

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company :
: **ICC Docket No. 07-0566**
Proposed General Increase in Rates. :

SUMMARY OF POSITIONS
OF
THE COALITION TO
REQUEST EQUITABLE ALLOCATION OF COSTS TOGETHER
REACT

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The Coalition to Request Equitable Allocation of Costs Together (“REACT”), by and through its attorneys DLA Piper US LLP, hereby submits its Summary Of Positions regarding the proposed general increase in rates of Commonwealth Edison Company (“ComEd” or the “Company”).¹ This Summary Of Positions follows the “common brief” outline previously approved by the presiding Administrative Law Judges.

¹ Positions stated herein do not necessarily represent the positions of any particular member of REACT. This Summary is intended to provide an overview of REACT’s positions, which are more fully set forth in REACT’s briefs and pre-filed testimony; the omission of a particular fact or argument is not intended to indicate that REACT has changed its position.

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

A. **Executive Summary of REACT's Positions**

REACT is an *ad hoc* group, with diverse members, including some of ComEd's largest and most prominent commercial, governmental, and industrial delivery services customers, as well as retail electric suppliers ("RESs") that are interested in providing service to residential and small commercial customers. (*See* REACT Init. Br. at 3.) REACT's members are committed to advocating that the Commission ensure accurate, appropriate, and equitable allocation of ComEd's costs – both among its customer classes and between the supply and delivery services components of its rates. (*See id.* at 3-4.)

REACT urges the Commission to look beyond ComEd's assertion that it cares about avoiding "rate shock" and setting rates according to cost for its largest customers; and beyond ComEd's assertion that it supports developing competition in the retail electric market for its residential and smallest commercial customers. Instead, the Commission should focus on ComEd's actions (or inaction), including the issues discussed or avoided in its briefs, which demonstrate ComEd's unwillingness to address issues of great importance to its customers and the competitive market.

ComEd's lengthy briefs say surprisingly little about the fundamental issues that REACT thoroughly addressed in its pre-filed testimony, at the live hearings, and in its briefs. Certainly, ComEd has the resources and wherewithal to point to evidence to rebut REACT, if such evidence exists. In spite of ComEd ignoring these issues, however, the record evidence strongly supports the Commission adopting REACT's positions on straight-forward issues relating to the unjustified, massive rate increase proposed for over-10 MW customers and the misallocation of supply-related costs to delivery services rates.

REACT raises two primary issues:

- **First, REACT maintains that ComEd has not justified a massive, disproportionate rate increase for its largest customers.** While ComEd’s President claimed that ComEd’s current rate structure is faire and equitable, and does not contain cross-subsidies, ComEd’s Initial Brief skirts the issue, providing little more than a mere reference to “measured movement to cost.” (Tr. at 108, Lines 5-9; ComEd Init. Br. at 101.) ComEd’s President also claimed to be concerned about rate shock, and yet he acknowledged that ComEd’s proposed rate structure would result in **an increase of over 125% for its largest customers**, in the context of a case in which ComEd is seeking a delivery services rate increase of approximately 21% for its residential customers. (See Tr. at 109-10, Lines 19-21, 14-16; Tr. at 110-11, Lines 20-22, 1; Tr. at 111-12, Lines 5-22, 1-13.) Certainly, ComEd’s Initial Brief does not even come close to answering REACT witness Bodmer’s question: **What did the over-10 MW customers do to deserve such a massive, disproportionate rate increase?** (See REACT Init. Br. at 38-40, 60-61.) Of course, ComEd’s counsel has provided that answer: **“they didn’t do anything . . .”** (Tr. at 1542, Lines 3-7.)
- **Second, REACT maintains that ComEd stands alone in advocating for an anti-competitive misallocation of supply-related costs.** ComEd’s Initial Brief reinforces ComEd’s refusal to appropriately remove its *supply-related* Customer Care Costs from its *delivery services* rates. (See ComEd Init. Br. at 116.) While ComEd has claimed to support competition for its smallest customers, appropriately noting that competition fosters “more efficiency, less risk, greater innovation, and the lowest possible cost,” (see Tr. at 125, Lines 8-13; Tr. at 125-128.) ComEd has consistently proposed to allocate costs in a manner that would continue to block customer choice for residential customers and the smallest commercial customers. The proper allocation of those supply-related Customer Care Costs would neither increase customers’ overall rates nor decrease ComEd’s overall revenues, but would remove one of the significant obstacles to the development of choice for its residential and smallest commercial customers. (See REACT Corrected Ex. 7.0 at 4, Lines 73-79.) No party to the instant proceeding supports ComEd’s anti-competitive position.

REACT explains that, at a minimum, it appears that ComEd is gaming the system to restrict residential choice and advantage its unregulated affiliate Exelon Generation. (See

REACT Init. Br. at 72-73; REACT Corrected Ex. 7.0 at 5-7, Lines 110-46.)² Rather than deny wrongdoing or offer *any* substantive analysis, ComEd dismisses the competitive market development issue in its Initial Brief with a three-sentence waive of the hand, stating that the “purported issue simply has nothing to do with the purpose of this proceeding.” (ComEd Init. Br. at 120.)³ ComEd maintains its cavalier attitude in its Reply Brief, asserting that issues relating to the development of the competitive market “are irrelevant to this case.” (ComEd Reply Br. at 146.) REACT maintains that ComEd’s position defies logic, and that ComEd attempts to ignore extensive testimony relating to competitive market issues. (*See, e.g.*, REACT Ex. 3.0 at 4-5, Lines 77-87, at 9, Lines 172-83; REACT Ex. 7.0 at 4-7, Lines 81-146, Line 10, Lines 205-20.) REACT points out that ComEd never moved to strike a word of that testimony; indeed, all of REACT’s pre-filed testimony was admitted into the record without any objection from ComEd or any other party. REACT also notes that Competitive market issues were explored repeatedly at the live hearings, beginning with the cross-examination of ComEd’s very first witness, ComEd CEO J. Barry Mitchell, as well as during the cross-examinations of ComEd witnesses Ms. Clair, Mr. Crumrine, Mr. McDonald, and the panel of Mr. Alongi/ Dr. Jones. (*See, e.g.*, Tr. at 125-26, Lines 8-22, 1; Tr. at 259, Lines 13-16; Tr. at 1370-71, Lines 16-22, 1-7; Tr. at 1799-1800, Lines 7-22, 1; Tr. at 2230, Lines 13-20.)

In summary, REACT maintains that the record in the instant proceeding demonstrates that:

² All citations hereafter to REACT Exhibits 3.0, 4.0, and 7.0 are to the “Corrected” versions of such exhibits filed on eDocket on May 6, 2008.

³ The typical reaction of a Court to this approach is to deem the issue waived by ComEd. (*See, e.g., In re Meyer*, 197 B.R. 277, 280 (N.D. Ill. 1996) (“Nonchalant or perfunctory treatment of an issue indicates a party considers the issue of little consequence, and therefore waives the issue.”).)

- **ComEd has failed to justify the enormous, disproportionate rate increase for the over-10 MW customer classes.** (See REACT Init. Br. at 35-40.) The growing consensus of parties supports a rate increase of **nothing more than an across-the-board** increase. (See REACT Init. Br. at 41-42; Staff Init. Br. at 96-101; Staff Reply Br. at 74-75; Department of Energy (“DOE”) Init. Br. at 13; Illinois Industrial Electric Consumers (“IIEC”) Init. Br. at 4, 53, 78-82; Metra Init. Br. at 7, 25-26; Metra Reply Br. at 14-15; Chicago Transit Authority (“CTA”) Init. Br. at 26-27; CTA Reply Br. at 16-17; Nucor Init. Br. at 3, 10.)
- **ComEd’s Embedded Cost of Service Study (“ECOSS”) is not a valid basis to determine cost of service for ComEd’s largest customers.** Staff and numerous intervenors continue to advocate against the Commission using ComEd’s ECOSS as a basis for allocating ComEd’s proposed rate increase. (See REACT Init. Br. at 26-27; REACT Reply Br. at 14-16; IIEC Init. Br. at 52-70, 79-81; IIEC Reply Br. at 25-26; DOE Init. Br. at 2-12; Metra Init. Br. at 13-24; CTA Init. Br. at 17-25.) Of course, without a valid cost study, no determination of alleged “cross-subsidies” is possible. (See REACT Init. Br. at 22-23; CTA Init. Br. at 17-22; DOE Init. Br. at 3; IIEC Init. Br. at 55, 81.)
- **ComEd has failed to justify its refusal to perform an individualized cost study to determine the appropriate rates for its over-10 MW customers.** It is possible and appropriate for ComEd to perform a cost of service study that examines the actual facilities used to serve its 73 over-10 MW customers. (See REACT Init. Br. at 23-26, 31-35.) Indeed, given the flaws in ComEd’s ECOSS, individual cost studies for over-10 MW customers is more consistent with ComEd’s repeated call for cost-based rates. (See, e.g., ComEd Init. Br. at 9, 100-01; see also REACT Ex. 6.0 at 17, Line 380-84.) ComEd continues to impliedly admit that it is feasible. (See ComEd. Init. Br. at 96 (carefully stating only that such studies are “impractical and inappropriate” rather than impossible or infeasible); see also REACT Init. Br. at 23.) Other party witnesses, including Commercial Group witness Mr. Baudino, also admitted the feasibility of such individualized cost studies. (See Tr. at 1646, Lines 7-8; Tr. at 1654-55, Lines 9-22, 1-3.) It is clear that several parties now favor some form of an individualized cost study for some or all over-10 MW customers. (See REACT Init. Br. at 31-35; IIEC Init. Br. at 65-67; Metra Init. Br. at 2, 15, 24; CTA Init. Br. at 16, 25-26.)
- **ComEd has failed to justify its misallocation of more than \$64.8 million in supply-related costs.** ComEd unquestionably charges supply-related costs to its delivery services customers, resulting in improper cross-subsidies, thus stifling the competition for ComEd’s smallest customers. (See REACT Init. Br. at 51-54.) REACT is not alone in identifying this misallocation. Staff, the Commercial Group, and RESA also recognize this problem. (See Staff Init. Br. at 106; Commercial Group Init. Br. at 12-13; RESA Reply Br. at 4-6.)⁴ ComEd fails to effectively rebut REACT’s analysis that misallocated

⁴ In its Reply Brief, ComEd asks the rhetorical question why certain other parties are not supporting REACT’s view, and specifically indicates that RESA does not support REACT. (See ComEd Reply Br. at 131 n.54.) ComEd is wrong; in its Reply Brief RESA explicitly supports REACT’s view regarding allocation. (See RESA Reply Br. at 4-6.)

