for  
16 their electricity by law according to the type of  
17 service that they are eligible to receive.

18 Q. Would you agree that as Rider 25 indicates  
19 it's a rider to customers taking service under four  
20 other specified rates?

21 WITNESS CHILDRESS: Yes, that's our  
22 understanding.

1       **Q.**     If you could refer, please, to BOMA  
2 Exhibit 1.3, which is one of the attachments to  
3 your direct testimony.

4       WITNESS BROOKOVER:   Yes.

5       **Q.**     In one of your data request responses, it  
6 is your understanding that there are approximately  
7 10,600 Rider 25 customers or customers eligible for  
8 Rider 25, do you remember that?

9       WITNESS CHILDRESS:   That's correct, yes.

10      **Q.**     Is that understanding based on this  
11 document?

12      **A.**     Yes, we derived that data from the tables  
13 that were attached to this document.

14      **Q.**     Did you also look at how many Rider 25  
15 customers were served under each of the different  
16 rate groupings referenced in that document?

17      WITNESS CHILDRESS; I wasn't using that for any  
18 purposes. I looked at the load of the customers  
19 but not the specific numbers.

20      **Q.**     If I could direct your attention,  
21 particularly the attachment, Page 1 of 3.

22      WITNESS CHILDRESS:   Okay.

1 Q. Actually, let me give you this document as  
2 well. I would like this to be Com Ed Cross  
3 Exhibit 9.

4 MR. GIORDANO: We would object, there is no  
5 reason for that, it's part of BOMA exhibit --

6 MR. RATNASWAMY: I mean a different document, I'm  
7 sorry.

8 (Whereupon, Com Ed Cross  
9 Exhibit No. 9 was  
10 marked for identification  
11 as of this date.)

12 BY MR. RATNASWAMY:

13 Q. I'm hoping this will avoid anyone having to  
14 do any arithmetic. I'll represent to you what Com  
15 Ed Cross Exhibit 9, is it takes BOMA Exhibit 1 --  
16 1.3 and takes the first table at the top of Page 1  
17 of 3, the attachment thereto, and adds up the  
18 average number of Rider 25 or Rider 25 eligible  
19 customers in each of the groupings.

20 WITNESS CHILDRESS: Okay.

21 Q. So without asking you whether you agree  
22 with the number yet, do you at least understand

1 what I've said so far?

2 WITNESS CHILDRESS: When you say add up, this was  
3 a monthly, that table that you are looking at, you  
4 are talking about 1.4 (b)(1), that first table?

5 Q. Right.

6 WITNESS CHILDRESS: That shows, as I understand  
7 it, it is a count of customers on a monthly basis  
8 so you are saying a total how are you talking about  
9 total?

10 Q. The monthly average.

11 WITNESS CHILDRESS: Oh, average month, I see.

12 Q. Now, the BOMA Exhibit 1.3 is already in the  
13 record, but would you be willing to accept, subject  
14 to check, that if you total up the monthly  
15 averages, based on the first table on Page 1 of 3  
16 there, that it shows that 9,379 and a half, on  
17 average, of the Rider 25 current or eligible  
18 customers have demands of no more than 400 kW?

19 WITNESS CHILDRESS: Actually, subject to check,  
20 those numbers look reasonable, that that would be a  
21 total, yes, average total.

22 Q. So if that's correct, then approximately

1 9,379, out of 10,600 customers would be part of the  
2 mitigation plan that was approved in the  
3 procurement case, right?

4 **A.** Yes, we made no representations to the  
5 numbers, but that would seem to be a reasonable.

6 **Q.** Thank you. You referred, of course, to  
7 rate shock in your testimony. Could I direct you,  
8 in particular, to Lines 155 to 161 of your direct,  
9 where you define that term.

10 WITNESS CHILDRESS: Yes.

11 **Q.** You understand -- is it correct that you  
12 understand that Com Ed's bundled rates have been  
13 frozen, as that term is used, since 1997?

14 MR. GIORDANO: Objection, asked and answered.

15 JUDGE DOLAN: Well --

16 MR. RATNASWAMY: That was the predicate for  
17 another question.

18 JUDGE DOLAN: I was going to say I'll overrule it  
19 for the purpose.

20 BY MR. RATNASWAMY:

21 **Q.** We'll just move pass it. Do you know when  
22 the rates that were frozen in 1997 were actually

1 set for the first time?

2 WITNESS CHILDRESS: The actual rates in place in  
3 1997, no, I don't know when when the actual rates  
4 were set.

5 Q. To what extent, if any, are you familiar  
6 with Com Ed's last bundled rate case, Docket 94-  
7 0065.

8 WITNESS CHILDRESS: I was not involved in that  
9 case.

10 Q. Is it correct that your definition of rate  
11 shock in your testimony does not include any  
12 criterion for how long the existing rates have been  
13 in effect?

14 WITNESS BROOKOVER: That's correct.

15 Q. And is it correct that your definition of  
16 rate shock does not include any criterion for  
17 whether the existing rates were frozen by law?

18 WITNESS BROOKOVER: That's correct.

19 Q. So under your definition, is it correct  
20 that -- I'm sorry, let me make it a hypothetical.

21 Please assume that the existing frozen  
22 rates were first set by the Illinois Commerce

1 Commission in 1995. Is it correct under your  
2 definition of rate shock, when determining whether  
3 there is rate shock, it is not relevant that the  
4 existing rates have been in place since 1995?

5 WITNESS BROOKOVER: We didn't see those as being  
6 relevant. We are looking at a point in time going  
7 forward, not what's occurred in the past.

8 Q. On Pages 13 to 14 of your direct testimony,  
9 you discuss customers with demand over  
10 10 megawatts; is that correct?

11 WITNESS BROOKOVER: That's correct.

12 Q. And you have a table on Line, I believe  
13 it's 287. Do you see that?

14 WITNESS CHILDRESS: Yes.

15 Q. Would you agree that the \$5.45 that is in  
16 the third column, second row, the figure for over  
17 10-megawatt customers, is not the figure that the  
18 customer would pay if they were in the high voltage  
19 delivery class?

20

21 (Change of reporters.)

22

1 WITNESS CHILDRESS: Yes, we didn't mean to  
2 represent that that would be the case.

3 Q. Okay.

4 WITNESS CHILDRESS: Specifically, those that  
5 were not high voltage.

6 Q. Okay. Do you agree that under ComEd's  
7 revised rate design spreadsheet presented in  
8 surrebuttal that the charge for an  
9 over-ten-megawatt customer in the high-voltage  
10 class would be \$2.18 rather than \$5.45?

11 A. I can't address that.

12 I don't have that in front of me. That  
13 particular...

14 Q. Did you review the surrebuttal testimony of  
15 Mr. Alongi around Mr. McInerney?

16 A. No, I did not.

17 Q. I'll represent to you that that is a copy  
18 of ComEd Exhibit 41.7.

19 MR. GIORDANO: Is this part of Alongi and  
20 McInerney's testimony?

21 MR. RATNASWAMY: Right. It's one of the  
22 attachments to their surrebuttal.

1 MR. GIORDANO: Well, I mean you can ask  
2 questions if you want. But they said they did not  
3 review this.

4 WITNESS CHILDRESS: Let me clarify. What we  
5 have reviewed was their testimony regarding rider  
6 resale and so forth. We did not review all of  
7 these other numbers, no.

8 BY MR. RATNASWAMY:

9 Q. Okay. Let's go back to the direct  
10 testimony of ComEd then.

11 Would you agree that ComEd's original  
12 proposal for the distribution facilities charge for  
13 the high-voltage class was \$2.17 per month?

14 WITNESS CHILDRESS: Subject to check. I mean, I  
15 don't have these numbers in front of me, but  
16 subject to check, yes.

17 I know it was significantly less.

18 Q. Okay. Would you agree that roughly  
19 one-third of the over-ten-megawatt customers are  
20 eligible for the high-voltage delivery class?

21 MR. GIORDANO: Objection; relevance.

22 The BOMA testimony is related to the

1 non-high voltage customers. I mean, the non-high  
2 voltage customers are the BOMA buildings, and  
3 that's what the witnesses are testifying about.

4 I don't really think we need -- I mean,  
5 these questions might be more appropriately  
6 addressed to the witnesses for IIEC who are  
7 directly affected by this.

8 JUDGE DOLAN: I'll sustain the objection.

9 BY MR. RATNASWAMY:

10 Q. Okay. Let's back up then.

11 What is your proposal relating to  
12 over-ten-megawatt customers?

13 WITNESS CHILDRESS: Our proposal in general is  
14 the 10-megawatt customers would see an increase in  
15 their delivery service charges relative to what  
16 they currently are that would be comparable to  
17 other non-high voltage customers in other rate  
18 classes.

19 Q. Okay. And is your proposal limited to the  
20 over-ten-megawatt customers who are not in the high  
21 voltage class?

22 WITNESS CHILDRESS: Right. We are not

1 specifically addressing that --

2 Q. Okay. I don't have a line reference.

3 But I believe you referred somewhere in  
4 your testimony to there being approximately 70  
5 over-ten-megawatt customers; is that correct?

6 WITNESS CHILDRESS: Yes, we did.

7 Q. Okay. Isn't that correct that that  
8 includes the ones who are in the high-voltage  
9 class?

10 WITNESS CHILDRESS: That reference was just to  
11 give an idea that there were a small number of  
12 customers.

13 We were not specifically there saying  
14 that that was the group of customers that we were  
15 specifically addressing.

16 Only to give people who were rating it  
17 an idea that that was a small number of customers,  
18 and among those would be 10-megawatt customers that  
19 would be impacted.

20 Q. Isn't it correct that the number of  
21 high-voltage customers -- sorry.

22 The number of over-ten-megawatt

1 customers to whom your proposal would apply is only  
2 approximately 54?

3 WITNESS CHILDRESS: It may be. That's possible.  
4 I don't know for certain. Subject to check that  
5 may be a reasonable number.

6 Q. I just handed you a copy to ComEd's  
7 response to Department of Energy Data Request 05.

8 Have you seen that before?

9 WITNESS CHILDRESS: I do not recall having  
10 reviewed this before.

11 Q. I'm sorry. What is the basis of your  
12 understanding that there is approximately 70  
13 over-ten-megawatt customers?

14 WITNESS CHILDRESS: It's probably taken from  
15 the -- I have to go back and look. It may have  
16 been taken from just the review of numbers of what  
17 we include in our BOMA Exhibit No. 1.3.

18 Q. So as you sit here right now, though, do  
19 you have any data on how many of those customers  
20 are not in the high-voltage class?

21 WITNESS CHILDRESS: We know that there are BOMA,  
22 a number of BOMA customers which we specifically

1 have listed that are not high-voltage customers.  
2 They're over 10 megawatts.

3 Q. But other than that, you don't have any  
4 other data on the point; is that right?

5 WITNESS CHILDRESS: Data in terms of what?

6 Q. How many customers your proposal applies  
7 to?

8 WITNESS CHILDRESS: No, we don't have any  
9 specific data on the exact numbers.

10 Q. Okay. Do you have any data on around  
11 number or a rough or an proximate number?

12 MR. GIORDANO: Objection; asked and answered.

13 He was already asked whether there was  
14 54. And under Mr. Childress testified that sounded  
15 like a reasonable number.

16 JUDGE DOLAN: Sustained.

17 MR. RATNASWAMY: No further questions.

18 Thank you.

19 JUDGE DOLAN: Any redirect?

20 MR. GIORDANO: Yes, your Honor.

21 MR. RATNASWAMY: You want me to move my exhibits  
22 before you go ahead?

1 MR. GIORDANO: Yeah.

2 MR. RATNASWAMY: I would like to move ComEd  
3 Cross-Exhibit 8, which a copy of Rider 25.

4 MR. GIORDANO: No objection.

5 JUDGE DOLAN: ComEd Cross-Exhibit 8 will be  
6 admitted into evidence.

7 (Whereupon, ComEd Cross-Exhibit  
8 No. 8 was admitted into  
9 evidence.)

10 MR. RATNASWAMY: And ComEd Cross-Exhibit No. 9  
11 which is calculations based on BOMA Exhibit 1.3.

12 MR. GIORDANO: No objection.

13 JUDGE DOLAN: ComEd Cross-Exhibit No. 9 will be  
14 admitted into evidence.

15 MR. RATNASWAMY: Thank you.

16 (Whereupon, ComEd  
17 Cross-Exhibit No. 9 was  
18 admitted into evidence.)

19 REDIRECT EXAMINATION

20 BY

21 MR. GIORDANO:

22 Q. I just have a few questions for you, sirs,

1 on redirect.

2                   You were asked by Mr. Ratnaswamy  
3 questions about a mitigation plan that was adopted  
4 by the ICC in procurement docket, correct?

5           WITNESS CHILDRESS: Correct.

6           **Q.** Do you believe that that mitigation plan is  
7 adequate for nonresidential space heating  
8 customers?

9           WITNESS CHILDRESS: No, we do not.

10          **Q.** Can you tell me why not?

11          **A.** Well, for two reasons.

12                   One is, as we have covered in our  
13 rebuttal testimony, it would apply to only a small  
14 percentage of the customer load; we estimated on  
15 the order of about 20 percent of the customer load.  
16 And the largest portion of the load would not  
17 potentially benefit from that.

18                   The other reason is that we considered  
19 it to be a very limited mitigation in that it was  
20 basically only kicked in when there were fairly  
21 high thresholds reached of 150 percent of the,  
22 otherwise, applicable increases or I believe it was

1 20 percent overall increase.

2 Q. And then you say that 80 percent of the  
3 load would not be covered by the plan, can you  
4 explain the difference between the load and the  
5 number of customers effected by the mitigation  
6 plan?

7 WITNESS CHILDRESS: Yes.

8 Basically what -- if you work in this  
9 market, what you realize very quickly is that a lot  
10 of the large commercial buildings particularly  
11 within the City here in the loop and even out of  
12 the city, they have a disproportionate amount of  
13 the load. And that the smaller customers may,  
14 there may be a large number of them, but they will  
15 on an individual basis have a fairly smaller amount  
16 of load, whereas a smaller number of big buildings  
17 will be the ones who will be the most impacted by  
18 the loss of Rider 25. That's a large amount of  
19 overall electricity being procured under Rider 25.

20 Q. So if I refer you to ComEd Cross-Exhibit  
21 No. 9, and there we're referring to 1,224 buildings  
22 or consumers, nonresidential consumers that are not

1 covered by the mitigation plan, you are saying that  
2 those consumers would makeup approximately  
3 80 percent of the nonresidential electric space  
4 heating load; is that correct?

5 WITNESS CHILDRESS: That's not exact because I'm  
6 not sure if he included high voltage distribution.

7 But as a rule of thumb, yes, about  
8 80 percent of the load would be in those buildings,  
9 that's correct.

10 Q. Mr. Brookover, do you have anything to add  
11 why you believe the mitigation plan is adequate or  
12 not?

13 MR. RATNASWAMY: I do object to that question.

14 I think the question went to the panel  
15 and one of the two witnesses chose to address it.  
16 And I don't think it's appropriate to simply ask  
17 the second witness if he wants to say something  
18 else.

