

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION,  
On Its Own Motion

v.

COMMONWEALTH EDISON COMPANY  
Investigation of Rate Design Pursuant to  
Section 9-250 of the Public Utilities Act

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: No. 08-0532  
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**IEC REPLY BRIEF ON EXCEPTIONS**

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## **IIEC REPLY BRIEF ON EXCEPTIONS**

### **INTRODUCTION**

The Illinois Industrial Energy Consumers (“IIEC”) will respond to certain positions taken and arguments and exceptions made by Commonwealth Edison Company (“ComEd” or “Company”), and the Commercial Group (“CG”), in their respective Briefs on Exceptions (“BOE”) to the Proposed Interim Order of February 1, 2010 (“Proposed Order” or “PO”). IIEC’s failure to address any specific argument, exception or position of any specific party in this Reply Brief on Exceptions (“RBOE”) should not be taken as an endorsement or acceptance of that position unless otherwise expressly stated herein.

Specifically, IIEC will respond to and oppose:

- a. ComEd’s proposals to modify the Proposed Order as it relates to the primary/secondary cost analysis issue;
- b. ComEd’s proposals to modify the Proposed Order as it relates to workshops; and
- c. CG’s proposals to modify the Proposed Order as it relates to adjusting or changing current rates.

IIEC sets out its arguments below.

### **ARGUMENT**

#### **I. PRIMARY/SECONDARY COST ANALYSIS**

As explained in IIEC’s BOE, the Proposed Order reaches well-reasoned conclusions in rejecting ComEd’s primary/secondary (“P/S”) analysis, which relied solely on a definitional analysis that did not evaluate the functions facilities perform or which customers cause the costs to be

incurred. ComEd is the only party in this proceeding to take substantive exception to the Proposed Order's conclusions with regard to P/S analysis issues and voltage based rates.<sup>1</sup>

In support of its exception to the Proposed Order's conclusions on the P/S analysis, ComEd argues that its embedded cost of service study ("ECOSS") has already been extensively litigated both in its most recent rate case and in this case. (ComEd BOE at 1). ComEd ignores the fact that the litigation it describes was primarily the result of an ECOSS that the Commission found to be flawed in many aspects. (Re Commonwealth Edison Company, ICC Dkt. 07-0566, Final Order, Sept. 10, 2008 at 213).

These flaws included, but were not limited to, the failure of the ECOSS to properly identify, assign, and allocate the costs of serving primary voltage customers and secondary voltage customers. (*Id.* at 207). However, because, as ComEd now admits in its Brief on Exceptions, it had no business reason or (in its view) regulatory obligation to perform a P/S analysis for its ECOSS (ComEd BOE at 3), the Commission was eventually compelled to order ComEd to conduct such an analysis so it could be reflected in ComEd's ECOSS.

ComEd also claims to be an impartial party in this matter. (*See*, ComEd BOE a 1). However, its exceptions to the ALJs' well-reasoned Proposed Order belie this characterization. Were ComEd truly impartial, it would accept the Proposed Order's findings that ComEd's ECOSS still does not properly allocate costs imposed by the customer classes. By ComEd's own admission,

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<sup>1</sup> Some parties, such as the CG, do take exception to the Proposed Order's recommendation that a workshop process be initiated in this case, however, even the CG does not take substantive exception to the Proposed Order's decisions on the corrections that need to be made to ComEd's P/S analysis. (*See* generally, Staff BOE; AG BOE; City of Chicago BOE; REACT BOE; and CG BOE).

it has never conducted a P/S analysis before (Alongi, ComEd Ex. 1.0 at 15; *see also*, Stowe, IIEC Ex. 2.0 at 2-4); yet it concedes nothing when intervenor parties or the Proposed Order point out problems. Rather than accepting that its study still has significant flaws, and seeking to correct them in a deliberate and collaborative way, ComEd instead resorts to criticism of the potential results that would be produced by corrections of its ECOSS. It warns ominously that if the corrections are made, certain customer classes' revenue responsibility will go up, while other classes' responsibility will go down. (ComEd BOE at 4). The ECOSS is meant to answer empirical questions about the relative cost responsibilities of the classes, by reasonably and fairly allocating costs to customers that cause the costs to be incurred. The Commission is best served when it has an accurate ECOSS, whatever it shows. If rate impact moderation is required, the Commission can balance competing interests starting from accurate cost information and use that information to make decisions regarding revenue allocations and rate designs, balancing the criteria it needs to produce just and reasonable rates.