Customer Care Costs exceed \$64.8 million. (See REACT Init. Br. at 53-60; Commercial Group Init. Br. at 13.) Instead, ComEd mischaracterizes REACT's position to suggest that an allocation of supply-related costs is appropriate only when a function is "solely" supply-related. (ComEd Init. Ex. at 118.) However, as Staff properly recognizes, "REACT is not claiming that any of these functions are *solely* supply-related. REACT seems to be arguing that *some portion* of these functions are supply-related but not the sum total." (Staff Init. Br. at 106 (emphasis in original).) RESA echoes that recognition, stating: "[T]he 40% recommended by REACT is much closer to reality than the zero percent proposed by ComEd." (RESA Reply Br. at 5.) Furthermore, properly allocating supply-related costs is consistent with ComEd's repeated call for cost-based rates as well as the Commission's statutory mandate to promote the development of competition for all consumers. (See ComEd Init. Br. at 9, 100-01; 220 ILCS 5/16-101A(d).)

- **ComEd has failed to come to grips with the near unanimous opposition to Rider SMP.** Numerous parties oppose Rider SMP for myriad reasons. (See REACT Init. Br. at 12-18; Staff Init. Br. at 69-81; Attorney General ("AG") Init. Br. at 1, 23-65; IIEC Init. Br. at 44-50; Metra Init. Br. at 7-12; CTA Init. Br. at 5-13; Commercial Group Init. Br. at 4-5; Citizens Utility Board ("CUB") Init. Br. at 36-46; Kroger Init. Br. at 2-4; AARP Init. Br. at 3-11; Nucor Init. Br. at 1-6.)
- **ComEd has failed to justify a disproportionately large increase in the Distribution Loss Factors for its over-10 MW high voltage customers.** ComEd admits that customers within the over-10 MW high voltage class have widely ranging distribution losses. (See REACT Init. Br. at 64.) An individualized distribution loss study for each over-10 MW customer would enable such an individualized calculation. (See REACT Init. Br. at 67.)
- **ComEd has failed to justify its Rider ACT proposal.** ComEd admits that Rider ACT customers have unique needs that are addressed by ComEd offering Rider ACT; ComEd has not justified its proposal to eliminate or close this rider. (See REACT Init. Br. at 63; ComEd Ex. 45.0 at 21, Line 414.)

B. ComEd Bears The Evidentiary Burden, And Has Failed To Carry That Burden

REACT argues that ComEd is attempting to dodge the applicable burden of proof. REACT maintains that under the Act, ComEd alone bears the burden of proof to demonstrate the appropriateness of its proposed rates and its proposed allocation between supply-related and distribution-related costs. REACT confronts ComEd suggestion that ComEd is somehow relieved of this burden once it presents its initial case by citing the plain language of the Act, which explicitly places the burden of proof upon the utility in the context of a rate case:

[T]he burden of proof to establish the justness and reasonableness of the proposed rates or other charges, classifications, contracts, practices, rules or regulations, in whole and in part, **shall be upon the utility**. No rate or other charge, classification, contract, practice, rule or regulation shall be found just and reasonable unless it is consistent with Sections of this Article.

(220 ILCS 5/9-201(c) (emphasis added).)

REACT argues that the record evidence in the instant proceeding demonstrates that ComEd failed to meet its statutory burden of proof on issues related to the allocation of its proposed rate increase. (*See* REACT Reply Br. at 7.) REACT maintains that ComEd has not justified imposing a massive, disproportionate rate increase upon its over-10 MW customers, and has not justified its failure to allocate any Customer Care Costs to its supply function. (*See id.*)

II. OVERALL REVENUE REQUIREMENT AND REVENUE DEFICIENCY

REACT does not challenge ComEd's statutory right to a reasonable rate of return; however given the inadequacy of ComEd's explanations throughout this proceeding, REACT objects vehemently to the allocation of the proposed rate increase. (*See* REACT Init. Br. at 11.). Specifically, REACT argues that as a direct result of ComEd's *anti-competitive misallocation of supply-related costs* to its delivery services function, ComEd has overstated its delivery services revenue requirement by more than \$64.8 million. (*See* REACT Ex. 7.0 at 20-21, Lines 436-54.) Further, REACT argues that the over-10 MW customers that would bear the brunt of ComEd's proposed rate hike – with increases well over 100% – have done nothing to cause ComEd to incur additional costs. (*See* REACT Init. Br. at 38-40, 60-61.)

VII. NEW RIDERS

A. Overview

REACT maintains that the Commission should reject ComEd's modified Rider SMP proposal, indicating that ComEd's proposed revisions reduce Rider SMP to an empty place-

holder, subject to future formal and informal proceedings that are necessary to fill in the details. (See ComEd Init. Br. at 68-69.) REACT observes that private, governmental, and public interest stakeholders oppose Rider SMP for myriad reasons. (See REACT Init. Br. at 12-18; Staff Init. Br. at 69-81; AG Init. Br. at 1, 23-65; IIEC Init. Br. at 44-50; Metra Init. Br. at 7-12; CTA Init. Br. at 5-13; Commercial Group Init. Br. at 4-5; CUB Init. Br. at 36-46; Kroger Init. Br. at 2-4; AARP Init. Br. at 3-11; Nucor Init. Br. at 1-6; *see also* REACT Ex. 5.0 at 14-16, Lines 281-331; ICC Staff Ex. 21.0 at 1, Lines 15-16; AG/CUB Ex. MLB-4.0 at 4, Lines 1-10; IIEC Ex. 5.0 at 19, Lines 359-70; AARP Ex. 2.0 at 2, Lines 15-20.)

B. Rider SMP

REACT argues that Rider SMP is open-ended, unnecessary, confusing, procedurally inappropriate and burdensome, and potentially anti-competitive. (See REACT Init. Br. at 12-17.) REACT also highlights that Rider SMP poses particular issues for over-10 MW customers. (See *id.*) REACT observes that many over-10 MW customers previously invested their own money in the very type of advanced technology that ComEd now seeks guaranteed before-the-fact recovery of costs. Yet, REACT maintains that nowhere in its many pages of two separate briefs, did ComEd address the SMP issues relating to over-10 MW customers in its Initial Brief. (See *generally* ComEd Init. Br. at 66-83; ComEd Reply Br. at 85-93.)

REACT has identified the following specific problems with Rider SMP as it relates to over-10 MW customers:

- **Rider SMP fails to account for prior investment made by ComEd’s over-10 MW customers.** (See REACT Init. Br. at 13-15; REACT Reply Br. at 9-10.)
- **Rider SMP provides no credit for the system-wide benefits that all customers have received from the over-10 MW customers’ previous investment in advanced meter technology.** (See REACT Init. Br. at 16; REACT Reply Br. at 9-10.)

- **ComEd’s assertions regarding alleged Rider SMP “benefits” to over-10 MW customers is unpersuasive.** (See REACT Init. Br. at 15-16; REACT Reply Br. at 9-10.)

REACT argues that these issues, like the competitive market issues that REACT states that ComEd has ignored, were the subject of pre-filed testimony and extensive cross-examination at the live hearings. (See generally REACT Ex. 4.0 at 8-16; REACT Ex. 5.0 at 16, 21; Tr. at 263-267, 271.) Thus, REACT argues that the Commission should not allow ComEd’s failure to address this issue in the initial briefing round. (See REACT Reply Br. at 9-10; see *Autotech Tech.*, 235 F.R.D. at 437) because such a failure constitutes a waiver of any objection to REACT’s position. (See *In re Meyer*, 197 B.R. at 280.)

VIII. COST OF SERVICE AND ALLOCATION ISSUES

A. Overview

REACT, along with other parties, continues to oppose ComEd’s proposal to recover its costs in a manner that would, according to REACT, simultaneously impose a massive, disproportionate, unjustified rate increase upon ComEd’s largest customers, while continuing to misallocate supply-related costs to stymie the development of competition for its smallest customers. (See, e.g., REACT Reply Br. at 10; DOE Init. Br. at 13-14; Nucor Init. Br. at 7-10; IIEC Init. Br. *passim*; Staff Init. Br. at 106; Commercial Group Init. Br. at 12-13; RESA Reply Br. at 5-6.)

