

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :
On Its Own Motion :
-vs- :
Commonwealth Edison Company : ICC Docket No. 08-0532
:
Investigation of Rate Design Pursuant :
to Section 9-250 of the Public Utilities Act :

POSITION STATEMENT
OF
THE COALITION TO REQUEST
EQUITABLE ALLOCATION OF COSTS TOGETHER
REACT

COMPRISED OF:
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FUTUREMARK PAPER COMPANY F/K/A
ALSIP PAPER CONDOMINIUM ASSOCIATION
AUX SABLE LIQUID PRODUCTS, LP.
THE CITY OF CHICAGO
COMMERCE ENERGY, INC.
FLINT HILLS RESOURCES, LLC
INTEGRYS ENERGY SERVICES, INC.
THE METROPOLITAN WATER RECLAMATION DISTRICT
OF GREATER CHICAGO
PDV MIDWEST REFINING LLC
UNITED AIRLINES, INC.
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The Coalition to Request Equitable Allocation of Costs Together (“REACT”), by and through its attorneys DLA Piper LLP (US), pursuant to the December 9, 2009 Order of the Administrative Law Judges, hereby submits its Position Statement in the investigation by the Illinois Commerce Commission (“Commission”) of rate design of Commonwealth Edison Company (“ComEd” or the “Company”) pursuant to Section 9-250 of the Act.¹

I.

INTRODUCTION

REACT explains that the Commission initiated this case to get to the bottom of the problems with ComEd’s deficient Embedded Cost of Service Study (“ECOSS”), which, among other things, unjustifiably and improperly assigned a massive rate increase to ComEd’s largest customers, and failed to allocate sufficient Customer Care Costs to ComEd’s supply function. As a result, the Initiating Order explicitly directed an investigation into **“all aspects of the rate design of ComEd.”** (Initiating Order at 2) (emphasis added).

REACT articulates two straightforward and reasonable positions, each of which was endorsed by the Commission both in its Final Order in ComEd’s 2007 Rate Case, as well as in

the Initiating Order in this proceeding. First, REACT explains that if ComEd is going to maintain that its Extra Large customer class should receive a massive, disproportionate rate increase, it should present detailed proof that accurately reflects reality. If that evidence is missing, ComEd's position must fail. Second, REACT explains that Customer Care Costs that ComEd incurs that support its supply function should be recovered through ComEd's supply rates, so that customers who take supply from an alternative retail electric supplier do not improperly cross-subsidize ComEd's supply customers. REACT maintains that to the extent that Customer Care Costs are not tracked precisely by ComEd, reasonable allocations should be made, relying upon expert witness calculations that utilize the best available data. REACT makes clear that it is not just advancing a narrow commercial/industrial customer or ARES perspective – rather, REACT is seeking equitable allocation of costs generally in a manner that avoids the negative consequences of inaccurate cost allocation. (*See, e.g.*, REACT Ex. 2.0 at 9:170-81.)

REACT maintains that ComEd has not rectified the problems with the ECOSS and has not justified its proposed rate design. According to REACT, ComEd ignores substantial evidence, mischaracterizes REACT's position, and simply has failed to provide the information necessary to comply with the Commission's directives.

REACT notes that ComEd's evidentiary failures were explained at length in the prefiled testimony of Staff, REACT, and other parties, and highlighted during the cross-examination hearings. In addition, REACT presented its own expert testimony identifying the supply-related Customer Care Costs that should be recovered in ComEd's supply rates. According to REACT, ComEd presents nothing to rebut the strength of the REACT witnesses' analysis on the Customer

¹ Positions stated herein do not necessarily represent the positions of any individual member of REACT.

Care issue. REACT observes that Staff likewise failed to present any study of its own to analyze the Customer Care issue set forth by the Commission, and criticizes the Staff for suggesting that the Commission should base its decision upon theoretical impacts upon other utilities rather than the evidentiary record in this proceeding.

REACT requests that the Commission endorse Staff's request to initiate workshops to collect information related to the actual costs to serve its Extra Large customers, and direct ComEd to adjust its delivery services rates immediately to remove supply-related Customer Care Costs. REACT agrees with Staff that any issues not determined by the Commission in its Final Order in this proceeding should be addressed in a workshop process. (*See* Staff Init. Br. at 38-39.)

II.

REACT EXPLAINS THAT COMED'S ECOSS REMAINS FUNDAMENTALLY FLAWED

REACT maintains that ComEd's ECOSS continues to lack credibility and would, if implemented, impose unjustified, enormous, disproportionate rate increases of more than \$2 million annually upon some of ComEd's largest customers. REACT explains that the record evidence – submitted not only by REACT but also by Staff, the City of Chicago, IIEC, Metra, and the CTA – demonstrates that substantial deficiencies in the ECOSS persist. REACT also notes that ComEd's attempt to fill the gaps – through questionable assumptions and deficient, tiny sampling, and the like – raises more questions than it answers.

REACT observes that ComEd's only response to this overwhelming evidence is to say that criticisms of the ECOSS “are based upon positions that diverge from the historic, Commission-approved definitions of ComEd's primary and secondary distribution systems” (ComEd Init. Br. at 8; ComEd Reply Br. at 6.) REACT explains, however, that the criticisms of the ECOSS are almost entirely unrelated to any “historic definitions.” (*See, e.g.*, REACT Ex. 1.0

at 9:178-22:500; REACT Ex. 2.0 at 9:183-16:329; REACT Ex. 3.0 (Corrected)² at 8:155-21:446; REACT Ex. 4.0 at 8:144-19:384; *see also* Staff Init. Br. at 38; City of Chicago Init. Br. at 3-31; IIEC Init. Br. at 6-30; Metra Init. Br. at 6-12; CTA Init. Br. at 1-2, 6-9.)

Moreover, as REACT explains, ComEd’s position ignores the Commission’s directive for an investigation into “all aspects of the rate design of ComEd” (Initiating Order at 2.). REACT explains that the breadth of that directive communicates the Commission’s disinclination to limit this investigation’s scope by any “historic definitions.” On the contrary, as REACT explains, this proceeding, which is outside the confines of the statutory deadlines, is an appropriate setting for the Commission to revisit any “historic definitions,” determine whether they make sense, reflect reality, and result in rates that are, in fact, “just and reasonable.” (Initiating Order at 3.)