Next, ComEd admits that its P/S analysis in this case was "expedited." ComEd relied heavily on engineering judgment and some actual data to conduct its analysis. (ComEd BOE at 3-4). ComEd's expedited approach and ComEd's perception that it lacked any business or regulatory reason to conduct a P/S analysis in the first instance, may have in large part led to the incomplete, flawed P/S analysis that the Proposed Order has properly refused to adopt.

ComEd also suggests that its analysis was based on Commission approved definitions of its primary and secondary *systems*. However, the record shows that ComEd's tariffs contain no definition of the secondary distribution system and that ComEd's P/S analysis is, in some instances,

inconsistent with the definition of primary and secondary *service* in its tariffs, and with the definition of primary and secondary customers that would logically result from its service definitions. Under ComEd's strained view, customers who take service at secondary voltages can be considered primary, and customers being served at primary voltages can be allocated the cost of facilities used to serve only secondary voltage customers.

ComEd has correctly noted that its P/S analysis has resulted in the reallocation of some of the costs of its distribution system among its customer classes. (ComEd BOE at 4). However, ComEd ignores the fact that its analysis has resulted in costs of certain distribution facilities used exclusively to provide service to customers at secondary voltage (*e.g.*, line transformers and single phase primary circuits) being allocated to customers served at primary voltage. In other words, ComEd's analysis resulted in the allocation of costs to customers who do not cause those costs to be incurred. But, because ComEd apparently believes that it was without business or regulatory reasons to correctly allocate these costs to the customers who actually cause them, it now argues that it should not be compelled to do so despite the record evidence demonstrating its mis-allocations. In fact, ComEd recommends the Proposed Order be modified to remove the language that would compel it to do so. (*See*, ComEd BOE Att. 1 at 7, 8). This position is ironic given ComEd's statement that it believes “. . . interclass allocation should reflect cost causation in order to send proper price signals to its customers.” (ComEd BOE at 1).

ComEd also argues that other parties, such as the Attorney General, the CG, the Building Owners and Managers Association, and Kroger, find ComEd's analysis to be reasonable. However, none of these parties have taken exception to the Proposed Order's substantive conclusions

identifying the deficiencies in ComEd's P/S analysis. In fact, Kroger and BOMA have not filed a Brief on Exceptions at all. The Attorney General and the CG, have not excepted to the Proposed Order's substantive conclusions on the P/S analysis conducted by ComEd. (*See, generally, AG BOE and CG BOE*). Even the Staff has not objected to the PO's substantive conclusions on the primary/secondary issues. (*See, generally, Staff BOE*). This leaves ComEd as the lone challenger of the Proposed Order's primary/secondary findings and conclusions and the sole protector of the status quo.

In the discussions below, IIEC addresses ComEd's specific exceptions to the Proposed Order's conclusions on primary/secondary issues. IIEC discussed the deficiencies of ComEd's P/S analysis in its Initial and Reply Briefs, and those arguments are incorporated by this reference. (IIEC Br. at 6-24; IIEC R. Br. at 3-11).

**A. Reasonableness of ComEd's Definition of its Primary and Secondary Distribution System**

ComEd argues that its definitions of its primary and secondary distribution systems are reasonable for use in its P/S cost analysis. (ComEd BOE at 10-12). Therefore, ComEd says its definitions should be accepted and the Proposed Order modified accordingly. (*Id.*). As IIEC has explained, it is ComEd's use of its definitions in place of a cost causation analysis that is problematic. The Proposed Order has properly refused to accept ComEd's use of that definitional approach to its P/S analysis. The Proposed Order's decision is appropriate for several reasons.

First, ComEd's definition of the primary distribution system for its P/S analysis includes line transformers and single-phase circuits that are rarely, if ever, used to serve customers at primary

voltages.<sup>2</sup> In addition, distribution system components, such as the bare copper wire that is used to ground both primary and secondary distribution circuits, are under ComEd's flawed method, always defined as part of the primary distribution system. (Alongi, Nov. 3, Tr. 583-585) Thus, ComEd's definitions do not distinguish the costs of serving customers at primary and at secondary voltages, but instead blur and confuse that distinction.

