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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
COMMONWEALTH EDISON COMPANY,)
Proposed general increase in) No. 07-0566
electric rates.)

Chicago, Illinois
April 30th, 2008

Met pursuant to notice at 9:00 a.m.

BEFORE:
MR. TERRENCE HILLIARD and MS. LESLIE HAYNES,
Administrative Law Judge.

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	<u>I N D E X</u>		Re-	Re-	By
	<u>Direct</u>	<u>Cross</u>	<u>direct</u>	<u>cross</u>	<u>Examiner</u>
1					
2	<u>Witnesses:</u>				
3	GORGE A. WILLIAMS	695	697		
4			732		
			766		
5			767	783	787
				790	
6				792	
7	PETER J. LANZALOTTA	795	798	826	
8					
9	MICHAEL GORMAN				
		828	837	884	887
10					
	SCOTT RUBIN				
11		888	903		
			919		
12	SUSAN ABBOTT				
		952	954	970	969
13			973		
14	L. LYNNE KIESLING				
		976	978		
15			987	1005	1006
16	KATHRYN HOUTSMA & STACIE FRANK	1010			
17			1014	1025	
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E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
	COMED	
	#4.0, 4.1, 22&37	697
	#7	951
	2.0, 2.1, 2.2, 35.0 & 19.0	953
	7.0, 7.1, 7.2, 7.3, 7.4	1014
	25.0, 25.01-25.14, 40.0	1014
	40.01-40.03	1014
	ICC	
	#4	751
	#5	752
	#7	864
	AG	
	#6.0 & 6.1	891
	#11	1015
	#12	1018
	CITY	
	#1	901
	IIEC	
	#1	961
	1009	
	CUB	
	#2.02.01-2.05, 5.0-5.02	977
	BOMA	
	#1	980
	987	

1 JUDGE HILLIARD: On behalf of the Illinois
2 Commerce Commission, I call to order Docket
3 07-0566. I understand the first witness is
4 Mr. Williams.

5 MR. BERNET: Yes, your Honor.

6 (Witness sworn.)

7 GORGE A. WILLIAMS,
8 called as a witness herein, having been first duly
9 sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY

12 MR. BERNET:

13 Q. Can you please state your name and spell it
14 for the record?

15 A. Gorge, middle initial A, last name
16 Williams. And Gorge is spelled G-o-r-g-e, middle
17 initial A, last name W-i-l-l-i-a-m-s.

18 Q. And by whom are you employed?

19 A. By Com Ed.

20 Q. And what is your current title?

21 A. Senior vice president of operations.

22 Q. Do you have before you what's been

1 previously marked as Com Ed Exhibits 4.0, 4.1, 22
2 and 37?

3 **A.** Yes, I do.

4 **Q.** And Com Ed Exhibit 4.0 is your second
5 corrected direct testimony and attached to that is
6 Exhibit 4.1, which is your resume?

7 **A.** That's correct.

8 **Q.** And Exhibit 22 is your second corrected
9 rebuttal testimony with no attachments?

10 **A.** That's correct.

11 **Q.** And Exhibit 37 is your surrebuttal
12 testimony with no attachments?

13 **A.** That's correct.

14 **Q.** If I were to ask you today the questions
15 that appear in Exhibits 5.0, 22 and 37, would your
16 answers be the same as set forth in those
17 documents?

18 **A.** 5.0 or 4.0?

19 **Q.** I'm sorry, 4.0.

20 **A.** That's correct, my answers would be the
21 same.

22 **Q.** And do you need to make any corrections or

1 additions to that testimony?

2 A. No, I do not.

3 Q. Is the information contained in those
4 documents correct, to the best of your knowledge?

5 A. Yes, they are.

6 MR. BERNET: With that, I move for the admission
7 of Com Ed Exhibits 4.0, 4.1, 22 and 37.

8 JUDGE HILLIARD: Any objection? Hearing no
9 objections, the exhibits and attachments, if any,
10 will be admitted in the record.

11 (Whereupon, Com Ed
12 Exhibits Nos. 4.0, 4.1, 22 and 37
13 were admitted into evidence as
14 of this date having been
15 previously marked on e-docket.)

16 MR. BERNET: Mr. Williams is available for cross.

17 JUDGE HILLIARD: Please.

18 CROSS EXAMINATION

19 BY

20 MS. LUSSON:

21 Q. Good morning, Mr. Williams. My name is
22 Karen Lussion, I'm from the Attorney General's

1 office?

2 **A.** Good morning, Karen.

3 **Q.** First I would like to ask you to turn to
4 Page 14 of your direct testimony.

5 **A.** Okay, I have it.

6 **Q.** At Line 266, you indicate that Com Ed
7 continues its commitment to distribution system
8 automation, which can increase reliability and
9 reduce restoration time. Do you see that?

10 **A.** Yes, I do.

11 **Q.** And does an investment that serves to
12 increase reliability mean that outages are less
13 frequent and/or may be of shorter duration when
14 they occur?

15 **A.** That could be the case.

16 **Q.** And is it correct that it costs maintenance
17 money for Com Ed to respond to outages and restore
18 service to customers?

19 **A.** That's correct.

20 **Q.** When an investment and distribution system
21 is effective at reducing restoration time does that
22 result in the avoidance of maintenance hours and

1 costs associated with the Company's field
2 personnel?

3 **A.** That could be the case.

4 **Q.** And is it correct, then, that it can be
5 said that investment in distribution automation
6 provides improved performance of the distribution
7 system?

8 **A.** Investment in distribution automation, yes,
9 could result in improved performance.

10 **Q.** And at Line 267 you mentioned Com Ed
11 completed installation of supervisory control and
12 data acquisition, otherwise known as SCADA, remote
13 monitoring and control capability at all
14 substations. And I think you indicate that that
15 was completed in 2006; is that right?

16 **A.** That's correct.

17 **Q.** And when did that begin?

18 **A.** I don't remember the exact starting date, I
19 think it was a multi-year project, but it wrapped
20 up in 2006.

21 **Q.** Do you know, by chance, what year?

22 **A.** That, I don't remember. I was not here at

1 the time that it began.

2 Q. But it was a multi-year project?

3 A. It was a multi-year project.

4 Q. Now, you mentioned at Line 272 that SCADA
5 allows Com Ed to more quickly determine the
6 location of the problems on the system and either
7 remotely reconfigure the system to restore service
8 or dispatch the appropriate response teams; is that
9 correct?

10 A. That is correct.

11 Q. And can it also be said, then, that SCADA
12 investment provides improved performance of the
13 distribution system?

14 A. It can provide improved monitoring and
15 response in the event that you have a problem so
16 you can respond quicker.

17 Q. And does that improve performance then,
18 overall, of the distribution system?

19 A. Yes. It would be improved performance in
20 that the duration of the outage would be shorter.

21 Q. Now, at Line 279 you state, Com Ed's
22 embarked on a multi-year program to install

1 MR. BERNET: It's just multiple questions, that's
2 all I'm getting to.

3 BY MS. LUSSON:

4 Q. Has Com Ed management determined that it is
5 prudent to invest in distribution automation
6 capital projects?

7 A. Yes, we have.

8 Q. And is there certainty that the benefits
9 exceeds the cost of those investments?

10 A. For the investments that we have decided to
11 move forward with, we do believe that the benefits
12 exceed the costs.

13 Q. Would you agree, then, that this is prudent
14 and reasonable for Com Ed to spread out its
15 investment in distribution automation over future
16 years, given the size of the investment?

17 A. Well, it depends on what we're investing
18 in. I mean, we have a lot of projects that we
19 evaluate every year and you have a limited amount
20 of funds. So as we determine where we make
21 investments, we've got to look at what are the most
22 beneficial, overall, in terms of providing services

1 to our customers. So we can't necessarily just say
2 right up front that we're going to have a certain
3 percentage of funds go to distribution automation,
4 a certain percentage go here, it depends on what
5 our needs are that we evaluate on a year-to-year
6 basis.

7 **Q.** But in terms of the distribution automation
8 that Com Ed is seeking rate base inclusion in this
9 case, it was management's decision that it was a
10 prudent investment to make over a several year or a
11 few year period; is that correct?

12 **A.** That is correct.

13 **Q.** And how is the Company determining where to
14 install distribution automation first and where
15 such investment can be prudently deployed? Is
16 there a certain algorithm?

17 **A.** Yes, there is. We have a reliability
18 engineering organization that evaluates our
19 circuits and the performance of our circuits on a
20 year-to-year basis. And look at what have been the
21 most underperforming circuits or the most impactful
22 circuits and where automation can improve the

1 performance. And then the investments are made
2 based on the calculations that they do and where we
3 think we get the best benefit. So there is a
4 process that our engineering organization goes
5 through to make those determinations.

6 **Q.** And that establishes the priority of the
7 investment, in terms of location and degree of
8 investment?

9 **A.** That is correct.

10 **Q.** Now, at Line 294 on Page 16 of your
11 testimony, can you explain specifically what was
12 done to improve business efficiency where you refer
13 to the installation of a new dispatch system?

14 **A.** Can you repeat your question again on that?

15 **Q.** What improvements in business efficiency
16 can you describe related to the installation of a
17 new dispatch system?

18 **A.** Some of the benefits that we would get from
19 our mobile dispatch system is, one, it would let us
20 know where our resources are at all times. So in
21 the event that you have an outage in a particular
22 area, you would be able to dispatch the resource

1 that is closest to the outage to expedite the time.
2 Also allow you to close out paperwork in the field
3 versus having to come into the office. And there
4 is just a slew of benefits that we would have from
5 this system and the customers would have from the
6 system.

7 Q. And I assume that there were cost savings
8 associated with creating a new dispatch system for
9 the company, O and M cost savings, operation and
10 maintenance cost savings?

11 A. Longer term -- this is a project that we
12 are just undergoing, so we're really not seeing the
13 benefits yet. This is a project that is in
14 progress.

15 Q. But the company anticipates that those will
16 occur, O and M savings?

17 A. Long-term we do expect that there would be
18 some O and M savings.

19 Q. And is the new dispatch system different
20 from the mobile dispatch system referenced at Line
21 297 of your testimony?

22 A. This is all part of the same system.

1 **Q.** And is it correct, then, that investments
2 in these mobile dispatch -- in this mobile dispatch
3 system provides improved performance of the
4 distribution system?

5 **A.** When you say the system itself, having a
6 mobile dispatch system doesn't improve the system
7 response, but in terms of responding to incidents,
8 it allows you to quicker respond and quicker
9 restore customers. So I guess you can look at it
10 from a customer benefit you would have outages
11 restored in a more timely manner.

12 **Q.** And if outages are restored in a more
13 timely manner, would you say that that improves
14 performance of the distribution system?

15 **A.** I guess I'm just trying to clarify, because
16 the dispatch system itself doesn't do anything to
17 the distribution system. So in terms of
18 performance of the distribution system itself, that
19 in itself doesn't change, but the response to
20 incidents is what changes. So the response time is
21 what changes more so than the distribution
22 performance changing.

1 **Q.** Okay. What is meant by paid dividends at
2 Line 301 of your testimony, is that a reference to
3 cost savings?

4 **A.** It doesn't necessarily have to be cost
5 savings. When you talk about paid dividends here
6 we are talking about being able to respond to
7 emergencies quicker, as I discussed a little
8 earlier, be able to put the person that's closest
9 to the problem there faster. Where, without having
10 this mobile dispatch system, you may not know
11 exactly where your resources are, you may send
12 someone that is farther away from the problem. So
13 the pay of the dividends is being able to respond
14 quicker in an emergency, getting the right
15 resources where they need to be in a timely manner.
16 So that's what meant by paying dividends.

17 **Q.** And when will the mobile dispatch system be
18 completed?

19 **A.** It will be completed in 2009.

20 **Q.** And again, that was a multi-year project?

21 **A.** That's correct.

22 **Q.** Do you know when it began?

1 **A.** It began probably first, second quarter of
2 2007. Well, the actual beginning the installation,
3 the project itself probably was conceived a couple
4 years even before then, but the actual work began
5 last year.

6 **Q.** Now, at Line 372 of your testimony, that's
7 Page 20, you talk about Com Ed's demand response
8 programs, which as I understand include various
9 residential and commercial programs. At Line 384
10 you state that, collectively, Com Ed's demand
11 response programs provide a potential
12 1,295 megawatts of demand response.

13 Are you aware of any instances where Com
14 Ed has been unable or unwilling to invest in new
15 technology to enable demand response to be
16 effective for the company and its customers?

17 **A.** That's not an area where I have expertise.
18 I am not aware of anything, but that's not my area
19 of expertise.

20 **Q.** And for purposes of the program that you're
21 talking about here, have any customers desiring
22 participation in these programs been denied

1 participation because of Com Ed's inability or
2 unwillingness to invest in the technology required
3 to provide those programs?

4 **A.** Again, that's not my area of expertise, but
5 not to my knowledge.

6 **Q.** Line 378 of your testimony, what technology
7 investment was required to provide the, quote,
8 Internet accessibility to energy data that is made
9 available to commercial and industrial customers
10 for a fee?

11 **A.** That's an area I would have to defer to
12 either Ms. Clair or the folks that are responsible
13 for our demand response. I am not knowledgeable of
14 that information.

15 **Q.** And in terms of your discussion of it here,
16 however, you are seeking rate base inclusion of
17 that, that kind of investment in this case?

18 **A.** I'm sorry, can you just repeat that again?

19 **Q.** At Lines 378 where you discuss that
20 project, is this something that has been invested
21 since the last rate case and you're discussing its
22 benefits for purposes of rate base inclusion?

1 **A.** That is correct. But again, in terms of
2 the details of the project and the costs, I'm not
3 the person to respond to that.

4 **Q.** And do you know, was that a multi-year
5 project?

6 **A.** I'm not certain.

7 **Q.** Line 381 of your testimony, you mention the
8 interval data recording meters and market pricing
9 provided to residential customers participating in
10 the Residential Real-Time Pricing program. Do you
11 know how many customers are participating in that
12 program?

13 **A.** I'm not knowledgeable of exactly how many
14 customers are participating in that.

15 **Q.** Any ballpark figure?

16 **A.** That's not -- again, that's not my area of
17 responsibility and I would be guessing to tell you
18 that.

19 **Q.** Okay. Can you point to a witness that
20 would know that answer?

21 **A.** That would be -- that would fall under
22 Ms. Promajurie's (phonetic) area, so I don't know

1 where she is in terms of being a witness, but that
2 would be the person to talk to about that.

3 Q. She's not a witness in this case.

4 MR. BERNET: We can get that information.

5 THE WITNESS: It's just escaping me now.

6 MS. LUSSON: If I could, I would just make that
7 an oral data request then.

8 MR. BERNET: What is it exactly that you want?

9 MS. LUSSON: The number of customers
10 participating in the Residential Real-Time Pricing
11 program that is discussed at Line 381. Thank you.

12 MR. BERNET: Mr. Crumrine might be able to answer
13 that question.

14 BY MS. LUSSON:

15 Q. If you know, in what ways are the interval
16 recording meters used for this program different
17 from the AMI meters being proposed under the
18 program for Rider SMP recovery?

19 A. And again, that would be a question for
20 Sally Clair.

21 Q. And do you know what was the timeframe of
22 the installation of those meters for the

1 Residential Real-Time program?

2 **A.** No, I do not.

3 **Q.** Perhaps Mr. Crumrine might know that,
4 residential?

5 **MR. BERNET:** Either he or Ms. Clair.

6 **THE WITNESS:** Yeah, one of the two.

7 **BY MS. LUSSON:**

8 **Q.** On Line 450, Page 23 of your testimony --
9 well, let me just clarify, going back to that
10 equipment for the Residential Real-Time program, is
11 it correct to assume that it's been invested in
12 since the last rate case?

13 **A.** I believe that is the case. But, again,
14 that would be a question better for Mr. Crumrine or
15 Ms. Clair.

16 **Q.** Now, at the bottom of Page 23, Line 450 you
17 talk about several new demand response technologies
18 that Com Ed is testing or planning to deploy to
19 expand its demand management capabilities.

20 Are any of these proposals contingent
21 upon or dependent upon any future Commission
22 approval of a Rider SMP proposal?

1 **A.** Again, that is an area that is outside of
2 my expertise, that is something that would be
3 better for Mr. Crumrine or Ms. Clair.

4 **Q.** So these, again, going back to Page 22, it
5 seems that these are all programs or investments
6 that Com Ed expects to provide over the next few
7 years with approval of new rates; is that correct?

8 **A.** That is correct.

9 **Q.** And if you know, are these included in the
10 pro forma additions in this case that are being
11 proposed in this case?

12 **A.** Again, that would be a question that would
13 be better answered by Mr. Crumrine.

14 **Q.** Line 489 of your testimony, on Page 25, you
15 discuss the automatic recloser project?

16 **A.** Yes, I have that.

17 **Q.** Do you know when this project commenced and
18 about what percentage is complete today?

19 **A.** I would say the more extensive program
20 began in 2007, but we've been installing reclosers
21 over the past few years. But I would say the more
22 extensive program probably got under way in 2007.

1 **Q.** And when you say more expensive program,
2 are you referring to just --

3 **A.** More extensive.

4 **Q.** And when you say more extensive, meaning a
5 larger level of investment than in previous years?

6 **A.** That is correct. As an example, in the
7 previous years we may have installed maybe 25
8 reclosers or so on this system. And beginning last
9 year we probably installed 120, 25.

10 **Q.** And I have the same question with regard to
11 the aerial spacer cable project. That is, when did
12 it start and at what stage is it in terms of
13 completion?

14 **A.** I believe we started the aerial spacer
15 program late last year, but we're really just
16 getting under way in terms of really moving forward
17 with the aerial spacer program in some of our more
18 heavily treed areas.

19 **Q.** And do you anticipate that will go on for
20 several years?

21 **A.** We expect that that is something that we'll
22 look at for the next several years, for some of our

1 heavily treed areas. To what level of investment
2 will be dependent on how that fares versus other
3 projects that we're looking to invest in.

4 **Q.** Page 26, Line 516, now, this -- you talk
5 about the 900 Megahertz Communication System
6 project. Now, originally this was in the Rider SMP
7 proposal, but is no longer; is that correct?

8 **A.** That is correct.

9 **Q.** At Line 523 you state that, implementing
10 this technology would require replacement of much
11 of Com Ed's radio telecommunications equipment.

12 Would replacing and upgrading this
13 equipment produce O and M savings or operating
14 efficiencies for the Company?

15 **A.** It may not necessarily result in O and M
16 savings, but in some areas it could result in
17 operating efficiencies.

18 **Q.** And starting at Line 527, you referenced
19 the dielectric injection treatment of underground
20 residential distribution for URD cable. Does this
21 improve performance of the distribution system?

22 **A.** Yes, this would improve the performance of

1 the distribution system, because this here would be
2 directly addressing some of the cable faults that
3 we've had on our system. And instead of going
4 through extensive replacements of cables, this
5 injection capability would allow you to inject the
6 cables where it makes sense to remove the more
7 strata of the system and allow the cable to operate
8 for an extended period of time. So it would --
9 this would result in an improvement in the
10 distribution system.

11 **Q.** And, again, do you know when those programs
12 were begun and what completion status they are at?

13 **A.** We began the injection program late last
14 year and we've actually stepped up the injection
15 process in 2008 and that's, again, is a multi-year
16 process. So that is something that we'll continue
17 based on availability of funds.

18 **Q.** And you've spread it out over years, again,
19 based on the availability of construction and
20 funds; is that correct?

21 **A.** Based on availability of funds, that's
22 correct.

1 **Q.** Page 28, Line 542 you mention the mobile
2 dispatch program and state later on at Line 554
3 that these programs aren't the only projects that
4 Com Ed may propose as SMP projects, but that Com Ed
5 is currently actively considering these projects
6 for Rider SMP. And I believe this is one that was
7 taken off the table as an SMP project; is that
8 correct?

9 **A.** That is correct.

10 **Q.** And do you know why it was taken off the
11 table for SMP status?

12 **A.** That's a question that would be better
13 answered by Mr. Donnelly.

14 **Q.** Perhaps Mr. Crumrine might have some
15 insight on that.

16 **A.** Yes, since I think Terry's done.

17 **Q.** And Mr. Williams, can you testify as to the
18 criteria that are used when making the decision as
19 to what to propose as an SMP project versus
20 something that's typically done during the normal
21 construction capital budget process or is that
22 Mr. Crumrine?

1 **A.** That would be Mr. Crumrine or, again,
2 Mr. Donnelly, but I think Mr. Donnelly went
3 yesterday.

4 **Q.** Back at Line 483 of your testimony, you
5 discuss what Com Ed is anticipating would be
6 included in a proposed Rider SMP. Do you know,
7 again, if this is Mr. Crumrine's area of expertise,
8 please indicate so, but do you know what changed
9 between then and now in terms of how Rider SMP is
10 being scoped?

11 **A.** Yeah, again, that would be a question for
12 Mr. Crumrine.

13 **Q.** Is it possible that items not included for
14 SMP rider inclusion at this time, such as the
15 aerial spacer cables, the URD cable replacements or
16 the 900 megahertz radio replacement could be
17 submitted later for consideration as an SMP
18 project?

19 **A.** I mean, that could be a possibility, but I
20 would be speculating at this time, because we would
21 have to look at the folks who are heading up that
22 effort for the priority projects that they would

1 look to move forward with.

2 Q. So if I were to ask you about the criteria
3 for SMP project placement, such as if there are any
4 dollar thresholds or whether it's driven by the
5 technology itself, again, you would defer to
6 Mr. Crumrine on that?

7 A. I would defer to Mr. Crumrine on that one.

8 Q. Now, at Page 30, Line 588 of your direct
9 testimony, you state that capital projects not
10 afforded SMP rider treatment would not necessarily
11 be removed from Com Ed's capital budget. Do you
12 see that reference?

13 A. That is correct, I see it.

14 Q. Would you agree Com Ed has historically
15 invested significant amounts of new capital into
16 technologies to improve service and achieve
17 operational savings, including such investment and
18 rate base for full rate recovery through
19 traditional rate cases?

20 MR. BERNET: I am going to object to the form of
21 the question. There were multiple questions in
22 there.

1 BY MS. LUSSON:

2 Q. Is it true, would you agree, that Com Ed
3 has traditionally invested significant amounts of
4 new capital into technologies to improve service
5 and then included such investment in rate based
6 recovery requests in rate cases?

7 A. We have made investments over the years to
8 improve -- investments in technology to improve
9 performance and have submitted for future rate
10 cases, that is correct.

11 Q. And, in fact, that's what's occurring in
12 this case, isn't it?

13 A. That's correct.

14 Q. Is it the Company's position that it cannot
15 continue to invest in new technologies to better
16 serve its customers and seek recovery of such
17 investments through traditional test year
18 regulations?

19 A. The Company's position is actually -- you
20 know, every year we have a certain amount of
21 capital that we can invest and we have to
22 prioritize around the things that we need to do.

1 Now, there are some things that, from an
2 automation perspective could be even more
3 beneficial for our customers, however the cost to
4 do that is pretty significant. And when you
5 prioritize in the various things you can do, if you
6 are limited in your capital, some of those things
7 that may be a nice thing to do from a technological
8 perspective, again, they may fall off the radar
9 screen just in terms of prioritizing about your
10 investor capital is.

11 We have a limited amount of capital, we
12 have a return that we have to provide for our
13 shareholders, so we can't just blatantly go out and
14 spend and not necessarily receive a return in a
15 timely manner. So it puts you in a difficult
16 position. And as management we have to be prudent
17 as we evaluate the various projects and make a
18 decision that's best for the customer and the
19 Company.

20 **Q.** And that's what you're referring to at Line
21 592 when you say that to the extent that Com Ed has
22 sufficient funds in any year, is that essentially

1 what you're talking about there?

2 **A.** That's correct.

3 **Q.** Have any of Com Ed's creditors recently
4 denied new capital to the Company when it was
5 needed?

6 **MR. BERNET:** I'm going to object to the question.
7 That's beyond the expertise of this witness, it's
8 also beyond the scope of his testimony. That would
9 be a question more appropriate for Mr. McDonald.

10 **MS. LUSSON:** I think the witness should be
11 allowed to state whether he has any knowledge about
12 that.

13 **JUDGE HILLIARD:** You can answer the question if
14 you know the answer.

15 **THE WITNESS:** Sure that would be a better
16 question for Mr. McDonald.

17 **BY MS. LUSSON:**

18 **Q.** So you don't have any idea whether or not
19 the capital markets have said no to Com Ed about
20 any investment project?

21 **A.** Again, that would be a question for
22 Mr. McDonald.

1 Q. You don't know?

2 A. Not to my knowledge, but, again, I would
3 refer that to Mr. McDonald.

4 Q. And that's the way the financing of capital
5 projects has always worked, isn't it? That is, if
6 the Company doesn't have the internally generated
7 funds to make an investment, it goes to the capital
8 markets to issue debt, is that how it works?

9 MR. BERNET: I'm going to object. Again, it's
10 beyond the scope of the direct testimony.

11 MS. LUSSON: Again, if the witness doesn't know
12 he can say so. If he has any knowledge on that
13 topic, he can say so. He's talking about rate
14 based investments and whether or not --

15 JUDGE HILLIARD: Go ahead and answer the
16 question, if you know.

17 THE WITNESS: Again, I would refer that to
18 Mr. McDonald. As I mentioned earlier, we evaluate
19 our budget every year and we determine which
20 projects fit into our budget.

21 BY MS. LUSSON:

22 Q. And again I'll ask, and if you don't know,

1 please say so or refer to Mr. McDonald, but do you
2 know, has the Company specifically gone to the
3 capital markets to inquire about issuing debt for
4 any of the SMP projects that you reference in your
5 testimony?

6 MR. BERNET: Objection, asked and answered.

7 MS. LUSSON: I don't think I specifically
8 referenced SMP projects.

9 JUDGE HILLIARD: Answer the question if you know
10 the answer.

11 THE WITNESS: Again, I would refer that to Mr.
12 McDonald. Not to my knowledge.

13 BY MS. LUSSON:

14 Q. I want to show you what's been previously
15 marked as AG Cross Exhibit 4. This was introduced
16 yesterday with Mr. Donnelly. (Tendering document.)

17 MR. BERNET: I would just note for the record, we
18 had a process by which our witnesses identified
19 data request responses that they were knowledgeable
20 about and in the best position to respond to
21 questions and this is not one of the data requests
22 that Mr. Williams attested to. I have no problem

1 with you asking questions about it, but I just want
2 to make sure that's clear.

3 BY MS. LUSSON:

4 Q. Well, actually I believe he is the witness
5 that attested to this data request, although
6 Mr. Donnelly was able to answer questions about
7 it.

8 MR. BERNET: Is that right?

9 JUDGE HILLIARD: Hoist it on your own petard.

10 BY MS. LUSSON:

11 Q. Mr. Williams, you are familiar with this
12 response, as I understand it, you did attest to
13 this response; is that correct?

14 A. Yes, I am.

15 Q. And again, this is a description of the
16 Company's capital expenditures, budget, development
17 review and approval process; is that correct?

18 A. That's correct.

19 Q. Now, one thing this response mentions, and
20 I think you discuss in your testimony, which you
21 reference at Lines 957 through 1070, is the
22 challenge process that's included within Com Ed's

1 existing capital budget process. Can you elaborate
2 on what that challenge process is?

3 **A.** Yeah, as we -- we have various departments
4 in Com Ed and I'm responsible for numerous
5 operating departments, Mr. Donnelly is responsible
6 for engineering departments. Our managers, we put
7 budgets together for various things we feel we
8 need. We have a long range planning process and
9 look at some incremental changes from there.

10 And what happens, they go through their
11 budgeting process on a lower level and then they go
12 through a budgeting process at the vice president's
13 level to challenge them on the various expenditures
14 that they have recommended. And then it eventually
15 rolls up to myself at the senior vice president
16 level and it cascades eventually up to -- our
17 budget is approved by the president and CEO of the
18 Company and eventually rolls up to the board of
19 directors.

20 **Q.** And I assume that the Company has
21 incorporated that challenge process because there
22 is a conclusion that that process helps the company

1 make intelligent, reasonable and prudent investment
2 decisions; is that correct?

3 **A.** That's correct.

4 **Q.** Now, at the bottom of Page 53 of your
5 testimony, where you sort of elaborate on that
6 capital development -- I'm sorry, capital budgeting
7 process, you talk about the self critical approach
8 in the existing capital budget process. Do you see
9 that?

10 **A.** Which line are you referring to, please?

11 **Q.** Line 1049.

12 **A.** Okay, yes, I do see that.

13 **Q.** And by self critical, can you explain what
14 you mean by that?

15 **A.** What I mean by self critical, we make sure
16 that we really think about, is this something
17 that's really needed, is it being done at the
18 cheapest price that we can achieve it, have we, you
19 know, competitively -- have we exhausted all means
20 to make sure whatever investments we're making,
21 we're making at the most reasonable price we
22 possibly can. And so that's what that being self

1 critical, it's not just what you may have liked to
2 have, is it necessary and is it the best possible
3 cost.

4 Q. And again, the Company included this self
5 critical approach to budgeting capital projects
6 because it believes it is the best way to make
7 prudent, reasonable investments?

8 A. That's correct.

9 Q. Later on in your direct testimony you talk
10 about specific projects that the Company is seeking
11 inclusion in rate base. And I think one of the
12 projects you talk about is one known as -- is it
13 the distribution center in a box, DC in a box?

14 A. Can you tell me which line you're referring
15 to?

16 Q. I believe DC in a box, I know it had a
17 picture of it.

18 MR. BERNET: It's on Page 48.

19 MS. LUSSON: Thank you.

20 BY MS. LUSSON:

21 Q. And DC refers to distribution center; is
22 that right?

1 **A.** That is correct.

2 **Q.** And is it Com Ed's believe that investment
3 in these projects, that is DC in a box, provides
4 improved performance of the distribution system
5 overall?

6 **A.** That is correct.

7 **Q.** And projects at the bottom of Page 44 and
8 45 of your testimony, where you list distribution
9 plant additions made since 2005, is it the
10 Company's position and your believe that Com Ed's
11 investment in these projects listed there provides
12 improved performance of the distribution system?

13 **A.** Yes, it does.

14 **Q.** And in terms of the large projects that
15 were described by Mr. McMahan, I believe his
16 testimony talked about the more significant capital
17 investments made on a higher dollar level; is that
18 right?

19 **A.** That's correct.

20 **Q.** And is it the Company's position that those
21 projects provide improved performance of the
22 distribution system?

1 **A.** Yes.

2 **Q.** And distribution automation that we were
3 talking about earlier during cross examination, is
4 it also the Company's conclusion that investing in
5 distribution automation improves the -- provides
6 improved performance of the distribution system?

7 **A.** Yes, that's correct.

8 **Q.** And would that also be true for the 900
9 megahertz communications systems?

10 **A.** What the 900 megahertz communication system
11 would do, one, it would give us an improved
12 communications system over the older system that we
13 have in service now, plus it would allow better
14 communications for some of the smart switches that
15 is on our distribution system. This 900 megahertz
16 system would allow better communication, better
17 operation and it would marry well into maybe some
18 future things we may do to improve technology in
19 our system. And it's pretty common in the industry
20 that people are moving in that direction.

21 **Q.** To the extent that mobile dispatch
22 technologies enable the Company to perform more

1 efficiently, is it also Com Ed's position that
2 investment in those projects provides improved
3 performance of the distribution system?

4 **A.** That is correct.

5 **Q.** And would that be true for the passport
6 system that you describe in your testimony?

7 **A.** That's correct. The passport system is, of
8 course, the system we use to track the work orders
9 and different things that we do in our system, that
10 is our system for controlling that work.

11 **MS. LUSSON:** Thank you, Mr. Williams, I have no
12 further questions.

13 **JUDGE HILLIARD:** Who's next?

14 **MR. FOSCO:** Staff will go next, your Honor. And,
15 your Honor, with your approval we are going to
16 split up between two separate issues between two
17 separate attorneys.

18 **MR. BERNET:** What is that, Carmen?

19 **MR. FOSCO:** I was going to ask questions about
20 rate base and Mr. Boravick is going to ask
21 questions about riders.

22

1 CROSS EXAMINATION

2 BY

3 MR. FOSCO:

4 Q. Good morning, Mr. Williams, I'm Carmen
5 Fosco and I'm one of the attorneys representing
6 staff.

7 A. Good morning.

8 Q. Mr. Williams, would you agree that one of
9 the primary purposes of your testimony is to
10 address Com Ed's additions to rate base since its
11 last rate case?

12 A. That's correct.

13 Q. And you are one of the Company's key
14 witnesses on that point?

15 A. Yes, I am.

16 Q. And within your testimony, you testify to
17 the -- your opinion that the Company's additions to
18 rate base since 2004 were prudently acquired at a
19 reasonable cost; is that correct?

20 A. That's correct.

21 Q. And you also testified, in your opinion, I
22 believe in your rebuttal testimony, that Com Ed has

1 demonstrated the amounts that it has invested in
2 additional plant?

3 **A.** That is correct.

4 **Q.** When you refer to amounts invested in
5 additional plant, does that include the 2005 and
6 2006 plant additions for which Com Ed is seeking
7 recovery in rate base?

8 **A.** That's correct.

9 JUDGE HILLIARD: Excuse me, Ms. AG, was AG Cross
10 Exhibit 4 admitted the other day?

11 MS. LUSSON: It was admitted yesterday.

12 JUDGE HILLIARD: Go ahead, I'm sorry.

13 BY MR. FOSCO:

14 **Q.** And is it your conclusion that Com Ed's
15 proposed plant additions for 2005 were placed into
16 service prudently and at reasonable cost?

17 **A.** Yes, it is.

18 **Q.** And would your answer be the same for the
19 2006 plant additions?

20 **A.** That's correct.

21 **Q.** Now, the 2005 proposed plant additions
22 include amounts for Account 366, Underground

1 Conduit and 367, Underground Conductors; is that
2 correct?

3 **A.** That's correct.

4 **Q.** And again, is it your testimony that the
5 amounts for those -- related to those accounts are
6 reasonable and prudent?

7 **A.** Yes, that's correct.

8 **Q.** Do you know how much of the proposed 2005
9 plant additions for Account 366, Underground
10 Conduit and Account 367, Underground Conductors and
11 Devices is materials cost?

12 **A.** I don't know exactly what percentage of
13 that would be materials cost.

14 **Q.** Is it your opinion, Mr. Williams, that the
15 capitalized labor cost associated with the proposed
16 2005 plant additions for Account 366 and Account
17 367 are reasonable?

18 **A.** Can we -- could you show me -- tell me
19 where you're referencing?

20 **Q.** Actually, these were just general
21 questions. I was going to get more specific later
22 on. If you are able to answer that, I could repeat

1 the question.

2 **A.** Sure, if you could repeat the question.

3 **Q.** Is it your opinion, Mr. Williams, that the
4 amount of capitalized labor costs associated with
5 the 2005 plant additions related to Account 366,
6 Underground Conduit and Account 367, Underground
7 Conductors and Devices is reasonable?

8 **A.** I believe all of our labor costs associated
9 with our plant additions are reasonable.

10 **Q.** And I previously asked you if you knew the
11 amount for the 2005 additions related to materials
12 cost. Do you know the amount of the 2005 additions
13 that is capitalized labor costs?

14 **MR. BERNET:** Are you referring to a specific
15 account?