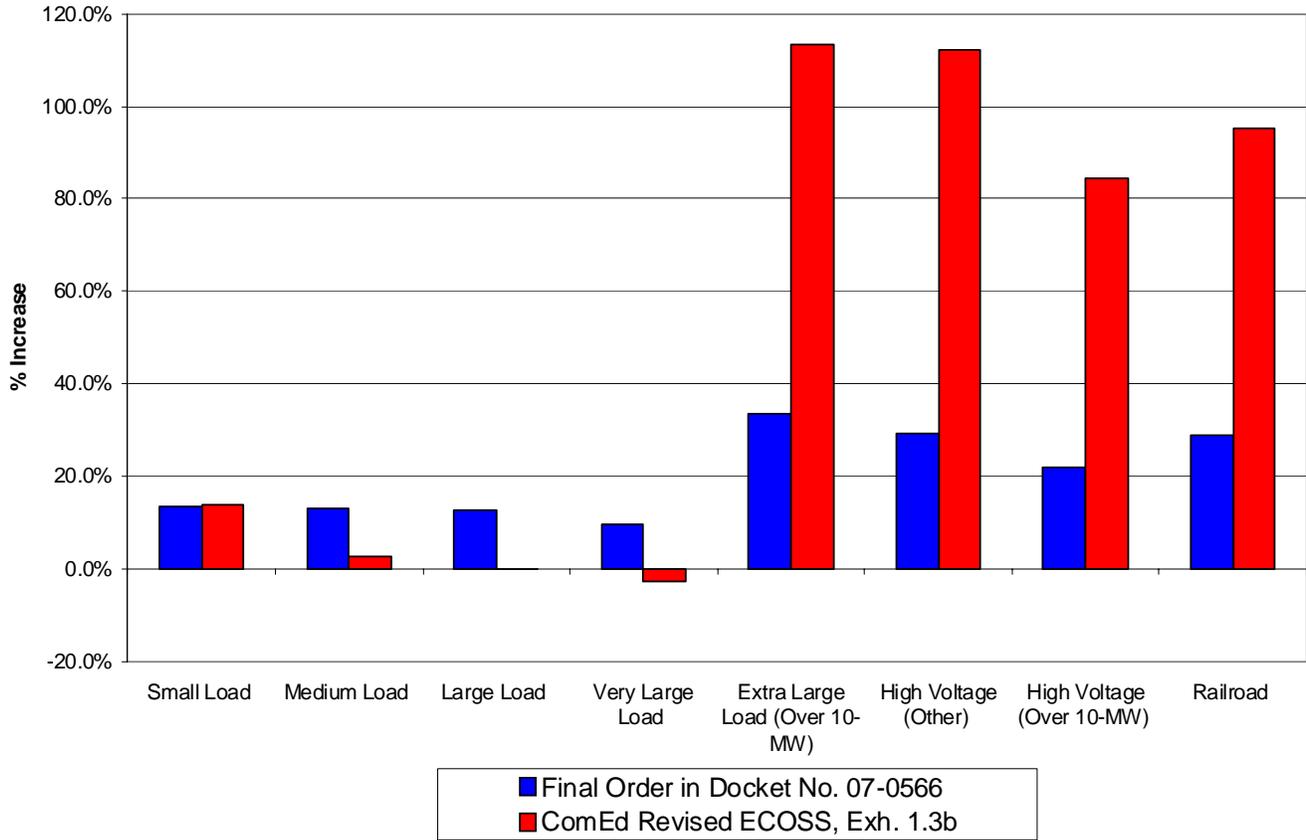
A. REACT Explains That Disproportionate Rate Impacts For The Largest Customers Remain Unjustified

REACT witness Mr. Fults presented uncontradicted testimony about the massive rate impacts upon the Extra Large Customer Classes implicated by ComEd’s ECOSS. REACT notes that ComEd chose not to cross-examine Mr. Fults or try to rebut his position in its briefs. Accordingly, REACT’s evidence about the enormous, disproportionate rate increases implied by the ECOSS, and ComEd’s complete failure to even consider the effects of rate shock that follow from those increases, stands unopposed. (*See* REACT Init. Br. 17-22.)

Mr. Fults presented a bar chart, indicated as Figure 1 (REACT Ex. 1.0 at 24), that illustrates the total percentage increase over rates in effect prior to the 2007 ComEd Rate Case Order that would result from application of ComEd’s initial ECOSS presented in the instant proceeding – a potential cost increase of 113% for the Extra Large non-high voltage over-10 MW customers and approximately 84% for High Voltage over-10 MW customers.

² Unless otherwise indicated, all references hereafter to Mr. Fults’ Corrected Rebuttal Testimony will be to “REACT Ex. 3.0.”

Figure 1. ComEd’s Proposed Percentage Increase in Non-Residential Customer Class Distribution Facilities Charge Using the Revised ECOSS



Mr. Fults’ Table 2 (REACT Ex. 1.0 at 24) summarizes the distribution facilities charges for non-residential customers over time.

Table 2. Summary of Distribution Facilities Charges for Non-Residential Customers

| Customer Class | Distribution Facilities Charge (\$/kW-Month) | | | % Inc. Over Rates in Effect Prior to Final Order in ICC Docket No. 07-0566 | |
|---------------------------------|--|-----------------------|---------------------------|--|-------------------------|
| | (a) | (b) | (c) | (d) | (e) |
| | Pre 9/16/08 | Final Order (07-0566) | Revised ECOSS P-S Split * | Final Order (07-0566) | Revised ECOSS P-S Split |
| Small Load (Less than 100 KW) | \$4.29 | \$4.86 | \$4.88 | 13.3% | 13.8% |
| Medium Load (100 KW to 400 KW) | \$5.01 | \$5.67 | \$5.13 | 13.2% | 2.4% |
| Large Load (400 KW to 1 MW) | \$5.37 | \$6.04 | \$5.36 | 12.5% | -0.2% |
| Very Large Load (1 MW to 10 MW) | \$5.22 | \$5.71 | \$5.07 | 9.4% | -2.9% |
| Extra Large Load (Over 10-MW) | \$2.46 | \$3.28 | \$5.25 | 33.3% | 113.4% |
| High Voltage (Other) | \$2.22 | \$2.87 | \$4.71 | 29.3% | 112.2% |
| High Voltage (Over 10-MW) | \$1.09 | \$1.33 | \$2.01 | 22.0% | 84.4% |
| Railroad | \$2.46 | \$3.17 | \$4.80 | 28.9% | 95.1% |

* Distribution facilities charges from ComEd Exhibit 1.3B

REACT points out that at the evidentiary hearings, ComEd witnesses Mr. Heintz and Mr. Alongi conceded that these rate impacts are accurate. (See Tr. at 337:8-21; 651:10-16; 660:21-661:1; 674:1-6.)

Mr. Fults also illustrated these rate impacts in dollars. (See REACT Ex. 1.0 at 25:543-51; REACT Ex. 3.0 at 6:128-31.) For Extra Large Customers the annual increase would range from \$333,000 to \$2,520,000. (See *id.*) For high voltage customers, the increase is unchanged ranging from \$110,000 to \$828,000 per year. (See *id.*) Mr. Fults’ Table 3.1 shows the cost increase, even under the second ECOSS that ComEd presented in the instant proceeding:

Table 3.1. Annual Impact of ComEd’s Proposed Distribution Facilities Charges for Extra Large and Over-10 MW High Voltage Customers

Increase Over Rates In Effect Prior to Final Order in 2007 Rate Case

| Customer Size | Final Order, ICC Docket No. 07-0566 | | Revised COSS, Rebuttal Exhibit (6.3B) | |
|---|--|---------------------|--|---------------------|
| | Extra Large | High-Voltage | Extra Large | High-Voltage |
| 10 MW | \$98,400 | \$28,800 | \$336,000 | \$110,400 |
| 20 MW | \$196,800 | \$57,600 | \$672,000 | \$220,800 |
| 35 MW | \$344,400 | \$100,800 | \$1,176,000 | \$386,400 |
| 50 MW | \$492,000 | \$144,000 | \$1,680,000 | \$552,000 |
| 75 MW | \$738,000 | \$216,000 | \$2,520,000 | \$828,000 |
| a) Increase calculated by multiplying customer monthly kW x 12 months x \$/kW increase in distribution facilities charge. | | | | |

(REACT Ex. 3.0 at 7.)

