

ICC Docket No. 09-0263

**Commonwealth Edison Company's Response to
MC Squared Energy Services and Constellation New Energy ("MC-CNE") Data Request
MC-CNE 1.01 – 1.13
Dated: July 2, 2009**

REQUEST NO. MC-CNE 1.10:

**Reference: Direct Panel Testimony of Jensen/Eber, lines 537-546, Hold Harmless Variable.
[Updated citation Eber, ComEd Ex. 4.0 23:440-449]**

Please explain why ComEd selected Applications D1 and L1 for the hold harmless test.

- a. Did ComEd consider that the "hold harmless" provision does not reflect a sustainable post pilot provision and could result in biased and/or invalid pilot results and conclusions?
- b. Does ComEd agree that the hold harmless provision is not a sustainable post pilot provision? If not, why not?

RESPONSE:

- a. ComEd agrees that a hold harmless provision does not reflect a sustainable experience for customers outside of a pilot. However, any results from the inclusion of a hold harmless provision will nonetheless provide insight on how customers may react to these kinds of experimental applications if they have no price risk compared to their previously applicable rate.
- b. See the response to subpart (a).

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I.C.C. DOCKET NO. 09-0263
ICEA X Exhibit No. 5

Witness _____
Date 8/17/09 Reporter CC