16 **MR. FOSCO:** Yes, Account 366, Underground Conduit
17 and Accounts 367, Underground Conductors.

18 **MR. BERNET:** Two different accounts.

19 **MR. FOSCO:** I could break it apart.

20 **MR. BERNET:** That's probably easier.

21 **BY MR. FOSCO:**

22 **Q.** Do you know how much capitalized labor

1 costs is included in the proposed 2005 plant
2 additions in Account 366, Underground Conduit?

3 **A.** I couldn't answer that off the top of my
4 head, I don't know the actual breakout. We don't
5 actually track in our accounting system a specific
6 breakout showing the specific piece of material and
7 labor costs for those particular FERC accounts. We
8 do a roll up of our total spend for our investors,
9 so I'm not knowledgeable about a specific breakout
10 because we don't track it that way.

11 **Q.** So it's not that you don't recall, it's
12 that you don't have that information, Com Ed does
13 not keep that specific information?

14 **A.** We don't keep it broken out specifically
15 tied to the FERC accounts as you just described.

16 **Q.** Would your answers be the same for 2006?

17 **MR. BERNET:** For those accounts?

18 **THE WITNESS:** For those accounts, correct.

19 **BY MR. FOSCO:**

20 **Q.** If you could turn to Page 4 of your --
21 well, it's Exhibit 22, is that your -- that's your
22 rebuttal testimony.

1 **A.** That would be my rebuttal, that's correct.

2 **Q.** And on Line 68, you indicate that FERC
3 Account 366, Underground Conduit includes conduit,
4 manholes, concrete, ventilation equipment, sump
5 pumps, temporary installations for the permanent
6 installation of conduit, permits, municipal
7 inspections and other things; is that correct?

8 **A.** That's correct.

9 **Q.** And have you provided anywhere in your
10 testimony specific cost data for those items that
11 you say are included in FERC Account 366?

12 **A.** No, I have not.

13 **Q.** If you go down to Line 70 of that same page
14 of your rebuttal testimony, you indicate that FERC
15 Account 367, Underground Conductors and Devices
16 includes insulated, submarine and lead cables, in
17 parens, that is secondary lines, close parens,
18 circuit breakers, insulators, high wires and clamps
19 associated with the racking of cables. Lightning
20 arrestors, railroad or highway crossing guards,
21 splices, switches, tree trimming permits and other
22 line devices; is that correct?

1 **A.** That's correct.

2 **Q.** Again, the same question that I had for the
3 other account, have you provided anywhere in your
4 testimony specific cost data related to these
5 items?

6 **A.** I have not.

7 **Q.** And then if we go to Line 78, again of your
8 rebuttal testimony on Page 4, you indicate that the
9 increased cost to install new underground lines and
10 new services, is increasing, quote, partly due to
11 the higher cost of materials and partly due to the
12 higher cost of labor; is that correct?

13 **A.** That is correct.

14 **Q.** Again, do you present any figures in your
15 testimony, direct, rebuttal or surrebuttal,
16 specifically concerning the specific amount of
17 higher costs for labor?

18 **A.** We don't break out specifically the labor
19 costs itself. We do show a roll up of all of our
20 costs included. I mean, if you were to look at
21 some specific projects that we've undertaken, you
22 may see a breakout of labor material, but typically

1 we show our total cost associated with our
2 projects.

3 Q. Okay. And by that you mean you've provided
4 the -- strike that, sorry, thank you.

5 Same question for materials cost. Have
6 you provide the specific amount of materials cost
7 associated with Com Ed's proposed 2005 plant
8 additions for services?

9 A. Repeat that again.

10 Q. Sure, I'm sorry. Have you provided the
11 total amount of material costs associated with Com
12 Ed's proposed 2005 plant additions for services
13 anywhere in your testimony?

14 MR. BERNET: Carmen, are you talking about the
15 FERC account called services, is that what your
16 question relates to?

17 MR. FOSCO: I'm referring to services as he
18 states it at Line 78.

19 MR. BERNET: So it's not limited to the FERC
20 account?

21 MR. FOSCO: It's however he used it in that line.

22 THE WITNESS: So you are asking had we shown

1 material costs or material and labor costs?

2 BY MR. FOSCO:

3 Q. Materials cost with this question.

4 A. Again, we showed a roll up of our total
5 costs for all the investments that we've made in
6 2005 and 2006.

7 Q. But not a breakdown for material cost; is
8 that correct?

9 A. Not -- we did not break it down to material
10 versus labor.

11 Q. And is that for the reason we discussed
12 earlier -- is part of the reason for that that Com
13 Ed doesn't maintain specific data in that form?

14 A. Our accounting maintains data on what it
15 costs us to provide services for our customers.
16 But in terms of the specific breakout in material
17 and labor, we do not have that in this form in the
18 testimony that I've provided.

19 Q. So is it correct, Mr. Williams, that Com Ed
20 does not know the number of labor hours associated
21 with plant additions, for services or underground
22 conductors for either 2005 or 2006?

1 **A.** You're saying is it true that we do not
2 know the labor number, labor hours?

3 **Q.** Right, labor costs -- I'm sorry, the number
4 of labor hours associated with plant additions for
5 services for underground conductors, either for
6 2005 or 2006?

7 MR. BERNET:: I'll object to the form. Can you
8 just break it up, Carmen?

9 BY MR. FOSCO:

10 **Q.** I'll be happy to ask it by year and by
11 item. Is it correct that Com Ed does not know the
12 number of labor hours associated with plant
13 additions for services for either 2005 or 2006?

14 MR. BERNET: And again, are you referring to the
15 FERC account?

16 MR. FOSCO: Yes.

17 THE WITNESS: Let me see if I understand exactly
18 what you're asking. As I stated before, when we're
19 providing a service for a particular customer, say
20 whether it's a residential or commercial customer,
21 we track our cost for that service that we are
22 providing for the customer. And this is whether we

1 are providing underground cable or overhead
2 conductor or transformer service, whatever it takes
3 to provide that service to the customer we track
4 that total cost associated with labor and material
5 associated with providing that service to the
6 customer.

7 But the individual breakout of what's
8 the labor associated with putting in this overhead
9 conductor, what is the labor associated with the
10 underground conductor, what is the labor associated
11 with the transformer, we don't normally break it
12 out in that level of detail. But we do track the
13 entire cost of provider service.

14 BY MR. FOSCO;

15 **Q.** And I understand your explanation, but is
16 that basically a no or is that your agreement that
17 Com Ed does not know that specific data for the
18 reason you just explained?

19 **A.** No, to -- well, your comment was do we know
20 the data for our plant installations for 2005/2006.
21 And so that would not be a no that we don't have
22 data for our 2005/2006, but if you were talking

1 specifically about breaking out the material versus
2 the labor piece, we do not track it in this manner,
3 but we do track our total cost.

4 **Q.** And that would also include labor hours,
5 correct?

6 **A.** That is correct. Labor, material, all
7 costs to provide that service to the customer.

8 JUDGE HILLIARD: When you do the calculation, how
9 do you -- I mean, is there some multiplier you use
10 to determine what the cost per project is going to
11 be, for labor and for materials?

12 THE WITNESS: If you were to look at some of our
13 specific projects, that's not information that
14 we're providing in this testimony, but if you were
15 to look at some of our specific projects, you would
16 actually see a breakdown of labor costs, material
17 costs with some of our projects. But we look at
18 some of our projects versus some of our blankets,
19 when we do a roll up. I don't have that
20 information in this format here, but we do track it
21 with our financial folks, our accounting folks. If
22 you looked at some of our projects that we had you

1 would actually see some of them broken out in that
2 manner.

3 BY MR. FOSCO:

4 Q. But the Company is seeking recovery of
5 amounts by FERC account in this rate case; isn't
6 that correct?

7 A. FERC account is included.

8 Q. And Mr. Williams, how can you determine,
9 then, if a specific amount included in a FERC
10 account for which the Company is requesting
11 recovery is reasonable?

12 A. The way that we can determine that is by
13 knowing what the cost is for the material that has
14 been -- I mean, if you look at all of our projects
15 that we do or all the work that we do in our
16 system, we always make sure that we're
17 competitively bidding where it makes sense. We
18 have a supply organization that's every time any
19 material that we pursue, they are looking at
20 multiple vendors, who is providing us the best
21 price for cable we may be using or transformers we
22 may be using. Our process is very rigorous that we

1 use every day for all the projects that we do.

2 We don't look at everything on
3 individual feature basis, but amount of large
4 volumes of material and labor, that is their
5 specific focus to make sure that we're always
6 looking at how do we provide a service for the most
7 reasonable cost for our customers. And that's an
8 extensive process, very rigorous, heavy scrutiny on
9 that. And that's how we verify that we do provide
10 our service at a reasonable price for our
11 customers.

12 **Q.** Would you agree with me that Com Ed is not
13 prohibited from keeping data in any particular
14 manner?

15 **A.** Of course Com Ed is not prohibited from
16 keeping data in any manner.

17 **Q.** And the choice of what not to maintain is
18 one that Com Ed makes; isn't that correct? What
19 data not to maintain that is a choice that Com Ed
20 makes?

21 **A.** I wouldn't say completely because there are
22 some governing rules and some accounting practices,

1 there are certain things that we have to follow,
2 processes. I don't want to reach that conclusion
3 that we can decide on anything how we want to do.
4 We do have some rules and guidelines to follow. I
5 don't know all those particular rules, but I think
6 the statement is probably a little blanketed.

7 **Q.** Well, I was trying to be very careful. I
8 recognize that Com Ed might be required to keep
9 certain information, but you answered my question
10 that they were not prohibited from maintaining
11 information, to your knowledge. So with respect to
12 data that it chooses to collect, it has relative
13 freedom to do that, to your knowledge, Com Ed?

14 **A.** Again, I would respond that I can just say
15 we do have some things, if we want to go beyond
16 whatever the rules or guidelines may be that we
17 have to follow, it can be our choice to go beyond
18 what are the requirements. So there is some
19 freedom there. But there are some requirements
20 that we must follow, just like any other utility.

21 **Q.** Would you agree with me that it would be
22 reasonable for the Commission to look at data about

1 the specific accounts for which Com Ed is
2 requesting recovery in rates?

3 **A.** I would expect that it would make sense to
4 be able to ascertain -- the Commission should be
5 able to clearly ascertain the implant installation
6 that we have provided in 2005/2006, the Commission
7 should be able to determine that cost and so I
8 think that is reasonable.

9 JUDGE HAYNES: I have a question. So you say
10 that these FERC accounts aren't broken down by
11 materials and labor, are these FERC accounts built
12 on other data that's stored in some other form?

13 THE WITNESS: It depends, and I'm not an expert
14 on the FERC accounts, so that is really something
15 that would probably be better for Mr. McDonald,
16 maybe even Mr. Crumrine, but the FERC account is
17 not necessarily an all inclusive for -- when we're
18 providing a service to our customers, for instance,
19 if we are doing residential service or commercial,
20 what you may see in service in a FERC account,
21 would not necessarily be all inclusive of what it
22 took to provide a new business service. And, you

1 know, building a residential development or
2 providing electric service to a commercial
3 building, the FERC account is not all inclusive of
4 everything that it takes to provide that service.

5 BY MR. FOSCO:

6 Q. If you could turn to Page 5 of your
7 rebuttal testimony, Mr. Williams. And at the top
8 of Page 5, you provide some information about what
9 you call the real cost per mile, you see that?

10 A. That's correct.

11 Q. And you have two, I guess what I would call
12 tables, one at Line 89 and another at line -- or
13 following Line 89 and other table following Line
14 90. Could you, starting with the table on Line 89,
15 could you describe what that is and what
16 information is contained in that table?

17 A. Sure, absolutely. If you look at Line 89,
18 just below here, the data that's provided here is
19 what is the average cost per mile, one for
20 underground cable and duct for the various years
21 here, 2000 to 2006 and the underground cable
22 buried. And that information comes from our Annual

1 Distribution System Data Book.

2 And the way we determine that
3 information is we look at the number of miles of
4 underground cable and duct and what was the cost to
5 install those underground miles. We divide the cost
6 to install those underground miles, whether it's
7 cable and duct or cable buried, by the number of
8 miles installed to come up with the average cost.

9 And again, that's total cost invested to
10 install those miles of lines, whether it's
11 underground cable and duct or underground cable
12 buried. So that's what's in 89. And then on Line
13 90 it's just showing the cost inflated to 2006
14 dollars. But that information comes directly from
15 our Annual Distribution System Data Book.

16 **Q.** And for each year, what does the data mean
17 for each year? Is it what occurred during that
18 year, or is it total at the end of the year,
19 including all prior years? What does it mean for
20 each year in your tables?

21 **A.** If you -- I'm sorry, in the tables that I
22 have here?

1 **Q.** Yes.

2 **A.** The tables that I have here is just, for
3 instance, at the end of 2000, the underground cable
4 and plant, if you were to compare 2000, I wondered
5 if we had an example so I could have that exhibit
6 to show, but if you were to show year and year, if
7 you look at 2006, you would look at what was the
8 Delta in the investment of 2006 from 2005, look at
9 the number of miles from 2006 to 2005, so you would
10 be showing, if you are doing the 2006 value, and
11 what that cost per mile would be, you would be
12 comparing the year to year basis and you've done --
13 you work your way back on each one of those. You
14 understand what --

15 **Q.** Let me ask it this way, so you were
16 focusing on 2006. So the real cost per mile for
17 2006 represents the additions between 2005 and
18 2006, is that what you're saying? That's the cost
19 of the additions?

20 **A.** That's correct. If you were to look at
21 the -- I'll tell you what, let me refer to the
22 document, just so I don't get it confused here.

1 **Q.** And just so the record is clear, could you
2 indicate, once you are finished, what you are
3 referring to when you are looking. Is it one of
4 the data books, is that what you're looking for?

5 **A.** That's correct.

6 MR. FOSCO: Your Honor, actually I can help. I
7 think I've marked as exhibits, maybe we can go over
8 this.

9 MR. BERNET: Which years, Carmen?

10 MR. FOSCO: I'll give him both, 2005 and 2006.

11 MR. FOSCO: And for the record I have shown to
12 the witness and provided three copies to the court
13 reporter what is marked as ICC Staff Cross
14 Exhibit -- actually I mislabeled it. I guess that
15 should be numbered 4, I'm sorry, my apologies.

16 (Whereupon, ICC Staff Cross
17 Exhibit No. 4 was
18 marked for identification
19 as of this date.)

20 BY MR. FOSCO:

21 **Q.** I want to see if you can identify this
22 document for the record, Mr. Williams?

1 **A.** The one that I'm actually referencing is
2 the 2006.

3 **Q.** Well, if we could just, for a minute, if we
4 could get these documents into the record.

5 **A.** Yeah.

6 **Q.** The one that I just presented you, it's
7 labeled October 2006 System Data Book and for 2005
8 Year End Data; is that correct?

9 **A.** That's correct.

10 **Q.** And I'll now show you a second document
11 that I'll mark as ICC Staff Cross Exhibit 5.

12 (Whereupon, ICC Staff Cross
13 Exhibit No. 5 was
14 marked for identification
15 as of this date.)

16

17 BY MR. FOSCO:

18 **Q.** And is the document that I've tendered to
19 you marked as ICC Staff Cross Exhibit 5 labeled
20 2007 System Data Book, 2006 Year End Data, could
21 you describe that for the record and tell us what
22 that is?

1 **A.** Yes, the December 2007, I'm going to look
2 at Cross Exhibit 5, System Data Book. And what it
3 talks about is year end data for 2006 for Com Ed
4 system. This is year end data for transmission
5 substations we may have on system, miles of
6 underground cable, overhead conductor that we have
7 on system. And just various data throughout this
8 book here.

9 What I would like to refer you to is
10 Page 14 of 21, and this is just to give an example
11 for what we have on Page 5 of 17 in my rebuttal
12 document. Just to kind of explain how we arrived
13 at the miles -- the cost per mile.

14 **Q.** Okay. And you're in Staff Cross Exhibit 5,
15 correct?

16 **A.** That is correct, Page 14 of 21.

17 **Q.** Okay. I'm there.

18 **A.** And just to -- to reference you, this
19 underground cable and duct, that's towards the
20 bottom of the page, if you were to look under, as
21 of December 31st, 2006, you would see that the
22 underground cable duct that we have there, we've

1 invested \$945,200,000 in cable and duct underground
2 and that was for 9,000 miles of underground duct.
3 And that is current in plant, as of December 31st,
4 2006.

5 So this number that we're calculating
6 here, just to give you an idea of what was the
7 average cost for miles of cable and duct at the end
8 of 2006. So you would actually end up dividing the
9 945 million by the 9,000 and you would come up with
10 the figure of \$105,000 -- \$105,022 per mile. That
11 would be your current cost for underground cable
12 and plant as of the end of the December 31st, 2006.

13 If you were to just look at what was the
14 cost in 2005 for the same thing, the underground
15 cable and duct, at the end of the 2005 we had
16 invested 873.4 million and at that time we had
17 8,800 miles. So, again, you would divide the
18 investment, 873 million by the 8.8 to come up with
19 the figure. As of the end of 2005, the average
20 cost was \$99,250 for underground cable and duct in
21 plant.

22 And that would just cascade on down to

1 get a feel for how that number was determined. But
2 it's base on what we've actually invested and
3 amount of mile in plant for either in duct or
4 underground buried cable.

5 Q. Okay. But, again, referring to Page 14 of
6 21 of Staff Cross Exhibit 5, the \$945.2 million,
7 isn't that the total investment at the end of 12 --
8 as of 12/31/2006?

9 A. That is correct.

10 Q. So it's not the additions, it's the total
11 plant in service?

12 A. That's total plant at the end of December
13 2006.

14 Q. And the same for 2005, the 873.4 million
15 shown on Page 14 of 21 of Staff Cross Exhibit 5 is
16 the total amount of cable and duct at the end of
17 the 2005?

18 A. That's correct.

19

20

21 (Change of reporter.)

22

1 BY MR. FOSCO:

2 Q. So the numbers in your table then on Page 5
3 do not actually represent the additions for each
4 year, they represent the total plant in service at
5 each of those dates, including all prior years;
6 isn't that correct?

7 A. This represents the average cost of the
8 two -- the cable and duct and cable buried -- the
9 average cost at the end of the respective years in
10 the columns that they're in. It's not necessarily
11 showing plant. This is showing you how we would
12 determine the average cost based on investment
13 made.

14 Q. But Mr. Lazare was focusing on the
15 additions each year; isn't that correct?

16 A. I believe he must -- I believe that's what
17 Mr. Lazare is focusing on.

18 Q. Right. And in response, you provided
19 average data for each year, including that year
20 plus all prior years; correct?

21 A. This was to give -- that response was
22 provided to, one, show the average cost and show --

1 give a feel -- this was in response to what was the
2 increase over that period of time.

3 I believe Mr. Lazare responded that the
4 increase was significant. And I think this
5 response was to show you that the increase was not
6 as significant as stated.

7 Q. But the answer to my question is yes, is
8 that correct?

9 A. What's your question again?

10 MR. BERNET: Can you restate it again.

11 MR. FOSCO: Can I have the court reporter read
12 it back.

13 JUDGE HILLIARD: Please read it back.

14 (Record read as requested.)

15 THE WITNESS: Each year plus prior years.

16 MR. BERNET: And when you say response, Carmen,
17 you're referring to the responses on Page 5 of the
18 corrected rebuttal?

19 MR. FOSCO: Right.

20 MR. BERNET: In those tables?

21 MR. FOSCO: Correct. And I got a long
22 explanation, but I don't think I ever got an

1 answer.

2 THE WITNESS: Yeah, I'm not sure what you were
3 looking for because, I mean -- unless I'm not
4 hearing you correctly, but I thought what I heard
5 is you're looking for the average cost in these
6 given years, is what I thought I heard.

7 BY MR. FOSCO:

8 Q. Let me put it this way.

9 You provided numbers that are very
10 different in type from the numbers that Mr. Lazare
11 was presenting. Mr. Lazare presented specific
12 numbers for additions in each year. You responded
13 to those numbers or criticized those numbers by
14 presenting -- although it doesn't say that here, we
15 now know -- by presenting average numbers for each
16 year instead of the amount for the additions in
17 each year; isn't that correct?

18 A. I mean, looking at my rebuttal --

19 Q. Page 5.

20 A. -- I responded to what Mr. Lazare -- I
21 responded to Mr. Lazare's comment that was being
22 made because -- I mean, I can't even explain

1 exactly how he arrived at his numbers; but what I
2 showed Mr. Lazare is what are the actual numbers
3 and what are the actual increases.

4 I can't respond to where Mr. Lazare got
5 his numbers.

6 **Q.** I can ask it one more time maybe in a way
7 you can answer.

8 These numbers are average cumulative
9 numbers, not numbers representative of additions
10 each year; isn't that correct?

11 **A.** That is correct.

12 MR. FOSCO: Thank you.

13 Did you have a question?

14 JUDGE HAYNES: My question is on this Page 14 of
15 21. And for the miles and -- as of 12/31/06 and it
16 says 9. So that's -- was that new?

17 THE WITNESS: If you were to look at what would
18 be new for that cable and duct, the new would be
19 the difference between the 9,000 and the 8,800.

20

21

22

1 JUDGE HAYNES: Okay.

2 MR. FOSCO: If I could follow up on that.

3 BY MR. FOSCO:

4 Q. Then the new or additional cost would be
5 the difference between the 945.2 million and the
6 873.4 million; correct?

7 A. For that cable and duct.

8 Q. So then if we wanted to know the average
9 cost of the new cable and duct, we would take the
10 difference between -- for 2006, we would take the
11 difference between 945.2 million and 873.4 million
12 and divide by the 200 miles of additional cable;
13 correct?

14 A. That would seem to make sense.

15 Q. And would you agree, subject to check, that
16 if we did that operation, the cost per mile for new
17 cable and duct for 2006 would be approximately
18 \$359,000 per mile?

19 MR. BERNET: What math are you doing there,
20 Carmen?

21 BY MR. FOSCO:

22 Q. If you took the -- would you agree with me,

1 subject to check, that if you took the difference
2 between the 945.2 million total investment for
3 cable and duct at the end of 2006, subtracted the
4 cable -- the amount of cable and duct at the end of
5 2005, 873.4 million, then divided that amount by
6 the difference in miles between those two years,
7 which would be -- according to the information in
8 Cross Exhibit 5, I think we just established, would
9 be 200 miles, the difference between 9,000 and
10 8,800, would you accept, subject to check, that the
11 cost per mile then would be 359,000?

12 JUDGE HILLIARD: Dollars.

13 MR. FOSCO: Dollars, thank you.

14 THE WITNESS: Subject to check, listening to
15 your numbers, how you did the calculation, that
16 makes sense.

17 BY MR. FOSCO:

18 Q. Okay. Whereas, the average cumulative
19 number that you provided was \$105,022 per mile;
20 correct?

21 A. That's correct, using the methodology that
22 I used; looking at what is the current average cost

1 of our total in plant and looking at the whole
2 thing, I mean, because you're installing over an
3 extended period of years. So that number -- the
4 number that I have is correct for the calculation
5 that I was actually doing.

6 MR. FOSCO: Give me just a second. I think
7 we've moved through a couple of questions.

8 BY MR. FOSCO:

9 Q. If you can look on Page 5. At Lines 97 and
10 98, you discuss the -- what you characterize as the
11 actual increase for underground cable and duct and
12 also for buried underground cable.

13 And you have 14.76 percent and
14 9.42 percent. And you're talking about the
15 increase there between 2000 to 2004 versus 2005 to
16 2006. Do you see that?

17 A. Yes, I do.

18 Q. How did you calculate those numbers?

19 A. The way that number was calculated, if you
20 were to look at the -- look at Line 90. And if you
21 were to look at the average cost --

22 Q. I'm sorry. You said 990?

1 **A.** Line 90.

2 **Q.** I'm sorry.

3 **A.** Line 90 on Page 5. And if you were to look
4 at the four values, December of 2000 through
5 December of 2004, you add up those four costs --
6 you add up those five costs, divide it by five,
7 then you add up 2005 and 2006, divide it by two.

8 So then if you were to look at the
9 average cost from 2000 to 2006, subtract the
10 average cost from 2000 to 2004, then put it over
11 top of the average cost from 2000 to 2004, that's
12 how you get the number of 14.

13 **Q.** Okay. I'm sorry. Were you finished? I
14 didn't mean to cut you off.

15 **A.** I'm done.

16 **Q.** Thank you.

17 I did that and I didn't come up with
18 your numbers. Would you agree that if you -- I
19 mean, you're talking about adding \$99,083 to
20 84,008, the 86,891, the 94,000 --

21 **MR. BERNET:** Which numbers are you referring to,
22 Carmen?

1 MR. FOSCO: The same ones he was referring to I
2 believe, Page 90 -- I'm sorry, Line 90, Page 5.

3 MR. BERNET: Okay.

4 BY MR. FOSCO:

5 Q. When I add those up, I come up with
6 approximately, you know, 460,000 for those
7 five years -- I'm sorry. Strike that.

8 Thank you, Mr. Williams.

9 A. You're welcome.

10 Q. If you could refer to your direct
11 testimony, Page 22, Line 424.

12 A. Page 22. And what was the line?

13 Q. Line 424. There's a question and you
14 provide an answer. And if I can quote: Based on
15 your extensive experience with ComEd's distribution
16 system. Do you see that?

17 A. Yes, I do.

18 Q. Okay. What was your starting date with
19 ComEd?

20 A. My starting date was August of 2006.

21 Q. And so -- and your testimony -- your direct
22 testimony was filed in October of 2007?

1 **A.** That's correct.

2 **Q.** So a little over a year at the time you
3 filed this testimony is the amount of time you had
4 been employed by ComEd?

5 **A.** That's correct.

6 **Q.** If you could turn to Page 4 of your direct
7 testimony, Line 78. Let me make sure I'm at the
8 right document. I'm sorry. I meant to refer to
9 your surrebuttal.

10 **A.** Page 4 of the surrebuttal?

11 **Q.** Yes.

12 And at Line 78, you indicate, As I said
13 in my direct testimony, 3,246 miles is the amount
14 of overhead conductor we purchased since 2004. Do
15 you see that?

16 **A.** Yes, I do.

17 **Q.** Now, would you also agree that ComEd has
18 installed 3,246 miles of overhead conductor since
19 2004?

20 **A.** That's correct. We actually purchased and
21 installed 3,246 miles of conductor and -- from
22 since the last rate case.

1 MR. FOSCO: Okay. Thank you. I have no further
2 questions. Mr. Borovik might have a few.

3 CROSS EXAMINATION

4 BY

5 MR. BOROVIK:

6 Q. I'm Michael Borovik for Commission Staff.

7 Good morning, Mr. Williams.

8 A. Good morning.

9 Q. I just have very few questions regarding
10 Rider SEA.

11 A. Okay.

12 Q. Mr. Williams, are you aware of any other
13 utilities that currently have an existing storm
14 adjustment-type rider?

15 A. I'm not certain if there's any utilities in
16 the country that have a storm rider.

17 MR. BOROVIK: No further questions.

18 MR. FOSCO: Your Honor, I would move for
19 admission of Staff Cross Exhibits 4 and 5.

20 JUDGE HILLIARD: Objections?

21 MR. BERNET: No objection.

22 JUDGE HILLIARD: Staff Cross Exhibits 4 and 5

1 will be admitted.
2 (Whereupon, Staff Cross
3 Exhibit Nos. 4 and 5 were
4 admitted into evidence
5 as of this date.)

6 JUDGE HILLIARD: Next questioner, please.

7 CROSS EXAMINATION

8 BY

9 MS. SODERNA:

10 Q. Good morning, Mr. Williams.

11 A. Good morning.

12 Q. Your Honors, Julie Soderna representing the
13 Citizens Utility Board. I was not here this
14 morning to enter an appearance. Thank you.

15 I'm going to ask you a few questions
16 referring --

17 JUDGE HAYNES: You need to speak into the
18 microphone.

19 MS. SODERNA: Sorry.

20 BY MS. SODERNA:

21 Q. All right. Referring specifically to your
22 surrebuttal testimony on Page 7 at Lines 146 to

1 148, you discuss the company's vegetation
2 management program. And you refer specifically to
3 a Commission-ordered Liberty Consulting Audit
4 Report.

5 Are you familiar with the proceeding in
6 which the Commission directed that audit to be
7 conducted?

8 **A.** Yes, I'm familiar in a general sense. I'm
9 very familiar with that.

10 **Q.** Okay. Now, that was ICC Docket 01-0423,
11 which is one of ComEd's previous delivery service
12 rate cases; correct?

13 **A.** That's correct.

14 **Q.** In what capacity did you work at ComEd at
15 that time, the time of that docket?

16 **A.** I'm sorry?

17 **Q.** That was around 2000, 2001. In what
18 capacity were you with ComEd?

19 **A.** I was not with ComEd at that time.

20 **Q.** Okay. Are you familiar with the massive
21 outages that took place on ComEd's distribution
22 network during the summer of 2000?

1 **A.** If I remember, that outage is in 1999.

2 **Q.** 1999, you're correct, yes. That's right.

3 And wasn't the main driver of those
4 outages the company's failure to properly maintain
5 its distribution system for many years prior to
6 that time?

7 **MR. BERNET:** I'm going to object to the
8 question. This witness just testified that he
9 wasn't an employee of ComEd at the time of those
10 outages.

11 **MS. SODERNA:** He did testify that he was
12 familiar with it.

13 **JUDGE HILLIARD:** Yeah. In his capacity, he may
14 have some knowledge. He can answer the question,
15 if he knows the answer.

16 **THE WITNESS:** I just have very high-level
17 knowledge about that. It's part of -- when I came
18 on board, I reviewed a lot of documents about the
19 history of the company, challenges we've had.

20 So I just know from a holistic
21 perspective. I don't know the details because I
22 wasn't here, but I am familiar with that incident

1 that occurred and the problems that occurred during
2 that time.

3 We've made a lot of changes in how we do
4 business as a result of that. But I was not here
5 during the time.

6 BY MS. SODERNA:

7 **Q.** Fair enough.

8 Are you familiar as to whether those
9 outages were caused by storms?

10 **A.** I don't believe there's -- you're talking
11 about the 1999 --

12 **Q.** Right.

13 **A.** I don't believe that was storm; but, again,
14 I don't know all the details of what occurred
15 during that time, but I don't believe there were
16 storms.

17 **Q.** Are you familiar with the driver of those
18 outages -- strike that.

19 The outages were primarily due to years
20 of foregone investment and maintenance in the
21 distribution system; isn't that right?

22 **A.** That could be. Again, I don't know the

1 details. I know our system was not as robust as it
2 is at this time, but I don't know all the details.

3 Q. Well, as a result of those outages, the
4 company spent extraordinary amounts on system
5 upgrades, repairs, and improvements after those
6 outages; is that right?

7 A. It's my understanding we did make
8 significant investments after those outages.

9 Q. And isn't it true that because of the
10 extraordinary investment that was required as a
11 result of those outages, the Commission thought it
12 necessary that an audit be conducted to review the
13 investments, which is the Liberty Consulting Audit
14 Report that you're referring to?

15 MR. BERNET: You're asking what the Commission
16 was doing as a result of the outages, is that --

17 MS. SODERNA: No.

18 BY MS. SODERNA:

19 Q. As a result of the extraordinary investment
20 that occurred subsequent to the outages, which was
21 my previous question, that that was the reason the
22 Commission thought it was necessary that an audit

1 be conducted to review those investments.

2 **A.** I'm not exactly sure what was the
3 Commission's exact intent. I do know as a result
4 of the performance and I know as a result of
5 instituting such things as our veg management
6 program and some other incidents we've had, that
7 the Commission wanted to have some verification
8 that we were following through on the things that
9 we've committed -- committed to.

10 **Q.** And you also refer to on Lines -- let's
11 see, Page 7 -- sorry, Page 6, Lines 115 and 116.

12 You refer to the company's desire to
13 avoid potential regulatory and legal issues.

14 Would this situation -- the Liberty
15 Audit Report that you referred to generally, would
16 that be the type of regulatory and potentially
17 legal issue that you suggest ComEd desires to
18 avoid?

19 **A.** Excuse me.

20 JUDGE HILLIARD: Turn off your cell phones right
21 now, please.

22 MR. FOSCO: Your Honor, that may have been our

1 computer. I apologize.

2 THE WITNESS: Can you repeat that question
3 again?

4 BY MS. SODERNA:

5 Q. Sure. I'll refer you directly to your
6 testimony and just ask.

7 You cite as a reason that ComEd would
8 seek to avoid major storm damage the regulatory and
9 potentially legal issues.

10 A. Yeah.

11 Q. And I'm just kind of probing what you mean
12 by that.

13 Would something like the outages in 1999
14 and the subsequent repairs and Commission action
15 with the audit report, would those be the types of
16 regulatory and legal issues?

17 A. Well, I -- and this is in response to
18 Mr. Linkenback's concern; that if we were to
19 receive such a rider, we would back off our
20 preventative maintenance programs and basically
21 imply that it would give us an incentive to back
22 off the programs that we use to maintain our system

1 and try to keep it reliable.

2 So my response was that it would not
3 make sense for us to deliberately back off of our
4 preventative maintenance programs. One, we do have
5 a commitment with the Commission that we will -- we
6 do have a 48-month tree trimming cycle that we have
7 to maintain our conductors clear.

8 So for us to just be negligent and to do
9 that, that's one of the issues that I mentioned
10 when I talked about legally that would be a
11 problem. Plus, it would be irresponsible for us to
12 back away from our programs that help us to provide
13 reliable service to our customers.

14 So that's the nature of my discussion
15 there.

16 **Q.** And are you familiar whether the company
17 has ever proposed a similar rider to cover storm
18 expense restoration costs previously?

19 **A.** I'm not certain. In the time I've been
20 here, this is the first time that I've seen it.
21 I'm not certain if there was one in the past.

22 **Q.** Are you familiar at all what previous

1 Commission determinations were with regard to storm
2 restoration cost, how those were treated in
3 previous Commission rulings?

4 **A.** Let me make sure I understand you. Do you
5 mean rider requests in the past or do you mean how
6 our costs was just handled?

7 **Q.** Generally, right.

8 **A.** Typically, when we incur our expense, you
9 know, we file it with the upcoming rate case. And
10 it depends on a fair ruling at that time to recover
11 our costs; but at a later date, there's a lag in
12 the recovery.

13 **Q.** And would you agree that it's typical for
14 the company -- or for the Commission to levelize or
15 normalize the storm restoration expenses over a
16 period of years to take into account variations in
17 the level of annual expense?

18 **A.** I'm not certain if that's how the
19 Commission has handled it in the past. I know in
20 the rider we're proposing to -- the number that
21 we're proposing would actually look at levelizing
22 our storms over the past six years. I'm not

1 exactly certain as to how the Commission levelizes
2 that in their ruling.

3 Q. Are you generally aware whether the levels
4 of storm restoration expense are more or less
5 volatile today than they were in the late '90s and
6 early 2000s?

7 A. I would say they're more volatile today
8 than they have been in the past.

9 Q. And the expense is more volatile because of
10 weather volatility or for what reason?

11 A. If you were to look at our performance in
12 2007, you know, we spent about \$60 million in storm
13 costs. In 2006, it was about \$38 million that was
14 spent in storm costs. Prior to that, it was -- you
15 know, the average -- it may be 20 million or less.