REACT explains that at the evidentiary hearings, ComEd witness Mr. Alongi confirmed that Mr. Fults accurately analyzed the costs impact and admitted that the changes ComEd made to its flawed ECOSS during the course of the instant proceeding resulted in only “a very small variance.” (Tr. at 658:1-5.)

REACT emphasized three points about the rate impacts:

- First, any cost increase associated with adopting ComEd’s flawed ECOSS would be an annual cost increase that, absent Commission intervention, would continue forever.

- Second, the increases do not include future increases in rate base or expenses that likely will be asserted by ComEd.
- Third, ComEd has not identified any changes in the consumption or usage patterns of these customers that could possibly justify these whopping rate increases.

(*See* REACT Ex. 1.0 at 26:560-63; REACT Ex. 3.0 at 7:138-147.) REACT maintains that ComEd failed to rebut any of these points, and that ComEd witnesses admitted that each is true.

(*See* Tr. at 272:2-8; 273:7-19; 661:3-12; 662:5-11; 674:11-20.)

REACT explains that ComEd witnesses also agreed that ComEd and the Commission should strive to avoid rate shock and discriminatory rates. (*See* Tr. at 264:15-22; 265:1-4; 266:5-9.) Yet, REACT shows that as in its 2007 rate case, ComEd's actions speak louder than the words of its executives.

REACT points out that the assertions made by the Commercial Group and ComEd that smaller customers are subsidizing other customer classes (*see* Commercial Group Init. Br. at 4; ComEd Init. Br. at 2) rest on the faulty premise that the ECOSS establishes the "true cost" of service to ComEd's various customer classes. (*Id.*) REACT points to the Commission's conclusion in the 2007 ComEd Rate Case that the original Rate Case ECOSS was so flawed that it could not be relied upon to set rates, and explains that the evidence in the instant proceeding shows even more deficiencies in the current ECOSS. (*See* 2007 ComEd Rate Case, ICC Docket No. 07-0566, Final Order at 213; *see also* Staff Init. Br. at 38; City of Chicago Init. Br. at 3-31; IIEC Init. Br. at 6-30; Metra Init. Br. at 6-12; CTA Init. Br. at 1-2, 6-9.) REACT also takes exception to the Commercial Group's introduction of a previously unseen chart in its Reply Brief purportedly to show cross-subsidization benefits and burdens. (*See* Commercial Group Reply Br. at 4.) That chart was not entered into evidence in the case; nor was it even presented in the initial round of briefs in a manner that would permit REACT and other parties to evaluate and

respond to the chart. Thus, REACT believes the chart should be disregarded, not only because it rests on the faulty assumption that ComEd's ECOSS is accurate, but also because it is presented in a procedurally improper manner.

REACT also strongly disagrees with comments by ComEd and the Commercial Group suggesting that REACT seeks only to narrowly protect interests of REACT members. (*See* ComEd Reply Br. at 12; Commercial Group Reply Br. at 1, 3.) REACT's evidence shows that REACT seeks equitable allocation of costs generally in a manner that avoids the negative consequences of inaccurate cost allocation. (*See, e.g.*, REACT Ex. 2.0 at 9:170-81.)

B. REACT Explains That ComEd Failed To Address Or Defend The Deficient Sampling That Exposed The Problems With The Deficient ECOSS But Did Not Cure Those Problems

REACT explains that the ECOSS ComEd initially presented in this proceeding relied in large part upon unsubstantiated assumptions and unspecified "engineering judgments" performed by unidentified ComEd employees. In direct testimony, witnesses for REACT, Staff, and other parties critiqued ComEd's approach and questioned whether ComEd's assumptions and judgments rested on any verifiable data. (*See, e.g.*, REACT Ex. 1.0 at 9:181-225; Staff Ex. 1.0 at 12:267-14:326; 19:432-37; 20:455-21:485; City of Chicago Ex. 1.0 *generally*; CTA/Metra Jt. Ex. 1.0 at 5:93-109; IIEC Ex. 2.0 at 15:312-20:434.)

ComEd responded by undertaking extremely limited sampling of an admittedly "tiny" sample size of facilities in a narrow set of categories. (Tr. at 666:11-13.) REACT points out that Mr. Fults, Staff witness Mr. Lazare, and others, provided a thorough critique of ComEd's sampling. (*See* REACT Ex. 3.0 at 9:170-13:265; Staff Ex. 2.0 at 18:391-19:422; REACT Init. Br. at 23-29.) REACT notes that Staff witness Mr. Lazare called upon the Commission to initiate a workshop process because of a "clear need" to expand the scope of ComEd's visual inspections to test ComEd's "engineering judgments" that underlie its ECOSS and "produce an

accurate analysis of primary and secondary costs.” (Staff Ex. 2.0 at 19:416-22.) REACT recounts ComEd witness Mr. Alongi’s admission that neither he nor any other ComEd witness took issue with Mr. Lazare’s position. (*See* Tr. at 666:17-667:7.)

In REACT’s view, ComEd’s failure to confront the problems with the analytical methodology (or lack thereof) relating to the ECOSS should be interpreted as a legal admission of clear, continuing, and substantial deficiencies in ComEd’s ECOSS.

C. REACT Explains ComEd’s Repeated Mischaracterization Of The Relief That REACT Seeks

REACT explains ComEd’s apparent attempts to direct attention away from its deficient ECOSS by mischaracterizing REACT’s request for additional information. (*See* ComEd Init. Br. at 23.) REACT takes issue with ComEd’s claim that REACT seeks “wholesale changes” to ComEd’s ECOSS and wants 79 customer-specific cost analyses. (*See id.* at 4; 23.) REACT explains that it repeatedly clarified that it simply seeks a level of information necessary to tie the ECOSS back to reality. (*See, e.g.*, REACT July 7, 2009 Verified Response of REACT to ComEd’s Motion for Reconsideration at 4 (agreeing to further limit the scope of REACT’s data requests, and citing ComEd’s response to REACT Data Request 2.34 in the 2007 ComEd Rate Case, attached as Exhibit B to the REACT Verified Response, which data request response indicated that ComEd could provide the relevant information in a couple of months).) REACT also points to evidence demonstrating that ComEd could actually meet REACT’s request within a reasonable amount of time and without an unduly burdensome cost. (*See, e.g.*, Tr. at 675:12-677-24.)

III.

REACT EXPLAINS THAT IT PRESENTED COMPREHENSIVE, CREDIBLE, AND COMPELLING EVIDENCE THAT ADDRESSED THE ISSUE OUTLINED BY THE COMMISSION AND SHOWED THAT COMED HAS MISALLOCATED CUSTOMER CARE COSTS

To address the extent to which Customer Care Costs are “attributable specifically to bundled supply customers” (2007 ComEd Rate Case Final Order at 207-08), the Commission’s Initiating Order specifically required an analysis of “the cost of providing Customer Care to a customer taking supply from an alternative supplier versus the cost of providing Customer Care to a customer taking supply from ComEd.” (Initiating Order at 2.) REACT explains that it presented a responsive, credible analysis, while ComEd provided non-responsive assertions that fail to withstand even minimal scrutiny.

