STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

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

DRAFT ORDER OF THE COALITION OF ENERGY SUPPLIERS

COMPRISED OF:
CONSTELLATION NEWENERGY, INC.
DIRECT ENERGY SERVICES, LLC
MIDAMERICAN ENERGY COMPANY
PEOPLES ENERGY SERVICES CORPORATION
U.S. ENERGY SAVINGS CORP.

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DRAFT ORDER
<u>OF THE COALITION OF ENERGY SUPPLIERS</u>

By the Commission:

<u>THE COALITION'S WITNESSES</u>

The Coalition of Energy Suppliers ("CES" or the "Coalition"), comprised of Constellation NewEnergy, Inc., Direct Energy Services, LLC, MidAmerican Energy Company, Peoples Energy Services Corporation, and U.S. Energy Savings Corp., is an *ad hoc* coalition formed to propose measures to foster the development of a competitive retail electric market in Illinois that offers true choice to customers, consistent with the Electric Service Customer Choice and Rate Relief Law of 1997 ("Choice Act").

The Coalition presented the testimony of Philip R. O'Connor, Ph.D.; John F. Clark and Jennifer Witt; John L. Domagalski; and Mary Meffe.

Dr. O'Connor is employed as Vice-President of Constellation NewEnergy, Inc. ("NewEnergy") and formerly served as Illinois' chief utility regulator, chairing the Illinois Commerce Commission for three years between 1983 and 1985.

John Domagalski is employed by NewEnergy as Director of Pricing and Product Development. Mr. Domagalski oversees the development of new products and services such as metering, curtailable options, and energy efficiency.

Jennifer Witt is employed by Peoples Energy Services Corporation ("PES") as the Manager of Regulatory Affairs and New Market Development. Ms. Witt is primarily responsible for managing PES's regulatory matters and new market development for both electricity and natural gas.

John F. Clark is employed by NewEnergy as Director of Finance. Mr. Clark is responsible for overseeing all Operational and Finance matters for NewEnergy, including customer care, billing, credit, collections, enrollments, EDI, and Illinois financial forecasting and reporting.

Mary Meffe is the Chief Financial Officer of the Energy Savings Income Fund ("ESIF"), a trust established under the laws of Ontario, Canada. U.S. Energy Savings Corp. is one of ESIF's wholly owned subsidiaries and affiliates. During her tenure at ESIF, Ms. Meffe has held several finance positions, including Director of Finance and Vice President, Finance.

II.

STATEMENT OF UNCONTESTED ISSUES

B. Proposals To Which Certain Parties Have Agreed

Through its direct testimony, the Coalition raised certain proposals to which ComEd agreed in its rebuttal testimony. These include: (1) revisions to Rider Resale; (2) reclassification of the common areas of condominiums buildings as commercial customers; and (3) some modifications to ComEd's business processes and the provision of relevant data and information to aid customers and RESs.

2. Condominium Common Area Reclassification

In direct testimony, Coalition witness Domagalski noted that condominium buildings presently are classified as residential customers rather than commercial customers, for purposes of serving such common area needs as lobby and hallway lighting and heating. (*See* CES Ex. 3.0 at lines 695-708.) Although this approach was an understandable corollary of the promotional pricing for all-electric homes and commercial buildings in the past, going forward, this treatment fails to recognize the reality that these common areas have all of the characteristics of commercial load. ComEd stated in its procurement proceeding (ICC Docket No. 05-0159) that this re-categorization of these accounts as commercial customers should be implemented in the instant proceeding. (*See* ComEd Reply Br. at 142.) In its rebuttal testimony in the instant proceeding, ComEd explained that it has accepted the Coalition's proposal. (*See* ComEd Ex. 24.0 at lines 30.) This re-categorization likely will enhance customers' opportunities for taking advantage of competitive choice.

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

ComEd agreed in its rebuttal testimony to modify some of its tariff terms and conditions and business practices and procedures to better enable RESs to deliver the benefits of competition to consumers.

a) Rider SBO7 Most customers understandably prefer to receive a single bill, combining their electricity supply and delivery services invoices. ComEd originally proposed that Rider SBO7 provide that once the RES terminates the single bill option for a customer, the RES no longer would be able to provide the single bill option to that customer for a 12-month period. As a result, many customers would have received two bills - one from ComEd and the other from the RES. The Coalition recommended that Rider SBO7 be revised so that customers have greater access to the convenience of receiving a single bill from a RES under ComEd's Rider SBO7. (*See id*.) Following submission of the Coalition's direct and rebuttal testimony, ComEd agreed to revise Rider SBO7 in a manner that properly accounts for ComEd's concerns without unnecessarily restricting customers' choices. (*See* ComEd Ex. 23.0 at lines 1493-1509, ComEd Ex. 40.0 at lines 1657-63, ComEd Ex. 41.0 at lines 394-404. *See also* ComEd Ex. 41.6.)

b) and c) Definitions of "New Customer" and Retail versus Wholesale Peak and Off-Peak Periods Following submission of the Coalition's direct and rebuttal testimony, ComEd agreed to modify the definition of "new customer" so that an existing customer account is not "finaled"[1] as a result of a name change, and agreed to add new definitions in the General Terms and Conditions to distinguish between retail peak and off-peak periods versus wholesale peak and off-peak periods used by PJM.

d) Clarification of Switching Rules ComEd has agreed to work with RESs to ensure that ComEd has clear and easy-to-follow customer switching rules and will modify the switching rules set forth in the Retail Customer Switching Rules part of Rider CPP and include such rules in the RES handbook. (*See* ComEd Ex. 24.0 at lines 779-95.) Clear and easy-to-follow rules will reduce unnecessary expenditures of time and effort by customers.

e) Timely Revision to RES Handbook In response to the Coalition's direct testimony, ComEd has stated that a revised RES Handbook will be completed and available within two (2) months after the completion of this proceeding. (*See id*.)

[1] When an Account is "finaled" by ComEd, the existing customer Account Number is terminated from ComEd's system and the retail customer is sent a "Final Bill." (CES Initial Br. At 13.)

f) **<u>Inclusion of "Frequently Asked Questions" on PowerPath</u>** In response to a recommendation by the Coalition, ComEd has agreed to post, on its PowerPath website, questions commonly asked by RESs, together with ComEd's responses, in a new "Frequently Asked Questions" or "FAQs" section. (*See* ComEd Ex. 26.0 at lines 40-41.)

g) **<u>Relief from Minimum Stay</u>** Under ComEd's current tariffs, customers who have returned from competitive supply to a ComEd bundled rate are required to remain on that bundled rate for a minimum of twelve (12) months. ComEd has agreed with the Coalition that it is appropriate to provide for a one-time exception to the 12-month restriction, so that customers who return to ComEd bundled service in 2006 would be allowed to exit bundled service and elect delivery service at the last meter reading in calendar year 2006 (rather than requiring the customer to remain on bundled service until the first meter reading date in 2007). (*See* ComEd Ex. 24.0 at lines 882-96.) ComEd submitted proposed tariff sheets to memorialize this agreement. (*See generally* ComEd Ex. 50.0.)

h) **<u>Provision of Information to RESs</u>** In response to a number of customer-friendly recommendations from the Coalition, ComEd has agreed to the following:

- Availability of 867 (interval meter information) and 810 (ComEd bill image) EDI transactions by 1:00 PM on the day on which an account is billed by ComEd (data submitted after 1:00 PM will be dated the next business day);
- Provide each RES with a weekly hard copy report notifying the RES of pending disconnections of its customers;
- Provide current rate and supply-type information, including customer supply group and customer delivery class information, on ComEd's PowerPath website;
- Add a customer's Direct Access Service Request ("DASR") eligibility date, if available, to ComEd's PowerPath website; and
- Make customers' Time-Of-Use ("TOU") data (as ComEd defines peak and off-peak service), if available, accessible on ComEd's PowerPath website.