16 So if you were look at the change in
17 most recent years, 2007 was the worst storm year
18 we've had; but it looks like the storms are really
19 picking up and the expense has really been far more
20 extensive than anything we've experienced in the
21 past.

22 Q. Specifically, with regard to the company's

1 proposed Rider SEA, you reject Mr. Linkenback's
2 recommendation to use a national weather service
3 definition or metric to determine whether a storm
4 caused customer outages; correct?

5 **A.** That's correct.

6 **Q.** And on Page 8 of your surrebuttal testimony
7 at Lines 162 to 163, you state that, As set forth
8 in the rider, storm is not limited to
9 thunderstorms; although, this is what we expect to
10 be the most common occurrence. And storm for this
11 purpose means any disturbance of the physical
12 environment. Do you see that?

13 **A.** Yes, I do.

14 **Q.** So would you agree with me that there's a
15 great deal of judgment involved in determining what
16 type of weather occurrence would be eligible for
17 recovery under Rider SEA?

18 **A.** It's really -- I don't think it's a lot of
19 judgment in terms of what would occur. I mean, we
20 mentioned at the time that we look at an event, an
21 environmental event, a weather event, an earthquake
22 or whatever, that causes us to experience an outage

1 that impacts 10,000 or more customers for three
2 hours or greater.

3 For us, that's how we define a storm
4 because it impacts a significant number of
5 customers for a significant period of time. And it
6 doesn't necessarily have to be tied to a
7 thunderstorm. It can be a wind storm. It can be
8 an ice storm. You can have earthquake. You can
9 have all kinds of disasters that would cause 10,000
10 or more customers to be out of service.

11 And we think that's just a more
12 reasonable way to look at things because it's not
13 just the weather that -- it's the number of
14 customers impacted and for how long.

15 **Q.** Would hot weather be included in your
16 definition of a disturbance of the physical
17 environment?

18 **A.** I'd have to think about that because I --
19 you just mean normal warm weather, just normal hot
20 weather, but we didn't have a disturbance?

21 JUDGE HILLIARD: Let's say 100 degrees for
22 five days.

1 THE WITNESS: Yeah. I didn't think about that
2 at that time. I'm thinking normal environmental
3 issues. I can't say that we were thinking about
4 that, a hot weather day for an extended period of
5 time.

6 But, you know, we're just thinking
7 weather disturbances that would cause -- weather
8 disturbances or environmental issues that would
9 cause 10,000 or more customers for an extended
10 period of time. But I can't tell you that that's
11 specifically what I was thinking about when we
12 thought about the rider.

13 BY MS. SODERNA:

14 Q. So it's possible that an extended period of
15 hot weather could be -- that would result in
16 outages to 10,000 or more customers could be
17 considered for -- could be considered eligible for
18 recovery under Rider SEA?

19 A. You know, I can't respond to that
20 specifically. I mean, I did not put the rider
21 together. You know, I was in -- I'm familiar with
22 why we want it, but I couldn't tell you that that's

1 specifically was in there in terms of the weather.

2 And I don't -- I think Mr. Crumrine was
3 involved in putting this together. He would
4 probably be the person to talk to with more
5 specifics about what's in that rider.

6 **Q.** Okay. Are you familiar with the term "heat
7 storm"?

8 **A.** Am I familiar with heat storm?

9 **Q.** Heat storm.

10 **A.** Yeah. I've spent a significant amount of
11 time down in the South and we've had some heat
12 storms there. So, yes, I'm familiar with what it
13 could be.

14 **Q.** How would you define it?

15 **A.** Well, we've had some -- I guess we've had
16 some places I've been -- and I was in Mississippi
17 for four and a half years. And, you know, a heat
18 storm can be -- it could be an extended period of
19 time of intense heat and humidity. It can even be
20 involved with wind.

21 I'm not an expert in terms of the actual
22 definition, but I remember something like that

1 being referred to as a heat storm.

2 Q. Could you say sitting here whether
3 something like that that you just described would
4 be eligible for recovery under Rider SEA?

5 A. I'm not certain. Again, I would refer that
6 to Mr. Crumrine.

7 Q. Would the company take into account other
8 factors contributing to customer outages when
9 evaluating whether a weather occurrence is eligible
10 for recovery under SEA?

11 A. Could you just repeat? When a customer --

12 Q. I'm sorry.

13 Would the company take into account
14 other factors contributing to customer outages when
15 evaluating whether a weather occurrence is eligible
16 for recovery under Rider SEA?

17 And, for example, would the company
18 consider if, like, delinquent vegetation management
19 or age distribution wires in the area contributed
20 to the outage after a weather occurrence?

21 A. I would be speculating, but I would think
22 if we have an issue that's -- I would expect that

1 if we have an issue that may have been a
2 preexisting problem on our part, that we would be
3 looking at that on an individual basis.

4 But I would speculate if I was to tell
5 you exactly how that would be broken out. If we
6 had a preexisting problem, in my mind, we could not
7 use a preexisting problem to seek recovery under a
8 rider.

9 Q. Okay. And would Mr. Crumrine be someone
10 who could answer that more specifically?

11 A. Right. He would be a person that knows
12 exactly what's in the rider. I just don't know all
13 the details of everything that's in that rider.

14 MS. SODERNA: Those are all the questions I
15 have. Thank you.

16 JUDGE HILLIARD: Any redirect?

17 MR. BERNET: Yes. Can I have a moment,
18 your Honor?

19 JUDGE HILLIARD: Sure.

20 (Recess taken.)

21 JUDGE HILLIARD: Are you ready?

22 MR. BERNET: Yeah.

1 REDIRECT EXAMINATION

2 BY

3 MR. BERNET:

4 Q. Do you remember, Mr. Williams, Mr. Fosco
5 asked you some questions about the unit cost and
6 unit cost increases for services, and one of the
7 numbers that he calculated was \$395,000 as a unit
8 cost compared to the average that's in your
9 testimony of 105,000; do you remember that?

10 A. Yes. I remember 369 or some 300 number.

11 Q. It was -- they were the FERC accounts,
12 right, for services and the FERC accounts for
13 underground conduit and underground conductors?

14 A. They were included in that number.

15 Q. And why is it that the calculation of
16 average unit costs over a multiple-year period is
17 not an appropriate way to evaluate ComEd's costs?

18 A. Let me make sure I understand. You mean
19 the average cost over -- comparing one year to
20 another or the average cost as I laid it out
21 discussing just some component of our investments,
22 namely the underground cable?

1 Q. Yeah, the latter.

2 MR. FOSCO: I think I'm going to object. The
3 only question that I asked about the 2000 to 2004
4 period versus the 2005 to 2006, the only question I
5 asked about that part of his testimony was how did
6 he calculate his percentages.

7 He's going way beyond the scope of my
8 direct on that point, I believe. We did ask about
9 individual years, but we did not ask about the
10 range of years.

11 MR. BERNET: You did the calculation of over a
12 range of years.

13 MR. FOSCO: No. I did it for just one year, for
14 2006.

15 MR. BERNET: Okay. 2005 to 2006.

16 MR. FOSCO: No, just 2006, just the average unit
17 cost for 2006 was what I established.

18 JUDGE HAYNES: You know, I'd like --

19 MR. BERNET: I do believe you compared the two,
20 2005 to 2006.

21 MR. FOSCO: Well, only because that's the way to
22 get the Delta for the difference in investment.

1 JUDGE HAYNES: I'd like to hear the witness'
2 answer.

3 MR. FOSCO: Okay. That's fine.

4 JUDGE HILLIARD: Answer the question, if you
5 recall the question.

6 BY MR. BERNET:

7 Q. Let me ask the question another way.

8 We had a lot of discussion about
9 year-over-year changes in unit costs. Why is it
10 that ComEd -- that the Commission shouldn't rely on
11 ComEd's year-over-year unit costs in evaluating its
12 costs for new services?

13 A. One thing I think that's really
14 important -- I mean, as we do our projects to
15 provide service for our customers, I mean, we go
16 through a very rigorous process for each one of the
17 projects that we do.

18 I mean, every service that we provide
19 for the customers, we scrutinize whether it's a
20 large project or a small project. And we make sure
21 that all the costs that is involved is reasonable
22 costs. We make sure we're prudent about the

1 investments that we're making.

2 When we track -- we like to look at what
3 is the typical cost for providing service for the
4 customer. And it's all kinds of variations. If
5 you just used an average cost, it could be
6 misleading because some costs are going to be very
7 low for a particular residential customer versus a
8 cost for a commercial customer rate very, very
9 high.

10 We look at what does it take to provide
11 that service for the customer. And we only include
12 the cost that it takes to provide that particular
13 service. So when you just try to say what's the
14 average -- that doesn't necessarily provide
15 meaningful data.

16 The key is every service that we provide
17 for our customer, every project we do, we make sure
18 that we use our same rigorous process to try to
19 provide that service at the most reasonable cost
20 possible for our customer.

21 But when you start getting into just the
22 averages, it's just -- I guess, to me, it's -- it

1 could be meaningless in the overall scheme of
2 things because the bottom line is we have to make
3 sure that whatever in-plant we're providing to our
4 customers, we're providing it at the most
5 reasonable cost.

6 Just through averages is just -- in my
7 mind, doesn't really help you arrive at much of
8 anything versus bottom line. You try to make sure
9 whatever we're providing is actual investments that
10 were made.

11 EXAMINATION

12 BY

13 JUDGE HILLIARD:

14 **Q.** So why is it a better idea from your point
15 of view to compute the cost per unit on a
16 cumulative basis rather than on a per year basis as
17 Mr. Fosco suggested?

18 **A.** What we try to -- what I tried to show in
19 response to Mr. Lazare's calculation -- his
20 calculation focused on what was the increase from
21 2000 up to 2006.

22 And what I tried to show in doing the

1 average cost, looking at what is our current
2 in-plant versus what is the cost of in-plant to
3 show what is the increase over each year, just to
4 show what is the escalation in total plant; just
5 trying to give a feel for how much is increasing in
6 response to his question.

7 Although, as I stated before, looking at
8 just what that average cost is, you have to ask,
9 well, how meaningful is it versus what is the new
10 in-plant for our customers and what is the cost of
11 that new in-plant.

12 **Q.** Well, I think your testimony is essentially
13 a historical summation of your cost for plant in
14 place; whereas, the number he was talking about is
15 the number -- the cost to the company that occurred
16 during one specific year. Would you agree with
17 that?

18 **A.** I would agree for that -- I mean, the
19 example he was using was the underground cable and
20 duct. But then you have to look at, well, what was
21 that underground cable and duct associated with?

22 Was this cable and duct associated with

1 a new commercial customer that was put in service,
2 you know, and what other costs are associated with
3 that, what was the total cost associated with that
4 particular service versus just focusing on that one
5 particular piece.

6 That would be my concern. Just drawing
7 a conclusion on the average that, boy, this cost is
8 absurd; where you're looking at what is the cost
9 for the service that's being provided and is that
10 service -- total cost associated with that service,
11 is it reasonable?

12 **Q.** So your position is that if you only look
13 at one year, you may have atypical costs rather
14 than looking at a broader scope and you would get a
15 better average picture of what the cost is?

16 **A.** I think that's reasonable.

17 **Q.** That's your position?

18 **A.** That's my position to show what is the
19 average -- you know, if I was looking at the
20 average cost increase, I just feel that gives a
21 better picture of what's happening year to year.

22 **Q.** But isn't it true that your cost of

1 materials and your cost of labor goes up year after
2 year after year?

3 **A.** That's correct.

4 **Q.** So that those earlier years by almost --
5 by -- aren't necessarily cheaper on a per unit
6 basis?

7 **A.** Right, but even our average year was
8 showing the escalation as well. Even doing it in
9 an average showing the in-plant, it was showing the
10 steady increase, but just not the vast increases
11 that may be shown by the calculation that
12 Mr. Lazare provided.

13 JUDGE HILLIARD: Okay.

14 MR. BERNET: Anything else?

15 JUDGE HILLIARD: No.

16 FURTHER REDIRECT EXAMINATION

17 BY

18 MR. BERNET:

19 **Q.** Mr. Fosco also asked you some questions
20 about ComEd's capitalized labor. Do you remember
21 those questions?

22 **A.** Yes, I do.

1 **Q.** Does ComEd keep records of its labor
2 expenses associated with plant additions?

3 **A.** In some projects -- and I mentioned this a
4 little earlier -- some of our major projects. On a
5 project by project basis, you can actually see a
6 breakout of labor and material on some major
7 projects that we do. And it's just a matter of
8 looking at the detail of that specific project.

9 However, as I stated earlier, when we
10 showed the role up here and looking at all the
11 in-plant for the rate base, you're looking at all
12 costs associated and it may not necessarily be a
13 breakout of labor and materials specifically for
14 every single thing that's been done.

15 **Q.** Do you know what system ComEd maintains its
16 records in that has the labor information in it?

17 **A.** I know we have an accounting system and we
18 also have passport, but I don't know exactly how
19 each one is tied together. That's something that
20 would be -- a finance person can describe better.

21 MR. BERNET: That's all I have.

22 JUDGE HILLIARD: Any recross?

1 MR. FOSCO: I have some brief recross,
2 your Honor.

3 RECROSS EXAMINATION

4 BY

5 MR. FOSCO:

6 Q. Mr. Williams, returning to the unit cost
7 issue again, if I understand your testimony, it's
8 that, you know, Mr. Lazare's attempt to look at
9 increases in each year is not appropriate or
10 useful; isn't that correct?

11 A. Can you tell me what you're referring to,
12 Mr. Fosco?

13 Q. I wasn't referring to a line, but --

14 A. Just a general comment?

15 Q. Yeah. But I recall that being in your
16 testimony. Do you agree or is that your
17 recollection of your position?

18 A. Can you repeat the question?

19 Q. Sure.

20 If I understand your position, you do
21 not believe Mr. Lazare's analysis of individual
22 year's increases is reasonable or a reasonable

1 basis to analyze the reasonableness of cost; is
2 that correct?

3 **A.** That's correct, based on how I described
4 it. I -- looking at how -- yes, that's correct.

5 **Q.** Okay. If I understand your testimony you
6 just gave to the judges, you indicated that any
7 individual year may be atypical; correct?

8 **A.** You can have a year that's atypical
9 depending on the amount of work that's going on
10 one year versus another.

11 **Q.** Wouldn't it be reasonable for the
12 Commission to look at individual years, assess the
13 difference from prior years and, if there is an
14 atypical difference, to obtain information about
15 why or why not the numbers for that year varied
16 from prior years?

17 **A.** I think that can be a reasonable request.
18 You may have one year where there's more building
19 going on in our service territory versus another
20 year. You can have more residential, more
21 commercial.

22 And you can have a year that the economy

1 was slow, like the current year; things are slowing
2 down and things may be a lot lower. So I do think
3 when you have big swings, that it would not be an
4 unreasonable request to see why the difference.

5 Q. Okay. And then with respect to the -- you
6 indicated that certain information might be
7 available about capitalized labor in certain
8 project information files; is that correct?

9 A. That's correct.

10 Q. But I believe we established earlier that
11 that information is not available in the form of
12 the FERC accounts which is the basis for the rate
13 increase requested in this case; correct?

14 A. My comment was, in a general sense, we
15 typically don't keep track in that manner. We do
16 have projects where we manage where you're actually
17 tracking labor and material costs on various
18 projects.

19 Q. And for Staff to analyze that, they would
20 have had to look at every single project then in
21 those project files; correct?

22 A. Well, that would be one of the challenges

1 that it would have to -- you would have to look at
2 a lot of projects.

3 MR. FOSCO: Thank you. No further questions.

4 JUDGE HILLIARD: Redirect?

5 MR. BERNET: No redirect.

6 JUDGE HILLIARD: Thank you, sir. You're
7 excused.

8 We'll have a four-minute break here.

9 (Recess taken.)

10 (Witness sworn.)

11 PETER J. LANZALOTTA,

12 called as a witness herein, having been first duly
13 sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY

16 MR. MOSSOS:

17 Q. Elias Mossos on behalf of the People of the
18 State of Illinois.

19 Could you please state your full name
20 for the record and spell your last name.

21 A. Peter J. Lanzalotta, L-a-n-z-a-l-o-t-t-a.

22 Q. And what is your business address?

1 **A.** 67 Royal Point Lane, Hilton Head Island,
2 South Carolina 29926.

3 **Q.** And by whom are you employed?

4 **A.** I'm self-employed.

5 **Q.** And I have what's been marked as the Direct
6 Testimony of Peter J. Lanzalotta on behalf of the
7 People of the State of Illinois, marked for
8 identification as AG Exhibit P JL 4.0, as well as AG
9 Exhibit P JL 2, AG Exhibit P JL 4.1, and AG Exhibit
10 P JL 4.2, which were filed on February 26, 2008, on
11 E-Docket.

12 Did you prepare and direct the
13 preparation of that testimony?

14 **A.** Yes.

15 **Q.** And did you prepare what's been labeled as
16 the Rebuttal Testimony of Peter J. Lanzalotta on
17 behalf of the People of the State of Illinois, as
18 well as AG Exhibits 7.1, 7.2, and 7.3 which were
19 filed on April 8th, 2008, on E-Docket?

20 **A.** Yes, I did.

21 JUDGE HILLIARD: Is the testimony 7.0?

22 MR. MOSSOS: Correct.

1 BY MR. MOSSOS:

2 Q. If you were asked the questions contained
3 in your testimony today, would your answers be the
4 same?

5 A. Yes.

6 Q. Is the information contained in your
7 testimony and attached exhibits true and correct to
8 the best of your knowledge and belief?

9 A. Yes.

10 MR. MOSSOS: Your Honors, we would move the
11 testimony of Mr. Lanzalotta and the accompanying
12 exhibits into evidence at this time.

13 JUDGE HAYNES: I didn't get the numbers of the
14 attachments to his direct testimony.

15 MR. MOSSOS: His direct testimony was P JL 4.0.
16 And the attachments were P JL 4.1, P JL 4.2, and P JL
17 2.

18 JUDGE HILLIARD: Objections?

19 MR. RIPPIE: None.

20 JUDGE HILLIARD: The exhibits and attachments
21 outlined by Counsel will be admitted into the
22 record.

1 (Whereupon, AG PJJ
2 Exhibit Nos. 4.0, 4.1, 4.2, 2, and 7.0, 7.1, 7.2,
3 7.3 were
4 admitted into evidence
5 as of this date.)

6 MR. MOSSOS: We tender Mr. Lanzalotta for cross.

7 MR. RIPPPIE: I think BOMA may have waived, but
8 regardless in this case, I am prepared to proceed
9 first.

10 JUDGE HILLIARD: All right.

11 CROSS EXAMINATION

12 BY

13 MR. RIPPPIE:

14 Q. Good morning, Mr. Lanzalotta. I don't know
15 if you remember me. We met a number of years ago.

16 A. Mr. Rippie?

17 Q. Yes.

18 A. I remember.

19 Q. We'll start out easy.

20 Would you agree with me that promoting
21 reliability, security and modernization of the
22 electric grid are desirable objectives?

1 **A.** Yes. They're desirable. They also have
2 cost implications, however. Typically, promoting
3 reliability, modernization themselves, you want to
4 strike a balance between cost and function.

5 **Q.** Well, but my question was just whether or
6 not those are desirable objectives. We can get
7 into cost at a later point.

8 The answer to my question is, yes, they
9 are desirable?

10 **A.** Generally desirable, yes.

11 **Q.** Would you also agree that adopting advanced
12 distribution technologies can benefit customers?

13 **A.** Yes.

14 **Q.** By, for example, improving reliability
15 through reduction in outage frequency or outage
16 duration?

17 **A.** Yes.

18 **Q.** Would you also agree that advanced
19 distribution technologies can provide customers
20 with greater information about their electric use?

21 **A.** Yes.

22 **Q.** And that they can thereby facilitate retail

1 competition and demand response inefficiency
2 programs; is that correct?

3 **A.** I believe it is.

4 **Q.** It's also true, is it not, that they can
5 actually reduce operational costs in some
6 circumstances?

7 **A.** Yes, I believe that's a fact.

8 **Q.** Are you familiar with Staff's testimony
9 concerning the benefits of advanced distribution
10 systems that's been submitted in this case?

11 **A.** I believe that I am. I've read all the
12 testimony that's been submitted.

13 **Q.** Would you disagree with the Staff's
14 conclusion that, quote, clearly moving from a
15 traditional distribution system to a more advanced
16 distribution system is a significant and very
17 important step?

18 **MR. MOSSOS:** Can you identify which Staff
19 witness?

20 **MR. RIPPIE:** That's Mr. Stoller, Staff
21 Exhibit 21, Page 16, Lines 336 through 338.

22 **THE WITNESS:** I think it's an important

1 transformation. The implementation of smart grid
2 technology in a number of areas has already been
3 implemented by the company.

4 It's not the kind of event where we go
5 to bed one day and we've got the old grid and we
6 wake up the next day and we have the smart grid.
7 The smart grid is being implemented in stages
8 virtually even as we sit here today.

9 BY MR. RIPPIE:

10 **Q.** Is -- I'm sorry. I didn't mean to
11 interrupt.

12 **A.** I was finished.

13 **Q.** I certainly didn't mean to imply by Staff
14 that it was going to be sudden in the sense of, as
15 you say, we go to sleep with the old grid and wake
16 up with the smart grid.

17 So if I slightly rephrase Mr. Stoller's
18 quote, would you agree that moving from traditional
19 distribution systems to more advanced distribution
20 systems is a significant and very important
21 process?

22 **A.** I guess I would.

1 **Q.** Now, Dr. Schlaf, Staff Exhibit 13, Page 3,
2 Lines 47 through 49, defines a smart grid as an
3 electricity delivery network that incorporates
4 digital technologies and devices to enhance the
5 efficiency and security of the electric grid.

6 Would you accept that definition for the
7 purposes of our discussion here today?

8 **A.** Yes, I guess I would.

9 **Q.** So if I use the term "smart grid," you'll
10 understand unless we specifically say otherwise
11 that I mean what Dr. Schlaf meant?

12 **A.** Yes.

13 **Q.** Now, would you also acknowledge that the
14 benefits of distribution system modernization and
15 smart grid deployment have been widely accepted by
16 policy makers?

17 **MR. MOSSOS:** Can you be more specific what
18 policy makers --

19 **MR. RIPPIE:** I can't. I put down 40 minutes.
20 So I'm trying to go quickly.

21 **BY MR. RIPPIE:**

22 **Q.** Let's say, for example, the Congress of the

1 United States.

2 **A.** By some policy makers, yes. I'm also
3 familiar with some groups of policy makers that
4 have adopted more of a, you know, let's go slow and
5 let's see what -- how this thing plays out point of
6 view.

7 **Q.** So if I put the statement to you that I did
8 before, that the benefits of distribution system
9 modernization and smart grid technologies are
10 widely accepted by policy makers, is it your
11 testimony that that is not the case?

12 **A.** Again, the benefits may be widely accepted.
13 Incurring the costs necessary to achieve those
14 benefits may not be so widely accepted.

15 **Q.** Now, my question didn't ask you anything
16 about costs, though, did it?

17 **A.** You were -- you wanted me to discuss
18 whether or not these benefits were widely accepted.

19 **Q.** And they are, aren't they?

20 **A.** I said, with a caveat, yes.

21 **Q.** Okay. And are you familiar with the Energy
22 Independence and Security Act of 2007?

1 **A.** Yes.

2 **Q.** And isn't it true that the Energy
3 Independence and Security Act of 2007 declares that
4 it is, quote, the policy of the United States to
5 support the modernization of the nation's
6 electricity, transmission and distribution system
7 to maintain a reliable and secure electricity
8 infrastructure that can meet future demand growth,
9 unquote?

10 **A.** I believe it says that, yes.

11 **Q.** And does it also specifically refer to both
12 AMI and distribution automation as technologies
13 that you'd characterize, in the words of Bill, part
14 of that effort, if you know?

15 **A.** I believe it does.

16 **Q.** Now, in your direct, Page 3, Lines 51
17 through 53, you testify -- tell me if I'm quoting
18 correctly -- that there does not appear to be a
19 pressing mandate to significantly increase the
20 company's historical reliability performance to
21 justify the rider SMP projects and process proposed
22 by the company. Did I read that correctly?

1 **A.** Yes, you did.

2 **Q.** And you also testify on Page 22 of your
3 direct testimony, Lines 450 through 51, that there
4 is no apparent need to introduce expensive new
5 spending solely to drive a shift in system
6 reliability. Did I read that correctly?

7 **A.** Yes, you did.

8 **Q.** And by shift there, I take it you mean an
9 increase; right?

10 **A.** Yes.

11 **Q.** Okay. So am I correct that, in your view,
12 ComEd's overall level of system reliability meets
13 the level required of it?

14 **A.** I'm not sure that there's a specific
15 reliability level that is spelled out in the
16 regulations.

17 **Q.** Well, I didn't ask you about regulations.

18 I mean, as I understand your testimony
19 from the previous pieces that I quoted, you said
20 the reliability was good enough. Is that a fair
21 colloquial summary?

22 **A.** I said the reliable -- I said there was no

1 pressing need to improve reliability beyond what
2 was being accomplished.

3 Q. Is there a not pressing need to improve it
4 beyond what's being accomplished? I'm not trying
5 to mince words with you. I'm just trying to figure
6 out what you're saying.

7 A. I'm saying I don't see that there is a
8 pressing need to improve reliability beyond what's
9 currently being accomplished by the current regime.

10 Q. Okay. At Page 10 of your direct testimony,
11 you indicate that ComEd and other utilities face a,
12 quote, challenge, unquote, from aging distribution
13 infrastructure, which I think is also your term; is
14 that correct?

15 A. Yes, it is.

16 Q. Now, that challenge would be to how to keep
17 their system up to date in the face of currently
18 installed equipment that's aging; is that right?

19 A. Yes.

20 Q. You also discuss that subject at some
21 length in your rebuttal testimony; am I correct?

22 A. Yes.

1 **Q.** Now, do you claim that by rejecting ComEd's
2 efforts to modernize its system through Rider SMP
3 that the Commission will somehow help ComEd replace
4 its aging infrastructure?

5 **A.** I don't -- I'm not sure that I say that by
6 rejecting SMP the Commission will help ComEd
7 modernize its aging infrastructure.

8 I think the thrust of what I say is by
9 approving SMP in its form, it might well distract
10 the company from this effort.

11 **Q.** I'll get back to that in just a second.

12 But you would agree, would you not, that
13 one of the stated reasons that ComEd proposed Rider
14 SMP was to allow it to replace previous technology
15 that might be aging with modern technology; right?

16 **A.** A lot of the question on aging
17 infrastructure has relatively little to do with
18 technology. If you're looking at poles, wires,
19 cross arms, I'm not sure -- I'm not sure there's
20 much of a digital equivalent for those things.

21 **Q.** I promise you I'll get to that in a minute
22 since you brought it up.

1 Can you first answer my question? Is
2 the answer yes?

3 **A.** Could you repeat the question?

4 **Q.** Sure.

5 One of the stated reasons ComEd proposed
6 Rider SMP was to allow it to replace the previous
7 technology that might be, for example, aging with
8 new more modern technology; right?

9 **A.** I think so, yes.

10 **Q.** Now, it is true that ComEd's testimony --
11 for example, Mr. Williams -- talks about new cable
12 technologies; right?

13 **A.** Yes.

14 **Q.** And there are new technologies in place for
15 relaying; correct?

16 **A.** Yes.

17 **Q.** Switching; right?

18 **A.** Yes.

19 **Q.** Reclosing; right?

20 **A.** Yes. I mean, these are things that the
21 company is already putting on to their system.

22 **Q.** Those are new technologies that can be

1 installed to replace previously installed
2 equipment; am I correct?

3 **A.** If you were to replace previously installed
4 equipment, I'm not sure you would have an option
5 but to go with these more modern technologies; but,
6 yes.

7 **Q.** Now, since I promised I'd get back to it,
8 on Page 25, Line 518 through 21 of your direct
9 testimony, you state, The company has not provided
10 sufficient business justifications for spending --
11 in this particular case, it's on SCADA -- on SCADA
12 improvements and other aspects of distribution
13 automation in preference to the replacement of
14 aging infrastructure. Did I read that correctly?

15 **A.** Yes.

16 **Q.** And on the same page and carrying over to
17 the next at Lines 537 through 540, you testify
18 that, In addition, the company failed to provide
19 sufficient business justifications for spending on
20 line isolating control and other aspects of
21 distribution automation in preference to more
22 normal spending on the replacement of aging

1 infrastructure. Do you see that?

2 **A.** Yes.

3 **Q.** Can you point me to the testimony of any
4 ComEd witness at any stage of this proceeding that
5 suggests that a dollar of ComEd SMP spending is
6 going to be diverted from the replacement of
7 otherwise aging infrastructure?

8 **A.** No, I'm not sure that I could.

9 **Q.** In fact, operationally, there's nothing
10 exclusive about replacing aging infrastructure and
11 at the same time modernizing those components of
12 the system that can be replaced by new
13 technologies; isn't that right?

14 **A.** If you're looking at those technologies
15 that can be replaced by modern digitalized future
16 equivalent, I think I might agree.

17 **Q.** Okay. And even for the technologies that
18 can't, there's nothing exclusive about going out
19 and putting in a new Mark 1 wood pole at the same
20 time as you happen to be putting on that Mark 1
21 wood pole an advanced sensor to detect when that
22 segment of the line is or is not out of service;

1 right?

2 **A.** That's right.

3 **Q.** Now, you cite a couple pieces of
4 information to support your assertion that ComEd
5 has an aging infrastructure problem.

6 If I'm correct, the first that you cite
7 is an inference from ComEd classification called,
8 quote, equipment failure; is that right?

9 **A.** I cite that, yes.

10 **Q.** Now, is it your intent by citing to ComEd's
11 statistics for, quote, equipment failure, unquote,
12 to try to distinguish between kinds of failures
13 that you believe might be caused by the age of
14 equipment from kinds of failures like, for example,
15 overloads or contamination that doesn't relate to
16 age?

17 **A.** You're asking if I'm distinguishing between
18 those?

19 **Q.** Yes.

20 **A.** Yes.

21 **Q.** Okay. And you agree with me that, for
22 example, overloads and contamination wouldn't be

1 related to age?

2 **A.** Contamination might be under certain
3 situations; but overload, certainly not.

4 **Q.** Okay. And contamination generally wouldn't
5 be if it was contamination by road salt or by soot
6 from a fire or by a product by a nearby industrial
7 plant, that would have nothing to do with the aging
8 equipment; right?

9 **A.** That's correct.

10 **Q.** Now, did you ask ComEd what the definition
11 of the failure code equipment failure means on its
12 system?

13 **A.** No.

14 **Q.** So if I told you that that classification
15 includes overloads and contamination, you wouldn't
16 have any basis to disagree with that?

17 **A.** I did not ask the question.

18 **Q.** Okay. You also point to two documents that
19 you've attached to your testimony, which were
20 provided in response to AG Data Request 2.06; is
21 that correct?

22 **A.** Yes.

1 **Q.** I'll try to short circuit this. That
2 wasn't -- sorry. That was not intended either. It
3 really wasn't intended.

4 Is it fair to say neither of those
5 reports conclude -- by the way, those are both
6 ComEd reports; right?

7 **A.** Right.

8 **Q.** Neither of those reports conclude on any of
9 their something like 70-odd pages in toto that
10 ComEd will be unable to address the challenge of
11 aging infrastructure, do they?

12 **A.** No, they don't.

13 **Q.** Let's talk about the AMI project in
14 particular for a minute.

15 Now, your testimony on Pages 13 through
16 14, I believe, Lines -- direct, sorry, Lines 260 to
17 273, identifies what you call numerous operational
18 benefits, unquote, to AMI; is that correct?

19 **A.** Yes.

20 **Q.** I'm just going to run through a list
21 quickly and see if you agree in general and try to
22 save time.

1 Those benefits include elimination of
2 manual meter reading, along with avoidance of
3 related costs, elimination of field visits or a
4 need -- and the need to activate and deactivate
5 services manually, ability to remotely disconnect
6 and reconnect, to remotely detect tampering,
7 unauthorized, stuck meters, and the like, ability
8 for the utility to learn when electric service
9 outages start and end, and to monitor voltage at
10 each level. Are those all examples that you cited?

11 **A.** Yes.

12 **Q.** Ms. Clair cited those, too; right?

13 **A.** I believe she did.

14 **Q.** Now, you also indicate that AMI can
15 facilitate demand response and the use of time of
16 use rates and real-time pricing and promote
17 reliability improvements; right?

18 **A.** Correct.

19 **Q.** But, nonetheless, as I understand your
20 rebuttal, you tell the Commission that we should
21 not even embark on Phase Zero of AMI now; is that
22 also correct?

1 **A.** Were you referring to a particular part of
2 my rebuttal?

3 **Q.** No. I'm sorry. Just your general
4 recommendation to the Commission.

5 **A.** I don't know if I say that they shouldn't
6 proceed with Phase Zero or I just say that we
7 shouldn't be paying for this through SMP under its
8 current form.

9 **Q.** Okay. Then let me ask you the question.
10 Should the Commission proceed with Phase
11 Zero?

12 **A.** You mean should the company proceed with
13 Phase Zero?

14 **Q.** Should the Commission authorize the company
15 to proceed with Phase Zero?

16 **A.** On the basis of the record in this rate
17 case by itself, I'm not sure that they should.

18 **Q.** Are you sure that they shouldn't? I'm not
19 trying to mince words.

20 Is your recommendation that the
21 Commission should say no?

22 **A.** Yes.

1 **Q.** Okay. Now, as I understand it, the reason
2 for that that you express at Line 316 through 321
3 of your supplemental direct is that the company did
4 not present sufficient detail about its AMI
5 implementation proposal; is that right?

6 **A.** I'm sorry. Could you repeat that reference
7 again.

8 **Q.** It's the Q and A that begins on Line 316 of
9 your supplemental direct testimony.

10 The question is: If AMI can increase
11 reliability, save operating costs, and enable time
12 of use billing, is not its implementation a good
13 idea?

14 **A.** I can't say that its implementation would
15 be a bad idea necessarily. It's just -- if it's
16 being implemented, I'm sure customers would like to
17 see not only the costs from that implementation,
18 but also the savings, the operational savings. I'm
19 not sure that that's going to happen under Rider
20 SMP.

21 **Q.** My question was just, the stated reason
22 there was because the company did not provide in

1 your view enough data; is that right?

2 **A.** That's what I say.

3 **Q.** Now, Ms. Clair, in her rebuttal testimony,
4 presents a great deal of additional data about AMI
5 including, in particular, a projected cost based on
6 a refreshed 2008 business case; isn't that right?

7 **A.** Yes.

8 **Q.** And in your rebuttal testimony, am I also
9 correct that the only piece of information that you
10 specifically identify as, in your view, being still
11 missing is the criteria that would be used to
12 evaluate, after Phase Zero is complete, whether to
13 proceed to implement in the rest of the system.
14 That would be on Page 7, Line 9.

15 **A.** I say that that's absent from the
16 discussion.

17 (Change of Reporter.)

18

19

20

21

22

1 **Q.** And isn't that a kind of information that a
2 number of parties, including ComEd, has
3 acknowledged could be developed in a workshop
4 process during or after Phase 0 is implemented?

5 **A.** Yes.