A. REACT Explains That Mr. Merola Undertook An Analysis That Specifically Answered The Commission’s Directive

REACT explains that REACT witness Mr. Merola is the only witness who undertook the analysis required to answer the Commission’s directive regarding allocation of Customer Care Costs. (*See generally* REACT Exs. 2.0, 4.0; REACT Init. Br. at 12-15; 31-41.)

Mr. Merola’s written testimony sets forth his analysis in detail, explaining that he incorporated all of the data provided by ComEd. (*See generally* REACT Exs. 2.0, 4.0; *see also* REACT Init. Br. at 31-41.) In answer to the Commission’s directive to ComEd in this investigation, Mr. Merola’s analysis demonstrated that for residential customers the average cost of providing Customer Care to a customer taking supply from an alternative supplier is .5549 cents/kWh while the average cost of providing Customer Care to a customer taking supply from ComEd is .8043 cents/kWh. (*See* REACT Ex. 4.0 at 7:120-25.) After correcting for the initial errors ComEd made in presenting its original data, Mr. Merola calculated that of the \$230,129,810 in Customer Care Costs for residential customers, \$158,768,596 should be

allocated to the delivery function while the remaining \$71,361,214 should be allocated to the supply function. (*See id.* at 7:117-20.) In other words, ComEd's cost of providing Customer Care to a residential ComEd supply customer is 45% higher than ComEd's cost of providing Customer Care to a residential non-ComEd supply customer. (*See id.* at 7:125-27.) This analysis is shown in REACT Exhibit 4.4.

Mr. Merola also concluded that of the \$54,936,844 in Customer Care Costs for non-residential customers, \$38,327,424 should be allocated to the delivery function while the remaining \$16,609,420 should be allocated to the supply function. (*See id.* at 7:132-34.) In answer to the Commission's directive to ComEd in this investigation, Mr. Merola's analysis demonstrated that for non-residential customers the average cost of providing Customer Care to a customer taking supply from an alternative supplier is .0604 cents/kWh while the average cost of providing Customer Care to a customer taking supply from ComEd is .1587 cents/kWh. (*See id.* at 7:134-8:139.) In other words, ComEd's cost of providing Customer Care to a non-residential ComEd supply customer is 163% higher than ComEd's cost of providing Customer Care to a non-residential non-ComEd supply customer. (*See id.* at 8:139-42.) This analysis is shown in REACT Exhibit 4.5.

B. REACT Provided Mr. Merola's Highly Detailed Analysis

REACT explains that Mr. Merola identified four primary steps required for an appropriate cost allocation of Customer Care Costs between the delivery and supply functions:

1. Quantify overall Customer Care Costs. He identified those costs related to Customer Care from ComEd's ECOSS filed in the 2007 ComEd Rate Case. (*See* REACT Ex. 2.0 at 16:341-43.)
2. Directly assign to the delivery function those costs that are associated only with the delivery function. He assigned to the delivery function all Customer Care Costs ComEd identified as being associated only with the delivery function. (*See id.* at 17:344-47.)

3. Directly assign to the supply function those costs that are associated only with the supply function. He assigned to the supply function all Customer Care Costs ComEd identified as being associated only with the supply function. (*See id.* at 17:348-51.)
4. Apply a functionalization factor to remaining Customer Care Costs to allocate those costs to the delivery or supply function. Employing a conservative methodology, Mr. Merola allocated the remaining Customer Care Costs – i.e., those that cannot be directly assigned to the delivery function or the supply function – in an equal split: 50% to the delivery function and 50% to the supply function. (*See id.* at 17:352-57.)

To perform his analysis, Mr. Merola used the same four ECOSS categories (billing – computation and data management; bill issue and processing; customer information; and metering services) that ComEd used. (*See id.* at 17:360-62.) However, rather than restrict the analysis only to O&M costs as ComEd did, Mr. Merola included the costs associated with the full revenue requirement. (*See REACT Ex. 2.0* at 17:362-64.) Mr. Merola explained the logic of that approach because it includes all Customer Care Costs included in ComEd’s ECOSS, and thus in ComEd’s rates. (*See id.* at 17:364-66.)

REACT points out that at the hearing, Mr. Meehan, ComEd’s witness on Customer Care Cost allocation, admitted that no ComEd witness took issue with the validity of using the costs associated with the full revenue requirement – i.e., \$285 million. (*See Tr.* at 392:9-11.) Further, when REACT inquired of Mr. Meehan why ComEd limited its review of Customer Care Costs just to the O&M costs, he responded that his review was limited based solely upon the decision of a non-testifying manager, whose rationale was not explained. (*See Tr.* at 392:17-393:5.)

Mr. Merola explained that the total costs by category include: (1) \$158,963,136 for billing – computation and data management; (2) \$24,879,861 for bill issue and processing; (3) \$11,393,008 for customer information; and (4) \$89,830,649 for metering services. (*See REACT Ex. 2.0* at 18:368-70.) This represents a total of \$285,066,654 in Customer Care Costs. (*See id.* at 18:371.) The analysis is shown in REACT Exhibit 4.3.

ComEd identified the following costs as being associated with the delivery function: (1) all costs associated with metering services; (2) all costs associated with the Large Customer Services department; (3) all costs associated with the Demand Management department; (4) all costs associated with the Advertising department; and (5) 65% of the costs associated with the Customer Contact Center. (*See id.* at 18:376-82.) Mr. Merola assigned all of these costs to the delivery function just as ComEd did, with the exception of adjustments for Large Customer Services and the Customer Contact Center. (*See id.* at 19:385-87.) REACT notes that on cross-examination ComEd seemed to take issue with Mr. Merola's decision *not* to make an allocation of metering services to the supply function (*see* Tr. at 519:1-3); however, REACT points out that if Mr. Merola had made such an allocation, it would have *increased* the Customer Care Costs allocated to the supply function. (*See* Tr. at 527:8-12.) REACT explains that ComEd's line of questioning served to demonstrate Mr. Merola's approach was reasonable. (*See* Tr. at 527:13-528:1.)

Regarding the Large Customer Services department, Mr. Merola concluded that since that department clearly supports activities related to customers that take or could take supply from ComEd under Rate BESH – Basic Electric Service Hourly Pricing, it is improper to assign all of these costs solely to the delivery function. (*See* REACT Ex. 2.0 at 19:390-93.) ComEd explained that the Large Customer Services department supports six (6) activities including: demand response, billing inquiries, customer collections, new service installations, and storm restoration or emergency support. (*See id.* at 19:393-96.) Of these activities – billing inquiries and customer collections would also support the supply function – since both activities support customers on Rate BESH. (*See id.* at 19:396-98.) However, REACT maintains that ComEd has provided no meaningful information to determine what portion of these costs should be allocated to the delivery and supply functions, despite repeated requests for such information. (*See id.* at

19:398-400.) As a result, since two-thirds of the functions covered by ComEd's Large Customer Services support the delivery function, Mr. Merola directly assigned two-thirds of the cost to the delivery function. (*See id.* at 19:400-03.)

REACT criticized ComEd's analysis of the supply-related costs associated with its Customer Call Center. ComEd utilized baseless assertions and irrelevant experience to conclude that none of the costs associated with Customer Call Center should be allocated to its supply function. (*See* REACT Ex. 4.0 at 25:477-79.) For example, ComEd asserted that no costs for calls received from customers should be allocated to supply because "(c)ommercial accounts have switched in significant volumes and as a result, ComEd's best estimate is that call volumes will not be impacted further." (*See id.* at 25:484-86, citing ComEd Response to REACT Data Request 5.01.) However, ComEd's current level of switching for commercial accounts is just 12.3%. In other words, nearly 90% of commercial accounts continue to purchase their supply from ComEd. It simply makes no sense for ComEd to assert that *no* commercial customers contact the Customer Call Center to inquire about their supply charges. (*See id.* at 25:483-90.)

