

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company

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**Proposed Revisions to Rate BES-H,
Basic Electric Service-Hourly Energy
Pricing (“Rate BES-H”)**

Docket No. 06-0617

DRAFT ORDER

DATED: December 6, 2006

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ORDER

By the Commission:

I. Procedural History

On August 29, 2006, Commonwealth Edison Company ("ComEd" or "Company") filed with the Illinois Commerce Commission ("Commission") its Ill. C. C. No. 4, 2nd Revised Sheet No. 336 and 1st Revised Sheet No. 336.1, to be effective October 13, 2006, for ComEd to comply with the requirements of 220 ILCS § 5/16-107(b-5) of the Public Utilities Act ("Act"), as added by Public Act ("PA") 094-097. The Company therein proposed revisions to Rate BES-H-Basic Electric Service-Hourly Energy Pricing ("Rate BES-H") that (a) require retail residential customers taking service under Rate BES-H to continue taking service under Rate BES-H for a period of at least twelve (12) consecutive monthly billing periods and (b) describe the manner in which ComEd will provide customers with ready access to hourly energy prices.

On September 13, 2006, the Commission entered an Order suspending the effective date of the tariffs to and including January 25, 2007, and initiating this proceeding. Petitions to intervene were filed and granted on behalf of Peoples Energy Services Corporation ("Peoples Energy"), the Cook County State's Attorney's Office, the People of the State of Illinois (the "People"), and the Citizens Utility Board ("CUB"). The City of Chicago ("City") filed an appearance.

On October 30, 2006, ComEd and CUB-City filed simultaneous direct testimonies. ComEd filed the Direct Panel Testimony of Paul R. Crumrine, ComEd's Director of Regulatory Strategies & Services, and Janet Bieniak, ComEd's Manager of Environmental Rates & Administration, ComEd Exhibit 1.0, proposing a new tariff Rider RRTP – Residential Real-Time Pricing Program ("Rider RRTP"), ComEd Exhibit 1.1, describing a Residential Real-Time Pricing Program ("RRTP Program").¹ CUB-City filed the direct testimonies of Christopher Thomas, Lynne Kiesling, and Bernard Neenan in

¹ Implementing ComEd's proposed Rider RRTP and the RRTP Program requires revisions to certain other tariffs and an additional new tariff rider. The Commission will address those issues in this Order.

CUB-City Exhibits 1.0, 2.0, and 3.0, respectively, providing the results of a net economic benefit analysis supporting ComEd's RRTP Program.

On November 6, 2006, ComEd, CUB-City, and Staff of the Commission ("Staff") filed simultaneous reply or rebuttal testimonies, in ComEd Exhibit 2.0, CUB-City Exhibit 4.0, and Staff Exhibit 1.0, respectively, explaining that (a) ComEd and CUB-City have reached agreement regarding all substantial issues necessary to implement the RRTP Program, (b) Staff believes that CUB-City provided sufficient evidence for the Commission to approve the RRTP Program, and (c) Staff does not object the adoption of the tariffs proposed by ComEd to implement the RRTP Program.

The People and the Cook County State's Attorney's Office recognize that hourly pricing is an effective mechanism to promote demand reduction, but took no position on the specific matters in this docket. The People and the Cook County State's Attorney's Office do not object to entry of this order.

Pursuant to notice as required by law and the rules and regulations of the Commission, hearings were held in this matter before a duly authorized Administrative Law Judge ("ALJ") of the Commission at its offices in Chicago, Illinois, on October 19 and November 16, 2006. At the hearings, ComEd, Staff, and CUB-City submitted testimony by affidavit. At the conclusion of the hearings, the ALJ marked the record "Heard and Taken."

At the hearings, the Staff, ComEd and CUB advised the Administrative Law Judge that they had resolved all matters in controversy. The People and the Cook County State's Attorney's Office do not object to the resolution reached by Staff, ComEd and CUB. The parties therefore requested leave to waive the filing of briefs, and also requested leave to file a draft Order for the Administrative Law Judge's consideration. The Administrative Law Judge granted the parties' requests. The parties jointly prepared a draft Administrative Law Judge's Proposed Order. For the reasons set forth below, the Commission has adopted the Proposed Order with such changes as the Commission has found appropriate.

II. Prior Relevant Proceedings and Scope of Present Proceedings

In Docket No. 05-0159 and Docket No. 05-0597, the Commission approved ComEd's proposal to permit residential retail customers to take market-based, hourly energy pricing service under Rate BES-H beginning January 2, 2007; specifically, Sheet No. 294.10 of Rider CPP – Competitive Procurement Process ("Rider CPP") filed in compliance with the Commission Order entered January 24, 2006, in Docket No. 05-0159 (effective July 9, 2006), together with ComEd's Rate BES-H, Rider NS – Nonstandard Services and Facilities ("Rider NS"), and Rider ML – Metering-Related Facilities Lease ("Rider ML") filed in compliance with the Commission Order entered July 26, 2006, in Docket No. 05-0597. Those tariff provisions satisfied the requirements of Section 16-107(b) of the Act. On June 30, 2006, PA 094-0977 became effective and added Sections 16-107(b-5) through (b-25) to the Act. The implementation of a

residential real-time pricing program was being addressed in ComEd's rate case in Docket No. 05-0597 at the time PA 094-0977 became effective. As a result, the Commission decided not to address those issues in Docket No. 05-0597, but rather to address them in a separate proceeding. That proceeding is the one before us – Docket No. 06-0617.

In the Supplemental Statement, Electricity, ILL. C.C. No. 4, that ComEd submitted on August 29, 2006 with its proposed revisions to Rate BES-H, which were suspended to start this proceeding, ComEd asserted that the tariffs approved in Docket No. 05-0159 and Docket No. 05-0597 satisfied all of the requirements of Section 16-107(b-5), save two: that residential customers electing to take Rate BES-H must continue to take such service for 12 months, and that the tariffs describe the manner in which ComEd will provide customers with ready access to hourly energy prices. ComEd further asserted that its proposed revisions to Rate BES-H address the two requirements not addressed by the previously approved tariffs. No party to this proceeding disagreed with either assertion.

The revisions to Rate BES-H that ComEd filed on August 29, 2006 contained only those revisions that were necessary for ComEd to comply with the revisions to Section 16-107. However, Section 16-107 of the Act also provides that if the Commission finds that real-time pricing has the potential to provide net economic benefits to residential customers, then ComEd must contract with an entity to administer its real-time pricing program and may, with Commission approval, socialize some or all of the costs of the program over the entire residential customer base. Rider RRTP proposed in ComEd Exhibit 1.1 describes how the RRTP Program will function in the event the Commission, based on the evidence in this proceeding, makes the findings required by Section 16-107.

To implement Rider RRTP, ComEd proposed in the Direct Panel Testimony of Crumrine and Bieniak a new Rider RES-RRTP - Retail Electric Supplier -Residential Real-Time Pricing Program ("Rider RES-RRTP") and proposed revisions to Rider RCA – Retail Customer Assessments ("Rider RCA"), General Terms and Conditions ("GTC"), Rider ML, Rate RDS – Retail Delivery Service ("Rate RDS") and Rider AC7 – Residential Air Conditioner Load Cycling Program 2007 ("Rider AC7"). In addition, ComEd proposes one revision on 2nd revised Sheet No. 336 of Rate BES-H filed on August 29, 2006 to explain that the 12 months requirement is necessary during the effective period of Rider RRTP if the customer is taking service under Rider RRTP.

CUB-City Exhibits 1.0, 2.0, and 3.0 support ComEd's proposed RRTP Program and provide evidence that the RRTP Program will provide potential net economic benefits to residential customers and, based on this evidence, CUB-City recommended to charge participants a portion of the program costs and socialize the remaining program costs among all residential customers.