6 **Q.** Let's talk about automatic line
7 reconfiguration briefly.

8 You also acknowledge in your testimony
9 that automatic line reconfiguration can reduce both
10 the frequency and duration of outages; is that
11 correct?

12 **A.** Well, it certainly can reduce the duration.
13 Do I specifically say it can reduce frequency as
14 well?

15 **Q.** On Line 388, I believe you cite, A project
16 that has potential to decrease the number of
17 customers experiencing a sustained electric service
18 interruption, hence improving safety. That would
19 be frequency; right?

20 **A.** When you decrease the number of customers
21 experiencing a sustained interruption, what I was
22 talking about there is where you're limiting those

1 customers to a momentary interruption by virtue of
2 the automated switching. So it's still a form of
3 outage duration even though we've getting into the
4 semantics of momentary versus say sustained
5 outages.

6 Q. A few cycles, right, rather than minutes or
7 hours?

8 A. A few seconds, a few cycles.

9 Q. Fair enough.

10 A. Yes.

11 Q. That's -- putting aside -- well, we're
12 clear.

13 A. Okay.

14 Q. Now, you, however, claim that ComEd's
15 statements concerning these benefits might be
16 exaggerated because you think there may be
17 limitations on the ability of neighboring lines to
18 take switch load -- assumed switch load; right?

19 A. I said that based on things that ComEd said
20 in its own documents made available on discovery.

21 Q. Maybe we can -- at this time I'll attempt
22 to short circuit some of this, too.

1 I didn't notice any work papers of yours
2 where you did any investigation of your own as of
3 the ability of ComEd lines to assume on an
4 emergency or otherwise basis load from neighboring
5 feeders; is that right?

6 **A.** Not a specific study, no.

7 **Q.** You are relying solely on information
8 provided to you by the Company. You did no study
9 of your own on this subject; is that right?

10 **A.** Well, I mean as part of the rate case we
11 looked over the substation projects that ComEd
12 was --

13 **Q.** I'm not talking about rate based. I'm
14 talking about the ability of lines to pick up load
15 from neighboring lines?

16 **A.** Well, that's true. But with all the new
17 substation work that ComEd did as putting into
18 rates in this case, each one of those substations
19 represented a facility that before was
20 reinforced -- or before it was built other
21 facilities on the system were loaded, you know,
22 very close to their capacity and were not in a

1 position to provide a type of support to
2 neighboring facilities that ComEd would like to
3 design into its system.

4 Q. So my question, though, was: You didn't do
5 any study of the current state of the system's
6 ability to have load switched to neighboring
7 feeders in case of emergency? You simply relied on
8 the information the Company gave you; is that
9 right?

10 A. I guess so.

11 Q. Now, you talked about the loading on these
12 substations being near their capacity; right?

13 A. Yes.

14 Q. That would be their normal capacity; right?

15 A. Yes.

16 Q. What's an emergency rating?

17 A. Emergency rating is a higher rating.
18 Typically used for transformers. Distribution
19 circuits too to some extent. And it provides
20 additional emergency capacity to be used over a
21 short term period in return for slightly
22 accelerated loss of life for the equipment.

1 **Q.** Your testimony does not discuss the concept
2 or availability of emergency ratings at all, does
3 it?

4 **A.** No, it doesn't.

5 **Q.** Now, is it fair to say that you have made a
6 recommendation to the Commission regarding a set of
7 complicated and technical technologies based on --
8 and I think I'm quoting you. Although, I
9 apologize. I did not write down the line that I'm
10 quoting. So don't take it as a quote -- your
11 perspective as an engineer and consultant regarding
12 electric distribution systems?

13 **A.** Okay. I can agree with that.

14 **Q.** Now, and you would agree that designing
15 particularly computerized and interoperable
16 distribution automation systems is a complex and
17 technical task?

18 **A.** Yes.

19 **Q.** There are engineers who specialize in this
20 sort of work; right?

21 **A.** I believe so.

22 **Q.** And you would expect that ComEd relies for

1 its own designs on engineers who may spend much, if
2 not all, of their professional career doing just
3 that sort of thing, would you not?

4 **A.** I would agree with that.

5 **Q.** Now, in all fairness, Mr. Lanzalotta, you
6 don't specialize in distribution system design or
7 the implementation of automated distribution
8 facilities, do you?

9 **A.** I'd say the bulk of my current work
10 involves transmission and distribution systems, but
11 I do a lot of work on both.

12 **Q.** Okay. Well, you have attached your
13 testimony a list of work that you've done, which
14 you invite the Commission to, I assume, refer to as
15 evidence of your background and knowledge, do you
16 not?

17 **A.** Yes.

18 **Q.** And that includes times when you've told
19 regulatory Commissions around the country that
20 you're an expert in a wide ranging series of
21 topics; is that right?

22 **A.** Over the past 35 years, yes, I have worked

1 on a wide ranging series of topics.

2 **Q.** Well, just the ones that you mention in
3 what you attach to your current testimony -- I'm
4 not going to talk about earlier ones or other
5 ones -- just what you attached to your testimony
6 here, you worked on avoiding cost rates for
7 co-generators, fuel inventories, fuel supply and
8 acquisition, bulk power purchases and sales, outage
9 replacement costs, reserve margins, capacity
10 planning, generating operations, O&M expense,
11 generation unit failure, new generation station
12 planning, allocation of production costs, nuclear
13 decommission, contract valuation, rates of return,
14 computer applications, financial reporting,
15 electromagnetic fields, utility mergers, market
16 power, wholesale market manipulation, transmission
17 tariffs, transmission planning, retail rates -- and
18 performance based rates; right?

19 **A.** Over the 35-plus years that I've worked as
20 a consultant in and electric utility employee, yes.

21 **Q.** Is it fair to say that if I were to pull
22 out the most recent two or three pages I'd still

1 see most of that list that I read you?

2 **A.** I haven't done anything on a number of
3 those topics in several decades, I would guess.

4 **Q.** I accurately, nonetheless, read what you
5 attached to your testimony as defining your
6 competence and experience; right?

7 **A.** The list of testimonies that I filed. It
8 does not address work that I've done that does not
9 result in the filing of a testimony.

10 **Q.** Fair enough.

11 I only read you back what you provided;
12 right?

13 **A.** Sure.

14 **Q.** It is true that you have never been
15 responsible for the implementation of a modern
16 smart grid project at a distribution facility,
17 isn't it?

18 **A.** Yes, it is.

19 **Q.** Never been responsible for the design or
20 the implementation of an IP addressable two-way AMI
21 system as the backdrop?

22 **A.** That's correct.

1 **Q.** Or for the design and implementation of a
2 computerized switching network?

3 **A.** Correct.

4 MR. RIPPPIE: Thank you. That's all I have.

5 JUDGE HILLIARD: Redirect?

6 MR. MOSSOS: Can we have a few moments, please?

7 JUDGE HILLIARD: Sure.

8 (Whereupon, a discussion was had off the record.)

9 MR. MOSSOS: Thank you.

10 REDIRECT EXAMINATION

11 BY

12 MR. MOSSOS:

13 **Q.** Mr. Lanzalotta, the fact that you have
14 never been responsible for computer switching,
15 internet protocol, and those other factors
16 Mr. Rippie referred to in -- I believe, it was his
17 last question, does that make you unable to render
18 an opinion and judgment on the areas related to
19 those topics?

20 **A.** No, I don't believe that it does. Despite
21 the fact that I haven't had primary responsibility
22 for projects like this, I have had a lot of

1 experience well beyond what's listed in my case as
2 testified in looking at what companies are doing in
3 this area and analyzing it and evaluating it.

4 Q. And did the data provided by ComEd state
5 that there was a limitation on the utilities on the
6 ability to transfer load between substations and
7 feeders?

8 A. Yes, the studies provided by the Company
9 indicated that there were such limitations, and
10 that's what led me first into addressing that
11 subject.

12 MR. MOSSOS: Thank you. No further questions.

13 JUDGE HILLIARD: Recross?

14 MR. RIPPIE: No, your Honor.

15 JUDGE HILLIARD: Thank you, sir. You're
16 excused.

17 THE WITNESS: Thank you.

18 JUDGE HILLIARD: Let's do one more witness
19 before lunch. Mr. Gorman, please.

20 (Witness sworn.)

21

22

1 MICHAEL GORMAN,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. ROBERTSON:

7 **Q.** Mr. Gorman, my name is Eric Robertson. And
8 will you introduce yourself for the record, please.

9 **A.** My name is Michael Gorman.

10 **Q.** And by whom where are you employed?

11 JUDGE HAYNES: I don't believe your microphone
12 is on.

13 JUDGE HILLIARD: Mr. Robertson, your mike is not
14 on, I don't think.

15 MR. ROBERTSON: The green light's on. It wasn't
16 as green as I thought, I guess.

17 BY MR. ROBERTSON:

18 **Q.** And, Mr. Gorman, on whose behalf are you
19 testified here today?

20 **A.** The Illinois Industrial Energy Consumers.

21 **Q.** And I show you what has been previously
22 marked as IIEC Exhibit 1.0, which was filed on

1 e-Docket this morning as the corrected -- strike
2 that.

3 IIEC Exhibit 2.0-C which was filed on
4 e-Docket this morning as the corrected direct
5 testimony of Michael Gorman, do you have that
6 document in front of you?

7 **A.** Yes.

8 **Q.** And is that your prefiled direct testimony
9 in this proceeding?

10 **A.** Yes.

11 **Q.** And did you make corrections to that
12 document?

13 **A.** I did.

14 **MR. ROBERTSON:** And we have an errata sheet,
15 your Honor, if you would like to have it, but I can
16 have him identify the changes for the record as
17 well.

18 **JUDGE HILLIARD:** Okay.

19 **BY MR. ROBERTSON:**

20 **Q.** Do you have any corrections to make to that
21 document?

22 **A.** To the errata?

1 Q. No, to the testimony.

2 A. The corrected version?

3 Q. Yes, I want you to identify the corrections
4 for the record, please.

5 A. The first correction was on Page 5 on Line
6 107. The word "credit" should be struck and the
7 word "critical" should be inserted.

8 On Page 11, Line 247, the number
9 "59 percent" should be struck, and the number
10 "60 percent" should be inserted. And also on Line
11 241 on that same page, 11, the reference to IIEC
12 Exhibit 2.3 should be struck and IIEC Exhibit 2.3-C
13 should be inserted.

14 On Page 17, Line 381, "January 28th"
15 should read "January 25th."

16 On Page 27, Line 603, the date
17 "December 21st, 2007" should be struck, and the
18 date "January 25th, 2008" should be inserted.

19 On Page 40, Line 881, the number "3.8"
20 should be struck, and the number "3.5" should be
21 inserted. On that same page on Line 886, the word
22 "stronger than" should be struck, and the words "at

1 the bid point of" should be inserted.

2 Q. You also have exhibits attached to your
3 direct testimony marked as IIEC Exhibit 2.1 through
4 and including 2.21; is that correct?

5 A. That is.

6 Q. And were those prepared under your
7 supervision at your direction?

8 A. Yes.

9 Q. And do you have any corrections to those
10 exhibits?

11 A. Yes.

12 One correction on IIEC Exhibit 2.3
13 Page 2 of 2 on Line 2 under Column 5, the number
14 "4,594,188" should be struck and the number
15 4,648,188 should be inserted. Under that same
16 Column 5 on Line 3, the number "59 percent" should
17 be struck, and the number "60 percent" should be
18 inserted.

19 Q. Now, with regard to IIEC Exhibit 2.0-C that
20 consists of 63 pages of questions and answers. If
21 I were to ask you the questions contained therein
22 today, would your answers be the same as contained

1 therein given your corrections today?

2 **A.** Yes.

3 **Q.** And I also show you a similar exhibit
4 that's been marked as IIEC Exhibit 2.0-C
5 confidential. Is that a duplicate of IIEC Exhibit
6 2.0-C except that it contains confidential
7 information?

8 **A.** Yes.

9 **Q.** And that also has exhibits attached, 2.1
10 through 2.21; is that correct?

11 **A.** Yes.

12 **Q.** And does that also contain a corrected
13 Exhibit 2.23 -- I'm sorry, 2.3?

14 **A.** Yes.

15 **Q.** And the corrections are the same as in your
16 original direct testimony that we've discussed here
17 today?

18 **A.** They are.

19 **Q.** And if I were to ask you the questions
20 contained therein, would your answers be the same
21 as contained therein?

22 **A.** Yes.

1 Q. Is the information contained in your
2 confidential exhibit true and correct to the best
3 of your information and belief?

4 A. Yes.

5 Q. And I also show you what has been marked as
6 IIEC Exhibit 6.0-C?

7 JUDGE HAYNES: And by "C" do you just mean
8 corrected?

9 MR. ROBERTSON: C means it's been corrected.

10 BY MR. ROBERTSON:

11 Q. Which is the corrected rebuttal testimony
12 in Exhibits 6.1 through 6.4 of Michael Gorman, do
13 you have that document?

14 A. Yes.

15 Q. Was that document prepared under your
16 supervision and direction?

17 A. Yes.

18 Q. If I were to ask you the questions
19 contained therein, would your answers -- well, do
20 you have any corrections to that document?

21 A. Yes, one correction.

22 On Page 23, Line 481, "the year 2007"

1 should be struck, and "the year 2006" should be
2 inserted.

3 Q. Is that the only change shown on the
4 corrected exhibit?

5 A. Yes.

6 Q. And if I were to you ask the questions
7 contained therein, would your answers as corrected
8 be the same as contained therein?

9 A. Yes.

10 Q. And were Exhibit 6.1 and 6.4 prepared at
11 your supervision and direction?

12 A. Yes.

13 Q. There's no corrections to those exhibits?

14 A. No.

15 Q. And I also show you an exhibit that has
16 been marked as IIEC 6.0-C confidential. Is that
17 the confidential version of your corrected rebuttal
18 testimony?

19 A. Yes.

20 Q. And are the changes that you discussed in
21 relation to your public testimony the same changes
22 in your confidential testimony?

1 **A.** Yes.

2 **Q.** If I were to ask you the questions
3 contained therein, would your answers be the same
4 as contained therein as you corrected them today?

5 **A.** Yes.

6 **Q.** And the exhibits attached to that testimony
7 are also Exhibits 6.1 to 6.4, were they prepared
8 under your supervision or at your direction?

9 **A.** Yes.

10 **MR. ROBERTSON:** All right. I would move the
11 admission of IIEC Exhibits 2.0-C, the public
12 version, including 2.1 through 2.21 and corrected
13 Exhibit 2.3-C; and the admission of IIEC
14 Exhibit 2.0-C, corrected confidential version
15 including Exhibits 2.1 and 2.21 and the corrected
16 Exhibit 2.3-C. I would also move the admission of
17 IIEC 6.0-C, the public version and the associated
18 Exhibits 6.1 through 6.4; and IIEC Exhibit 6.0-C
19 confidential and the exhibits attached, 6.1 through
20 6.4.

21 And tender the witness for
22 cross-examination.

1 JUDGE HILLIARD: Objections?

2 MR. STAHL: No objection.

3 JUDGE HILLIARD: The exhibits and attachments as
4 noted by counsel will be admitted into the record.
5 (Whereupon, IIEC Exhibit Nos. 2.0-C, 2.1-2.21,
6 2.3-C, 6.0-C, 6.1-6.4, was admitted into evidence.)

7 JUDGE HILLIARD: Cross-examination, please.

8 MR. STAHL: Yes. Thank you, your Honor.

9 I would like to point out one thing
10 before I start and that is that these corrections
11 that Mr. Robertson just identified for the record I
12 just printed out on the way over here.

13 I will say they don't look material. I
14 don't think they change the substance of the
15 testimony in any way. But I was wondering if at
16 the end of the cross, if I might just have a couple
17 more minutes to review this, either that or we can
18 review it over the lunch break.

19 I really don't think I'm going to have
20 any additional cross, but I'd like to reserve the
21 right to have Mr. Gorman stick around in view of
22 the lateness of these.

1 JUDGE HILLIARD: Why don't you review it over
2 the lunch break then.

3 MR. STAHL: Okay. That would be fine. Thank
4 you. And I'll let Mr. Robertson know as soon as I
5 can whether we have anything or not.

6 CROSS-EXAMINATION

7 BY

8 MR. STAHL:

9 Q. Good morning, Mr. Gorman. How are you
10 today?

11 A. Very good. Thank you.

12 Q. Good.

13 Mr. Gorman, let me just talk a little
14 bit about your employment background. As I
15 understand it, you began work with the Illinois
16 Commerce Commission in about 1983 and stayed till
17 sometime in late summer of 1989; is that correct?

18 A. Yes.

19 Q. And then you joined what was -- your
20 present employer, although the firm had a different
21 name back then, in about September of 1990; is that
22 correct?

1 **A.** Well, I worked for a year for Merrill Lynch
2 in between the Illinois Staff and working for the
3 firm that was predecessor to the current firm.

4 **Q.** Yeah, I understand.

5 But your Merrill Lynch experience was
6 for about 13 months?

7 **A.** Yes.

8 **Q.** And your current firm you have been
9 employed with since about September of 1990?

10 **A.** Correct.

11 **Q.** Continuously since that time?

12 **A.** Yes.

13 **Q.** And other than your 13 months with Merrill
14 Lynch, you have not been employed in any capacity
15 in the financial industry; is that correct?

16 **A.** What do you mean by financial industry?
17 Strictly for a banking institution, no; or a credit
18 rating agency, no.

19 **Q.** No bank, no rating agency; correct?

20 **A.** Correct.

21 **Q.** And what did you do at Merrill Lynch for
22 the 13 months you were there?

1 **A.** Worked in securities industry.

2 **Q.** Were you a utilities analyst during that
3 period of time?

4 **A.** No, I was a financial consultant for
5 Merrill Lynch, a stockbroker.

6 **Q.** Working with individuals?

7 **A.** And small businesses, yes.

8 **Q.** Small businesses.

9 Not electric utilities?

10 **A.** No.

11 **Q.** Mr. Gorman, there are a number of points
12 that I would like to ask you about, connection with
13 ComEd's financial condition, your views of the
14 rating agencies concerning ComEd, the importance of
15 regulation to ComEd's financial viability.

16 And the points I'm going to read to you
17 I do not see in either your direct testimony or
18 your rebuttal testimony that you've taken issue
19 with these points. But I want to make sure that
20 that's true. And if you can tell me as I go
21 through these points if any of them sound like
22 something you have taken issue with in your

1 testimony I'd like you to tell me that. Can you do
2 that?

3 **A.** I believe I can.

4 **Q.** All right. The first one is the
5 proposition that a utility's rating and its
6 earnings prospects will dictate its ability to
7 attract capital in a increasingly competitive
8 capital market?

9 **A.** I have addressed that. In reviewing the
10 cost of equity for the utility and determining
11 whether or not that return on equity along with the
12 review of the proposed capital structure support
13 credit metrics which will maintain -- or contribute
14 to the support of its existing boundary.

15 **Q.** And I understand that, but you don't
16 disagree with the general proposition that a
17 company's rating and earnings prospects will
18 dictate its ability to attract capital in a
19 increasingly competitive capital market?

20 **A.** I think I focused on those issues in my
21 testimony.

22 **Q.** And you agree with that, do you not?

1 **A.** I'm sorry. I do agree with that. That's
2 why it was a primary focus of my testimony.

3 **Q.** But you don't have any basis to disagree
4 with the proposition that over the next 25 years
5 about \$20 trillion needs to be invested in the
6 infrastructure in the United States alone,
7 including investment and utility transmission and
8 distribution facilities?

9 **A.** Well, I can't verify that specific number.
10 But it is my understanding that there is
11 significant planned investments in utility
12 infrastructure going forward.

13 **Q.** And those capital requirements create a
14 very competitive demand for capital, do they not?

15 **A.** They do.

16 **Q.** And do you believe that a utility like
17 ComEd will be able to compete for capital in that
18 very crowded capital market only if regulation
19 supports the financial integrity of the company to
20 a degree that provides the basis for an investment
21 grade rating?

22 **A.** I do. And that is, again, a focus of my

1 testimony.

2 Q. Do you also agree that regulation has a
3 significant impact on a utility's ratings?

4 A. Yes.

5 Q. Do you agree that rate decisions by utility
6 commissions have a major impact on the financial
7 health of utilities?

8 A. Yes.

9 Q. Do you agree that the investment community
10 at large perceives that utility commissions are
11 principally responsible for the financial health of
12 the utilities they regulate? And I'm not asking
13 for your views as to whether that's important but
14 whether you agree that the investment community
15 perceives that utility commissions are principally
16 responsible for the financial health of utilities.

17 A. No, I believe it's a combination of prudent
18 management and regulatory actions that are
19 primarily responsible for a utility's financial
20 health.

21 Q. I'm asking you what, in your opinion, the
22 investment community perceives with respect to

1 factors that contribute to the financial health of
2 utilities?

3 **A.** It's my opinion that the investment
4 community expects prudent and reason of management
5 and supportive regulation in supporting utilities'
6 financial health.

7 **Q.** Do you agree with the fact that ComEd's
8 current senior unsecured ratings of BA-1 for
9 Moodys, B-plus from Standard & Poors and Triple B
10 minus from Fitch put ComEd in the noninvestment
11 grade category from two of those three agencies?

12 **A.** Yes.

13 **Q.** Do you agree that only one other
14 transmission distribution company in the sector is
15 rated below investment grad, and that is Illinois
16 Power Company?

17 **A.** I need to check that. I thought some of
18 the Ameren, other utility affiliates might have
19 unsecured bond ratings, below investment grade
20 also.

21 **Q.** Perhaps CIPS and/or CILCO?

22 **A.** Yes.

1 Q. But aside from those, you're not aware of
2 any others?

3 JUDGE HILLIARD: Is that in the country or just
4 in the state of Illinois?

5 MR. STAHL: Yes.

6 BY MR. STAHL:

7 Q. Yes, anywhere in the country.

8 A. You said transmission and distribution
9 utilities.

10 Q. Yes, sir.

11 A. Just electric or electric and gas?

12 Q. Just electric for now.

13 A. I'm not aware of any.

14 Q. Would you agree that the fact that at least
15 two and, perhaps, as many of four Illinois electric
16 utilities are rated below investment grade, puts
17 those utilities at a severe disadvantage compared
18 to their peers in accessing the capital markets?

19 A. It certainly makes them a greater credit
20 risk. So to the extent the market is looking for
21 stronger credit quality, it would put them at a
22 disadvantage.

1 Whether or not that means they don't
2 have access to capital is a point that has not been
3 established.

4 **Q.** You would agree, would you not, that
5 particularly at the present time the credit market
6 is searching for quality credit?

7 **A.** Yes.

8 **Q.** Would you agree, Mr. Gorman, with the
9 proposition that at the present time the rating
10 agencies view ComEd as being at a crossroad and
11 regard positive support for ComEd by the Illinois
12 Commission as essential if ComEd is to remain able
13 to access the capital markets and fund its
14 construction programs?

15 **A.** I don't believe it's been established that
16 they wouldn't be able to access the capital markets
17 without an improvement in their bond rating. But
18 certainly the regulatory decisions in this case are
19 important both to ComEd and its rate bearers.

20 **Q.** Would you agree with the proposition that
21 ComEd's standing in the eyes of the rating agencies
22 is extremely precarious?

1 **A.** Can you repeat that, please?

2 **Q.** Sure.

3 Would you agree with the proposition
4 that ComEd's standing in the eyes of the rating
5 agencies is extremely precarious?

6 **A.** Well, I think ComEd's current rating is
7 stable from the credit rating agencies. It have
8 been -- restored its investment grade bond rating.

9 As I understand it, the limitation in
10 achieving that restoration investment grade bond
11 rating is assurance that the current law will be
12 followed by the regulatory condition and there
13 wouldn't be additional legislative or executive
14 interference with implementing that law. So I
15 would not agree with that because ComEd's current
16 credit rating is stable.

17 Having said that, supportive regulation
18 is something credit analysts are looking for.

19 **Q.** Would you agree with that narrower
20 proposition that an order by the Illinois
21 Commission in this case that is viewed as not
22 supportive could lead to action by one or more of

1 the rating agencies to further downgrade ComEd's
2 securities?

3 **A.** A regulatory decision that's viewed as not
4 supportive, either of investors or customers, could
5 have some negative consequences, yes.

6 **Q.** Including a further downgrade of
7 securities; correct?

8 **A.** That is a possibility although that is --
9 simply a possibility.

10 **Q.** Would you also agree that without support
11 from this Commission in terms of a supportive rate
12 order that improved ratings from the agencies --
13 that without that, without a supportive rate order
14 and without improved prospects for earnings, that
15 ComEd is very unlikely to be able to raise equity
16 through its current principal shareholder, Exelon
17 Corporation.

18 **A.** It's my understanding that Exelon has tried
19 to separate or limit investments in ComEd. The
20 parameters under which it would start to reinvest
21 in ComEd, I'm not familiar with.

22 **Q.** Okay. So it sounds to me like you would

1 agree with the proposition that I just stated; is
2 that fair?

3 **A.** Could you repeat your question?

4 **Q.** Sure.

5 Without support from the Commission and
6 improved ratings from the rating agencies, it is
7 very unlikely that ComEd would be able to attract
8 equity capital from its current shareholder, Exelon
9 Corporation?

10 **A.** Well, I'd be speculating on what Exelon's
11 requirements are to make additional equity
12 investments in ComEd.

13 **Q.** Okay. You don't know?

14 **A.** Right.

15 **Q.** Okay. Let's turn to another subject,
16 Mr. Gorman. Let's turn to the subject of the --
17 what we referred to yesterday with Mr. Effron as
18 the carry forward of accumulated depreciation, the
19 depreciation reserve and accumulated deferred
20 income taxes into the 2008 period. Do you
21 understand what I'm talking about?

22 **A.** I do.

1 **Q.** And it is true, is it not, that you, like
2 Mr. Effron, propose to carry forward into 2008 the
3 depreciation reserve and accumulated deferred
4 income taxes on plant in service as of
5 December 31st, 2006, the end of the test year, in
6 this case?

7 **A.** Well, I don't agree with that
8 characterization. What I'm proposing to do is
9 estimate the net impact associated with post test
10 year capital additions. In order to properly
11 estimate the net plant impact on the test year rate
12 base from those post test year capital additions,
13 it's necessary to look at all increases and
14 decreases to rate base in that post test year
15 period.

16 So you to be -- you have to look at
17 everything that would impact rate base in that post
18 test year period including capital additions and
19 recovery of plant investment that can fund those
20 capital additions.

21 So I don't agree with your
22 characterization. I wasn't attempting to restate

1 accumulated depreciation into 2008, but rather as
2 attempting to properly and accurately estimate the
3 net plant impact associated with post test year
4 plant additions.

5 **Q.** All right. I don't think we're disagreeing
6 on the substance. And if you don't accept my
7 characterization, that's fine. It's a little bit
8 of a shorthand expression that Mr. Effron accepted
9 yesterday.

10 But just so the record is clear, what
11 you have done is that you have adjusted ComEd's
12 rate base for accumulate -- depreciation and
13 accumulated deferred income taxes on existing plant
14 as of 12/31/06 into the pro forma period; is that
15 fair?

16 **A.** No.

17 **Q.** No?

18 **A.** Again, I don't accept that
19 characterization. What I did was add to the test
20 year rate base the net plant increase in rate base
21 is attributable to plant -- post test year plant
22 additions.

1 I did not adjust rate base to increase
2 in a post test year period accumulated
3 depreciation. It was -- because what happens after
4 the test year what do you bring back into the test
5 year to increase rate base? It was the net plant
6 associated with post test year activities, not the
7 gross plant impact associated with post test year
8 activities. So I do not agree with that
9 characterization.

10 **Q.** Is it fair to say that what you are
11 proposing in this case is similar to the proposals
12 that were advanced by other witnesses in ComEd's
13 last rate case, 0597 and in the People's Gas case
14 0241 in connection with pro forma additions
15 accumulated depreciation and deferred income taxes?

16 **A.** There have been -- it is similar but not
17 exactly the same.

18 **Q.** How is yours in this case different from
19 what was proposed in 0597?

20 **A.** Well, the difference in what the objective
21 is -- and my understanding in the previous case is
22 the objective was to adjust revenues for those post

1 test year plant additions. And while the math is
2 very similar, but the objective or the purpose for
3 the adjustment under my proposal, is very
4 different.

5 The objective I'm searching for is to
6 understand what post test year events will cause
7 ComEd's cost of service to increase in the post
8 test year period relative to the test year. In
9 order to properly estimate that increase cost with
10 respect to rate base it's necessary to look at all
11 increases and corresponding decreases in that post
12 test year period so as to reasonably estimate known
13 and measurable changes and the cost of ComEd's rate
14 base caused by those post test year events.

15 **Q.** Mr. Effron -- excuse me. Mr. Gorman,
16 regardless of your objective or purpose, the effect
17 of what you are proposing here is the same as the
18 effect that was -- would have resulted from the
19 proposals in 0579 and 2401 cases; correct?

20 **A.** Well, I mean there are some other
21 distinguishing factors such as the time period
22 beyond the test year in this case is different than

1 in the last case. And the Company made some post
2 test year adjustments to accumulated depreciations
3 for events that increase rate base but refuse to
4 make it for those that decrease rate base. And
5 that was different than the last rate case.

6 So there are distinguishing factors in
7 this case relative to the last case. And I think
8 because of these distinguishing factors, the
9 adjustments, although similar, are not the same.

10 **Q.** But, Mr. Gorman, the effect is the same, is
11 it not? I understand there are more months at
12 issue here than there were in one of the other
13 cases, maybe both of the other cases, but the
14 effect of what you are doing is the same here. And
15 that is to reduce the rate based on which ComEd
16 will earn a return by several \$100 million;
17 correct?

18 **A.** The effect is not the same because in this
19 case the Company is reducing accumulated
20 depreciation for plant retirement costs. That was
21 not an issue in the last case. So this adjustment
22 properly reflects increases and decreases in

1 accumulated depreciation, which was not at issue in
2 the last case. So the effect is not the same.

3 Q. If your adjustment were not made in this
4 case, what would be the impact on ComEd's revenue
5 requirement, do you know?

6 A. I think I did estimate that in my direct
7 testimony.

8 Q. Let me ask you this other we question.
9 I'll withdraw that question.

10 If your proposed adjustment were not
11 made in this case, what would be the effect on
12 ComEd's rate base?

13 A. It would be higher.

14 Q. By how much, do you know?

15 A. \$654 billion.

16 Q. All right. Now, are you aware that
17 Mr. Effron commented on your interpretation of Rule
18 287.40 in his rebuttal testimony?

19 A. I don't recall that.

20 Q. Do you recall that in his rebuttal
21 testimony he said that, As pointed out by IIEC
22 Witness Gorman, plant investment -- and he's

1 referring to 287.40 can reasonably be interpreted
2 to mean the balance on which investors earn a
3 return, that is the plant net of accumulated
4 depreciation?

5 **A.** I'll accept that subject to check.

6 **Q.** Do you agree with his characterization of
7 what you said? I'd be happy to show you this if
8 you like.

9 **A.** Can you, please?

10 **Q.** Sure.

11 Let me mark the section I was just
12 reading from. This was admitted into evidence
13 yesterday as AG CUB Exhibit 5.0.

14 **MR. STAHL:** Would your Honors like copy of this?

15 **JUDGE HILLIARD:** Yes.

16 **MR. ROBERTSON:** What page are you looking at,
17 Mr. Stahl?

18 **MR. STAHL:** Page 8.

19 **BY MR. STAHL:**

20 **Q.** It appears at -- beginning on Line 3 of
21 Page 8.

22 **A.** Now, that is fair characterization.

1 Essentially I'm trying to reflect the net change in
2 cost of service caused by post test year plant
3 additions. And in order to reasonably estimate
4 that using all known and measurable adjustments
5 that would require an assessment of the change in
6 net plant for Commonwealth Edison.

7 Q. I understand what you are saying you have
8 done here. My question was whether you agree with
9 Mr. Efron's characterization of what you have done
10 here and what you have said?

11 A. I believe I answered that question. I said
12 that he did reasonably characterize my testimony.

13 Q. All right. That's fine.

14 And would you agree that the balance on
15 which investors earn a return is ordinarily
16 referred to a utility's rate base?

17 A. It is.

18 Q. A large part of your position on rate base
19 and accumulated deferred income taxes and the
20 depreciation reserve is based on your reading of
21 Rule 287.40, is it not?

22 A. It is, yes.

1 **Q.** And I think you've gone so far as to say
2 that the rule essentially requires the Commission
3 to update the -- or to make the adjustments that
4 you are sponsoring here; is that correct?

5 **A.** Yes, to estimate known and measurable
6 changes and cost beyond the test year.

7 **Q.** Well, and it refers to plant investment,
8 does it not? That's what the rule refers to, plant
9 investment?

10 **A.** Clearly it does. And it does not specify
11 gross plant or net plant, but since rate base is
12 changed by net plant not gross plant investments it
13 seems reasonable to conclude that what the rule is
14 referring to is changes in net plant.

15 **Q.** It doesn't refer to changes in rate base,
16 does it?

17 **A.** It refers to changes in plant investment,
18 which an informed analyst would understand to imply
19 the changes associated with the company's rate
20 base.

21 **Q.** A company does not earn a return on plant
22 investment it earns a return on rate base, does it

1 not?

2 **A.** It does, but the largest component of rate
3 base net plant.

4 **Q.** But there are a lot of components of rate
5 base, are there not, that don't even include plant
6 investment?

7 **A.** Well, that's true. But those are not
8 impacted by the post test year issues that we're
9 discussing.

10 **Q.** But you are saying that they should be
11 impacted by the post test year adjustments that
12 we're discussing, are you not?

13 **A.** Can you repeat that, please.

14 **Q.** Let's me withdraw the question.

15 Let me show you a document that was
16 marked -- I guess it's in evidence as Staff
17 Exhibit 1.0, Schedule 1.3, and Mr. Reddick was
18 examining Staff Witness Hathhorn on this yesterday.

19 See Line 1, Mr. Gorman?

20 **A.** I do.

21 **Q.** Gross utility plant?

22 **A.** Yes, sir.

1 Q. That is plant investment, is it not?

2 A. It's gross plant investment, yes.

3 Q. Utilities invest in utility plant, they

4 spend dollars on utility plant; correct?

5 A. Correct.

6 Q. See Line 2, Accumulated Provision for

7 Depreciation and Amortization?

8 A. Yes.

9 Q. Utilities do not invest in depreciation and

10 amortization, do they?

11 A. It's the recovery of their investment in

12 that gross plant. So that's reimbursement from

13 customers to the utility for the investments

14 they've made.

15 Q. Right.

16 A. So it is associated utility's investment of

17 the plant.

18 Q. It is not, however, an investment, is it?

19 A. It's a recovery -- it's a return of

20 investment.

21 Q. Right.

22 But it's not an investment, is it?

1 **A.** It is a return of an investment. But it's
2 not an investment by the utility. It's payment by
3 customers to the utility to reimburse them for
4 their investments.

5 **Q.** In similarly Line 13, Accumulated Deferred
6 Income Taxes, utilities do not invest in
7 accumulated deferred income taxes, do they?

8 **A.** It's not an investor capital source, but it
9 is a capital source to the utility. It comes from
10 customers.

11 **Q.** Utilities do not pay cash for an asset
12 identified as accumulated deferred income taxes, do
13 they?

