STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	)	
	)	Docket No. 05-0597
Proposed general increase in electric	)	
Rates, general restructuring of rates,	)	
Price unbundling of bundled service	)	
Rates and revision of	)	
Other terms and conditions of service.	)	

THE PEOPLE OF THE STATE OF ILLINOIS'

BRIEF IN REPLY TO EXCEPTIONS

The People of the State of Illinois

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I. INTRODUCTION

NOW COME the People of the State of Illinois ("the People"), by Lisa Madigan, Attorney General of the State of Illinois, and pursuant to Section 200.830 of the Illinois Administrative Code, submit the following Brief in Reply to Exceptions in ICC Docket No. 05-0597.

II. SUMMARY OF ARGUMENTS

The Administrative Law Judges' Proposed Order ("PO") correctly decided the issues of recurring severance costs and incentive compensation. The PO also correctly determined that separate rates are appropriate for Commonwealth Edison Company's ("ComEd," or "the Company") single- and multi-family customers, based on the actual cost to serve each class.

Therefore, ComEd's exceptions and proposed language attached to its Brief on Exceptions, with respect to these issues, should be rejected and the language contained in the PO should be retained.

III. REVENUE REQUIREMENT

A. The Proposed Order Correctly Decided the Years 2001-2005 were More Reasonable that the Company's Proposal to Determine the Prospective Level of Recurring Severance Costs.

The PO correctly found that use of the years 2001-2005 to calculate ComEd's likely recurring severance expense going forward was appropriate, in part, because "it reflects the most recent data available." Proposed Order at 85. There can be no dispute that that five-year period from 2001-2005 is more recent than ComEd's proposal, based on the years 2000-2004.

ComEd asserts, "In the usual case, a normalization adjustment would include years up to and including the test year…" ComEd Brief on Exceptions, p. 16. ComEd offers absolutely no evidence to support this claim. Indeed, it is more reasonable to use the most recent five-year period, for which data are available, to calculate a normalization adjustment, as use of the most recent five years avoids the use of outdated data.

ComEd also states that in removing the year 2000 from its normalization adjustment, "the AG provided no evidence that severance costs of this magnitude could not occur in 2007 and beyond…" *Id*. Contrary to the finding in the PO, ComEd improperly attempts to shift the burden to the AG to show that recurring severance expenses will not reach 2000 levels in 2007 and beyond. The PO correctly agreed with Mr. Effron that ComEd has not demonstrated that the substantially higher severance expense incurred in 2000 is representative of the expense the Company can expect to incur in the future. *See* PO, p. 85. The burden of proof to establish the justness and reasonableness of the proposed rates shall be upon the utility. 220 ILCS 5/9-201(c).

ComEd provided no evidence that it is at all probable that the level of costs incurred in 2000 will be incurred prospectively. Therefore, ComEd's arguments in its Brief on Exceptions should be rejected and the PO's findings with respect to recurring severance costs should be upheld.

B. The Proposed Order Correctly Found that ComEd's Incentive Compensation Program Expense Should Not be Included in its Revenue Requirement.

ComEd spends a substantial portion of its Brief on Exceptions providing arguments in support of recovering from ratepayers expenses for its incentive compensation program. *See* ComEd Brief on Exceptions, pp. 17-33. However, ComEd's exceptions amount only to a description of its program and fail to respond to the PO's finding that ComEd "has failed to provide any documentation substantiating the cost savings or other tangible benefits to ratepayers." PO, pp. 92-93.

The PO cites to the well-established Commission standard for the recovery of incentive compensation expense in rates. PO, p. 92; *citing to* Docket No. 01-0432, *Illinois Power Company*, Order, March 28, 2002, pp. 42-43 *and* Docket No. 04-0779, *Nicor Gas Company,* Order, September 20, 2005, pp. 44-46. Despite sixteen pages of arguments in its Brief on Exceptions, ComEd has failed to meet the standard of showing that its incentive compensation program reduces expenses and creates greater efficiencies in operations, in compliance with the well-established Commission standard for recovery.

Therefore, ComEd's proposed language in its Brief on Exceptions should be rejected, and the finding in the PO with respect to ComEd's incentive compensation program should be retained.

IV. RATE DESIGN

A. The Commission's Finding, That a $2 Dollar Per Month Difference In the Customer Charge of Single- and Multi-Family Customers is Significant Enough to Warrant Separate Rates, is Accurate and Should Withstand ComEd's Attempts to Subsidize Single-Family Customers at the Expense of Multi-Family Customers.