According to REACT, ComEd has engaged in a gross *misallocation* of at least \$64,860,008 of supply-related Customer Care Costs, which will cause ComEd’s supply rates to be subsidized by its delivery services rates. (See REACT Reply Br. at 10; REACT Ex. 7.0 at 20-21, Lines 436-54; REACT Ex. 7.2.) Thus, REACT states that ComEd’s proposed misallocation of costs violates basic cost causation principles, forcing RESs’ customers to foot part of ComEd’s supply-related bill and placing RESs at a competitive disadvantage to ComEd. (See

REACT Reply Br. at 10; REACT Ex. 7.0 at 4-5, Lines 83-105; *see also* ICC Docket No. 99-0117, Aug. 26, 1999 Order at 24.) REACT argues that despite ComEd’s rhetoric that it supports the development of competition for its residential and smallest customers, ComEd’s actions appear clearly designed to ensure that it continues to provide supply to as many of those customers as possible.

REACT also fundamentally objects to the imposition of what it characterizes as an *enormous* rate hike for over-10 MW customers based on an allegedly faulty ECOSS, instead advocating the feasible alternative of individualized cost-of-service studies for the relatively few customers in the over-10 MW classes in order to calculate the aggregate cost of service for those customers.

As REACT has pointed out, even under ComEd’s “modified” proposal, which would simply “phase-in” the proposed increase, the largest of the 26 Extra Large High Voltage Customers eventually would receive more than a **\$900,000 annual rate increase**; for the 53 Extra Large customers that are not served via high voltage, the annual impact of ComEd’s proposal would range from approximately **\$420,000 at the “low” end to more than a \$3.2 million increase** – these proposed increases are *per year, per customer*. (*See* REACT Ex. 5.0 at 2-3, Lines 25-40; ComEd Ex. 32.0 at 9, lines 137-46.) REACT points with agreement to the DOE position that even ComEd’s “mitigation” approach would constitute rate shock. (*See* DOE Init. Br. at 14.)

REACT notes that ComEd admits it “supports a substantial increase for its very largest customers,” based on an alleged subsidization of the largest customers by medium-sized customers. (ComEd Init. Br. at 9.) REACT states, though, that the alleged subsidization to which ComEd refers has been seriously called into question by numerous parties, all of whom

agree with the basic, uncontested point that without a valid cost-of-service study, no determination of subsidization is possible. (*See* REACT Init. Br. at 22-23; CTA Init. Br. at 17-22; DOE Init. Br. at 3; IIEC Init. Br. at 55, 81.)

REACT maintains that ComEd either concedes or fails to rebut the following critical points:

- **As a general rule, costs should be paid by the cost causer.** (*See* REACT Init. Br. at 21-22; REACT Reply Br. at 13.)
- **It is necessary to have an accurate cost study in order identify any alleged cross-subsidies.** (*See* REACT Init. Br. at 22-23; REACT Reply Br. at 13; CTA Init. Br. at 17-22; DOE Init. Br. at 3; IIEC Init. Br. at 55, 81.)
- **The Commission has not endorsed the ECOSS as a method for allocating costs to the over-10 MW customers.** (*See* REACT Init. Br. 25-26; REACT Reply Br. at 13.)
- **ComEd has itself historically questioned the ECOSS.** (*See* REACT Init. Br. at 26; REACT Reply Br. at 13.)
- **Numerous parties question ComEd’s use of the ECOSS in the instant proceeding.** (*See* REACT Init. Br. at 26-29; ;REACT Reply Br. at 13; IIEC Init. Br. at 52-70, 79-81; IIEC Reply Br. at 25-26; DOE Init. Br. at 2-12; Metra Init. Br. at 13-24; CTA Init. Br. at 17-25; *see also* REACT Ex. 2.0 at 12-19, Lines 243-393; REACT Ex. 6.0 at 5-6, 14-17, Lines 103-21, 290-374; Staff Ex. 18.0 at 18, Lines 402-03; IIEC Ex. 5.0 at 3-4, 7-8, Lines 24-44, 122-31; IIEC Ex. 7.0 at 2-3, Lines 15-41; City of Chicago Ex. 2.0 at 3, 5, Lines 69-73, 116-18; DOE Ex. 2.0 at 2-3, Lines 21-23, 26-59; Metra/CTA Ex. 3.0 at 4, Lines 10-25; BOMA Ex. 5.0 at 4, Lines 35-38.)
- **Customer-specific cost of service studies are possible for the over-10 MW customer classes.** (*See* Tr. at 1646, Lines 7-8; Tr. at 1654-55, Lines 9-22, 1-3; *see also* REACT Init. Br. at 23-26, 31-35.)

REACT concludes that it appears largely uncontested that ComEd’s proposed rate increase for the over-10 MW customers is (1) disproportionate (*see* REACT Reply Br. at 12; ComEd-Staff Joint Ex. 1; ComEd Ex. 25.0 at 3, Lines 46-49; ComEd Ex. 32.0 at 9, Lines 137-

39.); (2) not derived from a change in delivery services usage or a valid cost study (REACT Reply Br. at 12); and (3) not based upon a rationale basis for cost allocation (*See* REACT Init. Br. at 19-20; REACT Reply Br. at 12-13; REACT Ex. 6.0 at 2, Lines 14-33.)

C. Embedded Cost of Service Study Issues

1. Appropriate Study

REACT argues that the results of ComEd's ECOSS simply do not make sense on a number of levels. At the most basic level, according to REACT, the ECOSS suggests a massive increase for the over-10 MW customers – 129.4% and 140.4% – that is inconsistent with the overall requested rate increase – 21%. (*See* REACT Init. Br. At 35-36; REACT Reply Br. at 14.) REACT argues that these results would suggest *either* that there are subsidies in ComEd's current rates *or* that the over-10 MW customers have done something to change their usage that would justify an increase. (*See* REACT Reply Br. at 14.) However, as REACT notes, ComEd's President acknowledged that ComEd's current rates do not contain cross-subsidies, and ComEd has admitted that the over-10 MW customers “didn't do anything” to justify the increase. (*See* REACT Reply Br. at 14; Tr. at 108, Lines 3-9; Tr. at 1542, Lines 3-7; *see also* Tr. at 123, Lines 3-7.)

REACT points out that the application of the ECOSS as a basis to justify ComEd's proposed rate increase has been seriously questioned in the instant proceeding. (*See* REACT Init. Br. at 26-27; REACT Reply Br. at 14-15; IIEC Init. Br. at 52-70, 79-81; IIEC Reply Br. at 25-26; DOE Init. Br. at 2-12; Metra Init. Br. at 13-24; CTA Init. Br. at 17-25; *see also* REACT Ex. 2.0 at 12-19, Lines 243-393; REACT Ex. 6.0 at 5-6, 14-17, Lines 103-21, 290-374; Staff Ex. 18.0 at 18, Lines 402-03; IIEC Ex. 5.0 at 3-4, 7-8, Lines 24-44, 122-31; IIEC Ex. 7.0 at 2-3, Lines 15-41; City of Chicago Ex. 2.0 at 3, 5, Lines 69-73, 116-18; DOE Ex. 2.0 at 2-3, Lines 21-

23, 26-59; Metra/CTA Ex. 3.0 at 4, Lines 10-25; BOMA Ex. 5.0 at 4, Lines 35-38.) According to REACT, the nature of the ECOSS's flaws render it particularly invalid for setting rates for ComEd's over-10 MW customers. REACT specifically points to the following as being among the ECOSS's problems are:

- Including the cost of secondary wire in the cost for the over-10 MW ratepayers;
- Including the cost of distribution lines in the high voltage class when many of the those ratepayers use no distribution lines whatsoever;
- Assuming that the age of the lines, the quantity of poles, and the spans of primary under-ground and overhead lines will be the same for over-10 MW ratepayers as other ratepayers if the non-coincident load is the same; and
- Assuming the cost of tree trimming, the cost of underground cable repairs, and other distribution line costs will be the same for over-10 MW ratepayers as other ratepayers if the load is the same.

(See REACT Reply Br. at 15; REACT Ex. 6.0 at 5-6, Lines 105-21.) In light of these problems, REACT argues that “[i]t simply would be inappropriate for the Commission to rely upon ComEd’s ECOSS to allocate ComEd’s rate increase to the over-10 MW customer classes.” (REACT Reply Br. 15.)

2. Primary/Secondary Split

REACT identifies the failure of ComEd’s ECOSS to properly allocate secondary wire as illustrative of the substantial flaws in ComEd’s cost study. (See *id.* at 14-16, Lines 298-346; see also REACT Init. Br. at 29-31; REACT Reply Br. at 15-16.) For example, under ComEd’s ECOSS, ComEd assigns as much secondary wire to a single 10 MW customer as it assigns to 1,000 residential customers. (See REACT Ex. 6.0 at 14, Lines 299-300.) REACT notes that

both REACT and IIEC discussed this issue in detail and demonstrated why it is inappropriate to allocate any cost of secondary wire to the class. (*See id.*; IIEC Init. Br. at 63-70; IIEC Reply Br. at 28-32; IIEC Ex. 3.0 at 12-27, Lines 199-439.)

REACT points out that ComEd has **admitted** a defect in the ECOSS and has **admitted** that a correction of that defect “would likely reduce the total cost allocation to customers in the Extra Large Load, High Voltage, or Railroad delivery classes.” (ComEd Init. Br. at 93; *see also* REACT Reply Br. at 16.) REACT claims that ComEd’s proposed “solution” to the problem, however, is to ask the Commission to just let the issue go, because the *current* rate increase impact is insufficient to invalidate the entire ECOSS. (*See* REACT Reply Br. at 16.) REACT thus argues that the Commission should not endorse ComEd’s view because ComEd’s view is totally at odds with the Act’s requirement that ComEd bear the burden of proof to justify its proposed rate increase. (*See* REACT Reply Br. at 16, *citing* 220 ILCS 5/9-201(c).) REACT concludes that if the ECOSS is faulty, as ComEd now admits, then the ECOSS should not be used as the basis for allocating ComEd’s proposed rate increase. (*See* REACT Reply Br. at 16.)