14 **A.** Well, utilities don't -- utilities don't
15 pay cash for any capital source. Common equity
16 debt investors give utilities cash. They turn
17 around and invest in plant. Deferred taxes is a
18 capital source to the utility which comes from
19 customers. They provide the utility the cash,
20 which is then available to make investment in
21 utility plant.

22 **Q.** Right.

1 But --

2 **A.** So the utility doesn't pay cash for any of
3 those capital sources.

4 **Q.** Utilities don't raise equity or debt in
5 order to require accumulated deferred income taxes,
6 do they?

7 **A.** No, it's a source of capital. It's not an
8 asset.

9 **Q.** Would you agree that in general parlance an
10 investment is the process of exchanging income
11 during one period of time for an asset that is
12 expected to produce earnings in future periods?

13 **A.** I'm sorry. Could you repeat that one more
14 time?

15 **Q.** Sure.

16 You've had system economics courses,
17 haven't you?

18 **A.** I have.

19 **Q.** Would you agree that in economics terms
20 that an investment can be considered a process of
21 exchanging income during one period of time for an
22 asset that is expected to produce earnings in

1 future periods?

2 **A.** Yes. Yes.

3 **Q.** Now, the very last line on this Schedule
4 1.3 that we've been looking at, Line 23 is called
5 Rate base; correct?

6 **A.** It is.

7 **Q.** And I think you agreed with me earlier that
8 the rate base is what the investors earn their
9 return on, is that not also correct?

10 **A.** No, because the utility earns its return on
11 rate on base. The investors earn their return on
12 the stocks and bonds that the utility sells to
13 investors.

14 **Q.** Okay. I stand corrected. The utility
15 earns its return on the rate base. Fair?

16 **A.** Yes.

17 **Q.** And the Commission understands that, too,
18 does it not?

19 **A.** Yes.

20 **Q.** In fact, in every rate order you see they
21 go through the components of the rate base, and at
22 the very end of those orders the last line always

1 is, After investment and net investment and working
2 capital and deferred income taxes and everything
3 else, the last line is always rate base; correct?

4 **A.** Yes.

5 **Q.** Now, are you familiar with the Commission's
6 rule on adjustments to future test years?

7 **A.** Generally.

8 **Q.** 287.30?

9 **A.** Yeah, I reviewed those but not in detail.

10 **Q.** Did you review them in connection with your
11 testimony in this case?

12 **A.** Generally, not in preparation for cross
13 today, but I have reviewed them.

14 **Q.** Did you review 287.30 when you were
15 formulating your opinion that 287.40 requires
16 adjustments of the kind that you made here?

17 **A.** No, I did that more in terms of reviewing
18 the company's contentions that rates determined in
19 this proceeding may not be fully compensatory in
20 2009. I need to wonder why if -- why would they
21 file a historic test year if they think a future
22 test year would produce better rate result for

1 that.

2 Q. That has nothing to do with the
3 interpretation of 287.40. I mean, it might be an
4 interesting question, but it has nothing to do with
5 the interpretation of 287.40, does it?

6 A. You need to show me the law so I can
7 understand where you're going with this.

8 MR. STAHL: Can I ask the reporter mark this
9 please as an exhibit.

10 (Whereupon, ComEd Cross-Exhibit No. 7
11 was marked for identification.)

12 BY MR. STAHL:

13 Q. Mr. Gorman, you will agree with me -- and I
14 think you did agree with me that the term "rate
15 based" does not appear in the pro forma rule that
16 we're discussing here?

17 A. Are you --

18 MR. ROBERTSON: Are you referring to 287.30?

19 MR. STAHL: No, 287.40. The one that's at issue
20 in this case, the basis for your adjustment in this
21 case.

22 JUDGE HILLIARD: What you handed him was 287.30.

1 MR. STAHL: No, I understand. It's a
2 foundational question.

3 JUDGE HILLIARD: All right.

4 BY MR. STAHL:

5 Q. And you quote from 287.40 in your
6 testimony, don't you?

7 A. Yes, Page 58.

8 Q. Of Exhibit 2?

9 A. Yes.

10 Q. And the sentence in particular is the one
11 that appears beginning on Line 1231, These
12 adjustment shall reflect changes affecting the rate
13 payers in plant investment, and that's a word that
14 you've highlighted and emphasized, correct, plant
15 investment?

16 A. Plant investment operating revenues and
17 expenses and cost of capital --

18 Q. Right.

19 A. -- where such changes occurred during this
20 elected historical year or are reasonably certain
21 to occur subsequent to the historical test year.

22 Q. Right. And all of that modifies the

1 changes -- and the "reasonably certain to occur,"
2 that refers to plant investment operating revenues,
3 expenses, and cost of capital, does it not?

4 **A.** Yes.

5 **Q.** Okay. Now, you'll see in Subsection E of
6 287.30 that I just gave to you, the -- reference
7 the Commission's use of the term "rate base." You
8 see that?

9 **A.** Yes, with respect to rate of return on rate
10 base, yes.

11 **Q.** I understand.

12 Did you when you were interpreting
13 287.40 give any consideration to the Commission's
14 use of the term "rate base" in 287.30 E but its
15 failure to use that term in 287.40?

16 **A.** No, I was interpreting --

17 **Q.** You didn't?

18 **A.** -- 287.40 as we just went over referring to
19 plant investment and cost of capital.

20 **Q.** No, I understand.

21 **A.** If you don't measure net plant investment
22 you can't properly investment the utility's cost to

1 capital.

2 Q. I understand what you said you did, but the
3 point is you did not give any impact to the
4 Commission's use of the term "rate base" in 287.30
5 but its failure to use that phrase in 287.40 -- I'm
6 not suggesting one way or the other whether you
7 should have. But I just want the record to be
8 clear that you did not.

9 MR. ROBERTSON: Two things. One, we're getting
10 close to legal interpretations here. And,
11 secondly, I think he's already said that he did not
12 consider this rule in coming to his conclusions
13 about 287.40. So if he didn't consider the rule,
14 he couldn't have considered the language in the
15 rule in reaching his conclusions.

16 MR. STAHL: Well, if that's --

17 MR. ROBERTSON: So it's been asked and answered.

18 MR. STAHL: If that's the answer, that's fine.
19 And insofar as it being a legal interpretation, I
20 think the witness has purported to interpret what
21 287.40 requires the Commission to do. So I
22 think --

1 MR. ROBERTSON: I said we are getting close.

2 We didn't cross the line yet.

3 BY MR. STAHL:

4 Q. Mr. Gorman, the 287.40 rule, as it exists
5 today, is identical to the way it existed when the
6 Commission decided the 0597 case and the 0241 case;
7 correct?

8 A. I believe so, yes.

9 Q. And regardless of your position about what
10 287.40 requires, the Commission itself, has not
11 read its own rule that way in those two cases; is
12 that not correct?

13 A. Well, based on the facts and circumstances
14 in those cases, which are very different than the
15 circumstances and facts in this case. So I would
16 hope that the Commission would relook at this issue
17 because there is very different circumstances in
18 this case than there has been in previous cases.

19 Q. And those differences and circumstances
20 that you're referring to, those are all set forth
21 in your direct and rebuttal testimony, are they
22 not?

1 **A.** Yes.

2 **Q.** So if anybody wants to understand what your
3 view is of those new facts and circumstances, we
4 should look at your direct and rebuttal testimony;
5 correct?

6 **A.** Well, you can. Yeah, you can also ask what
7 the cost to capital is as clearly spelled out. If
8 plant investment is too undscript, the cost to
9 capital is very clear. The utility's cost to
10 capital should be applied to its recovered
11 investment and utility plan and it's related impact
12 on rate base. That requires the determination of
13 the impact on net plant, not gross plant.

14 **MR. STAHL:** I'm going to move to strike all of
15 that answer after "yes," because I think "yes," was
16 simply the only part of that answer that was
17 responsive to my question.

18 **JUDGE HILLIARD:** Overruled.

19 **BY MR. STAHL:**

20 **Q.** Mr. Gorman, the clients you're representing
21 here today, the Illinois Industrial Energy
22 Consumers, they were parties to the 0597 case, were

1 they not?

2 **A.** They were.

3 **Q.** And that's one of the cases in which the
4 Commission did not make the adjustment of a kind
5 that you are sponsoring hearing today; correct?

6 **A.** Yes.

7 **Q.** Despite the fact that your view today is
8 that 287.40 requires the Commission to make that
9 kind of adjust, IIEC, A, did not seek rehearing of
10 the Commission's decision in 0597, or, B, appeal
11 that decision to the appellate court; correct?

12 **A.** Well, based on the circumstances in that
13 case and in our limitations, that's a true
14 statement.

15 **Q.** And it's also a true statement, is it not,
16 that with respect to the Commission's February 2008
17 order in the People's Gas North Shore case that
18 even though IIEC has filed a petition for rehearing
19 in that case, one of the grounds for rehearing is
20 not the Commission's failure to make the kind of
21 adjustment that you are sponsoring hearing; isn't
22 that also correct?

1 MR. ROBERTSON: I'm going to object to the
2 question because it presumes a fact that may be
3 incorrect. The Company's participating in, IIEC in
4 this case, have intervened on an individual basis.
5 And they are participating under the name of IIEC.
6 The companies that intervened in North Shore and
7 Peoples have also intervened separately and are
8 participating under the name of IIEC.

9 So it's not necessarily the case that
10 all the companies here are necessarily the same as
11 those who were in the People's North Shore case.

12 So you would have to attribute some
13 inconstancy to those individual companies and make
14 sure that they are, in fact, the same in both
15 instances.

16 BY MR. STAHL:

17 Q. Do you know who remember --

18 JUDGE HILLIARD: Subject to that qualification,
19 you can answer his question if you want to.

20 THE WITNESS: I wasn't in that rate case, so I'm
21 not sure what IIEC positions have been.

22

1 BY MR. ROBERTSON:

2 Q. There is not one rule on pro forma
3 adjustments for People's Gas and North Shore and
4 another one for ComEd, is there?

5 MR. ROBERTSON: Objection. Relevance. We
6 didn't participate in the case. We don't know if
7 the companies are the same. I don't see the
8 relevance of asking of him about something he
9 didn't participate in.

10 MR. STAHL: Let me withdraw that.

11 JUDGE HILLIARD: It's withdrawn.

12 MR. STAHL: I will withdraw that question.

13 BY MR. STAHL:

14 Q. Mr. Gorman, if 287.40 requires the kind of
15 adjustment for ComEd that you are proposing here,
16 it also requires the same kind of adjustment for
17 Peoples Gas and North Shore, does it not?

18 A. If all the facts and circumstances are the
19 same, I would have recommended it in that case had
20 I participated in it.

21 Q. Do you know if your firm, Brubaker &
22 Associates participated in the 0241 case?

1 **A.** I believe they did.

2 **Q.** Mr. Gorman, just briefly on incentive
3 compensation, and then we'll be done for -- at
4 least for the morning here.

5 Reviewing your testimony, I did not see
6 anywhere in that testimony a statement or an
7 assertion by you that any part of the intensive
8 compensation under either the annual incentive plan
9 or the long-term incentive plan is imprudent or
10 unreasonable. Am I correct in that reading of your
11 testimony?

12 **A.** Well, you are incorrect. I did not find
13 that it would be imprudent, but I did find that
14 certain costs being recovered from customers would
15 be unreasonable.

16 **Q.** Would be what?

17 **A.** Unreasonable.

18 **Q.** Unreasonable.

19 And why is that?

20 **A.** Because I believe the beneficiaries of
21 achieving the incentive goals should pay those
22 costs.

1 **Q.** So it's not the fact that the compensation
2 itself was too high or excessive or windfall or
3 lavish, but rather that someone other than
4 customers may have benefitted from part of that
5 compensation; is that your position?

6 **A.** It is my position, yes, that more than just
7 customers can benefit from some of those incentive
8 goals. So the primary stakeholder of the benefit
9 should pick up a proportionate share of that cost.

10 **Q.** The primary beneficiary should pick up a
11 proportionate share of the cost. In other words,
12 if shareholders benefit 60 percent, they ought to
13 bear 60 percent of the cost. Is that your
14 position?

15 **A.** That is my position. But, you know,
16 generally, it's difficult to nail down exactly who
17 benefits specifically to some degree other than --
18 rather -- either sharing it or allocating it
19 completely to one stakeholder or to the other.

20 **Q.** And I want to talk about that in a couple
21 of minutes. But first let me ask you to consider
22 two different situations here. Two separate

1 employees, one employee receives total compensation
2 of \$100,000 all in form of a base salary. I want
3 you to assume that that is a reasonable and prudent
4 level of compensation. Can you do that?

5 **A.** I can.

6 **Q.** Would you agree with me that under those
7 circumstances that \$100,000 of that employee's
8 salary should be recoverable by the utility?

9 **A.** If it is reasonable and prudent, yes.

10 **Q.** And that would be the case whether or not
11 any specific dollars savings or other tangible
12 benefits would result to customers as a result of
13 the payment of any part of that compensation;
14 correct?

15 **A.** Well, that's assuming that that employee
16 does a reasonable and prudent job in terms of
17 managing the utility.

18 **Q.** Correct.

19 **A.** To the extent that he does not achieve
20 that, then the investors will pick up you his share
21 of that compensation in the form of reduced
22 earning.

1 **Q.** But not in the form of a disallowance of
2 any -- any part of that employee's compensation;
3 correct?

4 **A.** No, disallowance is a rate-making concept
5 in terms of whether or not something's included in
6 the cost of service.

7 When the rates are in effect there would
8 be -- under recovery of expenses, which would
9 reduce earnings. So that has the practical effect
10 of not fully recovering those costs.

11 **Q.** But it is not the same as saying that you
12 will not refer \$100,000 of that employee's
13 compensation, is it? It has no affect on the rate
14 order -- I'll withdraw the prior question.

15 If has not affect on the rate order, it
16 may affect the total amount of the Company's
17 earnings, but it has no affect on rate order
18 itself, does it?

19 **A.** I would agree.

20 **Q.** You would agree?

21 **A.** Yes.

22 **Q.** Now, assume that that same employee

1 receives the same amount of total compensation but
2 in the form of a base salary of \$90,000 and \$10,000
3 incentive compensation under either AIP or LTIP or
4 some combination of the two. Can you agree with me
5 on at least those basic facts?

6 **A.** In this hypothetical, yes.

7 **Q.** I want you to answer this question for me:
8 Are customers any worse off under that scenario
9 than they were under the scenario where that very
10 same employee received \$100,000 in compensation
11 only in base salary?

12 **A.** Well, they would be -- in instance where
13 the \$10,000 in incentive compensation is not paid
14 to the employee, in which that 10,000 would be
15 retained by the utility to benefit its investors,
16 and that additional earnings may not be just and
17 reasonable.

18 **Q.** The additional earnings to the ratepayers
19 may not be just and reasonable. Are you saying
20 that that's going to harm customers somehow?

21 **A.** No, you asked whether or not they would be
22 the same. My answer is it would not be the same to

1 the extent there's uncertainty associated with
2 whether or not the incentive comp will actually be
3 paid. And the additional earnings would be to
4 investors not to ratepayers.

5 Q. I didn't ask whether the situation would be
6 the same, just for the record.

7 I asked whether in that second scenario,
8 assuming that the total \$100,000 compensation was
9 paid to that employee, whether under that situation
10 customers are any worse off than if that very same
11 employee had received compensation solely in the
12 form of a base salary?

13 A. From a cost standpoint, they wouldn't be.
14 From a policy standpoint, the ratemaking objectives
15 I don't think would be as balanced as they would be
16 under what I'm recommending here.

17 Q. But from a cost standpoint, the customers
18 are no worse off; correct?

19 A. In that hypothetical, yes; but from that
20 policy standpoint, they are.

21 Q. Now, you talked earlier about -- looking at
22 primarily benefits and then making a proportionate

1 adjustment, I think, or disallowance. I think with
2 respect to a couple of the Company's goals you are
3 assuming -- and this is all set forth on your
4 Exhibit 6.4, I believe -- that in some cases
5 there's a 50/50 benefit. Customers benefit
6 50 percent. Shareholders benefit 50 percent from
7 the total cost goal or the net income goal; is that
8 fair?

9 **A.** Yes.

10 **Q.** How did you derive that 50 -- well, let me
11 ask you this: Where in your work papers can I look
12 to see your derivation of that 50/50 split?

13 **A.** It was a judgmental assignment of the cost.

14 **Q.** And what factors did you take into account
15 when you were exercising your judgment?

16

17 (Whereupon, a there was a
18 change of reporters.)

19

20

21

22

1 **A.** As laid out in my testimony, the O and M
2 expense goal, I think, is something that benefits
3 both customers and shareholders. I'm using that
4 mutual benefit to achieving that objective, I
5 assigned part of the cost to both those people.

6 Other portions of incentive compensation
7 are directed at aligning executive interest to
8 shareholders, I believe primarily benefit
9 shareholders. I allocated all those costs to
10 shareholders.

11 **Q.** When you came up with the 50/50 split it
12 could be, as far as you know, 70/30 in favor of
13 customers or 80/20 or 90/10 or any other number,
14 couldn't it?

15 **A.** No, I don't believe that's reasonable. And
16 as I laid out in my testimony, customers are paying
17 what are perceived to be reasonable and prudent
18 operating expenses. It's reasonable to expect that
19 a prudent utility management would manage its
20 system and achieve those cost levels.

21 To the extent they can do better than
22 that, customers will overcompensate the utility for

1 its operating expenses. And, in addition, will pay
2 the total incentive compensation that produced
3 those savings that primarily benefits investors
4 under the Company's proposal.

5 What I'm recommending is that rates be
6 set to recover prudent and reasonable operating
7 expenses, share the incentive goal of O and M
8 expense management between customers and investors
9 on an equal basis. And to the extent the incentive
10 goals could be met and O and M expense increases
11 could be mitigated or could be reduced beyond what
12 was perceived to be a reasonable and prudent level,
13 then customers still pay 50 percent of the
14 incentive goal, but investors still get all the
15 benefits, the cost reduction benefits associated
16 with that goal being achieved.

17 **Q.** I understand that's all set forth in your
18 testimony, Mr. Gorman, I read all of that, I
19 understand all of that, but that really has nothing
20 to do with the question I asked. And that is, why
21 50/50? What rigorous analysis did you go through,
22 if any, to determine that the sharing of those

1 goals at 50/50 was more appropriate than any other
2 percentage?

3 **A.** It was a judgmental call and the rationale
4 I used was what I just went through.

5 **Q.** And I think you said that in some cases you
6 determined that the goals principally benefit
7 shareholders, so you allocated all of the costs of
8 that incentive compensation to shareholders; is
9 that correct?

10 **A.** Yes.

11 **Q.** When you say principally benefits, what do
12 you mean by that, 55 percent versus 45 percent to
13 customers?

14 **A.** Well, on the incentives goals which are
15 intended to align the interests of management with
16 shareholders, I assigned 100 percent of the cost to
17 shareholders, as they are the beneficiary of
18 achieving that incentive.

19 **Q.** You know under the LTIP program there are
20 goals related to what we refer to as SAIFI and
21 CAIDI? I mean, you're an engineer, you know the
22 System Average Interruption Frequency Index, the

1 Customer Average Interruption Duration Index, you
2 are familiar with those, aren't you?

3 **A.** I am. I allocated all those costs to
4 customers because I believe customers benefit from
5 reliability and employee safety.

6 **Q.** You allocated all the costs from the LTIP
7 program to shareholders, did you not?

8 **A.** That's because the LTIP program, as I
9 understand, is intended to align the interests of
10 executives with those of shareholders.

11 **Q.** Mr. Gorman, you allocated all of the costs
12 of the Long-Term Incentive Plan program to
13 shareholders, correct?

14 **A.** Yes.

15 **Q.** And you are aware, are you not, that there
16 are objectives in the Long-Term Incentive Plan,
17 Incentive Compensation Program, that are designed
18 to, and in the view of the Commission, do benefit
19 customers, SAIFI and CAIDI indexes, you know that,
20 don't you?

21 **A.** Part of the Annual Incentive Program, yes.

22 **Q.** And you allocated all of those costs,

1 nonetheless, to shareholders, yes?

2 **A.** Under the Long-Term Incentive Plan, yes. .

3 MR. STAHL: I have nothing further.

4 JUDGE HAYNES: Redirect?

5 MR. ROBERTSON: I wonder if counsel is going to
6 look to see if he has any additional cross and we
7 could wait until we are sure of that and not do
8 this piecemeal.

9 MR. STAHL: We have no further cross. We've
10 looked at the exhibits, there is nothing in there
11 that is material.

12 (Break taken.)

13 MR. ROBERTSON: Just a couple of questions, your
14 Honor.

15 REDIRECT EXAMINATION

16 BY

17 MR. ROBERTSON:

18 **Q.** Mr. Gorman, you were asked some questions
19 about the Commission's Rule 387.40 and Staff
20 Exhibit 1.0, Schedule 1.3. In regard to those
21 questions, can you tell me whether or not the items
22 listed in 387.40, plant investment expenses and

1 cost of capital, are components of the ratemaking
2 formula?

3 **A.** They are. If you look at Staff's Schedule
4 1.3 -- Exhibit 1.0, Schedule 1.3, the bottom line
5 factor that goes into development of the utility's
6 revenue requirement is rate base. One of the
7 issues at hand is what impacts that rate base
8 number. Is it Line 1, gross plant or is it Line 4,
9 net plant?

10 Well, the mathematical summation shown
11 on this schedule shows that what impacts rate base
12 is net plant, not gross plant. So with it making
13 post test year adjustments, in order to properly
14 estimate the revenue requirement to the utility,
15 properly follow the ratemaking calculus in setting
16 rates, the post test year adjustment should track
17 the change in the utility's cost of service or rate
18 base.

19 That change in cost of service is shown
20 on -- associated with the post test year plant
21 adjustments only, is the impact in Line 4, net
22 plant. What will those post test year capital

1 additions do to that net plant number.

2 And the answer to that is, by looking at
3 all the post test year capital investments and
4 offset, which will increase rate base, and also
5 look at known and measurable decreases to rate base
6 that correspond with those plant investments in the
7 very same time period. So in order to estimate
8 rate base and properly estimate the ratemaking
9 calculus, the post test year adjustment should
10 track net plant, not gross plant.

11 **Q.** I take it you would agree that changes in
12 expenses, plant investment and cost of capital
13 should be recognized for an accurate determination
14 of the revenue requirement for ratemaking purposes?

15 **A.** Yes. Again, utility's cost of capital or
16 operating income can be determined by applying a
17 rate of return to rate base. So in order to
18 reasonably estimate the utility's cost of capital
19 and operating income, you have to both estimate a
20 fair rate of return and you have to properly
21 estimate the utility's rate base. That's the
22 purpose for properly recognizing the net plant

1 impact associated post test year plant additions
2 when a historical test year is used.

3 MR. ROBERTS: Thank you, no further questions.

4 JUDGE HILLIARD: Recross?

5 RECROSS EXAMINATION

6 BY

7 MR. STAHL:

8 Q. Yes, just a couple of questions.

9 Did I hear you correctly, Mr. Gorman, to
10 say that it is net plant that affects rate base,
11 not gross plant?

12 A. Yes.

13 Q. You don't even get to net plant without
14 knowing what the gross plant is, do you?

15 A. Correct.

16 Q. And I think you said that you have to make
17 adjustments or ratemaking adjustments in the post
18 test year with respect to the net plant; is that
19 correct?

20 A. Right, otherwise you misstate rate base.

21 Q. Accumulated deferred income taxes are not
22 something that is taken into account in reaching

1 net plant, is it?

2 A. Accumulated depreciation?

3 Q. No, accumulated deferred income taxes?

4 A. That's correct.

5 Q. That's not part of the calculation arriving
6 at net plant, correct?

7 A. That's correct.

8 MR. STAHL: Thank you, nothing further.

9 MR. ROBERTSON: I have nothing further.

10 JUDGE HILLIARD: Okay. Thank you, Mr. Gorman.

11 Let's break until 1:30.

12 (Witness excused.)

13 (Luncheon break.)

14 (Witness sworn.)

15 SCOTT RUBIN,

16 called as a witness herein, having been first duly
17 sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY

20 MS. MUNSCH:

21 Q. Good afternoon, my name is Kristin Munsch
22 on behalf of the People.

1 Good afternoon, Mr. Rubin. Could you
2 please state your full name and spell it for the
3 record, please.

4 **A.** Scott J. Rubin, R-u-b-i-n.

5 **Q.** And what is your business address?

6 **A.** 333 Oak Lane, Bloomsberg, Pennsylvania.

7 **Q.** And by whom are you employed?

8 **A.** I'm self employed.

9 JUDGE HILLIARD: I'm sorry to interrupt. Counsel
10 had indicated he wanted to do an oral motion,
11 before you began.

12 MR. TOWNSEND: And actually, apparently, Com Ed
13 counsel, although there are many in the room, my
14 understanding is that Com Ed counsel who can best
15 address these issues, perhaps, is not in the room.
16 The issues are regarding our ninth set of data
17 requests, as well as the on-the-record data
18 request. Mr. Bradford, I don't know if you want to
19 defer that discussion until someone else arrives.

20 MR. BRADFORD: I think you should defer it.

21 JUDGE HILLIARD: Okay, then proceed.

22 MR. TOWNSEND: I appreciate that, thank you, your

1 Honor.

2 BY MS. MUNSCH:

3 Q. Mr. Rubin, I have what's been marked AG
4 Exhibit SJR 6.0, in front of me, the Rebuttal
5 Testimony of Scott J. Rubin along with AG Exhibit
6 6.01, that was filed on e-docket on April 8th,
7 2008. Is this testimony that you prepared or
8 directed to be prepared at your request?

9 A. Yes, it is.

10 Q. And if you were asked the questions
11 contained in this testimony today, would your
12 answers be the same?

13 A. Yes.

14 Q. And information contained in here and the
15 attached exhibit is true and correct to the best of
16 your knowledge?

17 A. Yes, it is.

18 MS. MUNSCH: Your Honors, at this time I would
19 move that Mr. Rubin's testimony, which is AG
20 Exhibits 6.0 and 6.01 be admitted into evidence.

21 JUDGE HILLIARD: Objections.

22 MR. JOLLY: No objections from the City.

1 JUDGE HILLIARD: Hearing no objections, the
2 exhibit and attachment will be admitted into the
3 record.

4 (Whereupon, AG Exhibits Nos. 6.0
5 and 6.1 were admitted into
6 evidence as of this date having
7 been previously submitted on
8 e-docket.)

9 MS. MUNSCH: Thank you. Mr. Rubin is available
10 for cross.

11 CROSS EXAMINATION

12 BY

13 MR. JOLLY:

14 Q. Ronald D. Jolly on behalf of the City of
15 Chicago, 30 North LaSalle, Suite 900, Chicago,
16 Illinois 60602.

17 Mr. Rubin, again, my name is Ron Jolly,
18 I'm an attorney for the City of Chicago. And I'm
19 going to focus on the last few pages of your
20 testimony, beginning at Line 395 where you respond
21 to City witness Mr. Bodmer's testimony. It's Page
22 17.

1 **A.** Yes, I have it.

2 **Q.** In particular there you state that you
3 disagree with Mr. Bodmer's proposal that
4 residential rates should be lower in the City.
5 Putting aside whether you properly characterize his
6 testimony, is that accurate?

7 **A.** Yes.

8 **Q.** And as I understand your testimony, the
9 basis for disagreeing with Mr. Bodmer is that you
10 believe he has not conducted a full cost of service
11 analysis to come to the conclusions he does?

12 **A.** Yes.

13 **Q.** And among the factors you mention that
14 should be addressed in conducting a cost of service
15 study, are meter reading costs; is that right?

16 **A.** Among others, yes.

17 **Q.** And in particular at Lines 426 through 428,
18 you mention meter reading costs; is that right?

19 **A.** Yes.

20 **Q.** And as you also mention, you testified in
21 Com Ed's previous delivery service case, rate case;
22 is that right?

1 **A.** Yes, I did.

2 **Q.** 05-0597?

3 **A.** Yes.

4 **Q.** Do you have a copy of your testimony with
5 you?

6 **A.** I do not. I have an electronic copy.

7 MR. JOLLY: I have a paper copy. Can I --

8 JUDGE HILLIARD: Sure.

9 BY MR. JOLLY:

10 **Q.** And if you go to Lines 357 through 65 of
11 your testimony in Docket 05-0597.

12 **A.** Yes.

13 **Q.** Actually, it's Line 357. You're asked a
14 question there about the difference in the cost of
15 meter reading between single family and
16 multi-family customers; is that correct?

17 **A.** Yes.

18 **Q.** And if you wish, you can read your response
19 or if you want, you can summarize your response.

20 **A.** Well, I'm sorry, I'm not sure what you
21 asked me.

22 **Q.** Well, you're asked about the difference in

1 the cost of meter reading between single and
2 multi-family customers, correct?

3 A. Yes.

4 Q. And your conclusion is that it is cheaper
5 to read meters for multi-family customers; is that
6 accurate?

7 A. Yes.

8 Q. And you provide an example there, where you
9 state that in a multi-family situation,
10 multi-family home, that the travel time between
11 meters to read meters is essentially zero; is that
12 right?

13 A. Yes.

14 Q. Whereas in a single family situation, that
15 a meter reader would have to travel some distance
16 between reading one meter and the next; is that
17 right?

18 A. That's correct, yes.

19 Q. And as far as you know, you still believe
20 the testimony you provided there at Lines 357
21 through 375, that's still accurate today?

22 A. I haven't looked at the -- I haven't look

1 to see if there is more current data than what I
2 referred to. I think this was done in late 2005,
3 but I think the same concept still holds true.

4 Q. And also in the prior case, you testified
5 that the cost level for meter reading depends on
6 density of customers; is that right?

7 A. Yes.

8 Q. And density of customers depends on the
9 number of multi family versus single family
10 customers?

11 A. Among others, yes.

12 Q. In Lines 383 through 390 of your testimony
13 in the prior case, which is at Page 18. In there
14 you discuss information regarding the U.S. Census
15 Bureau in 2002 and the number of multi-family units
16 in Chicago versus the number of multi-family units
17 in non-Chicago areas of Com Ed's service territory;
18 is that right?

19 A. Yes.

20 Q. And as I understand your testimony there,
21 you state that 55 percent of Com Ed's multi-family
22 residential customers were in Chicago; is that

1 right?

2 **A.** Yes.

3 **Q.** And that the single family or two family
4 housing units in Chicago represented only
5 24 percent of Com Ed's single family residential
6 customers; is that right?

7 **A.** Yes.

8 **Q.** Now, do you have any reason to believe that
9 those numbers aren't accurate or have changed
10 drastically since your testimony in that case?

11 **A.** No, I expect they've changed slightly since
12 then, but probably not significantly.

13 **Q.** Another factor that you might look at in
14 determining cost of service, might it be income
15 level?

16 **A.** To determine cost of service? I don't
17 think so.

18 **Q.** In your opinion, is there a correlation
19 between multi-family housing and income level?

20 **A.** I guess I'm not sure exactly what you mean
21 by correlation. If you're asking for some kind of
22 statistical test, I'm not sure I can answer that.

1 I think there is some relationship, but
2 I don't think you can say with any certainty that
3 multi-family customers tend to be lower income or
4 single family tend to be higher income. I think
5 it's more complicated than that.

6 **Q.** Is there a connection between the amount of
7 energy usage and cost of service?

8 **A.** There is some relationship.

9 **Q.** And the relationship -- customers who use
10 less -- use less energy, do they -- are they more
11 expensive or less expensive to serve?

12 **A.** I don't think I can generalize to that.
13 The cost of service -- if we're looking at
14 distribution cost, which is obviously what this
15 case is about, I think the cost to serve the
16 customer depends on what equipment is installed to
17 serve the customer and, you know, operating and
18 maintenance and customer service expenses. Some
19 elements of that are directly related to energy
20 usage, but many elements of those costs are not
21 related to energy usage. So I'm just having a hard
22 time trying to answer the question the way you

1 asked it.

2 Q. Okay. Well, going back to your testimony
3 in this case, on Page 18, beginning at Lines 405
4 through 415, you fault Mr. Bodmer for failing to
5 analyze -- you say that Mr. Bodmer discusses the
6 difference between the amount of underground
7 installations in the City versus the amount of
8 underground installations in non-City areas; is
9 that right?

10 A. Yes.

11 Q. And you state that he did not do a complete
12 analysis, because he failed to review the O and M
13 costs associated with overhead and underground
14 lines; is that right?

15 A. Among other things, yes.

16 Q. Do you have a copy of Mr. Bodmer's
17 testimony?

18 A. Yes, we do.

19 Q. If you go to Line 1036 in Mr. Bodmer's
20 direct testimony?

21 A. Yes, I have it.

22 Q. Which appears on Page 57. And there is a

1 table above there. And that table is entitled
2 Allocation of Single Family and Multi Family Costs
3 Incorporating Density and Overhead Versus
4 Underground. Do you see that?

5 A. Yes.

6 Q. And so it is your position that in his
7 examination of the overhead and underground cost,
8 he did not include an examination of the O and M
9 costs associated with the two types of lines?

10 A. I'm sorry, if you could just give me a
11 minute to put this table in some context.

12 Q. Sure.

13 MS. MUNSCH: This is something that Mr. Bodmer
14 prepared; is that correct?

15 MR. JOLLY: Yeah.

16 THE WITNESS: As I understand it, the table on
17 Page 57 of Mr. Bodmer's testimony is rate based,
18 not operating and maintenance expense. And as he
19 says, from Lines 1031 to 1035, that he's assuming
20 the same cost of overhead equipment per mile
21 applying inside and outside the City. And that's
22 one example of an assumption that he makes that I

1 don't think is necessarily an accurate assumption,
2 that there may very well be differences in costs
3 when you move from a very densely populated urban
4 area to a less populated suburban area. So, I hope
5 that answers your question.

6 BY MR. JOLLY:

7 Q. Are you on the service list in this case?

8 A. Yes.

9 Q. Do you receive discovery responses?

10 A. Yes.

11 Q. And do you review them when you receive
12 them?

13 A. I try to. I've received an awful lot that
14 is -- that deals with information in other areas of
15 the case, but I hope I have reviewed everything
16 that relates to these issues.

17 Q. I am going to show you the City's response
18 to Commonwealth Edison's Data Request 2.09. And I
19 am going to have this marked as City Cross
20 Exhibit 1.

21

22

1 (Whereupon, City Cross
2 Exhibit No. 1 was
3 marked for identification
4 as of this date.)

5 BY MR. JOLLY:

6 Q. Have you had an opportunity to review this?

7 A. Yes.

8 Q. Is this document familiar to you?

9 A. It looks like one that I have reviewed,
10 yes.

11 Q. And the table that appears at Page 57 of
12 Mr. Bodmer's direct testimony, is it true that
13 that's reproduced at Page 2 of the data response?

14 A. Yes.

15 Q. And does the data response go on to explain
16 the derivation of that table?

17 A. It does. It looks like it also corrects
18 the table, because there are some differences
19 between what's in the data response and what's in
20 the testimony.

21 Q. Well, if you go to the table on Page 3, at
22 the bottom on Page 3, above the double barred line

1 for total overhead costs, is it true that there's
2 entries for overhead line operating expenses and
3 overhead line maintenance expenses?

4 **A.** Yes.