19 JUDGE DOLAN: I'll sustain the objection.

20 BY MR. GIORDANO:

21 Q. Let me ask you another question.

22 You were asks questions regarding Rider

1 25. And it being applicable to other ComEd rates  
2 specifically Rate 6, 6L, 24 and 87.

3 Do you know whether nonresidential space  
4 heating customers are charged by ComEd, the rates  
5 under Rider 25? Or are they charged the rates  
6 under Rate 6, 6L, 24 and 87?

7 WITNESS CHILDRESS: They would be charged both  
8 if they're eligible for Rider 25 and receiving  
9 service under Rate 6, 6L, 24, 87 and Rider 25.

10 Q. Now, when you say, they would be charged  
11 both, they would not be charged any demand charges  
12 that are in Rate 6, 6L, 24 or 87; is that correct?

13 WITNESS CHILDRESS: For space heating demand,  
14 that is correct.

15 Q. And that's because of Rider 25, correct?

16 WITNESS CHILDRESS: That's because of Rider 25,  
17 that's correct.

18 Q. Now, Mr. Brookover, you asked -- you  
19 answered that your rate shock criterion does not  
20 include a consideration of how long rates were  
21 frozen and whether or not they had been frozen by  
22 law; is that correct?

1 WITNESS BROOKOVER: That's correct.

2 Q. Can you explain why your rate shock  
3 criterion do not include such considerations?

4 WITNESS BROOKOVER: We recently experienced that  
5 electricity consumed is -- under -- in a  
6 competitive market, a somewhat competitive market,  
7 has been equal to or in some cases less than the  
8 bundled rates offered by ComEd.

9 So, therefore, we didn't consider frozen  
10 rates or how long they have been frozen in our  
11 definition of rate shock.

12 Q. And you also testified that you look at  
13 rate shock on a forward-looking basis.

14 Can you explain why that is?

15 WITNESS BROOKOVER: Yes.

16 As a building owner manager for a  
17 certain time, we're cognizant of our future prices  
18 that we'll pay for our commodities. And we're  
19 always looking at, and sensitive to, those future  
20 commodity prices.

21 So whenever we're looking at a commodity  
22 to be purchased, it's typically in the future.

1 Rarely do we look at past trends, but only  
2 concerned about future trends when it comes to  
3 purchasing commodities for buildings.

4 Q. You were also asked what your proposal was  
5 for over-ten-megawatt customers.

6 If you refer to -- you might want to  
7 refer to Page 14 of your direct. Can you explain  
8 for the record, exactly what your proposal is for  
9 over-ten-megawatt customers?

10 MR. RATNASWAMY: I'm sorry.

11 Mr. Giordano, where was it?

12 MR. GIORDANO: Page 14, Lines 292 to 299.

13 WITNESS CHILDRESS: We were proposing that ComEd  
14 continue to provide a discount to Rider HVDS  
15 customers that is consistent with its current  
16 practice, and the cost of that lost revenue be  
17 equally distributed on an equal percentage basis  
18 among all nonresidential customers classes just as  
19 they currently do rather than creating a separate  
20 rate class for high voltage distribution customers.

21 Q. And other than that, you are also proposing  
22 that there be an equal percentage increase for

1 over-ten-megawatt customers; is that right?

2 **A.** Yes. Comparable to the other customers  
3 with over-10-megawatts.

4 MR. GIORDANO: Thank you.

5 I have no further questions.

6 JUDGE DOLAN: Any recross?

7 MR. RATNASWAMY: Very brief.

8 RECROSS EXAMINATION

9 BY

10 MR. RATNASWAMY:

11 **Q.** Is it fair to use the term, "revenue  
12 neutral" with regard to the proposal you just  
13 described? It's intended to be revenue neutral?

14 WITNESS CHILDRESS: When you say, "revenue  
15 neutral," which proposal?

16 **Q.** The one you were just describing on the  
17 over-ten-megawatt customers.

18 WITNESS CHILDRESS: Yes. It's fair we would be  
19 proposing it to be done -- in a revenue neutral for  
20 ComEd?

21 Are you talking about for ComEd?

22 **Q.** Yes.

1 WITNESS CHILDRESS: Yes.

2 Q. Okay. Does your testimony address whether  
3 your other proposals are or are not intended to be  
4 revenue neutral?

5 WITNESS CHILDRESS: The testimony we presented  
6 does not specifically address that, but that was  
7 our intention that they would be revenue neutral  
8 with respect to ComEd.

9 MR. RATNASWAMY: Okay.

10 Thank you.

11 No further questions.

12 JUDGE DOLAN: You want to go ahead and introduce  
13 your documents into the record.

14 MR. GIORDANO: Yes.

15 We would like to move for the admission  
16 of BOMA Exhibits 1.0 through 1.4 and BOMA Exhibits  
17 3.0 through 3.2.

18 JUDGE DOLAN: Any objection?

19 MR. RATNASWAMY: No.

20 JUDGE DOLAN: BOMA 1.0 direct, BOMA direct  
21 Exhibit 1.1, BOMA Exhibit 1.2, BOMA Exhibit 1.3,  
22 BOMA Exhibit 1.4 will be admitted into the record.

1 BOMA rebuttal Exhibit 3.0, BOMA rebuttal  
2 Exhibit 3.1 and BOMA rebuttal Exhibit 3.2 will also  
3 be admitted into the record. Thank you.

4 (Whereupon, BOMA 1.0 direct, BOMA  
5 direct Exhibit 1.1, BOMA Exhibit 1.2,  
6 BOMA Exhibit 1.3, BOMA Exhibit 1.4,  
7 BOMA rebuttal Exhibit 3.0, BOMA  
8 rebuttal Exhibit 3.1 and BOMA rebuttal  
9 Exhibit 3.2 were admitted into  
10 evidence.)

11 MR. GIORDANO: Our affidavit of Mr. McClanahan  
12 is not quite ready.

13 Do you want us to orally present that or  
14 just submit it to you? There is no  
15 cross-examination for him.

16 JUDGE DOLAN: Probably you should present it to  
17 us along with the testimonies so we can get it into  
18 the record.

19 MR. GIORDANO: Orally. That's fine. Sure.

20 JUDGE DOLAN: Yes.

21 MR. GIORDANO: At anytime?

22 JUDGE DOLAN: Yes.

1 MR. GIORDANO: Thank you. Are they excused?

2 JUDGE DOLAN: Yes.

3 (Witnesses excused.)

4 JUDGE DOLAN: It looks like we have ComEd's  
5 Witness Heintz next.

6 MR. GUERRA: ComEd calls its next witness  
7 Mr. Alan C. Heintz.

8 JUDGE DOLAN: Mr. Heintz, would you please raise  
9 your right hand.

10 (Witness sworn.)

11 ALAN C. HEINTZ,  
12 called as a witness herein, having been first duly  
13 sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY

16 MR. GUERRA:

17 Q. Could you state your name and business  
18 address for the record.

19 A. My name is Alan C. Heintz.

20 The address is 1155 15th Street,  
21 Northwest, Washington, DC, 20005.

22 Q. And by whom are you employed? And what is

1 your position?

2 **A.** I'm employed by Brown Williams Moorehead  
3 and Quinn. And my position is vice president.

4 **Q.** Do you have in front of you what has been  
5 marked as ComEd Exhibit 11.0, entitled the Direct  
6 Testimony of Alan Heintz with attached Schedules  
7 11.1 and 11.2?

8 **A.** I do.

9 MR. GUERRA: For the record, your Honor, this  
10 was filed on E-docket August 31, 2005.

11 BY MR. GUERRA.

12 **Q.** Mr. Heintz, do you also have in front of  
13 you a document that has also been marked for  
14 identification 25.0 with attached Schedule 25.1.

15 **A.** I do.

16 **Q.** And is this entitled, the Rebuttal  
17 Testimony of Alan C. Heintz?

18 **A.** It is.

19 MR. GUERRA: Judge, for the record this was  
20 filed on E-docket on January 30, 2006.

21 BY MR. GUERRA:

22 **Q.** And do you also have a document in front of

1 you that's been marked for identification ComEd  
2 Exhibit 42.0 with attached schedule 42.1, entitled  
3 Surrebuttal of Alan C. Heintz?

4 **A.** I do.

5 **Q.** And if I -- were these documents -- these  
6 three documents prepared under your direction and  
7 control?

8 **A.** Yes.

9 **Q.** If I were to ask you all the questions  
10 contained therein today, would your answers be the  
11 same?

12 **A.** They would.

13 **MR. GUERRA:** Your Honor, at this point, I move  
14 for the admission of ComEd Exhibit 11.0, 25.0, 42.0  
15 with attached exhibits.

16 **JUDGE DOLAN:** Any objection?

17 **MS. SARDENA:** No objection.

18 **JUDGE DOLAN:** ComEd Exhibit 11.0, ComEd  
19 Exhibit 11.1, an ComEd Exhibit 11.2 will be  
20 admitted into evidence.

21 ComEd Exhibit 25.0 along with ComEd  
22 Exhibit Schedule 25.1 will be admitted into

1 evidence.

2                   And ComEd Exhibit 42.0 along with ComEd  
3 Exhibit Schedule 42.1 will also be admitted into  
4 the record.

5                   (Whereupon, ComEd Exhibit 11.0,  
6 ComEd Exhibit 11.1, ComEd 11.2,  
7 25.0, Schedule 25.1, ComEd 42.0  
8 42.1 were admitted into  
9 evidence.)

10                   Thank you.

11           MR. GUERRA: At this point, we tender  
12 Mr. Heintz for cross-examination.

13                   CROSS EXAMINATION

14                   BY

15                   MS. SODERNA:

16           Q. Good morning, Mr. Heintz.

17                   My name is Julie Sordena. I represent  
18 the Citizen's Utility Board.

19                   I actually have substantially less cross  
20 than anticipated for you this morning.

21                   Mr. Heintz, you respond to the embedded  
22 costs service study in this proceeding; is that

1 correct?

2 **A.** That is correct.

3 **Q.** And the cost-of-service study generally  
4 established the inner-class allocation of embedded  
5 distribution and customer costs among the various  
6 resale customer classes, correct?

7 **A.** That is correct.

8 **Q.** You developed allocators for your  
9 cost-of-service study based largely upon  
10 non-coincidental demands, is that correct?  
11 Non-coincidental peak demands?

12 **A.** When you say, "largely," yes.

13 **Q.** And not for every class, but for most?

14 **A.** Not for every function, but yes.

15 **Q.** Right. Right.

16 And the purpose behind your  
17 recommendation, referring again to the  
18 non-coincident peak demand allocation is that only  
19 peak demands drive the costs of the distribution  
20 system; is that correct?

21 **A.** Well, various types of peaks drive various  
22 types of costs.

1                   In other words, on the higher voltage  
2 distribution it is more of a coincident peak. On  
3 radio feeders, it's the non-coincident peak that  
4 drives the cost.

5       **Q.**    And referring specifically to the  
6 distribution, distribution line, distribution  
7 substations and line transformers, those are based  
8 entirely on non-coincident peak basis; is that  
9 correct?

10       **A.**    That is correct.

11       **Q.**    Okay. And the theory, again, just to  
12 clarify is that with regard to the distribution  
13 elements I just described, that the peak demands  
14 are what drive the costs of those elements of the  
15 system; is that right?

16       **A.**    That is correct.

17       **Q.**    Okay. Now, your allocators with regard to  
18 the distribution system are based solely on demand.

19                   Those don't take into account annual  
20 utilization of the distribution system; is that  
21 correct?

22       **A.**    Well, those are their demands during the

1 year.

2 Q. Okay. But overall annual utilization of  
3 the system not just peak days?

4 A. In other words, the kilowatt hours?

5 Q. Right.

6 A. The volume?

7 Q. Right.

8 A. No, it doesn't include the volume.

9 Q. Would you agree that there is some judgment  
10 or discretion involved in your design of the  
11 cost-of-service study?

12 A. I believe there's areas where there is a  
13 small amount.

14 MR. ROBERTSON: Could the witness move the  
15 microphone just a little bit closer.

16 BY MS. SODERNA:

17 Q. And more specifically with regard to the  
18 design of the allocators in the cost-of-service  
19 study, would you agree there is some judgment or  
20 discretion involved with the determination of those  
21 allocators?

22 A. Yes, I would.

1       **Q.**     Would you agree that rate design generally  
2 is not an exact science?

3       **A.**     I don't do rate design, so I don't think I  
4 can comment on that.

5       **Q.**     How would you characterize?

6       **A.**     This is cost of service. It's not a design  
7 of the rates.

8       **Q.**     Okay. Cost of service, in your  
9 cost-of-service study then in your development of  
10 the allocators in the cost-of-service study that  
11 that's not an exact science, that there is some  
12 judgment involved, as you just said?

13       **A.**     Yes, I would.

14       **Q.**     Okay. Would you agree that the Commission  
15 has discretion to set class revenue requirements  
16 based on non cost criteria, such as gradualism,  
17 rate impact, fairness in equity, as well as the  
18 cost-of-service principles?

19       **A.**     I believe the Commission's have the  
20 authority to take into account other considerations  
21 but weigh them in terms of whether or not they're  
22 going to leave cost causation and go to some other

1 method is overwhelming or least there is very good  
2 reason to depart from cost causation.

3 Q. Okay. Mr. Heintz, you stated that the  
4 embedded cost-of-service study that you present in  
5 this case is similar to the cost-of-service studies  
6 approved by the Commission in the last two delivery  
7 cases; is that right?

8 A. That is correct. I note there might be a  
9 few differences.

10 Q. Okay. But overall, they're similar?

11 A. That is correct.

12 Q. Would you agree that the DST rates  
13 established in those cases were not, in fact,  
14 actually paid by residential customers?

15 MR. GUERRA: Objection, your Honor.

16 This question is going to rates. And  
17 Mr. Heintz is testifying with respect to the  
18 embedded cost-of-service study.

19 MS. SORDENA: Is there another witness that  
20 would be more appropriate, Mr. Crumrine for  
21 example?

22 MR. GUERRA: (Shaking head up and down.)

1 MS. SORDENA: I'll withdraw the question.

2 JUDGE DOLAN: Thank you.

3 MS. SORDENA: That's all I have actually.

4 Thanks.

5 CROSS EXAMINATION

6 BY

7 MR. GARG:

8 Q. Hello, Mr. Heintz. My name is Rishi Garg.  
9 I work for the Attorney's General Office. And I  
10 will be asking you a few questions.