REACT notes Mr. Merola performed his own detailed analysis to allocate ComEd's Customer Call Center costs to the delivery and supply functions. First, Mr. Merola allocated all calls related to outages, emergencies, disconnects, moving, installations, or meter readings fully to the delivery function. (*See id.* at 26:493-95.) He then allocated the remaining calls, which clearly support both the supply and delivery functions, evenly to the supply and delivery functions. (*See id.* at 26:499-500.) Mr. Merola's analysis concluded with an allocation of 71% of the call center costs to the delivery function and 29% of the call center costs to the supply function. The calculations are shown in REACT Exhibit 4.2.

Mr. Merola then also assigned the following costs directly to the delivery function: (1) \$89,830,649 for Metering Services; (2) \$4,301,914 for the Demand Management

department; (3) \$612,800 for the Advertising department; (4) \$4,922,757 for the Large Customer Services department; and (5) \$16,142,549 for the Customer Contact Center. (*See* REACT Ex. 4.0 at 27:517-22.) Under Mr. Merola's analysis, \$115,810,669 of Customer Call Center costs are directly assigned to the delivery function, while \$6,572,801 are directly assigned as supply costs. (*See id.* at 27:523-29.) Mr. Merola also directly assigned the \$112,483 in Electric Supplier Services Department costs to the supply function, in the same manner as ComEd. (*See* REACT Ex. 2.0 at 20:423-25.) Thus, the total amount directly assigned to the supply function under Mr. Merola's analysis is \$6,685,284. (*See* REACT Ex. 4.0 at 27:528-29.)

Mr. Merola then explained that, following the direct assignment, a total of \$162,570,701 of Customer Care Costs remained to be allocated to the delivery and supply function, including: (1) \$126,910,632 for billing – computation and data management; (2) \$24,879,861 for bill issue and processing; (3) \$10,780,208 for customer information; and (4) \$0 for metering services. (*See id.* at 22:471-23:474; 27:534-28:549; REACT Exhibit 4.3.) Mr. Merola noted that these are fixed costs because ComEd has indicated that under current switching rates of 1%, its costs have not increased or decreased as a result of customer switching activity and that there will be little to no change in costs with switching rates of 10% or 100%. (*See* REACT Ex. 2.0 at 22:458-65, 465-67.)

REACT points out that although ComEd has numerous functionalization factors (including factors for labor, equipment, and software) to allocate components of its revenue requirement, it did not develop any functionalization factors to allocate Customer Care Costs. (*See id.* at 23:478-81.) REACT propounded numerous data requests to ComEd to try and obtain data that might be useful for supporting the development of a functionalization factor, but, according to REACT, ComEd repeatedly indicated that it does not track activities to develop that data. (*See id.* at 23:486-89.)

Faced with this situation, REACT explained that Mr. Merola took a conservative approach, in recommending that the Commission allocate 50% of the costs to the delivery function and 50% to the supply function. (*See id.* at 24:493-94.) Mr. Merola explained that one rational means of allocating these costs would be based on the share of revenue associated with supply compared to the share of revenue associated with distribution. (*See id.* at 24:497-99.) Mr. Merola indicated that because supply represents a much higher percentage of a customer's bill than does distribution, that methodology would result in an allocation factor in the range of 67% allocation to supply function, rather than the 50% that Mr. Merola recommends. (*See id.* at 24:499-502.) Further, Mr. Merola noted that from a customer care perspective, the supply portion of the business is very complex. (*See id.* at 24:502-03.) Supply rates include numerous tariff components that change far more frequently than the distribution rates. (*See id.* at 24:504-05.) For example, Rate BESH has numerous components that must be frequently computed, including the Capacity Charge, Hourly Energy Charge, PJM Services Charge, Miscellaneous Procurement Components Charge, and the Hourly Purchased Electricity Adjustment Factor. (*See id.* at 24:505-09.) Thus, Mr. Merola explained that the 50% functionalization factor is a very reasonable estimate of the percentage of the Customer Care Costs that are attributable to delivery and supply, given the lack of data provided by ComEd. (*See id.* at 24:509-11.)

Using that approach Mr. Merola concluded that of the \$162,570,701 in Customer Care Costs that are not directly assigned to either the delivery or supply function, \$81,285,350 should be allocated to the delivery function, and \$81,285,350 should be allocated to the supply function. (*See id.* at 25:515-18; REACT Ex. 4.0 at 28:546-49.)

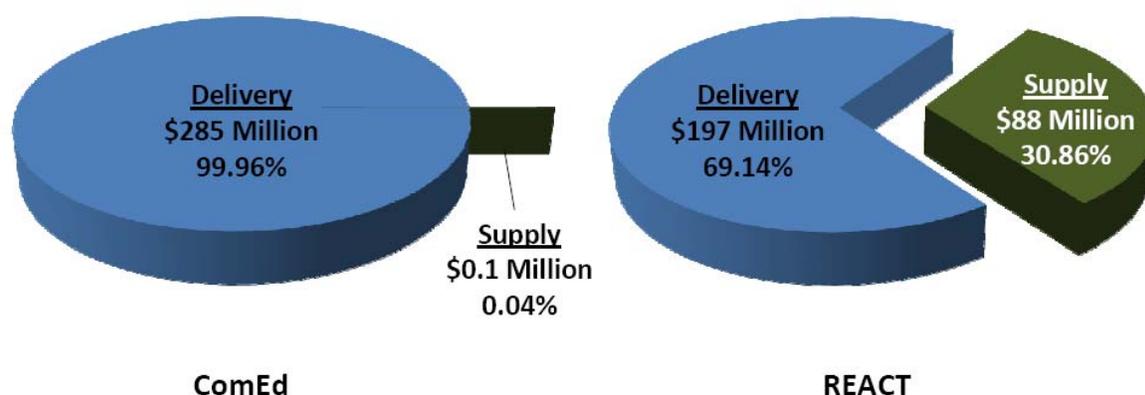
In summary, Mr. Merola evaluated a total of \$285,066,654 in total Customer Care Costs based on ComEd's ECOSS. (*See* REACT Ex. 4.0 at 28:553-54.) He determined that of those costs, \$115,810,699 should be directly assigned to the delivery function while \$81,285,350

should be allocated to the delivery function, for a total of \$197,096,020 allocated to the delivery function. (*See id.* at 28:554-56.) Similarly, he determined that \$6,685,284 should be directly assigned to the supply function while \$81,285,350 should be allocated to the supply function, for a total \$87,970,634 allocated to the supply function. (*See id.* at 28:556-58.) This analysis is shown in REACT Exhibit 4.3.

