

Commonwealth Edison Company

ICC Docket: 05-0597

Corrected Pages

**PROPOSED ORDER**

costs included in the pro forma capital additions); Hill Dir., ComEd Ex. 5.0 Corr., 32:678-33:707; ComEd Ex. 5.1, Scheds. B-1 Rev., B-2 Rev., B-2.1 Rev.; ComEd Ex. 5.2, at work papers WPB-2.1a, WPB-2.1b, WPB-2.2. ComEd demonstrated that such additions were prudently acquired, reasonable in costs, and used and useful in providing distribution and customer service.

ComEd also provided substantial, detailed evidence in support of its addition to rate base for Construction Work in Progress (“CWIP”) not accruing Allowance for Funds Used During Construction (“AFUDC”). *E.g.*, Costello Dir., ComEd Ex. 3.0 Corr., 22:463-66; Hill Dir., ComEd Ex. 5.0 Corr., 14:295-301; ComEd Ex. 5.1, Sched. B-7. ComEd explained that at any time, it has a substantial number of construction projects in progress for which it does not accrue AFUDC. *E.g.*, Hill Reb., ComEd Ex. 19.0 Corr., 37:766-76. ComEd originally proposed to include \$53,449,000 of non-AFUDC bearing CWIP in rate base. ComEd Ex. 5.1 at Sched. B-1 Rev.

### **Other Parties**

[insert]

### **ComEd Response**

ComEd, Staff, and CCC agreed that it would be fair and appropriate for ComEd to lower the amount of CWIP in its rate base to \$41,047,000, with such amount to be included in rate base, and for Staff and CCC to withdraw their proposed adjustments to ComEd’s pro forma capital additions.. Hill, Tr. at 896:11-22; McGarry, Tr. at 910:20 – 911:6; Griffin, Tr. at 1565:8-21; ComEd Ex. 45.0; Hill Sur., ComEd Ex. 36.0 Corr., Sched. 1 Rev., p. 4. No other party contested this adjustment or withdrawal of those proposed adjustments.

### **Commission Analysis and Conclusion**

ComEd has presented ample evidence demonstrating the reasonableness of its non-AFUDC-bearing CWIP in rate base, and has made an appropriate adjustment to that CWIP figure. ComEd, as well as the only objecting parties (Staff and CCC), now agree on ComEd’s revised CWIP figure. The Commission finds ComEd’s evidence and the agreed adjustment reasonable, and therefore accepts ComEd’s proposed CWIP as just and reasonable in amount.

## **12. *Pro Forma* “New Business” Capital Additions and Revenue Credit Against Operating Expenses**

### **ComEd**

ComEd provided substantial, detailed evidence in support of its pro forma capital additions, including but not limited to its “new business” capital additions. *E.g.*, Costello Dir., ComEd Ex. 3.0 Corr., 21:445 - 23:494; DeCampli Dir., ComEd Ex. 4.0 Corr., 20:414 – 54:1131; ComEd Ex. 4.1; ComEd Ex. 4.3 Errata (regarding the 21 largest additions to rate base, ICC Docket 01-0423, including certain costs included in the pro

Finally, ComEd highlights that the proposal that the Commission' reduce ComEd's A&G expenses based not on the evidence but on the Order in ICC Docket 01-0423 would be contrary to law. *E.g.*, 220 ILCS 5/10-103, 10-201(e)(iv). (ComEd also made the points noted in the preceding subsection of this Order.)

### **Commission Analysis and Conclusion**

ComEd has presented extensive, detailed evidence that proves that the \$260,909,000 of A&G expenses that are included in its final revised revenue requirement are prudent, reasonable, necessary, and useful in performing the distribution and customer functions. *E.g.*, Costello Dir., ComEd Ex. 3.0 Corr., 30:647-31:675; Hill Dir., ComEd Ex. 5.0 Corr., 25:547-28:594; ComEd Ex. 5.1, Sched. C-1 Errata; ComEd Ex. 5.2; Costello Reb., ComEd Ex. 13.0 Corr., 4:64-71, 31:696-34:763; Houtsma Reb., ComEd Ex. 18.0 Corr., 3:46-50, 5:90-7:142, 10:217-15:333; Hill Reb., ComEd Ex. 19.0 Corr., 40:831-44:929 and Sched. 1, 12, 13, 14, and 15; Costello Sur., ComEd Ex. 30.0, 1:21-25, 14:290-19:373; Houtsma Sur., ComEd Ex. 35.0, 2:25-42, 3:64-14:307; Hill Sur., ComEd Ex. 36.0 Corr., 34:772-38:855 and Sched. 1 Rev. p.1 and Scheds., 4 and 9. ComEd's proposal is based on its actual expenses, and ComEd has shown that it incurred these expenses in a prudent and reasonable manner because they were necessary in order to provide safe, adequate, and reliable distribution service and customer service. ComEd showed that the real increase in these expenses is much lower than Staff's and IIEC's figures suggest and is reasonable, and that the ratio of these expenses to other direct expenses is low compared to the ratios of other utilities. In contrast, the proposals by Staff and IIEC lack support in the record, are arbitrary, are contrary to their positions on other issues in this case, and are inconsistent with the law. There is no valid basis for capping ComEd's A&G expenses at a level set based on a 2000 test year, much less for reducing that level. The Commission finds that ComEd's total requested A&G expenses are just and reasonable, and they are approved. Staff's and IIEC's proposed adjustments are rejected..