5 **Q.** And is it true that in the data response it
6 indicates that those numbers were taken from Com
7 Ed's embedded cost of service study?

8 **A.** Yes. But at least as I understand it,
9 those items do not appear in the table on Page 57
10 of Mr. Bodmer's testimony.

11 And just so we're clear what I'm talking
12 about, the table on Page 57 of the testimony
13 relates to the allocation of distribution lines.
14 The table on Page 3 of the City Cross Exhibit 1
15 relates to the allocation of line transformers.
16 Those are different costs.

17 **MR. JOLLY:** I have nothing further, thanks. I
18 will not move for the admission of City Cross
19 Exhibit 1.

20 **JUDGE HILLIARD:** Is there another questioner for
21 the witness?

22

1 CROSS EXAMINATION

2 BY

3 MR. BRUDER:

4 Q. I am Perry Bruder of the U.S. Department of
5 Energy. Good afternoon.

6 I wanted to ask you first, you say that
7 you reviewed the testimonies of various company
8 witnesses and you reviewed the followings tariff
9 and rate design portions. Did you review the cost
10 of service study itself that the Company filed?

11 A. Yes, I did.

12 Q. And do you have you claim expertise
13 sufficient to study such a cost of service study
14 and make an independent judgment as to whether it
15 has fundamental problems of the sort that you refer
16 to in your testimony?

17 A. Yes.

18 Q. What is that expertise, sir?

19 A. Well, I've been testifying on cost of
20 service issues since approximately 1992 or '93, so
21 about 15 or 16 years. I've prepared cost of
22 service studies, I have analyzed cost of service

1 studies over that time period. As I think I
2 mention in the testimony --

3 Q. That's more than sufficient, thanks.

4 Now I want to get a bead on exactly what
5 the sum of your testimony is in the area in which
6 the Department is interested. Now, as I get it,
7 what you're saying is that if there are what you
8 call fundamental problems with this cost of service
9 study and those fundamental problems cannot be
10 corrected in this current case, that across the
11 board is the appropriate treatment; is that
12 correct?

13 MS. MUNSCHE: Are you referring to something
14 specific in his testimony?

15 MR. BRUDER: Yes, if you could take a look at
16 Page 7, around Line 159.

17 THE WITNESS: It did sound very familiar when
18 you read it.

19 BY MR. BRUDER:

20 Q. Oh, I'm very familiar with it.

21 A. Yes, I think that's -- I think you
22 accurately characterized my testimony that if the

1 Commission finds that the cost of service study is
2 deficient, then an across the board increase is an
3 appropriate way to reflect that in setting rates in
4 this case.

5 Q. And when you say deficient, it's another
6 way of saying it has, what you refer in your
7 testimony as, fundamental problems?

8 A. Yes.

9 Q. Well, Mr. Rubin, is it your opinion that
10 this cost of service study that Commonwealth Edison
11 has presented in this case does, in fact, have
12 fundamental problems that cannot be corrected in
13 this proceeding?

14 A. I did not reach that conclusion from my
15 review of the cost of service study. Some of the
16 other witnesses who testified highlighted issues
17 that frankly I had not focused on in my review,
18 because my focus was largely on the residential
19 class, where they were focusing on issues more
20 specific to nonresidential classes. I don't -- so
21 my review did not find the study to be deficient.
22 But as I said, other witnesses have raised issues

1 that I have not evaluated in any detail.

2 Q. Is it fair to say that you think that a
3 reasonable person could reach the conclusion that
4 this study has fundamental problems that cannot be
5 corrected in this case based on your reading of
6 those other witnesses' testimony and your
7 expertise?

8 A. I have not reached that conclusion. I
9 don't know how the Commission will resolve those
10 issues. My conclusion is that the cost of service
11 study can be used to -- as a guide to establishing
12 rates in this case. And that's, frankly, one of
13 the reasons why I did not file direct testimony in
14 this case.

15 But if the Commission agrees and finds
16 that the study is deficient, then we have to go
17 from there, and that's really what this portion of
18 my testimony addresses.

19 Q. Then we have to go to an across the board
20 allocation?

21 A. Yes.

22 Q. Now, I'm going to look at Page 7, beginning

1 around Line 160. Are you there?

2 A. Yes.

3 Q. You say if across the board is adopted, it
4 must be adopted for all customer classes, including
5 residential. You say across the board in those
6 circumstances must be applied to all of the
7 classes, because if the cost of service study is
8 seriously flawed, it is no basis for assuming that
9 any class should assume anything other than an
10 across the board increase; is that right?

11 A. Yes.

12 Q. It seems to me, then, that I could sum up
13 your testimony by saying that absent what the
14 Commission finds to be a valid cost of service
15 study, there is no valid way to measure what it
16 costs to serve any of the classes; is that correct?

17 A. Yes, that's a reasonable summary.

18 Q. I'm looking at Page 7, on Lines 163, 164.
19 The question I have for you is, is it not possible
20 that a cost of service study could have what you
21 call fundamental problems, not correctable in the
22 proceeding, but those problems affect only the

1 measurement of the cost of service for one class,
2 or one group of classes, but not for another class
3 or group of classes. Is that possible?

4 **A.** In the abstract, I would say that would be
5 extremely unlikely. The cost of service study is
6 highly integrated and we can think of it as a 0 sum
7 game, if you will. If costs are being moved out of
8 one category, they have to show up someplace else.
9 And the way the allocation factors work, it's very
10 unlikely that changing costs from one category to
11 another will not have ripple affects that affect
12 the entire study.

13 **Q.** Well, isn't it possible, for example, that
14 a study first allocates costs between residential
15 and non-residential? And then in the allocations
16 that follow, say among the residentials, there are
17 serious flaws, but the amount of money that the
18 residentials are going to pay as a whole is a 0 sum
19 game. So it is possible that the residentials
20 might be greatly affected, but the others not
21 affected at all, is that not so?

22 **A.** Well, I guess I'm having a little trouble,

1 because I don't, you know, in the 15 years or more
2 I've been doing this, I don't think I have ever
3 seen a cost of service study that first allocates
4 costs between residential and nonresidential.
5 That's just not the way it works. Costs are being
6 allocated to categories and then to customer
7 classes, all happening basically at the same time.
8 It's not a residential versus nonresidential split.
9 So I'm just having trouble with the premise of your
10 question, because I've never seen a study that does
11 it the way you described.

12 **Q.** Now, again at Page 7, Lines 147 and
13 following, you say that there is no cost basis for
14 establishing different rates for customers located
15 in the City of Chicago. Do you mean by that that
16 there is no cost of service study that establishes
17 that there should be different rates for customers
18 located in the City of Chicago?

19 **A.** Well, there is no cost of service study,
20 and as I described later in the testimony, I
21 don't -- actually don't know if there is a cost
22 basis or not, because we don't have complete cost

1 data.

2 You know, the statement you just read
3 from is a summary of what's coming later in the
4 testimony, some of which we just discussed with
5 Mr. Jolly. But when I say there is no cost basis,
6 I mean I haven't seen a complete analysis, whether
7 you want to call it a cost of service study or
8 something else.

9 **Q.** But in the end, that's what -- it's the
10 absence of that, whether we call it a cost of
11 service study or whether we call it something else,
12 it's the absence of that that underlies your
13 statement where you say there is no cost basis for
14 this; is that not correct?

15 **A.** Yes.

16 **Q.** Could there be any other basis for
17 establishing that, other than a valid cost of
18 service study or a cost of service study by some
19 other name?

20 **A.** I have trouble thinking of one. I mean,
21 it's possible that you could do an analysis that's
22 less than a complete cost of service study. For

1 example, you could say, well, you know the billing
2 costs or the costs of the call center are going to
3 be the same, so we'll ignore those and just focus
4 on certain categories of costs. But that's, I
5 guess now that I've said that, that's still really
6 a cost of service study, it's just a more limited
7 form of one.

8 Q. Thank you. More generally, if there is no
9 valid cost of service study in the record, if
10 whatever cost of service studies are available have
11 the kind of problems that you call fundamental
12 problems, is there anything at all to enable the
13 fact finder to determine whether any one class is
14 subsidizing or not subsidizing any other class?

15 A. No, not that I can think of.

16 Q. Now, I'm going to pick up at Page 9 of your
17 testimony, regarding the separation of primary and
18 secondary distribution facilities. Are you there?

19 A. Yes, I am.

20 Q. You say that you disagree with Mr. Stowe,
21 that's the witness for IIC, cost separation of
22 primary and secondary lines because it contains a

1 methodological error. Now, what I want to ask you
2 is do you disagree in theory with the separation of
3 primary and secondary lines for the purpose of
4 measuring costs in this proceeding? Or do you
5 disagree only with the methodology that Mr. Stowe
6 used to do that?

7 **A.** I disagree with the methodology, not with
8 the theory.

9 **Q.** Then you do agree, that if the manner in
10 which the Company provides service to a customer
11 never involves, never requires, use of the
12 secondary portion of the system, that customer
13 should not be required to pay for any portion of
14 that secondary system; is that right?

15 **A.** Yes.

16 **Q.** Now, suppose for a moment we have a cost of
17 service study that does not separate the primary
18 and secondary portions of the testimony for the
19 purpose of allocating costs.

20 Now, when I suggested another
21 possibility for a cost of service study you pointed
22 out, probably rightly, that they don't do cost of

1 service studies that way, but here I ask you to
2 assume that we have a cost of service study that
3 doesn't separately allocate for secondary and
4 primary portions of the system. Is that a fair
5 thing to assume for purposes of this question?

6 **A.** Yes.

7 **Q.** Where there is no such primary and
8 secondary allocation, can that cost of service
9 study avoid, except by accident, allocating
10 portions of the secondary system to customers who
11 do not use the secondary system?

12 **A.** Unfortunately, I'm not sure whether to
13 answer yes or no to the question because of the way
14 it was phrased.

15 **Q.** Well, take a crack at it. And let me take
16 a crack at rephrasing it in any way you think is
17 fair, I understand that.

18 **A.** Let me try this, which I think answers your
19 question. If the study does not separate primary
20 and secondary costs and if there is a customer who
21 does not use the secondary system, then it is very
22 likely that the study has assigned secondary costs

1 to a customer that does not use the secondary
2 system.

3 Q. It's at least very likely. I mean, do you
4 see a methodology in which you wouldn't have the
5 primary, secondary allocation, in which what we
6 would call a primary customer or a high voltage
7 customer, someone who takes as high as 345 kV, is
8 it even possible under any fair scenario that such
9 a customer isn't going to get some portion of the
10 cost of the secondary system?

11 MS. MUNSCH: Are we still on your hypothetical
12 question?

13 MR. BRUDER: Yes.

14 THE WITNESS: That's why I answered the question
15 it's very likely, because your question said except
16 by accident. The way the study would be designed,
17 if primary and secondary costs are not being
18 separately allocated, then, well, I'll come back
19 and say it's very likely and extremely likely that
20 the customer who does not use the secondary system
21 would be allocated some of the secondary costs.

22 I mean, we're in this kind of

1 hypothetical world, so that's the best I can do,
2 but yeah, I'll just leave it at that.

3 BY MR. BRUDER:

4 Q. I'm going to look at Page 9 of your
5 testimony, Lines 210 to 211. Are you there?

6 A. Yes.

7 Q. You say that the larger the wire the more
8 costly it is to purchase. Now, that's so only if
9 you compare the prices of different wires as the
10 two prices are at the same point in time, isn't
11 that so? In other words, if we have two wires and
12 the Company bought the bigger one 5 years ago and
13 bought the smaller one today, the smaller one
14 really might cost more, mightn't it?

15 A. Yes. And I think as you said, I was,
16 again, dealing with actual data for specific time
17 periods. I think Mr. Stowe looked at a 5-year time
18 period. So within each of those years, you don't
19 have the temporal problem that you discussed, it's
20 just in the year 2002, here's how much wire was
21 purchased, so you wouldn't have the problem you
22 described.

1 **Q.** If we compare prices as they exist over the
2 course of say one year or some period less than
3 that is, that what you just said? You just said
4 the year 2002.

5 **A.** Yes. Well, what I was -- I mean, in the
6 abstract, you're right, that wire, over an extended
7 period of time, is going to fluctuate in value, but
8 that's not the concern that I had with Mr. Stowe's
9 analysis. He was looking at specific amounts of
10 wire in a specific time period, but not doing
11 anything to differentiate the cost.

12 So yes, there might be a difference
13 between wire purchased in 2002 and wire purchased
14 in 2007. But within 2002, I would not expect to
15 see the same kind of fluctuation.

16 **Q.** Now, is large wire necessarily more costly
17 to install than smaller wire?

18 **A.** Not necessarily.

19 **Q.** Is it always more expensive to maintain a
20 larger wire than to maintain a smaller wire?

21 **A.** Not necessarily.

22 **Q.** Okay, I'm going to look at Page 10 of your

1 testimony now.

2 **A.** I have it.

3 **Q.** Okay. I'm looking at Line 224 through 225.
4 You say the number of feet of wire and cable tells
5 us nothing about Com Ed's cost to obtain and
6 install in these facilities. Now, you don't mean
7 that literally, do you, sir? Surely the number of
8 feet tells us something about the cost of updating
9 and installing these facilities.

10 **A.** Oh, I see what you mean. That's -- well, I
11 think that sentence read in context says the number
12 of feet, just comparing the number of feet without
13 differentiating the cost for the different sizes of
14 wire and cable tells us nothing about the cost.

15 I mean, yes, obviously if you buy, you
16 know, 10,000 feet, it will cost more than buying
17 1 foot, but that's not the context of my statement.

18 **Q.** That's very fair. Now, finally, regarding
19 the concept of minimum distribution system, what
20 they refer to as MDS I have understood that you
21 oppose MDS, but please tell me if MDS, as the
22 concept is generally understood or adopted here,

1 that would shift costs from demand to customer
2 functions; is that right?

3 **A.** Yes.

4 **Q.** And that, in turn, would shift or likely
5 shift costs from nonresidential to residential
6 classes; is that correct?

7 **A.** That's largely correct. As I understand,
8 at least the MDS analysis that has been presented,
9 there are also some shifts that occur within the
10 residential class that are, at least to my mind,
11 were a little bit unexpected. Where costs, I
12 think, move away from some of the residential
13 heating customers on to non-heating customers. So
14 it's not just a residential versus nonresidential
15 problem, there is also shifting of costs within the
16 residential class.

17 **Q.** Well, the shift that I mentioned would
18 occur, your point is there might be one or more
19 other shifts as well?

20 **A.** Yes. Well, it's -- I guess what I was
21 trying to clarify is that Commonwealth Edison does
22 not have a residential class of customers, it has

1 four residential classes. And the impact of MDS on
2 those four classes is not all the same. Some of
3 them have their costs increase and some of them
4 have their costs decrease.

5 Q. By MDS?

6 A. I believe so, yes.

7 Q. Just give me a minute to look.

8 MR. BRUDER: Nothing further. Thank you very
9 much.

10 CROSS EXAMINATION

11 BY

12 MR. ROBERTSON:

13 Q. Good afternoon, Mr. Rubin, my name is Eric
14 Robertson, I represent the Illinois Industrial
15 Energy Consumers.

16 A. Good afternoon.

17 Q. Mr. Rubin, as I understand from your
18 responses to data requests in this case, you are
19 not an electrical engineer; is that correct?

20 A. That is correct.

21 Q. And I also understand, based on those
22 responses, that you've never performed an

1 engineering or economic analysis of the primary and
2 secondary distribution system?

3 **A.** That's correct.

4 **Q.** Now, are you aware that the electrical
5 system in North America and in the rest of world,
6 for that matter, use alternating current or AC?

7 **A.** Yes.

8 **Q.** And do you agree that one of the primary
9 benefits of AC electrical systems is that they
10 allow for the transmission and distribution of
11 large amounts of electricity across long distances
12 and over relatively small wires?

13 **A.** Yes.

14 **Q.** And do you agree that one of the
15 fundamental principals behind the electric grid is
16 that the higher voltage systems can carry
17 significantly more electricity over smaller wires
18 than lower voltage systems?

19 **A.** Yes.

20 **Q.** Now, on Page 10 of your rebuttal, AG
21 Exhibit SJR 6.0, Line 226. There you state that
22 obviously the primary cable which carries a much

1 higher electrical load is more expensive cable. In
2 what way is the relationship between higher
3 electrical load and cable expense obvious to you?

4 **A.** Well, I was -- in making that statement, I
5 was relying on Mr. Stowe's table that showed the
6 specific types of cable that were -- that were
7 classified as primary and secondary.

8 And then as I mentioned in the
9 testimony, I looked at data from one manufacturer,
10 that simply said, well, here's the weight of each
11 of those types of cable, weight being primarily a
12 function of the amount of metal in the cable. And
13 the secondary -- the primary cable was much heavier
14 and in my mind, got translated into more expensive
15 into the secondary cable.

16 **Q.** Are you referring to his Exhibit 3.2?

17 **A.** Yes.

18 **Q.** Do you have a copy handy?

19 **A.** I think so. Yes, we have it.

20 **Q.** Can you tell me which cables -- I'm looking
21 at the underground cables shown on Exhibit 3.2.
22 You see those?

1 **A.** Yes.

2 **Q.** And it's my understanding, and I hope you
3 agree with this, that the aluminum cable, 600 volts
4 URD 4, backslash, 0, is the secondary cable?

5 **A.** Yes.

6 **Q.** And all of the 15 kV cables are the primary
7 cables?

8 **A.** Yes.

9 **Q.** Which cables are larger?

10 **A.** If you could give me a minute.

11 **Q.** Sure.

12 **A.** If you like, we can go through these one at
13 a time, but I'll start with a general answer. In
14 discovery we provided you with a work paper which
15 is the information from the wire and cable
16 manufacturer that you mentioned in the testimony.

17 And looking at that information, the 15
18 kV cable of the various types listed in Mr. Stowe's
19 Exhibit 3.2, his various types, have a weight
20 ranging between about 500 and almost 3,000 pounds
21 per thousand feet, compared to the 600-volt cable,
22 which I believe has a weight in the neighborhood of

1 3 or 400 pounds per thousand feet.

2 Q. You are talking about the weight of the
3 cable and I was not clear enough in my question.
4 Which cable is the largest in diameter?

5 A. Oh, in my testimony I wasn't talking about
6 diameter, I was talking about the weight of the
7 cable, which is the amount of metal in it, which is
8 what is going to determine the cost.

9 Q. As I read your testimony, you were -- I
10 thought you were indicating that the larger
11 diameter, the greater the weight of the cable and
12 the more metal in the cable, therefore the cable
13 would be more expensive. Did I misread it?

14 A. Yeah, I don't believe I mentioned diameter
15 in the testimony, I was just talking about the
16 weight of the cable.

17 Q. All right.

18 A. I was relying specifically on information
19 from the cable manufacturer.

20 Q. Can you tell me -- do you know whether or
21 not 15 kV cable is capable of being used in
22 secondary applications?

1 **A.** I do not know.

2 **Q.** If they were capable of being used in
3 secondary applications -- well, strike that.

4 The data that you have just referred to
5 from the Custom Cable Corporation, can you get that
6 in front of you, please?

7 **A.** Yes, I have it.

8 **Q.** Can you tell me whether or not you can
9 determine from those documents, whether the cable
10 or wire that's described in there is primary or
11 secondary?

12 **A.** Well, some of it I can and some I can't and
13 some specifically says, for example, overhead
14 service drop, that's obviously secondary. Some of
15 it I don't know.

16 **Q.** Now, I'm looking at the work papers you
17 provided and in particular the papers you provided
18 from the cable company website. And I call your
19 attention to the page that has XLP power cable,
20 15,000 volts shielded underground, type MV-90,
21 100 percent insulation. Do you see that?

22 **A.** Yes.

1 BY MR. ROBERTSON:

2 Q. And is it correct that the explanatory note
3 right below that title indicates that that cable is
4 suitable for use in secondary applications?

5 A. Well, let me read what it says. I think
6 we're looking at the same page. It says, For use
7 in main, feeder, distribution and branch circuits
8 and industrial, commercial and electric utility
9 installation -- and I'll skip a little bit -- in
10 circuits not exceeding 15,000 volts, and it goes on
11 from there.

12 Q. Okay.

13 A. From that description, I do not know that
14 that's limited to secondary applications.

15 Q. I didn't ask if it was limited. It could
16 be used in secondary applications, could it not, as
17 long as it doesn't exceed 15,000 volts? And
18 secondary doesn't exceed 15,000 volts; isn't that
19 correct?

20 A. Well --

21 Q. Strike that.

22 Isn't it correct that it can be used in

1 any application below 15,000 volts?

2 **A.** That's what it says. In Mr. Stowe's
3 exhibit, he has cable of this type being used only
4 in primary application.

5 **Q.** Okay. So you're interpreting Mr. Stowe's
6 exhibit as to indicate that the cable he shows
7 there can only be used in primary applications; is
8 that correct?

9 **A.** No, not that it can only be used; but
10 that's where he classifies it. He classifies it as
11 being solely part of Commonwealth Edison's primary
12 system.

13 **Q.** To the extent that any of that cable could
14 be used in the secondary application or is used in
15 a secondary application, wouldn't Mr. Stowe have
16 overstated the cost of the primary system as shown
17 on Exhibit 3.2?

18 **A.** Well, if he has classified cable as part of
19 the primary system and is actually part of the
20 secondary system, then his exhibit would be
21 inaccurate.

22 **A.** And I think it would be inaccurate in

1 the way you described; that he would assign too
2 much cable to the primary system.

3 Q. All right. And that inaccuracy would tend
4 to favor those customers served -- well, never
5 mind.

6 A. Well --

7 Q. That's all right. I don't have any
8 question pending.

9 Now, would you look at Lines 231 of your
10 rebuttal testimony, Page 10.

11 A. Yes, I have it.

12 Q. All right. And there you refer to a
13 footnote in Mr. Stowe's testimony; is that correct?

14 A. Yes.

15 Q. Would you agree, subject to check, that in
16 the paragraph that that footnote is referenced,
17 Mr. Stowe is talking about the safety standards in
18 an NESC?

19 A. I believe that's correct, yes.

20 Q. Do you know if -- do you know whether or
21 not utilities build their electrical systems to
22 minimum safety standards?

1 **A.** I expect utilities will build them to meet
2 or exceed minimum safety standards.

3 **Q.** Now, do you know whether each voltage level
4 on the ComEd system has its own pole height under
5 NESC?

6 **A.** I'm sorry. I don't understand the question
7 the way you've asked it.

8 **Q.** Do you know whether there's an NESC
9 regulation that specifies a specific pole height
10 for the voltage levels ComEd uses on its system?

11 **A.** My understanding is that it's not that
12 simple, that pole height is a function of many
13 things, not just the voltage level; though, that's
14 one factor.

15 **Q.** Now, do you have Mr. Stowe's footnote in
16 front of you?

17 **A.** If you give us a minute.

18 Yes, I have it.

19 **Q.** Do you know -- would you agree that
20 Mr. Stowe does not reference the cost of poles and
21 cross arms in that footnote?

22 **A.** Well -- and that was precisely my

1 criticism. That footnote appears in the portion of
2 his testimony that talks about the NESC minimum
3 safety standards, which is part of his minimum
4 distribution system discussion.

5 But that same fact influences the cost
6 -- or the cost difference between primary and
7 secondary parts of the system, and he does not
8 bring that fact over into his primary versus
9 secondary analysis.

10 **Q.** If the NESC required clearance from a line
11 to the earth to be 2 feet more at primary voltage
12 than at secondary voltage, does that automatically
13 mean that the pole must be 2 feet taller?

14 **A.** Not necessarily.

15 **Q.** Couldn't ComEd simply move the Line 2 feet
16 higher up the pole and still meet the requirement?

17 **A.** Well, in theory, yes. In practice, there's
18 a lot going on on each pole and it may or may not
19 be that simple.

20 **Q.** I take it if they could use the same pole,
21 that wouldn't involve any new pole costs; right?

22 **A.** If they could, that would be correct.

1 Q. Now, would you refer to Page 16.

2 A. Sorry. We're back in my testimony?

3 Q. Yes, sir. Line 367.

4 A. I have it.

5 Q. Now, there you reference the fact that the
6 NESC -- that's the National Electric Safety Code, I
7 forgot the rule -- states that for voltages above
8 50 kV, clearances must be increased at elevations
9 higher than 3,300 feet above sea level; is that
10 correct?

11 A. Yeah.

12 JUDGE HILLIARD: Is there any location like that
13 in Illinois?

14 BY MR. ROBERTSON:

15 Q. And in this portion of your testimony --

16 THE WITNESS: I'm sorry. I didn't hear you.

17 JUDGE HILLIARD: I don't think there's any
18 location in Illinois that's 3,300 above sea level.

19 THE WITNESS: That's correct, your Honor. In
20 fact, as I noted in the footnote, the highest
21 elevation in the state is about 1,200 feet above
22 sea level. But Mr. Stowe also looked at data for

1 Montana and Colorado, which are significantly
2 higher elevations.

3 BY MR. ROBERTSON:

4 Q. The -- now, were you discussing the minimum
5 distribution system, MDS system, when you made this
6 statement?

7 A. It's in that part of my testimony. And,
8 obviously, the distribution system is not above
9 50,000 volts. This was just one fairly simple
10 example of the differences you get in constructing
11 an electric system when you move from one location
12 to another.

13 It's not as simple as saying, well,
14 everybody follows the National Electrical Safety
15 Code. So everybody's system must look the same.
16 The NESC has, you know, well over 100 pages of
17 standards to cover different types of situations.

18 Elevation was an easy one to point to
19 because we all understand what that means. There
20 are numerous other factors which I -- and I list
21 some of them at the top of Page 16 of my testimony.

22 So it's kind of a long answer to your

1 question, but this was just one example.

2 Q. Yeah. It is long. And for that reason,
3 because it wasn't responsive, I'm going to move to
4 strike it because all I did was ask you what
5 subject you were talking about in this section of
6 your testimony.

7 MR. ROBERTSON: So I move to strike the answer
8 as nonresponsive.

9 MS. MUNSCHE: Your Honor, he did -- he was
10 clarifying which portion of the testimony it was in
11 and why he chose the example he chose. So I think
12 it was responsive to --

13 JUDGE HILLIARD: Overruled.

14 BY MR. ROBERTSON:

15 Q. All right. Now, the NESC example that you
16 quoted specifically refers to voltages above 50 kV
17 and voltages above 98 kV; is that correct?

18 A. Yes.

19 Q. Do you know if Commonwealth Edison operates
20 at voltages above 50 kV and 98 kV?

21 A. In some parts of their system, they do,
22 yes.

1 Q. Would you agree that the nearest level to
2 50 kV is the 69 kV system?

3 A. Yes.

4 Q. Would you agree that the nearest voltage
5 level above 98 kV is 138 kV?

6 A. Yes.

7 Q. Would you agree that 138 kV is normally
8 considered transmission, not distribution?

9 A. Yes.

10 Q. Would you agree, subject to check, that
11 ComEd identified facilities operating at and above
12 69 kV as high-voltage facilities?

13 A. I'm sorry. Are identified for what
14 purpose?

15 Q. For the purpose of their cost-of-service
16 study.

17 A. Yes.

18 Q. And would you agree that in its
19 cost-of-service study, ComEd has directly assigned
20 the cost of all of the poles supporting the
21 high-voltage lines, the 69 kV lines?

22 A. I'm sorry. Could you say that again.

1 **Q.** Would you agree that ComEd has directly
2 assigned the cost of 69 kV system in its
3 cost-of-service study?

4 **A.** Directly assign to what? That's where I
5 got lost in your question.

6 **Q.** The customers responsible for those costs,
7 the customer classes responsible for those costs.

8 **A.** My understanding is the 69 kV system is
9 used to serve all customers who take service at or
10 below that voltage.

11 So my understanding is the answer to
12 your question is no.

13 **Q.** You understand -- well, do you know what
14 voltage level Mr. Stowe looked at in developing his
15 MDS proposal?

16 **A.** Off the top of my head, no.

17 **Q.** Would you accept, subject to check, it was
18 34.5 kV?

19 **A.** I'm not sure I'm able to check that. If
20 you give me a reference to his testimony, I can
21 check it. Obviously, what he did, his testimony
22 speaks for itself.

1 **Q.** Okay. Does the NESC excerpt which you
2 quoted in your rebuttal testimony apply to poles
3 that only support high-voltage lines?

4 **A.** Yes.

5 **Q.** And do you know whether or not Mr. Stowe
6 applied the MDS results to any high-voltage lines?

7 **A.** I don't believe so, no.

8 MR. ROBERTSON: I think I'm done. If I can have
9 just a second, your Honor.

10 Thank you, Mr. Rubin. I have nothing
11 further.

12 JUDGE HILLIARD: ComEd have any questions for
13 the witness?

14 MR. BERNSTEIN: No.

15 MS. MUNSCH: Redirect? We'll take a minute to
16 discuss and you can do your --

17 MR. TOWNSEND: We do have a motion to compel.
18 We are going to ask to present that to you,
19 your Honor.

20 JUDGE HILLIARD: Okay.

21 MS. MUNSCH: We have no redirect, your Honor.

22 JUDGE HILLIARD: No direct. Thank you, sir.

1 MR. TOWNSEND: If I may approach.

2 These are the subject data request
3 responses. And I'll provide a little bit of
4 background, if you'd like.

5 And, actually, those -- I've given you
6 REACT data requests 9.01 and 9.02. And those
7 relate back to REACT data request 8.03, which has
8 been introduced into evidence as REACT Cross
9 Exhibit 7.

10 As you might recall, we asked Mr.
11 Mitchell a number of questions about REACT Cross
12 Exhibit 7, which, again, indicates that ComEd has
13 projected that there is not going to be any
14 residential switching prior to the year 2011.

15 We received that data response at
16 approximately 5:45 p.m. on Thursday. I guess that
17 would have been April 23rd (sic). We then issued a
18 round of data requests asking ComEd additional
19 information based off of that response.

20 As you'll see in 9.01, the first
21 question we asked was where were the work papers to
22 suggest that these projections are accurate. And

1 then we went on to ask a number of other questions
2 trying to figure out how it is that ComEd has used
3 these projections, trying to find out who has seen
4 those projections.

5 It's the first time we ever heard that
6 ComEd has actually made those types of projections
7 that nobody is going to switch before 2011. So it
8 resulted in a lot of questions as to what the basis
9 for that was.

10 You'll see that 9.10C asks, you know,
11 when were these projections created. Is that
12 something new or have they been around for a long
13 time? If they've been around for a long time, we
14 have questions why it is that they haven't seen the
15 light of day in any form.

16 Then 9.01D asks how is it that ComEd
17 develops these projections. You know, what is it
18 that they've done in order to be able to project
19 that nobody is going to switch, and that that's of
20 interest to RESs who are interested in
21 participating in the residential retail market,
22 including RESs who are members of REACT Coalition.

1 You'll see that Sub E says, Why is that
2 you believe that nobody is going to switch before
3 2011? Sub F goes into the projections that ComEd
4 has made for the calendar year 2011.

5 ComEd has projected apparently that
6 11,707 customers are going to switch in 2007.
7 Seemed like an odd number. Wanted to find out what
8 the basis for that was. And then they project that
9 there's going to be an additional 114 customers
10 that switch in 2012. Again, trying to figure out
11 what the basis was for that.

12 The response we received as the
13 Commission broke for lunch today in this hearing
14 does not provide any substantive response at all.
15 We've worked with counsels to try to get a response
16 to 9.01. And we've been told that we're not going
17 to get anything further than what we have in 9.01.

18 9.02, again, builds on the data request
19 in 8.03, but then also goes a little bit further
20 and it says, well, has ComEd ever made a projection
21 that the residential customers are going to switch?
22 Trying to figure out if this is a recent change in

1 position or if they've known all along that they
2 were going to block competition until 2011.

3 Again, something relevant to their claim
4 that we're trying to force customers to switch or
5 that we're trying to create margining now somehow.
6 If they've always projected that there is not going
7 to be any residential competition, we need to know
8 why it is that they've always believed that. And,
9 then again, the same types of questions as to why
10 it is that they believe that.

11 Sub C asks for the work papers
12 associated with any kind of projections that
13 they've had historically to see whether or not
14 their projections have been accurate or, again, to
15 see whether or not they've changed. Trying to get
16 to that level of detail.

17 Sub D asks for the work papers with
18 regards to any projections on customer switching
19 for a specific customer group. And that's the
20 customer group of the customers with demands of 3
21 megawatts or greater; the thought being, well,
22 perhaps, at some point, they thought those

1 customers weren't going to switch either. And, you
2 know, now we see that there's a very robust market.

3 So, again, something that we're
4 interested in in order to test whether ComEd is
5 actually doing a good job of projecting these
6 things. We asked questions with regards to that.
7 We also asked for information on the 1 to
8 3 megawatts in the other groups.

9 And, again, you'll see that what we got
10 was not really a substantive response. The only
11 responses that we got were the actual projections,
12 no work papers associated with them for the watt
13 hour customers and the zero to 100 kW commercial
14 customers.

15 And, again, we don't have any idea what
16 the basis is. And that's on the last page. We
17 have, you know, their projections, but we don't
18 know where they came from or how they've been used
19 at all.

20 JUDGE HILLIARD: What's your response?

21 MR. BERNSTEIN: For the record, my name is
22 Eugene Bernstein with Exelon Business Services for

1 Commonwealth Edison Company, 10 South Dearborn,
2 49th Floor, Chicago, Illinois 60603.

3 Your Honor, what Mr. Townsend has
4 omitted to address is how this information is
5 relevant to the testimony or the issues that are
6 before this Commission.

7 Switching is talking about switching of
8 supply providers. This is a delivery service case.
9 And there is -- the only reference that so far
10 Mr. Townsend has been able to find to the concept
11 of switching was one passage in the testimony of
12 ComEd Witness Crumrine who makes a general
13 statement not based on any statistics or any
14 analysis of numbers, that the effect of the
15 proposal promoted by one of the REACT witnesses
16 would be to create heaven; that is to say, make it
17 easier for customers to switch.

18 He doesn't depend on numbers. He
19 doesn't depend on data. And he is not capable on
20 cross-examination of defending the company's
21 switching statistics. That's not his role. He
22 didn't utilize that information when he prepared

1 this testimony.

2 In short, the real problem here is that
3 on Saturday, before the start of the hearings,
4 Mr. Townsend came up with another data request.
5 And the company has endeavored to the best of its
6 efforts over the last couple days while people are
7 caught up in this proceeding, in this process, to
8 try to locate whatever information they could.

9 We have provided to him the information
10 that we can. There clearly is additional
11 information in the company's files that could be
12 provided. It could take weeks and weeks and weeks
13 to do so. It would not be useful or have any
14 bearing on the issues here.

15 In short, Mr. Townsend is asking you to
16 compel the company to provide information that will
17 be of no relevance and not lead to the discovery of
18 any relevant evidence.

19 There is no witness in this case who
20 addresses supplies -- provision of supply. The
21 information he asks for relates, if at all, to the
22 procurement proceedings and will be relevant in the

1 next procurement docket that's starting next year.
2 But there is simply no relevance to this docket at
3 this time which pertains to delivery service rates.

4 JUDGE HILLIARD: What's your response?

5 MR. TOWNSEND: Your Honors, I really -- perhaps,
6 we should just take a recess and have Mr. Bernstein
7 read the direct and rebuttal testimony of REACT
8 witness Mr. Merola.

