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BEFORE THE

ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
COMMONWEALTH EDISON COMPANY)
) No. 06-0617
Proposed revisions to)
Rate BES-H, Basic Electric)
Service-Hourly Energy)
Pricing (Tariffs filed)
August 29, 2006.)

Chicago, Illinois

November 16, 2006

Met, pursuant to adjournment, at

11 o'clock a.m.

BEFORE: MR. DAVID GILBERT,
Administrative Law Judge

APPEARANCES:

MR. JOHN ROONEY
233 South Wacker Drive
Suite 7800
Chicago, Illinois 60606
appearing for Commonwealth Edison Company;

MS. ANNE McKIBBIN and
MR. MELVILLE NICKERSON
208 South LaSalle Street, Suite 1760
Chicago, Illinois 60604
appearing for Citizens Utility Board;

1 APPEARANCES (continued):

2 MS. SUSAN HEDMAN
3 100 West Randolph, 11th Floor
4 Chicago, Illinois
5 appearing for People of the State of
6 Illinois;

7 MR. ALLAN GOLDENBERG
8 69 West Washington, suite 3130
9 Chicago, Illinois 60602
10 appearing for Cook County State's
11 Attorney's Office;

12 MR. JOHN FEELEY,
13 MS. CARLA SCARSELLA, and
14 MR. CARMEN FOSCO
15 160 North LaSalle Street, Suite C-800
16 Chicago, Illinois
17 appearing for Staff of the Illinois
18 Commerce Commission

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I N D E X

WITNESSES DIRECT CROSS REDIRECT RECROSS EXMNR.

(NONE)

E X H I B I T S

CUB-CITY FOR IDENTIFICATION IN EVIDENCE.

Nos. 1.01 thru 1.08	17	17
2.0	17	17
2.1	17	17
3.0	17	17
3.1 thru 3.6	17	17
4.0	17	17
5.0	17	17

COM ED FOR IDENTIFICATION IN EVIDENCE.

Nos. 1.0	15	15
2.0	15	15
3.0	15	15
4.0	15	15

ICC FOR IDENTIFICATION IN EVIDENCE.

Nos. 1.0	18	18
1.01	18	18

1 JUDGE GILBERT: Pursuant to the authority of the
2 Illinois Commerce Commission, I call Docket No.
3 06-0617.

4 If I could have appearances for the
5 record, please, beginning with the applicant.

6 MR. RUSSELL: Thomas Russell for Commonwealth
7 Edison, 10 South Dearborn Street, Chicago, Illinois,
8 60603.

9 MR. ROONEY: Also, on behalf of Commonwealth
10 Edison, John Rooney, the firm Sonneschein, Nath &
11 Rosenthal, LLP, 233 South Wacker Drive, Suite 7800,
12 Chicago, Illinois, 60606.

13 MR. GOLDENBERG: On behalf of Cook County,
14 State's Attorney's Office, Allan Goldenberg,
15 Assistant State's Attorney, 69 West Washington,
16 Suite 3130, Chicago, Illinois, 60602.

17 MS. HEDMAN: On behalf of People of the State of
18 Illinois, Susan Hedman of the Illinois Attorney
19 General, 100 West Randolph, 11th Floor, Chicago,
20 60601.

21 MS. McKIBBIN: Citizens Utility Board, Anne
22 McKibbin and Melville Nickerson, 208 South LaSalle

1 Street, Suite 1760, Chicago, Illinois, 60604.

2 MR. FEELEY: On behalf of staff of the Illinois
3 Commerce Commission, John Feeley, Carla Scarsella,
4 and Carmen Fosco, 160 North LaSalle Suite, Suite
5 C-800, Chicago, Illinois.

6 JUDGE GILBERT: Those are all the appearances.

7 (No further appearances.)

8 We are here today for an evidentiary
9 hearing in this case. There's been quite a bit of
10 prefiled testimony. My understanding is that no one
11 intends to cross anyone -- cross-examine anyone else
12 with respect to prefiled testimony, and I'll just
13 leave a pregnant pause for the record if anyone
14 disagrees with that.

15 {Laughter.}

16 MR. GOLDENBERG: I just have one preliminary
17 matter. I wasn't here the last status and I believe
18 you granted my petition to intervene for the Cook
19 County State's Attorney, and, in reply, obviously, I
20 apologize for not having anyone here at the status.
21 If you didn't grant it, which I believe you did, I
22 ask to you grant it.