In this Order, the Commission addresses ComEd's compliance with the requirements of Section 16-107(b-5), based upon the tariffs approved in Docket No. 05-

0159 and Docket No. 05-0597, together with ComEd's proposed Riders RRTP and RES-RRTP and proposed revisions to Rate BES-H, Rider RCA, GTC, Rider ML, Rate RDS, and Rider AC7 in this proceeding. The Commission also addresses, under Section 16-107(b-15), ComEd's selection and compensation of its real-time pricing program administrator. Lastly, the Commission addresses how ComEd shall recover the costs associated with its RRTP Program that it is entitled to recover under Section 16-107(b-25), and will decide the proper allocation of those costs between participants and non-participants.

Section 16-107(b-20) imposes another requirement that, by its very nature, the Commission is not addressing at this time. Section 16-107(b-20) requires the Commission to monitor the performance of the programs created pursuant to Section 16-107(b-15), and directs the Commission to order that a program be modified or terminated if, after a period of time not to exceed four years, the Commission finds that it has not resulted in net benefits to residential customers. The Commission acknowledges that a proceeding must be initiated during the fourth year to address such net benefits and the termination or modification of the RRTP Program, as described in the Description of the Program section of the proposed Rider RRTP. The Commission makes no findings in this Order under Section 16-107(b-20), and nothing in this Order shall be deemed controlling with respect to any future proceeding under Section 16-107(b-20).

III. Issues

The parties to this proceeding are in agreement that ComEd's proposal meets the requirements of the statute, is in the interest of customers, and should be approved. Following enactment of PA 094-0977, ComEd held discussions with Staff, CUB, the City, the AG and the State's Attorney regarding its RRTP Program and the new statute. As a result, the parties took into consideration comments and recommendations provided through this process to prepare the testimony and other evidence necessary for the Commission to consider fully and approve the RRTP Program. The testimony submitted reflects this collaborative effort.

A. Overview of Real-Time Pricing ("RTP")

Lynne Kiesling, Senior Lecturer in Economics at Northwestern University and witness for CUB-City, provided an overview of the theory behind RTP programs and the general value such programs offer. Dr. Kiesling testified that electric usage, which coincides with the "load" on the electric distribution system, follows patterns that vary over the course of the day and with the season. The general daily pattern is low (off-peak) demand overnight, with a rise in the morning and then a high-demand period in late afternoon and early evening (exacerbated by air conditioning on hot days) and then a return to the lower demand in the evening. The extent of the seasonal variance depends upon whether customers use electricity for heating and cooling and the degree to which the subject geographic area experiences extreme temperatures. Dr. Kiesling further explained that the cost of generating and distributing electricity also varies with

demand during the course of the day and the seasons. She pointed out, however, that the fixed retail rates paid by customers under standard retail rate regulation create a circumstance in which the price paid bears little relation to the cost of providing electricity in a given hour because consumers have no incentive to change their consumption during the high cost periods.

According to Dr. Kiesling, this disconnect between cost, price and consumption not only results in inefficient energy consumption, but also inappropriate investment in generation and transmission capacity. With real-time pricing, customers do not pay a single rate, but rather pay the market price for electricity at the time it is consumed. RTP thus establishes an incentive for consumers to lower their usage during high-cost periods, which is the response from buyers in an efficient market that helps to stabilize prices.

Dr. Kiesling also testified that the development of technology has helped spur the growth of RTP initiatives. An effective RTP requires meters that provide current information on usage (as opposed to standard meters which measure usage monthly) and a means of communicating prices to customers. New digital meters provide customers with the usage information they need, and new communications technology such as the Internet permit the communication of price levels to customers sufficiently expediently to allow customers to act upon those prices. Additionally, the growing availability of RTP programs provides an incentive for the development of still better technology that will improve the effectiveness of the programs.

Dr. Kiesling further explained that the benefits of RTP programs are extensive and widely agreed upon. The flexibility to respond to price signals afforded to RTP customers results in market power mitigation, lower wholesale electricity prices, better capital utilization and load factors and a reduced need for additional generation and transmission investment. These benefits lead to long-term cost reductions relative to fixed, regulated rates.

Finally, Dr. Kiesling is careful to point out that RTP programs should be voluntary, like ComEd's proposed RRTP Program. Dr. Kiesling testified that "[a]n important policy distinction arises between customers being required to see hourly prices, and customers having the opportunity to see hourly prices. Requiring real-time pricing would both contradict the idea of choice and expose some customers to more price risk than they might choose voluntarily."

B. ComEd's Tariffs and Compliance with Section 16-107(b-5)

1. Requirements of Section 16-107(b-5)

Section 107(b-5) of the Act requires electric utilities, such as ComEd, that provide electric service to more than 100,000 customers to file tariffs "allowing residential retail customers in the electric utility's service area to elect real-time pricing beginning January 2, 2007." 220 ILCS § 5/16-107(b-5). "A customer who elects real-time pricing

shall remain on such rate for a minimum of 12 months.” *Id.* The Commission may approve the tariffs if, after notice and a hearing, “the Commission finds that the potential for demand reductions will result in net economic benefits to all residential customers of the electric utility.” *Id.* When examining the economic benefits, the Commission must, at a minimum, consider the following factors:

- (i) improvements to system reliability and power quality;
- (ii) reductions in wholesale market prices and price volatility;
- (iii) electric utility cost avoidance and reductions;
- (iv) market power mitigation; and
- (v) other benefits of demand reduction.

Id. However, the Commission may consider those benefits “only to the extent that the effects of reduced demand can be demonstrated to lower the cost of electricity delivered to residential customers.” *Id.* Finally, Section 16-107(b-5) requires that the tariffs, at a minimum, “describe (i) the methodology for determining the market price of energy to be reflected in the real-time rate and (ii) the manner in which customers who elect real-time pricing will be provided with ready access to hourly market prices, including, but not limited to, day-ahead energy prices.” *Id.*

2. Testimony

a. Benefits Provided By RTP Programs

Dr. Kiesling described several studies of RTP programs around the country and explained that all of them either produced benefits or had the potential to produce benefits, particularly economic benefits, to participants and non-participants alike. For instance, a 2004 Rand study analyzed the benefits of the GridWise Initiative, a national effort to mandate improved electric service through RTP and related initiatives. Rand estimated the benefits of RTP to range from \$32 billion to \$132 billion. Dr. Kiesling further stated that studies of RTP programs directed at both commercial and consumer customers showed a very strong customer reaction to price movement that produced the positive effects described above.

Most importantly, however, Dr. Kiesling described in testimony the study performed on ComEd’s pilot RTP program by the Center for Neighborhood Technology’s Community Energy Cooperative (CEC). There were 750 participants in the program when it began in 2003, and that number grew to 1,500 by 2005. Highlights of the benefits listed in the study include the finding that, in 2003, program participants decreased their electricity usage by 4.2% and saved 19.6% on their electric bills. In 2005, on the hottest day of the summer, total electricity consumption among participants was 15% less than that predicted if those customers did not have access to the RTP

program. Several findings of the CEC's study, including the measures of price elasticity, are used in the analyses performed by the witnesses and described below.

b. The Expected Net Economic Benefits Of ComEd's RRTP Program

In their Direct Testimony on behalf of CUB-City, expert witnesses Bernard Neenan and Lynne Kiesling and CUB's Director of Policy, Christopher C. Thomas, addressed the requirement contained in Section 16-107(b-5) that the potential demand reductions that result from ComEd's RRTP Program, embodied in Rate BES-H as modified by Rider RRTP, must be shown to create "net economic benefits to all residential customers of the electric utility." The testimony of those witnesses also addressed the specific aspects of economic benefit identified in the statute as described in Section III.B.(1) above.