11 A. Good morning.

12 Q. Can you refer to your direct testimony at  
13 Page 19. The question and answer that begin on  
14 Line 411.

15 Here you describe ComEd's proposal to,  
16 as you state, quote, "simplify its rate structure",  
17 correct?

18 A. That is correct.

19 Q. What role did you have in ComEd's decision  
20 to develop these new customer classes?

21 A. Actually, no role.

22 Q. Before this case was filed, were you asked

1 to prepare any alternate cost-of-service studies  
2 that looked at retaining some or all of the  
3 existing customer classifications?

4 **A.** I believe it was after.

5 **Q.** And are you referring to the errata filing  
6 the 285.510, Schedule 86?

7 **A.** You would have to refresh my memory on the  
8 number.

9 **Q.** Sure. Sure.

10 **MR. GARG:** May I approach the witness?

11 **JUDGE DOLAN:** Yes.

12 **BY MR. GARG:**

13 **Q.** Does this refresh your memory?

14 **A.** Yes, work paper to Exhibit 11.1, Schedule  
15 2A.

16 **Q.** And this would be an alternate  
17 cost-of-service study that you prepared in this  
18 case?

19 **A.** That is correct.

20 **Q.** So other than this residential four-class  
21 study, did you prepare any other alternate studies  
22 before this case was filed?

1       **A.**    No.

2       **Q.**    So to be clear, before this case was filed,  
3 ComEd had two cost-of-service studies from you; one  
4 with a single residential class, and one that  
5 retained the four residential classes; is that  
6 correct?

7       **A.**    Sitting here right now, my recollection is  
8 this was done later.

9       **Q.**    But other than these two cost-of-service  
10 studies that you submitted for this case, were  
11 there any other that you prepared?

12       **A.**    Yes. I prepared one for the 10-megawatt  
13 and above and another for the CTA.

14       **Q.**    But I'm referring just to the residential  
15 class?

16       **A.**    No, sir.

17       **Q.**    Okay. And referring to these two studies,  
18 isn't it true that each of the studies contains  
19 sufficient information for ComEd to design rates to  
20 recover the residential revenue requirement?

21       **A.**    Could you restate that please.

22                    Say that again.

1 Q. Sure. Sure.

2 Isn't it true that each of those studies  
3 contain sufficient information for ComEd to design  
4 rates to recover the residential revenue  
5 requirement?

6 A. Yes, it does.

7 Q. Which study did you prepare first?

8 A. Is the study 11.1 that's attached to  
9 Exhibit 11.

10 Q. And that's the one that ComEd is proposing  
11 in this case?

12 A. That is correct.

13 Q. Why did you prepare the other one?

14 A. I believe I was asked to do so by Company.

15 Q. Who asked you to do it?

16 A. It may have been through counsel. I don't  
17 recall.

18 Q. What explanation were you given as to why  
19 you were to prepare it?

20 A. Very much like the 10,000 and above, and  
21 the CTA run that were part of 25.1 and 42.1 run.  
22 They just asked to have it run. And I asked for

1 the data that was necessary to run it.

2 Q. Right. There was no explanation given?

3 A. I think they wanted to see.

4 Q. Before you prepared the two studies, were  
5 you told which one -- were you told which one would  
6 reflect ComEd's proposal and which one would be the  
7 alternate?

8 A. I don't believe before running, no.

9 My recollection is that we ran the  
10 proposed and we filed it.

11 I'm trying to remember when this was  
12 run. I thought it was run subsequent. But I'm  
13 trying to remember.

14 Sorry. Sitting here right now, I don't  
15 have the chronological order of the two.

16 Q. But you stated that the Proposal 1 was run  
17 first?

18 A. Yes.

19 MR. GARG: I have no further questions.

20 JUDGE DOLAN: Thank you.

21 Mr. Neilan.

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CROSS EXAMINATION

BY

MR. NEILAN:

**Q.** Good morning, Mr. Heintz.

My name is Paul Neilan, N-e-i-l-a-n. I represent the Building Owners Managers Association of Chicago with a few questions for you.

**A.** Good morning.

**Q.** Mr. Heintz, if I may refer you to your direct testimony at ComEd Exhibit 11.0, Page 1, Line 68?

**A.** Sorry. Could you repeat the line number.

**Q.** Sure, Page 1, Lines 6 to 8.

It is the purpose of your testimony to present and support ComEd's embedded cost-of-service study; is that correct?

**A.** That is correct.

**Q.** Is it correct that in the tariffs that are proposed by ComEd in this proceeding, ComEd proposes to consolidate eight current residential delivery services customer classes into three customer classes?

1                   And you may also refer in your direct  
2 testimony, Page 19 -- excuse me.

3                   Nonresidential. For nonresidential  
4 customer service classes?

5       **A.**     Yes, sir.

6       **Q.**     Is it also correct that these new proposed  
7 classes are a small load class, 0 to 100 kilowatts  
8 peak demand?

9       **A.**     Yes.

10      **Q.**     A large load class at 401 kilowatts to  
11 1,000 kilowatts?

12      **A.**     Yes, sir.

13      **Q.**     And the very large load class, 1,001  
14 kilowatts to 10,000 kilowatts?

15      **A.**     Yes.

16      **Q.**     Do you agree that these three delivery  
17 service customer classes, nonresidential customer  
18 classes, small load, large load and very large load  
19 are not provided for in ComEd's currently effective  
20 tariffs, and, in fact, are being proposed in this  
21 case?

22      **A.**     That is correct.

1       **Q.**     So you agree that these three delivery  
2 services customer classes do not exist now?

3       **A.**     Yes, sir.

4       **Q.**     Is it also true that ComEd's embodied  
5 cost-of-service study shows in the allocation of  
6 costs just fees to proposed delivery services in  
7 customer classes?

8       **A.**     In 11.1, yes.

9       **Q.**     Is it also true that ComEd's embedded  
10 cost-of-service study does not contain any  
11 allocation of costs to the customer classes  
12 existing under ComEd's currently effective tariffs?

13       **A.**     The only customer classes that are  
14 encompassed in the cost of service are those that  
15 are listed here and also on 11.1.

16       **Q.**     So in preparing your embedded  
17 cost-of-service study, did you look at the existing  
18 classes under ComEd's currently effective tariffs?

19       **A.**     I was familiar because we had done the last  
20 two DSTs, and we knew which customer classes we  
21 allocated the last two times.

22       **Q.**     But those customer service -- those

1 delivery services customer classes are not  
2 addressed in your embedded cost-of-service study;  
3 is that correct?

4 **A.** That is correct. They're encompassed in  
5 other classes.

6 MR. NEILAN: Your Honor, I would like to  
7 introduce BOMA Cross-Exhibit No. 5.

8 May I approach the witness.

9 (Whereupon, BOMA Deposition Cross-Exhibit No. 5 was  
10 marked for identification.)

11 BY MR. NEILAN:

12 **Q.** Mr. Heintz, this is a copy of the Illinois  
13 Commerce Commission's section of the Illinois  
14 Commerce Commission's Rule, Section 285.5110.

15 Are you familiar with this rule?

16 **A.** I have seen it before, yes.

17 **Q.** Is it true that the first sentence, if you  
18 were to look at Section A, Paragraph A, in the  
19 section of the Commission's rule, is it true that  
20 in the first sentence in this section says,  
21 Schedule E-6, "The full set of cost of service  
22 results that presents the functionalization,

1 classification, and allocation to the Utility's  
2 rate classes of all Illinois jurisdiction costs on  
3 the utility system as follows..." And then it  
4 lists several items; is that correct?

5 **A.** That's correct.

6 **Q.** And we earlier stated that ComEd did not  
7 prepare any embedded service cost-of-service study  
8 with regard to any existing classes of delivery  
9 service customers; is that correct?

10 **A.** Except what I was given that's referred to  
11 Schedule E-6, as work papers to 11.1. It was  
12 handed out earlier.

13 **Q.** Is it also true that ComEd has prepared no  
14 embedded cost-of-service study that shows class by  
15 class changes for its existing classes that would  
16 result from the proposed changes in its rates?

17 **A.** No. The cost of service is presented here  
18 in the Schedule E-6 that was referred to earlier as  
19 the break out of the existing customer classes for  
20 the single family, multi-family, single family,  
21 multi-family. And then has the small, medium, and  
22 large, but does not have the --

1       **Q.**     That shows rates, but not costs; is that  
2 correct?

3       **A.**     It shows costs.

4       **Q.**     It does show costs?

5       **A.**     It shows costs, not rates.

6       **Q.**     If I can refer you to your direct testimony  
7 ComEd, Exhibit 11.0 on Page 6, Lines 111 to 113.

8                     It's your position that the basic  
9 structuring function of the embedded  
10 cost-of-service studies in this docket is the same  
11 of that submitted in Dockets 99-0017 and 01-0423;  
12 is that correct?

13       **A.**     That's correct.

14       **Q.**     Are you testifying that the embedded  
15 cost-of-service study in 99-0117 and 01-0423  
16 reflect allocation of costs to ComEd's small load,  
17 large load, very large load and customer classes as  
18 you presented in this proceeding?

19       **A.**     As I mentioned, in the testimony there are  
20 some exceptions. We kept the exceptions as minimal  
21 as possible. There is a change in the customer  
22 classes.

1       **Q.**     The only embedded cost-of-service study  
2 presented on rebuttal in your rebuttal testimony  
3 was the embedded cost-of-service study from ICC  
4 Docket 01-0423 and on a new cost-of-service study;  
5 is that correct?

6       **A.**     I'm sorry? In my rebuttal testimony here?

7       **Q.**     Yes. On rebuttal?

8       **A.**     On rebuttal that has the 10-megawatt class  
9 pulled out.

10      **Q.**     But that's the embedded cost-of-service  
11 study from ICC Docket 01-0423 and then a new  
12 cost-of-service study; is that correct?

13      **A.**     No. This is a new cost of service. It is  
14 consistent with the one in 11.1.

15      **Q.**     Is it your position that in order to  
16 perform an embedded cost-of-service study in a  
17 class of customers, ComEd would have to have data  
18 on that class of customers?

19      **A.**     Yes.

20      **Q.**     So you would agree that if ComEd has no  
21 data on the costs to serve a class of customers,  
22 it's not possible to determine what their cost of

1 service is?

2 **A.** Yes. If you don't have the peaks, for  
3 example, of the customer class, you could not  
4 allocate the demand cost. If you didn't know the  
5 cost of their meters, services, and so forth.

6 **Q.** Would you agree that ComEd has not prepared  
7 any embedded cost-of-service study that would show  
8 what the cost of service is for nonresidential  
9 space heating customers?

10 **A.** I don't know if ComEd has or has not, but I  
11 have not.

12 **Q.** Are you aware of any?

13 **A.** No, I'm not.

14 **Q.** If I may refer you to your rebuttal  
15 testimony, ComEd Exhibit 25.0, Page 2, Line 29.

16 At that place in your testimony, it's  
17 correct, you use the term, "minimum distribution  
18 system"?

19 **A.** That's correct.

20 **Q.** When you use that term, "minimum  
21 distribution system," what do you mean?

22 **A.** It's analysis of the smallest sized

1 facilities that are currently being installed by a  
2 utility.

3           And it's not the facilities that are  
4 actually installed, and you actually calculate what  
5 the cost of the system would be given the smallest  
6 facilities that are currently being installed are.  
7 It's a hypothetical. It doesn't exist. But you  
8 are going to do an analysis to determine a smaller  
9 portion of the system, what it would cost.

10       **Q.** If I may also refer you in your rebuttal  
11 testimony, Page 3, at Lines 52 to 55, is it correct  
12 that at that place in your testimony you quote a  
13 portion of the prior order of the Illinois Commerce  
14 Commission in Docket 00-0802?

15       **A.** That is correct.

16       **Q.** And isn't it true that the final order that  
17 you quote relates not to ComEd as a distribution  
18 only utility, but rather to Ameren CIPs and Ameren  
19 Union Electric?

20       **A.** That's correct, as stated on Line 47.

21       MR. GIORDANO: Can we have one moment?

22       JUDGE DOLAN: Sure.

1 BY MR. NEILAN:

2 Q. Do you agree that service drops, meters,  
3 meter reading, billing and collections, customer  
4 account maintenance are customer-related services?

5 A. I do.

6 Q. And you would also agree that the cost of  
7 providing these services would be properly  
8 characterized as customer-related costs?

9 A. That is correct.

10 Q. If I can refer you to your rebuttal  
11 testimony at ComEd Exhibit 25.0, Page 2, Line 32  
12 to 33.

13 Is it correct that you state there that  
14 demands are the primary factor causing cost  
15 incurrence; is that correct?

16 A. That is for the distribution accounts, yes.

17 Q. And by primary factor, are you testifying  
18 that demands are the only factors causing cost  
19 incurrence?

20 A. No, sir, I'm not.

21 Q. So it's correct then that -- strike that.

22 Is it your position that all costs of

1 the distribution system are demand related and none  
2 are customer related?

3 **A.** No, sir. I think I just agreed two  
4 questions ago that services and a number of other  
5 -- meters, meter reading are customer related.

6 MR. NEILAN: Okay. Thank you.

7 I have no further questions, your Honor.

8 I would like to introduce BOMA Exhibits,  
9 I believe, it's 6 (sic) I believe.

10 JUDGE DOLAN: Any objection?

11 MR. GUERRA: Is that the Administrative Code?

12 MR. NEILAN: 5. It is.

13 MR. GUERRA: I'm going to object.

14 Why are we admitting the Administrative  
15 Code? I mean, the code speaks for itself.

16 MR. NEILAN: We will withdraw it.

17 JUDGE DOLAN: Mr. Feeley, are you ready?

18 MR. FEELEY: Staff, doesn't have any.

19 JUDGE DOLAN: We have either the City, CTA or  
20 Cook County, State's Attorney or the IIEC?

21 Who wants to go next?

22 MR. ROBERTSON: I have none.

1 MR. BALOUGH: CTA has none.

2 MR. GOLDENBERG: We have none.

3 JUDGE DOLAN: So is there any redirect?

4 (No response.)

5 Everyone else wiped out.

6 MR. GUERRA: Can we have just a second?

7 JUDGE DOLAN: Certainly.

8 MR. GUERRA: No redirect.

9 JUDGE DOLAN: No redirect.

10 All right.

11 Mr. Heintz, you are excused.

12 Thank you.

13 (Witness excused.)

14 JUDGE DOLAN: We're ready to go back on the  
15 record.

16 MS. SCARSELLA: Staff calls Thomas Griffin.

17 JUDGE DOLAN: Can you raise your right hand.

18 (Witness sworn.)

19 MS. SCARSELLA: Is it acceptable still to enter  
20 Mr. Griffin's exhibits via stipulation, the way  
21 we've been handling it?

22 JUDGE HALOULOS: Yes.

1 MS. SCARSELLA: Thomas Griffin is offering two  
2 exhibits, ICC Staff 3.0, Schedules 3 -- which  
3 includes 3.1 through 3.4, and also ICC Staff  
4 Exhibit 14.0, Schedules -- which includes Schedules  
5 14.1 through 14.2.