Second, as ComEd correctly notes, the Proposed Order has not rejected IIEC's definition of ComEd's distribution subsystems. (ComEd BOE at 12). IIEC's definitions of distribution subsystems are based on a functional approach, which logically identifies the function performed by the relevant portions of the ComEd distribution system, *viz.*, the portions of the system used to serve (i) primary voltage customers only, (ii) secondary voltage customers only, and (iii) both primary and secondary voltage customers. (Stowe, IIEC Ex 2.0 at 4-5). Under IIEC's functional approach, electric distribution components such as line transformers used exclusively to serve secondary customers would be assigned to the secondary subsystem. The costs associated with those components would be assigned to secondary customers, (*i.e.*, the customers causing the costs to be incurred). This is consistent with the Commission's past policy. (*See, inter alia*, Order, Dkt. 07-0566, Sept. 10, 2008 at 205, 211; Order Dkt. 07-0585, *et. al.*, Sept. 24, 2008 at 265). It is also consistent with ComEd's stated support for cost allocations that reflect cost causation. (*See*, ComEd BOE at 1).

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<sup>2</sup> In its Brief on Exceptions ComEd provides its tariff definition of the primary distribution system. "The . . . primary system utilizes electric facilities to distribute electricity at the following nominal voltages: 4,000 volts, 12,000 volts and/or 34,500 volts". (ComEd BOE Att. 1 at 4). However, for its P/S analysis, ComEd's definition of the primary system includes facilities used to distribute electricity at less than 4,000 volts.

The Proposed Order accepts the essential validity of that functional approach for defining the ComEd distribution subsystems and allocating the associated costs. (PO at 37-38 - concluding that line transformer costs should not be allocated to primary service customers). However, ComEd takes exception to the Proposed Order's conclusion on this issue and recommends it be replaced with language accepting ComEd's flawed definitional approach which gives no consideration to the function of the facilities that are the subject of its P/S analysis. (ComEd BOE at 12-13; ComEd BOE, Att. 1 at 5-6).

Third, ComEd's approach to defining the primary and secondary system in the context of its P/S analysis is actually inconsistent with ComEd's own tariff definitions. ComEd's tariff, defines the primary distribution system as facilities used to provide service at voltages at 4 kV or greater, but less than 69 kV. (ComEd BOE, Att. 1 at 4). However, for the purpose of its P/S analysis, and the ECOSS reflecting that analysis, ComEd concludes that over 99% of the customers ComEd identifies as primary customers receive service at secondary voltage. (Stowe, IIEC Ex. 4.0 at 14-15). Obviously, the service voltage definitions of ComEd's tariff have little impact on ComEd's definition of primary or secondary customers or subsystems. So, ComEd is simply incorrect in suggesting that its approach is consistent with previously approved definitions. In fact, ComEd's tariffs do not contain a definition of "secondary system". (See, Commonwealth Edison Company, ILL.C.C. No. 10, Original Sheet Nos. 1-392).

Fourth, ComEd argues IIEC's functional approach conflicts with the Commission's intention to examine the information presented in this proceeding "with appropriate consideration of historic rate structures of the Company . . .". (ComEd BOE at 12, quoting Initiating Order at 3). ComEd

reads such consideration as an absolute prohibition against any rate structure change. It is not. The fact that the Commission indicated it would consider historic rate structures does not require the Commission to accept a deficient P/S analysis, nor does it prohibit the Commission from directing that identified deficiencies be corrected. The Proposed Order properly concludes that ComEd's definitional approach is deficient and that a functional approach to the identification of the cost of serving primary voltage and secondary voltage customers is appropriate. While changes in rate structures may more efficiently reflect the results of a properly conducted P/S analysis, and the ECOSS reflecting same, such changes are not a precondition to appropriate modifications to the P/S analysis or ECOSS. (*See*, Stephens, IIEC Ex. 1.0 at 4 and IIEC Ex. 3.0 at 4). Nor is consideration of such changes a prohibited workshop issue.

For the reasons stated above, and for the reasons stated in IIEC's Initial and Reply Briefs, the Commission should reject ComEd's exception to the Proposed Order's adoption of a functional approach to defining primary and secondary subsystem and costs. (*See*, IIEC Br. at 6-23; IIEC R. Br. at 3-11).