Dr. Neenan testified to the expected gross benefits of ComEd's RRTP Program to participants and non-participants in the program. Mr. Thomas testified to the expected net economic benefits to participants and non-participants by taking Dr. Neenan's benefits testimony and analyzing the benefits in light of the costs of the program. Dr. Kiesling testified to the benefits RTP provides with respect to market power mitigation, consumer choice, innovation and other areas. Mr. Crumrine and Ms. Bieniak testified that ComEd supports the benefits analyses described by Mr. Thomas, Dr. Neenan and Dr. Kiesling.

i. Expected Economic Benefits of ComEd's RRTP Program

Dr. Neenan testified to all five aspects of economic benefit identified in Section 16-107(b-5). Dr. Neenan devoted the bulk of his testimony to two aspects – reductions in wholesale market prices and volatility and electric utility cost avoidance and reductions – because he could quantify them in dollar terms. He stated that the RRTP Program would have a real beneficial impact on the other aspects, but he could not measure them at this time. The testimony regarding the quantifiable aspects of the RRTP Program benefits will be summarized first.

Dr. Neenan estimated the gross potential benefits of making the RRTP Program available to ComEd's customers by modeling how price response from 213,000 residential non-heating customers² would affect the level of real-time locational marginal prices ("LMPs") – the prices used by PJM Interconnection, L.L.C., ("PJM") – in the ComEd pricing zone. His analysis produced what he testified was a conservative estimate of benefits to all residential customers totaling \$32.6 million per year.

Using PJM hourly pricing data for the ComEd zone, as well as data concerning transmission constraints, weather, and operating reserves, Dr. Neenan created a real-

² The use of the 213,000 customer participation level is explained below.

time supply curve model that demonstrates how the electricity load in the ComEd zone affects the hourly market LMP. This real-time model, Dr. Neenan testified, quantifies the economic benefits measured by the impact of changes in supply and demand on LMP. In creating the models, Dr. Neenan employed a measure of customer responsiveness to changes in electricity prices, called “own price elasticity,” of -0.047. Dr. Neenan obtained that figure from the CEC’s study of ComEd’s pilot residential RTP program. Dr. Neenan explained that the -0.047 elasticity figure means that, if the price of electricity doubles, customers reduce their electricity usage by 4.7%, assuming all other factors remain constant.

The model further permitted Dr. Neenan to measure the impact on different categories of customers, including participants in ComEd’s RRTP Program and all residential customers (whether or not they are participants). For participants, Dr. Neenan identified four benefits – hedge savings, bill savings, reduced capacity requirements and benefits from increased usage at low RTP prices. Hedge savings occur due to the elimination of a “hedge premium” inherent for customers who pay a single rate. That single rate must reflect the very high prices that occur at times of peak system usage, and thus most of the time customers are paying more than the market price, *i.e.*, a premium, for the electricity they consume. Dr. Neenan testified that “the premium reflects the forward view of the market and a corresponding expectation for hourly real-time LMPs.” RTP avoids the hedge premium by freeing customers to pay the current market price. Bill savings occur because RTP customers reduce their usage when hourly rates are high. The forgone kilowatt-hours (“kWhs”) of usage result in bill savings because, quite simply, customers pay nothing for electricity not used. He testified that reduced capacity requirements result in lower prices because, at times of peak usage and the corresponding peak LMP prices, RTP customers reduce their usage which in turn reduces the amount of electricity needed by the supplier who must meet the customers’ demand. Lastly, according to Dr. Neenan, RTP will incent customers to use more electricity at low prices, which results in increased comfort, safety and convenience for customers.

Dr. Neenan testified that non-participants in the RRTP Program benefit from RTP through direct price impacts, secondary price impacts and societal benefits. He also testified that direct price benefits result from reduced demand from RTP customers, which lowers real-time market prices. At times of peak demand, the supply curve becomes “steep,” meaning that changes in demand have a greater impact on price than they do during times of lower demand when the supply curve is “flat.” Accordingly, even a small reduction in demand can meaningfully lower the price. Real-time market buyers – the electricity suppliers – realize the benefits of these lower prices, and competitive forces compel them to pass the benefits on to their customers. Indirect price benefits result, according to Dr. Neenan, because the real-time load reductions have a cascading effect on the entire market. The lower LMP prices and volatility in those prices that result from reduced peak demand place downward pressure on the hedging premium, and thus lower prices, for single-rate customers.

Finally, Dr. Neenan testified that overall societal benefits occur because consumption prices more closely track the marginal cost of supply, allowing for more efficient use of resources in the economy generally.

ii. Quantification Of RTP Benefits

Dr. Neenan quantified the benefits provided by the RRTP Program at three levels, Base Case, Mid Case and High Case. The Base Case represents the lowest level of benefits, the Mid Case a higher level of benefits and the High Case higher still. According to Dr. Neenan, the variance in the cases hinges upon the expected level of the LMPs – the higher the LMPs, the greater the benefit provided by RTP. The LMP levels depend upon conditions in the market, driven primarily by weather and economic conditions. Dr. Neenan developed the Base Case using recent market data and price elasticity information reported in the CEC's 2005 assessment of ComEd's pilot RTP program. The Mid Case and the High Case employ higher LMPs, which Dr. Neenan testified produce greater benefits.

Dr. Neenan estimated the total Base Case benefits at \$21.5 million per year. Of that total, residential customers would achieve \$18.6 million in savings (\$15.3 million to RRTP Program participants and \$3.3 million to other residential customers). Dr. Neenan estimated the Mid Case at \$32.6 million per year, with residential customers achieving \$23.1 million in benefits (\$15.8 million to RRTP Program participants and \$7.3 million to other residential customers). For the High Case, the total benefits are an estimated \$77.0 million per year, with residential customers achieving \$59.4 million in benefits (\$43.9 million for RRTP Program participants and \$15.5 million to other residential customers).

Dr. Neenan recommended that the Commission base its analysis not on any of the three individual cases, but rather on a weighted average of the three. He developed the weighted average by estimating the likelihood that each of the three scenarios would occur in later years. Dr. Neenan testified that the Base Case had a .57 chance of occurring, the Mid Case had a .29 chance of occurring and the High Case had a .14 chance of occurring. Applying those weights to the expected benefits for each case produces an estimated \$25.6 million in benefits to residential customers from the RRTP Program (\$19.5 million to participants, \$6.1 million to non-participants), which Dr. Neenan suggests the Commission use in its consideration of this issue. However, Dr. Neenan believes that RTP can offer even greater benefits through increased own price elasticities, which can realistically be brought about through a customer information campaign that creates a more robust participant response to price changes. He estimated that a reasonable first step improvement in own-price elasticity to $-.096$ would produce \$34.4 million in benefits to residential customers (\$23 million to participants, \$11.4 million to non-participants). An increase to $-.141$, the target elasticity of a well-designed RTP plan, would, according to Dr. Neenan, create \$41.9 million in benefits to such customers (\$26 million to participants, \$15.9 million to non-participants).

Dr. Neenan's analysis purports to quantify the gross economic benefits that the RRTP Program can achieve. Section 16-107(b-5), however, requires that the Commission consider the "net economic benefits" from the program, which necessitates an evaluation of the RRTP Program's expected costs. CUB's Mr. Thomas supplied the cost analysis, which ComEd supports. He estimated that the RRTP Program would cost \$16.9 million, which when offset against the \$32.6 million in gross benefits estimated by Dr. Neenan, produces a total net economic benefit of \$15.7 million, \$8.7 million of which relates to the residential customer class.