Mr. Merola likewise allocated the Customer Care Costs separately to residential and non-residential customers, concluding that \$230,129,810 of the total Customer Care Costs should be allocated to residential customers, while the remaining \$54,936,844 should be allocated to non-residential customers. (*See* REACT Ex. 4.0 at 29:571-75; REACT Exhibit 4.4 and REACT Exhibit 4.5.) Further dividing these costs into the delivery and supply functions, Mr. Merola determined that of the \$230,129,810 in Customer Care Costs for residential customers, \$158,768,596 should be allocated to the delivery function while the remaining \$71,361,214 should be allocated to the supply function. (*See* REACT Ex. 4.0 at 29:579-30:582; REACT Exhibit 4.4.) For non-residential customers, Mr. Merola concluded that of the \$54,936,844 in Customer Care costs for non-residential customers, \$38,327,424 should be allocated to the delivery function while the remaining \$16,609,420 should be allocated to the supply function. (*See* REACT Ex. 4.0 at 30:584-87; REACT Exhibit 4.5.)

REACT illustrated the disparity between Mr. Merola's reasoned, credible analysis and ComEd's incomplete and methodologically questionable approach in a chart which was admitted into the evidentiary record as REACT Cross Exhibit Meehan 9:

Customer Care Costs Allocated to the Supply Function Comparison of ComEd and REACT Positions



Sources

ComEd Data: Supply function allocation from ComEd Exhibit 2.0, page 17. Delivery function allocation from ComEd Exhibit 7.1, Schedule 2a, page 1 of 16, sum of column "Total ICC" for rows 12, 13, 14, and 15.

REACT Data: REACT Exhibit 4.3, Column i and Column j.

REACT notes that the exhibit illustrates two important points. First, ComEd's position defies common sense – it simply cannot be the case that less than half of one one-hundredth of a percent – .04% – is the entire amount of Customer Care Costs attributable to the supply function. Second, REACT's position is far from extreme – indeed, as Mr. Merola cogently explained in his pre-filed testimony and on cross-examination, REACT's position is quite conservative. (*See* REACT Ex. 2.0 at 23:491-25:528; Tr. at 523:17-525:22.) Based on Mr. Merola's analysis, less than one third of total Customer Care Costs are allocated to the supply function. REACT notes that ComEd once again mischaracterizes Mr. Merola's analysis in its Reply Brief, wherein ComEd suggests that there has been an increase in the asserted allocation of Customer Care Costs from 25% in the 2005 ComEd Rate Case, to 40% in the 2007 ComEd Rate Case, to a "percentage [that] has continued to rise" in this case. (ComEd Reply Br. at 11-12.) REACT notes that that accusation from ComEd is demonstrably false: in fact, Mr. Merola proposes to

allocate less than 31% of Customer Care Costs to the supply function in the instant proceeding; that percentage is substantially *lower* than the percentage (i.e., 40%) that he recommended allocating to the supply function in the 2007 ComEd Rate Case.

C. REACT Explains That ComEd Did Not Undertake An Analysis That Answered The Commission’s Directive

REACT explains that ComEd did not undertake an analysis that responded to the Commission’s directive to analyze “the cost of providing Customer Care to a customer taking supply from an alternative supplier versus the cost of providing Customer Care to a customer taking supply from ComEd.” (Initiating Order at 2.) Instead, ComEd purported to analyze whether or not Customer Care Costs would go down with an increase in switching to alternative suppliers. REACT explains that throughout the proceeding and even through briefing, ComEd has failed to explain how it could have possibly answered the Commission’s directive.

Mr. Merola explained in detail that even in performing its non-responsive, alternative analysis, ComEd made numerous errors that resulted in ComEd overstating its delivery services Customer Care Costs and understating its supply-related costs. (See REACT Init. Br. at 41-48; REACT Ex. 2.0 at 6:105-15.) Mr. Merola’s pre-filed testimony provided a comprehensive critique of ComEd’s approach. (See REACT Ex. 2.0 at 9:186-16:329.) REACT explains that nothing in ComEd’s briefs even attempts to respond to that evidence.

REACT explains that the evidentiary hearings showed that ComEd did not undertake a credible analysis to answer the Commission’s directive, used an incremental cost methodology that was inconsistent with the embedded cost approach ComEd took to answer *all* of the other items the Commission set out in the Initiating Order, and failed to present credible testimony by a witness with expertise in the relevant area. (See, e.g., Tr. at 385:6; 392:17-393:5; 398:4-9; 409:16-18; 650:14-18.) REACT points out that ComEd’s witness on the subject – Mr. Meehan – candidly admitted that he lacked the requisite expertise in cost allocation and that baseline

decisions about the methodology and costs to be considered were made, apparently without explanation, by ComEd management without Mr. Meehan's input. (*See* Tr. at 409:16-18; 392:17-393:5.) REACT notes that Mr. Meehan also acknowledged that the Initiating Order did not limit the analysis of Customer Care Costs to direct O&M costs, which is the only portion of costs that ComEd even reviewed. (*See id.* at 421:11-15.) REACT additionally explains that although Mr. Meehan testified on direct and acknowledged on cross-examination that ComEd has actually allocated a small amount of costs to the supply function historically – \$112,482 in costs relating to its ESSD Department (*see* ComEd Ex. 2.0 at 17:347-52; Tr. at 386:16-387:1) – Mr. Meehan was unable to explain the basis for that allocation, agreeing that he had “no idea” where the \$112,482 amount originated. (*See* Tr. at 398:4-9.)

**D. REACT Explains That ComEd's Reliance On
ICC Docket No. 07-0528/07-0531 Is Inapplicable And Unpersuasive**

REACT explains that ComEd's only fallback defense of its position is to suggest that it was somehow required to allocate Customer Care Costs in a certain way by a Commission ruling in the 2007 proceeding involving ComEd's proposed procurement plan and related supply tariffs, ICC Docket No. 07-0528/07-0531. (*See* ComEd Init. Brief at 11.) REACT maintains that this argument lacks merit. REACT notes that as ComEd itself explains it, in that proceeding the Commission Staff expressed some concern about whether the “proposed procurement tariff would create an inappropriate incentive [for ComEd] to inflate the supply rate” through inappropriate allocation of certain costs. (*Id.*) To accommodate the Staff concern, ComEd apparently itself decided to modify its tariff to limit the kinds of costs that could be recovered through Rider PE. (*See id.*) The Commission ultimately approved that tariff. (*See id.*)

REACT explains that nothing about this episode constrains ComEd's ability to accurately allocate Customer Care Costs in accordance with the Initiating Order's explicit directive. REACT notes the well established point that Commission Orders do not have precedential

standing of the sort that judicial orders possess. (*See Abbott Laboratories, Inc. v. Ill. Commerce Comm'n*, 289 Ill. App. 3d 705, 715, 682 N.E.2d 340, 349 (1st Dist. 1997); ICC Docket No. 00-0393, *Re: Ill. Bell Tel. Co.*, March 28, 2002 Order on Second Rehearing at 21.) REACT maintains that even if Commission Orders were precedential, the Initiating Order in the instant proceeding post-dates the Order in ICC Docket No. 07-0528/07-0531 by more than nine months, so there is no question that the Initiating Order would take precedence over the older order. REACT also explains that even if the Order in Docket No. 07-0528/07-0531 were relevant, it is clear that the Staff concern in that case was that ComEd might have some incentive to allocate certain costs toward the supply function and away from the delivery function. REACT points out that in this case, ComEd is trying to do *exactly the opposite* – ComEd is trying to avoid assigning or allocating anything beyond .04% of Customer Care Costs to the supply function. Thus, REACT explains, it is oddly ironic that ComEd would purport to believe that the Order in Docket No. 07-0528/07-0531 somehow trumps the Commission’s explicit directive in initiating the instant proceeding to accurately allocate Customer Care Costs.