6 THOMAS GRIFFIN,  
7 called as a witness herein, having been first duly  
8 sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY

11 MS. SCARSELLA:

12 Q. Prior to moving these exhibits into the  
13 record, Mr. Griffin, do you have anything that you  
14 would like to add regarding your direct and  
15 rebuttal testimonies?

16 A. Yes. In both my direct and rebuttal  
17 testimonies, I point out that ComEd has \$53.4  
18 million in capital projects in two places in the  
19 rate base.

20 ComEd included the projects in  
21 construction work in progress or CWIP, C-W-I-P, and  
22 in additions to plant in service. I proposed

1 eliminating these projects from plant in service.

2                   Mr. McGarry (phonetic) who is appearing  
3 in this case on behalf of CUB and the Cook County  
4 State's Attorney's Office, also recognized the  
5 duplication and proposed in his testimony  
6 eliminating the projects from construction work in  
7 progress.

8                   Last week Mr. McGarry, ComEd witness  
9 Mr. Hill and I agreed that an appropriate level of  
10 CWIP in rate base at December 31st, 2004 for the  
11 purpose of this case would be 70 percent of the  
12 CWIP balance at December 31, 2005.

13                   This will result in reducing CWIP in  
14 rate base from 53,449,000 to 41,160,000. It also  
15 eliminates the double counting that ComEd's rate  
16 base.

17                   Therefore, I am no longer proposing the  
18 53,449,000 adjustments to plant in service. In  
19 addition, I now recommend an adjustment to reduce  
20 CWIP in rate base by 12,289,000 from 53,449,000 to  
21 41,160,000 consistent with this agreement.

22           MS. SCARSELLA: And with that, your Honor, Staff

1 moves to admit to the record ICC Staff Exhibit 3.0,  
2 which includes Schedules 3.1 through 3.4, and ICC  
3 Staff Exhibit 14.0, Schedules 14.1 and 14.2.

4 JUDGE DOLAN: Any objection?

5 MS. POLEK-O'BRIEN: No objection.

6 JUDGE DOLAN: All right. Staff Exhibit 3.0  
7 along with Attachments 3.1 through 3.4 will be  
8 admitted into the record, and Staff Exhibit 14.0  
9 along with Exhibit -- or Attachments 14.1 and 14.2  
10 will also be admitted into the record.

11 Thank you.

12 (Whereupon, Staff  
13 Exhibit Nos. 3 and 14 were  
14 admitted into evidence as  
15 of this date.)

16 JUDGE DOLAN: You ready to proceed?

17 MS. SCARSELLA: Yes.

18 Mr. Griffin is ready to  
19 cross-examination.

20

21

22

1 CROSS-EXAMINATION

2 BY

3 MS. POLEK-O'BRIEN:

4 Q. Hi, Mr. Griffin. I'm Stacy Polek-O'Brien.  
5 I've got just a couple questions for you.

6 In conjunction with your proposed  
7 adjustment of 53,449,000 to plant in service, you  
8 also suggested adjustments to accumulated  
9 depreciation, accumulated deferred income taxes and  
10 depreciation expense.

11 Given this new adjustment, the one that  
12 you're proposing in lieu of this, those adjustments  
13 don't need to be made anymore, correct?

14 A. Those adjustments are no longer  
15 appropriate. That's correct.

16 MS. POLEK-O'BRIEN: Thank you.

17 I have nothing else.

18 JUDGE DOLAN: Any redirect?

19 MS. SCARSELLA: No.

20 JUDGE DOLAN: All right. Thank you,  
21 Mr. Griffin.

22 MR. ROBERTSON: Your Honor?

1 JUDGE DOLAN: Yes.

2 MR. ROBERTSON: It's my understanding -- or  
3 entered into an agreement with CES regarding my  
4 decision not to cross-examine their witness,  
5 Mr. O'Connor.

6 They've agreed, as I understand it, to  
7 the admission of an IIEC cross exhibit in lieu of  
8 cross-examination, and I'd like to offer that now,  
9 if it's convenient, or I can do it at a later time.

10 JUDGE DOLAN: No, that's probably convenient  
11 now.

12 MR. ROBERTSON: If I may, your Honor. This  
13 exhibit is CES Exhibit 1.6 from the ComEd Power  
14 Procurement case, Docket 05-0159, and it is an  
15 illustration of Mr. -- or Dr. O'Connor's  
16 calculation of savings associated with electric  
17 restructuring.

18 And it is my understanding that CES  
19 agrees that this is an accurate description of his  
20 calculation in this case. And, therefore, we would  
21 move the admission of IIEC Cross Exhibit No. 1  
22 pursuant to our agreement with CES.

1 JUDGE DOLAN: Any objection?

2 MR. KAMINSKY: No objection.

3 JUDGE DOLAN: Okay. IIEC Cross Exhibit No. 1  
4 will be admitted into evidence.

5 (Whereupon, IIEC Cross  
6 Exhibit No. 1 was  
7 admitted into evidence as  
8 of this date.)

9 JUDGE DOLAN: Thank you, Mr. Robertson.

10 MR. ROBERTSON: Thank you.

11 (Discussion off the record.)

12 JUDGE DOLAN: Go back on the record.

13 MR. GARG: Would your Honors -- your Honor, the  
14 Attorney General's Office, would you please state  
15 your name and (inaudible) for the record?

16 MR. DAVID EFFRON: My name is David J. Effron.  
17 My address is 12 Pond Path, North Hampton, New  
18 Hampshire.

19 JUDGE DOLAN: All right. Mr. Effron, if you can  
20 raise your right hand.

21 (Witness sworn.)

22 JUDGE DOLAN: All right. Proceed.

1 MR. GARG: Your Honor, we would like to  
2 submit -- Mr. Effron is submitting testimony  
3 pursuant to agreements reached with parties on the  
4 issues of new business and also the audits. We do  
5 have a revised and supplemental rebuttal testimony  
6 that we will be submitting.

7 I will explain the revision -- the  
8 numbering of the exhibits. And if it is convenient  
9 to have him change, if it's -- it might be a little  
10 confusing, we would be happy to do that after --  
11 after this testimony is taken.

12 So, however, first, Mr. Effron is  
13 submitting direct testimony, Exhibit AG  
14 Exhibit 1.0, including Schedules A, B, B-1, B-2,  
15 B-3, B-4, C, C-1, C-2, C-2.1, C-2.2, C-2.3, C-2.4,  
16 C-3, C-4, C-5 and D.

17 And then second in -- second there is  
18 revised rebuttal Exhibit 3.0-R, which removes the  
19 mention of audit -- of the audit.

20 JUDGE DOLAN: Okay.

21 MR. GARG: And there's also supplemental  
22 rebuttal which is marked Exhibit 1.2 and that

1 adopts the new plant number that is -- new business  
2 plant number that has been agreed to by the parties  
3 and provides four revised schedules for rebuttal.

4           And these schedules -- and the schedules  
5 for the supplemental rebuttal are Schedules A  
6 through D.

7           And with that, we offer those into the  
8 record, and Mr. Effron is available for -- to be  
9 cross-examined.

10       JUDGE DOLAN: Any objection?

11       MR. THOMAS: No objection.

12       JUDGE DOLAN: Okay. Then we have AG Exhibit 1.0  
13 along with Schedules A, B, B-1, B-2, B-2.1 and  
14 B-2.2.

15       MR. GARG: No. No, your Honor. It's -- B-1  
16 through B-4 and then C, C-1.

17       JUDGE DOLAN: B-1 through 3.

18       MR. GARG: C-1, C 2, and then C-2.1 through, I  
19 believe, 2.4.

20       JUDGE DOLAN: Okay.

21       MR. GARG: Let me see. Yes. And then you go to  
22 C-3, C-4, C-5 and D.

1 JUDGE DOLAN: All right.

2 So let me just make sure for the record.  
3 We got an A, a B, a B-1, B-2, B-3 and B-4, and then  
4 a C, a C-1, a C-2, a C-2.1, C-2.2, C-2.3, C-2.4, a  
5 C-3, a C-4, a C-5, and a D.

6 MR. GARG: That's correct.

7 JUDGE DOLAN: Okay. That'll all be admitted  
8 into the record.

9 (Whereupon, AG  
10 Exhibit No. 1 was  
11 admitted into evidence as  
12 of this date.)

13 JUDGE DOLAN: And then we have a revised 3.0-R,  
14 which is also admitted into the record.

15 (Whereupon, AG  
16 Exhibit No. 3.0-R was  
17 admitted into evidence as  
18 of this date.)

19 JUDGE DOLAN: And then we have a supplemental  
20 revised 1.2 with four revised Schedules A through  
21 D.

22 MR. GARG: It's all of the schedules, not -- I'd

1 be happy to go through them.

2                   It's all of the schedules that were a  
3 part of the rebuttal, all the ones that we went  
4 through for direct, but they're revised.

5       JUDGE DOLAN: Okay. So all the schedules on the  
6 supplemental rebuttal is all the same schedules  
7 revised?

8                   Oh, I see. A through D. Okay. I see  
9 it.

10                   Okay. So we have supplemental rebuttal  
11 1.2 with all the Schedules A through D revised  
12 also.

13       MR. GARG: Including all of the --

14       JUDGE DOLAN: Okay. And those will also all be  
15 admitted into the record.

16                                   (Whereupon, AG  
17                                   Exhibit No. 1.2 was  
18                                   admitted into evidence as  
19                                   of this date.)

20       MR. GARG: And Mr. Efron is available for  
21 cross.

22       JUDGE DOLAN: Okay. Mr. Thomas, you ready to

1 proceed?

2 CROSS-EXAMINATION

3 BY

4 MR. THOMAS:

5 Q. Mr. Efron, my name is Dale Thomas, and I  
6 represent Commonwealth Edison Company.

7 I've always wanted to ask you this. You  
8 went to Dartmouth College, correct?

9 A. That's correct. Yes.

10 Q. Isn't that where in the alma mater, they  
11 sing about having Granite in the brains?

12 A. I think it's Granite in the muscles and  
13 brains, actually.

14 Q. Right. Correct.

15 A. I think it's reference to New Hampshire  
16 being the Granite state.

17 Q. Right. Right. All right.

18 Let's take care of some preliminary  
19 questions?

20 You are a consultant specializing in  
21 utility regulations, correct?

22 A. Yes.

1 Q. And you're a certified public accountant?

2 A. Yes.

3 Q. You're not an engineer?

4 A. I am not.

5 Q. You are not an actuary?

6 A. I'm not an actuary.

7 Q. You've never had responsibility for  
8 operating and maintaining an electric transmission  
9 and distribution system, correct?

10 A. That's correct.

11 Q. And you've never had responsibility for the  
12 capital improvement aspects of a transmission and  
13 distribution business, correct?

14 A. That's correct, yes.

15 Q. And, therefore, no experience also in  
16 building or constructing a transmission and  
17 distribution system?

18 A. I've never worked for a public utility  
19 company. That's correct. That's so --

20 Q. Just about one more question.

21 So that would also include no  
22 responsibility for improving the reliability of a

1 electric transmission and distribution system,  
2 correct?

3 **A.** That's correct, yes.

4 **Q.** And, finally, no responsibility for  
5 attracting, maintaining and managing employees of  
6 an electric utility system, correct?

7 **A.** That's correct.

8 **Q.** Okay. Now, you state your testimony -- or  
9 the purpose of your testimony is to recommend rate  
10 base and pro forma operating income for ComEd in  
11 this case rate case based on adjustments to ComEd's  
12 presentation, correct?

13 I think that's your direct testimony --

14 **A.** Adjustments that I identified in my review  
15 and analysis, yes.

16 **Q.** Right. And you state in your direct  
17 testimony, you've incorporated the rate of return  
18 recommended by Mr. Bodmer in this case, correct?

19 **A.** That's correct. Yes.

20 **Q.** So if the Commission were approve a rate of  
21 return different than recommended by Mr. Bodmer,  
22 your calculation of the Company's revenue

1 deficiency or excess under present rates would also  
2 have to change, correct.

3 **A.** As a matter of revenue, it would have to  
4 change, yes.

5 **Q.** Now, you've also read the surrebuttal  
6 testimony ComEd Witness Mr. Jerry Hill in this  
7 case, have you not?

8 **A.** I have, yes.

9 **Q.** And as presented in his surrebuttal  
10 testimony, ComEd's pro forma revenues under current  
11 delivery service rates are one million, five --  
12 excuse me, 544,890,000 after subtraction of  
13 miscellaneous revenues; isn't that correct?

14 **A.** I don't have it in front of me now, but I  
15 can accept your representation.

16 **Q.** Subject to check?

17 **A.** Subject to check.

18 **Q.** Okay. And as Mr. Hill testifies reflecting  
19 the June 2006 changes in the delivery service rates  
20 approved in Docket 01-0423, ComEd's pro forma  
21 revenues are \$1,579,469,527; isn't that correct?

22 **A.** Again, I think I understand that subject to

1 check.

2 Q. Okay. And delivery service rates now being  
3 changed were established in ComEd's last delivery  
4 services rate case, Docket 01-0423, correct?

5 A. That's my recollection, yes.

6 Q. And the revenue requirement approved in  
7 that case was based upon a 2000 test year?

8 A. As I recall, that's right.

9 Q. And in this rate case, we're using a 2004  
10 test year, correct?

11 A. Yes, that's correct.

12 Q. ComEd's gross distribution plant in service  
13 has increased over two billion from the end of 2000  
14 to the end of 2004, correct?

15 A. Again, I don't have that in front of me,  
16 but in terms of the gross distribution parameters,  
17 that sounds about right, yes.

18 Q. Right. And no party in this proceeding has  
19 recommended disallowances to ComEd's proposed test  
20 year distribution plant on the basis that the plant  
21 is not prudent or used and useful or reasonable in  
22 cost, correct?

1       **A.**    I know I haven't.  I don't recall seeing  
2 other testimony of that nature.

3       **Q.**    And you would agree that operating costs,  
4 wages, healthcare costs, others have gone up since  
5 year end 2000, wouldn't you?

6       **A.**    Prices in general have gone up since then.  
7 They can be offset by efficiencies and changes in  
8 operations --

9       **Q.**    Sure.

10      **A.**    -- and other changes that would tend to  
11 more than offset any price increases that have  
12 taken place --

13      **Q.**    Sure.

14      **A.**    So I would agree that the price level in  
15 general is somewhat higher.

16      **Q.**    Right.

17      **A.**    Not terribly higher than what price  
18 increases from 1970 (sic), somewhat higher, but  
19 there have been also other changes since that time.  
20 And if -- net effect of cost might not necessarily  
21 be an increase.

22      **Q.**    Well, we'll get into some of those.

1                   But -- and there also have been some new  
2 types of costs like -- -oxy costs and post-911  
3 security costs, that type of thing as well,  
4 correct?

5           **A.**     There's always going to be changes.  
6 There'll be new costs. There'll be introduction of  
7 efficiencies.