9 He goes on at length explaining why it
10 is that ComEd has not properly allocated the costs
11 in this case to the supply component of their
12 rates. And the result of that is that they've
13 artificially raised their delivery services rates.

14 And so there's a cross-subsidy going on
15 between those two components of ComEd's rates. The
16 effect of which is to undermine the development of
17 competition.

18 And Mr. Merola explains that the extent
19 of this is to the tune of approximately \$65 million
20 of overstated delivery services rates because those
21 costs should be properly allocated to the supply
22 component, the supply function of ComEd's rates

1 with regards to just the one component that Mr.
2 Crumrine's addressing, which is the customer care
3 component.

4 So REACT has certainly put this at issue
5 in its direct case, has put it at issue in the
6 rebuttal case. Mr. Crumrine responds to it in his
7 rebuttal testimony in part by saying that ComEd,
8 quote, is committed to retail competition.

9 Well, certainly, we could probe whether
10 or not they, in fact, are committed to retail
11 competition if they've been projecting that there's
12 not going to be any switching at all until 2011.
13 It kind of makes you wonder whether or not that
14 statement is true.

15 But it also goes to the testimony in his
16 surrebuttal testimony where he suggests that this
17 is just desired -- the only reason that REACT has
18 proposed this is to induce margin into induced
19 switching.

20 Well, perhaps, it is that ComEd has not
21 properly allocated these costs in order to
22 discourage switching. And so that juxt position is

1 already at issue in this case. Certainly, it is
2 central to the claim.

3 Now, you go to just the basics of
4 objecting here to the relevance of this. They've
5 waived that objection at least twice. Take a look
6 at the response to REACT 1 point -- or 8.03. No
7 objection on relevance.

8 We had Mr. Mitchell in testifying. We
9 asked him questions about REACT Exhibit 8.03 and
10 ComEd's commitment to residential competition. No
11 objection to relevance.

12 So I think it's certainly late in the
13 day at a number of different levels for Mr.
14 Bernstein to now suggest that this is somehow not
15 relevant. It certainly is relevant to REACT and
16 it's relevant to any retail electric supplier who
17 is interested in trying to compete in the Illinois
18 retail electric market at the residential level.

19 MR. BERNSTEIN: May I add two very brief points
20 in response to Mr. Townsend.

21 One, I would observe -- I'd like to read
22 for the record the single passage from Mr.

1 Crumrine's testimony to which Mr. Townsend refers.
2 This will be in the testimony that Mr. Crumrine
3 will adopt tomorrow when he takes the witness
4 stand. It's in ComEd Exhibit 43.0, Mr. Crumrine's
5 surrebuttal testimony. And the single sentence to
6 which Mr. Townsend refers reads as follows --

7 JUDGE HILLIARD: What page and line number?

8 MR. BERNSTEIN: Page 35, Lines 755 through 757.

9 It says as follows:

10 Therefore, REACT's proposal should be
11 viewed for what it is; a blatant attempt to create
12 margin or headroom by artificially increasing
13 charges under Rate BES and Rider PE to induce
14 customer switching. And there is the word,
15 "customer switching."

16 It's simply a commentary on what may be
17 behind the proposal, which is in and of itself
18 simply a routine allocation question of costs
19 between, in this case, the supply function and the
20 delivery service function.

21 We're going to litigate that question
22 fully. This testimony that -- this information

1 that's sought here has no bearing on that. We're
2 going to litigate that allocation question. Those
3 witnesses have not been on the stand yet, but they
4 will be.

5 The other point that I would make is
6 that while Mr. Townsend does purport to speak for
7 all of the company's RESs, we should note that the
8 company's RESs are represented in this proceeding
9 by at least two other parties who have not joined
10 in this motion.

11 MR. TOWNSEND: No other RESs have been asked.

12 And, again, your Honors, this is not the
13 only place in the testimony where we're talking
14 about customer switching. In terms of this issue
15 being relevant to this proceeding, it's at the
16 heart of the reason that REACT is in this
17 proceeding is because ComEd hasn't allocated their
18 costs correctly. And because they haven't
19 allocated their costs correctly, they've
20 discouraged switching at the residential level.

21 MR. BERNSTEIN: We'll litigate the question of
22 whether the costs are allocated properly, but the

1 motive is simply an irrelevancy at this stage.

2 It's simply an observation each side has made.

3 MR. TOWNSEND: I don't understand even
4 understand why we're even arguing relevance, Mr.
5 Bernstein. You've waived it. You've waived it
6 twice at least.

7 JUDGE HILLIARD: Is there a witness who is
8 associated with the response to REACT, No. 8.03?

9 MR. BERNSTEIN: No, there's not, not in this
10 docket.

11 MR. TOWNSEND: Your Honor, in terms of the
12 identification of witnesses, I believe that they
13 stopped at the seventh round of our data request
14 responses. They didn't reply to any response to
15 the later-issued data requests.

16 MR. BERNSTEIN: I don't believe REACT asked for
17 designations of responsible witnesses.

18 JUDGE HILLIARD: There's been discussion earlier
19 in the case that there is a witness associated with
20 each data request. Now, I just wanted to clarify
21 that.

22 MR. BERNSTEIN: There is not with this one.

1 JUDGE HILLIARD: All right.

2 (Discussion off the record.)

3 JUDGE HILLIARD: Do you have Merola's testimony
4 with you?

5 MR. TOWNSEND: I believe we do.

6 (Discussion off the record.)

7 MR. TOWNSEND: The downside of the electronic
8 age, your Honor. We all have electronic versions.

9 JUDGE HAYNES: Would we be looking at Merola
10 rebuttal or Merola direct?

11 MR. TOWNSEND: Actually, if you look at Merola's
12 direct, I think he sets out the basis for this
13 whole question of the cost allocation and how
14 improperly allocating the costs --

15 JUDGE HAYNES: Are we talking about improperly
16 allocating supply costs into the distribution
17 charges?

18 MR. TOWNSEND: Yes. And the reference actually
19 is if you take a look at -- well, the specific
20 reference to his testimony is the rebuttal
21 testimony at Pages 13 to 22 is what Mr. Crumrine
22 references for this particular issue.

1 (Discussion off the record.)

2 JUDGE HAYNES: We are going to defer ruling on
3 this until tomorrow morning.

4 MR. TOWNSEND: Your Honors, we did, in fact, ask
5 ComEd to designate the witness as part of our
6 instructions on the data request. We had asked for
7 a designation as to who would be able to respond.

8 Again, I would believe that to be
9 Mr. Crumrine based upon both his testimony and, you
10 know, additional testimony that we've seen
11 Mr. Crumrine present.

12 If it's not Mr. Crumrine, we would ask,
13 you know, who it is. If it is Mr. Crumrine that's
14 going to be able to address any of those
15 questions -- and, actually, in fact, even if it's
16 not him who is responsible for the underlying work
17 papers, we would want to be able to ask some
18 questions about those work papers.

19 So I'm just trying to -- I guess the
20 question is if we are successful with the motion to
21 compel, will we be able to recall Mr. Crumrine?

22 JUDGE HILLIARD: We're going to rule tomorrow

1 morning. So you'll know by then.

2 MR. TOWNSEND: Thank you, your Honor.

3 JUDGE HAYNES: Okay. And is ComEd calling a
4 witness?

5 MS. O'BRIEN: I think we have one administrative
6 matter.

7 MR. STAHL: Yes, we do. That is from this
8 morning. I had said that when we got back from the
9 lunch break, we would move the admission into
10 evidence of ComEd Cross Exhibit No. 7, which I used
11 with Mr. Gorman.

12 JUDGE HAYNES: Okay. Is there any objection?

13 MR. STAHL: Exhibit No. 7, for the record, is
14 the administrative Rule 287.30 dealing with future
15 test years.

16 MR. REDDICK: No objection.

17 JUDGE HAYNES: ComEd Cross Exhibit 7 is
18 admitted.

19 (Whereupon, ComEd Cross
20 Exhibit No. 7 was
21 admitted into evidence
22 as of this date.)

1 JUDGE HAYNES: I also have City -- never mind.

2 Okay.

3 Go ahead and call your witness.

4 MS. O'BRIEN: Susan Abbott is ComEd's next

5 witness.

6 (Witness sworn.)

7 SUSAN ABBOTT,

8 called as a witness herein, having been first duly

9 sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY

12 MS. O'BRIEN:

13 Q. Ms. Abbott, I have placed in front of you
14 three documents. The first document is designated
15 as ComEd Exhibit 2.0 corrected and has attached to
16 it Exhibit 2.1. The second document is ComEd
17 Exhibit 19.0 corrected. And the third document is
18 ComEd Exhibit 35.0.

19 These documents are entitled your
20 Direct, Rebuttal, and Surrebuttal testimonies.
21 Were those documents prepared by you or under your
22 direction?

1 CROSS EXAMINATION

2 BY

3 MR. REDDICK:

4 Q. Good afternoon, Ms. Abbott. My name is
5 Conrad Reddick and I represent the IIEC in this
6 proceeding.

7 A. Good afternoon.

8 Q. In your testimony, you review ComEd's
9 credit strength and you present your conclusions
10 for the Commission's consideration; correct? Is
11 that a fair characterization?

12 A. That's correct.

13 Q. And your credit evaluation, though, is not
14 a part of any return on equity model analysis or
15 ROE model calculation presented by any witnesses in
16 this case, is it?

17 A. No, it isn't.

18 Q. And, specifically, Mr. Hadaway, ComEd's ROE
19 witness, doesn't cite your conclusions in his
20 analysis?

21 A. As far as I know, no.

22 Q. Are you recommending here that ComEd's

1 rates be increased to a level higher than is
2 justified by the cost of service evidence simply to
3 support ComEd's credit rating?

4 **A.** No, I am not making an assertion of that
5 sort.

6 **Q.** And you're not recommending that the rates
7 be increased above cost of service levels to
8 compensate ComEd for any purchase power cost
9 recovery risk, are you?

10 **A.** No. My testimony is just basically what
11 the investment community reacts to when regulatory
12 decisions are made.

13 **Q.** I'd like to ask you to look at the effect
14 of certain changes in financial circumstances --
15 I'm sorry, the effect that certain changes in
16 financial circumstances would have on ComEd's
17 credit metrics.

18 Can we agree that the three principal
19 credit metrics -- that is financial ratios that
20 credit ranging agencies look at -- are the ratio of
21 funds from operations to interest, funds from
22 operation to total debt, and the ratio of total

1 debt to total capital?

2 **A.** Those are the three metrics that are
3 published by SMP. There are a lot of other ones
4 that are calculated, but those are considered to be
5 the most important, yes.

6 **Q.** And for the funds from operations interest
7 ratio, a higher interest coverage is a positive
8 factor in the credit review, is it?

9 **A.** A higher interest coverage is better than a
10 lower interest coverage, if that's what you're
11 asking, yes.

12 **Q.** Yes. They can all be that, but higher is
13 better?

14 **A.** Yes.

15 **Q.** Okay. And, similarly, for the funds from
16 operations and to total debt ratio, again, higher
17 is better?

18 **A.** Yes.

19 **Q.** And for the total debt to total capital
20 ratio, higher is a more negative factor?

21 **A.** Yes. Lower is better in that case.

22 **Q.** Lower is better in that case.

1 Now, all else being equal, would you
2 agree that ComEd's credit metrics would improve if
3 ComEd's debt and debt interest expense were
4 reduced?

5 **A.** It depends on whether or not the cash flow
6 available to pay those obligations was the same or
7 different.

8 **Q.** I understand. And, perhaps, we can talk
9 about that later.

10 But for this purpose, all else being
11 equal, debt interest and debt reduced, the credit
12 metrics would improve?

13 **A.** Yes.

14 **Q.** And that's true for each of the three
15 ratios we talked about?

16 **A.** It should be, yes.

17 **Q.** And I think we're creeping up on something
18 you mentioned earlier. But before we get quite
19 there, I'd like ask you why credit rating agencies
20 focus on the funds from operations coverages of
21 debt interests, for example, instead of the
22 earnings coverage of debt interest?

1 **A.** Earnings very often include noncash items.
2 And funds from operations is generally cash. And
3 obligations -- debt obligations have to be paid in
4 cash.

5 So what the rating agencies are trying
6 to do is compare the amount of cash obligation that
7 a company has to the amount of cash flow that it's
8 able to generate from its operations.

9 **Q.** And what are the ways in which a company
10 can generate cash flow?

11 **A.** What are the ways that a company can
12 generate it? Well, obviously, through its
13 revenues, depreciation, noncash expenses, you know,
14 things they don't actually have to pay but are put
15 down as expenses on the income statement, those
16 kinds of things.

17 **Q.** Could you name a couple of those?

18 **A.** Depreciation.

19 **Q.** Something else?

20 **A.** Something else. Different taxes. Let's
21 see. I'm trying to think.

22 **Q.** Amortization?

1 **A.** Amortization, yeah.

2 **Q.** Okay. So, again, all else being equal, if
3 we have an increase in those kinds of noncash
4 items, I think you called them, noncash items, we
5 would have as a result an increase in the funds
6 from operations?

7 **A.** If -- yes, if noncash items increase, then
8 funds from operations would increase, or the cash
9 flow would increase.

10 **Q.** And these are, again, all sources of
11 internal cash flow?

12 **A.** Internal cash generation, yes.

13 **Q.** And from your experience as a credit
14 analyst, do credit analysts consider the
15 availability of internally generated cash flow as a
16 source of funding for capital expenditures or
17 operations in their assessment?

18 **A.** Yes. That's an important issue that all
19 credit analysts look at.

20 **Q.** So when you're trying to look at or
21 evaluate a utility's need to access external
22 capital markets for capital expenditures, for

1 example, do the analysts consider how much internal
2 cash flow is available to fund those expenditures?

3 **A.** Yes, they do.

4 **Q.** Now, again, from your experience as an
5 analyst, when you're looking at a utility and
6 trying to determine its appropriate rating, are
7 things that you look -- let me rephrase that.

8 When you're looking at a utility to
9 determine its appropriate rating, do the things
10 that you look at include the economic vitality of
11 the service area of the utility?

12 **A.** Yes.

13 **Q.** Similarly, the rate levels of the utility?

14 **A.** Yes.

15 **Q.** And with respect to that, just and
16 reasonable rates are good and a vibrant economy
17 would be good?

18 **A.** Generically, yes.

19 **Q.** I'd like to show you now a copy of what I'm
20 going to mark IIEC Cross Exhibit No. 1. I don't
21 think we have any others.

22

1 (Whereupon, IIEC Cross
2 Exhibit No. 1 was
3 marked for identification
4 as of this date.)

5 BY MR. REDDICK:

6 Q. Have you had a chance to look at it?

7 A. Yes.

8 Q. Do you recognize it?

9 A. Yes, I do.

10 Q. And is it the response to a data request
11 that you provided?

12 A. Yes, it is.

13 Q. For the record, this is the company's
14 response to IIEC Request 9.03.

15 And in this data request, you provided
16 several pages of support for a contention in your
17 prefiled testimony regarding the credit metrics of
18 Commonwealth Edison; is that correct?

19 A. Yes. It's an SMP report.

20 Q. Okay. Let's put that aside for the moment.
21 Maybe we can avoid talking about it.

22 A. Okay.

1 **Q.** Going back -- going specifically to
2 Commonwealth Edison now as opposed to the
3 general -- more general discussion, do you believe
4 that ComEd's current credit ratings reflect a risk
5 of not recovering fully purchase power costs?

6 **A.** It reflects the concerns of the rating
7 agencies that the political regulatory environment
8 in Illinois has been very unsettled in the past --
9 in the recent past, and they are waiting to see how
10 that's going to work out.

11 **Q.** The current credit rating that ComEd has,
12 do you recall the date when it changed?

13 **A.** No. It's changed so many times in the last
14 couple years that, I'm sorry, I don't.

15 **Q.** Do you remember when it went to below
16 investment grade?

17 **A.** Do I remember the date in particular?

18 **Q.** Not a specific date, but general time
19 frame.

20 **A.** It was last spring. Is that right?

21 **Q.** Okay. And do you recall any precipitating
22 event for that downgrade?

1 **A.** I believe that the downgrade that I'm
2 thinking of, whether it was last spring or it was
3 some other time, was precipitated by all of the
4 turmoil in Illinois whereby there was a threat of a
5 rollback of rates to a previous level that would
6 have created some considerable stress for the
7 company.

8 And the Illinois legislature was getting
9 involved in the regulatory process. I guess you
10 might describe it that way. And the rating
11 agencies were quite concerned that ComEd's cash
12 flow generating capability would be seriously
13 impacted for a protracted period of time.

14 **Q.** And did that event that you were describing
15 relate to some possibility or at least some concern
16 that ComEd would not fully recover the costs of
17 power procurement for which it had entered into the
18 contract?

19 **A.** I believe that that was one of the issues,
20 amongst many others; but that was one of them, yes.

21 **Q.** And ComEd currently has the same rating?

22 **A.** Yes.

1 **Q.** Are you familiar with the legislation that
2 was enacted to address those concerns?

3 **A.** I'm familiar with it to the extent to know
4 that the Illinois Power Agency was created in order
5 to take over the procurement process, and that that
6 announcement was reviewed -- or received with a
7 sigh of relief, I think, from the rating agencies,
8 is the best way I can put it.

9 **Q.** But with some caution since they still
10 haven't changed the rate?

11 **A.** Yes.

12 **Q.** And the legislation, you would agree, was
13 intended to relieve ComEd and, presumably, the
14 credit analysts as well, of the concern about the
15 recovery of purchase power costs?

16 **A.** The legislation was, in my view -- and I
17 think in the rating agencies' views -- it was a
18 first step in resolving what was a pretty bad
19 crisis.

20 **Q.** Okay. And the next step would be?

21 **A.** Well, the power agency has to be populated.
22 It has to have a plan. It has to start procuring

1 power. The process in terms of the costs of that
2 power getting passed through in whatever mechanism
3 is going to be used to do that has to be proved
4 out.

5 The rating agencies are going to have to
6 see that it actually works appropriately. And so
7 it's a whole series of steps that need to be taken.

8 **Q.** In shorthand, implementation of the
9 legislation?

10 **A.** Implementation of the legislation will help
11 the rating agencies have a clear view of where
12 ComEd's credit is going.

13 **Q.** Do you know of any specific fact that gives
14 you reason to expect that the new Illinois law
15 won't be implemented as the legislation is passed?

16 **A.** No specific fact, but it hasn't happened
17 yet. So...

18 **Q.** Do you have any reason to believe that the
19 Commission will not obey the directives of the law
20 for its portion of the implementation?

21 **A.** I have no reason to believe that they will
22 or they won't.

1 **Q.** I can't resist. I may be sorry.

2 You find it as easy to believe that the
3 Commission won't follow the law as you do that it
4 will follow the law?

5 **A.** I think you have to understand the mind of
6 a rating analyst. There's no such thing as
7 optimism in our lives. And the glass is always
8 half empty. And so it -- you know, we're kind of
9 from Missouri. Show me.

10 **Q.** Now, we talked earlier about the financial
11 ratios that go into the credit rating assessments.
12 And it's my view of that process that it's rather
13 intensely quantitative; would you agree?

14 **A.** I would say that on the surface it looks
15 like as though it's intensely quantitative is, but
16 it's really a combination of qualitative factors
17 and quantitative factors.

18 **Q.** At the end of the day, it's a matter of the
19 individual analyst's judgment?

20 **A.** It's a matter of the rating committee's
21 judgment. It's not just an individual.

22 **Q.** Okay. The individual analyst would not

1 necessarily be one person. It could be an
2 organization or a group?

3 **A.** Yes.

4 **Q.** Okay. And in preparing the quantitative
5 material that goes to the committee or the group or
6 the individual analyst, as the case may be, you
7 would agree with me that it's necessary to be
8 precise and accurate in putting those financial
9 ratios together?

10 **A.** The financial ratios have to follow
11 whatever methodology it is that that particular
12 rating analyst uses to come up with those metrics,
13 yes.

14 **Q.** And doing so accurately and precisely is
15 important to the correct result?

16 **A.** Yes.

17 **Q.** Turning to a slightly different topic.

18 Is it your understanding that ComEd
19 intends to fund its SMP projects -- well, are you
20 familiar with ComEd's SMP proposal?

21 **A.** I'm familiar with it only from a very
22 passing glance sort of place.

1 Q. Can you tell me what you understand?

2 A. I understand that what they're requesting
3 is the ability to have the ability to place certain
4 projects into rate base as they go along as opposed
5 to wait until the next rate case.

6 Q. Okay. Do you know whether ComEd intends to
7 fund those projects with debt or equity?

8 A. I don't have knowledge of that, no.

9 Q. Okay. Well, let me ask you hypothetically.
10 Let's assume, for the purposes of this
11 hypothetical, that ComEd will fund the SMP projects
12 by issuing new debt.

13 A. Okay.

14 Q. If ComEd pursues discretionary projects to
15 the tune of some \$800 million over the next several
16 years and it funds that with debt, would ComEd's
17 total debt to total capital ratio increase?

18 A. If they did not reduce other debt, yes, it
19 would increase.

20 MR. REDDICK: Okay. Thank you very much.

21 JUDGE HAYNES: Redirect?

22

1 EXAMINATION

2 BY

3 JUDGE HILLIARD:

4 Q. If the SMP rider were approved and then the
5 Commission went to the debt market, would that have
6 a positive or negative effect -- would the approval
7 of the SMP as part of the process have a positive
8 or negative effect upon ComEd's debt ratio?

9 A. I think that it would be a positive
10 because -- one of the things that debt investors
11 are concerned about is if there are uncertainties
12 in a company's life, if you will.

13 And having the ability to collect on --
14 to collect whatever it cost them to support the
15 debt that they've raised to do something now as
16 opposed having to wait for a year or two years or
17 whatever will make debt investors feel that there
18 is less uncertainty in the company's future and,
19 therefore --

20 Q. So the company's overall debt rating would
21 improve if SMP were approved?

22 A. Not in and of itself, no. It would be a

1 positive factor.

2 JUDGE HILLIARD: Okay. Thank you.

3 Redirect?

4 MS. O'BRIEN: Just one moment.

5 (Discussion off the record.)

6 MS. O'BRIEN: Just a few questions, please.

7 REDIRECT EXAMINATION

8 BY

9 MS. O'BRIEN:

10 Q. Ms. Abbott, would the existence of Rider
11 SMP, to your knowledge, change the way that the
12 company would finance the SMP projects?

13 A. I don't --

14 MR. REDDICK: Objection. The witness testified
15 she wasn't familiar with how the --

16 JUDGE HAYNES: We can't hear you.

17 MR. REDDICK: I'm sorry. The witness testified
18 earlier that she wasn't aware of how ComEd planned
19 to fund the SMP projects.

20 JUDGE HILLIARD: It was a hypothetical, I think.

21 MS. O'BRIEN: It's still a hypothetical,
22 Mr. Reddick's.

1 THE WITNESS: Okay. My assumption with any
2 company is that, regardless of what mechanisms are
3 in place, they would continue to fund their capital
4 expenditures in the same way they funded them over
5 the years, which is usually with a combination of
6 debt and equity.

7 BY MS. O'BRIEN:

8 Q. You talked with Mr. Reddick about the
9 current ratings being reflective of the procurement
10 issues and the procurement process and recovery of
11 procurement costs.

12 MR. REDDICK: I'm sorry. I can't hear you.

13 MS. O'BRIEN: Oh, sorry.

14 BY MS. O'BRIEN:

15 Q. You talked with Mr. Reddick about the
16 current ratings being reflective of the concern
17 about the procurement process and recovery of
18 procurement costs and other related issues.

19 Is that the only issue that drives the
20 existing ratings, the current ratings?

21 A. No. There are a couple of other major
22 issues.

1 One is just the level of the company's
2 financial metrics right now, which is very low.

3 And the other one is just generally the
4 regulatory environment in Illinois between the
5 company and the Commission.

6 And the rating agencies are very
7 interested in whether or not there's going to be a,
8 quote, unquote, normalization of that relationship
9 going forward. So the procurement issues are
10 important, but they're not the only thing they're
11 thinking about.

12 MS. O'BRIEN: Thank you. That's all the
13 redirect.

14

15

16

17 (Change of Reporter.)

18

19

20

21

22

1 MR. RIPPIE: One more.

2 JUDGE HILLIARD: Go ahead.

3 BY MR. RIPPIE:

4 Q. Is the outcome of this case likely to
5 impact how the ratings agencies view ComEd?

6 A. Yes, very much so. If it's a supportive
7 outcome, they'll see that as a very positive thing.
8 If it's a negative outcome, they'll see it as very
9 negative.

10 MR. RIPPIE: Thank you.

11 JUDGE HILLIARD: Any more?

12 MR. MOSSOS: Yes.

13 RE-CROSS-EXAMINATION

14 BY

15 MR. REDDICK:

16 Q. Referring to Miss O'Brien's question about
17 funding the project, and you responded, I believe,
18 that you would expect that they would continue to
19 do what they've in the past -- did I recall that
20 correctly?

21 A. That would be -- in a hypothetical
22 situation my assumption would be that, yes.

1 **Q.** And currently doesn't the ComEd use
2 internally generated cash flow to fund projects as
3 well?

4 **A.** Yes, most companies use a combination of
5 internally generated cash equity that they raise
6 either from a parent or in the marketplace and
7 debt.

8 **Q.** You were also asked whether the
9 availability of Rider SMP would improve ComEd's
10 credit position. Would an infusion of equity
11 improve ComEd's cash position as well?

12 **A.** It might be a positive stroke. But the
13 fact is that the real issue is how much debt do
14 they have versus how much cash can they generate.
15 Equity doesn't generate cash.

16 **Q.** But it does reduce the debt to capital
17 ratio, doesn't it?

18 **A.** It does, but it doesn't reduce debt unless
19 they use that equity to pay down debt.

20 **Q.** And that was my next question.

21 Equity can be used to reduce debt?

22 **A.** Sure, it can. But it all goes back to how

1 much cash flow is being generated in order to pay
2 debt.

3 Q. And I think the final question had to do
4 with the outcome of this case. And from the
5 analyst perspective, which is always glass is half
6 empty, more is always better, isn't it?

7 A. No. No. You know, that's one -- that's a
8 misperception that a lot of people have about
9 credit analysts. It's not more is better.

10 What is best for everyone concerned
11 because credit analysts actually understand that an
12 unhappy rate paying population is not a good thing
13 to have --

14 Q. Can you say that again.

15 A. Yes. An unhappy rate paying population is
16 not a good thing to have. So fairness is really
17 all they're looking for. They're looking for a
18 fair decision.

19 MR. MOSSOS: Thank you.

20 MR. RIPPIE: No more redirect.

21 JUDGE HILLIARD: Okay. Thank you, ma'am.

22 (Witness sworn.)

1 L. LYNNE KIESLING,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MS. SODERNA:

7 Q. Can you please state your full name
8 business address for the record.

9 A. My name is L. Lynne Kiesling. My business
10 address a 2001 Sheridan Road in Evanston, Illinois,
11 Department of Economics At Northwestern University.

12 Q. And did you prepare written testimony for
13 this proceeding?

14 A. Yes, I did.

15 Q. And do you have in front of you CUB Exhibit
16 2.0 with attachments labeled Exhibits 2.01 through
17 2.5, and CUB Exhibit 5.0 with attachments 5.01 and
18 5.02, which are your supplemental direct and
19 rebuttal testimonies respectively?

20 A. Yes.

21 Q. And were these documents prepared by you or
22 under your supervision?

1 **A.** Yes, they were.

2 **Q.** Do you have any changes or correction to
3 your testimony?

4 **A.** No.

5 **Q.** If I asked you the questions set forth in
6 your testimony today, would your answers be the
7 same?

8 **A.** Yes.

9 MS. SODERNA: And with that, I'd like to move
10 for the admission of CUB Exhibits 2.0, 2.01 through
11 2.05, 5.0 and 5.01 and 5.02.

12 JUDGE HILLIARD: Any objections?

13 Hearing no objections, the exhibits and
14 attachments will be admitted into the record.

15 (Whereupon, CUB Exhibit
16 Nos. 2.0, 2.01-2.05, 5.0,
17 5.01 and 5.02, were admitted
18 into evidence.)

19 MR. ROBERTSON: Thank you.

20 I tender my witness for
21 cross-examination.

22 JUDGE HILLIARD: Mr. Munson, do you want to go

1 first?

2 MR. STAHL: Yes, thank you.

3 Michael Munson for the Building Owners
4 and Managers Association of Chicago.

5 CROSS-EXAMINATION

6 BY

7 MR. MUNSON:

8 Q. Good afternoon, Doctor.

9 A. Hello.

10 Q. Looking at your supplemental direct
11 Exhibit 2, Page 20, Line 590, you testified to a
12 couple of important items.

13 A. 590 you said?

14 Q. Starting there.

15 A. Yes, I have it.

16 Q. Okay. Basically you say that smart grids
17 can create economic benefits to consumers by
18 reducing wholesale power market costs; is that
19 correct?

20 A. Yes, it is.

21 Q. You agree that smart grids should enable
22 customers to shift load and reduce peak load?

1 **A.** Should enable them to if they choose to,
2 yes.

3 **Q.** In order for customers to reduce their
4 overall energy use, you would agree that access to
5 information is critical?

6 **A.** Yes.

7 **Q.** So you agree that information is critical
8 for consumers to understand their energy use and
9 make efficient decisions; is that correct?

10 **A.** In general, yes.

11 **Q.** Are you aware of USD -- that USDOE,
12 Department of Energy published a report entitled,
13 Benefits of Demand Response in Electricity Markets
14 and Recommendations For Achieving Them?

15 **A.** Was that the report that the DOE was
16 required to produce for the Energy Policy Act of
17 2005?

18 **Q.** Yes, that's correct.

19 **A.** Yes. Yes, I am.

20 MR. STAHL: My I approach?

21 JUDGE HAYNES: Sure.

22 MR. STAHL: I'd like to mark this as BOMA

1 Chicago Cross-Exhibit 1.

2 (Whereupon, BOMA
3 Cross-Exhibit No. 1 was
4 marked for identification.)

5 BY MR. STAHL:

6 Q. Now, this is -- what you have in front of
7 you is just the cover page of the report and then
8 Appendix B, which is 16 pages entitled Economic and
9 Reliability Benefits of Demand Response; is that
10 correct?

11 A. Yes.

12 Q. And if you don't mind, can you look at the
13 cover page for me, and can you just simply describe
14 this graph for me.

15 A. The graph that's on the cover page is a
16 typical stylized depiction of a wholesale power
17 market with -- what I guess we call in the
18 vernacular -- the hockey stick supply curve that
19 reflects low marginal costs associated with base
20 load units. And then as you move up the supply
21 curve you call in units that have higher marginal
22 costs.

1 And in this particular example of the
2 illustration, there are two demand curves, peak and
3 off peak, both of which are perfectly inelastic,
4 which means that in this illustration the customers
5 represented in the demand curve are not at all
6 responsive to any changes in -- any changes in
7 price that could happen in this market.

8 Q. So are you saying that all customers
9 benefit when one or more market segments
10 participate in demand response?

11 MR. ROBERTSON: Are you asking the witness
12 generally or are you --

13 JUDGE HILLIARD: This is somebody else's curve;
14 right? Are you asking based on the projection on
15 the document?

16 MR. STAHL: Yes, or generally.

17 THE WITNESS: In general? Because I was going
18 to ask if you were referring back to the Line 590
19 in my testimony because it does tie in there.

20 Yeah, in general, yes. And one of the
21 important things that this simple depiction of a
22 market and that this appendix to this particular

1 report in particular illustrates is very important
2 is the idea that not just overall demand reduction,
3 which is what's shown in this graph.

4 Overall demand reduction can reduce
5 prices in wholesale power markets for all
6 consumers. So if some subset of consumers does
7 choose to reduce their demand in any given time
8 period, that that reduction in demand will also
9 reduce the prices in the wholesale power market
10 that are paid, not just by those consumers but by
11 all other consumers even if their demand doesn't
12 change, which I think gets at your direct question.

13 But another important aspect of the
14 smart grid technologies and the effect that it
15 would have in this kind of model would actually be
16 in changing the shape of the demand curve. And in
17 this particular model, demand curves are shown as
18 perfectly inelastic, perfectly unresponsive to
19 price changes.

20 But one of the beneficial effects in
21 both wholesale and retail markets of the provision
22 of more -- the transparency of their own

1 consumption information to end use customers is
2 that they can then tailor their own use and change
3 their own use in response to price signals in ways
4 that can allow the entire market to align more in
5 terms of benefits and costs.

6 And I think in this same -- in the same
7 appendix there's another -- more general depiction
8 with an actual downward sloping demand curves that
9 reflect the movement from inelastic supply -- or
10 inelastic demand to more elastic demand. And that
11 that is one of the most important smart grid and
12 information benefits.

13 **Q.** I think you went through most of my
14 questions.

15 **A.** Sorry. I'm like going a horse going
16 through the barrel on that.

17 **Q.** Let's look at Exhibit 2, Page 13, Line 61.
18 Well, in that phrase, you use the phrase
19 "real-time." Can you tell me what you mean by
20 "real-time."

21 **A.** Line 361? Yes.

22 **Q.** I think that's what it is.

1 **A.** Real-time can mean many different things.
2 I think in general use in terms of smart grid and
3 advanced metering policies and projects that I know
4 of that are ongoing, anything less than a half-hour
5 can be considered real-time. And...

6 **Q.** Are you aware that New England has
7 five-minute pricing and the utility provides that
8 pricing every five minutes to customers?

9 **A.** Yes, I am.

10 **Q.** Are you aware that PJM wholesale market
11 settle on a five-minute increment?

12 **A.** Yes, I am.

13 **Q.** Are you aware that one of PJM's demand
14 response programs for ancillary services responsive
15 reserve requires two or one minute intervals be
16 provided to customers?

17 **A.** I wasn't aware of that, no.

18 **Q.** Would you agree that -- assuming that's
19 correct, that whatever is implemented should be --
20 should meet the criteria and rules from PJM's
21 demand response program?

22 **A.** I wouldn't want to speak specifically to

1 kind of the legal aspects of that. I'd rather
2 stick with the technology and economics aspects of
3 that.

4 And I think increasingly what we're
5 going to see over time is that the technology will
6 continually enable us to get finer and finer and
7 finer time gradations in terms of the communication
8 of data both to the consumer and from the consumer
9 back to the utility or the system operator or the
10 market.

11 And that the flexibility of the
12 technology and its interoperability to enable all
13 of the participants in the network to be able to
14 take advantage of and implement equipment and
15 devices that can operate at those very small time
16 increments, that the flexibility and ability to do
17 that is likely to be very important over the future
18 because the technology's very much going in that
19 direction.

20 **Q.** Would you agree that to achieve these
21 consumer benefits you just -- well, strike that.

22 Would you agree to achieve consumer

1 benefits some process -- at least a pilot program
2 or some like process -- needs to be in place before
3 summer of 2009?

4 **A.** Are you speaking specifically about
5 Illinois?

6 **Q.** Yes.

7 **A.** I don't necessarily -- my testimony does
8 not necessarily speak to the design of what we
9 should do as the next step beyond just the
10 policy-making process and how we decide what
11 constitutes smart grid investments and so on.