With these revisions, ComEd has agreed to business practices that will further promote the development of competition. (*See* ComEd Ex. 26.0 at lines 30-41.)

5. <u>Other – Uncollectible Expenses</u>

ComEd has agreed with the Coalition that ComEd must properly allocate its uncollectible expenses between delivery services and energy-related services. (*See* ComEd Ex. 23.0 at lines 1151-56.)

III.

CONTESTED ISSUES

CES's Position

The Coalition notes that while ComEd has agreed to some of the Coalition's proposals for refinements to its business practices, for the most part, ComEd took two inappropriate approaches, each intended to prevent the Commission from addressing these important issues.

First, according to the Coalition, ComEd suggested that certain issues do not belong in this proceeding, and instead should be addressed in a workshop setting. (*See* ComEd Ex. 23.0 at lines 1726-34.) ComEd suggested that the instant rate case is solely about ComEd, rather than its customers or any other party, and that ComEd is the only party to dictate what issues the Commission may consider. (*See* CES Ex. 5.0 at lines 382-87; ComEd Ex. 26.0 at lines 247-54.) The Coalition agreed that some issues appropriately could be addressed in a workshop, if ComEd would agree to a process designed to yield timely, constructive feedback that could be incorporated into ComEd's business practices before the end of the mandatory transition period. (*See* CES Ex. 5.0 at lines 381-90.) However, the Coalition argues that this condition was unacceptable to ComEd because under ComEd's proposed timing, the workshop process would not even begin until after the Commission issues its final order in the instant proceeding. (*See* ComEd Ex. 40.0 at 83-84.) ComEd also suggested that instead of workshops, the parties engage in informal discussions, the structure of which ComEd again failed to define. (*See* ComEd Ex. 40.0 at 1881-1908, Meehan, Tr. at 752, 754.) However, the Coalition observes that when asked on cross-examination if ComEd was ready to engage in such informal discussions, ComEd again balked. (Meehan, Tr. at 754.) In short, the Coalition states that ComEd's "workshop process" has been exposed as nothing more than a delay tactic.

Second, the Coalition notes that ComEd accused the Coalition of making various suggestions because the Coalition members want to make money. (*See* ComEd Ex. 23.0 at 1161-64.) The Coalition counters that if such an interest were a disqualifying trait for participating in a Commission proceeding, then ComEd would have been precluded from filing the instant delivery service case in the first place. Indeed, the Coalition notes that while ComEd's positions would result in money flowing directly to ComEd's bottom line, the Coalition's members simply are looking for the reasonable opportunity to compete against each other and ComEd. (*See* CES Ex. 5.0 at 392-401.) Moreover, as Coalition witnesses Dr. O'Connor and Mr. Domagalski explained, "the 'stock in trade' of RESs, including the members of the Coalition, is to provide customers with opportunities for greater savings on their energy bills and better service than they might otherwise obtain in an environment in which electric supply continued as a monopoly. The Coalition emphasizes that no customer is ever forced to do business with a RES in the ComEd service territory; so if a RES makes money it is only because customers have freely chosen to trade with it," and presumably benefit from the products that RESs have to offer. (*See* CES Ex. 5.0 at lines 396-401.)

Commission Analysis and Conclusion

The Commission believes that ComEd has not presented any legitimate reason for the Commission to delay implementation of the Coalition's recommendations. First, ComEd's suggestion of workshops has been shown to be an empty offer and ComEd's timetable for any workshops will not lead to a resolution prior to the end of the transition period. Second, the Commission finds ComEd's attack on the profit motives of the Coalition's members to be a wholly inappropriate assertion in the context of the instant complex regulatory proceeding in which all parties, including ComEd, have significant financial stakes in the outcome. Since the Commission's interest is in fulfilling its legislative mandate to implement the Choice Act, the Commission is interested in concrete and effective steps to promote the development of the retail electric market in Illinois.

B. Rate Base

CES's Position

The Coalition requests that the Commission direct ComEd to modify portions of its proposed rates to properly allocate costs and therefore eliminate cross-subsidies that even ComEd admits are inimical to the competitive environment and the overall interests of customers. According to the Coalition, forcing delivery services customers to subsidize bundled services customers would not lower total service costs to electric customers in the ComEd service territory by a single penny, but would certainly distort the evaluations customers must make in considering whether to select utility supply or alternative supply. (*See* CES Ex. 5.0 at lines 245-54; CES Initial Br. at 18.) According to the Coalition, ComEd Chairman and CEO Clark agreed that in order for there to be effective competition, ComEd's supply costs must be reflected in the generation component of ComEd's rates. (Clark, Tr. at 200-01.) Coalition witnesses Dr. O'Connor and Mr. Domagalski explained that the cross-subsidy question has plagued the Illinois retail electric market, conveying distorted price signals that then inevitably lead to inefficiency and less-than-optimal investment in the electric infrastructure. (*See* CES Ex. 5.0 at lines 251-54; CES Initial Br. at 18.)

The Coalition believes that, unfortunately, ComEd improperly has attempted to load supply-related costs into the delivery services rates. To the extent that ComEd has proposed that costs or expenses related to generation be included in the delivery service rate base and/or revenue requirement, such a proposal would, according to the Coalition, be an unfair cross-subsidization flowing from all delivery services customers to ComEd's bundled services customers. (*See* CES Ex. 5.0 at lines 233-43; CES Initial Br. at 19.) The Coalition argues that competitive supply customers should not be asked to pay twice for supply services: once to compensate ComEd for supply activities on behalf of utility supply customers and once to their RES. Thus, the Coalition has agreed with several of Staff's proposals to "refunctionalize" some of ComEd's costs. (*Id*.)

2. General Plant - Functionalization and Amount

The Coalition addresses "General Plant – Functionalization and Amount" issues in conjunction with issues addressed in the next section "Intangible Plant – Functionalization and Amount." (*See id*.)

3. Intangible Plant - Functionalization and Amount

The Coalition argues that ComEd has failed to justify the restoration of General and Intangible ("G&I") plant category that the Commission rejected for inclusion in the delivery service rate base in ICC Docket No. 99-0177, in accordance with past Commission practice. (*See id*.) According to the Coalition, the G&I plant in question previously had been functionalized as related to supply; ComEd now, without sufficient explanation, seeks to re-functionalize the plant as delivery-related. (*See id*.) The Coalition endorses Staff's recommendation of a downward adjustment of $405 million in G&I plant that was allocated to delivery services. (*See* Staff Ex. 6.0 at 5-15.)

9. Procurement Case Expenses

The Coalition argues that legal fees and expenses associated with ComEd's procurement case (ICC Docket No. 05-0159) should be recovered through ComEd's SAC rather than through delivery service charges. The Coalition recommends that the Commission adopt Staff's adjustment in this regard, since costs should be allocated properly between delivery services and supply or generation-related costs. (*See* CES Ex. 5.0 at lines 141-48; CES Initial Br. at 20.)

C. Operating Expenses

3. Administrative & General Expenses

a. Functionalization

The Coalition recognizes that Staff makes the same point with respect to Administrative and General Expenses ("A&G") that was made with respect to G&I

plant. That is, according to the Coalition, A&G previously allocated to supply has now been shifted to delivery service by ComEd, without an adequate explanation of the service being provided. (*See* Staff Ex. 6.0 at lines 454-514.) The Coalition argues that to the extent the Commission finds A&G expenses that ComEd has improperly allocated to delivery services that are more properly related to supply-related services, then the appropriate method of collection is through the SAC. (*See* CES Ex. 5.0 at lines 171-86; CES Initial Br. at 20.)