Mr. Thomas's estimate rests upon the following four assumptions: (i) that the RRTP Program has 213,000 customers; (ii) incremental metering costs are \$5.36 per participant per month; (iii) ComEd's uncollectibles will be 0.72% of its total billed charges; and (iv) total program administration costs will amount to \$3,132,321 per year. Each assumption is discussed below.

At 213,000, the estimated number of RTP participants equals approximately 7% of ComEd's total residential customers. Although at first blush that figure appears high, Mr. Thomas provides three reasons that establish the estimate as reasonable. First, the estimate is that of a "mature" RRTP Program, which Mr. Thomas defines as having been in existence for seven years. Survey data from the CEC study indicates that nearly 40% of ComEd's customers expressed interest in a variable rate electricity pricing plan, and that over 5% stated that they "definitely" were interested. According to Mr. Thomas, that data indicates that the 7% estimate is realistic. Second, Mr. Thomas testified that the expected increase in residential electricity rates beginning in 2007, combined with the fact that rates will vary from year-to-year going forward, creates uncertainty with respect to electricity prices, and likely will cause customers to perceive value in taking control of their energy consumption and payments through RTP. Third, the RRTP Program charges the administrator of the program with responsibility to engage in education and outreach regarding the RRTP Program, including the use of bill inserts to promote RTP two times per year. These efforts, Mr. Thomas testified, will increase the visibility of the RRTP Program and likely attract customers to the program.

The \$5.36 in incremental meter costs was set forth in ComEd exhibit 46.1 in Docket No. 05-0597. That figure represents the difference between the standard meter lease fee of \$1.92, and the advanced meter lease fee of \$7.28 set forth in Rider ML.

In Docket No. 05-0597, the Commission approved inclusion of the uncollectibles expense in all of the charges billed by ComEd. This has the effect of increasing all billed charges by 0.72%, and thus any incremental increase in charges, such as the meter lease fee, is further increased by 0.72%.

Mr. Thomas estimated RTP administrative costs to be \$3,132,321. He arrived at that estimate through the extrapolation of the CEC study cost data to a program with 213,000 participants. The CEC estimated that an RRTP Program with 45,000 customers would entail \$1,882,401 in administrative costs, and a program with 100,000 customers would entail \$2,291,551 in administrative costs. The increase in cost

between the 45,000 customer estimate and the 100,000 estimate equals \$409,150, which amounts to \$7.44 per customer. Thus, starting with the baseline of a 45,000 customer program with \$1,882,401 in administrative costs, a 213,000 customer program would have \$3,132,321 in administrative costs ($\$1,882,401 + \$7.44 * (213,000 - 45,000) = \$3,132,321$).

All together, the above-described costs total \$16.9 million, which represents the total estimated cost of ComEd's RRTP Program. Subtracting those costs from the \$32.6 million estimate of the program's benefits prepared by Dr. Neenan produces a net economic benefit of \$15.7 million. Residential customers receive \$8.7 million in net benefits – the \$25.6 million in benefits that inure to the benefit of residential customers less the full \$16.9 million in program costs.

iii. Additional RTP Benefits

The analysis above addressed, and quantified, two aspects of net economic benefit that Section 16-107(b-5) directs the Commission to consider – reduction in wholesale prices and price volatility and electric utility cost avoidance and reductions. Dr. Neenan and Dr. Kiesling testified that the RRTP Program has other benefits as well. For example, Dr. Kiesling testified that RTP can produce market power mitigation – one of the other aspects identified by the statute – because customer responses to price reduces the incentive of electricity suppliers to withhold supply as a means of raising LMP. In other words, as Dr. Kiesling stated, the customers' ability to respond to high prices by reducing demand disciplines the ability of suppliers to increase prices. Dr. Neenan stated that a long-term study could measure the impact. Similarly, Dr. Kiesling testified that RTP can boost reliability and power quality – the other statute-specified aspect of economic benefit – because reduced load in critical circumstances can avert the consequences of operating reserve shortfalls. Dr. Kiesling testified that reducing demand inherently acts to moderate strains on the system, and reduces the need for additional transmission investment. Finally, Dr. Neenan and Dr. Kiesling testified that RTP offers the benefits of fostering competition and promoting technological innovation, risk management and service choices.

iv. ComEd's Position Regarding RTP Benefits

Mr. Crumrine and Ms. Bieniak testified that ComEd agrees that the testimony of Dr. Neenan, Dr. Kiesling and Mr. Thomas set forth sufficient data to demonstrate the potential net economic benefits of its RRTP Program, and that the Commission can properly use that data for its determination. The actual performance of the RRTP Program will be measured by testing actual customer responsiveness during the recommended four-year assessment period following initiation of the program. Mr. Crumrine and Ms. Bieniak further testified that the analysis of benefits to non-participating customers, although sufficient to establish the benefit to such customers, is understated. The gross-up for uncollectibles, which Mr. Thomas applied to all costs of the RRTP Program, is appropriate for rate-setting purposes but should not apply to the

cost-benefit analysis with respect to metering costs, which do not increase if some customers do not pay their bills.

v. Staff's Position Regarding RTP Benefits

Staff witness Dr. Schlaf noted the various factors the Commission is required to consider under Section 16-107(b-5) in determining whether the potential for demand reductions will result in net economic benefits to all residential customers. Dr. Schlaf further opined that it would be reasonable to conduct a cost-benefit analysis to assess whether the RTP tariffs meet the net benefits requirement in Section 16-107. Dr. Schlaf further testified that while Staff may not agree with all of the assumptions that are used in CUB's net economic benefits calculation, CUB's conclusion that the RRTP Program may be expected to result in net economic benefits for the residential class is supported by the analyses offered by CUB's witnesses.

c. Descriptions of Pricing Methodology and Manner of Providing Customers With Ready Access to Hourly Market Prices.

In their Direct Panel Testimony, ComEd witnesses Mr. Crumrine and Ms. Bieniak testified that ComEd filed proposed Rider RRTP to describe how the RRTP Program will function in the event the Commission, based on the evidence in this proceeding, makes the findings required by Section 16-107. With regard to the requirement of Section 16-107(b-5) that the tariffs describe the methodology by which the market price of electricity would be determined, the Capacity Supply Charge and the Hourly Energy Supply Charges section of Rate BES-H sets forth the pricing methodology. The Commission has already approved that methodology in its approval of Rate BES-H in the Commission Order entered July 26, 2006, in Docket No. 05-0597. Briefly stated, the methodology is as follows:

Capacity Supply Charge for a residential customer is applicable to the Capacity Obligation established for the customer during the monthly billing period and is equal to (a) the Hourly Segment Supply Charge computed in accordance with the provisions in Rider CPP, multiplied by (b) 1.0007 to adjust for supply-related uncollectible costs incurred by ComEd.³ Hourly Energy Supply Charge is determined for each hour during the monthly billing period and is equal to (a) the PJM real-time, LMP for the ComEd Zone for the hour, multiplied by (b) 1.0675 to adjust for distribution and transmission losses, and multiplied by (c) 1.0007 to adjust for supply-related uncollectible costs incurred by ComEd.⁴ Each hourly charge is applicable to each kWh provided to the customer during the hour for which the charge is determined.

3 This Capacity Supply Charge methodology is used to determine charges applicable to all retail customers taking service under Rate BES-H, with the exception of customers in the Self-Generation Customer Group.

4 This Hourly Energy Supply Charge methodology is used to determine charges applicable to all retail customers taking service under Rate BES-H.