**B. ComEd's Method for Allocating Line Transformer Costs Is Not Appropriate**

ComEd takes exception to the Proposed Order's conclusion that line transformer costs should be allocated as secondary system costs. (ComEd BOE at 12). IIEC addressed these issues in its Initial and Reply Briefs. (IIEC Br. at 8-9, 11-12, 17-18 and 19-20; IIEC R. Br. at 6-7, 8-9, 13-14). Specifically, ComEd states that it disagrees with the Proposed Order's conclusion that the costs of transformation should be allocated as secondary distribution costs. ComEd reasons that "in

essence,” its approach “identifies all customers with demands in excess of 400 kW, which amounts to approximately 6,200 customers, as primary customers.” (ComEd BOE at 12). Thus, ComEd’s definitional approach to the identification of its primary and secondary subsystem is actually one that is based on the size of the customer (*i.e.*, 400 kW) and not the service voltage of the customer. This argument displays the fundamental flaw in ComEd’s P/S analysis, which fails to consider the voltage at which customers take service, and fails to identify the distribution facilities used to provide service to customers at that voltage. Therefore, ComEd’s approach results in the allocation of the cost of such things as single-phase primary circuits and line transformers that are used exclusively to provide service to secondary voltage customers to primary voltage customers and defines as primary customers, customers served at secondary voltage. This is inconsistent with the Commission’s directive to determine the cost of serving customers served at primary and secondary voltages. (Re Commonwealth Edison Company, ICC Dkt. No. 07-0566, Final Order, Sept. 10, 2008 at 213).

Furthermore, IIEC witness Mr. Stowe has demonstrated that certain of ComEd’s largest, non-high voltage customers (*e.g.*, those with peak loads between 400 kW and 10 MW) receive all, or nearly all, of their service requirements via large station transformers, the cost of which is recorded in FERC Account 362 - Station Equipment.(Stowe, IIEC Ex. 4.0 at 22). These facts notwithstanding, ComEd’s method allocates substantial costs associated with line transformers to these customers, and is thereby inconsistent with the Commission’s stated objective of allocating costs where they belong. (Initiating Order, Sept. 10, 2008 at 2).

ComEd reasons that its definitional approach to the allocation of line transformer costs is

reasonable and “readily implemented.” One could argue that simply ignoring the differences in cost between serving customers at primary and secondary voltages would be the most “readily implemented” approach of all, as ComEd has done for years. Yet, the Commission has rejected this in favor of determining cost causation. (*Id.* at 207). The fact that the ComEd approach, which does not accurately determine cost causation for primary and secondary customers, may be readily or easily implemented should not be determinative of the reasonableness of ComEd’s approach. The test should be whether the cost of serving primary voltage customers and the cost of service of serving secondary voltage customers are accurately differentiated. ComEd’s approach does not meet that test.

The Proposed Order has correctly rejected the ComEd approach. That rejection is fully supported by the arguments and cited evidence in IIEC’s Initial Brief and Reply Brief. (IIEC Br. at 6-30; IIEC R. Br. at 3-24). Therefore, ComEd’s exception to the Proposed Order’s conclusion that ComEd’s method of allocating line transformer costs is inappropriate and should be rejected.

ComEd goes on to suggest in the alternative, that should the Commission adopt the Proposed Order’s conclusion rejecting ComEd’s allocation of line transformers, there are portions of the Proposed Order’s conclusion that require clarification. (ComEd BOE at 13). Specifically, ComEd opines that (i) the Proposed Order inadvertently failed “. . . to classify customers that may receive electricity through transformers at or above 4 kV”; (*Id.*), (ii) the Proposed Order failed to classify customers receiving untransformed electricity above 4 kV, but below 69 kV; and (iii) because the Proposed Order concludes that all transformation costs are to be considered secondary distribution system costs, all ComEd customers being provided transformation would be considered secondary

customers.

IIEC notes that ComEd's position appears to be based on a misreading of the Proposed Order. IIEC understands that the ordering paragraphs of the Proposed Order's decision on customer designations are intended to reflect the substantive discussions that precede them in the Proposed Order. In those discussions, primary (secondary) customers are those served at primary (secondary) voltages. In that case, then language tying any determination of whether a customer is primary or secondary to how ComEd provides transformation is not necessary and -- as shown by ComEd's arguments using that language -- a potential source of needless confusion in workshops and going forward.