H. Rate Design

17. Rider Resale

a. Issues That Have Been Resolved

The Coalition recognizes that ComEd agreed to revise the proposed Rider Resale in accordance with language offered by the Coalition (and the Building Owners and Managers Association).

The Coalition notes that as originally proposed by ComEd, Rider Resale would have caused serious problems. Some of the problems result from this rider's lack of clarity. Other problems result from the perpetuation of direct utility control of pricing by building operators to tenants; that pricing most appropriately can be handled in a competitive market through leases and rental provisions, with tariff-based pricing then serving as a fallback in the absence of a freely negotiated rental contract. (*See id*.)

Commission Analysis and Conclusion

The Commission agrees with the Rate Base recommendations of the Coalition and the Staff on the issues of the proper functionalization of General Plant, Intangible Plant, and Procurement Case expenses. In addition, the Commission agrees with the Staff and the Coalition regarding the proper functionalization of Administrative and General Expenses. Accordingly, the Commission will direct ComEd to modify portions of its proposed rates and tariffs to properly allocate costs and therefore eliminate cross-subsidies. The Commission adopts Staff's recommendation (supported by the Coalition) of a downward adjustment of $405 million in G&I plant that was allocated to delivery services. (*See* Staff Ex. 6.0 at 5-15; CES Initial Br. at 19.) Similarly, the Commission adopts the Coalition/Staff position that legal fees and expenses associated with ComEd's procurement case (ICC Docket No. 05-0159) should be recovered through ComEd's SAC rather than through delivery service charges. (*See* CES Ex. 5.0 at lines 141-48; CES Initial Br. at 20.) The Commission, consistent with the Staff/Coalition position, takes the same approach to A&G expenses -- to the extent A&G expenses that ComEd has improperly allocated to delivery services are more properly related to supply-related services, then the appropriate method of collection is through the SAC. (*See* CES Ex. 5.0 at lines 171-86; *see also* Staff Ex. 6.0 at lines 454-514.)

The Commission also finds that ComEd's revised Rider Resale proposal, which is supported by the Coalition and BOMA, is an appropriate clarification of the terms of that tariff.

IV.

CUSTOMER CHOICE AND RETAIL SUPPLIER ISSUES

B. General Account Agency

CES's Position

The Coalition requests that the Commission direct ComEd to revise both its General Account Agent ("GAA") form and its business processes to clarify the options associated with customers' designation of a GAA. The Coalition explains that ComEd's current process allows each customer to authorize an agent to receive the customer's ComEd bills and other ComEd correspondence, as well as to make energy supply decisions for the customer. (*See* CES Initial Br. at 21.) An "agent" may be an energy consultant or advisor, a relative, or a RES. In order to inform ComEd of the agency relationship, ComEd requires the customer to sign a GAA form and remit it to ComEd. According to the Coalition, both the form itself and the manner in which ComEd processes the form unnecessarily inhibit customer choice. (*See id*.)

The Coalition points out that ComEd itself has acknowledged that a customer typically switches its GAA when the customer changes its RES, and that the customer may prefer to authorize one agent to receive bills and other utility communications and to authorize another agent to analyze and select supply options on the customer's behalf. (Meehan, Tr. at 709-10.) The Coalition requests that ComEd revise its practices and GAA form to better accommodate the realities of the Illinois retail electric market. (*See* CES Exs. 2.0 at lines 79-139, 6.0 at lines 64-125.)

In particular, the Coalition recommends that ComEd modify the form and operation of its GAA processes in three limited very specific and limited ways to:

- **Add an Effective Date** – According to the Coalition, the inclusion of an effective date for the commencement of the agency relationship between the customer and the RES would solve many problems, yet the Coalition argues that ComEd has failed to provide a legitimate rationale for exclusion of such a standard commercial term in the GAA form.

- **Permit Two Agents** - To clarify the type of agency authority granted by the customer to the GAA, the Coalition recommends that the GAA form should recognize what the customer is authorizing the GAA to do on the customer's behalf, such as receiving bills or arranging and managing tariff services on behalf of the customer.

- **Provide Limited Access to Former GAAs** – The Coalition recommends that, in order to facilitate customer inquiries and resolution of billing disputes, ComEd should allow former GAAs to access the customer billing information generated when the agency was effective.

(*See* CES Exs. 2.0 at lines 241-52, 6.0 at lines 188-208; CES Initial Br. at 22.)

Background: The Development of The GAA Form

The Coalition emphasizes that the concept of utilizing an "agent" to assist in dealings with a utility is neither new nor unique to the electric industry. (Meehan, Tr. at 708-09.) Well before the restructuring of the Illinois retail electric market, agents assisted customers with receiving and paying their utility bills. (*See id*.) With the advent of customer choice, commercial and industrial customers were presented with more options for electric service, and found it convenient to hire energy advisors and consultants. (Meehan, Tr. at 709-10.) To facilitate the interaction with ComEd, customers often made these advisors and consultants their agents, enabling the agents to act on their behalf to direct ComEd to switch the tariff under which they took service. (*See id*.)

The Coalition notes that the Commission accepted ComEd's proposal to implement the use of a GAA form in ComEd's delivery services rate case. (*See* ICC Docket No. 01-0423, Interim Order at 151 (April 1, 2002); Meehan, Tr. at 734-35; CES Initial Br. at 23.) Now, customers who want to authorize an agent to obtain bills and remit payment, submit a GAA form signed by the customer, memorializing this relationship with the agent. (*See* CES Ex. 2.0 at lines 212-14, Meehan, Tr. at 718-23, CES Cross Ex. 5.0.) Similarly, customers can authorize an agent to analyze supply options and select the most appropriate tariff under which the customer is ultimately served. (*See* CES Ex. 2.0 at lines 215-16.) Again, the agent would inform ComEd of this authority by submitting a GAA form signed by the customer. (*See* CES Ex. 2.0 at lines 217-18; CES Initial Br. at 23.)

The Problems: ComEd's Current GAA Form and Related Business Processes

Based on the Coalition members' significant experience working with both the form and ComEd's related business processes, the Coalition highlights the problems associated with the current GAA form that ComEd uses. (*See* CES Ex. 2.0 at lines 231-39.) The Coalition supported its position with substantial real-world testimony regarding the customer confusion, frustrations, and inefficiencies that market participants have experienced as a result of ComEd's GAA form and business practices. (*See* CES Ex. 2.0 at lines 203-376, CES Ex. 3.0 at lines 270-322, CES Ex. 5.0 at lines 404-31, CES Ex. 6.0 at lines 187-284; CES Initial Br. at 23-26.) The Coalition's witnesses explained that these problems will undoubtedly be magnified by the sheer volume of customers that may switch during the post-transition period. (*See* CES Ex. 2.0 at lines 288-94.)

The first problem identified by the Coalition is an unintended consequence resulting from the timeframe within which ComEd processes the GAA forms. (*See* CES Ex. 2.0 at lines 267-72.) ComEd's current practice is to change agency status "immediately" when the GAA form is received. (*See* ComEd Ex. 26.0 at lines 130-31.) The Coalition demonstrated that ComEd's definition of "immediately" apparently is a range of between three (3) to ten (10) days. (*See* CES Cross Ex. 5.0.)