REACT also explains that ComEd witness Mr. Alongi admitted that “as a matter of ratemaking principle” supply-related Customer Care Costs “could be” allocated properly through supply rates, and also admitted that the Commission directed ComEd to examine the Customer Care Cost issue again, notwithstanding the Order in Docket No. 07-0528/07-0531. (*See Tr. at 632:14-633:4.*)

E. REACT Maintains That ComEd’s Criticisms Of Mr. Merola Completely Lack Merit

REACT maintains that ComEd’s criticisms of Mr. Merola’s analysis are unsupported and incorrect.

1. REACT Explains That Mr. Merola's Analysis Is Thorough And Complete

REACT explains at length in its briefs that Mr. Merola provided detailed, expert testimony that analyzed ComEd's Customer Care Costs and recommended that \$87,970,634 (or 30.86% of the total Customer Care Costs) be allocated to ComEd's supply function. (See REACT Init. Br. at 12-15, 31-41; REACT Reply Br. at 11-15.) REACT explains that Mr. Merola's expert testimony is based upon his nearly 20 years of professional experience in a variety of relevant positions in the energy industry. REACT notes that Mr. Merola is currently a Vice President of Intelometry, Inc. of Houston, Texas, and possesses experience in a diverse mix of professional roles in the energy industry, including wholesale market operations, transmission, risk management, product structuring, pricing and valuation, operations, and retail marketing. (See REACT Ex. 2.1; REACT Init. Br. at 12-13.) REACT explains that in addition to his analytical experience, Mr. Merola possesses specific, direct experience with customer care and billing functions from a supplier perspective, including design, testing, implementation, and training associated with billing software. (See Tr. at 526:15-527:3.) REACT notes that Mr. Merola was the only witness possessing such qualifications to testify in this case. REACT further notes that Mr. Merola was also the only witness who examined the cost allocation practices of other utilities in order to aid his analysis. (See REACT Ex. 2.3 at 3:58-4:72, 23:492-28:597.)

REACT explains that ComEd's attack on Mr. Merola reaches a low point when ComEd suggests that "he made no meaningful attempt to address the threshold question of whether ANY of the costs are reasonably allocated to supply." (ComEd Init. Br. at 13) (emphasis in original). REACT points out that in a rebuttal of its own position, ComEd includes at the end of that very sentence its footnote 8, which explicitly admits that Mr. Merola did do an analysis that excluded 100% of metering costs from the allocation, based on his analysis that none of those costs are

appropriately allocated to the supply function. (*See id.* at 13 n.8). So, ComEd levels an allegation of bad analysis against Mr. Merola and at the end of the sentence inserts a footnote that withdraws the criticism.³

REACT also points out that on cross-examination of Mr. Merola, ComEd questioned Mr. Merola on why he did not include metering costs in his allocation, as if to suggest that he should have. REACT notes that Mr. Merola soberly explained that under his conservative approach to the cost allocation question, he determined in his professional opinion that such an allocation was inappropriate, although if he had made it, it would have “certainly increased[d] the allocation of the supply function,” which is exactly what ComEd has been fighting against. (Tr. at 527:4-528:1.)

2. REACT Explains That Mr. Merola’s Position In This Proceeding Is Consistent With His Position In ComEd’s 2007 Rate Case

ComEd quotes Mr. Merola’s testimony from the 2007 ComEd Rate Case that “ComEd’s supply procurement costs should be bypassable for those customers who do not take supply service from ComEd, and thus, should not be embedded in the delivery service rates.” (ComEd Init. Br. at 12.) ComEd suggests that in the instant proceeding, “Mr. Merola now abandons his ‘bypassable’ rationale and, instead, points to various ‘adjustments’ and a ‘functionalization factor’ to support his conclusion that nearly \$88 million in customer service costs should be allocated to ComEd’s supply function and, therefore, removed from ComEd’s distribution service-related revenue requirement.” (*Id.*)

³ REACT notes that ComEd then insultingly says of Mr. Merola’s position, “A less reasoned ‘analysis’ is difficult to imagine.” (ComEd Init. Br. at 13.) REACT explains that the very argument that ComEd tries to cobble together to criticize Mr. Merola’s reasoned analysis is, in plain fact, a much less reasoned analysis – it is self-contradictory within the same connected sentence and following footnote.

REACT explains that this statement is inaccurate. REACT notes the complete lack of evidence or testimony of any kind from Mr. Merola or any other witness in the instant proceeding to suggest that Mr. Merola has “abandoned” his position that ComEd’s supply-related costs should be “bypassable” for customers who do not take supply from ComEd. REACT reiterates that that is perhaps the most fundamental point that Mr. Merola and REACT have made throughout the course of both the 2007 ComEd Rate Case and the instant proceeding – that supply-related costs that are not attributable to customers who do not take ComEd supply should not be paid by those customers. (*See, e.g.*, REACT Ex. 2.0 at 8:159-9:181; REACT Ex. 4.0 at 21:408-16.) REACT explains that this is the basic principle of cost causation – that is, the Commission’s “explicit policy objective of assigning costs where they belong.” (ComEd 2007 Rate Case Final Order at 206.) REACT explains that each ComEd witness other than Mr. Meehan, who claimed to lack experience or expertise with cost allocation, purported to agree with that principle. (*See* Tr. at 233:16-18 (Dr. Hemphill); 335:3-6 (Mr. Heintz); 621:3-6 (Mr. Alongi); 384:17-385:6 (Mr. Meehan).) Mr. Merola also clearly explained the connections between his testimony in the 2007 ComEd Rate Case and in the instant proceeding in his Rebuttal Testimony. (*See* REACT Ex. 4.0 at 9:170-10:181.) REACT maintains that if ComEd really thought that Mr. Merola had changed his position, it had ample opportunity to explore that issue on cross-examination, but never raised the subject. (*See* Tr. at 511:14-523:10; 528:9-529:14.)

3. REACT Explains That Mr. Merola’s Updated Numbers Are Completely Explained

REACT notes that ComEd also suggested some issue with the fact that in the 2007 ComEd Rate Case Mr. Merola recommended allocation of approximately \$65 million in Customer Care Costs to the supply function and in the instant proceeding he recommends approximately \$88 million. (*See* ComEd Init. Br. at 12.) REACT explains that ComEd’s

criticism lacks validity since ComEd's initial brief itself accurately cites the portion of Mr. Merola's testimony that explains why he made the upward adjustment. (*See id.* at 13, citing REACT Ex. 4.0 at 9:174-76.) As discussed above, in that cited testimony, Mr. Merola explains his rationale, which includes the fact that ComEd itself had provided additional information that informed Mr. Merola's analysis. (*See* REACT Ex. 4.0 at 9:170-10:181.)