Similarly, the Proposed Order's language respecting line transformer costs, which are incurred exclusively to step down voltages to secondary levels (less than 4 kV), should be clarified. IIEC recommended a modification of the Proposed Order to refer specifically to line transformers, not all transformers. Acceptance of IIEC's clarifications would eliminate the need to make the alternative modifications recommended by ComEd to address all types of transformers. With IIEC's recommended changes, the Proposed Order's meaning will be clear. Furthermore, station transformers, such as those used in electric substations and in electric service stations ("ESS"), are fundamentally distinct from line transformers. They are not included in the same FERC account as line transformers. (Stowe, IIEC Ex. 4.0 at 22). Allocation of these other transformers was not a disputed issue in this case. However, ComEd's argument incorrectly assumes the Proposed Order was essentially addressing ComEd's allocation of all "transformation costs." This is simply not the case.

ComEd also alleges that because the Proposed Order adopts the functional approach to the allocation of line transformers, ComEd would be required to create a new class of delivery customers. ComEd proposes language to formalize this directive. (ComEd BOE at 13-14). IIEC disagrees with this change. Since line transformers are found in the PO to be part of the secondary system, all customers who receive service at secondary voltage (*i.e.* have their electrical energy transformed via a line transformer to a voltage less than 4 kV before entering the customers' premises) are properly considered secondary customers. This is true not only under a logical view, but becomes true even under ComEd's tortured definitions. No customer served at secondary voltages will "bypass" the secondary system, once line transformers are properly defined as secondary. Thus no new class is needed. All customers served at secondary voltages via a line transformer utilize the secondary system, albeit to varying degrees. As IIEC witnesses explained the existence of a length of secondary distribution circuit, however long or short, and where to locate the associated transformer is simply a matter of economics. (Dauphinais, IIEC Ex. 5.0 at 3). This circumstance does not provide a meaningful basis to distinguish between customers who, for example, have a service drop that runs to the pole on which a line transformer is mounted and one that runs to a spot one foot away, or on the next pole. (Laraze, Nov. 3, Tr. 482-486). These trivial differences in cost do not justify a whole new rate class.

ComEd also suggests, for the first time, that if a functional approach to the allocation of line transformers is adopted, ComEd should be directed to cancel Rider ACT - Allowance for Customer-Owned Transformers. (ComEd BOE at 14). ComEd's suggestion is both novel and wrong. To begin, this is the first time in the entire case that ComEd has suggested that allocation of line

transformers is related to the continued existence of Rider ACT. Introduction of this concept in a Brief on Exceptions comes at a point in time when none of the parties can test the alleged need to eliminate Rider ACT. ComEd tried to eliminate Rider ACT in its last rate case and was unsuccessful in that attempt. (See, Re Commonwealth Edison Company, ICC Dkt. No. 07-0566, Final Order, Sept. 10, 2008 at 228-229). The proper allocation of ComEd line transformers to secondary customers is hardly basis for eliminating a rider that applies to customers with their own transformers on their own premises. (Rider ACT Commonwealth Edison Company, Ill. C.C. No. 10 at Sheet No. 268). In its BOE, ComEd seems to equate Rider ACT with the “approximately 300 customers” who ComEd claims take service at primary voltage. ComEd is misstating its own position. ComEd witness Alongi identified the “approximately 300 customers” as those who take service under Rider PM - Primary Metering, not Rider ACT. (Alongi, ComEd Ex. 6.0 at 21). There is no evidence in the record equating the customers taking service under the two different riders. (Indeed, if they were the same customers, two separate riders likely would not be necessary.)

Lastly, ComEd argues that if the Proposed Order’s conclusion that line transformers should not be allocated to primary customers is adopted, the impact of the P/S cost analysis within the ECOSS would be reduced and there would be no significant reallocation of distribution system costs as compared to ComEd’s ECOSS in the last rate case. (ComEd BOE at 13-15). ComEd recommends addition of language to the Proposed Order that would clarify this point. IIEC does not concede that the 300 estimate accurately represents the universe of primary customers, as IIEC has defined them, *i.e.*, those customers who take electric service at primary voltages. (4kV and above). (IIEC notes that Staff witness Lazare agrees with IIEC’s definition. (Lazare, Nov. 3, Tr.

480-481)). Such customers, whatever their number, do not use the secondary lines, poles, line transformers, etc., and should not be allocated any of the associated costs.