1 JUDGE GILBERT: You know, I wasn't bothered by
2 that at the time.

3 MR. GOLDENBERG: Thank you for granting it.

4 JUDGE GILBERT: Sure. So everything is going to
5 be admitted with supporting affidavits.

6 Let me turn over to Com Ed. Why don't
7 you go ahead.

8 MR. ROONEY: First of all, Com Ed has what has
9 been identified as panel testimony of -- direct
10 testimony of Paul Crumrine and Jane Bieniak. It's
11 been identified as Com Ed Exhibit 1.0 with
12 attachments and it was filed on October 30, 2006,
13 and then this is the reply panel testimony of
14 Mr. Crumrine and Ms. Bieniak. It's been identified
15 as Com Ed Exhibit No. 2.0, which was filed on
16 November 6, 2006.

17 With regard to their testimony, we are
18 planning to file individual affidavits for each of
19 the witnesses. I don't know if your Honor -- some
20 ALJs want that marked as a separate exhibit or just
21 filed as a matter of course whatever your pleasure.

22 JUDGE GILBERT: Let's file that as a separate

1 exhibit. You don't have numbers beyond 2.0.

2 MR. ROONEY: That's correct.

3 JUDGE GILBERT: So make the affidavit 3.0.

4 MR. ROONEY: That will be both, for the affidavit
5 is 3.0, and then, lastly, we have discussed with the
6 Citizens Utility Board an additional document, which
7 I will give to you and I have given to counsel.
8 It's an amended program administrator agreement.
9 The only item that's been amended relates to 20.3,
10 which is found on Page 10 of the document. For
11 purposes of identification, we like to mark this as
12 Com Ed Exhibit 4.0 and it will be entered by
13 stipulation between CUB and Com Ed, and --

14 JUDGE GILBERT: But it's only a Com Ed exhibit?
15 It's not a Com Ed and CUB exhibit?

16 MR. ROONEY: We could do that.

17 JUDGE GILBERT: That's fine. I just want to
18 identify as a stipulation between the two parties
19 doesn't bind everyone else. I assume that no one
20 objects to this exhibit.

21 MR. GOLDENBERG: No.

22 MR. ROONEY: With that, it will be -- that will

1 be Com Ed 4.0 to e-mail and stipulate to the
2 parties. That concludes Com Ed's evidentiary
3 presentation.

4 JUDGE GILBERT: I assume there will be no
5 objection to Com Ed 1.0, 2.0, 3.0, 4.0.

6 (No response.)

7 all right. All of those are admitted.

8 (Whereupon, Com Ed Exhibit
9 Nos. 1.0, 2.0, 3.0 & 4.0 were
10 marked and received in
11 evidence.)

12 The other -- well, the two other
13 sources of prefiled testimony, one would be the
14 combined testimony for the combined interests of
15 Citizens Utility Board and City of Chicago.

16 Mr. McKibbin, will you be presenting
17 that?

18 MS. MCKIBBINS: Yes, I will. We have identified
19 Exhibit 1.0, which is Christopher C. Thomas' direct
20 testimony with attachments Exhibits 1.01 through
21 1.08. Mr. Thomas also filed rebuttal testimony
22 CUB-City Exhibit 4.0. There were no attachments to

1 that testimony. Lynne Kiesling filed direct
2 testimony CUB-City Exhibit 2.0 with attachment
3 Exhibit 2.1; that was filed on e-docket on October
4 30th, and Dr. Bernard Neenan filed direct testimony
5 Exhibit CUB-City Exhibit 3.0 with attachments
6 Exhibit 3.1 through 3.6, and I have affidavits from
7 each individual witness attesting to their
8 testimony.

9 JUDGE GILBERT: Okay. And where are the
10 affidavits? Are those here physically?

11 MS. McKIBBIN: I have them here, yes, and I can
12 file them on e-docket this afternoon or worse case
13 the first thing in the morning. Our paralegal is
14 feeling poorly this morning so she may have gone
15 home.