8                   So there's -- over a period of four or  
9 five years, you'll have changes.

10          **Q.**     All right. So in your rebuttal testimony,  
11 you propose a revenue requirement of  
12 \$1,446,885,000, correct, after the subtraction of  
13 miscellaneous revenues?

14          **A.**     May I have that number again?

15          **Q.**     Yes. \$1,446,885,000.

16          MR. GARG: And, Counsel, what is that in  
17 reference to?

18          MR. THOMAS: That's the proposed revenue  
19 requirement that I believe is in Mr. Effron's  
20 rebuttal testimony.

21          MR. GARG: Counsel, are you referring to the  
22 rebuttal or the revised schedules?

1 BY MR. THOMAS:

2 Q. Well, that's perhaps part of the problem,  
3 but...

4 Not to belabor this. Why don't you --  
5 Mr. Efron, what is the revenue requirement that  
6 you recommend in this case?

7 A. The base rate revenue requirement, not  
8 including the miscellaneous revenues, I have pro  
9 forma revenues under present rates. Make sure I  
10 have the right schedule here. This -- this would  
11 take into account the very last round of  
12 testimony -- have a moment.

13 Of 1,591,000,000, and I have a rate  
14 decrease of 90 million. So the revenue -- the  
15 revenue requirement would be about 1.5 billion.

16 Q. Right.

17 A. Roughly.

18 Q. Roughly?

19 A. Roughly 1.5 billion.

20 Q. 1.5 billion?

21 A. That's correct.

22 Q. That's more or less what I had, but 1.5

1 billion would do.

2                   And so that is, would you agree, about a  
3 132.7 or 8 million less than the revenue  
4 requirement approved in ComEd's last rate case?

5       **A.**     That's entirely possible, but understand a  
6 major reason for that is the recommendation of a  
7 much lower rate of return that was approved in this  
8 case.

9       **Q.**     I understand.

10                   And --

11       **A.**     Which -- that has to be -- just to be  
12 clear, that's not my recommendation. That's the  
13 one that I'm incorporated into the testimony. So  
14 I'm not offering --

15       **Q.**     Well, you're not -- it is incorporated into  
16 your testimony. So you are at least putting  
17 forward a revenue requirement that combines  
18 Mr. Bodmer's recommendation for a cost of capital  
19 along with your own suggested adjustments, correct?

20       **A.**     That's correct. Yes.

21       **Q.**     Okay.

22       **A.**     Yeah, but, again, just -- just understand

1 that's a large reason for the change that we're  
2 talking about with the change of circumstances  
3 regarding the reduced rate of return.

4 **Q.** Okay. And so your proposed revenue  
5 requirement, at least the one that's included in  
6 your case for those reasons, is about \$443.5  
7 million less than ComEd's proposed revenue  
8 requirement in this case based on a 2004 test year  
9 and about 132.7 million less than ComEd's present  
10 revenue requirement based on the 2000 test year,  
11 correct?

12 **A.** There's a couple questions in there, but I  
13 think my answer to both of them would be yes.

14 **Q.** Okay. Now, before we go any further, I  
15 think we have a number of areas of agreement and  
16 I'd just like to quickly go over those.

17 One is you originally proposed a fair  
18 value adjustment to pension post-retirement  
19 healthcare benefit expense. And I believe you  
20 originally calculated that as being 7.636 million  
21 lower than the test year, correct?

22 **A.** I proposed an adjustment of approximately

1 7.6 million to the Company's original position;  
2 that's correct.

3 Q. Right. And Ms. Houtsma in her rebuttal  
4 testimony agreed with you that some adjustment  
5 should be made, but she recalculated it as 5.2  
6 million, correct?

7 A. That's correct.

8 Q. And I believe in your rebuttal testimony,  
9 you agree with Ms. Houtsma that 5.2 million would  
10 be the correct figure?

11 A. I accepted that, yes.

12 Q. And in your direct rebuttal testimony, you  
13 also recommended that plant additions to certain  
14 customers should be eliminated from post-test year  
15 plant additions because, as you put it, there was  
16 no recognition of additional revenues, correct?

17 Is that correct?

18 A. That's correct.

19 Q. And I believe your supplemental rebuttal  
20 testimony now embodies the agreement of ComEd, the  
21 AG, and I believe the City of Chicago and other  
22 parties that there should be offsetting revenue of

1 approximately 13,751,000; is that correct?

2 **A.** I can't speak to the agreement of the other  
3 parties, but as far as the agreement between ComEd  
4 and the AG, yes, I've incorporated the effect of  
5 that agreement.

6 **Q.** Okay. And I think the final area of  
7 agreement at least for now relates to ComEd's  
8 jurisdictional test year employee settlement  
9 arbitration cost.

10 And I think to shorten this, you and  
11 Mr. Jerry Hill agreed that it should be -- that  
12 ComEd's test year employee settlement cost should  
13 be reduced by \$4,301,224; is that correct?

14 **A.** Yeah, I accepted the number in his rebuttal  
15 testimony.

16 **Q.** Okay.

17 **A.** Yes.

18 **Q.** All right. Now, Mr. Efron, you've  
19 testified before the ICC on numerous occasions,  
20 correct?

21 **A.** That's correct, yes.

22 **Q.** So you're familiar with the concept of a

1 test year?

2 **A.** I like to think so.

3 **Q.** Yeah. The test year is set forth in  
4 section 285.10 of the Illinois Administrative Code,  
5 correct?

6 **A.** Yes.

7 **Q.** And you would agree that the basic purpose  
8 of a test year is to prevent some sort of  
9 mismatching of revenues and expenses, correct?

10 **A.** My -- I think some more comprehensive than  
11 that.

12 I would say it's to establish a  
13 relationship among revenues or billing  
14 determinants, expenses and the net investment in  
15 rate base that would -- expected to be  
16 representative of the Company's normal operations  
17 on a prospective basis.

18 **Q.** Well, that term, quote, Mismatching  
19 revenues and expenses, unquote, comes right out of  
20 the Illinois Supreme Court decision in BPI-II.  
21 You're not disagreeing with that, are you?

22 **A.** It's been a long time since I've looked at

1 that decision, but I can agree with your  
2 representation.

3 Q. And this test year rule against mismatching  
4 revenues and expenses applies just not to the  
5 utility, but to those parties proposing adjustments  
6 to the utility's test year revenues and expenses,  
7 correct?

8 A. I would say so, yes.

9 Q. Now, there's also a very specific rule for  
10 proposing pro forma adjustments to historical test  
11 year data and that's set forth in 83 Illinois  
12 Administrative Code, Section 287.40, correct?

13 A. I haven't committed the sections to memory,  
14 but, again, I can accept your description of that.

15 Q. And so you're familiar with basically that  
16 rule?

17 A. I'm generally familiar with it.

18 MR. GARG: Counsel, do you have the rule  
19 available?

20 Thank you.

21 MR. THOMAS: Sure. In fact, if Counsel would  
22 like, I have some more copies.

1 MR. GARG: I'll take one.

2 MR. THOMAS: Sure.

3 Would the Hearing Examiners like a copy,  
4 too?

5 JUDGE DOLAN: Sure.

6 BY MR. THOMAS:

7 Q. So any pro forma adjustment has to conform  
8 to the standards set forth in this section of the  
9 code, correct?

10 A. I'm not an attorney myself, so I don't want  
11 to be giving a legal interpretation of this, but I  
12 would read this to apply to the pro forma  
13 adjustments proposed by the utility.

14 I presume out of balance, they would  
15 also apply to the pro forma adjustments in the --  
16 proposed by other parties as well.

17 Q. Sure. Okay.

18 And the standards that are set forth  
19 here -- you can look at it. I'm going to summarize  
20 them -- are the changes have to be known and  
21 measurable, has to have occurred during the  
22 selected test year or be, quote, Reasonably certain

1 to occur subsequent to the historical test year  
2 within 12 months after the filing date of the  
3 tariffs, and the amounts of the changes must be  
4 determinable, correct?

5 MR. GARG: Objection, your Honor. If Counsel is  
6 asking if simply that's what it says on the paper,  
7 that's fine. But as to any interpretation, the  
8 witness is not an attorney.

9 MR. THOMAS: And that is all I'm asking. I'm  
10 simply asking whether I've correctly summarized the  
11 words that are on -- in the code.

12 I've quoted them directly.

13 MR. GARG: Then objection withdrawn.

14 JUDGE DOLAN: Okay.

15 THE WITNESS: The text could probably speak for  
16 itself, but it sounds like your description is  
17 adequate.

18 BY MR. THOMAS:

19 Q. And it also states, does it not, that pro  
20 forma adjustments are not to be based on, quote,  
21 Attrition or inflation factors, unquote?

22 A. Attrition or inflation factors shall not be

1 substituted for a specific study of individual  
2 capital revenue and expense components.

3 Q. Okay. And after the pro forma adjustments  
4 are made, the goal is still to prevent this  
5 mismatching of revenues and expenses, correct?

6 MR. GARG: Objection, your Honor. If that calls  
7 for any sort of a legal conclusion based on this  
8 section of the code, again, the witness is not a  
9 attorney.

10 MR. THOMAS: Well, excuse me. I think the  
11 witness has already agreed that, in general, that  
12 the purpose of the test year rule is to prevent  
13 mismatching of revenues and expenses.

14 The witness has proposed a lot of pro  
15 forma adjustments in this case. So I don't think  
16 it's an unfair question to ask whether the goal of  
17 the test year plus the pro forma expenses is to  
18 prevent that mismatching.

19 JUDGE HALOULOS: Overruled.

20 THE WITNESS: That -- not being a mind reader, I  
21 can't exactly characterize what was in the  
22 legislature's mind when this was put into the code.

1 I would presume that the reason for  
2 having these criteria for pro forma adjustments  
3 would be to avoid a mismatch of not only revenues  
4 and expenses, but one element of rate base with  
5 another or a mismatch in general. In other words,  
6 to avoid selective or one-sided adjustments.

7 BY MR. THOMAS:

8 Q. That's fine.

9 Now, let's turn to one of the  
10 adjustments you recommended and that's merger  
11 savings.

12 And the merger we're talking about is  
13 Exelon's proposal to acquire Public Service  
14 Enterprise Group, which is the parent company of  
15 Public Service Electric Gas -- Public Service  
16 Electric and Gas Company, correct?

17 A. That's correct.

18 MR. GARG: Counsel, for convenience, can you  
19 give -- or unless you're just asking general  
20 questions, can you give a reference to where in the  
21 testimony you're referring?

22 BY MR. THOMAS:

1       **Q.**    I'll attempt to do that.  I believe that  
2 starts on Page 30 of your direct testimony, Line  
3 21, correct?

4       **A.**    Yes, that's correct.

5       MR. GARG:  Thank you.

6 BY MR. THOMAS:

7       **Q.**    And you propose to make what you call a  
8 merger savings adjustment in this case based on a  
9 forecasted savings made by Exelon and PSE&G as  
10 joint petitioners in seeking approval of the  
11 proposed acquisition from the New Jersey Board of  
12 Public Utilities, correct?

13      **A.**    Yes, that's correct.

14      **Q.**    And your proposal to reduce ComEd's test  
15 year operating expenses by approximately 20.5  
16 million to reflect what you estimate to be the  
17 savings expected to be realized as a result of the  
18 proposed merger, correct?

19      **A.**    The number's right, but the \$20.5 million  
20 is not my estimate.  That's the estimate that was  
21 presented by the joint petitioners in that merger  
22 docket to the New Jersey Board of Public Utilities

1 and it's based on a half of the gross merger  
2 savings that they submitted as justification for  
3 the merger.

4 **Q.** Well --

5 **A.** They weren't fairly -- if they weren't  
6 reasonably certain that those merger savings would  
7 be achieved, I don't think they would have offered  
8 them as a justification for the merger.

9 **Q.** Well, let's just be clear about one thing.  
10 You're not suggesting, are you, that  
11 those companies said that they expected the test  
12 year savings in every year to be 20.5 million?

13 **A.** No, it was not -- it was not 20.5 million.

14 **Q.** Right. That is your adjustment to certain  
15 figures presented by the company, correct?

16 **A.** The 20.5 million is my adjustment to test  
17 year expenses presented by ComEd in this case.

18 The 20.5 million reflects the four-year  
19 average savings without modification presented by  
20 the joint petitioners, Exelon and PSE&G, and the  
21 merger docket before the New Jersey Board of Public  
22 Utilities.

1       **Q.**     Okay.  Now, as we've already discussed,  
2     Part 287.40 of the Illinois Administrative Code  
3     provides that adjustments to a historical test year  
4     may be made for known and measurable changes in  
5     operating results if such changes, quote, Are  
6     reasonably certain to occur subsequent to the  
7     historical test year within 12 months after the  
8     filing date of the tariffs and where the amounts of  
9     the changes are determinable, correct?

10                     Have I read that correctly?

11       **A.**     Yes.

12       **Q.**     ComEd filed the tariffs in this case on  
13     August 31, 2005, did it not?

14       **A.**     I don't recall the exact date.  That sounds  
15     about right.

16       **Q.**     So 12 months from the date of the filing  
17     the tariffs would be August 31st, 2006, correct?

18       **A.**     That's correct.

19       **Q.**     Has the merger been approved and  
20     consummated yet?

21       **A.**     No, it has not.

22       **Q.**     So as you sit here today, Mr. Efron, you

1 do not know whether the merger will even be  
2 approved, much less approved and consummated before  
3 August 31, 2006; am I correct?

4 **A.** It -- it probably seems less certain now  
5 than at the time I prepared my rebuttal testimony.

6 **Q.** Indeed, any prediction at this point would  
7 be speculation; isn't that correct?

8 **A.** The consummation of the merger itself is  
9 not a certainty at this time. I would agree with  
10 that.

11 **Q.** So you would also acknowledge that merger  
12 savings cannot begin until after the merger is  
13 approved and closed, correct?

14 **A.** That's correct, yes.

15 **Q.** In other words, you're not suggesting that  
16 your \$20.5 million estimated annual savings can be  
17 achieved without the merger, correct?

18 **A.** No, it is dependent on the merger being  
19 closed.

20 **Q.** Right. And the predictions of merger  
21 savings to ComEd, which I think are the ones that  
22 you originally used, are set forth in ComEd Witness

1 Ms. Houtsma's rebuttal testimony; isn't that  
2 correct?

3 And it's at ComEd Exhibit 18, Lines 477  
4 to 483.

5 A. Can I --

6 MR. GARG: Can you please provide that, Counsel?

7 BY MR. THOMAS:

8 Q. Must be Karma. Even without dog-earring  
9 it, it opened right to the right page.

10 A. And may I have the question again now?

11 Q. What I was saying is that the prediction of  
12 merger savings that ComEd made in those proceedings  
13 are essentially set forth on that page of  
14 Ms. Houtsma's rebuttal testimony; isn't that  
15 correct?

16 A. The merger savings quantified by the joint  
17 petitioners before the New Jersey Board are, yes,  
18 set forth on ComEd Exhibit 18.0, Page 22.