5. Customer-Specific Cost-of-Service Study Recommendations

REACT observes that several parties now favor some form of an individualized cost study for some or all over-10 MW customers. (*See, e.g.*, REACT Init. Br. at 31-35; REACT Reply Br. at 16-17; IIEC Init. Br. at 65-67; Metra Init. Br. at 2, 15, 24; CTA Init. Br. at 16, 25-26.) Given that there are a relatively small number of over-10 MW customers (there are only 79), and given that the parties advocating for some form of individualized cost study represent a large proportion of that group of customers, REACT argues that it would be reasonable to say that there is a consensus position among the particularly affected stakeholders on this general approach. (*See* REACT Reply Br. at 14.)

REACT observes that ComEd maintains that an individualized cost-of-service study would be “impractical and inappropriate.” (ComEd Init. Br. at 96.) Thus, according to REACT,, ComEd continues to assert that the cost of such studies would outweigh the benefits, even though, as REACT notes, ComEd has not presented any specific evidence regarding the costs or the benefits. (See REACT Reply Br. at 17.) REACT also notes that ComEd has not hired a single expert to evaluate the actual costs to serve the 79 over-10 MW customers, while it has hired many experts to defend the flawed ECOSS and advocate for ComEd’s proposed higher overall revenue requirements. (See *id.*; REACT Ex. 6.0 at 12, Lines 252-58.)

REACT states that ComEd’s implication that individual audits of its 79 largest customers would be unjustifiably expensive or impractical is ironic where ComEd itself has proposed to raise rates for these very customers by **tens of millions of dollars per year based upon the faulty ECOSS**. (See REACT Reply Br. at 17; ComEd Ex. 33.0 at 2, Lines 31-33.) Thus, REACT argues that from a customer perspective, the costs and inconvenience associated with allowing ComEd to rely upon its flawed ECOSS study obviously dwarf the cost of requiring ComEd to perform audits for each of the 79 individual very large ratepayers. (See REACT Reply Br. at 17; ComEd Ex. 33.0 at 7-10, Lines 137-211.)

REACT criticizes ComEd for allegedly failing to take issue with or attempt to rebut the basic points that REACT and other parties have made repeatedly throughout this proceeding in support of individualized cost studies for over-10 MW customers. (See REACT Reply Br. at 17.) These points include:

- The ECOSS misallocates numerous costs, including the cost of secondary wire, to the over-10 MW customers. (See REACT Init. Br. at 28-29; IIEC Init. Br. at 54-70.)

- Individualized cost studies would be more accurate than the ECOSS. (*See* REACT Init. Br. at 33-35.) ComEd has failed to explain why reliance upon actual costs would be inappropriate; indeed, ComEd’s own witness made comments regarding the need to measure actual costs in an embedded cost of service study. (*See* ComEd Ex. 33.0 at 4, Lines 66-68.)
- Performing individualized cost-of-service studies for ComEd’s 79 largest customers is feasible. (*See* REACT Init. Br. at 35; REACT Ex. 6.0 at 19-20, Lines 417-50; REACT Cr. Ex. 19, ComEd Response to REACT Data Request 4.28.)
- Performing individualized cost-of-service studies is consistent with ComEd’s stated desire to “move toward cost.” (*See* REACT Init. Br. at 35; REACT Ex. 6.0 at 17, Lines 380-84.)
- The rate level ComEd has proposed for its largest ratepayers is very high relative to the rates other utility companies charge their largest customers. (*See* REACT Ex. 6.0 at 22, Lines 483-98.)
- ComEd’s repeated assertion that the over-10 MW customers are being “subsidized,” is contrary to the Commission’s observations in prior cases, such as ICC Docket No. 05-0597. (*See* REACT Ex. 6.0 at 11-13, Lines 235-81.)
- Performing individualized cost-of-service studies is consistent with the principle of avoiding cross subsidization. (*See id.*)

(*See also* REACT Reply Br. at 17-18.)

REACT argues that rather than blindly adhering to what REACT believes is ComEd’s admittedly flawed ECOSS, the Commission should direct ComEd to measure the cost to serve the customers through audits of actual costs for each of the 79 customers, so as to evaluate rate

levels relative to the depreciated cost that ComEd actually has on its books for equipment installed to serve each customer. (*See id.* at 18.)

D. Rate Impact Analysis

REACT argues generally: (1) that ComEd’s proposed rate increase is “rate shock”; (2) that ComEd fails to offer anything to guard against potential negative rippling economic effects; and (3) even ComEd’s “mitigation” plan would constitute “rate shock.” (*See* REACT Reply Br. at 19-22.)

First, REACT maintains that ComEd fails to come to grips with the “rate shock” issue that its President claimed was a matter of concern to ComEd. (*See* REACT Reply Br. at 19-20; Tr. at 108, Lines 10-17; *but see* ComEd Init. Br. at 101.) REACT observes that Mr. Mitchell acknowledged that even though ComEd’s current rates do not contain cross-subsidies, ComEd has requested **an increase of over 125% for its largest customers**, in the context of a case in which ComEd is seeking a delivery services rate increase of approximately 21% for its residential customers. (*See* Tr. at 108, Lines 3-9; Tr. at 109-10, Lines 19-21, 14-16; Tr. at 110-11, Lines 20-22, 1; Tr. at 111-12, Lines 5-22, 1-13.) Yet, according to REACT, ComEd’s Initial Brief skirts the issue, providing little more than an assertion that ComEd’s enormous proposed rate increase would be a “measured movement to cost.” (*See* REACT Reply Br. at 19, *citing* ComEd Init. Br. at 101.)

REACT states that ComEd apparently has conceded the evidence REACT presented regarding the sheer size of the increases faced by over-10 MW customers, as expressed both in percentage increases (140.4% and 129.4%) and in actual dollars (\$420,000 to \$3.2 million per year, per customer). (*See* REACT Init. Br. at 35-37; REACT Reply Br. at 19-20; REACT Ex. 1.0 at 10, Lines 230-37; REACT Ex. 5.0 at 2, 7, Lines 31-37, 132-35.) Further, according to

REACT, ComEd does not, and cannot dispute the fact that the increases faced by over-10 MW customers are grossly out of proportion to the much lower increases for other customer classes. (*See* REACT Init. Br. at 37-38; REACT Ex. 1.0 at 10, Lines 230-37; REACT Ex. 5.0 at 7, Lines 132.35.)

REACT emphasizes that the over-10 MW customers themselves have done nothing that would justify a drastic increase in the rates that they are charged. (*See* Tr. at 123, Lines 3-7; Tr. at 1542, Lines 3-7.) Thus, REACT argues that even if the Commission were to set aside the fact that ComEd has failed to provide adequate justification for its proposed increase for its over-10 MW customers, the enormity of the proposed increase for these customers is inappropriate in this context.

Next, REACT observes that ComEd's Initial Brief fails to confront the question of the negative rippling economic effects that could flow from the proposed increases for over-10 MW customers – some of the largest employers in Illinois. (*See* REACT Init. Br. at 40; REACT Reply Br. at 20-21.) REACT states that ComEd's avoidance of this issue is unjustified because this issue has been advanced by both REACT and IIEC since the inception of this proceeding and was echoed during the testimony of Commercial Group witness Mr. Vite, who acknowledged the propriety of the Commission taking into consideration the fact that these types of increases threaten a negative, rippling effect, in terms of employment and other effects to the community. (*See* REACT Ex. 5.0 at 7-8, Lines 147-51; REACT Init. Br. at 32, 40-41; REACT Reply Br. at 20; IIEC Ex. 7.0 at 14, Lines 265-81; Tr. at 1684, lines 10-16.)

REACT argues that as a matter of Illinois law, the Commission is required to consider the impact of ComEd's proposal upon these customers. (*See* REACT Reply Br. at 20-21.) REACT

cites *Abbott Laboratories, Inc. v. Illinois Commerce Comm'n*, 289 Ill. App. 3d 705, 716, 682 N.E.2d 340, 350 (1st Dist. 1997), which states

A determination of what is 'just and reasonable' involves a balancing by the Commission of the interests of the utilities' stockholders and the utilities' consumers. The Commission cannot fulfill its statutory duty to balance the competing interests of stockholders and ratepayers without taking into account the impact of proposed rates on ratepayers.

(internal citations omitted.) This requirement, according to REACT, has been codified in the Customer Choice and Rate Relief Act of 1997 with respect to the Commission's review and approval of delivery services rates: "The Commission shall establish charges, terms and conditions for delivery services that are just and reasonable and shall take into account customer impacts when establishing such charges." (220 ILCS 5/16-108(d).)

REACT argues that the magnitude of the rate increase proposed for the largest customers, whether businesses or governmental entities, "is obvious." (REACT Reply Br. at 21.) REACT states that it is likewise obvious that the entire business climate in Northern Illinois could be put under substantial stress if the Commission were to accept ComEd's proposal. (*See id.*) Therefore, REACT states that the rate impact that ComEd's proposed allocation of its rate increase would have upon its largest customers provides an independent basis for the Commission to reject ComEd's ECOSS. (*See* REACT Reply Br. at 21, *citing* Staff Init. Br. at 98.)