The proposed revisions to Rate BES-H filed on August 29, 2006, as well as the proposed Rider RRTP in ComEd Exhibit 1.1, describe the manner in which customers will be provided with access to hourly market prices. The Internet supplies the means of access. The hourly prices established by PJM, the regional transmission organization ("RTO") to which ComEd belongs, for the ComEd Zone listed in Eastern Prevailing Time are available on PJM's website. Additionally, ComEd posts on its website "indicative day-ahead hourly energy prices and indicative real-time hourly energy prices" determined from the PJM prices for the ComEd Zone. The indicative hourly energy prices are listed in Central Prevailing Time and include adjustments for line losses and supply-related uncollectible costs as described in the Hourly Energy Supply Charges section of Rate BES-H. The amendments made by the proposed revisions to Rate BES-H and the proposed Rider RRTP further provide that the indicative day-ahead hourly energy prices are posted on the website on a day-ahead basis in the form of twenty-four (24) hourly energy prices beginning with the hour from 11:00 p.m. of the present day to 12:00 a.m. (midnight) of the following day. The indicative real-time hourly energy prices are posted on the website on a day-after basis in the form of twenty-four (24) hourly energy prices beginning with the hour from 11:00 p.m. of two days before to 12:00 a.m. (midnight) of the day before.

Finally, Mr. Crumrine and Ms. Bieniak testified that the proposed revisions to Rate BES-H and proposed Rider RRTP require residential retail customers who elect to take service under Rate BES-H and take service under Rider RRTP to continue to take service under Rate BES-H for twelve consecutive months to satisfy the requirement of Section 16-107(b-5).

Commission Analysis and Conclusions

The testimony of Mr. Crumrine and Ms. Bieniak, together with the testimony of Dr. Neenan, Dr. Kiesling and Mr. Thomas, establish that ComEd's RRTP Program, as implemented by its current tariffs and the proposed revisions to Rate BES-H and the proposed Rider RRTP, satisfy the requirements of Section 16-107(b-5). Based upon the testimony of Dr. Kiesling regarding the merits of RTP, the economic benefit analysis performed by Dr. Neenan, which provided a conservative estimate of \$25.6 million in annual gross benefits to residential customers, and the cost analysis performed by Mr. Thomas, which estimated total annual program costs at \$16.9 million, the Commission concludes that the anticipated demand reductions brought about by the RRTP Program will produce a net economic benefit to residential customers of at least \$8.7 million. The Commission also finds that the anticipated demand reductions will produce economic benefits due to improved system reliability and power quality, market power mitigation and promotion of competition, but those benefits cannot be quantified at this time. Additionally, the tariffs describe the methodology by which the hourly market prices are derived and describe the manner in which customers electing to participate in the RRTP Program will receive access to hourly market prices. A customer electing to participate in the RRTP Program must continue to participate in the program for at least twelve months consecutively. Additionally, the Commission has analyzed whether the potential

for demand reductions will result in net economic benefits to all residential customers of ComEd, and has determined that they will. Accordingly, pursuant to Section 16-107(b-5), the Commission approves the tariffs described above and the proposed Rider RRTP that implement ComEd's RRTP Program.

C. Selection Of A Program Administrator And Compliance With Section 16-107(b-15)

1. Requirements of Section 16-107(b-15)

Section 16-107(b-15) provides that, if the Commission approves RTP tariffs pursuant to Section 16-107(b-5), the electric utility must contract with an unaffiliated entity to serve as a Program Administrator to provide customer outreach, enrollment and education concerning the RRTP Program, and to establish and administer an information system and technical and other customer assistance. The Program Administrator: (i) shall be selected and compensated by the electric utility, subject to Commission approval; (ii) shall have demonstrated technical and managerial competence in the development and administration of demand management programs; and (iii) may develop and implement risk management, energy efficiency, and other services related to energy use management for which the Program Administrator shall be compensated by participants in the program receiving such services.

Section 16-107(b-15) also directs that the electric utility shall provide the Program Administrator with the information and assistance necessary for the administrator's duties, including (but not limited to) customer, account, and energy use data. Additionally, the electric utility shall permit the Program Administrator to include inserts in residential customer bills twice per year to assist with customer outreach, education and enrollment.

2. Selection and Compensation of the Program Administrator – The Request for Proposal Process and the Program Administrator Agreement

a. The Request for Proposal from Potential Program Administrators

Mr. Crumrine and Ms. Bieniak testified that, to select the non-affiliated Program Administrator for the RRTP Program, ComEd decided to employ a Request for Proposal ("RFP") process. Mr. Thomas testified that CUB-City concur in the RFP process, described below, and agree that it is reasonable.

ComEd prepared the RFP materials, provided in ComEd Exhibit 1.2, which explained ComEd's need and the process, and sent them to over sixty Retail Electric Suppliers ("RESs"), consulting groups and other entities, including five energy / demand response associations. ComEd made a special effort to solicit organizations in New York because it has recently implemented an RTP program.

Mr. Crumrine and Ms. Bieniak further stated that, in the RFP materials, ComEd indicated that the winning bidder must perform the following services as Program Administrator: (1) develop and implement a program to provide consumer outreach, enrollment, and education; (2) establish and administer an information system and provide technical and other customer assistance related to customer management of electricity use; (3) develop and submit an annual report to ComEd no later than April 1 of each year beginning 2008 describing the operation and results of the program, including information on the number and types of residential retail customers taking RTP service, changes in energy use patterns, and assessment of the value of RTP to both participants and non-participants and recommendations regarding modifications to the program from interested parties; (4) participate in any Commission proceeding or investigation into the benefits or effectiveness of the RRTP Program, including development of any reports or testimony requested by the Commission or its Staff; and (5) provide participating customers with monthly usage and estimated savings information.

As of the time that this Order is issued, the RFP process is not complete, and therefore the exact identity of the Program Administrator is not presently known. However, the organizations to whom ComEd sent the RFP and who are potentially vying for the role are known and are described above. ComEd asks that the Commission approve the RFP process as a reasonable and appropriate means of selecting a Program Administrator.

b. The Program Administrator Agreement

Mr. Crumrine and Ms. Bieniak testified that the Program Administrator Agreement (“Agreement”) will contain the terms and conditions under which the Program Administrator must administer the RRTP Program. ComEd prepared a draft of the Agreement and shared it with the parties to this proceeding. Accordingly, the Agreement provided in ComEd Exhibit 1.3 submitted with the testimony represents a collaborative effort by ComEd and the parties. Prior to the hearing on November 16, 2006, CUB requested an additional change to the Agreement to include a requirement for an annual telephone conference between the Program Administrator and interested parties to discuss the annual report and potential modifications to the program. ComEd agreed to that request, added Section 20.3 to the Agreement to address the issue, and submitted the revised Agreement at the hearing as ComEd Ex. 4.0. Mr. Crumrine and Ms. Bieniak testified that ComEd anticipates that the Agreement will be signed in substantially the same form as that submitted to the Commission. Conceivably, the description of the services, listed in Appendix A to the Agreement, could change slightly to include greater details regarding the services once the winning bidder emerges from the RFP process. In the RFP process, ComEd asked each bidder to describe in detail how it will implement the services described above. In order to bind the winning bidder to what it offered to provide, ComEd intends to include the descriptions provided by the winning bidder in Appendix A. Importantly, the actual services to be provided by the Program Administrator will not change and are not subject to negotiation.

