

**STATE OF ILLINOIS
BEFORE THE ILLINOIS COMMERCE COMMISSION**

COMMONWEALTH EDISION COMPANY,	§	
Petition to approve an Advanced Metering	§	Docket No. 09-0263
Infrastructure Pilot Program and associated tariffs	§	

**CHICAGO TRANSIT AUTHORITY’S AND METRA’S
PROPOSED FINAL ORDER LANGUAGE**

Pursuant to the Administrative Law Judge’s (ALJ) order, the Chicago Transit Authority (CTA) and the Northeast Illinois Regional Commuter Railroad Corp., d/b/a Metra (Metra) file the attached proposed order language. The language is limited to issues directly concerning the Railroad Class. By filing this proposed language, neither the CTA nor Metra waives the right to comment on proposed language filed by other parties nor the right to file exceptions to any proposed order issued by the ALJ.

_____/rcb/_____
Richard C. Balough
One of CTA’s Attorneys

Richard C. Balough
Balough Law Offices, LLC
1 N. LaSalle St., Ste. 1910
Chicago, IL 60602-3927
312.499.0000
rbalough@balough.com

Kevin J. Loughlin
Juana Barrera
Chicago Transit Authority
Legal Department
567 W. Lake St.
Chicago IL 60661
312.681.2939

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The Railroad Class has only two customers, the Chicago Transit Authority (CTA) and the Northeast Illinois Regional Commuter Railroad Corp., d/b/a Metra (Metra). Both the CTA and Metra intervened in this docket. The CTA filed its Petition to Intervene on July 8, 2009 and it was granted on July 31, 2009. Metra filed its Petition to Intervene on July 23, 2009, which was granted on August 6, 2009. Both the CTA and Metra are governmental public entities that operate mass public transit systems.

The Railroad Class tariff is for delivery of traction power, that is, the electricity used to power the CTA's rapid transit cars and Metra's electric trains. The two Railroad Class members are among the largest users of electricity on the ComEd system. Both receive delivery at 12.5 kV at multiple metering points, where the alternating current electricity is converted to direct current for delivery to the trains either on the "third rail" for the CTA or via overhead lines for Metra. Both the CTA and Metra own and operate their own SCADA systems for the traction power, so their electric systems are constantly monitored.

The Railroad Class provides environmental and economic benefits through lowering traffic congestion, replacing automobiles with more environmentally friendly and efficient public transportation. In the last two ComEd delivery service rate cases, the Commission has instructed ComEd that the rates set for the Railroad Class should account for the important public policy considerations associated with the Railroad Class due to the environmental benefits, energy services and overall public benefits generated by the public transportation providers. Final

Order dated July 26, 2006, ICC Docket No. 05-0597 at 189-90, Final Order dated September 10, 2008, ICC Docket No. 07-0566.

The Railroad Class presented testimony by James Bachman, Metra/CTA Ex. 1.0, that noted that the AMI project is for the installation of primary and overwhelmingly residential meters. None of the customer applications programs involve the Railroad Class. ComEd proposed charging the Railroad Class under Rider AMP on a percentage of revenues basis. Mr. Bachman testified that ComEd's proposed recovery of AMI costs is not consistent with cost-causation principles, especially when the Railroad Class will receive no benefits. At hearing, ComEd witness Ross Hemphill testified that at best the Railroad Class would receive up to six AMI meters. There is no testimony as to what function the AMI meters would perform for the Railroad Class's integrated traction power systems or how the meters would interface with the CTA's and Metra's SCADA systems. Dr. Hemphill also testified that the cost of the AMI pilot was not "significant," that the costs were "not unpredictable" and that the costs were "not uncontrollable."

The CTA and Metra in their individual briefs stated that they did not oppose the AMI pilot program. The public mass transit agencies' position regarding the appropriateness of Rider AMP as a cost recovery method for the AMI pilot was expressed as several alternatives. First, the railroads contend that Rider AMP is contrary to the established law in that it is single-issue ratemaking. Second, if the Commission approves Rider AMP for the AMI pilot, then the railroads should not have to pay for the pilot since the pilot is only for the benefit of the residential class. There are no benefits to the public transit agencies. Third, the railroads argue that if the Commission determines that they must contribute to the AMI pilot costs, then the most

appropriate cost-sharing proposal would be to reject ComEd's percentage of revenues approach and instead adopt the IIEC's proposal to charge meter related costs through the meter expense allocator adopted in ComEd's last general rate case and to have the customer application charges paid by the residential class, which is the only class participating in that phase of the pilot.