Finally, REACT argues that ComEd's proposed "mitigation" plan is unacceptable. (*See* REACT Init. Br. at 42-45; REACT Reply Br. at 21-22.) REACT agrees with DOE that the impact of ComEd's "mitigation" plan, which still would result in massive, disproportionate rate increases for ComEd's largest customers, constitutes rate shock on any reasonable scale. (*See* DOE Init. Br. at 14; *see also* REACT Init. Br. at 45-48; REACT Reply Br. at 21.) REACT

believes that ComEd offers nothing to seriously challenge this view, and instead relies simply on generalizations about “measured movement to cost.” (ComEd Init. Br. at 101.)

E. Interclass Allocation Issues

1. Across-The-Board Increase

REACT points out that a relatively broad consensus has now formed in favor of limiting any rate increase to an across-the-board increase. (See REACT Init. Br. at 41-42; REACT Reply Br. at 22; Staff Init. Br. at 96-101; DOE Init. Br. at 13; IIEC Init. Br. at 4, 53, 78-82; Metra Init. Br. at 7, 25-26; CTA Init. Br. at 26-27; Nucor Init. Br. at 3, 10.) Although ComEd responds that such an increase “does not reflect the costs customers impose on the system,” (ComEd Init. Br. at 99), REACT argues that it and other parties have demonstrated that ComEd has set forth no valid cost-of-service study upon which to determine the “costs customers impose on the system.” (See REACT Init. Br. at 26-27; REACT Reply Br. at 22; IIEC Init. Br. at 52-70, 79-81; DOE Init. Br. at 2-12; Metra Init. Br. at 13-24; CTA Init. Br. at 17-25; see also AG Ex. (SJR) 6.0 at 7, Lines 159-61; Tr. at 2091-92, Lines 16-22, 1-11.) According to REACT, until there are fundamental changes in how ComEd develops its cost-of-service study for the over-10 MW customer classes, the Commission should reject ComEd’s ECOSS and simply limit the percent rate increase the over-10 MW classes receive to the overall system-wide average increase, just as the Commission did in ComEd’s last rate case. (See REACT Reply Br. at 23; REACT Ex. 6.0 at 6, Lines 125-32; Order, ICC Docket No. 05-0597 at 196 (July 26, 2006).)

REACT argues that the across-the-board proposal or assigning a system-average increase is preferable to ComEd’s “mitigation” proposal because ComEd’s “mitigation” plan merely would delay imposition of the full brunt of the enormous rate increase that ComEd is proposing for the over-10 MW customers. (See REACT Reply Br. at 23.) Even the initial increase under

ComEd's Proposal would be severe, and the "phase in" of an increase of that magnitude is largely immaterial. (*See* REACT Init. Br. at 42-47; REACT Reply Br. at 23; REACT Ex. 5.0 at 5, Lines 96-102.)

2. Other Rate Moderation/Mitigation Proposals

REACT criticizes ComEd's contention that its proposed "mitigation" plan constitutes a "measured movement to cost" based on "tradition[al] cost-causation principles to ensure that all customers are paying their fair share for distribution services, or moving in that direction." (ComEd Init. Br. at 101 [correction added]; REACT Reply Br. at 24.)

REACT maintains that ComEd's position is unconvincing for three reasons:

First, according to REACT, there is nothing "measured" about ComEd's proposal, which imposes a massive, disproportionate rate increase upon over-10 MW customers. (*See* REACT Init. Br. at 42-48; REACT Reply Br. at 24.)

Second, REACT argues that in light of the evidence invalidating the ECOSS, particularly with regard to the over-10 MW customers, it is intellectually dishonest for ComEd to represent that it is actually moving away from alleged subsidies and toward cost. (*See* REACT Initl Br. at 48-49; REACT Reply Br. at 24.) REACT notes that ComEd's President and CEO testified that no such subsidies exist. (*See* Tr. at 108, Lines 3-9.)

Finally, REACT argues that approving ComEd's "mitigation" plan now would act as an "endorsement" for another massive rate increase in the future. (REACT Reply Br. at 24.) According to REACT, ComEd's "mitigation" plan is a fairly transparent attempt to obtain the Commission's approval of the flawed ECOSS approach now, with the prospect that ComEd can return (likely very soon) to collect on the remaining "balance" of the increase that would be due under the ECOSS approach. (*See* REACT Init. Br. at 44; REACT Reply Br. at 24.)

REACT argues that the Commission should not view ComEd's "mitigation" plan as somehow occupying a reasonable middle ground. (*See* REACT Reply Br. at 24.) Rather, according to REACT, the Commission should recognize that ComEd's plan is merely an attempt to hide the glaring flaws in ComEd's ECOSS, and provide cover for ComEd to impose multiple massive rate increases upon its largest customers. (*See id.*)

F. Supply vs. Delivery Services Allocation Issues

According to REACT, the portion of ComEd's Customer Care Costs associated with ComEd's supply function should be allocated to ComEd's supply rates, rather than included in ComEd's delivery services rates. REACT maintains that ComEd has improperly included more than \$64.8 million of supply-related Customer Care Costs in its proposed delivery services rates.

REACT presented the expert testimony of Mr. Merola, a competitive energy markets analyst, who concluded that there is no doubt that that certain Customer Care Costs that ComEd has proposed to recover in its delivery services rates are related to supply rather than delivery services. (REACT Init. Br. at 49-60.) REACT observes that ComEd does not and cannot question Mr. Merola's qualifications. Mr. Merola explained that he would have anticipated that ComEd would have separately tracked these supply-related costs or proposed some allocation methodology of its own. He was surprised that rather than presenting such evidence or performing such an analysis, ComEd made the incredible assertion that none of the Customer Care Costs should be assigned to ComEd's supply function. (*See* REACT Ex. 7.0 at 19, Lines 416-27.)

Mr. Merola explained that, given ComEd's failure to provide such evidence, one legitimate methodology that the Commission could use to allocate these Customer Care Costs would be to base the allocation upon the share of revenue associated with supply compared to the

share of revenue associated with distribution. Clearly, supply represents a much higher percentage of a customer's bill than does distribution, and under that methodology the allocation factor would likely be in the range of 67%. (*See id.* at 20, Lines 436-41.) Instead of applying such a rough allocator for these costs, Mr. Merola analyzed ComEd's proposed \$162,150,019 Customer Care Cost revenue requirement for fixed-price bundled customers, and concluded that 40%, or \$64,860,008, of ComEd's Customer Care Costs should be allocated to the supply function. (*See id.* at 20-21, Lines 441-54.) The allocation methodology that Mr. Merola used was similar to the embedded cost methodology that ComEd has proposed for other cost allocation issues: examining actual historic costs and making reasonable assumptions regarding usage of specific assets for different customers. (*See generally* REACT Ex. 7.0 at 18-22.)

Mr. Merola explained that his analysis was conservative in a number of ways, fully removing costs attributable to meter reading and the establishment of delivery services, and, in the absence of ComEd providing actual data or meaningful assumptions of its own, making a very reasonable assumption regarding the percentage of Customer Care Costs that are associated with providing supply. (*See id.*, Lines 436-48.) Mr. Merola also confirmed that his methodology captured some costs associated with ComEd's use of Exelon Business Services Company to support its supply function, but he was careful not to double count this expense. (*See id.* at 21-22, Lines 465-86.)

Finally, Mr. Merola investigated how other utilities that are providing service in competitive markets in other states calculate their supply administration costs, and concluded that the allocation of 40% of the Customer Care Cost to a bypassable supply charge would be fully in line with the treatment of this issue by the other similarly-situated utilities. (*See id.* at 23-27, Lines 492-580.) He concluded that ComEd's supply-related charges are "far lower" than

the supply administration rates set by the other utilities he examined, confirming his concern that ComEd's proposed recovery of supply-related administrative costs appears to be "artificially low." (*Id.* at 26, Lines 540-42.)

REACT observes that Mr. Merola's detailed analysis was much more comprehensive than any analysis that had previously been done in any prior rate case. (*See* REACT Ex. 7.0 at 13-22, Lines 291-486; Tr. at 1349-53.) REACT also notes that ComEd had the opportunity to develop actual data allocating Customer Care Costs between supply and delivery; ComEd also had the opportunity in its surrebuttal to challenge Mr. Merola's allocations by providing allocation factors of its own. However, ComEd did neither, and instead ComEd chose to stand by its original position that there is **nothing** to allocate. REACT explains that ComEd's position that it incurs zero supply-related Customer Care Costs cannot withstand scrutiny – particularly given its own witnesses' admissions. (*See* Tr. at 282, Lines 6-15; Tr. at 1382-87; REACT Init. Br. at 50-56.)

REACT maintains that ComEd's argument that REACT has not proven that Customer Care Costs are "**solely** supply-related" misstates the appropriate test, and misses the point. REACT notes that it is a basic tenet of cost-of-service studies that costs solely related to one function should be directly assigned to that function, but costs related to multiple functions must be allocated between those functions. (*See* REACT Init. Br. at 21, 49.)

REACT cites the portion of Staff's Initial Brief that clearly articulated this point:

ComEd points to no evidence that shows that 100% of the Customer Care Costs are caused by providing the distribution function. For example, Mr. Crumrine states that 'the Billing and Customer Support function exists regardless of whether or not a customer is a supply customer.' **However, the question is not whether ComEd should provide these functions (or even whether to recover the costs associates with these functions.)**

Rather, the question is whether zero % of the associated costs are caused by the fact that ComEd is the supplier of energy.