Since ComEd's analysis is based on a faulty and inconsistent definitional approach and since ComEd has only estimated the number of customers it serves at primary voltages, it cannot in its Brief on Exceptions, give any meaningful estimate of what the correct revenue reallocation might be. ComEd cites to no record evidence for its claims that little reallocation would result, as no such evidence exists.

For the reasons stated above, and for the reasons stated in IIEC's Initial and Reply Briefs, ComEd's exception to the Proposed Order's conclusion that line transformer costs should be allocated to secondary customers should be rejected. (IIEC Br. at 11-12, 16-20; IIEC R. Br. at 4-9, 13, 18).

**C. ComEd's Exception to the Development of Voltage-Based Rates Should Be Rejected.**

ComEd objects to the Proposed Order's conclusion that voltage-based rates should be the subject of workshops or further litigation in this proceeding. (ComEd BOE at 15). ComEd argues that the Proposed Order's conclusion is inconsistent with the Initiating Order in this case, unreasonable and impractical. (*Id.*). ComEd is incorrect.

ComEd's specifically argues that the Commission indicated in the Initiating Order that "When considering changes, if any, necessary to ensure that ComEd's rate structure is just and reasonable in this case, it would give appropriate consideration to ComEd's historic rate structures." (ComEd BOE at 15, citing Initiating Order at 3). As IIEC noted above, the fact that "appropriate

consideration” is to be given to historic rate structures does not, in and of itself, prevent consideration and approval of changes to that rate structure. If it did, the Commission’s statement that “. . . we will determine what changes, if any, are necessary to ensure that the rate structure of ComEd, . . . are in fact just and reasonable” would be meaningless. ComEd’s interpretation of the Initiating Order is not a reasonable one.

ComEd does not specifically explain how or why it would be unreasonable or impractical to consider voltage based rates in the context of a workshop. ComEd simply states that it has “No interest in development of a voltage-based rate structure.” (ComEd BOE at 15). The fact that ComEd does not have an interest in developing such a rate structure does not make the subject of voltage-based rates inappropriate for the workshop. ComEd’s lack of interest does, however, illustrate why it is necessary to specifically instruct ComEd and the parties that voltage-based rates should be discussed and considered in the workshop process.

The Proposed Order has correctly concluded that voltage-based rates should be considered in the workshop process. Implementation of such rates could allow the results of a properly conducted P/S analysis and embedded cost study to be more efficiently reflected in ComEd’s rates. (Stephens, IIEC Ex. 1.0 at 4). The Proposed Order recognizes this fact and, therefore, has directed the parties to consider voltage-based rates in the workshop. IIEC agrees that to the extent workshops are conducted, voltage-based rates are an appropriate subject of same. ComEd’s objections notwithstanding consideration of voltage-based rates would be fully consistent with the Commission’s Initiating Order because it would provide the Commission with the information necessary to determine whether ComEd’s rate structure is, in fact, just and reasonable.

## **II. APPROPRIATE RESOLUTION OF THIS CASE**

### **A. Response to ComEd**

Throughout its Brief on Exceptions, ComEd objects to the Proposed Order's conclusion that workshops should be initiated to consider certain issues relating to ComEd's P/S analysis, to voltage-based rates and to other issues. (*See*, ComEd BOE at 3, 4, 7, 10, 12 and 15). ComEd claims that the existing record contains sufficient information for the Commission to resolve the issues in this case. IIEC agrees that there is sufficient record evidence to resolve certain issues in this proceeding. For example, there is sufficient evidence to adopt the use of the functional approach to separating, identifying and allocating the costs of serving primary voltage and secondary voltage customers. The Proposed Order correctly resolves this issue by adopting the functional approach. A workshop that focuses on the mechanics of implementing that approach and correcting other deficiencies in ComEd's P/S analysis that were identified by IIEC (and the Staff), would be appropriate. IIEC believes that is the Proposed Order's intent.

IIEC believes the Proposed Order has correctly made the following substantive findings with regard to ComEd's P/S analysis: (1) Tariff contains a functional definition of primary and secondary facilities; (2) Service voltage determines primary and secondary customer designation, in accordance with ComEd tariff's dividing line voltage. (3) Line transformers (and with IIEC changes, single-phase primary circuits) are properly assigned or allocated on the basis of existing or service (not high-side or energized) voltage; (4) The costs of facilities that can only be used to serve only secondary or primary customers are properly the responsibility of the customers (primary or secondary) the facilities serve; (5) ComEd should investigate the use of techniques identified in the

record or developed cooperatively to refine implementation of these findings/conclusions. IIEC supports these findings.