In their testimony, Mr. Crumrine and Ms. Bieniak state that the Agreement is reasonable and appropriate, and warrants approval by the Commission. Additionally, ComEd proposes that, once the RFP process produces a Program Administrator and the Agreement is executed, ComEd will make a compliance filing with the Commission that includes the executed Agreement. Because the Commission will have approved both the RFP process and the Agreement under which the winning bidder will operate as the Program Administrator, ComEd asks that approval of the RFP process and the Agreement be considered approval of the Program Administrator, and states that that approval will be perfected upon the compliance filing that lodges the executed Agreement with the Commission.

c. Program Administrator Compensation

The actual compensation of the Program Administrator, and thus the cost of the Program Administrator, will be determined by the bid selected as the winner of the RFP process. Therefore, the precise compensation figure will not be known until the RFP process is complete. ComEd provided a placeholder in ComEd Exhibit 1.4 for the costs of the Program Administrator based on information in ComEd Exhibit 23.2 filed in Docket No. 05-0597, which CUB-City attached as CUB-City Exhibit 1.05. If the actual costs differ from the estimate, ComEd will provide that cost information to the Commission as part of the compliance filing of the executed Program Administrator Agreement and to all parties following the selection of the Program Administrator.

d. Program Administrator and the Integrated Distribution Company (“IDC”) rules

In their testimony, Mr. Crumrine and Ms. Bieniak explained some of the conditions placed upon the Program Administrator. For instance, as set forth in the Program Administrator Agreement discussed previously, the Program Administrator will function as an independent contractor and not as an agent of ComEd. The Program Administrator will have no authority to bind or commit ComEd, none of its acts or omissions may be imputed to ComEd and the Program Administrator can make no representation to the contrary. Although they are not lawyers, Mr. Crumrine and Ms. Bieniak stated their belief that the non-agent, independent contractor status of the Program Administrator obviated any concern that the Program Administrator would be subject to IDC rules that forbid any effort to retain or to obtain a retail electric customer, because the applicable rules pertain only to an “employee” or “agent” of an IDC. 83 Ill. Adm. Code § 452.240(e). Additionally, Section 16-107(b-15) specifically authorizes, indeed requires, the Program Administrator to provide consumer outreach, enrollment and education about RTP, which strongly suggests that the Commission should not deem such activities to run afoul of the IDC rules in the context of RTP. Mr. Thomas testified that CUB-City agree that the Program Administrator will not be subject to, and thus does not require training in, the IDC rules.

Commission Analysis and Conclusions

The Commission finds that the RFP process is a reasonable and appropriate mechanism with which to select the Program Administrator. The parties to whom the RFP was sent form a qualified pool of applicants, and the RFP process constitutes an appropriate means of selecting the most suitable party among that qualified group to serve in the role of Program Administrator. The Commission also finds that the terms of the Program Administrator Agreement are reasonable and appropriate, and that the estimated compensation of the Program Administrator is reasonable. Furthermore, the Commission agrees with ComEd that since the Program Administrator will be an independent contractor and not an agent, and because Section 16-107(b-15) requires the Program Administrator to perform certain services, the IDC rules are not applicable to the activities of the Program Administrator. Finally, although the identity of the Program Administrator will not be known until the completion of the RFP process, the Commission presently is aware of the possible parties that will serve that role and has approved both the RFP process that will select the Program Administrator and the Agreement that will govern the provision of services by the Program Administrator, and has an estimate of the Program Administrator's compensation. Accordingly, if the party selected through the RFP process executes the Agreement, that party shall be deemed approved as Program Administrator by the Commission. After the conclusion of the RFP process when the identity of the Program Administrator and the level of compensation are known, and the Agreement is executed, the Commission directs ComEd to file with the Commission the executed Agreement together with the updated cost exhibit and Rider ML updated with the cost information from the executed Agreement. The Commission thus approves as the Program Administrator the entity selected through the RFP process that executes the Agreement, and also approves the compensation of the Program Administrator that results from that process, subject to ComEd making the compliance filing described herein.

D. ComEd Recovery of Program Costs

1. Requirements of Section 16-107(b-25)

Section 16-107(b-25) provides that an electric utility can recover the reasonable costs incurred in providing an RTP program provided that such costs are fairly apportioned among its residential customers. That section further provides that an electric utility may apportion costs on the participants in an RTP program, and also can impose some costs on non-participant customers if the Commission determines that the cost savings resulting from the program will exceed the costs imposed upon customers for maintaining the program.

2. Cost Recovery Proposal

ComEd and CUB-City have agreed that the savings from ComEd's RRTP Program will exceed its costs, permitting ComEd to recover the costs of the program from both participants and non-participants. The parties have further agreed upon the

allocation of those costs. First, customers who participate in the RRTP Program are assessed a \$2.25 monthly participation fee. This fee is subject to change based on the terms of the executed Program Administration Agreement. Second, all of ComEd's residential customers are assessed a \$0.17 charge to be incorporated with ComEd's monthly customer charge on all residential customers. The basis for those specific charges is explained below.

As explained above, the Commission has found that ComEd's RRTP Program produces a net economic benefit to all residential customers, both participants and non-participants, meaning that the benefits of the RRTP Program outweigh its costs. However, to permit recovery of costs from non-participants, the costs imposed cannot exceed the benefits received. Thus, as Mr. Thomas explained, when determining how to allocate the costs of the program, an effort must be made to ensure that non-participants (who receive less benefit than participants) do not end up with a share of the costs that exceeds their benefits. Accordingly, Mr. Thomas recommended the use of a combination of an increase in the general customer charge applicable to all residential customers, and an RRTP Program participant charge.⁵

Because ComEd will recover its costs from two separate fees – one from the participants and the other from all customers – an increase in one fee will lower the other. In determining the amount of each fee, Mr. Thomas advocates setting the participation fee at the lowest possible level that will still result in the benefits to non-participants outweighing the costs to them (which is a necessary precondition to recovering costs from non-participants). Furthermore, because each customer who participates in the RRTP Program will increase the costs of the program, and the number of customers eligible for the program is not fixed, ComEd's costs of implementing and administering the RRTP Program cannot be known in advance. Consequently, the proper amount to charge participants and all customers for such costs cannot be known. To address this issue, Mr. Thomas recommended that the Commission impose a "cap" on the number of participants for whom a portion of their costs will be socialized and borne by all residential customers. Mr. Thomas proposed a 110,000 customer "cap" for cost recovery. Under this cap, the 110,001st residential customer and all others beyond that will have to pay the full costs of taking RTP service (such as the metering and administration costs described in the testimony of Mr. Crumrine and Ms. Bieniak). Mr. Thomas explained that this is not a cap on participation. However, because it increases costs for late-coming customers, it does reduce the incentive for such customers to participate in the RRTP Program. Finally, in determining the benefits customers will receive from the RRTP Program, Mr. Thomas testified that the benefits calculated using Dr. Neenan's reasonable "First Step" price

⁵ In ComEd's rate case in Docket No. 05-0597, Mr. Thomas advocated a plan that would contain no participation fee. However, after considering Dr. Neenan's calculations and the short time frame in which the program had to be implemented, Mr. Thomas concluded in CUB-City Exhibit 1.0 in this proceeding that the use of a participation fee was appropriate because participants still stood to achieve significant savings.

elasticity level (-.96) should be used. Under that model, participants will receive \$23 million in benefits and non-participants will receive \$11.4 million in benefits.

Mr. Thomas then calculated that annual meter lease and administration costs would equal \$16,931,122. With 213,000 participants paying a \$2.25 monthly fee, the participants would cover \$5,751,000 of the \$16,931,122 in costs. Subtracting that sum from the \$23 million in expected benefits produces a net benefit for participants of \$17,249,000. The remaining \$11,180,122 in costs would be covered by the increased general residential customer charge. At that level, the projected \$11.4 million in benefits to the non-participants exceeds their costs by \$219,878. Based on the expected number of participants during the first four-year period, Mr. Thomas determined that residential customers would be charged approximately \$0.17 per month through ComEd's customer charge. Accordingly, using a \$2.25 participant charge and a \$0.17 charge incorporated into the general customer charge for all residential customers results in the benefits exceeding the costs for both participants and non-participants, justifying ComEd's recovery of those costs from both groups of customers.