19 Q. Right. And these savings are not  
20 cost-free, are they?

21 A. No, they're not.

22 Q. In fact, you testified in the merger

1 proceeding in New Jersey, did you not, Mr. Effron?

2 **A.** Yes, I did.

3 **Q.** So you're aware that the projected savings  
4 in that proceeding sort of are two types and it's  
5 also reflected on that page, gross and net savings,  
6 correct?

7 **A.** That's correct, yes.

8 **Q.** And the net savings are gross savings less  
9 costs to achieve, correct?

10 **A.** That's correct, yes.

11 **Q.** And those gross net -- and net savings  
12 figures are set forth there on that page of  
13 Ms. Houtsma's rebuttal testimony, correct?

14 **A.** That's correct, yes.

15 **Q.** And the net savings shown there for the  
16 period 2006 to 2009 are 10.8 million, which I think  
17 is approximately the same as the figure you used of  
18 10.9 million; isn't that right?

19 **A.** What's the reference to my 10.9 million?

20 **Q.** I believe in on Page 32, Line 16 of your  
21 direct testimony.

22 **A.** Yes, that's correct. Yes.

1           **Q.**     Is that correct?

2                         So you do not deny, do you, Mr. Effron,  
3 that there'll be upfront costs and some sort of  
4 ramp-up period before savings can, in fact, be  
5 achieved?

6           **A.**     No, I believe I addressed that directly in  
7 my testimony.

8           **Q.**     And, in fact, because of the expected costs  
9 to achieve those net savings that ComEd predicted  
10 by Exelon and PSE&G don't even begin in 2006, do  
11 they?

12          **A.**     It -- the gross savings do, but the cost to  
13 achieve, because they're front-loaded, would  
14 outweigh the gross savings in the first year.

15          **Q.**     And, in fact, they don't predict any net  
16 savings until 2007, correct?

17          **A.**     Based on the timing of the cost to achieve,  
18 that's correct, yes.

19          **Q.**     And so even if the merger were to close in  
20 mid-2006, the possibility there would be any actual  
21 savings by August 2006, the 12-month known and  
22 measurable change cutoff, is essentially zero,

1 isn't it, Mr. Effron?

2       **A.**     Well, it depends on how you define actual  
3 savings. I would define actual savings as the  
4 gross savings that the cost to achieve --  
5 typically, because they're front-loaded like they  
6 are, it would be normal convention to spread those  
7 over some reasonable period.

8                     So if you look at it that way, then, in  
9 fact, there would be savings in the 2006 scenario.  
10 In other words, it depends how you --

11       **Q.**     That's wasn't the question.

12                     The question I asked was, if the merger  
13 were to close in mid-2006, what are the  
14 probabilities that there will be actual savings by  
15 August 31st, 2006?

16       **A.**     If you define actual savings as gross  
17 savings, then the probability is pretty high,  
18 again, assuming the merger closes.

19                     If you -- if you define actual savings  
20 as gross savings less costs to achieve that are --  
21 that are all attributed to the period in which the  
22 cash outlay for those costs occurs, then there

1 would not be savings in 2006 as projected by -- by  
2 the --

3 Q. Well --

4 A. -- petitioners in the New Jersey docket.

5 Q. Your suggested \$20.5 million gross savings  
6 is for each year of that 2006 to 2009 period,  
7 correct?

8 A. I think I -- I stated in my testimony, it  
9 was a four-year average.

10 Q. And you're not suggesting, are you, that  
11 \$20.5 million gets achieved within any one month or  
12 two months of the year, are you?

13 A. No.

14 Q. Okay. So that if this merger closes in  
15 mid-June of 2006, you're not testifying that  
16 there's going to be 20.9 million dollars' worth of  
17 merger, or whatever the figure is, merger savings  
18 between mid-June 2006 and August 31st, 2006, are  
19 you, Mr. Effron?

20 A. No.

21 Q. Okay. Now, up to this point, we've been  
22 assuming that the savings projected by ComEd and

1 PSE&G in the merger proceeding will, in fact, be  
2 achieved; isn't that correct?

3 **A.** That's correct, yes.

4 **Q.** But, in fact, that's not at all certain  
5 either, is it?

6 **A.** If it's not certain, then they shouldn't  
7 have presented it as a justification for the  
8 merger.

9 **Q.** Well, you would agree, would you not, that  
10 conditions could be imposed in the merger by the  
11 New Jersey Board or by the Department of Justice  
12 that would affect the amount of savings that could  
13 be achieved?

14 **A.** I suppose anything's possible. I hadn't  
15 heard of anything like that that would actually  
16 take place.

17 **Q.** Well, as I recall, Mr. Effron, you said  
18 that you felt compelled to reduce the savings by 50  
19 percent to avoid disputes, did you not?

20 **A.** I reduced it by 50 percent to avoid  
21 disputes and to recognize that there would be costs  
22 to achieve the savings.

1       **Q.**    And there also will be uncertainties as to  
2 whether all the those savings get achieved, are  
3 there not?

4       **A.**    Again, if you look at the future.  Nothing  
5 is absolutely certain.  But if there weren't some  
6 reasonable certainty, again, I don't think it would  
7 have been right to present that as a justification  
8 for --

9       **Q.**    Well --

10      **A.**    -- approval of the merger.

11      **Q.**    You aren't suggesting, are you, that the  
12 companies could predict with a certainty what the  
13 board action will be in New Jersey or what the  
14 position of the Department of Justice will take  
15 with respect to this merger?

16      **A.**    I don't think you can predict anything with  
17 complete certainty --

18      **Q.**    And therefore --

19      **A.**    -- future, I would agree that nobody could  
20 predict with absolute certainty that these savings  
21 will be achieved as forecasted --

22      **Q.**    Okay.

1       **A.**    -- particularly the future, just not a  
2    characteristic that -- absolute certainty.

3       **Q.**    Right.  You and I wouldn't be sitting here.  
4    We'd be up at some mountaintop with a big house  
5    having invested in the stock market if that were --

6       **A.**    I guess I don't predict the future better  
7    than anybody else with certainty.

8       **Q.**    Let's move on to pension expense.

9                    You proposed a reduction to ComEd's test  
10   year pension expenses of approximately 18.5  
11   million, do you not?

12       **A.**    That's correct, yes.

13       **Q.**    And that's one of the by-products of the  
14   \$803 million contribution by Exelon to the ComEd  
15   pension fund in March of 2005, correct?

16       **A.**    That's correct.  It derives from the  
17   contribution -- it's related to that.

18       **Q.**    Right.  And what you state in your  
19   testimony, and it is in your direct testimony on  
20   Page 23, Lines 13 through 19, is that -- and,  
21   hopefully, I will read this correctly, but --  
22   excuse me.

1                   In calculating the effect of the pension  
2 contribution on the return component of the  
3 periodic pension cost, ComEd recognized the effect  
4 on the return component a credit to pension costs  
5 for only a partial year from the time the pension  
6 contribution was made until the end of 2005,  
7 instead of recognizing the annual effect of the  
8 contribution on the return component. Did.

9                   I read that correctly?

10       **A.**     I think you added a little bit, but it --  
11 it didn't change the meaning of what's in -- the  
12 part you read was correct and what you added onto  
13 it, literal words, you didn't -- was not  
14 inconsistent with my testimony.

15       **Q.**     My apologies. I didn't really mean to  
16 change the literal words. But as long as we're  
17 agreed that it was substantially correct?

18       **A.**     Right. You didn't -- and you didn't change  
19 it.

20       **Q.**     Now, the test year in this case, we agreed,  
21 is 2004, correct?

22       **A.**     That's correct, yes.

1       **Q.**     And again, as we've seen, based on Section  
2     287.40, ComEd is permitted under limited and  
3     defined circumstances to make pro forma adjustments  
4     to expense for the test year for known and  
5     measurable changes, correct?

6       **A.**     Yes.

7       **Q.**     Now, Staff Witness Ms. Ebray (phonetic) has  
8     testified that the -- quote, The pension expense  
9     for the test year should reflect the expense of the  
10    test year adjusted for known and measurable  
11    changes, correct?

12                   And if you'd like, I can show you her  
13    testimony.

14       **A.**     I can accept that description.

15       **Q.**     And she also testifies that, and I quote,  
16    The August 2005 Towers Perrin actuarial evaluation  
17    for 2004 provided the final estimates of pension  
18    costs for 2005, correct?

19       **A.**     That's correct.    Yes.

20       **Q.**     And she further testified that, and I  
21    quote, The company proposes to update the 22.5  
22    million pension expense it proposed initially to

1 11.7 million based upon the August 2005 actuarial  
2 report and the company should be allowed to recover  
3 the expense reflected in the updated actuarial  
4 study, correct?

5 **A.** I can accept that -- that representation,  
6 yes.

7 **Q.** Okay. So, thus, both Staff and ComEd's  
8 calculations at this point with respect to pension  
9 expense are based on the same August 2005  
10 Towers Perrin report, correct?

11 **A.** To this point, yes, understanding that the  
12 Staff's position on that \$800 million contribution  
13 is somewhat different from mine.

14 If you look at the expense alone, what  
15 you said is correct.

16 **Q.** Right. And actuarial reports are prepared  
17 each year, correct?

18 **A.** Yes.

19 **Q.** And an actuarial report such as the 2005  
20 Towers Perrin report takes account of many factors  
21 as required to determine the expected pension  
22 expenses for a year, correct?

1       **A.**     Many -- many assumptions go into the  
2 calculation of the pension.

3       **Q.**     And those might include demographic  
4 experience with the number and age of employees,  
5 higher-than-expected asset return, changes in the  
6 discount rate and others; correct?

7       **A.**     Yes.

8       **Q.**     So the August 2005 Towers Perrin report,  
9 the actuarial evaluation took into account all  
10 these kinds of factors as well as the effects of  
11 the March 2005 pension contribution, did it not?

12       **A.**     Yes, understanding that it took an account  
13 of the 2005 pension contribution based on the  
14 contribution in March of 2005 --

15       **Q.**     Correct.

16       **A.**     -- and reflected the effect on the 2005  
17 pension expense of the contribution in March, not  
18 the annual effect of the pension contribution on  
19 pension costs.

20       **Q.**     Correct.    Correct.

21                    So that now what you've done is you've  
22 taken one of the factors that was considered in

1 that March -- in the Towers Perrin report and  
2 you've annualized it, correct?

3 **A.** I took the one factor that was related to  
4 the actual pension contribution and reflected the  
5 annual impact of the contribution just as I  
6 reflected the annual cost associated with the  
7 contribution.

8 **Q.** Right. But your recommended change is not  
9 consistent with the August 2005 Towers Perrin  
10 actuarial report, correct?

11 **A.** It --

12 **Q.** I believe you just testified to that.

13 **A.** In -- it would come up with a different  
14 number. I wouldn't say that it's inconsistent with  
15 the report. It annualizes the effect of the  
16 contribution on the pension cost. The actuarial  
17 report did not do that.

18 So -- but the actuarial report had the  
19 purpose of calculating the pension cost for  
20 calendar year 2005.

21 **Q.** Right.

22 **A.** And -- and my adjustment again reflects the

1 annualized effect of the change that took place  
2 during 2005. So --

3 Q. So that your --

4 A. -- it would have a different purpose --

5 Q. Right. But you're --

6 A. If I could finish.

7 I'm not just comfortable saying it would  
8 be inconsistent --

9 Q. Okay.

10 A. -- with the actual --

11 Q. Let's not use the word inconsistent. Your  
12 pension -- the pension expense that you calculate  
13 based upon changing that one factor will be  
14 different for 2005 than the pension expense as  
15 calculated by Towers Perrin (sic)?

16 A. I agree with that. If not, there wouldn't  
17 be any issue.

18 Q. And you've not done an actuarial study to  
19 2005 yourself, correct?

20 A. I have not, no.

21 Q. And you've not done an actuarial study for  
22 2006 either, correct?

1       **A.**    I have not.

2       **Q.**    So your adjustment also does not predict  
3 what pension expense should be in 2006, correct?

4       **A.**    It does not.

5       **Q.**    So you have no way of knowing whether the  
6 pension expense that results from your calculation  
7 will be reflected in 2006, correct?

8       **A.**    I would imagine that the pension expense in  
9 2006 would be different from the result of my  
10 calculation.  It might be higher or it might be  
11 lower, but if it were exactly the same, it would be  
12 a highly improbable coincidence.

13       **Q.**    We agree.  Let's go to depreciation  
14 reserve.

15                    Let's see.  In your direct testimony,  
16 and I believe this is on Page 8, Lines 8 through  
17 11, you suggest that because of ComEd has adjusted  
18 rate base for certain post-year -- post-test year  
19 additions to plant in service, the accumulated  
20 reserve for depreciation should also be increased  
21 through the end of 2005, correct?

22       **A.**    Yes.

1       **Q.**     And you also make clear -- and, again,  
2     hopefully, I've got this exactly right, which  
3     you'll tell me -- that, quote, The adjustment  
4     should not be limited to the incremental  
5     depreciation on plant addition, but should also  
6     recognize the growth in the accumulated reserve for  
7     depreciation on plant in service as of the end of  
8     the test year as well; isn't that correct?

9       **A.**     That's correct.

10      **Q.**     So let's explore how this works.

11                     For each pro forma plant addition in  
12     2005, ComEd added the capital investment associated  
13     with the project. It also recognized a full year  
14     of depreciation expense for that plant addition, a  
15     full year of depreciation reserve for that plant  
16     addition, and a full year of accumulated deferred  
17     income taxes for that plant addition, correct?

18      **A.**     Yes.

19      **Q.**     And that would be true for each of the  
20     pro forma plant additions added by ComEd in 2005,  
21     correct?

22      **A.**     Yes.

1       **Q.**     And you're not suggesting those accounting  
2 entries are in any way incomplete, are you,  
3 Mr. Effron, as to those plant additions?

4       **A.**     I think I -- for the purpose of determining  
5 the Company's rate base, I am suggesting that  
6 they're incomplete or at least inadequate.

7                     I recognize that it's the Company's  
8 position that if you limit the recognition of the  
9 post-test year changes in the plant additions  
10 themselves, then the Company's adjustments are, as  
11 you put it, complete.

12                    And I suppose if you put that limitation  
13 on it --

14       **Q.**     Right.

15       **A.**     -- then it -- as far as I know, it's  
16 complete.

17       **Q.**     Right. I don't think we're in disagreement  
18 here that as to the plant additions in 2005, those  
19 additions, the entries were properly made for the  
20 entire year for each of those plant additions.

21                    The issue, as I see it, is not that, but  
22 the other plant in service at the year end 2004,

1 correct?

2 **A.** Yes.

3 **Q.** And what you're suggesting then is that in  
4 addition to the accounting entries for the pro  
5 forma plant additions in 2005, the accumulated  
6 depreciation reserve and only the accumulated  
7 depreciation reserve should be updated through the  
8 end of 2005 for all of the plant that was in  
9 service at year end 2004, again, excluding the 2005  
10 pro forma additions, correct?

