

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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<b>COMMONWEALTH EDISON COMPANY</b>	)	
	)	
<b>Petition for approval of tariffs</b>	)	<b>Docket No. 06-0411</b>
<b>implementing ComEd's proposed rate</b>	)	
<b>stabilization program.</b>	)	

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**REPLY BRIEF ON EXCEPTIONS OF THE  
STAFF OF THE ILLINOIS COMMERCE COMMISSION**

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November 13, 2006

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Now comes the Staff of the Illinois Commerce Commission ("Staff"), by and through its undersigned attorneys, and pursuant to Section 200.830 of the Rules of Practice of the Illinois Commerce Commission ("Commission"), 83 Ill. Adm. Code Section 200.830, respectfully submits this Reply Brief on Exceptions to the briefs on exceptions filed by the People of the State of Illinois, by and through the Illinois Attorney General, Lisa Madigan ("AG") ("AG BOE") and the Citizens Utility Board ("CUB") and the City of Chicago ("City") ("CUB-City BOE") in response to the Administrative Law Judge's Proposed Order ("Proposed Order" or "PO") issued October 20, 2006.

**I. INTRODUCTION**

The Commission should reject the arguments of the AG and CUB-City that take exception to the ultimate conclusions reached in the Proposed Order. The arguments raised in the exceptions filed by the AG and CUB-City do not raise new issues with respect to the ultimate conclusions reached in the Proposed Order. The Proposed

Order provides a detailed analysis of all parties' positions, and fully explains the reasons for rejecting the arguments raised by the AG and CUB-City. Staff in this brief on exceptions only addresses certain arguments for which it believes an additional response would be helpful. However, as indicated above, Staff continues to support all of the conclusions reached in the Proposed Order and urges the Commission to adopt those conclusions.

## **II. DEFERRED BALANCE CARRYING CHARGE**

The PO appropriately found 6.5% to be a reasonable carrying charge for the deferred balances accrued by residential customers voluntarily participating in the RRS Program. (PO, p. 20) Both the AG and CUB-City argued for an interest rate of less than 6.5%. (*Id.*) The AG argued that the interest rate should be no higher than the rate used to determine interest on customer deposits. For the year 2006 that rate was 4.5%. (AG BOE, p. 13) However, because the AG recommended that the entire RRS program should be rejected, the AG did not offer any specific arguments or exceptions against the 6.5% carrying charge in its BOE. (AG BOE, p. 14) The AG's carrying charge proposal was properly rejected for the reasons set forth in the PO and should likewise be rejected in the Final Order. (PO, p. 20)

CUB-City, on the other hand, filed a specific exception to the 6.5% and continue to argue that the interest rate should be "based on short-term rates, and, consistent with offering the lowest rate possible, ComEd should be required to securitize the debt." (CUB-City BOE, p. 1) CUB-City argue that ratepayers would not be getting the benefit of short term rates if 6.5% is adopted as the carrying charge. (*Id.*, p. 2) CUB-City also

argue that there is no support for the PO's assumption that some equity financing should be reflected in the interest rate charged. (*Id.*) Furthermore, with respect to securitization, CUB-City argue that approval of the RRS program should be dependent upon the legislature passing legislation which allows ComEd to securitize the debt. (*Id.*, pp. 3-4) All of CUB-City's arguments should be rejected.

The PO appropriately rejected the CUB-City's argument that approval of the RRS Program should be dependent on the passage of securitization legislation. ComEd's RRS Program as modified gives rate payers a reasonable range of options to address the potential bill impacts posed by post-2006 rates. (Staff IB, p. 3) Staff agrees with the PO that the CUB-City's position that approval of the optional RRS Program should be dependent upon future action of the legislature is unrealistic. (PO, p. 20) Since delaying the approval of the RRS Program would be a disservice to ratepayers, CUB-City's exception should be rejected by the Commission.

Despite the claims of CUB-City, the PO appropriately adopted the annual rate of 6.5% as the rate to be charged on the customer deferred balances. Staff acknowledged that the "only correct measure" of the cost of financing the deferral balance is the actual cost of the capital used to finance that balance." (Staff RB, p. 13) Thus, as Staff argued in its Reply Brief, the CUB-City argument that the interest rate charged should be the "lowest interest rate possible" should be rejected since the rate charged should be the actual cost. (Staff RB, p. 4) Nonetheless, Staff also acknowledged that the actual cost is difficult to predict. (*Id.*) The difficulty in predicting the cost is due to the fact that the size of the deferred balance is unknown, the time frame the balance will be outstanding is unknown, the mix of capital used to finance the balance is unknown, and

the costs of that capital at the time the balance will be outstanding is unknown as well. (*Id.*) Given all of these unknowns, Staff determined that 6.5% was a reasonable estimate of ComEd's actual cost to finance the deferral balance and, thus, a reasonable carrying charge. Staff found 6.5% to be a reasonable estimate of ComEd's actual cost to finance the deferral balance because (1) given the potential that the program could last up to six years, it is likely ComEd will not finance the deferral balance entirely with short-term debt; (2) the relatively small size of the deferral balance makes it likely that ComEd will use a mixture of short-term debt, long-term debt, and equity to finance it; and (3) given ComEd's most recently approved costs of long-term debt and equity are 6.48% and 10.045%, respectively, and Staff's opinion that ComEd current cost of short-term debt would likely be at or below its authorized cost of long-term debt, 6.5% would fairly represent a mixture of these various types of capital. (*Id.*, p. 14) After considering the above arguments the Commission should find that Staff's recommended 6.5% rate does give ratepayers the benefit of short-term rates since that rate is based upon a mixture of short-term, long-term debt, and equity financing being used to fund the deferred balance and is the appropriate carrying charge to apply to ComEd's deferral balance.

### III. CONCLUSION

WHEREFORE, for all the reasons set forth herein, the Staff of the Illinois Commerce Commission respectfully requests that its recommendations be adopted in this proceeding.

Respectfully submitted,

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