Because Program Administrator costs comprise a portion of the total cost of the RRTP Program, the exact cost of ComEd's RRTP Program will not be known until the RFP process is complete and the identity and compensation of the Program Administrator becomes known. Mr. Thomas, and Mr. Crumrine and Ms. Bieniak, testified that if the actual costs of the Program Administrator exceed the estimates set forth in the testimony in this proceeding, an adjustment to the charges will be made in the compliance filing following the selection of the Program Administrator. Mr. Crumrine and Ms. Bieniak testified that any increase in the charges will be made only to the participant charge to help ensure that non-participants receive net benefits from the RRTP Program.

Staff witness Dr. Schlaf testified that there are two basic methods to recover RTP program costs. RTP program costs can be recovered by estimating the level of RTP costs and imposing fixed charges on participants and non-participants to recover those costs. Alternatively, ComEd could track those costs as the costs are incurred, and impose charges on participants that would recover the actual level of costs. Given testimony by others that a cost-tracker mechanism would be difficult to implement prior to 2007, Dr. Schlaf testified that setting the charges in advance of the program as ComEd proposes appears to be the best option at this time.

Commission Analysis and Conclusions

Based upon the testimony from Mr. Crumrine and Ms. Bieniak and from Dr. Neenan, and upon the analysis performed by Mr. Thomas, the Commission finds that the benefits to residential customers who participate in the RRTP Program and those that do not participate exceed the costs of the program. Therefore, under Section 16-107(b-25), ComEd should be allowed to recover costs from both groups of customers. The Commission finds that the proposed allocation of the costs between participants and non-participants set forth in Mr. Thomas's testimony is reasonable. Keeping the

participation fee at a low level provides the greatest possible incentive for customers to select RTP, which of course is the goal of the program. Additionally, the Commission finds that the 110,000 customer “cap” on the number of RRTP participants that will pay a reduced participation fee of \$2.25 per month for purposes of establishing the program cost is a reasonable solution to the problem of determining the proper fees when the costs are not presently known. The Commission therefore finds that ComEd should (1) impose a \$2.25 monthly participation fee on the first 110,000 customers as described in Rider ML, (2) impose the full cost of participation on additional customers participating in the RRTP Program after the first 110,000 customers, and (3) should impose a \$0.17 charge to be incorporated with its monthly customer charge on all residential customers as described in Rider RCA to recoup the costs of its RRTP Program. However, should the actual costs of the Program Administrator exceed the estimates set forth herein, ComEd should adjust the monthly participation fee to cover the increased amount.

E. Other Issues

The parties raised several additional issues in their testimony that the Commission should address. Each is discussed separately below.

1. Changes to Other Tariffs: Rider RCA, GTC, Rider ML, Rate RDS, Rider AC7, and Rate BES-H.

In their Direct Panel Testimony, Mr. Crumrine and Ms. Bieniak testified that, in order to implement fully and properly its RRTP Program, ComEd must make certain additional tariff changes. They testified that a revision in Rider RCA is necessary to include a \$0.20 per month charge for the recovery of the program costs from all residential customers with no participation fee, and this amount will be reduced with a decision to have participants pay a portion of the program costs. As described previously, this amount is reduced to \$0.17 per month due to the \$2.25 participation fee. They testified that a revision in the Required Metering section of GTC is necessary to show that the prerequisite for a residential customer participates in the RRTP Program is the installation of the required metering and that a revision in the Nonstandard Metering section of GTC is required to provide an exemption of the meter exchange or installation charge for a single delivery point for the first 110,000 customers who participate in the RRTP, as well as an exemption from such charges when the customer terminates its participation in the RRTP Program service. Additionally, they testified that Rider ML must be amended to provide a reduced monthly meter rental charge for a single delivery point for the first 110,000 customers who participate RRTP Program. Mr. Crumrine and Ms. Bieniak further testified that Rate RDS must be revised to provide that a customer using a RTP service offering by a RES under the RRTP Program cannot obtain metering service from a Metering Service Provider. Mr. Thomas testified that CUB-CITY agreed that all of those tariff changes were appropriate and reasonable. In addition, Mr. Crumrine and Ms. Bieniak proposed one revision on 2nd revised Sheet No. 336 of Rate BES-H filed on August 29, 2006 to be consistent with similar provisions proposed in Rider RRTP. No party opposes this change. No party opposes the 1st

revised Sheet No. 336.1 of Rate BES-H filed on August 29, 2006 and no additional change is proposed for this tariff sheet.

In his Direct Testimony, Mr. Thomas testified that he was concerned that ComEd's Rider AC7 prohibited customers from participating in both Rider AC7 and the RRTP Program. Mr. Thomas testified that he believed that such a prohibition stood as a barrier to the RRTP Program because Rider AC7 customers are likely candidates for the RRTP Program. Mr. Crumrine and Ms. Bieniak testified that the pricing structure for customers on Rider AC7 is incompatible with the pricing structure for the RRTP Program, and that such incompatibility could result in an improper double counting of load reduction, which in turn could result in overpayment. However, ComEd is willing to accept the pricing imperfection temporarily in the short run until it can devise a better price structure for customers using both Rider AC7 and the RRTP Program. Accordingly, ComEd proposed the revision to Rider AC7 as provided in ComEd Exhibit 1.9 to permit customers taking service under Rider AC7 also to take service under Rate BES-H.

2. Proposed Rider RES-RRTP

ComEd's proposed Rider RES-RRTP sets forth the conditions under which a RES can offer an RTP program to its customers with certain services provided by the Program Administrator. Mr. Crumrine and Ms. Bieniak testified that, under Rider RES-RRTP, a RES must sign a Rider RES-RRTP contract addendum with ComEd that includes a sworn statement about the program, and must continue to meet its obligations for coordination between the RES and ComEd to implement the RES's RTP program. Mr. Thomas testified that CUB-City agreed to ComEd's Rider RES-RRTP.

3. Program Administrator Audits and Reports

In his testimony, Mr. Thomas proposed that the Program Administrator be required to submit to an annual audit of the RRTP Program by an independent third party auditor that will be filed in conjunction with the Program Administrator's annual report. Mr. Thomas testified: "independent third-party audit of the Program Administrator is consistent with the spirit of the Real-Time Pricing law and important for the overall success of the program. Pursuant to section b-20 of the RTP law, the Commission is required to monitor the performance of the RRTP Program. An independent financial audit of the Program Administrator will provide the Commission with additional information to evaluate the program. In addition, an audit will help ensure that resources are being spent in an effective manner and that the resources spent by the Program Administrator are best serving consumers." Mr. Crumrine and Ms. Bieniak testified that ComEd agreed to this proposal, which is reflected in the proposed Program Administrator Agreement. Mr. Thomas' proposal also reflects the consensus reached between the parties in this proceeding.

Mr. Thomas' testimony also proposed additional recommendations to implement

section b-15 that requires the Program Administrator's annual report be filed with the Commission and posted on the Commission's web site. Mr. Thomas testified "that in order to foster public comment that will aid the administrator in maximizing the public benefits of the program, the following [four] steps should be implemented. First, following the publication of the annual report on the Commission's website, a 30 day period should be given for the public to comment on the annual report. Second, public comments should be posted on the Commission's website in conjunction with the annual report. Third, 15 days after the close of the public comment period, the Program Administrator should be required to facilitate a telephone conference where the annual report and public comments will be discussed with interested participants. The Program Administrator would not be required to implement any of the suggestions raised during the telephone conference, but the Program Administrator would be free to implement those changes that it believes are practical, cost-efficient and pragmatic. [Fourth], in conjunction with the annual report telephone conference, the Commission should provide notice of the meeting on its web site and send notice to the parties in this docket." Mr. Crumrine and Ms. Bieniak testified that ComEd agreed that the Program Administrator's annual report should be subject to a public comment period, and that the Program Administrator may implement modifications to the report that are proposed through the public comment process. Indeed, all parties agree that this manner of dialogue best serves the interests of the program and the public.

