

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

COMMONWEALTH EDISON COMPANY)	
)	
)	Docket No. 05-0597
Proposed general increase in rates for delivery service)	
)	

**STAFF OF THE ILLINOIS COMMERCE COMMISSION
MOTION TO CITE ADDITIONAL AUTHORITY**

Now comes the Staff of the Illinois Commerce Commission ("Staff"), by and through its undersigned attorneys, and pursuant to Section 200.190 of the Rules of Practice of the Illinois Commerce Commission ("Commission"), 83 Ill. Adm. Code Section 200.830, moves to cite additional authority with respect to the Proposed Order's Real-Time Pricing finding. In support of this motion, Staff states as follows:

I. Introduction and Background

1. In its order in Docket No. 05-0159, the Commission approved Commonwealth Edison Company's ("ComEd") proposal to permit residential customers to take hourly service under Rate BES-H beginning January 2, 2007 (see Rider CPP – Competitive Procurement Process, ILL. C. C. No. 4, Original Sheet No. 294.8, filed June 9, 2006, effective July 9, 2006.) In Docket No. 05-0597, the current proceeding, ComEd proposed rates, terms, and conditions under which residential customers may take service under Rate BES-H (see proposed Rate BES–H, ILL. C. C. No. 4, Original Sheet Nos. 330 – 336). A customer taking service under Rate BES–H is furnished with a meter, typically known as an Interval Demand Recording ("IDR") meter that is capable

of recording the kilowatt-hours consumed in each half-hour of each billing period. Rate BES–H customers that do not have such a meter on their premises are subject to Nonstandard Meter-Related Facilities Charges (Original Sheet 335).

2. In this proceeding, a proposal was offered by the Citizens Utilities Board (“CUB”) under which the additional meter-related charges for BES–H customers would not be imposed on individual customers, but rather would be spread among all residential customers. With some modification, the CUB proposal was recommended for adoption by the Administrative Law Judges (“ALJs”) in their Proposed Order (ALJs’ Proposed Order, p. 262).

II. Additional Authority

3. On June 30, 2006, after the post-exceptions briefing on the ALJs’ Proposed Order concluded, Governor Blagojevich signed Senate Bill 1705 into law as Public Act 94-0977 (“PA 94-0977”), a copy of which is attached to this Motion as Attachment A. In addition to modifying Sections 16-101A and 16-102 of the Public Utilities Act (“Act”), PA 94-0977 adds several subsections to Section 16-107.

4. New Section 16-107(b) of the Act requires *all* electric utilities providing service to 100,000 or more customers, which includes ComEd, to “file a tariff or tariffs allowing residential retail customers . . . to elect real-time pricing beginning January 2, 2007.” (220 ILCS 5/16-107(b-5)) Section 16-107(b-5) further provides that the Commission may only approve the real-time pricing tariffs if it “finds that the potential for demand reductions will result in net economic benefits to all residential customers of the utility“, and specifies that the Commission “shall” consider a number factors in examining economic benefits from demand reduction, including improvements to

system reliability and power quality, and the reduction in wholesale market prices and price volatility, “but only to the extent that the effects of reduced demand can be demonstrated to lower the cost of electricity delivered to residential customers.” (*Id.*) New Section 16-107(b-10) requires utilities providing real-time pricing pursuant to subsection (b-5) to install a meter capable of recording hourly interval energy usage. (220 ILCS 5/16-107(b-10))

III. Application to the Current Proceeding

5. While certain testimony offered in this proceeding touched upon some of the now required findings and considerations, there certainly was no attempt by any of the parties to quantify the effect on the cost of electricity to residential customers that might result from the implementation of the CUB real-time tariff proposal.

6. Section 16-107(b-5) of the Act permits the Commission to approve real-time pricing tariffs only if it makes the finding that “the potential for demand reductions will result in net economic benefits to all residential customers of the electric utility.” Staff previously noted that the Commission cannot make this finding based on the evidence that has been presented in this proceeding. (Staff IB, p. 132) In fact, Staff proposed a two-year pilot program in order to determine whether net economic benefits would exist that would justify spreading the incremental metering costs to all residential customers. (ICC Staff Exhibit 20.0, p. 7) The ALJs’ Proposed Order does not make any finding that the CUB proposal would provide net benefits to all residential customers. (Staff BOE, p. 81)

7. New Section 16-107(b-15) of the Act imposes other requirements on electric utilities and the Commission that cannot be met in this proceeding. For

example, each electric utility must select a program administrator who must be approved by the Commission, to provide consumer outreach and perform other duties in connection with real-time pricing. (220 ILCS 5/16-107(b-15)) ComEd has not identified a program administrator for the Commission's consideration.

8. Additionally, an electric utility may apportion costs associated with the implementation of real-time pricing for residential customers on customers that do not elect real-time pricing (as proposed by CUB here), but only if "the Commission determines that the cost savings resulting from real-time pricing will exceed the costs imposed on customers for maintaining the program." (220 ILCS 5/16-107(b-25)) The Commission cannot make such a determination based on the evidence that has been offered in this proceeding.

9. Section 16-107(b-5) of the Act also requires residential customers that select real-time pricing to remain on that service for a minimum of twelve months. CUB's proposal does not add such a requirement to ComEd's tariff.

10. Staff recognizes that there is significant similarity between the CUB proposal and the provisions that ComEd must include in the tariff it must file to meet its obligations under PA 94-0977. However, the record does not support a Commission finding that the CUB proposal would meet the requirements of PA 94-0977. As a result, a Commission order directing ComEd to file real-time pricing tariffs pursuant to CUB's proposal is inconsistent with the now effective requirements of PA 94-0977. Accordingly, the Commission must decline to adopt the CUB proposal.

11. Staff notes that – assuming ComEd files tariffs that comply with PA 94-0977 -- declining to adopt CUB's proposal will not delay implementation of real-time

pricing (“RTP”) since ComEd is obligated under PA 94-0977 to file a RTP tariff to be effective January 2, 2007. (220 ILCS 5/16-107(b-5) In addition, since CUB’s proposal is not fully consistent with the requirements of PA 94-0977, declining to adopt CUB’s proposal will avoid the duplicative effort that would be required to implement both the CUB proposal and the mandatory requirements of PA 94-0977.

IV. CONCLUSION

WHEREFORE, for all the reasons set forth herein, the Staff of the Illinois Commerce Commission respectfully requests leave to submit this additional authority in support of the arguments previously made in this proceeding.

Respectfully submitted,

SEAN R. BRADY
JOHN C. FEELEY
CARMEN L. FOSCO
CARLA SCARSELLA
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, IL 60601
Phone: (312) 793-2877
Fax: (312) 793-1556
sbrady@icc.illinois.gov
jfeeley@icc.illinois.gov
cfosco@icc.illinois.gov
cscarsel@icc.illinois.gov

*Counsel for the Staff of the
Illinois Commerce Commission*

July 17, 2006