11 **A.** I don't think I excluded the depreciation  
12 growth related to the 2005 plant additions.

13 **Q.** No, I'm not suggesting you are. I'm just  
14 saying that we've put these to the side for the  
15 moment, the 2005 plant additions.

16 We take the plant in service at year end  
17 2004, putting those 2005 pro forma additions to the  
18 side, and you've grown the depreciation reserve for  
19 that 2004 plant in service for -- into the end of  
20 2005, correct?

21 **A.** That's correct. With the understanding  
22 that I would not be proposing this adjustment in

1 the first place to begin with if the Company hadn't  
2 proposed the pro forma adjustment for the plant  
3 additions.

4           So you -- I don't think you can really  
5 separate the two, but for the purpose of going  
6 forward, I'll accept your description.

7       **Q.**    Okay.  And you're -- you're not suggesting  
8 that there was any event as to any of those 2004  
9 plant addition in -- plant in service items that  
10 changed other than the passage of time to go to the  
11 year end 2005, are you?

12       **A.**    That is completely inaccurate.  There is a  
13 substantial change.

14       **Q.**    The change be would be the 2005 additions?

15       **A.**    No, no.  If I may complete my answer.

16           Other than the passage of time, what is  
17 happening as the Company is making these plant  
18 additions, they are also recovering real dollars  
19 from customers for the return of the plant in  
20 service as of December 31, 2004.  The customers are  
21 paying rates that include as an element a capital  
22 consumption allowance, depreciation.

1           As the customers pay for the Company's  
2 service, the cost of that service which determines  
3 the rates that they pay include recovery of plant  
4 in service. As the Company is making additions to  
5 plant in service, in 2005, the Company is also  
6 recovering the cost of the embedded plant in  
7 service in 2004.

8           So I cannot agree that the only thing  
9 that happens is the passage of time. That is a  
10 mischaracterization -- misrepresentation.

11       **Q.** The end result of your adjustment is that  
12 plant in service will have an accumulated reserve  
13 for depreciation stated as of year end 2005 and  
14 other items of the test year will continue to be  
15 stated on a 2004 basis, correct?

16       **A.** The plant in service isn't stated on a 2004  
17 basis. The plant in service is stated on a 2005  
18 basis because it includes those additions that  
19 comprise the Company's pro forma adjustment.

20       **Q.** Well, but that's exactly the difference  
21 between the two is the 2005 figures for the pro  
22 forma additions, which is an allowed exception to

1 the test year, what you've done is, in addition,  
2 take the 2004 plant in service and moved it to the  
3 end of 2005?

4 MR. GARG: Objection, your Honor. This is  
5 argumentative.

6 JUDGE DOLAN: Can you just rephrase it then,  
7 please.

8 BY MR. THOMAS:

9 Q. Well, let's -- no, that's fine. I think  
10 we've got it on the record as much as it needs to  
11 be. Let's go on to severance cost, Mr. Effron.

12 In your rebuttal testimony, you've  
13 agreed that Mr. Hill has identified two types of  
14 severance costs, general severance costs incurred  
15 from year to year as employees are separated from  
16 ComEd and severance costs related to a specific  
17 event, correct?

18 A. Yes.

19 Q. And I think Mr. Hill has addressed the more  
20 general ones, so let's talk about the specific  
21 event severance cost, specifically, the Exelon  
22 weight program.

1                   Now, you testified that the 21 million  
2 in severance costs included in the Company's  
3 revenue requirement in this case in the Exelon  
4 weight program should be disallowed because, and I  
5 quote -- and this is AG Exhibit 3, Page 15, Lines  
6 22 through 23 and Page 16, Line 1, The Company does  
7 not incur these expenses on a normal ongoing basis  
8 and it is unlikely that such costs will be incurred  
9 prospectively unless there is another major  
10 severance program whose savings are not reflected  
11 in this case; isn't that correct?

12           **A.**     That's correct.

13           **Q.**     And you've also testified that by the time  
14 the rates in this case go into effect, and I quote,  
15 The savings from the Exelon weight program retained  
16 by shareholders will have more than paid for the  
17 cost of the program, end quote; and thus, quote, It  
18 is not necessary to include any of the severance  
19 costs associated with the Exelon weight program in  
20 the company's revenue requirement in this way,  
21 unquote; isn't that correct?

22           **A.**     In this case, yes.

1       **Q.**     Case.  Sorry.

2                   Now, I think we earlier established  
3 you're generally familiar with the Part 285 rules?

4       **A.**     Yes.

5       **Q.**     And new Part 285 rules became effective in  
6 August of 2003?

7       **A.**     I don't have them in front of me.  I can  
8 accept that sentence of my --

9       **Q.**     And there's a specific provision in the new  
10 Part 285 rules that indicates a utility may  
11 recover -- may request recovery of costs to achieve  
12 savings emanating from a cost-savings initiative  
13 program, correct?

14       **A.**     I don't have it in front of me, but I can  
15 accept that representation.

16       **Q.**     And the provision in question for the  
17 record is Section 285.3215, Schedule C-22, cost  
18 savings program; is that correct?

19       **A.**     That's -- that's the title of the section.

20       **Q.**     Right.  And you've read Mr. Hill's rebuttal  
21 testimony, have you not?

22       **A.**     Yes, I have.

1       **Q.**     And he testifies that Exelon weighs a cost  
2 savings initiative program coming within this  
3 schedule, correct?

4       **A.**     That's his position, yes.

5       **Q.**     And, in fact, Schedule 16 of his rebuttal  
6 testimony contains an update to Schedule C-22 of  
7 the Company's Part 285 filing, correct?

8       **A.**     That's my understanding, yes.

9       **Q.**     And the description of the Exelon weight  
10 contained in Schedule C-22 is, and I quote, Program  
11 encompassing integration and centralization of  
12 support functions, consolidation and alignment of  
13 business units and standardization and  
14 simplification of operating processes, unquote,  
15 correct?

16       **MR. GARG:**   Counsel, are you referring to your  
17 own schedule?

18       **MR. THOMAS:**   Yes.   It is in Schedule 16 of  
19 Mr. Hill's rebuttal testimony.

20       **MR. GARG:**   Do you have that to provide?

21       **MR. THOMAS:**   I think we do.

22       **MR. GARG:**   Counsel, it appears our witness has a

1 copy.

2 MR. THOMAS: Okay. Okay.

3 MR. GARG: So that's -- thank you.

4 MR. THOMAS: I was going to apologize that I  
5 didn't have multiple copies, but I do have the  
6 schedule.

7 BY MR. THOMAS:

8 Q. Did I read that correctly, Mr. Effron?

9 A. As I recall, you did, yes.

10 Q. Now, if we look at Section 285.3215, it  
11 does not say, does it, that the cost of such a  
12 program is not recoverable from ratepayers if  
13 savings will occur for several years before the  
14 rates reflected in the cost of such a program go  
15 into effect, does it?

16 A. May I have a moment to read it?

17 Q. Sure.

18 A. It doesn't -- I don't think it says  
19 anything about whether they're not recoverable or  
20 whether they are recoverable.

21 Q. Correct. So the severance costs booked in  
22 the 2004 test year are \$21 million, correct?

1       **A.**    Yes.

2       **Q.**    And in 2003, the severance cost connected  
3 with Exelon weigh were 137 million, correct? I  
4 believe the figures are here on --

5       **A.**    That sounds right.

6       **Q.**    -- Schedule 16.

7                So that in 2003 and 2004, the total  
8 severance cost to implement Exelon weigh were 158  
9 million, correct?

10      **A.**    Yes.

11      **Q.**    But ComEd is seeking to recover in rates --  
12 the only amount that ComEd is seeking to recover in  
13 rates under Section 285.3215, Schedule C-22, is the  
14 21 million of the severance costs that occurred in  
15 the test year, correct?

16      **A.**    The only amount that they're seeking to  
17 recover in rates that will go into effect at the  
18 end of this case are the \$21 million that were  
19 incurred in 2004.

20      **Q.**    Correct. And Schedule 16 shows that ComEd  
21 expects to have sustainable savings for the three  
22 years past the test year of 70 million in 2005, 73

1 million in 2006 and 75 million in 2007, correct?

2       **A.**     That's correct, yes, which is greater than  
3 the savings that were actually experienced in 2004.

4       **Q.**     And in, indeed, Ms. Houtsma has testified  
5 that the Exelon weigh cost savings initiative has  
6 produced costs savings that are already embedded in  
7 test year costs for this proceeding, correct?

8       **A.**     Yes.

9       **Q.**     And you don't dispute that testimony, do  
10 you, Mr. --

11      **A.**     I don't dispute that, no.

12      **Q.**     The rates in this case will be effective in  
13 2007, correct?

14      **A.**     That's my understanding, yes.

15      **Q.**     Now, Mr. Hill also testified in live  
16 testimony at the hearings that there will be  
17 expected savings from the Exelon program -- weigh  
18 program past 2007, correct?

19      **A.**     I don't recall that, as I sit here, but I  
20 can accept that representation.

21      **Q.**     So ratepayers will be benefiting from the  
22 Exelon weight cost savings program starting in 2007



1       **Q.**     But your proposed disallowance of the 21  
2 million in severance costs in 2004 would mean that  
3 the ratepayers would pay none of the benefits;  
4 isn't that correct?

5       **A.**     Exactly.   The the rates that the ratepayers  
6 are paying now don't reflect the \$73 million in  
7 annual savings that the program achieved.   And  
8 those savings are more than enough to offset the  
9 cumulative costs that have taken place.   In 2004,  
10 2005 and 2006, there are savings in excess of  
11 \$200 million cumulatively that have not been  
12 reflected in the rates that the ratepayers are  
13 paying and those savings are more than adequate to  
14 offset the costs that were incurred in that time  
15 period.   So I can't agree with your  
16 characterization.

17       **Q.**     You're not suggesting that Schedule  
18 285.3215 -- excuse me Section 285.3215 Schedule C22  
19 states in anywhere in this that it is a condition  
20 of recovery of a cost initiative program that  
21 somebody calculate that the current rates might be  
22 in place long enough to offset these savings?

1       **A.**    I don't see anything in here that would  
2 prevent that kind of consideration. All it says is  
3 that -- well, all this really is is something that  
4 requires -- the information has to be required --  
5 information has to be presented when the Company is  
6 requesting the recovery of cost savings programs.

7                   And as far as I can tell, it doesn't  
8 really address what kind of considerations that  
9 have to be taken into account or can't be taken  
10 into account in determining whether the cost saving  
11 programs should be included in the Company's  
12 revenue requirement.

13       **Q.**    Fair enough, we'll agree to disagree.  
14 Let's go on to wage and salary expense, Mr. Efron.  
15 Now, what Com Ed is seeking to recover in rates is  
16 not a particular number of employees, but a total  
17 wage and salary expense figure; isn't that correct?

18       **A.**    That's kind of an abstract question. I  
19 don't know how you get to a total wage and salary  
20 expenses without having some number of employees,  
21 considering the Company did propose an adjustment,  
22 based on the number of employees.

1                   So there is no explicit calculation that  
2 determines the pro forma wage and salary expense by  
3 multiplying the number of employees by the wages  
4 per employee. But I think there is a number of  
5 employees implicit in the wage and salary expense  
6 that Com Ed is requesting.

7       **Q.** Fair enough. And you've recommended an  
8 additional adjustment to test your wage and salary  
9 expense, based on the difference between the actual  
10 number of employees in the 2004 test year, and the  
11 average number of employees in the 6 months ended  
12 September 2005; isn't that correct?

13       **A.** That's correct, yes.

14       **Q.** And then in the figure you're using a  
15 full-time equivalent employee figure?

16       **A.** Yes.

17       **Q.** Now, you would agree that in any given year  
18 the number of full-time equivalent employees in an  
19 electric utility can vary, month to month?

20       **A.** Yes, it can, that's why I used a 6-month  
21 average without taking just the number of employees  
22 at that point in time.

1       **Q.**     Indeed, that number can vary from season to  
2 season as well, correct?

3       **A.**     It can, yes.

4       **Q.**     And you would also agree that the average  
5 number of employees, if one were to compute that  
6 figure, can vary depending upon what months in the  
7 year you choose to include in the average, correct?

8       **A.**     If there is a seasonal element it could.

9       **Q.**     Well, I found it sort of curious that you  
10 said that -- even though you had data for the first  
11 9 months of 2005, you calculated an average number  
12 of full-time equivalent employees, by looking at  
13 6 months of data ending in September of 2005.

14                   So I calculated what the average full  
15 time equivalent number would be if I looked at the  
16 first 9 months of 2005, and that number turns out  
17 to be higher than what you calculated, isn't that  
18 true, Mr. Effron?

19       **A.**     Given that the number of employees has  
20 generally been declining, it wouldn't surprise me  
21 at all.

22       **Q.**     In fact, the average number of employees of

1 January through September 2005 data that you had  
2 available on the full-time equivalent basis, that  
3 number is 5,503, as opposed to your 6-month  
4 calculation of 5,482, correct?

5 **A.** I can accept that, subject to check. I  
6 haven't done the calculation myself, but again, if  
7 the employees are generally declining over time, as  
8 they have been, then obviously if you add earlier  
9 months in there, you come up with a higher average.

10 **Q.** You have read the testimony of Com Ed  
11 witness Mr. John Costello in this case, have you  
12 not?

13 **A.** Yes, I have.

14 **Q.** And he is the executive vice president and  
15 chief operating officer at Com Ed, correct?

16 **A.** That sounds right.

17 **Q.** And indeed he testifies that his primary  
18 job responsibility is to keep the lights on and as  
19 chief operating officer he manages the people who  
20 work to keep the lights on, correct?

21 **A.** I recall something to that effect.

22 **Q.** And he also testifies that the existence of

1 job openings hardly suggest that in fact these  
2 vacancies will not be maintained and filled in  
3 order to have an appropriate work force for  
4 providing safe, efficient, reliable electric  
5 service; isn't that correct? In other words, he  
6 testifies that those vacancies will in fact be  
7 filled, correct?

8 MR. GARG: Do you have a specific citation?

9 MR. THOMAS: Sure. It's Com Ed Exhibit 13, Lines  
10 72 to 77.

11 MR. GARG: Could you provide that?

12 THE WITNESS: I have it in front of me now.

13 BY MR. THOMAS:

14 Q. So he testified that in fact your reduction  
15 of Com Ed's work force to an average for a portion  
16 of 2005 is unrealistic and should be rejected. And  
17 he goes on to say, the existence -- Com Ed's salary  
18 and wage and other employee benefit expenses are  
19 needed to maintain the quality of work force, the  
20 existence of job openings hardly suggests  
21 otherwise.

22 Com Ed has filled and will fill

1 vacancies to maintain an appropriate work force for  
2 providing safe, efficient and reliable electric  
3 service, isn't at that what he testifies?