4. Exemption of Service Term for Customers Who Move

Mr. Thomas proposed that ComEd provide an exemption from the twelve-month service term for customers who change residences during the first twelve months that they participate in the RRTP Program. Mr. Thomas testified that "this provision is necessary to protect customers who have to move unexpectedly due to changes in their jobs or other unforeseen circumstances." Mr. Crumrine and Ms. Bieniak agreed with that proposal, and further noted that customers who leave the RRTP Program after twelve months will not be assessed any additional charges or fees.

5. Evaluation of RRTP Program Following the First Three or Four Year Period

Staff witness Dr. Schlaf agreed with CUB witness Thomas that the evaluation of the benefits of the RRTP Program, and whether the program should continue after the initial three or four year period, should depend on the data collected during the life of the program rather than on any analyses and testimony that may be used to support the adoption of the program. Dr. Schlaf recommended that the final order in this matter make clear that approval of Rider RRTP based on analyses and methodologies submitted in this proceeding is not intended to limit or proscribe in any way the types of analyses or methodologies that Staff and other parties may submit or propose in subsequent reviews to consider continuation of the RRTP Program.

Commission Analysis and Conclusions

The Commission finds that all of the above-described proposals are reasonable, prudent and will benefit ComEd's RRTP Program. Accordingly, the Commission finds that ComEd's Residential Real-Time Pricing Program Cost Recovery Charge proposed in Rider RCA for residential customers should be \$0.17 per month, ComEd's proposed revisions to GTC, Rider ML, Rate RDS, Rider AC7, and Rate BES-H should be approved, and ComEd's proposed adoption of Rider RES-RRTP should also be approved. Furthermore, the Commission finds that the Program Administrator shall submit to an annual financial audit by an independent third party that shall be included with the Program Administrator's annual report to ComEd. The Commission also finds that the Program Administrator's annual report shall be subject to a period of public comment that will culminate in a telephone conference between the Program Administrator and all interested parties to discuss the annual report, the audit and public comments. In conjunction with the annual report the Commission shall also provide notice to the public by posting notice on the Commission's website and serve notice on the parties in this Docket. For the reasons given in Mr. Thomas's testimony, the Commission additionally finds that ComEd should exempt customers who change residences within the first twelve months of entering the RRTP Program from the requirement that they remain on Rate BES-H for at least twelve months. In addition, the Commission's approval of Rider RRTP based on the analyses and methodologies submitted in this proceeding is not intended to limit or to proscribe in any way the types of analyses or methodologies that Staff and other parties may submit or propose in subsequent review to consider continuation of the RRTP Program.

IV. Findings and Ordering Paragraphs

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

- (1) Commonwealth Edison Company is an Illinois corporation engaged in the transmission, 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 the record, and are hereby adopted as findings of fact and conclusions of law;
- (4) the terms of proposed Rider RRTP, together with the terms of Rate BES-H with proposed revisions, allow residential retail customers to elect real-time pricing beginning January 2, 2007, require residential customers who elect real-time pricing to remain on such rate for a minimum of 12 months, describe the methodology for determining the market price of energy

reflected in the real-time rate, and describe the manner in which customers who elect real time pricing will be provided with ready access to hourly market prices;

- (5) the record demonstrates that the potential for demand reductions from real-time pricing will result in net economic benefits for all of ComEd's residential customers;
- (6) based on the prior two findings, the proposed Rider RRTP, together with Rate BES-H with proposed revisions, satisfy the requirements of Section 16-107(b-5) of the Act and the proposed Rider RRTP and the proposed revisions to Rate BES-H are approved;
- (7) the RFP process adopted by ComEd is a reasonable and appropriate means by which ComEd can select a Program Administrator as required under Section 16-107(b-15);
- (8) the terms of the Program Administrator Agreement that will be signed by the entity selected as Program Administrator in the RFP process are reasonable and appropriate;
- (9) the Program Administrator will be an independent contractor and its activities will not be subject to the IDC rules;
- (10) the estimated compensation of the Program Administrator is reasonable;
- (11) upon completion of the RFP process, ComEd and the entity selected as the Program Administrator signs the Program Administrator Agreement, ComEd is directed to file the executed Program Administration Agreement with the Commission together with the updated cost exhibit and Rider ML updated with the cost information from the executed Agreement. The Commission approves as the Program Administrator the entity selected through the RFP process that executes the Agreement, and also approves the compensation of the Program Administrator that results from that process, subject to ComEd making the compliance filing described herein;
- (12) the expected benefits to residential customers of ComEd's real-time pricing offering exceed the expected costs of that offer;
- (13) the allocation of the estimated costs between participants and non-participants as recommended by the parties – a \$2.25 participation fee and a \$0.17 charge to be incorporated with the monthly customer charge imposed upon all residential customers – is reasonable and appropriate and results in the expected benefits to each group of residential customers exceeding the costs to each group;

- (14) if the actual costs of the real-time pricing offer exceed the estimated costs as a result of a higher cost in the executed Program Administrator Agreement, it is reasonable for ComEd to increase the participation fee necessary to recoup the excess costs;
- (15) ComEd's recovery of the costs of its real-time pricing program through the participation fee and the increased customer charge is approved;
- (16) the changes to Rider RCA to incorporate the \$0.17 monthly charge, GTC, Rider ML to incorporate the monthly participation fee Rate RDS, and Rider AC7 are all appropriate and reasonable, and they are approved;
- (17) the proposed Rider RES-RRTP is appropriate and reasonable, and it is approved;
- (18) the Program Administrator shall submit to an annual financial audit conducted by an independent third-party. The results of the audit shall be submitted in conjunction with the annual report to ComEd by April 1 beginning in 2008 and to the Commission and the general public thirty days thereafter;
- (19) following the publication of the annual report on the Commission's web site a 30 day period shall be granted for public comment on the annual report. Public comments shall be posted on the Commission's web site with the annual report. Within fifteen days of the 30th day of the public comment period The Program Administrator shall facilitate a telephone conference where the annual report, audit and public comments shall be discussed with the interested parties. The Program Administrator and the interested parties in this Docket shall work to agree upon a convenient time and date for the telephone conference. The Commission shall provide notice of the telephone conference by sending notice to the parties in this Docket and posting notice on the Commission's web site in the same location as the Program Administrator's annual report; and
- (20) upon completion of the RFP process and execution of the Program Administrator Agreement, ComEd shall make a compliance tariff filing that identifies the Program Administrator and its compensation, contains a copy of the executed Program Administrator Agreement, and that implements all of the other tariff changes described above.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Commonwealth Edison Company's proposed revisions to Rate BES-H filed on August 29, 2006, are permanently canceled and annulled.

IT IS FURTHER ORDERED that Commonwealth Edison Company shall, no later than December 27, 2006, make a compliance filing in which ComEd submits an

executed copy of the Program Administrator Agreement and identifies the entity serving the role of Program Administrator and the amount of compensation that will be paid for that service, as well as implements all of the tariff changes described in this Order. The effective date of all tariff changes shall be January 2, 2007.

IT IS FURTHER ORDERED that Commonwealth Edison company shall provide the Program Administrator with all information necessary to perform the Program Administrator's duties, including, but not limited to, customer, account, and energy use data.

IT IS FURTHER ORDERED that any motions, petitions, objections, and other matters in this proceeding that remain outstanding are hereby denied.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Admin. Code § 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission on this 6th day of December, 2006.

(SIGNED) CHARLES E. BOX

Chairman