4. REACT Explains That Mr. Merola Addressed All Of ComEd's Arguments – Even Those That REACT Believes Do Not Make Sense

ComEd criticizes Mr. Merola for “completely ignor[ing]” ComEd's contention that certain of its Customer Care Costs might increase at switching levels of 10% or 100%. (ComEd Init. Br. at 13.) REACT explains that Mr. Merola did not “ignore” that contention, though he thoroughly debunked it. His testimony explained in detail why ComEd's position is unpersuasive:

ComEd asserts that if it were not providing supply services to a single customer (i.e., if there were 100% switching to RESs), ComEd's Customer Care Costs would actually go up. ComEd apparently is saying that if it had *no* obligations associated with procuring or providing power to *anyone*, ComEd's Customer Care Costs would **increase**. This conclusion seems to be totally implausible on its face, and, at a minimum, raises fundamental questions about ComEd's analytical model.

(REACT Ex. 2.0 at 12:251-13:260; *see also* REACT Ex. 4.0 at 15:289-304.)

Mr. Merola further explained that ComEd's concern over cost allocation problems associated with high levels of residential customer switching are theoretical at best, since ComEd admits that it projects switching levels that are orders of magnitude smaller than the switching levels that would lead to its theoretical concerns. (*See* REACT Ex. 4.0 at 16:306-17:333.) REACT explains that this point was illustrated at the hearings when ComEd witness Mr. Meehan admitted that even if ComEd's projections underestimated residential switching by 1000%, the level of switching would still be only approximately 1.5%. (*See* REACT Init. Br. at 47-48; Tr. at

419:8-420:7.) Thus, REACT reiterates that Mr. Merola did address the issue, and conclusively demonstrated that it is nothing more than a diversion – and ComEd’s witnesses confirmed this at the hearings.

F. REACT Explains That Accurate Allocation Of Customer Care Costs Should Not Be Precluded By Theoretical Concerns About Rate Disparities or Precedents

REACT questions the basis for Staff and the Attorney General (“AG”) opposing REACT’s proposed allocation of Customer Care Costs. REACT explains that Staff does not express any specific criticism of Mr. Merola’s methodology or analysis; rather, Staff apparently has some theoretical concerns about (1) potential rate disparities that could occur if the accurate cost allocation that Mr. Merola has articulated were put into practice and (2) a possible conflict with the Commission’s view of the “level of credit for ratepayers if their bill comes from a RES under the Single Bill Option.” (Staff Init. Br. at 30-31; AG’s Init. Br. at 7.) REACT notes that Staff also expresses a concern that implementation of Mr. Merola’s accurate cost allocation could set a “precedent” that might apply to other electric and natural gas utilities. (Staff Init. Br. at 31-32.)

REACT explains that these concerns are unsubstantiated and insufficient given the evidentiary record. REACT points out that Staff witness Mr. Lazare endorsed the fundamental principle of accurate cost allocation specifically in the context of Customer Care Costs. (*See* Tr. at 463:23-464:5; 464:12-20; 467:2-7.) The AG also supports that view. (*See* AG Init. Br. at 5.) REACT explains that Mr. Merola’s testimony and documentary evidence demonstrates the substantial variance between the Customer Care Costs incurred to serve bundled and unbundled customers. (*See* REACT 4.0 at 7:115-8:142.) Thus, REACT explains that according to the principle of accurate cost allocation that Mr. Lazare and the AG recognized, those costs differences should be reflected in the rates.

REACT explains that Mr. Lazare acknowledged that he did not actually perform an analysis of allocation of Customer Care Costs, as Mr. Merola did. (*See* Tr. at 466:14-19.) REACT also explains that Mr. Lazare acknowledged that he did not perform any study or analysis to support his theoretical concerns about what precedent might be set for other utilities – indeed, he further acknowledged that he had performed no analysis to even know how other utilities deal with similar cost allocation issues. (*See id.* at 467:12-468:1.) Finally, REACT explains that Mr. Lazare acknowledged that the Commission would have authority to intervene if, in actuality rather than theoretically, there were future unintended consequences on bill impacts resulting from accurate Customer Care Cost allocations. (*See id.* at 468:2-8.) REACT concludes that given these candid acknowledgements by Staff’s expert witness, Staff’s position in opposition to accurate allocation of Customer Care Costs is unpersuasive.

REACT further observes that Staff’s potential concerns over “precedent” or a possible conflict with the Commission’s view of the “level of credit for ratepayers if their bill comes from a RES under the Single Bill Option” is unfounded. (Staff Init. Br. at 30-32.) As REACT explained regarding ComEd’s purported concern about precedents or conflicts with prior Commission-approved definitions, the Initiating Order in the instant proceeding makes it clear that this investigation is not constrained by the fact that the Commission may have previously made decisions, in different contexts, that have some tangential relationship to the issues here.

IV.

REACT EXPLAINS THAT ANY WORKSHOP PROCESS MUST INCLUDE ISSUES RAISED BY REACT

REACT points out that ComEd attacks Staff witness Mr. Lazare for clarifying the scope and content of his workshop proposal. (*See* ComEd Init. Br. at 27-28.) REACT explains that Mr. Lazare’s vision of a workshop process is fair and wholly defensible, and ComEd’s criticism is unfounded.

REACT explains that it has, though the testimony and analysis of Mr. Fults and Mr. Merola, provided the Commission with a persuasive, comprehensive, and credible basis regarding (1) the invalidity of ComEd's ECOSS and the methodology underlying the ECOSS, and (2) accurate allocation of Customer Care Costs. REACT maintains that the evidentiary record favoring REACT's positions is strong and provides a basis for final disposition of the issues raised in a Final Order in the instant proceeding.

If, however, the Commission determines that it cannot resolve the ECOSS or Customer Care Cost allocation question in a Final Order, REACT maintains that those issues should be included in the workshop process that Staff witness Mr. Lazare has proposed. REACT recounts that in response to a series of Data Requests, Mr. Lazare expressed clearly and unequivocally that he proposes that any workshop process ordered by the Commission should not be constrained to the limited subject matter that ComEd favors. (*See generally* REACT Cross Ex. Lazare 14.) REACT explains that Mr. Lazare makes clear that a workshop process should include "issues raised, in this docket, and not otherwise resolved by the Final Order, by other parties that are relevant to the development of the cost of service." (*Id.* at 1.) REACT also explains that Mr. Lazare's Data Request responses also confirm his opinion that he specifically believes that the issues raised by REACT relating to calculation of cost of service to the largest customer classes and Customer Care Cost allocation issues raised by REACT are not objectionable and should be included. (*Id.* at 5; *see also* REACT Init. Br. at 29-30; 49-50.)

REACT recounts that Mr. Lazare cogently explained his thinking about the workshop process on cross-examination by ComEd, and rejected attempts by ComEd to mischaracterize his written testimony on the subject or to prevent him from presenting his current, considered opinion about the scope of a workshop process. (*See* Tr. at 470:1-475-17.)

REACT explains that it presented expert testimony and otherwise participated very actively in discovery and hearings in the instant proceeding in connection with cost of service and Customer Care Cost issues. REACT maintains that if the Commission does not reach a final determination on these issues in its Final Order and instead directs workshops, the issues REACT has raised should be included.

V.

CONCLUSION

Accordingly, for the reasons stated in its Initial and Reply Briefs and herein, REACT respectfully reiterates its requests that the Commission enter an Order consistent with the arguments herein, requiring ComEd to both provide the information necessary to properly set its rates for its largest customers in its next rate case and immediately adjust its delivery services charges to remove supply-related Customer Care Costs.

Respectfully submitted,
**THE COALITION TO REQUEST EQUITABLE
ALLOCATION OF COSTS TOGETHER**

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