16 JUDGE GILBERT: How many copies of those do you
17 have?

18 MS. McKIBBIN: I have six copies of each one.

19 JUDGE GILBERT: Of each one.

20 MS. McKIBBIN: Yes.

21 JUDGE GILBERT: Why don't we just file those as
22 CUB and City 5.0.

1 MS. McKIBBIN: Okay.

2 JUDGE GILBERT: And that would be all?

3 MS. McKIBBIN:: Yes, that's all.

4 JUDGE GILBERT: Okay. Objection to the admission
5 of any of those?

6 MR. ROONEY: None.

7 JUDGE GILBERT: CUB and City of Chicago 1.0
8 through 1.8, 2.0, 2.1, 3.0, 3.1 through 3.6, 4.0 and
9 5.0 are admitted.

10 (Whereupon, CUB-City
11 Exhibit Nos. 1.0 thru
12 1.08; 2.0, 2.1, 3.0,
13 3.1 thru 3.6, 4.0 & 5.0
14 were received in
15 evidence.)

16 And now staff.

17 MR. FEELEY: Staff prefiled the rebuttal
18 testimony of Eric P. Schlaf that's marked for
19 identification as ICC Staff Exhibit 1.0 is seven
20 pages of narrative text. It was filed on November
21 6, 2006, and later today we'll file the affidavit of
22 Eric P. Schlaf. We already identified this as ICC

1 Staff Exhibit 1.01 if that's all right with you.

2 JUDGE GILBERT: Sure.

3 MR. FEELEY: That is all staff's testimony in
4 this case.

5 JUDGE GILBERT: Okay. Any objection?

6 (No response.)

7 All right. Staff 1.0 and 1.01 are
8 admitted.

9 (Whereupon, Staff Exhibit
10 Nos. 1.0 and 1.01 were
11 marked and received in
12 evidence.)

13 All right. That would appear to
14 conclude the evidentiary case.

15 Anything else anyone wants to add for
16 the evidentiary case?

17 (No response.)

18 All right. The record then is marked
19 heard and taken.

20 The next step I assume would be
21 presentation of a draft order.

22 MR. ROONEY: And today, your Honor, it was our

1 proposal to file with the Commission next Tuesday a
2 draft order. We have circulated a draft at this
3 point to the parties in the case. Well, some
4 comments. Our goal is to just submit a draft order
5 that would either be agreed to by all parties or
6 agreed to and not objected to by certain other
7 parties and then at that point thereafter maybe just
8 have a -- once you issue a proposed order, just have
9 a one-day turnaround for the parties for technical
10 reasons to take a look at it and file any exceptions
11 if required.

12 JUDGE GILBERT: Okay. Next Tuesday would be the
13 21st.

14 MR. ROONEY: Correct.

15 JUDGE GILBERT: Then we have the holiday week.
16 All right. I'm not sure the exact date, but within
17 the following week, beginning on Monday, the 27th of
18 November, I'll have an order prepared. I'm not
19 exactly sure what to call it, because you'll be
20 presenting something that everyone's agreed to.
21 Unless I disagree with something that everyone
22 agreed to, I'm not really acting adverse to anyone's

1 interests.

2 MR. GOLDENBERG: Just, for the record, I don't
3 know that we'll actually agree to from the Cook
4 County State's Attorney's Office. We anticipate
5 negotiating some language and possibly inserting
6 something, just preserving that. We don't object,
7 so will be issued an order based on the record.

8 JUDGE GILBERT: Okay. Because -- and I did
9 misspeak. Some parties may simply not object rather
10 than agree to the contents of the order. Even then,
11 I don't know if I'm acting adversely to your
12 interests.

13 MR. GOLDENBERG: Wouldn't it still be an
14 administrative law judge's order?

15 JUDGE GILBERT: Yes, it would be.

16 MR. GOLDENBERG: We are just pretty much waiving
17 the normal briefing process.

18 JUDGE GILBERT: If it's not acting adversely to
19 anyone's interest, I don't have to issue a proposed
20 order, so what I may do -- let me think about this,
21 but you'll have something on the week of the 27th.
22 What I may do is e-mail what I have done, and maybe

1 All right. Very good. Thank you,
2 everyone, for being so cooperative and constructive
3 in the way we handle the case, and that's it.

4 (Whereupon, the above
5 matter was adjourned, to
6 be continued to
7 December 27, 2006.)

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