According to the Coalition, the most obvious resulting problem is that an agent can become the agent of record prematurely. (*See* CES Ex. 2.0 at lines 255-72.) Because the customer and agent cannot specify the date upon which the agency relationship is to become effective, the Coalition states that ComEd may recognize a change in agency status prior to the customers' next regularly scheduled meter read date. According to the Coalition, this results in ComEd sending invoices to the new RES, who is also acting as the new GAA, for service periods prior to the switch date. The Coalition avers that sending invoices to the wrong GAA/RES causes customer confusion, delayed processing of invoices, delayed payments to ComEd and/or the incumbent supplier, and potential unintended adverse implications to the customers' credit standing with ComEd. (*See* Meehan, Tr. at 737-44; CES Ex. 2.0 at lines 255-62.)

The second set of problems identified by the Coalition arises from ComEd's failure to allow customers to choose different agents to perform different functions. The Coalition presented evidence that ComEd has recognized that customers use the GAA form not only with RESs, but also with other market participants, including energy advisors, brokers, and consultants. (*See* Meehan, Tr. at 707-10.) The Coalition further demonstrated that some of these market participants use the GAA form only to obtain invoices on behalf of the customer; others use it to authorize agents to make rate and tariff selections. (*Id*.) However, the Coalition complains that ComEd's current form and business processes simply do not distinguish among different types of agency authorization. The Coalition urges that as a matter of sound public policy and as a matter of law, the Commission should order ComEd to revise its use of the GAA form. (*See* CES Initial Br. at 24-25.)

The Coalition maintains that as a matter of policy, ComEd's forms should not unnecessarily inhibit customers' ability to act in the competitive market. (*See* CES Ex. 6.0 at lines 187-284.) The Coalition observes that even ComEd witness

Meehan recognized that customers may want to have different agents performing different functions. (*See* Meehan, Tr. at 707-10.) Thus, ComEd's GAA form and business processes preclude customers from exercising this choice.

The Coalition makes the additional point that ComEd's current "one agency fits all" process results in frequent unintended GAA changes. (*See* CES Exs. 2.0 at lines 304-15, 6.0 at lines 245-50.) For example, when a customer is asking for price quotes from multiple parties, each one of those parties may become the customer's GAA. If bills are sent to the wrong party, the Coalition explained that customer confusion and billing problems inevitably result, and confidential information may also be inadvertently sent to the wrong party. (*See* CES Exs. 2.0 at lines 310-15, 6.0 at lines 245-64.) Most importantly, according to the Coalition, ComEd's snafu may result in a customer missing an opportunity to effectuate a cost-saving rate change, if, for example, ComEd rejects a properly-designated agent's request for information. (*See* CES Initial Br. at 25.)

The Coalition points out that, as a matter of law, customers cannot be precluded from having different agents perform different functions. (*See White Eagle Laundry Co. v. Slawek*, 296 Ill. 240, 243, 129 N.E. 753, 754 (1921) (finding that an individual has a contract right to appoint an agent to do anything that they may properly do themselves).) That is, according to the Coalition, customers legally may designate one agent for some functions (e.g., receive and pay bills), and authorize a different agent for other functions (e.g., make tariff selections). (*See* CES Initial Br. at 25-26.)

Finally, the Coalition highlights the problems associated with ComEd's failure to allow a customer's "former-GAA" to have access to information related to the time when the agency was in place. The Coalition explained that a RES may need limited access to a customer's billing and payment information before or after the time a customer is served by that RES. (*See* CES Ex. 2.0 at lines 341-63; CES Initial Br. at 26.) For example, the Coalition states that a RES may need to access this information prior to the service start date in an effort to clear up prior balances with ComEd on behalf of that customer. Also, the Coalition provided a real-world example where a RES may need to access billing and payment information after its final service date in order to clear up outstanding issues that may have occurred with the RES's final bill or to clear up issues on how ComEd applied payments made by the supplier on behalf of the customer. In these limited instances, according to the Coalition, the RES is only requesting authorization to review billing and payment information in order to resolve these specific types of issues. Under the current process, however, the Coalition avers that a previous supplier must re-request full agency rights (potentially "bumping" an existing agent) in order to access this information, then rescind its agency rights after the billing information is received. (*See* CES Ex. 2.0 at lines 360-63.)

Commission Analysis and Conclusion

The Commission notes that the Coalition presented uncontroverted evidence demonstrating the problems associated with ComEd's GAA Form. The Coalition persuasively argues that those problems are likely to escalate as the transition period comes to a close and customers engage agents to assist them in navigating the new regulatory landscape or wish to have an agent receive its invoices from ComEd. (*See* CES Ex. 2.0 at lines 304-07; CES Initial Br. at 26-27.)

Therefore, the Commission concludes that the following straightforward improvements of ComEd's GAA form and related business processes are necessary and appropriate.

First, the Commission endorses the Coalition's recommendation that ComEd add an agency effective date to its GAA form. (*See* CES Ex. 2.0 at lines 90-93.) It was demonstrated that many of ComEd's own contracts include effective dates as standard, basic components of the contracts – *e.g.* the Partial Requirements (PR) tariff, Rate RCDS, and Rider PPO. (*See* CES Cross Exs. 3.0, 4.0.) Such a revision would be consistent with ComEd's stated desire to maintain consistency by creating its GAA form in parallel with the form used by the Ameren companies. (*See* ComEd Ex. 43.0 at lines 58-60. *See also* Meehan, Tr. at 730-31; CES Cross Ex. 2.0; CES Initial Br. at 27.)

Second, the Commission likewise adopts the Coalition's recommendation that ComEd's GAA form be modified to acknowledge the two (2) distinct types of agency. This should be accomplished either by including separate check boxes on the GAA form as is done on ComEd's PR tariff contract or by including distinct function fields/check boxes as is done on Ameren's agency form. (*See* CES Ex. 2.0 at 14; *See also* CES Exhibit 2.1, CES Cross Ex. 2.0; CES Initial Br. at 27.)

Third, the Commission further orders ComEd to revise its GAA form and related policy to provide that, absent specific instructions to the contrary, even after the agency terminates, the former agent retains limited access to customer billing and payment information that was generated during the time that the agency was effective. (*See* CES Ex. 2.0 at lines 339-63.) By recognizing this access in the form that the customer executes, there will be no concern that ComEd is providing unauthorized access to information – the access would be explicitly authorized. (*See* CES Initial Br. at 27-28.)

C. Electronic Data Interchange ("EDI")

CES's Position

The Coalition observes that customer choice simply would not work if everything were done via "hard copy" paper transactions. Thus, the Coalition states that ComEd's use of EDI has greatly contributed to the success of the competitive energy market in Illinois. (*See* CES Ex. 2.0 at lines 453-60.) ComEd itself recognizes that using computers to interact with suppliers increases operational and administrative efficiency. (Meehan, Tr. at 703.) As a result, according to the Coalition, RESs receive most of the important day-to-day operational information from ComEd in the form of an EDI file or transaction, including: customer enrollments and disenrollments (or "drops"), name changes, and meter changes. (*See* CES Ex. 2.0 at lines 382-99.) Nonetheless, the Coalition argues that several simple, yet critical, improvements should be made to ComEd's EDI processes. (*See* CES Initial Br. at 28-30.)

The Coalition makes three (3) recommendations regarding ways in which ComEd should expand the use of EDI processes and procedures. **First**, the Coalition submits that systems that ComEd currently employs for RES customers should apply to customers that elect ComEd post-2006 bundled and PPO service. **Second**, the Coalition argues that ComEd's EDI processes should be revised to efficiently and effectively handle customer name and taxpayer identification number changes. **Third**, the Coalition maintains that EDI process should be used to provide timely notifications of customer drops. The Coalition highlights that it is not proposing any revision to ComEd's EDI certification process or ComEd's EDI contract. That is, under the Coalition's proposal, ComEd would continue to have EDI interaction only with RESs and the subset of GAAs whom ComEd certifies as being EDI-qualified. (*See* CES Ex. 2.0 at lines 104-39; CES Initial Br. at 29.)