Similarly, Mr. Crumrine states that ‘REACT has not adequately explained the basis for deeming any of these functions to be solely supply-related’, **although it appears that REACT is not claiming that any of these functions is solely supply-related. REACT seems to be arguing that some portion of these functions are supply-related but not the sum total.**

(Staff Init. Br. at 106 (italics in original; bold provided).) Likewise, REACT observes that the Commercial Group, a group of predominantly under-10 MW customers that does not generally support REACT’s views in this case, indicated that it supports REACT’s analysis and proposal that more than \$64.8 million in Customer Care Costs be allocated as supply-related costs. (See Commercial Group Init. Br. at 12-13.) Finally, REACT observes that RESA also supports REACT’s position on the allocation of Customer Care Costs. (See RESA Reply Br. at 5-6.) REACT believes that RESA’s support is meaningful not only in and of itself, but also because ComEd tried to “make hay” out of ComEd’s false supposition that RESA would not support REACT’s view. (See ComEd Reply Br. at 131 n.54.) RESA explicitly supports REACT’s position, and ComEd’s statement to the contrary is flat-out incorrect.

Of course, ComEd’s attempt to discount this cost allocation issue as an attempt to create “headroom” does not apply to the independent analysis and support of Staff, the Commercial Group, and RESA. (See ComEd Init. Br. at 117; *but see* Staff Init. Br. at 106; Commercial Group Init. Br. at 12-13; RESA Reply Br. at 5-6.)

REACT explains that its position has been and continues to be that Customer Care Costs are related to both supply and delivery services – a concept that REACT has proven and that ComEd has now admitted. (See REACT Reply Br. at 25-30; *e.g.*, Tr. 287-89, Lines 15-22, 1-22, 1-6; Tr. 1387-88, Lines 14-22, 1-5; Tr. 1389-90, Lines 16-22, 1-2; ComEd Init. Br. at 118-19; Tr. 282, Lines 6;15; Tr. 1382-87.) Far from claiming that Customer Care Costs are “solely

supply-related,” REACT explains that the expert testimony of Mr. Merola, who performed an analysis of ComEd’s Customer Care Costs and presented a conservative recommendation that **only 40%** of those costs should be allocated to ComEd’s supply rates. (See REACT Init. Br. at 53-56.) Thus, contrary to ComEd’s false charge, REACT has explained that 60% of the Customer Care Costs are properly allocated to delivery services.

REACT rebuts ComEd’s assertion that the definition of “delivery services” in the Act somehow precludes the Commission from properly allocating some supply-related costs to ComEd’s supply function. REACT observes that a plain reading of the definition in the Act makes it clear that the definition does not prevent any category of costs from being both a supply-related cost and a distribution-related cost. Indeed, ComEd even recognized that some costs should be “functionalized” or allocated between the utility’s transmission, distribution, and supply-related rates. Thus, ComEd has admitted that some Customer Care Costs should be allocated to the supply function; the appropriate inquiry for the Commission is not *whether* but rather *how much* of those Customer Care Costs should be allocated to supply. REACT submits that the answer to the inquiry is that at least \$64.8 million of the costs ComEd has allocated to delivery services should be allocated to supply.

REACT explained how misallocation of supply-related costs is anti-competitive, noting that Mr. Merola’s testimony on this point stands unopposed. (See REACT Init. Br. at 51.) According to REACT, competitive market issues are inextricably intertwined with the question of the proper setting of delivery services rates. Misallocating supply costs into delivery services rates affects the price of electricity in the competitive market. (See *generally* Tr. at 2231-33; REACT Cr. Ex. 18.) Specifically, artificially increasing delivery services charges means improperly lowering ComEd’s supply-related charges to ComEd Rate BES customers. An

incorrect allocation would result in an incorrect price signal in both the supply and delivery of energy, and effectively inhibits development of competition. Further, it forces customers that choose a RES to pay twice for the same Customer Care services – once to ComEd for services the customer does not use, and a second time to the RES for services it does use. (*See* REACT Ex. 7.0 at 4, Lines 88-90.) ComEd’s proposal clearly would inhibit the development of the competitive retail electric market.

REACT is critical of the briefing tactic employed by ComEd, where ComEd’s approach in its Initial Brief basically was to assert that competitive issues are off-limits in this proceeding (*see* ComEd Init. Br. at 120), and then in ComEd’s Reply Brief, it devotes four (4) pages to the issue (*see* ComEd Reply Br. at 131-33, 146-47). REACT observes that competitive market issues have been a part of the instant proceeding from the outset, and that ComEd did not object to any of REACT’s pre-filed testimony, which addresses competitive market issues at length. REACT recommends that the Commission discount arguments contained in ComEd’s Reply Brief.

According to REACT, the Commission repeatedly has recognized that competitive market issues, including ComEd’s misallocation of supply-related costs, are appropriately addressed in ComEd’s delivery services cases. For example, in ComEd’s inaugural delivery services rate case, ICC Docket No. 99-0117, ComEd itself presented an expert witness who testified about the need for pricing that would **“improve the efficiency of competition”** and the need for new market entrants to have **“correct distribution price signals.”** (*See* ICC Docket No. 99-0117, Aug. 26, 1999 Order at 52 (emphasis added).) In that same proceeding, **Staff explained that allocating any of the supply-related sales and marketing costs to distribution “would undermine the goal of creating a level playing field for providers in the emerging**

electricity market.” (*Id.* at 24 (emphasis added).) (*See also* ICC Docket No. 01-0423, March 28, 2003 Order at 24-25; ICC Docket No. 05-0597, July 26, 2006 Order at 272-94.)

REACT is also critical of ComEd’s failure to specifically address in its Initial Brief the incentives that exist for ComEd to attempt to inhibit the development of retail competition. REACT identified two such incentives in its pre-filed testimony, at the live hearings and in its briefs. First, REACT explained that ComEd has a profit motive because ComEd can increase short-term revenues based upon inaccurate residential switching projections. (*See* REACT Init. Br. at 71-72.) Second, REACT explained that ComEd’s sister company Exelon Generation is able to sell more supply to ComEd under the supplier forward contracts if ComEd suppresses competition for its residential and smallest commercial customers. (*See id.* at 72-73.) REACT observes that based upon the market conditions that existed at the time ComEd had to make policy decisions related to the positions it would take in this proceeding, it appears that Exelon had a corporate incentive to have ComEd retain those customers. (*See id.*) REACT articulated this issue repeatedly in its testimony and at the live hearings. (*See* REACT Ex. 7.0 at 5-7, Lines 110-46; Tr. at 117, Lines 3-10; Tr. at 2231-32, Lines 21-22, 1-17.) ComEd did not address these issues in its Initial Brief; REACT recommends that ComEd’s failure to engage should be viewed as improper gamesmanship and an admission. (*See, Autotech Tech.*, 235 F.R.D. at 437; *In re Meyer*, 197 B.R. at 280.)

REACT observes that in its Reply Brief ComEd improperly suggest that the supply vs. delivery services allocation issues were fully addressed in the proceeding approving Rider PE. (*See* ComEd Reply Br. at 126-27.) REACT suggests that if ComEd had put this position forward in its Initial Brief, REACT would have been able to respond that the Rider PE proceeding was a “rocket docket,” which started in October and concluded less than two months later. (*See*

generally, ICC Docket No. 07-0528 consol. 07-0531, Dec. 19, 2007 Order at 90.) Significantly, there is no evidence that anyone raised any issue related to the allocation of Customer Care Costs in that proceeding. (*See generally, id.*) Further, there was no testimony, much less expert testimony on this issue or any other issue in that proceeding. (*See Tr. at 1340-41.*) The suggestion that the Commission Order in that case is *res judicata* of this issue is wrong as a matter of law and as a matter of sound policymaking.

REACT observes that even in ComEd's Reply Brief, ComEd validates many of the positions advanced by REACT regarding ComEd's ability and potential motives to discourage customer choice for its residential and smallest commercial customers. First, ComEd does not deny that it has the ability to discourage customer choice by improperly allocating supply costs to its delivery services function. (*See REACT Init. Br. at 6-7.*) Second, ComEd is completely silent regarding its ability to reap short-term revenues based upon inaccurate residential switching projections. (*See REACT Init. Br. at 71-72.*) Most significantly, ComEd admits that given the right market conditions, its corporate parent **Exelon does have an incentive to discourage its residential and smallest commercial customers from exercising choice**; ComEd just maintains that those conditions did not exist at one point during the hearing. (*See ComEd Reply Br. at 132.*) Further, ComEd does not and cannot deny that such market conditions *did* exist at the time ComEd had to make decisions regarding the policies that it would advocate in this proceeding. (*See REACT Init. Br. at 6-7.*) Moreover, regardless of when such market conditions may or may not exist, the Commission should be extremely mindful of the apparent or actual conflict of interest that this creates for ComEd. ComEd no longer can be viewed as an "unbiased" arbiter regarding cost allocation issues; as long as Exelon Generation supplies electricity under long-term contracts, ComEd has an incentive to place its thumb on the

scale. In this instance, REACT has revealed that ComEd improperly allocated at least \$64.8 million to its delivery services function, in an apparent attempt to discourage choice for its residential and smallest commercial customers.