12 But -- and there has been a lot of
13 testing and pilot programs getting at some of these
14 issues in other places, but they may not be getting
15 at the specific issues with respect to the
16 increasing time granularity that's possible with
17 the technology. And to the extent that there are
18 particular circumstances of Illinois markets and
19 Illinois consumers that aren't reflected in these
20 other places, then I think pilots like that would
21 be valuable.

22 **MR. STAHL:** I have no further questions.

1 I move for BOMA Cross-Exhibit 1 to be
2 entered into evidence.

3 JUDGE HILLIARD: Objections?

4 MR. ROBERTSON: No objection.

5 JUDGE HILLIARD: Okay. BOMA Chicago
6 Cross-Exhibit 1 will be admitted into the record.

7 (Whereupon, BOMA Cross-Exhibit
8 No. 1 was admitted into
9 evidence.)

10 JUDGE HILLIARD: Who's next?

11 Attorney General? You have no
12 questions? That's wonderful.

13 How about ComEd, do you have some
14 questions?

15 MR. HOUSE: Yes, your Honor.

16 CROSS-EXAMINATION

17 BY

18 MR. HOUSE:

19 Q. Good afternoon, Dr. Kiesling.

20 A. Hello.

21 Q. Would you turn to page --

22 JUDGE HAYNES: I don't believe your mike is on.

1 JUDGE HILLIARD: Your mike is not on,
2 apparently.

3 MR. HOUSE: Now I think it is.

4 BY MR. HOUSE:

5 Q. Good afternoon, again, Dr. Kiesling.

6 A. Hello.

7 Q. Would you turn to Page 2 of your rebuttal
8 testimony --

9 A. The rebuttal?

10 Q. -- and take a look -- your rebuttal, yes.
11 And take a look at Lines 58 through 60.

12 A. Page 2 at the bottom?

13 Q. Yes, that's it.

14 You say there that as currently written
15 Rider SMP does not sufficiently detail the method
16 of determining future investment needs of
17 functionality by requirement and providing external
18 engagement and planning process.

19 Now, if ComEd's proposal did acceptably
20 detail the method of determining investment needs
21 or functionality requirements and provided for a
22 collaborative process, do you think that approval

1 of a rate recovery mechanism would be warranted?

2 **A.** In my testimony I do not speak to cost
3 recovery. And so I -- and I'm not in any way an
4 expert with respect to issue with regarding cost
5 recovery. So to the extent that your question is
6 related to any of the cost recovery issues, I have
7 no comment on that.

8 But just to reiterate that one of the
9 important focuses of this testimony is the
10 functionality requirements and collaborative
11 proceeding -- as I think you said -- but that I
12 think is also important to remember that -- or to
13 point out that in my testimony I recommend the
14 importance of involving a third-party facilitator
15 with technical expertise and using some sort of
16 system engineering process that has been vetted and
17 used successfully in other place, such as the
18 IntelliGrid system engineer process that's
19 described in my testimony.

20 **Q.** Sure.

21 But you did speak to Rider SMP, and
22 Rider SMP consists both of a process for deciding

1 technology and process as well as a rate recovery
2 mechanism. While I don't necessarily expect you to
3 speak as a rate expert but as someone who's aware
4 of all of the elements that go into developing a
5 smart grid and utility participation in it, do you
6 think that -- do you agree that it's reasonable for
7 ComEd to insist upon approval of a rate recovery
8 mechanism as part of the process before it invests
9 in the projects?

10 **A.** I am not sufficiently expert in the rate
11 recovery issues. I am not a rate expert, and I
12 cannot speak to that.

13 **Q.** All right. Let me just -- I don't want to
14 belabor this, but just let me try for one more
15 angle.

16 You are aware that there are varying
17 opinions about the advisability of ComEd proceeding
18 with smart grid or AMI implementation on the
19 system, aren't you? There are parties who oppose
20 it and there are parties who generally support it?

21 **A.** Yes, I am aware of that.

22 **Q.** All right. And you're also aware that the

1 projects, for example, AMI, is expected to involve
2 the investment of hundreds of millions of dollars
3 over time?

4 **A.** I've seen the projections, yes.

5 **Q.** Now, do you think that just as a general
6 matter, it would be reasonable for a utility to
7 invest those kinds of dollars in projects for which
8 it already knows it's going to get opposition or
9 that there's not unanimous agreement?

10 **MR. ROBERTSON:** Objection. She's stated that
11 she cannot speak to rate recovery issues. I think
12 that her testimony speaks for itself and it regards
13 the substance of the planning process and does not
14 address cost recovery. So...

15 **MR. HOUSE:** Well, your Honor, I'd only point out
16 that Dr. Kiesling has a very broad and in depth
17 involvement in smart grid theory and practice, in
18 fact. In fact, she's been involved in projects
19 that were actually pilot project that were
20 implemented in the Northwest.

21 She speaks to the California process --
22 the Southern California Edison instance, in fact,

1 in her testimony where not only was there an
2 approval of a project implementation but there was
3 also rate recovery as a part of that process. So
4 it seems to be that she could have a general
5 opinion of these things.

6 JUDGE HAYNES: If the witness has an opinion, go
7 ahead and answer. If you have an opinion, go ahead
8 and answer.

9 THE WITNESS: Being neither a rate expert nor an
10 attorney, I don't -- and having only a personal
11 opinion, which I don't think is relevant in this
12 particular case, I would rather not comment on
13 that.

14 My involvement in the project to which
15 you refer in the Olympic Peninsula, the GridWise --
16 Olympic Peninsula test bed demonstration project as
17 well as my knowledge of and analysis of the
18 Southern California Edison Open AMI and Utility AMI
19 proceedings is more along the lines of the
20 technology adoption and technology implementation
21 and not at all in terms of the financing of the
22 project.

1 I have had very little involvement of
2 any kind with any of those issues in any of my
3 work.

4 BY MR. HOUSE:

5 Q. All right, Dr. Kiesling.

6 Could we turn to your supplemental
7 direct testimony. I believe that's CUB
8 Exhibit 2.0. Can you turn to Page 10. Take a look
9 at lines 287 through 288 where you say that two
10 important elements of avoiding inappropriate costs
11 is to design a system that meets functionality
12 requirements and uses common architecture and
13 standards; right?

14 A. Yes.

15 Q. So by "functionality," you mean end users
16 rather, don't you --

17 A. Yes.

18 Q. -- in general?

19 A. And, well, obviously starting with end uses
20 to which the various customers are going to put
21 the -- to put the proposed investments, and that
22 starts with a process of determining use cases.

1 And that's where the, sort of, collaborative
2 process -- to use your word -- has been very useful
3 in the places that -- in this case, to the extent
4 that they've already happened in the U.S., AMI
5 processes have been implemented -- is to determine
6 use cases starting from the end users and then go
7 through all the way down to the very, very deep
8 technical -- deep detailed technical requirements.

9 And so functionality requirements go
10 from, you know, the potential known and potentially
11 unknown and unimagined end uses to which consumers
12 can put the assets, all the way down to the very
13 deep technical requirements.

14 **Q.** Sure.

15 And by common architecture standards,
16 you mean interoperability?

17 **A.** Interoperability standard, commonly adopted
18 industry standards for open architecture at an
19 information systems level and the ability for a
20 devices to communication across business interfaces
21 and across technical interfaces.

22 **Q.** All right. So if ComEd's process results

1 in functionality that satisfies the parties'
2 expectations and incorporates common architectural
3 standards, that process is acceptable to you, isn't
4 it?

5 MR. ROBERTSON: Is this a hypothetical or --

6 MR. HOUSE: Yes. This is a hypothetical.

7 THE WITNESS: Yes. As a hypothetical, yes.

8 BY MR. HOUSE:

9 Q. And it would be acceptable to you, even if
10 it didn't include using the IntelliGrid
11 architecture?

12 A. Well, I believe that would depend on the
13 details of the process that ComEd would employ.

14 Q. All right. But, as a general matter, if
15 ComEd came up with a process that resulted in the
16 acceptable interoperability and acceptable
17 functionality, it wouldn't matter to you
18 necessarily that the IntelliGrid architecture
19 framework or any or process was the way you got
20 there?

21 A. In particular, no. The -- however, the
22 handful of smart grid and AMI type project that

1 have already been implemented in the U.S. have all
2 used that process or have taken pieces from that
3 process or used things very similar to it.

4 So it is a good benchmark for evaluating
5 different policy-making processes with respect to
6 smart grid investment.

7 **Q.** Sure.

8 And there could certainly be other
9 benchmarks that could be equally affective?

10 You're nodding your head "yes"?

11 **A.** Yes.

12 **Q.** Thank you.

13 **A.** The ones that I've described in my
14 testimony are the ones with which I'm most familiar
15 given the, sort of, breadth of my communication
16 with folks who are very active in such projects.

17 **Q.** Is interoperability a fixed concept?

18 **A.** Could you describe what you mean by
19 "fixed."

20 **Q.** Well, would you expect that
21 interoperability considerations would change, for
22 example, as technology changes, as things evolve in

1 terms of network systems, devices, so forth?

2 **A.** At its most general level the concept of
3 interoperability I would say is a fixed concept
4 that I believe there is a fairly commonly accepted
5 definition of interoperability, which is the
6 ability of devices to communicate across
7 interfaces.

8 And, in particular, when we talk about
9 smart grid it's not just communicating across
10 technical interfaces where one party has one type
11 of computer system and another party has another
12 party type of computer system. It's communicating
13 across business interfaces, which involves
14 contracts and different business practices. And
15 all of these mean having to be able to identify
16 transparently who the different parties are, what
17 roles they take, what permissions they do or don't
18 have at that interface.

19 And so in that very general level, I
20 think it's a broadly defined enough concept to
21 still be robust and important as technologies and
22 network architectures and so on change over time.

1 **Q.** But on a systems and operations level,
2 isn't it -- interoperability dependant upon the
3 particular technology or engineering applications
4 that might exist from time to time?

5 **A.** I believe that there is a relationship
6 between interoperability and the sort of
7 instantiation of the technology that you choose to
8 implement in a given system. But I'm not an
9 information technology expert.

10 **Q.** Let's turn to your rebuttal testimony.
11 That's Exhibit 5.0 on Page 5. Look at Lines 125
12 through 129.

13 There you recommend that ComEd's
14 proposals be evaluated using the -- and this is
15 mouthful -- GridWise Architecture Council
16 interoperability checklist to increase the
17 likelihood that ComEd's proposals would be
18 interoperable and adhere to open system
19 architectural standards. Is that your testimony?

20 **A.** Yes, it is.

21 **Q.** Now, is the GridWise checklist the only
22 means of facilitating interoperability for smart

1 grid proposals?

2 **A.** It is not. It is, again, the one with
3 which I'm most familiar having been one of authors
4 of it as a member of GridWise Architecture Council.
5 It's purpose and the reason we're been developing
6 tools such as the interoperability checklist for
7 decision-makers is to overcome the technology gap
8 because most of us who work in policy, even
9 technology policy, don't have a very elaborate IT
10 ground.

11 You know, I'm not a computer person
12 except for as a consumer and user of computers.
13 And so I think we perceive there being a gap in the
14 policy environment, a knowledge gap, because most
15 of us are trained in the law or economics and not
16 necessarily in computer science.

17 And so we've been working with our
18 computer experts to develop these kind of tools to
19 enable better decision-making on the part of
20 investors and better policy-making on the part of
21 policy-makers. And it's really just meant as a
22 guide, not as a, sort of, ironclad rule. But it

1 is, I believe, a useful guide.

2 Q. So that, to your knowledge, it has not
3 necessarily been used in every planning process for
4 a smart grid?

5 A. Well, it's only been in existence for the
6 past year. So it's as young as many of the things
7 are in this new world. And we are increasingly
8 finding its acceptance in various policy-making
9 processes and investment decision-making processes.
10 I don't have a list off the top of my head, but I
11 know that there are about a half-dozen different
12 groups of folks who are using it.

13 Q. Sure.

14 But it's also possible for a utility to
15 apply an independently developed process to arrive
16 at an acceptably interoperable proposal, isn't it?

17 A. It's possible. But why go through all the
18 work when we've developed some of the useful tools
19 that everyone can use to evaluate such investments,
20 you know?

21 Q. Let's turn to your rebuttal testimony on
22 Page 5 of at Lines 130 through 134, please.

1 **A.** 133 and 134?

2 **Q.** 130 through 134.

3 You indicate there that you expect that
4 the tools and resources you recommend will assist
5 in competitor procurement of intelligent equipment,
6 do you not?

7 **A.** Yes, I do.

8 **Q.** All right. You also indicate that the
9 tools and resources you recommend will assist in
10 the long-term ability to build and maintain systems
11 that meet both today's and tomorrow's demand for
12 power system operations and to do so cost
13 effectively, don't you?

14 **A.** Yes, I do.

15 **Q.** Now, would it matter that ComEd use the
16 exact tools and resources you propose or does --
17 would it be equally acceptable if ComEd used other
18 tools that got it to the same place?

19 **A.** It really depends, I think, on -- one of
20 the difficult things in achieving industry
21 standards -- and that's part of what this process
22 is about, is helping -- is trying to help various

1 stakeholders that are involved in the electric
2 power industry, whether it's power systems,
3 engineers, utilities, market folks, building
4 controls folks -- to achieve some consensus on
5 tools and means for evaluating these new
6 investments that we haven't had to evaluate before.

7 So I think the challenge will be if some
8 group of folks decide they want to use one method
9 of evaluating things and some other group decides
10 they want to use another method and there's a
11 mismatch. So one of the things that -- in our
12 development of tools in the GridWise Architecture
13 Council, one of the things that we are hoping to
14 facilitate is using a common set of evaluation
15 tools to make the policy-making process and the
16 investment approval process go more smoothly.

17 And so if there is a mismatch between
18 this evaluative tool and that evaluative tool, then
19 that objective is not met.

20 **Q.** Sure.

21 But just focusing specifically on your
22 IntelliGrid process, for example, at its core,

1 isn't it really just an engineering or system
2 design process?

3 **A.** To the extent that I, not being an
4 engineer, understand it it is very much a system
5 engineering methodology, yes.

6 **Q.** And the end result of this engineering
7 process is a detailed specification of the
8 technical and functional requirements for deploying
9 a smart grid program, isn't it?

10 **A.** That rely on the development of extensive
11 use cases that start from the end user and go all
12 the way down to the very deep technical
13 requirements by bringing together groups -- working
14 groups of different parties that are different --
15 participants that play different roles in the
16 electric power network, yes.

17 **Q.** Fair enough.

18 But isn't it true that there are other
19 frameworks other than IntelliGrid that can get you
20 to the same place, or likely to be?

21 **A.** There may be. I'm not familiar with them.
22 But I'm sure that there are frameworks out there.

1 **Q.** But it's conceivable that ComEd could
2 develop a process that produces the technical and
3 functional smart grid specifications that would be
4 teste -- that can be tested and informed and
5 ultimately acceptable?

6 **A.** Sure, hypothetically it's conceivable.

7 **Q.** Now, would you agree that ComEd has
8 expended considerable resources in arriving at the
9 current project recommendations and its AMI and SMP
10 project proposal.

11 **MR. ROBERTSON:** Objection. He's asking the
12 witness to speculate. I don't know how she would
13 have any idea about how -- what resources ComEd
14 expended in developing their proposal.

15 **JUDGE HAYNES:** Response.

16 **MR. HOUSE:** Your Honor, it was a just a general
17 questions. The Company has proposed seven projects
18 in addition to AMI and submitted detailed testimony
19 indicating the steps that it's taken to get from
20 the point that it began the planning process to
21 where we are now. And --

22 **JUDGE HILLIARD:** If you have an opinion, you can

1 answer the question.

2 THE WITNESS: Speaking frankly as an academic, I
3 do find that everyone's incurring a lot of costs in
4 processes like this. And ComEd is no exception.

5 BY MR. HOUSE:

6 Q. But you wouldn't want ComEd to start all
7 over from scratch just to fit its planning into a
8 particular process, such as IntelliGrid or anything
9 else? That will be a waste, don't you think?

10 A. My sense of a lot of these planning tools
11 with which I'm familiar, is that they are pretty
12 flexible. And so I'm not sure that I would agree
13 with the premise that starting over from scratch
14 would be necessary.

15 MR. HOUSE: Thank you, Dr. Kiesling.

16 I have nothing else, your Honor.

17 JUDGE HILLIARD: Redirect?

18 MR. ROBERTSON: Yeah, one question.

19 REDIRECT EXAMINATION

20 BY

21 MS. SODERNA:

22 Q. Mr. House asked you some questions -- some

1 hypothetical questions about a collaborative
2 process that theoretically could satisfy some of
3 your concerns. Does the proposal that ComEd
4 currently has in the record regarding the
5 implementation and the process to plan out the
6 investment to Rider SMP satisfy your concerns
7 regarding interoperability and prevention of
8 premature obsolescence?

9 **A.** The process that's in the proposal that
10 I've seen that's on the record is not sufficiently
11 detailed to constitute what I would consider to be
12 a valuable alternative to the ones that I propose
13 in my testimony.

14 MR. ROBERTSON: That's all. Thanks.

15 JUDGE HAYNES: I'd like to follow up on that.

16 EXAMINATION

17 BY

18 JUDGE HAYNES:

19 **Q.** What is missing? And I believe that we're
20 probably talking about the Crumrine surrebuttal.
21 What, in your opinion, could be added?

22 MR. ROBERTSON: I'm sorry. You're referring to

1 Crumrine?

2 JUDGE HAYNES: Surrebuttal process and what in
3 your opinion could be added? I believe the witness
4 just said that it didn't meet all of her concerns.

5 MR. ROBERTSON: Right.

6 JUDGE HAYNES: So what's missing from the
7 Crumrine surrebuttal process?

8 MR. ROBERTSON: For clarification, did you
9 review there Crumrine's surrebuttal testimony?

10 THE WITNESS: I did not review Mr. Crumrine's
11 surrebuttal testimony. So I was just going simply
12 on my own testimony and my rebuttal testimony and
13 the testimony filed up to that point.

14 BY JUDGE HAYNES:

15 Q. Following up on the questions he asked
16 about -- the ComEd attorney asked about
17 incorporating the GridWise process into the process
18 that ComEd has already begun to undertake, would
19 it -- would parts of the GridWise proposal or
20 process regarding evaluating ComEd's AMI proposal
21 be useful for the Commission to look at?

22 A. In fact, yes, I believe so. In fact, one

1 of the primary objectives that we had in mind when
2 we developed the GridWise Architecture Council
3 interoperability decision-maker checklist was to
4 provide a tool for a variety of high level of
5 decision-makers, both utility executives and
6 regulators so -- as well as those who evaluate
7 research proposals say from federal agencies, for
8 example.

9 So we intentionally designed it to be
10 useful to that variety of decision-makers. And we
11 are actually in the process of developing more
12 checklists customized for other audiences to use
13 when they make decisions as well.

14 **Q.** Were any of the other AMI projects that
15 you've reviewed or been a part of, were those ever
16 required at a state-wide level or were those only
17 implemented at the individual utility level?

18 **A.** The one with which I'm the most familiar is
19 the process in California. And in California the
20 Commission issued a rule-making -- it was a rule
21 that they issued requiring the three utilities to
22 implement AMI, and so it was driven in that

1 direction.

2 JUDGE HAYNES: Thank you.

3 JUDGE HILLIARD: Recross?

4 MR. HOUSE: None, your Honor.

5 JUDGE HILLIARD: Thank you, ma'am.

6 Ms. O'Brien, just before the lunch break
7 I asked Mr. Stahl if he wanted to admit 7. Did we
8 take care of that.

9 MR. RIPPIE: Yes, we did, your Honor.

10 JUDGE HILLIARD: Okay.

11 MR. MOSSOS: Your Honor, I forgot to request
12 admission of IIEC Cross Exhibit 1.

13 JUDGE HILLIARD: Okay. Objections?

14 MR. MOSSOS: I'd like to do so now.

15 MR. RIPPIE: No objection.

16 JUDGE HILLIARD: IIEC Cross-Exhibit 1 will be
17 admitted into the record.

18 (Whereupon, IIEC Cross-Exhibit
19 No. 1 was admitted into
20 evidence.)

21 MR. MOSSOS: Thank you.

22 (Witness sworn.)

1 MS. DALE: Good afternoon. My name is Janice
2 Dale. I'm with the Office of the Attorney General.

3 And, Ms. Franks, I believe we met
4 yesterday.

5 JUDGE HILLIARD: We have to do the exhibits
6 first.

7 MS. DALE: Oh, I'm sorry.

8 JUDGE HILLIARD: I appreciate your efforts.

9 MS. DALE: Just trying to move things along.

10 JUDGE HILLIARD: Go ahead.

11 MR. RATNASWAMY: Commonwealth Edison Company
12 calls Ms. Houtsma and Ms. Frank.

13 KATHRYN HOUTSMA and STACIE FRANK,
14 called as witnesses herein, having been first duly
15 sworn, were examined and testified as follows:

16 DIRECT EXAMINATION

17 BY

18 MR. RATNASWAMY:

19 Q. Miss Houtsma, could you please state your
20 name for the record.

21 MS. HOUTSMA: My name is Kathryn M. Houtsma.

22 Q. And, Miss Frank, could you do so as well,

1 please.

2 MS. FRANK: My name is Stacie M. Frank.

3 Q. And, Miss Houtsma, by whom are you employed
4 and in what capacity?

5 MS. HOUTSMA: I'm employed by ComEd as vice
6 president regulatory projects.

7 Q. And, Ms. Frank, by whom are you employed
8 and in what capacity?

9 MS. FRANK: I'm employed by ComEd as director of
10 distribution revenue policy.

11 Q. And did you as a panel prepare or have
12 prepared under your supervision and control direct
13 testimony consisting of ComEd Exhibit 7.0
14 corrected, filed on e-Docket on February 4th; ComEd
15 Exhibits 7.1 and 7.2, filed as part of the original
16 filing on October 17th; ComEd Exhibit 7.3
17 corrected, filed on e-Docket on February 4th; and
18 ComEd Exhibit 7.4, filed as part of the direct case
19 on October 17th?

20 MS. FRANK: Yes.

21 MS. HOUTSMA: Yes.

22 Q. And if I were to ask you the questions that

1 appear in that testimony, subject to your further
2 testimony and rebuttal, would you give the answers
3 that appear therein?

4 MS. HOUTSMA: Yes.

5 MS. FRANK: Yes.

6 Q. Did you as a panel also prepare or have
7 cause to prepare under your supervision and control
8 ComEd Exhibit 25.0 corrected, filed on e-Docket on
9 April 28th; and ComEd Exhibits 25.01 through and
10 including 25.14, so that's 14 attachments
11 inclusive, filed on March 12th?

12 MS. HOUTSMA: Yes.

13 MS. FRANK: Yes.

14 Q. And if I were to ask you the questions that
15 appear in that testimony, subject to your
16 surrebuttal testimony, would you give the answers
17 that appear therein?

18 MS. HOUTSMA: Yes.

19 MS. FRANK: Yes.

20 Q. Finally, did you as a panel also prepare or
21 have prepared under your supervision and control
22 ComEd Exhibit 40.0 corrected filed on e-Docket on

1 April 28th; and ComEd Exhibits 40.01 through 40.03
2 inclusive, that's three attachments, filed on
3 e-Docket on April 21st?

4 MS. FRANK: Yes.

5 MS. HOUTSMA: Yes.

6 Q. And if I were to ask you the questions that
7 appear therein, would you give the answers that
8 appear therein?

9 MS. FRANK: Yes.

10 MS. HOUTSMA: Yes.

11 MR. RATNASWAMY: Your Honors, I would move the
12 admission of those exhibits. Frankly, I'm not sure
13 if the practice is to say all the numbers again or
14 not.

15 JUDGE HILLIARD: I'm not going to say them.

16 So...

17 Are there any objections?

18 Hearing no objections the exhibits
19 delineated by counsel and the witnesses will be
20 admitted into the record.

21

22

1 (Whereupon, ComEd Exhibit
2 Nos. 7.0, 7.1, 7.2, 7.3, 7.4,
3 25.0, 25.01-25.14, 40.0,
4 40.01-40.03 were admitted
5 into evidence.)

6 MR. RATNASWAMY: And the panel is prepared for
7 cross-examination.

8 MS. DALE: Thank you.

9 CROSS-EXAMINATION

10 BY

11 MS. DALE:

12 Q. Once again, my name is Janice Dale. I'm
13 with the office of the Attorney General.

14 Ms. Frank, I met you yesterday.

15 Ms. Houtsma, good afternoon.

16 MS. HOUTSMA: Good afternoon.

17 Q. You'll be happy to know I have much reduced
18 my cross-examination. I thought I was going to
19 have an hour, now I think I'm down to about
20 20 minutes tops.

21 First of all, I'd like to talk about the
22 customer advances issue. If you could refer to

1 your surrebuttal testimony of Page 9.

2 MS. DALE: And may I approach the witness, your
3 Honor?

4 I'm not sure what AG Cross-Exhibit we're
5 on. I think 10?

6 JUDGE HILLIARD: Let's see if I can figure it
7 out here. I think you've identified -- I think
8 you're on 10 maybe? 11.

9 MS. DALE: I'm presenting to the court reporter
10 and for your review, too, what's been marked as AG
11 Cross-Exhibit 11. It's a response to AG Data
12 Request 10-12.

13 (Whereupon, AG Cross-Exhibit
14 No. 11 was marked for
15 identification.)

16 BY MS. DALE:

17 Q. Now, on -- your discussion of customer
18 advances begins on Page 9 and continues through to
19 Page 10 and beyond. With regard to the 7.9 million
20 referenced on Page 10 at Line 206, would you agree
21 that that amount represents the actual average
22 balance of cash received as customer advances in

1 2007? And I believe that's what the cross-exhibit
2 references?

3 MS. HOUTSMA: It represents the average balance
4 outstanding throughout 2007. Some of those funds
5 may have been received in prior years.

6 Q. Okay. And similarly with the 22,083,000 of
7 line extension deposits referenced on Page 11 of
8 your testimony at Line 236, would you agree that
9 that amount represents the actual unspent balance
10 of cash received as line deposits as of
11 December 31st, 2007?

12 MS. HOUTSMA: No, that amount does not represent
13 unspent amounts. It represents amounts that have
14 been received from customers and that ultimately at
15 some point in the future may be refunded back to
16 the customer. But it does not necessarily mean
17 that the amounts have not been spent.

18 Q. Okay. But it's the actual balance of cash
19 received as of that point, would that be an
20 accurate way to describe it?

21 MS. HOUTSMA: Cash received, yes. Unspent, no.

22 Q. Okay. All right.

1 And does this -- the response to this
2 data request show that the balance of line
3 extension deposits increased all through 2007 and
4 into 2008?

5 MS. HOUTSMA: Yes, it did increase throughout
6 2007. I think as we explained in the surrebuttal
7 testimony that was as a result of some new tariff
8 terms that took effect in 2007.

9 Q. Had the actual balance increased to
10 24,677,000 as of February 2008?

11 MS. HOUTSMA: Yes.

12 Q. All right. That's all I have on that.

13 Now, we can talk about new business
14 revenue credit. And for that you can refer to your
15 surrebuttal testimony on Page 30. And your
16 discussion of the new business revenue credit
17 starts at the bottom of that page and continues on
18 Page 31.

19 Is it correct that on Page 31 you
20 explain why you believe that the actual growth of
21 new customers experienced in 2007 is not
22 representative of normal conditions?

1 MS. HOUTSMA: Yes, that's the general concept.
2 It's not representative of normal conditions nor is
3 it representative of strictly growth related to new
4 customers to the ComEd system.

5 Q. Is it your testimony that Mr. Effron
6 inaccurately reflected actual 2007 customer growth?

7 A. No, our position is not that he
8 inaccurately represented actual 2007 --

9 Q. Okay. That's the answer to my question.
10 Thank you.

11 Now, on Page 33 you state that
12 Commonwealth Edison followed the methodology
13 approved by the Commission in ICC Docket No.
14 05-0597 in calculating new business revenue credit
15 in this case; correct?

16 MS. HOUTSMA: Yes, that's correct.

17 Q. And specifically -- okay. I'm handing out
18 now another cross-exhibit that I guess would be AG
19 Cross-Exhibit 12. Would you look at that.

20 (Whereupon, AG Cross-Exhibit
21 No. 12 was marked for
22 identification.)

1 BY MS. DALE:

2 Q. Now, this is a worksheet that was taken
3 from the 05-0597 case in which it's laid out how
4 the revenue associated with the addition of
5 customers was calculated. And if you look at the
6 line that says, Revenue allocation per request
7 kilowatt hour. They have the amounts listed there.
8 And the note at the bottom says, This is based on
9 revenue allocation in ComEd Exhibit 10-9 using the
10 revenue requirement of \$1,881,162,000.

11 Is it correct that that was Commonwealth
12 Edison's proposed revenue requirement in that case,
13 at least at the time that this was prepared?

14 MS. HOUTSMA: I don't know offhand.

15 Q. Miss Frank?

16 MS. FRANK: I don't know offhand.

17 Q. Would you accept, subject to check, that,
18 in fact, this was the calculation that Commonwealth
19 Edison used to compute the revenue associated with
20 new customers in that case?

21 MS. HOUTSMA: Yes, I know. That this is the way
22 it was calculated. What I'm not sure of is the

1 1.88811.

2 Q. Now, I have some work papers from this case
3 that I'm not marking as cross-exhibits to save us
4 paper because they're already part of the record.

5 But we should take a look at these.
6 These are marked WCP-2.16. And this shows the
7 Company's calculation of the new business revenue
8 credit in this case, would you agree?

9 MS. HOUTSMA: Yes.

10 Q. Okay. And isn't it true that this
11 calculation is based on present rates?

12 A. That's true.

13 Q. Okay. And then I have one more document in
14 that regard. This is also a work paper so I'm not
15 marking it as a cross-exhibit because it's already
16 part of the record.

17 The document I've just given you is part
18 of a Commonwealth Edison's Schedule A-3. Do you
19 recognize this?

20 MS. HOUTSMA: Yes.

21 Q. Okay. And would you agree that the present
22 rates listed there are approximately the same as

1 what's laid out in the work paper I previously gave
2 you? The residential dollars per kilowatt hour
3 rate, I think there's a little rounding or a little
4 bit of difference there, but it's essentially the
5 same.

6 If you look at WPC 2-16, and you look in
7 the revenue column --

8 MS. HOUTSMA: Yes.

9 Q. -- allocation per kilowatt hour for
10 residential customers, it's 0.03130. If you look
11 at Schedule A-3, Page 10, the revenue at present
12 rates for residential customers is 0.03134. So the
13 fourth decimal is slightly different. But would
14 you agree that it's essentially the same rate, and
15 that's present rates not proposed rates?

16 MS. HOUTSMA: It's essentially the same rate for
17 the residential. There are differences for the
18 small commercial and industrial and enlarged CNI.

19 Q. If the company had used it's proposed rates
20 in the present case to calculate new business
21 credit, would its credit have been greater?

22 MS. HOUTSMA: Yes, there would be a

1 proportionate increase if a proposed rate figure
2 were used to calculate the new business revenue
3 credit.

4 MS. DALE: Your Honors, I was under the
5 impression that these two work papers that I just
6 presented were part of the record, but I may be
7 mistaken about that. And if that's the case, then
8 I should mark them AG Cross-Exhibits 12 and 13.

9 MR. RATNASWAMY: I actually believe one is and
10 one isn't. I believe -- may I say suggest to check
11 that WPC-2.16 is part of ComEd Exhibit 7.3
12 corrected.

13 A-3 is not part of ComEd Exhibit 7.1. I
14 don't know if it was attached to one of the rate
15 design witnesses' testimonies however.

16 MS. DALE: All right. Well, perhaps, you think
17 I should ask Witnesses Alongi or Jones about this
18 then?

19 MR. RATNASWAMY: Frankly, we would be willing to
20 check overnight and reserve your moving them for
21 admission.

22 JUDGE HILLIARD: Why don't we mark them so it's

1 clear what they are anyway. And you don't -- you
2 can decide later what you want to do with them.

3 MS. DALE: Okay. So we'll mark then WPC -- we
4 won't mark WPC-2.16 based on counsel's
5 representation that it's part of 7.3 corrected.

6 JUDGE HILLIARD: Okay.

7 MS. DALE: But we will mark --

8 JUDGE HILLIARD: Schedule A-3?

9 MS. DALE: Schedule A-3, Page 10 as AG
10 Cross-Exhibit 12.

11 JUDGE HAYNES: 13.

12 MS. DALE: Thank you.

13 That's all my questions on the issue.

14 And I move for admission into the record
15 of AG Cross-Exhibits 12 -- 11, 12 and 13.

16 JUDGE HILLIARD: No, not 13.

17 MS. DALE: Oh, 11 and 12.

18 JUDGE HAYNES: Is there an objection?

19 MR. RATNASWAMY: No, your Honor.

20 JUDGE HAYNES: AG Cross-Exhibits 11 and 12 are
21 admitted.

22

1 (Whereupon, AG Cross-Exhibits
2 Nos. 11-12 were admitted into
3 evidence.)

4 JUDGE HILLIARD: So am I correct you're through
5 with your cross?

6 MS. DALE: Yes, I am.

7 JUDGE HILLIARD: Okay. IIEC, are you going.

8 MR. MOSSOS: IIEC has no question and --
9 informed me they have no questions.

10 JUDGE HAYNES: Staff?

11 JUDGE HILLIARD: You have no questions?

12 MR. FEELEY: No. No questions.

13 JUDGE HILLIARD: Then we're done for the day?

14 JUDGE HAYNES: Redirect?

15 MR. RATNASWAMY: Unless there's some redirect.

16 JUDGE HAYNES: Redirect.

17 MR. RATNASWAMY: Very brief, your Honor.

18 REDIRECT EXAMINATION

19 BY

20 MR. RATNASWAMY:

21 Q. Miss Houtsma, you were asked if your
22 opposition to Mr. Effron's position on any business

1 revenue credit was that -- and I'm sorry, I can't
2 quote the exact words -- but the gist of it was
3 that his numbers were inaccurate. And you said,
4 No, that was not the basis of your opposition. So
5 what is the basis of your opposition?

6 MS. HOUTSMA: The numbers that Mr. Effron used
7 were an accurate representation of growth in the
8 large CNI class and our large customer industrial
9 class in 2007. That was driven by two things, new
10 customers to the system as well as customers who
11 previously were on the system but were classified
12 as small customers.

13 Because the purpose of the new business
14 revenue credit adjustment is to estimate the
15 revenues associated with our pro forma plant
16 additions, it's appropriate to only look at the
17 growth associated with a new customer because a
18 customer that grew from -- or that simply moved
19 from a small customer class into a large customer
20 class, didn't require any pro forma capital
21 additions that are the subject of this adjustment.

22 So while the numbers he used were an

1 accurate representation of large customer growth,
2 they weren't appropriate to be used on an
3 unadjusted basis for calculating the new -- the
4 revenues associated with our pro forma plant
5 additions. And as a result, overstated the
6 adjustment.

7 Q. Thank you.

8 MS. DALE: No, recross.

9 JUDGE HAYNES: Thank you.

10 JUDGE HILLIARD: Is there anything further?

11 Then we'll be adjourned till tomorrow
12 morning at 9:00 a.m.

13 (Whereupon, the
14 above-entitled matter was c
15 ontinued to
16 May 1st, 2008, at 9:00 a.m.)

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