The Coalition asserts that it's proposed revisions are designed to increase customer satisfaction, promote cost savings, and mitigate operational risks. (*See* CES Ex. 2.0 at lines 462-72.) According to the Coalition, the switching statistics demonstrate, while the amount of the average load is much smaller, the number of customers enrolled on the PPO is almost three times greater than the number of customers enrolled on third-party service. Thus, according to the Coalition, allowing RESs to process PPO customer enrollments using the EDI framework and instituting uniform processes and procedures for customer enrollment, regardless of the supply option chosen, will result in administrative and financial efficiencies for all involved parties. (*See* CES Ex. 2.0 at lines 462-72.)

The Coalition notes that ComEd refused to engage in a meaningful and constructive dialogue regarding the Coalition's proposed EDI process revisions, once again suggesting that only the issues raised by the ComEd are appropriate for consideration. (*See* ComEd Ex. 26.0 at lines 246-54.) The Coalition argues that ComEd's inaction clearly dictates that the Commission should weigh in on these important operational issues, consistent with the Commission's statutory mandate to promote the development of an efficient and effective competitive retail electric market. (*See* 220 ILCS 5/16-101A(d).)

Commission Analysis and Conclusion

The Commission believes that the Coalition's concerns regarding ComEd's use and processes relating to EDI are well taken. Accordingly, the Commission endorses the Coalition's recommendations, as set forth in detail below.

Utilization of EDI For Enrollment of PPO, CPP-A and CPP-B Customers

According to the Coalition, ComEd currently uses a paper-intensive, manual process to enroll and disenroll PPO customers. (*See* CES Ex. 2.0 at lines 412-21; CES Initial Br. At 30.) That is, the Coalition asserts, ComEd requires each customer to submit a "hard copy" enrollment form that ComEd does not convert into an electronic file. (*See id.*) Compared to the EDI process used for RES-supply customers, the Coalition states that the inefficient, manual nature of the PPO process unnecessarily imposes operational risks and costs upon customers. (*See id.*) the Coalition finds it surprising that ComEd intends to continue using a manual approach for customers to sign up for PPO service as well as bundled service under its post-transition period rates. (*See* ComEd Ex. 26.0 at lines 265-71; Meehan, Tr. at 704; CES Initial Br. at 30.)

According to the Coalition, the current manual PPO enrollment and termination process involves unnecessary and inefficient paperwork, creating an unnecessary burden for customers during the existing 75-day enrollment window. (*See* CES Ex. 2.0 at lines 412-21; CES Initial Br. at 30.) According to the Coalition, the shortened enrollment window of just 40 days ordered by the Commission in ICC Docket No. 05-0159 – 35 days *less* than the existing enrollment window – magnifies the inefficiencies and risks of manual processing, as customers, ComEd, GAAs, and RESs are forced to complete the manual enrollment process in a compressed timeframe. (*See id.*)

The Coalition describes the enrollment process: for an agent to enroll a customer on the PPO, the customer must first give ComEd notice that the agent is authorized to act on the customer's behalf. (CES Initial Br. at 30.) This requires submission of a GAA form. (CES Initial Br. at 30.) Next, the agent must submit a PPO Contract form, but can do so only if the agent also submits a GAA form to ComEd for manual processing via facsimile. (*See* CES Ex. 2.0 at lines 427-37; CES Initial Br. at 31.) In order to terminate service under the PPO, at the end of the PPO contract term, a PPO Contract Termination form, which is a binding notice to terminate the PPO contract, must be submitted to ComEd via facsimile for manual processing. (CES Initial Br. at 31.)

Commission Analysis and Conclusion

The Commission believes that ComEd's manual processing of PPO-related documents unnecessarily exposes customers to increased operational risk, defined as the risk of loss due to system or procedural breakdowns, and human errors. (CES Initial Br. at 31.) It may also include the risk of loss due to the incomplete or incorrect documentation of transactions. (*See* CES Ex. 2.0 at lines 440-42; CES Initial Br. at 31.) The unrebutted testimony of CES witnesses Clark and Witt explained: "Every part of the enrollment and termination process that is not automated and reinforced with proper controls poses a threat to the customer." (*See* CES Ex. 2.0 at lines 444-46; CES Initial Br. at 31.) Yet, ComEd's PPO process requires repeated submission of paper forms, at both the beginning and end of the PPO process. (CES Initial Br. at 31.)

This process can lead to unnecessary and potentially adverse risks for customers. A lost, missing, or mishandled PPO contract would limit the customer's supply alternatives, resulting not only in customer frustration and possible confusion, but very likely also in higher energy prices for the customer. (*See* CES Ex. 2.0 at lines 442-44; CES Initial Br. at 31.) In addition, such an occurrence will cause the customer, ComEd, and potentially the GAA and the RES to spend time investigating and resolving the problem. (Meehan, Tr. at 758-59; CES Initial Br. at 31.) These inefficiencies inevitably result in increased costs to the customer.

In light of these largely unnecessary risks, the Commission directs ComEd to utilize its well-established EDI processes to allow RESs and other EDI-qualified GAAs to enroll customers on PPO and bundled service during the post-transition period.

Name And Taxpayer ID Changes

CES's Position

The Coalition explains that under ComEd's current unwritten "policy," if a customer changes its name or taxpayer identification number, then ComEd will "final" the existing account number and issue a new account number. (*See* CES Ex. 2.0 at lines 581-86; CES Initial Br. at 32.) In addition, the Coalition states that if ComEd lacks a taxpayer identification number on file and a customer provides that information, ComEd will also "final" the account number and issue a new account number. (*See id*. at lines 586-89; CES Initial Br. at 32.)

According to the Coalition, ComEd's entire billing and usage system is driven by account numbers. (*See id*. at lines 591-606; CES Initial Br. at 32.) Therefore, the Coalition presented evidence that if a retail customer was taking service under ComEd's PPO, and if someone in the customer's accounts payable department called to ask a billing question and volunteered a taxpayer identification number that was not previously on file, that retail customer would be summarily dropped from the PPO and would need to make new arrangements for electric supply. (*See id.*)

The Coalition states that this situation is an obvious unintended consequence of ComEd's "policy" – which presently is not memorialized in any document – of determining whether to "final" an account number. (*See id.*) While the customer considers various supply options, the Coalition explains that depending upon the customer's size and eligibility, the customer could be transferred to Rider ISS, bundled service, or Rate HEP. The Coalition continues that such a scenario would occur even if the customer were taking service at the identical physical service address and there had been no change in the customer's usage or demand, and even if there were no actual change in the customer's taxpayer identification number but rather ComEd just received one for the first time. (*See id*.)

Commission Analysis and Conclusion

Although ComEd has agreed to modify the definition of a "new customer" to avoid finaling an account based on a name change, the Commission notes that ComEd has not addressed what impact changes to a taxpayer identification number will have. (*See* ComEd Ex. 26.0 at lines 318-26; CES Initial Br. at 33.) Additionally, although ComEd admitted that providing specific tariff language increases both certainty and efficiency of the regulatory process (Alongi, Tr. at 1336-37; CES Initial Br. at 33), ComEd has not provided any additional detail or suggested tariff language to memorialize these particular processes and procedures. (CES Initial Br. at 33.)