4 **A.** That's what he says. I say, show me the  
5 beef.

6 **Q.** And Mr. Costello actually has experience  
7 being responsible for a work force needed to  
8 operate, maintain and improve the distribution  
9 system; isn't that correct?

10 **A.** Absolutely.

11 **Q.** And you have no such experience, isn't that  
12 correct, Mr. Efron?

13 **A.** I don't have any such experience, nor would  
14 I be proposing the adjustment if I had any reason  
15 to believe it was impairing the ability of Com Ed  
16 to provide service. I just haven't seen any data  
17 that actually show that what Mr. Costello describes  
18 as filling vacancies has actually happened.

19 **MR. THOMAS:** I have no further questions.

20 **JUDGE DOLAN:** Any redirect?

21 **MR. GARG:** Can we have a few minutes, your Honor?

22 **JUDGE DOLAN:** Certainly. Go off the record.

1 MR. GARG: I believe staff may have had some  
2 questions. Sorry, your Honor.

3 (Break taken.)

4 JUDGE DOLAN: Back on the record.

5 JUDGE HALOULOS: I actually have, potentially,  
6 two quick questions.

7 EXAMINATION

8 BY

9 JUDGE HALOULOS:

10 Q. Going back to your formula for the gross  
11 versus net merger savings.

12 A. Yes.

13 Q. And if I'm understanding it correctly, it's  
14 a 50/50, you're proposing to split it?

15 A. I am proposing to split the gross merger  
16 savings, correct.

17 Q. I guess what my question is, have you ever  
18 or are you aware of this, a company going through  
19 this or introducing a rate case with a merger, a  
20 commission ever adopting this formula?

21 A. I hadn't actually researched that in  
22 preparation for my testimony. I know there have

1 been instances where merger savings have been taken  
2 into account in determining rates. And I believe,  
3 if my memory serves correctly, that a merger in  
4 Rhode Island in the 2000 time frame, 2002 time  
5 frame, where the merger savings were taken into  
6 account on a sharing basis. But I don't recall as  
7 I sit here if the formula is exactly the same as  
8 I'm proposing now.

9 **Q.** If you can help me, if it's sharing 50/50  
10 why not 75/25 or 30/70?

11 **A.** I thought 50/50 would be an equitable  
12 sharing of the savings between the two parties who  
13 would be sharing, there were two parties. And I  
14 didn't see a reason to favor one versus the other,  
15 so in those circumstances I thought 50/50 was  
16 reasonable. But again, other percentages could be  
17 appropriate, pending the circumstances.

18 JUDGE HALOULOS: Thank you.

19 MR. GARG: I just had a few questions on  
20 redirect.

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22

1                   REXCROSS EXAMINATION

2                   BY

3                   MR. GARG:

4           **Q.**     Mr. Effron, Mr. Thomas stated a question to  
5 you that he found it -- with regard to employee  
6 levels, found it curious that you didn't use  
7 9 months of data. Do we now have 12 months of data  
8 available?

9           **A.**     Yes. We do have 12 months of data  
10 available for 2005 in the response to Attorney  
11 General Data Request 10.01. And just as Mr. Thomas  
12 finds it curious that I only used 6 months, I find  
13 it curious that he only used 9 months, now that we  
14 have 12 months of data in 2005 actually available.

15          **Q.**     And what would happen if you were to use  
16 12 months of data?

17          **A.**     In my exhibit -- well, same on each of the  
18 exhibits, my Schedule 2.1 in each of exhibits and  
19 as Mr. Thomas cited in his cross examination, I  
20 based my adjustment on an average number of  
21 full-time equivalent employees of 5,482 based on  
22 the average for the 6 months ended September

1 of 2005.

2                   The response to the Attorney General  
3 Data Request 2.01, and I read these numbers into  
4 the record, shows the following number of total  
5 full-time equivalent employees for October 2005, it  
6 was 5,468. For November, it was 5,489. And for  
7 December, it was 5,473. If I had used just, as  
8 another example, if I used the most recent 9 months  
9 in 2005, it would have reduced the number of  
10 full-time equivalent employees in the average  
11 because, as you can see, on average for those  
12 3 months it was lower than it was in the number  
13 that I used.

14                   And if I had used the 12-month average,  
15 I haven't done the actual math, as I sit here, but  
16 it would have brought it down below the number that  
17 Mr. Thomas used in his calculation. And it would  
18 have been certainly close to 5,482, the number that  
19 they used.

20           MR. GARG: That is all I have.

21           JUDGE DOLAN: Redirect?

22           MR. THOMAS: No redirect.

1 JUDGE DOLAN: All right. I guess it was recross.

2 MR. THOMAS: No recross, either.

3 JUDGE DOLAN: Then you're excused, Mr. Effron,  
4 thank you.

5 (Witness excused.)

6 MS. SCARSELLA: Your Honor, if I could, I would  
7 like to take a minute and clarify the record  
8 concerning Staff Witness Griffin's exhibits  
9 admitted earlier into the record today. I was  
10 referring to ICC Staff Exhibit 3.0 corrected, and  
11 ICC Staff Exhibit 14.0 corrected as filed on  
12 e-docket on March 24th, 2006. Those are the  
13 correct references.

14 JUDGE DOLAN: So Staff 3.0.

15 MS. SCARSELLA: Corrected. With schedules 3.1  
16 through 3.4.

17 JUDGE DOLAN: Which are also corrected?

18 MS. SCARSELLA: No.

19 JUDGE DOLAN: Those have stayed the same.

20 MS. SCARSELLA: Right. And ICC staff  
21 Exhibit 14.0 corrected with Schedules 14.1 and  
22 14.2.

1 JUDGE DOLAN: Thank you. And you said 3.4?

2 MS. SCARSELLA: Right.

3 JUDGE DOLAN: Do we at least have the one more,  
4 then, to put on?

5 MR. BRADY: Your Honor, the staff of the ICC  
6 would like to call Greg Rockrohr as the next  
7 witness. He will be testifying over the phone from  
8 Springfield. Mr. Rockrohr, are you available?

9 THE WITNESS: I'm here, can you hear me?

10 MR. BRADY: Yes, I believe we can.

11 JUDGE DOLAN: Mr. Rockrohr, do you want to raise  
12 your right hand, please.

13 (Witness sworn.)

14 JUDGE DOLAN: Thank you, proceed, Counsel.

15 MR. BRADY: Thank you, your Honor. Mr. Rockrohr  
16 has prepared for this hearing one piece of  
17 testimony and a schedule. Those documents have  
18 been identified as ICC Staff Exhibit 11.0 and  
19 Schedule 11.1. They've been identified as direct  
20 testimony. They have an e-docket number of  
21 159370-1 and were filed on e-docket on December  
22 23rd, 2005. And we would like to move those

1 documents into the record at this time.

2 JUDGE DOLAN: Any objection?

3 MS. FONNER: None, your Honor.

4 JUDGE DOLAN: Then ICC Exhibit 11.0 and ICC  
5 Schedule 11.1 will be admitted into the record.

6 (Whereupon, ICC Staff  
7 Exhibit No. 11.0 was  
8 admitted into evidence as  
9 previously marked on e-docket  
10 of this date.)

11 MR. BRADY: Thank you, your Honor, and we tender  
12 Mr. Rockrohr for cross examination.

13 JUDGE DOLAN: Proceed.

14 MS. FONNER: I don't believe I put my appearance  
15 on the record today Cynthia Fonner, Foley and  
16 Lardner.

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1 GREG ROCKROHR,  
2 called as a witness herein, having been first duly  
3 sworn, was examined and testified as follows:

4 CROSS EXAMINATION

5 BY

6 MS. FONNER:

7 Q. Good afternoon, Mr. Rockrohr.

8 A. Good afternoon.

9 Q. I have just a few questions. Exhibit 11.0  
10 that counsel referred to is a letter from you dated  
11 December 6, 2005 to Commonwealth Edison indicating  
12 areas in which staff recommended that Com Ed take  
13 additional steps in order to comply with Part 410  
14 of the Illinois Administrative Code; is that  
15 correct?

16 A. Yes.

17 Q. And your recommendation was not that Com Ed  
18 should cease any of its current activities, but  
19 rather that it take additional steps in order to  
20 comply with Part 410, correct?

21 A. That is correct.

22 Q. In response to that piece of

1 correspondence, you personally were the recipient  
2 of a letter dated January 13, 2006 from Woody  
3 Shearer, the manager of field and meter services  
4 support from Commonwealth Edison that is marked as  
5 Exhibit 13.2, an attachment to the rebuttal  
6 testimony of John Costello; is that correct?

7 **A.** Yes.

8 **Q.** And in that letter, Com Ed indicated and  
9 agreed that it would take additional steps in  
10 accordance with staff's recommendations for new  
11 activities that it was willing to perform; is that  
12 right?

13 **A.** Could you repeat that?

14 **Q.** I'm sorry?

15 **A.** Would you please repeat that?

16 **Q.** In the letter from Mr. Shearer, he  
17 indicated that Com Ed would be willing to take  
18 additional steps or complete additional activities  
19 in response to staff's recommendation that you  
20 provided?

21 **A.** Yes.

22 **Q.** And going through just a few of these, in

1 response to staff's recommendation, Com Ed  
2 indicated that for installation inspections, if  
3 necessary, Com Ed would schedule a follow-up visit  
4 to the installation after load was present to  
5 verify that the meter was accurately measuring  
6 customer energy, correct?

7 **A.** Yes.

8 **Q.** With respect to meter tests requested by a  
9 customer, in response to staff's recommendation,  
10 Com Ed agreed that all meters would be tested  
11 within 30 days, unless the customer agreed to that  
12 later time. And that any agreement on the part of  
13 the customer that such testing would occur beyond  
14 that 30 days would be noted in Com Ed's records,  
15 correct?

16 **A.** Yes.

17 **Q.** Com Ed also indicated that it would  
18 undertake a self audit to insure that the proper  
19 comments were recorded to reflect the conditions  
20 found in the field at that time; is that accurate?

21 **A.** Yes.

22 **Q.** With respect to corrections and adjustments

1 for meter error, Com Ed indicated that it would  
2 perform audits on accounts that have a failed meter  
3 test greater than 102% and that it would keep a  
4 record of the audit in Com Ed's tool for tracking  
5 the meter tests, correct?

6 **A.** Yes.

7 **Q.** With respect to meter creep, Com Ed  
8 indicated that system billing would train all  
9 employees involved in the processing for failed  
10 meter adjustments, on how to handle adjustments on  
11 meter creep, correct?

12 **A.** Yes.

13 **Q.** And Com Ed also indicated that its tool  
14 for tracking failed meter tests would be updated to  
15 show whether a meter creep test was performed, the  
16 results and if an adjustment was warranted?

17 **A.** Yes.

18 **Q.** With respect to this self auditing, Com Ed  
19 indicated that it would perform a quarterly audit  
20 on its tracking tool to verify that all of the  
21 necessary information was documented appropriately  
22 and would update the tracking tool to include the

1 appropriate calculated percentage of meter test  
2 results, correct?

3 **A.** Yes.

4 **Q.** And would you agree that the steps that Com  
5 Ed has indicated that it will be performing are  
6 reasonable and appropriate in complying with Part  
7 410?

8 **A.** Yes.

9 **Q.** Would you agree that these constitute new  
10 activities by Commonwealth Edison?

11 **A.** I couldn't answer that definitively, but  
12 they are activities that would resolve the issues  
13 that staff found.

14 **Q.** And to your knowledge, these were not  
15 activities that Com Ed had in place at the time of  
16 your meter field test, correct?

17 **A.** Correct.

18 **Q.** And if these are new activities that had  
19 not been performed prior to the meter field test,  
20 would you expect that Com Ed would be required to  
21 spend additional resources in the area of time and  
22 training for personnel in order to complete these

1 tasks?

2       **A.**    I don't feel in a position to say that.

3       **Q.**    Would you agree that all of the items that  
4 we went through do require resources on the part of  
5 Com Ed?

6       **MR. BRADY:** I'm going to object to the fact that  
7 it calls for speculation on his part, since he  
8 doesn't work for the Company.

9       **MS. FONNER:** Mr. Rockrohr has indicated that  
10 these are all activities that he feels are  
11 necessary and appropriate. And simply asking,  
12 somebody has got to do them, it's not really  
13 speculation in terms of technical expertise, but  
14 does somebody actually have to make a key stroke  
15 entry or go out and perform a test.

16       **JUDGE DOLAN:** For what he can answer, I'm going  
17 to overrule.

18       **THE WITNESS:** I agree someone has to perform  
19 these tasks.

20       **MS. FONNER:** Thank you, I don't have anything  
21 further, Mr. Rockrohr.

22

1 REDIRECT EXAMINATION

2 BY

3 MR. BRADY:

4 Q. Mr. Rockrohr, do you recall Ms. Fonner's  
5 line of questioning regarding a Com Ed letter dated  
6 January 13th that was sent to you in response to  
7 your Schedule 11.1, do you recall that?

8 A. Yes.

9 Q. Has the staff -- have you actually provided  
10 a written response to that letter?

11 A. No.

12 Q. Are there certain provisions of that letter  
13 that are still being reviewed, either by you or  
14 other members of the ICC staff?

15 A. Yes.

16 Q. Would you be able to elaborate on what  
17 matters are still being reviewed?

18 A. It is my understanding that Commonwealth  
19 Edison intends to join other utilities in a  
20 petition relating to Subsection 410.210(e), which  
21 relates to meters meeting some specific ANSI  
22 requirements. We are still reviewing -- or will

1 need to review any petition that would come in  
2 related to that matter.

3 Q. Is the review -- is the review that is open  
4 only limited to that aspect?

5 A. Yes.

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

8 JUDGE DOLAN: Any recross?

9 MS. FONNER: Briefly.

10 RE CROSS EXAMINATION

11 BY

12 MS. FONNER:

13 Q. Mr. Rockrohr, is it possible, then, based  
14 upon your discussion of the fact that the ANSI  
15 technical review is not concluded, that  
16 Commonwealth Edison would be required to take  
17 additional action beyond that which you and I  
18 previously discussed?

19 A. Yes.

20 Q. And that too might require additional  
21 expenditure of resources on the part of  
22 Commonwealth Edison?

1       **A.**     Conceivably.

2       MS. FONNER: Thank you.

3       MR. BRADY: No further.

4       JUDGE DOLAN: Thank you, Mr. Rockrohr, you're  
5 excused.

6                               (Witness excused.)

7       JUDGE DOLAN: No one else, today, right?

8       MS. POLEK-O'BRIEN: We don't.

9       JUDGE DOLAN: All right, I guess that's it for  
10 today. Everyone get your sleep, because the next  
11 couple days look busy. We'll be continued until  
12 tomorrow at 9:00 a.m., thank you.

13                               (Whereupon the above-entitled  
14 matter was continued to March  
15 28th, 2006 at 9:00 o'clock a.m.)

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