IIEC submits that the record supports an immediate determination that ComEd must correct the deficiencies in its P/S analysis identified by the Proposed Order, and that ComEd should present a properly revised cost study in its next rate case. If, however, the Commission believes that the workshop process would provide value and assist the Commission in this process, IIEC has no objection to such a process provided that (i) ComEd is directed to make the substantive changes to its P/S analysis consistent with the Proposed Order's findings and (ii) the workshop process focuses on specific issues related to implementation of the Commission's determinations.

ComEd's position on workshops is based on an assumption that ComEd's current P/S analysis will be accepted by the Commission without any change. The Proposed Order explains its rejection of ComEd's current P/S analysis and orders certain corrections of that analysis. ComEd should therefore make those corrections and other revisions as directed by the Proposed Order and present a revised P/S analysis and cost study in the workshop process.

#### **B. Response to Commercial Group**

The CG objects to the Proposed Order's workshop process, arguing that the Commission "should resolve disputed issues and order new rate tariffs be filed consistent with such resolution." (CG BOE at 6). As noted above, the Proposed Order has resolved many of the disputed issues relating to ComEd's P/S analysis on their merits. However, resolution of these issues would require that ComEd perform a new P/S analysis based on a functional approach rather than a definitional approach and incorporate the results into a revised ECOSS in order to establish any new rates.

Therefore, simply resolving the issues surrounding ComEd's P/S analysis in this case will not provide the Commission with the information necessary to set new rates in this proceeding. The danger of precipitous rate changes based on a cost study (even as corrected) that the Commission finds requires workshops for further corrections, should be obvious.

Moreover, the Commission identified major deficiencies in ComEd's ECOSS in Docket 07-0566. (Re: Commonwealth Edison Company, ICC Dkt. No. 07-0566, Final Order, Sept. 10, 2008 at 207-208, 213). The Commission elected to move rates only 25% of the way to cost, as measured by ComEd's flawed ECOSS in that case because of these deficiencies and the desire to mitigate the rate increase to certain customer rate classes. (*Id.* at 213). Therefore, at least a portion of the subsidies complained of by the CG have already been eliminated.

To the extent that ComEd's ECOSS in that case over-allocated distribution system costs to certain customer classes, the Commission's Order may have actually moved rates more than 25% of the way to cost of service, assuming a proper measurement of the cost of serving each class of customer is made. For example, whether one uses ComEd's flawed P/S analysis in this case, or the P/S analysis as modified by IIEC, the ECOSS performed in this case shows a cost of service for Extra Large Load, High Voltage and Railroad Delivery Service classes that is lower than the cost of service shown by ComEd's ECOSS in Docket 07-0566. (Compare ComEd Ex. 1.1A and IIEC Ex. 2.5). Thus, current rates already reflect more than a 25% movement toward costs and there has been a larger movement toward cost than was originally approved by the Commission in Docket 07-0566.

Absent a new cost of service study, and a P/S analysis reflecting the functional approach

approved by the Proposed Order, one cannot know exactly how much more movement toward cost has occurred. This is the case because the ECOSS presented by ComEd in this case does not fully reflect cost of service.

There has already been substantial movement toward cost-based rates and that movement may have been even greater than contemplated by the Commission's Order in Docket 07-0566, and no party other than the CG contemplated rate increases for any class of customers in this particular proceeding. Given that we still do not have an accurate measurement of the cost of service for each customer class, the Commission should not order that rates be increased for any customer class in this proceeding. The determinations made in this case and the refinements developed in workshops can be fully implemented and reflected in the rates filed by ComEd in its next rate case.

The Proposed Order properly concluded that “. . . from all the issues and questions that remain with respect to ComEd's ECOSS, it is apparent that no change in the Company's tariffs should be ordered at this time.” (PO at 83). To the extent the CG suggests otherwise in its exceptions to the Proposed Order, those exceptions should be rejected.

### **CONCLUSION**

For the reasons stated herein, the ComEd and CG exceptions to the Proposed Order addressed by IIEC herein should be rejected.

DATED this 22<sup>nd</sup> day of February, 2010.

Respectfully submitted,

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