ComEd's current policy and billing system fails to account for the realities of normal customer occurrences and creates unnecessary complexities and difficulties for customers. This situation does not require complex investigation and analysis. Instead, ComEd is directed to revise its processes, and add additional detail to its tariffs so that a change in a customer's name or taxpayer identification number is seamless, and has no impact upon the customer's supply choices. (*See id*.)

Notification Of Customer Drops

CES's Position

The Coalition asserts that ComEd has refused to implement uniform procedures and processes to timely inform RESs and GAAs when a customer account is to be terminated. In many instances, the Coalition states that ComEd notifies the RES and GAA only *after* termination of a customer account. (*See* CES Ex. 2.0 at lines 502-13; CES Initial Br. at 33.) According to the Coalition such untimely notice precludes RESs and GAAs from confirming that the customer account should be dropped, even though drops are often a result of ComEd's bureaucratic snafus described above rather than the result of customers' affirmative decisions. (*See id*.)

The Coalition argues that ComEd's failure to provide timely customer drop information and notification causes immediate economic havoc to customers and RESs. Thus, the Coalition asserts that customers may be precluded from selecting certain options (such as the PPO, if the error is discovered after the enrollment window is closed). (*See* CES Ex. 2.0 at lines 515-41; CES Initial Br. at 34.) Likewise, the Coalition avers that RESs can be financially harmed as the load forecast and schedule, while submitted in good faith, included this customer account information. (*See id.*) Overall, according to the Coalition, the increased operational risks and decreased efficiency once again translate directly into increased costs for customers. (*See id*.)

<u>Commission Analysis and Conclusion</u>

The Commission observes that ComEd has neither denied that problems associated with its inconsistent notification process presently exist nor denied that customers suffer as a result of ComEd's failure to provide prompt notice of customer drops. (CES Initial Br. at 34.) While ComEd has agreed to provide RESs a hard copy report of pending disconnection notices on a weekly basis, the Commission believes that ComEd's proposal falls short of an acceptable solution. (*See* ComEd Ex. 26.0 at lines 335-37; CES Initial Br. at 34.)

The Commission believes that ComEd's proposal will only compound the problem with a lack of automation, as it would require RESs to manually parse through potentially out-of-date listings. (*See* CES Ex. 6.0 at lines 443-51; CES Initial Br. at 34.) The record reveals no legitimate reason for ComEd's failure to provide this information electronically, utilizing the existing EDI structure. (CES Initial Br. at 34.)

Accordingly, the Commission directs ComEd to provide RESs and EDI-certified GAAs with an electronic notice when ComEd receives notice of impending customer drops. (*See id*.)

D. <u>Data Exchange for PowerPath</u>

<u>CES's Position</u>

The Coalition states that the elimination of legacy bundled rates and the simultaneous introduction of new tariffs for bundled service and delivery service rates, in tandem with the attendant switching rules applicable to those rates and tariffs, necessitates that ComEd modify and/or supplement the PowerPath website so that customers and RESs easily may obtain the necessary information. (*See* CES Ex. 2.0 at lines 144-49; *see also* ComEd Ex. 26.0 at 439-

43; CES Initial Br. at 35.) The Coalition notes that ComEd has agreed to implement the majority of the Coalition's recommendations for revisions to PowerPath necessitated by the new market structure for the post-transition period. (*See* ComEd Ex. 26 at lines 33-41; CES Initial Br. at 35.)

Commission Analysis and Conclusion

The Commission agrees that the revisions that ComEd has agreed to should be implemented well in advance of the end of the transition period so that RES are provided with additional and necessary information to serve customers during the post-transition period. In short, the Commission directs ComEd to have such improvements to PowerPath operational no less than 45 days prior to the auction.

E. Improved Electronic Communication with Customers/RESs

CES's Position

The Coalition makes a number of recommendations that would enable RESs to serve retail customers in Illinois, increase efficiency, ease data and information processing, and ensure that RES-supply service comports with ComEd-supply service. (CES Initial Br. at 35.) According to the Coalition, ComEd has refused to: (1) provide RESs and customers with read-only access to smart meters; (2) modify the content and format of the Interval Data and Meter Summary Reports; and (3) provide RESs with information necessary to facilitate customer enrollment under ComEd's Single Bill Option ("SBO") tariff - Rider SBO7. (*See id*.)

Commission Analysis and Conclusion

The Commission agrees with the Coalition that ComEd should modify PowerPath so that customers and RESs may obtain real-time information via the Internet. This access could be read-only so that ComEd's information is protected from interference. (CES Initial Br. at 35.) Real-time access, even if only in a read-only format, would enable customers and RESs to respond to price signals, enhance efficiency of ComEd's entire system, and thereby possibly defer investment in ComEd's transmission and distribution system. (*See* CES Ex. 2.0 at lines 864-73; CES Ex. 6.0 at lines 522-35; CES Initial Br. at 35-36.) Accordingly, ComEd is directed to modify PowerPath to provide customers and RESs with real-time information.

The Commission similarly agrees with the Coalition that ComEd should modify both its Interval Data Reports and its Meter Summary Reports. With respect to the Interval Data Reports, ComEd is directed to provide additional flexibility to customers and RESs to order Interval Data Reports in differing durations (e.g., provide options for 1 month, 6 months, etc.). (CES Initial Br. at

36.) With respect to the Meter Summary Report, ComEd is directed to provide reconciliation of billing period data with PowerPath summaries, address Space Heat data, and identify the appropriate demand figure for use in the calculation of the customer's billing demand. (*See* CES Ex. 2.0 at lines 875-910; CES Ex. 6.0 at lines 538-72; CES Initial Br. at 36.)

Finally, the Commission agrees with the Coalition's recommendation that ComEd should provide RESs more timely information regarding whether a customer has a past due balance prior to a customer's regularly-scheduled meter read date (or enrollment date) and should provide additional detail and specifics regarding "other charges" that appear on 810 billing data. By providing information regarding past due balances, ComEd can help customers avoid significant potential problems in billing, credit, payment, supply, and legal contract issues. (CES Initial Br. at 36.) Similarly, ComEd could avoid customer confusion and potential billing disputes, as well as reduce transaction costs by simply providing specific detail regarding the charges that comprise the "other charges" line item that appears on the 810 billing data and customer invoices. (*See id*.) Accordingly, as described herein, ComEd is directed to modify its' billing processes in order to provide the specific detailed information to customers and RESs.

F. <u>Utility Consolidated Billing with Purchase of Receivables</u>

<u>CES's Position</u>

The Coalition indicates that its POR / UCB proposal for ComEd's CPP-B customers is good for consumers, good for competition, and good for ComEd. The Illinois General Assembly has directed that the Commission promote the development of the competitive market in a manner that benefits all consumers in Illinois. (*See* 220 ILCS 16-101A; CES Initial Br. at 36.) Toward that end, the Coalition states that the Commission and ComEd must realize that systems will need to change in order to allow for the development of competition for small business and residential customers. (*See* ComEd Exs. 1.1, 1.2, 1.3; CES Initial Br. at 37.) The Coalition believes that one of the most important elements of this transformation involves ComEd embracing improvements that will encourage competitive suppliers to enter the Illinois marketplace. (CES Initial Br. at 37.)

The Coalition's proposal sets forth the structure for a pro-consumer, pro-competitive POR / UCB program that will lower transaction costs, increase efficiency and minimize customer confusion. (*See generally* CES Exs. 4.0, 7.0; CES Initial Br. at 37.) Apparently, ComEd began considering the benefits of a POR / UCB program in 2002 (*see* Meehan, Tr. at 768) and it has since acknowledged that some means must be found to encourage suppliers to enter the market in order for residential competition to thrive. (Clark, Tr. at 204; CES Initial Br. at 37.)