#### **c) Corporate Governance Expenses**

##### **ComEd**

ComEd seeks recovery of \$49,867,000 in jurisdictional corporate governance expenses paid by ComEd to Exelon BSC in the 2004 test year. ComEd explained that corporate governance services are provided to ComEd by BSC under the terms of the General Services Agreement ("GSA") approved by the ICC and the Securities and Exchange Commission ("SEC"). Hill Dir., ComEd Ex. 5.0 Corr., 26:561-69. The record shows that costs for these services are directly charged to ComEd where possible, and if costs cannot be direct charged, they are allocated to ComEd and the other Exelon affiliates using an allocation factor reflecting cost connection. Hill Dir., ComEd Ex. 5.0 Corr., 26:569-27:573.

The record shows that the factor used to allocate corporate governance costs is called the Modified Massachusetts Formula, or MMF. ComEd and Exelon were required to use the MMF for corporate governance costs by the SEC starting in 2004.

established that the correct standard for recovery of employee compensation expense – base salary plus incentive compensation – is as stated in *Citizens 1995*; namely, whether that expense is reasonable and prudent.

In the past, the Commission has imposed two fundamental requirements for recovery of incentive compensation expense: (1) an “historical pattern of paying incentive compensation” to serve as a basis to determine whether, and how much, incentive compensation expenses will be incurred going forward; and (2) evidence that “the incentive compensation payments provided benefits to ratepayers.” *Central Illinois Pub. Serv. Co. and Union Elec. Co.*, ICC Docket 00-0802 (Order Dec. 11, 2001) at 19; *Consumers Illinois Water Co.*, ICC Docket No. 97-0351, 1998 WL 34302196, at \*17 (Order June 17, 1998) (same).

ComEd shows that its incentive compensation programs and the expenses of those programs included in the revenue requirement amply meet each of those criteria. ComEd has demonstrated a commitment to incentive compensation which ensures ComEd will continue its incentive compensation program going forward. Mr. Costello, who is charged with ensuring that ComEd has the personnel necessary to provide proper service, described incentive compensation as “an actual and longstanding cost.” *Costello Reb.*, ComEd Ex. 13.0 Corr., 23:520-21.

ComEd presents evidence refuting each of Staff’s arguments. Regarding, Ms. Ebrey’s worry that the goals in the plan may not be met, ComEd notes that the record is uncontradicted that “for each of the past four years, ComEd has paid total incentive compensation at levels *above target*.” *Hill Reb.*, ComEd Ex. 19.0 Corr., 51:1116-17 (emphasis original). ComEd states that it consistently incurs incentive compensation expense, and does so at levels above the target level at which it requests recovery. Regarding Staff’s contention that ComEd executives have the option to cancel the AIP, Mr. Costello laid to rest any unease about whether ComEd will simply cancel its incentive compensation program by stating that “ComEd does not intend to eliminate its compensation program.” *Costello Reb.*, ComEd Ex. 13.0 Corr., 22:514. ComEd notes that, despite Staff’s contention to the contrary, the record shows that because prior versions of ComEd’s plans embraced the same fundamental goals as the current plan, ComEd’s payment record serves as a reliable guide to ComEd’s likely payouts going forward. ComEd states that despite Ms. Ebrey’s claim that there is no sufficient explanation of why the targets have varied significantly from year to year, the record is clear that ComEd has not reduced the target level of incentive compensation at the individual employee level. ComEd notes that the variance in the aggregate target levels exhibits a decrease consistent with the reduction in employees over the past several years.

ComEd also presents evidence that the incentive compensation plan meets that second part of the Commission’s specific incentive compensation test concerns customer benefit. ComEd’s compensation expert Mr. Meischeid has testified that companies employ incentive compensation to focus employees “on key goals in order to improve performance,” and because they “have found that providing monetary

- Outside Services Employed - Account 923
- Employee Pension and Benefits - Account 926
- General Advertising Expenses - Account 930.1
- Rents - Account 931
- Taxes Other Than Income - Accounts 408.1 and 408.2
- Donations - Accounts 426.1
- Other Deductions -Account 426.5.

In addition, see Sections II.D.3.c, and II.D.3.d of this Order, *supra*.

## **18. Advertising Expense Adjustment**

### **Other Parties**

[insert]

### **ComEd Response**

ComEd agreed to Staff's proposed adjustment to remove \$349,000 of advertising expenses from the revenue requirement, except ComEd and Staff agreed that the correct amount of the adjustment is \$317,000. Hathhorn Dir., Staff Ex. 1.0, 18:370-19:389; Hill Reb. ComEd Ex. 19.0 Corr., 58:1286-96; Hathhorn Reb., Staff Ex. 12.0, 16:352-17:360. Accordingly, this issue is uncontested.

### **Commission Analysis and Conclusion**

The Commission finds the proposed adjustment to remove \$317,000 of advertising expenses from the revenue requirement, to which no party objects, to be reasonable and appropriate, and therefore approves it.

## **19. Staff 2005 Salary and Wage Adjustment**

### **Other Parties**

[insert]

### **ComEd Response**

ComEd in its rebuttal testimony agreed to Staff's adjustment to remove \$1,174,000 of ComEd's *pro forma* salary and wage increases adjustment for 2005. Ebrey Dir., Staff Ex. 2.0, 30:627-35; Hill Reb., ComEd Ex. 19.0 Corr., 42:931-37.

### **Commission Analysis and Conclusion**