Finally, REACT notes that the Commission should discount another of ComEd's new arguments as a "false alarm." Specifically, REACT believes that ComEd is misleading the Commission by suggesting in its Reply Brief that correct allocation of supply-related Customer Care Costs will eventually result in a "crushing burden" on non-switching customers. (ComEd Reply Br. at 131.) ComEd's unfounded assumptions apparently are that the amount of Customer Care Costs and the accurate allocation of those costs will always remain the same. These assumptions are obviously wrong. Just like ComEd's other expenses, ComEd's Customer Care Costs and/or the allocation of those costs very likely will change over time, and from one rate case to the next; indeed, ComEd may even change its systems to actually track these expenses. Of course, when that happens, ComEd can seek an adjustment in the allocation between supply-related and delivery services-related costs. Until then, however, REACT maintains that ComEd's unrealistic, unsupported scare tactics are simply a further example of the lengths ComEd will go to perpetuate its anti-competitive approach to cost allocation.

On this last point, REACT also must point out that ComEd's supposed "support" for its scare-tactic argument is misstated. ComEd suggests that REACT witness Mr. Merola "admitted this result" under cross-examination. (ComEd Reply Br. at 130, *citing* Tr. at 1907-08, Lines 16-22, 1-4.) But Mr. Merola made no such "admission" in his testimony. The cited exchange was as follows:

Q. If the Commission were to agree with your recommendation that \$64.8 million of additional costs should be allocated to supply and recoverable from supply customers under Rider PE, the result would be to increase the cost of supply that are [sic] charged to

fixed price bundled service customers, that is to say, residential and small commercial industrial customers, correct?

- A. It would have the affect of decreasing the delivery services rate and increasing the supply rate, yes.

REACT questions how ComEd can possibly construe this exchange as an “admission” by Mr. Merola about the creation of a “crushing burden.” REACT submits that the Commission should be very wary each time ComEd stretches the facts in an attempt to justify its proposed anti-competitive misallocation of costs – an allocation which should have no impact on the bottom line of ComEd, but may impact the profitability of Exelon.

IX. Rate Design

A. Overview

REACT has notes repeatedly that ComEd’s proposed rate design in the instant proceeding is flawed from the perspective of both ComEd’s largest and ComEd’s smallest customers. (*See* REACT Reply Br. at 34.)

REACT points out that ComEd has failed to answer a question posed by REACT witness Mr. Bodmer: What did the over-10 MW customers do to deserve such a massive, disproportionate rate increase? (*See* REACT Reply Br. at 34.) REACT observes that ComEd’s claim in its Initial Brief that the rate increase is necessary to eliminate cross-subsidies is contradicted by its President and CEO, who testified that the current rates do not contain such cross-subsidies:

Q: Do you believe that ComEd’s current rates have avoided cross-subsidies between classes?

A: In the current rates, I believe that it’s a fair allocation amongst our customers, our classes of customers.

Q: And that they have avoided cross-subsidies?

A: I believe so.

(Tr. at 108, Lines 3-9.)

REACT makes several other points. REACT maintains that, ComEd still has not explained why it objects to properly allocating supply-related costs to its supply rates. REACT states that “ComEd’s failure to address competitive market issues, at best, shows a complete lack of appreciation for the impact its decisions have upon the retail electric market; at worst, it is evidence of an effort to manipulate the process to advantage ComEd or its affiliates.” (REACT Reply Br. at 35.)

REACT points out that none of the parties seriously question the proposition that cost causers should pay the costs caused. In the context of the instant proceeding, this is a non-controversial statement. REACT also observes that it is not controversial to conclude that the identification of cross-subsidies between or among different customer classes requires an accurate cost-of-service study. (*See* REACT Init. Br. at 22-23; REACT Reply Br. at 35; CTA Init. Br. at 17-22; DOE Init. Br. at 3; IIEC Init. Br. at 55, 81.) REACT notes that Mr. Alongi, ComEd’s Manager, Retail Rates, admitted this fact repeatedly, as did other witnesses presented as qualified to testify on that point. (*See generally* Tr. at 2097-99 (Mr. Alongi); Tr. at 2250, Lines 4-14 (Mr. Alongi); REACT Ex. 6.0 at 23, Lines 509-19 (REACT witness Mr. Bodmer); Tr. at 1558, Lines 17-20 (Mr. Bodmer); Tr. at 1644, Lines 4-10 (Commercial Group witness Mr. Baudino).)

REACT also argues that it is well-established in the evidentiary record that requiring ComEd to perform an individualized cost analysis is both feasible and consistent with ComEd’s alleged goal of “moving toward cost.” (*See* REACT Init. Br. at 25-35; REACT Reply Br. at 36.)

REACT states that although there is apparently some disagreement about whether there *is* rate shock caused by ComEd’s proposed rate increase for over-10 MW customers, there appears to be no disagreement that prudent rate design *should avoid* rate shock. (*See* REACT Reply Br. at 36.) On this point, REACT reiterates its position as set forth in Section VIII.D. herein, as well as Sections VIII.D.1 of its Initial and Reply Briefs. (*See* REACT Init. Br. at 35-37; REACT Reply Br. at 19-20.) REACT notes that no party has argued that rate increases should impose rate shock and cites to the Act and caselaw that specifically requires the consideration of “customer impacts” with respect to electric rates. (*See* 220 ILCS 5/16-108(d); *see also Abbott Laboratories*, 289 Ill. App. 3d at 716, 682 N.E.2d at 350.)

REACT also points out ComEd’s silence on the issue of whether the Commission should consider the rippling impact its proposed allocation of its increase would have upon the Illinois economy. This is an issue that was raised by several parties, including REACT, IIEC, and the Commercial Group, both in pre-filed testimony and at the live hearings. (*See, e.g.* REACT Ex. 5.0 at 6, Lines 120-25; Tr. at 1684, Lines 10-16.)

REACT also fundamentally objects to ComEd’s proposed recovery of at least \$64,860,008 of supply-related Customer Care Costs in its delivery services rates. (*See* REACT Ex. 7.0 at 20-21, Lines 436-54.) REACT argues that this misallocation will cause ComEd’s supply rates to be subsidized by the delivery services rates by 0.15746 cents/kWh. (*See* REACT Ex. 7.2.) REACT also argues that ComEd’s proposed misallocation of costs violates basic cost causation principles, forcing RESs’ customers to foot part of ComEd’s supply-related bill. (*See* REACT Ex. 7.0 at 4, Lines 83-93.) According to REACT, an improper allocation of supply costs of this magnitude will clearly place RESs at a competitive disadvantage to ComEd. (*See id.* at 4-5, Lines 83-105; *see also* ICC Docket No. 99-0117, Aug. 26, 1999 Order at 24.) REACT

rejects ComEd's assertion that REACT's position is an attempt to create excess "headroom" certainly does not resonate in light of the calls of Staff and the Commercial Group, and most recently RESA, that the Commission order ComEd to properly allocate its Customer Care Costs. (See Staff Init. Br. at 106; Commercial Group Init. Br. at 12-13; RESA Reply Br. at 5-6.) Despite ComEd's rhetoric that it supports the development of competition for its residential and smallest customers, ComEd's actions appear clearly designed to ensure that it continues to provide supply to as many of those customers as possible.

D. Existing Riders

1. Rider ACT

REACT maintains that ComEd has not justified its proposal to eliminate or close Rider ACT. ComEd's attempts to blame the customers who take service under Rider ACT for creating an inconvenience for ComEd. (See ComEd Init. Br. at 110-12.) REACT notes the oddity of that approach – obviously, it is not the Rider ACT customers' *fault* that Rider ACT exists. (See REACT Reply Br. at 37.) REACT also notes the oddity of ComEd's articulation of its argument in the present tense, complaining about customers that "choose" to use their own transformers. (See *id.*; ComEd Init. Br. at 110-12.) REACT points out that ComEd's approach tries to direct attention away from the fact that many Rider ACT customers have owned their own transformers for *decades*. (See REACT Reply Br. at 37.) According to REACT, to suggest that those customers are making some contemporary decision to "choose" service under Rider ACT is absurd – for the vast majority of such customers, they *chose* (past tense) to take service under Rider ACT many years ago, and ComEd cannot change that fact through subtle choice of words. (See *id.*) Thus, REACT argues that ComEd's word play is insufficient to satisfy the burden of proof that is squarely on ComEd to justify its proposal. (See *id.*; REACT Init. Br. at 62-64.)

REACT explains that even in spite of its revised proposal on Rider ACT, ComEd still has failed to justify the cost of serving these customers. (*See* REACT Init. Br. at 62-64.) Thus, REACT argues that if the Commission determines that it is appropriate for ComEd to make changes to the existing Rider ACT, then the proposal to remove the mandatory termination provision, close Rider ACT to new customers, and offer a voluntary termination provision is more appropriate than ComEd's original proposal. (*See* REACT Ex. 5.0 at 27, Lines 545-57.)

REACT further states that notwithstanding its revised proposal, ComEd still has failed to justify any proposed revisions to Rider ACT. (*See* REACT Init. Br. at 62-64.) According to REACT, ComEd's naked assertions about inconvenience fall short of a proper justification for elimination of the Rider, especially when ComEd apparently admits that Rider ACT better reflects the cost of serving applicable customers, whose needs are, ComEd recognizes, often unique. (*See id.*; *see also* ComEd Ex. 45.0 at 21, Line 414.)

REACT requests that the Commission order ComEd to retain Rider ACT, and further states that if the Commission determines that it is appropriate for ComEd to make changes to the existing Rider ACT, then the proposal to remove the mandatory termination provision, close Rider ACT to new customers, and offer a voluntary termination provision is more appropriate than ComEd's original proposal. (*See* REACT Init. Br. at 62-64; REACT Ex. 5.0 at 27, Lines 545-57.)