UCB and POR Programs In Other Competitive Markets

ComEd has acknowledged the value of looking to the experience of other states regarding the development of competitive residential markets in Illinois. (*See* Clark, Tr. at 204; CES Initial Br. at 37.) The Coalition agrees with ComEd's strategy in this regard. As highlighted by the Coalition, most deregulated retail energy markets across North America have UCB programs, including ComEd's sister utility, PECO, and likely sister-to-be, PSEG, which both have POR / UCB practices in place. (*See* CES Exs. 4.0 at lines 65-69, 7.0 at lines 45-47; CES Initial Br. at 37.) According to ComEd's witness Meehan, ComEd and PECO representatives even raised discussions of POR / UCB structures leading up to the companies' merger in 2000. (*See* Meehan, Tr. at 769; CES Initial Br. at 38.) The Coalition suggests that Indiana and New York offer further examples of jurisdictions that have successfully implemented POR / UCB programs. (*See* CES Ex. 4.0 at lines 311-331, 349-86; CES Initial Br. at 38.)

The Coalition provides, as example, that under PECO's UCB, PECO pays the retailer, known in Pennsylvania as the electric generation supplier ("EGS"), for the *undisputed* EGS charges PECO has billed the customer on behalf of the EGS, regardless of whether the customer has paid PECO. (*See* CES Ex. 4.0 at lines 71-79; CES Initial Br. at 38) Apparently, under the program, PECO or the EGS may request separate billing for accounts ninety (90) days or three billing cycles past due; PECO recovers the uncollectible amounts and program administration expenses through utility base rates. (*See id*.) PSEG likewise assumes supplier receivables and makes payment for the full undisputed supplier bill amount five (5) days after the due date on the customer bill. (*See id*.)

Similarly, the Coalition highlights the POR program for the Northern Indiana Public Service Company ("NIPSCO"), which is the only utility in Indiana offering competitive retail natural gas, has a POR program. (*See* CES Ex. 4.0 at lines 311-31; CES Initial Br. at 38.) Likewise, the Coalition states that in New York, all New York utilities offer UCB in addition to a dual bill option and all but one utility regulated by the New York Public Service Commission ("PSC") has adopted a POR program. (*See* CES Ex. 4.0 at lines 350-51; CES Initial Br. at 38-39.)

UCB / POR And The Development of Residential and Small Commercial Markets

The Coalition argues that the implementation of the Coalition's POR / UCB proposal would encourage the development of the competitive retail electric markets for residential and small commercial customers in Illinois. (*See* CES Ex. 4.0 at lines 112-19; CES Initial Br. at 39.) The Coalition is proposing a POR / UCB program that would apply to the accounts of ComEd's delivery services customers with a peak demand below 400 kW (CPP-B customers) who receive a consolidated ComEd bill that includes both the delivery services provided by ComEd and the commodity of electricity provided by the RES. (*See id*. at lines 53-63; CES Initial Br. at 39.) Under the Coalition's POR proposal, ComEd would purchase the RES's electric commodity service accounts receivable and any utility pass-through charges at a discount on the receivable's face value. However, under the Coalition's proposal, RESs still would retain the right to offer the SBO, in which the RES bills for both the utility and RES charges, to any customer under the provisions of Rider SB07 regardless of the size of the customer. Thus, for RESs serving customers with demand less than 400 kW, ComEd would still be required to offer the following billing: SBO, UCB / POR, and a "dual-billing" model in which the RES may issue its own bill for its commodity charges. (*See* CES Ex. 4.0 at lines 58-60; CES Initial Br. at 39-40.)

According to the Coalition, under UCB programs, the utility provides a single bill for its own charges as well as the RES' charges. A RES would electronically notify ComEd regarding the RES charges to be included on the bill. Under such a program ComEd would proceed with its regular billing and payment processing functions that it already performs for its bundled customers and then forward payment to the RES for its charges. (*See id*. at lines 81-90; CES Initial Br. at 40.)

According to the Coalition, under POR programs, the utility reimburses the RES for its customer billings regardless of whether the utility received payment from the customer. Further, the Coalition notes that the utility is made financially whole by recovering the uncollectible amounts and program administration expenses through one of two options: (1) a discount rate equal to the utility's actual uncollectible amount that offsets the payments to the RES, and is subject to a periodic reconciliation process; or (2) an element of the utility's base rates. (*See* CES Ex. 4.0 at lines 44-51; CES Initial Br. at 40.) As noted, the Coalition has advocated the use of a discount rate, but either method can be used. (CES Initial Br. at 40.)

The Coalition explains that under a POR program, customers benefit directly from increased access to competitive choices; and economies of scale are achieved by designating one party to handle all credit and collections and several consumer protection functions. (*See* CES Ex. 4.0 at lines 176-80; CES Initial Br. at 41.) According to the Coalition, a POR program frees residential and small commercial customers from possibly having to post two separate security deposits and allows customers returning to service after having been terminated due to non-payment to avoid having to contend with two payment plans. (*See id*. at lines 180-85; CES Initial Br. at 41.)

Further, as indicated by the Coalition, encouraging RESs to accept all residential and smaller commercial customers – not just those with good credit scores – POR programs facilitate migration of customers who might be overlooked by RESs due to poor credit histories or past financial troubles. (*See*

CES Ex. 4.0 at lines 187-90; CES Initial Br. at 41.) In addition, the Coalition argues that utilities that implement POR programs avoid the problem of RESs serving the good credit customers, leaving the poor credit customers on utility service where they will escalate costs to all remaining bundled customers. (*See id*. at lines 198-203; CES Initial Br. at 41.)

<u>RESs Benefit From POR / UCB Efficiencies</u>

According to the Coalition, a POR / UCB program in ComEd's service territory would create a level playing field for RESs to compete with ComEd; would result in a significant decrease in the cost for a RES to acquire customers; and would be accompanied by a potential market share increase resulting from more RESs being permitted to enroll mass market customers without conducting credit checks or requiring security deposits. (*See* CES Ex. 4.0 at lines 209-24; CES Initial Br. at 42.)

The Coalition explains that currently, RESs in Illinois, unlike the utilities, lack the ability to terminate the physical delivery of electric or gas service to customers who do not pay the RES portion of their energy bill. (*See id*. at lines 210-13; CES Initial Br. at 42.) In contrast, if one of ComEd's bundled customers does not pay his bills, ComEd may disconnect the customer for both delivery and commodity. (*See id*. at lines 213-16; CES Initial Br. at 42.) As explained by the Coalition, a RES faced with a non-paying customer may only return the customer to bundled service and seek collection of the customer's arrears. As a consequence the Coalition argues, all else being equal, ComEd's ability under the current structure to encourage payment through physical termination will always provide it with a lower uncollectibles rate compared to RESs. (*See id*. at lines 216-20; CES Initial Br. at 42.)

Thus, the Coalition argues that the lack of a POR program is a barrier to competition because it essentially creates a large segment of customers who are ineligible to participate in the competitive market. (*See* CES Ex. 7.0 at lines 124-38; CES Initial Br. at 42-43.) According to the Coalition Bad debt can impose high costs upon RESs and although RESs typically screen customers to determine the customer's creditworthiness, it is not always feasible for customers to be credit screened during their first contact with the RES. (*See* CES Ex. 4.0 at lines 226-35; CES Initial Br. at 43.) Further, the Coalition states that the credit checks add extra time to completing customer enrollment (*see generally* CES Ex. 4.3, 4.4; ComEd Ex. 10.7) and RESs must hire additional personnel to perform credit checks and pay a credit agency such as Equifax for credit reports. (*See generally* CES ex. 4.1, 4.2.) In short, uncollectibles represent a significant cost of doing business. (*See* CES Ex. 4.0 at lines 233-34; CES Initial Br. at 43.)

