

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>COMMONWEALTH EDISON COMPANY</b>	)	
	)	
	)	
<b>Proposed general increase in electric rates, and revision of other terms and conditions of service</b>	)	Docket No. 07-0566
	)	

**INITIAL BRIEF OF CONSTELLATION NEWENERGY, INC.**

Constellation NewEnergy, Inc. (“Constellation” or “CNE”), by one of its attorneys, pursuant to Section 10-101 of the Public Utilities Act (the “Act”) and Section 200.800 of the Rules of Practice of the Illinois Commerce Commission (“Commission”), hereby submits its Initial Brief in the instant proceeding regarding Commonwealth Edison Company’s (“ComEd”) proposed general increase in electric rates.

**I. INTRODUCTION / STATEMENT OF THE CASE**

Constellation’s comments in this Initial Brief are limited to the purpose of addressing ComEd’s proposed Rider SMP – System Modernization Projects Adjustment (“Rider SMP”). Rider SMP is a unique proposal designed to bring technological innovation to customers in ComEd’s service territory, while providing ComEd with a revenue stream for approved projects outside of a traditional rate case. Constellation has actively engaged in the instant proceeding by reviewing the testimony and other informational filings made by ComEd and other parties. Further, Constellation submitted the Supplemental Direct Testimony and Rebuttal Testimony of David I. Fein as CNE Exs. 1.0 and 2.0, respectively.

## VII. NEW RIDERS

### B. Rider SMP

#### Benefits of Smart Grid and AMI

“Smart Grid” technologies such as Advanced Metering Infrastructure (“AMI”) can provide benefits to customers, competitive retail electric suppliers (“RES”), curtailment service providers, and others. (CNE Ex. 1.0 at pp. 4-9) Specifically from the RES perspective, Smart Grid technologies impact RESs in two ways, first as large users of the ComEd distribution system itself. Additionally, many RESs sell energy management services, such as demand response, which is the strategic management of energy demand in response to supply. (*Id.* at pp. 5-6) AMI and other Smart Grid technologies can provide customers and RESs with access to information and data regarding the manner in which a customer is using electricity, thereby allowing the customer to alter those patterns or take advantage of variables in the marketplace. (*Id.* at pp. 6-9)

#### Need for competitive neutrality

In order to bring the benefits of AMI and other Smart Grid technologies to the greatest number of Illinois customers, it is essential that any such projects be competitively neutral. RESs and their customers must have the same access to the data and information as do ComEd and its bundled service customers. ComEd appears to agree with this principle, indicating that it is their intent that ComEd would receive interval data from an AMI system at the same time that RESs receive that data. Clair Tr., 289:20 – 290:11; Clair Tr., 294:7. Yet it is not just the manner in which the data is made available that is important.

In order to truly be competitively neutral, RESs must not only have the theoretical ability to access to data on an equal footing with the utility, but must have the actual ability to do so. (*Id.* at pp. 9-10) As ComEd indicated in its response to CNE 1.02, “[a]ccess to functionality by customers and agents (including authorized suppliers) may require the use of particular, or compatible, technology, hardware, software, etc. This will vary by each specific function provided.” CNE Cross Ex. 1. ComEd witness Clair acknowledged that selection of technology, hardware, and software would be of importance to RESs and curtailment providers. Clair Tr., 294:12-16. Therefore, it is essential that the platform, including the underlying technology, hardware, and software, be made with RESs and curtailment providers in mind. It is not clear that ComEd has assessed the projects that it initially recommended in this proceeding from that viewpoint. However, ComEd has withdrawn the SMP projects themselves from consideration in this proceeding (Crumrine Sur., ComEd Ex. 43.0 Corrected, pp. 4-5), and has committed that the needs of RESs and curtailment providers will be one of the criteria for evaluation of the platform and the underlying technology, hardware, and software. Clair Tr., 294:7 – 22.

#### Collaborative workshop process

A number of parties, including Constellation, have identified the lack of information currently available regarding the proposed Rider SMP projects and the difficulties of fully exploring those issues in the context of a general rate case, and instead have advocated the use of a separate collaborative process. (CUB Ex. 2.0, Cohen Supp. Direct, pp. 2, 13-14, CUB Ex. 6.0, Cohen Rebuttal, pp. 6-13; BOMA/Chicago Ex. 3.0, Zarumba Supp. Direct, p. 4) Collaborative stakeholder processes have been used

since the advent of restructuring of the electric industry in Illinois, and have proven a valuable tool in achieving consensus on a number of important issues, ultimately benefiting customers. (CNE Ex. 1.0 at pp. 10-11; CNE 2.0 at pp. 3-5) The use of a collaborative stakeholder process to discuss proposed SMP projects and issues associated with each is the most effective means of obtaining input from representatives of various stakeholders, thereby providing an environment in which the projects ultimately selected will, at the end of the day, presumably have widespread support.

Constellation recommends that the collaborative process include not only basic considerations such as program costs and functionality, but that ComEd provide detail about each potential alternative form of technology in order to identify which platform would provide the greatest benefit for the greatest number of customers. As outlined in CNE's Rebuttal Testimony, a stakeholder process of approximately six (6) months in length affords the parties the opportunity to thoroughly explore the potential benefits and costs of the proposed projects, and the available alternatives. (CNE Ex. 2.0 at pp. 3-5) At the conclusion of the stakeholder process (within 30 days), ComEd would make a filing for approval to the Commission, including project details and budget estimates. (*Id.* at p. 4) Parties would have the opportunity to put forth their positions on items in which consensus not been achieved but, given the lengthy stakeholder process, a full-scale proceeding would be unnecessary. (*Id.*) Continuing the process on a yearly basis would capture and capitalize on technological advances that may occur from year to year that would benefit customers. (*Id.* at pp. 4-5)

ComEd adopted Constellation's proposal in surrebuttal testimony, in large measure. Crumrine Sur., ComEd Ex. 43.0 Corrected, pp. 5-7. ComEd recommends only

minor refinements to Constellation's proposal. The first proposed modification is regarding the approval process timeline, to account for the additional time to hold workshops and prepare an updated filing for Commission approval. *See* ComEd Ex. 43.0 at pp. 5-7) In addition, ComEd recommends that it file for new projects, and continuation of existing projects, every two years rather than every year. The annual reconciliation schedule and informational filing to set the charges would remain unchanged. *Id.* at 6-7. These refinements are in keeping with the schedule proposed, and meet the needs for review and reconciliation of projects approved under Rider SMP.

## X. CONCLUSION

Based on the foregoing, Constellation urges the Commission to:

- Approve some form of Rider SMP as the mechanism for Systems Modernization Projects;
- Establish a schedule for the collaborative stakeholder process for discussion and evaluation of projects proposed for recovery through Rider SMP, consistent with the timeline recommended in Constellation's rebuttal testimony and as refined in ComEd witness Crumrine's surrebuttal testimony; and
- Include in the Final Order the requirement that projects be implemented in a competitively neutral manner, including selection of underlying platforms.

Respectfully Submitted,

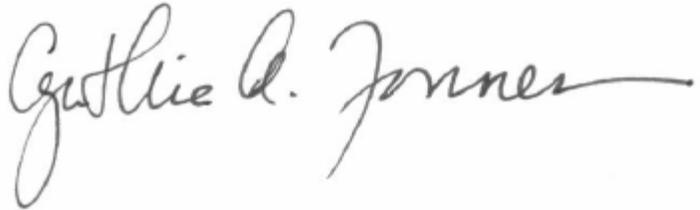


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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing documents was served this 29<sup>th</sup> day of May, 2008 by electronic mail upon the persons on the attached service list.



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