E. Distribution Loss Factors

REACT objects to ComEd's proposed increase in the Distribution Loss Factor ("DLF") for its over-10 MW high voltage customers, arguing that it is clearly disproportionate to the proposed increase for other customer classes: DLF increases to the over-10 MW high voltage customers would increase by 36% versus the proposed increases to the "Large" (9%) and "Very

Large” (15%) and “Extra Large” non-high voltage (15%) customer classes. (See REACT Ex. 5.0 at 23-24, Lines 486-98; REACT Reply Br. at 37-39.) REACT notes that ComEd makes this proposal while admitting, through ComEd witness Mr. Donnelly, that over-10 MW customers have not done anything unique to justify a disproportionate DLF increase (see Tr. at 546-47, Lines 21-22, 1-3) and that within the over-10 MW customer classes there are very widely ranging DLFs. (See Tr. at 541-42, Lines 21-22, 1-22; REACT Reply Br. at 38.) REACT also notes that as with cost of service generally, ComEd opposes performing a particularized DLF analysis for over-10 MW customers, even though Mr. Donnelly specifically stated that:

In general if a customer is responsible for a cost or involved in that costs, they should pay a portion of that cost.

(Tr. at 540, Lines 7-9.) REACT believes that ComEd’s refusal to perform particularized DLF analyses undercuts its purported desire to implement accurate cost causation systems in an effort to “move toward cost.” (See REACT Reply Br. 38.)

REACT argues that ComEd has proposed an enormous percentage increases in the DLFs for over-10 MW high voltage customers, due to a change in ComEd’s proposed methodology for calculating DLFs, not anything that those customers have not done that would justify the increase. (See REACT Reply Br. at 38; Tr. at 546-47, Lines 21-22, 1-3.) Further, according to REACT, because ComEd’s proposed new methodology does not calculate individual DLFs, the amount ComEd has proposed be charged to the class definitely exceeds the particular distribution loss that many of the particular customers cause. (See REACT Reply Br. at 38.)

According to REACT, ComEd suggests that it is somehow relevant that the Commission has in previous cases accepted ComEd’s class-wide calculation of DLFs. (See ComEd Init. Br. at 116; REACT Reply Br. at 38.) However, REACT has pointed out that the Commission is not bound by decisions in a prior case, and absent substantial evidence in *this evidentiary record*, the

Commission is without authority to increase ComEd's DLFs. (*See* REACT Reply Br. at 38; 220 ILCS 5/10-201(e)(iv)(A) (mandating appellate reversal of any Commission order “not supported by substantial evidence based on the entire record of evidence presented to or before the Commission . . .”).) According to REACT, on this evidentiary record, ComEd has not justified increasing its DLFs to its over-10 MW high voltage customers. (*See* REACT Init. Br. at 64-67; REACT Reply Br. at 37-39.)

F. Recovery of Supply Related Costs

As a general matter, REACT addresses the issues associated with ComEd's improper allocation of supply-related costs in its arguments in Section VIII.F of its briefs and the instant Summary of Positions. Those arguments/positions are incorporated herein.

REACT has noted an additional important issue: the Commission has *never* endorsed the concept that the costs associated with enabling customer choice should be recovered solely from customers who actually choose. (*See* REACT Init. Br. at 59-60.) Instead, REACT has pointed out that the Commission repeatedly has recognized that providing customers with the opportunity to switch suppliers and promoting competition benefits all customers, and accordingly has directed that costs should be recovered from all customers. (*See* REACT Reply Br. at 39-40.) REACT notes, for example, that:

- The costs associated with Rider CB, a consolidated billing experiment that was designed to provide experience with the early stages of the competitive market, were not recovered only from those customers who took that service (*see* REACT Cr. Ex. 14; Tr. at 1369, Lines 12-14);
- The costs associated with Nature First, a demand response program administered by ComEd, are recovered from all customers (*see* Tr. at 1364, Lines 8-15);

- The cost associated with the Affinity Group Billing Experiment for the Illinois Retail Merchant Association members (“IRMA”) was not recovered from the IRMA members (*see* Tr. at 1370, Lines 6-8);
- The costs associated with ComEd’s recently-approved energy efficiency and demand response programs are to be recovered from all customers (*see* ICC Docket 07-0540 Order dated Feb. 6, 2008 at 22-23); and
- Of course, the original costs with creating the systems associated with customer choice were not assigned to the first customers who chose to take service from a RES (*see* ICC Docket No. 99-0117, Aug. 26, 1999 Order), and the continued costs associated with implementing customer choice were recovered from all customers, not just those who chose. (*See generally* ICC Docket No. 01-0423, March 28, 2003 Order at 24-25; ICC Docket No. 05-0597, July 26, 2006 Order at 272-94.)

REACT argues that since all customers benefit by having the opportunity to choose an alternative supplier, REACT notes that it would be inappropriate to charge only those customers who exercise that right to choose. (*See* Tr. at 1371, Lines 4-7; REACT Reply Br. at 39-40.) In contrast, according to REACT, not all customers benefit by ComEd incurring supply-related Customer Care Costs; to the contrary, only ComEd’s supply customers receive that benefit.

G. Competitive Retail Market Development Issues

REACT notes that ComEd summarily asserts that Competitive Retail Market Development Issues have “nothing to do with the purpose of this proceeding, which is to set ComEd’s distribution rates.” (ComEd Init. Br. at 120; REACT Reply Br. at 41.) ComEd maintains that cavalier attitude in its Reply Brief, stating that issues relating to the development of the competitive market “are irrelevant to this case.” (ComEd Reply Br. at 146.) According to REACT, this is a rather stunning position that disregards the history of the instant proceeding and the history of previous delivery services rate cases. (See REACT Reply Br. at 41.)

REACT observes that during the course of the instant proceeding:

- There was extensive evidence introduced into the record through pre-filed testimony relating to competitive market issues. (See, e.g., REACT Ex. 3.0 at 4-5, Lines 77-87, at 9, Lines 172-83; REACT Corrected Ex. 7.0 at 4-7, Lines 81-146, Line 10, Lines 205-20.)
- ComEd never moved to strike a word of that testimony; nor did ComEd file a pre-hearing motion *in limine* relating to that testimony, although the case management order specifically provided for such motions *in limine*.
- All of REACT’s pre-filed testimony was admitted into the record without any objection from ComEd or any other party.
- Competitive market issues were explored repeatedly at the live hearings, beginning with the cross-examination of ComEd’s very first witness, ComEd CEO J. Barry Mitchell. (Tr. at 125-26, Lines 8-22, 1.) Competitive market issues were also addressed in varying degrees during the cross-examinations of ComEd witnesses Ms. Clair, Mr. Crumrine, Mr. McDonald, and Mr. Alongi / Dr. Jones. (Tr. at 259, Lines 13-16; Tr. at 1370-71, Lines 16-22, 1-7; Tr. at 1799-1800, Lines 7-22, 1; Tr. at 2230, Lines 13-20.)
- The discussion of competitive market issues included, for example, an extensive examination of ComEd witness Mr. Crumrine regarding the effect of misallocation of supply-related costs on the development of the competitive market for residential and small commercial customers. (Tr. at 1382-87.) A demonstrative exhibit used during that cross-examination that focused *precisely* on competitive market development issues was admitted into evidence without objection from ComEd. (See REACT Cr. Ex. 18.)
- The presiding Administrative Law Judges approved a “common” briefing outline with a specific subsection on “Competitive Retail Market Development Issues.” The ALJs

approved that outline over another outline that did not include a line item for “Competitive Retail Market Development Issues.”⁵

(See REACT Reply Br. at 41-42.)

REACT finds ComEd’s attempt to completely duck these issues all the more remarkable because competitive retail market development issues are not new to ComEd’s delivery services rate cases. As REACT has noted, since the very first ComEd delivery services rate, competitive retail market issues have been central to the proceeding. (See ICC Docket No. 99-0117, Aug. 26, 1999 Order at 24, 52; ICC Docket No. 01-0423, March 28, 2003 Order at 24-25; ICC Docket No. 05-0597, July 26, 2006 Order at 272-94.) REACT observes that, while ComEd may not want to engage on these issues, given the role it has played in suppressing competition, the fact is that competitive market issues must be considered in the context of the question of delivery services rates presented in the instant proceeding. (REACT Reply Br. at 42.)

XII. CONCLUSION

REACT argues that the Commission base its Order in the instant proceeding upon several fundamental facts:

- ComEd continues to *say* that it embraces cost causation and fair allocation. ComEd’s *actions* continue to suggest otherwise: it has proposed massive, disproportionate, and unsubstantiated rate hikes for the over-10 MW customers classes – quintessential rate shock – based on a cost study that is invalid on its face as applied to these customers.
- ComEd continues to *say* that it embraces residential and small commercial competition. ComEd’s *actions* continue to suggest otherwise: its brazen misallocation of tens of millions of dollars of supply-related costs to its delivery

⁵ The ALJ-approved common outline also included specific line items for “**Supply vs. Delivery Services Allocation Issues**” and “**Recovery of Supply Related Costs**” – neither of those items

services function undermines competition to the financial advantage of itself and its affiliate.

REACT maintains that the Commission should enter an Order consistent with the arguments made in REACT's Initial and Reply Briefs and herein, rejecting ComEd's proposal to recover its costs in a manner that would simultaneously impose a massive, disproportionate, and unjustified rate increase upon ComEd's largest customers, while continuing to stymie the development of competition for its residential and smallest commercial customers. According to REACT, ComEd's position is at odds with the Act and the evidentiary record in the instant proceeding and should not prevail.

Respectfully submitted,

**THE COALITION TO REQUEST EQUITABLE
ALLOCATION OF COSTS TOGETHER**

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were included in the alternative outline.