ComEd's Economic Efficiencies
Through A POR/UCB Program

According to the Coalition, ComEd has strong economic reasons to implement the Coalition's proposed POR / UCB program. The Coalition explains that Utilities that implement POR programs avoid the problem of RESs serving the good credit customers, leaving the poor credit customers on utility service where they will escalate costs to all remaining bundled customers. (*See* CES Ex. 4.0 at lines 201-3; CES Initial Br. at 43.) Further, under the proposed POR / UCB program ComEd would recover RESs' share of uncollectibles costs through a discount rate or through rate base, while recovering the costs for the risks associated with running the program from RESs. (*See id*. at lines 255-65; CES Initial Br. at 443-44.)

Commission Analysis and Conclusion

The Commission agrees that by adopting the Coalition's POR / UCB proposal, the Commission and ComEd have a great opportunity within this proceeding to develop a system that would assist in fulfilling the directive of the General Assembly and the commitment of ComEd to increase competitive choice for Illinois consumers. (CES Initial Br. at 37.) Further, the Commission believes that it is wise look to other jurisdictions in determining the best structure for incorporating a POR / UCB program into the market in Illinois. (CES Initial Br. at 39.) The Commission sees UCB as an efficient platform on which a utility may operate a POR program, and the combined POR / UCB structure would be appropriate for Illinois. (*See* CES Ex. 7.0 at lines 204-16; CES Initial Br. at 40.)

The Commission further understands that the adoption of a POR program in Illinois would alleviate ComEd's need to predict volatile uncollectible rates while enabling all customers, not just those with the best credit histories, to choose an electric supply that best meets their needs. (*See* CES Ex. 4.0 at lines 203-7; CES Initial Br. at 42.)

The Coalition's proposed POR / UCB program would level the competitive market playing field and remove a major obstacle to the development of residential and small commercial choice in Illinois. The Commission agrees that a POR program allows a utility to recover costs while minimizing its efforts in trying to predict the uncollectible rate associated with a changing base of customers. (CES Initial Br. at 44.) Also, by allowing all customers, not just those with the best credit histories, to make the choice for electric supply that best meets their needs, a POR / UCB program should place greater downward pressure on price and greater potential for ComEd to lower its exposure to bad debt. (*See* CES Ex.7.0 at lines 161-71, 296-300; CES Initial Br. at 44.)

As indicated by the Coalition, ComEd already is in the business of assessing and managing customers' receivables. (*See id*. at lines 264-82; CES

Initial Br. at 44.) The Commission agrees that the Coalition's proposal does not require ComEd to manage different risks from those that it currently manages for its bundled customers. Although ComEd currently does not purchase RES receivables, it does manage the commodity-related uncollectible risk of most small commercial customers and all residential customers. (*See id*. at lines 273-76; CES Initial Br. at 44.) The Commission does not see the Coalition's proposal as a recommendation that ComEd provide a new bad debt collection service. Instead, the Commission believes that ComEd merely would continue to perform its own existing bad debt collection function. The proposed UCB / POR program simply frees RESs from having to duplicate ComEd's existing billing and debt collection function. (*See* CES Ex. 7.0 at lines 77-84; CES Initial Br. at 44.)

Under ComEd's proposed tariffs in this proceeding, ComEd would place an adder on every bundled customer's commodity charge. In other words, ComEd intends to *manage* its commodity-related uncollectibles risk by socializing its commodity-related uncollectibles costs across all bundled customers. (*See* CES Ex. 7.0 at lines 276-79; CES Initial Br. at 44-45.) ComEd should implement the Coalition's POR / UCB program and purchase RES receivables. In doing so, ComEd's risk would remain the same as under its proposed tariffs: it will be socializing the same amount of uncollectible costs across the same number of customers as it does now. (*See* CES Ex. 7.0 at lines 279-82; CES Initial Br. at 45.)

As discussed above, ComEd's sister utility, PECO, and possible sister-to-be, PSEG, both have the personnel who could assist ComEd in managing this feature within their consolidated billing system. (*See* CES Ex. 7.0 at lines 284-88; CES Initial Br. at 45.) The Commission believes that to deliver a benefit of these mergers to Illinois residential customers and small businesses, it would be a natural synergy for ComEd to adopt the best practice of these affiliated utilities. (CES Initial Br. at 45.)

ComEd, customers, and RESs will all benefit from the adoption of the Coalition's POR / UCB proposal. ComEd would enjoy lower risk and the ability to recover all appropriate costs; residential and smaller commercial customers would enjoy the convenience of a single bill, robust retail competition increased efficiency, and the elimination of having to undergo credit evaluations; and RES's would enjoy lower costs a greater ability to serve mass market consumers, as well as a more level playing field. The Commission therefore orders ComEd to adopt the POR / UCB program proposed by the Coalition. (CES Initial Br. at 45.)

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion that and hereby finds that:

1. Commonwealth Edison Company is an Illinois corporation engaged in the distribution and sale of electricity to the public in Illinois and is a public utility as defined in Section 3-105 of the Public Utilities Act;

2. The Commission has jurisdiction over the parties and the subject matter herein;

3. The recitals of fact and conclusions of law reached in the prefatory portion of this Order are supported by the evidence of record, and are hereby adopted as findings of facts and conclusions of law;

4. ComEd's proposed delivery service tariffs, with the modifications proposed by the Coalition of Energy Suppliers as described below, shall be adopted:

   (A) ComEd shall revise the GAA form and process, including: (a) the addition of an effective date; (b) the inclusion of check boxes to facilitate customers' selection of different agents to perform different services; and (c) the recognition that former agents will be presumed to have access to customer information that is generated when the agency is effective;

   (B) ComEd shall use EDI processes and procedures, including but not limited to 810, 814, 820, and 867 data, for Customer Enrollment and Drop Procedures for all customers, regardless of their supply source;

   (C) ComEd shall improve the flow of information and data via use of EDI with 814 enrollment response, monthly Capacity Obligation and Peak Load Contribution, electronic, real-time drop notices, and electronic updating of taxpayer information;

   (D) ComEd shall adopt a Purchase of Receivables and Utility Consolidated Billing program;

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the tariff sheets presented in effected rendered by Commonwealth Edison Company are hereby permanently canceled and annulled, effective at such time as the new tariff sheets approved herein become effective by virtue of this Order.

IT IS FURTHER ORDERED that the proposed tariffs, filed by Commonwealth Edison Company on or about August 31, 2005, are permanently canceled and annulled.

IF IS FURTHER ORDERED that Commonwealth Edison Company is authorized to file new tariff sheets in accordance with the Findings of this Order, applicable to service furnished on and after the effective date of said tariff sheets.

IT IS FURTHER ORDERED that any motions, petitions, objections, and other matters in the instant proceeding which remain unresolved are disposed of consistent with the conclusions herein.

IF IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Admin. Code 200.280, this Order is final; it is not subject to the Administrative Review Law.

Respectfully submitted,

CONSTELLATION NEWENERGY, INC.
DIRECT ENERGY SERVICES, LLC
MIDAMERICAN ENERGY COMPANY
PEOPLES ENERGY SERVICES CORPORATION
U.S. ENERGY SAVINGS CORP.

By: /s/Christopher J. Townsend
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DATED: May 4, 2006