In adopting the AG's recommendation that ComEd use its Embedded Cost of Service Study ("ECOSS") to develop separate customer charges for single- and multi-family residential customers, the PO recognized the significant difference in the cost to serve residential customers based upon ComEd's own ECOSS. The PO found:

> ComEd's ECOSS shows a meaningful difference in customer-related costs between single- and multi-family residences. While ComEd may not consider approximately $2 per month significant, the Commission finds that it justifies separate rate classes.

PO, p. 184. The PO clearly states that the approximately $2 per month difference is based entirely on the Company's own ECOSS.

In responding to the PO, ComEd asks the Commission to ignore the actual costs to serve single- and multi-family customers. ComEd's response suggests that multi-family residential customers should subsidize single-family residential customers:

> The problem with this statement is that it ignores the evidence demonstrating that the proposed residential monthly Customer Charge is roughly within $1 per month of the calculated cost of the current single-family and multi-family groups. Crumrine Reb., ComEd Ex. 23.0, 15:308-12. Thus, rather than the $2 difference cited, the difference actually is less than $1 per month. ComEd submits that, when viewing the total dollars involved, this difference is not sufficient to justify the complexities of the separate rate class. Crumrine Dir., ComEd Ex. 9.0 Corr., 36:765-75; Crumrine Reb., ComEd Ex. 23.0, 15:308-12.

ComEd Brief on Exception, p. 51. The Company derives its $1 per month figure by <u>ignoring</u> the significant difference in the cost of serving single- and multi-family customers, and should be dismissed.

AG Ex. 2.3 clearly identifies the approximately $2 per month difference between serving single- and multi-family customers that the PO refers to. Using only numbers found in the Company's ECOSS, AG witness Rubin calculated the actual cost to serve single-family residential customers as $7.75 per month, and the actual cost to serve multi-family residential customers as $5.91 per month (an actual difference of $1.84 per month). *See* AG Ex. 2.3, l. 10.

Without providing any numbers in support of its argument, the Company asks the Commission to ignore these numbers (based on the <u>actual cost to serve</u>), and instead accept that the difference in serving single- and multi-family residential customers is less than $1 per month. *See* ComEd Brief on Exceptions, p. 51. ComEd's proposal of a single rate of $7.13 per month (found on ComEd Schedule E-5(a)) simply averages the actual cost to serve single- and multi-family residential customers. The method ignores the actual cost of serving single- and multi-family residential customers and attempts to subsidize single-family customers by 62 cents ($7.75 - $7.13) at the expense of multi-family customers, who would pay an extra $1.22 per month beyond the actual cost to serve them ($7.13 - $5.91) under the Company's proposal.

ComEd's reference to a difference of less than $1 per month in the cost to serve single and multi-family residential customers ignores the actual cost of serving single- and multi-family customers, and should be rejected.

B. <u>Staff Did Not Consider the Impact of ComEd's Rate Design Proposal on Low-use Residential Customers</u>.

To support its Exceptions to the PO's findings in favor of separate rate classifications for single- and multi-family residential customers, ComEd asserts that Staff did not raise any objection to ComEd's residential rate class consolidation. *See* ComEd Brief on Exceptions, p. 50.

However, as argued in the People's Initial Brief, Staff did not consider impacts on customers whose consumption differs significantly from the average. *See* People's Initial Brief, fn. 15, p.24. Staff witness Lazare admitted as much at trial:

> Q: Does your mitigation plan address impacts on customers whose consumption differs significantly from the average?
> A: It's only at the class level. So it doesn't go within the individual rate class and do a deeper level mitigation. So the mitigation is at the class level.

Tr. at pp. 557:18-558:2.

> Q: Have you proposed any other plan in this case to address the impacts on low-use residential customers?

> A: Only to the extent that I propose a reduction in the adjustment to the revenue requirement. But otherwise, I don't.

Tr. at pp. 558:19-559:2.

Staff's silence on ComEd's rate design proposal does not undermine the severe impact it would have on residential customers whose usage differs significantly from the average. The PO is correct to reject ComEd's proposal to consolidate the four existing residential rate classes into a single residential delivery class. *See* PO at 183. ComEd's proposed language with respect to residential customers class delineations should be rejected and the language of the PO should be retained.

V. CONCLUSION

WHEREFORE, for the aforementioned reasons, the People of the State of Illinois request that the Commission issue its Final Order pursuant to the modifications recommended in its Brief on Exceptions and contained herein.

Respectfully Submitted,

The People of the State of Illinois

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