The CTA and Metra question whether the Commission has the legal authority to approve Rider AMP, arguing to do so would be single-issue ratemaking, which is prohibited. *Citizens Utility Board v. Illinois Commerce Comm'n.*, 166 Ill.2d 111 (1995). *A.J. Finkl & Sons Co. v. Illinois Commerce Comm'n.*, 250 Ill App3d 317 (1st Dist. 1993). They also cited this Commission's decision in *North Shore Gas Company, Proposed general increase in natural gas rates and the Peoples Gas Light and Coke Company, Proposed general increase in natural gas rates*, Docket Nos. 07-0241 and 07-0242 (Cons.), Feb. 5, 2008. In *NS/Peoples*, the Commission rejected a rider for "Infrastructure Cost Recovery." The Commission in *NS/Peoples* found that riders are to be closely scrutinized because of the problem with single-issue ratemaking. There the Commission found that the main replacement program could have been conducted via funds from a general rate case. The railroads also cite to *A.J. Finkl & Sons* where the court found that riders are more appropriate to recover costs that are "unexpected, volatile, or fluctuating." 250 Ill. App.3d at 327. Where costs are known, readily calculable and not significant, use of a rider has been rejected. *Id.* The railroads note that ComEd's own Dr. Hemphill testified that the AMI pilot costs are neither significant, unpredictable nor uncontrollable. Tr. at 261/2-14. As a result, the railroads argue that Rider AMP must be rejected.

In the alternative, the CTA and Metra argue that if Rider AMP is adopted, then the public mass transit agencies should not be allocated any costs since they do not participate in the pilot

and there are no customer applications that apply to the Railroad Class. They point to the testimony that at best only six meters will be installed for the entire Railroad Class. There is no testimony that the AMI meters will have any benefits for the railroads, that it collects more data than the railroads already receive from the bi-directional meters currently installed, or that they will receive more or better information than they are already receiving via their SCADA systems. To impose any costs on the public transportation agencies under these circumstances would violate all cost-causation ratemaking policies. Further, it would be contrary to the Commission's own oft-articulated goals of energy conservation that recognizes the public policy considerations for the CTA and Metra as the public mass transit agencies in the Chicago area.

Finally, in the alternative, the CTA and Metra argue that if any costs are to be allocated to the Railroad Class, the better allocation method is the one proposed by the Illinois Industrial Energy Consumers (IIEC) as set out in the testimony of its witness Robert Stephens. He notes that while less than 1 per cent of the meters are to be installed on non-residential customer accounts above 400 kW, ComEd proposes to collect over 22 per cent of the costs from those customers, including the Railroad Class. Ultimately, when ComEd files a general rate case, the costs will be allocated through a cost of service study. When that is done, then the costs will be recovered as part of the weighted meter allocation factor. There is no reason why Rider AMP should not reflect how the costs ultimately will be recovered. Thus, the public mass transit agencies argue, IIEC's proposal to allocate the AMI costs using the weighted meter factors should be adopted. In addition, Mr. Stephens found that the customer applications costs, which only apply to residential customers, should be allocated only to the residential customers under Rider AMP. ICC Staff witness Peter Lazare agrees that the AMI meter costs should be allocated

using the weighted meter allocation factor. However, Mr. Lazare disagrees that the customer applications costs should be allocated only to residential customers. He recommends that all AMI costs be allocated using the meter allocation factor. The CTA and Metra urge the Commission to reject Mr. Lazare's approach for customer application costs and allocate those costs solely to the residential class and the meter costs using the meter allocation factor.

The Commission finds that ComEd has failed to meet its burden to show that the extraordinary remedy of a rider is necessary in this case to implement the AMI pilot program. As ComEd's own witness testified, the costs involved are not significant, they are budgeted by ComEd and ComEd has total control if it believes it is necessary to file a general rate case to recover these costs in the future. Even if the Commission were to agree that Rider AMP should be implemented at this time, the Commission does not believe that it should vary from its policy of having rate charges follow the costs incurred. Here, there are no costs imposed by the Railroad Class on the system as a result of the implementation of the AMI pilot. The Railroad Class is not participating in the pilot, receives no benefit from the pilot. There is no evidence in the record that there is any useful purpose whatsoever from the installation of a half dozen AMI meters for the Railroad Class. Both the CTA and Metra have bi-directional meters already in place, they have sophisticated SCADA systems and constantly monitor their systems. To charge the public agencies for the AMI pilot when the class does not incur any costs also is contrary to the Commission's previously stated goals to encourage public mass transit and not to burden the Railroad Class rates with inappropriate costs. As a result, ComEd should modify Rider AMP to exclude any charges to the Railroad Class.