

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company,)	
Proposal to establish Rider PORCB)	
(Purchase of Receivables with Consolidated Billing) and)	Docket No. 10-0138
to revise other related tariffs.)	

Rebuttal Testimony of

ROBERT GARCIA

Manager – Regulatory Strategies and Solutions
Commonwealth Edison Company

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1 **I. Introduction and Purpose**

2 **A. Identification of Witness**

3 **Q. Please state your name.**

4 A. Robert Garcia.

5 **Q. Are you the same Robert Garcia who submitted direct testimony in this proceeding?**

6 A. Yes. My direct testimony is ComEd Ex. 1.0.

7 **B. Purpose of Rebuttal Testimony**

8 **Q. What is the purpose of your rebuttal testimony?**

9 A. The purpose of my rebuttal testimony is to respond to the direct testimony of Staff of the
10 Illinois Commerce Commission (“Staff”) witnesses Torsten Clausen, Christy Pound,
11 Theresa Ebrey and Rochelle Phipps (Staff Exs. 1.0, 2.0, 3.0 and 4.0); Illinois Competitive
12 Energy Association (“ICEA”) witness Kevin Wright (ICEA Ex. 1.0); and Dominion
13 Retail Inc. (“Dominion”) witness James L. Crist (Dominion Ex. JC-1.0). In doing so, I
14 will also identify matters that will be addressed by ComEd witnesses John Mittelbrun
15 (ComEd Ex. 4.0) and Martin Fruehe (ComEd Ex. 5.0).

16 **C. Summary of Conclusions**

17 **Q. In summary, what are your conclusions?**

18 A. Commonwealth Edison Company (“ComEd”), in cooperation with the Citizens Utility
19 Board (“CUB”), ICEA and the Retail Energy Supply Association (“RESA”), has
20 developed a reasonable cost recovery mechanism, as reflected in ComEd’s proposed
21 Rider PORCB – Purchase of Receivables with Consolidated Billing (“Rider PORCB”) and
22 proposed revisions to Rider RCA – Retail Customer Assessments (“Rider RCA”).

23 While Staff has proposed several reasonable modifications to the proposed riders, there
24 are also other modifications that ComEd believes are unnecessary and inappropriate,
25 including most notably: (1) replacing the proposed \$0.50 per bill charge for the recovery
26 of PORCB implementation and administration costs with a 0.68% charge; (2) imposing a
27 December 31, 2011 cutoff date on capital investments; and (3) reducing the return on
28 capital investments recovered through the rider. Dominion’s efforts to avoid the
29 allocation of certain costs to Retail Electric Suppliers (“RESs”) are inappropriate and
30 should be rejected.

31 Further, Staff’s proposed rejection of the switching rules set forth in Rate BES –
32 Basic Electric Service (“Rate BES”), Rate BESH – Basic Electric Service Hourly Pricing
33 (“Rate BESH”), Rate RDS – Retail Delivery Service (“Rate RDS”), Rate RESS – Retail
34 Electric Supplier Service (“Rate RESS”), and Rate MSPS – Metering Service Provider
35 Service (“Rate MSPS”), will cause needless delay in the implementation and availability
36 of PORCB service. Staff’s proposal to require utilities to include bill inserts for RESs
37 using Rider PORCB is not in keeping with the Illinois Commerce Commission’s (“ICC”
38 or “Commission”) authority, and is inappropriately priced and unnecessary.

39 **D. Identification of Exhibits**

40 **Q. What exhibits are attached to and incorporated in your rebuttal testimony?**

41 A. I have attached the following exhibits to my rebuttal testimony:

42 ComEd Ex. 3.1: Comparison of Percentage of Receivable Charge vs. Fixed Per Bill
43 Charge (2009 Weather Normalized Usage Data)

44 ComEd Ex. 3.2: Comparison of Percentage of Receivable Charge vs. Fixed Per Bill
45 Charge (2009 Actual Usage Data by Decile)

46 ComEd Ex. 3.3: Actual 2009 Residential Customer Monthly Usage by Decile

47 ComEd Ex. 3.4: Residential Annual Usage By Decile (By Delivery Class)

48 ComEd Ex. 3.5: Proposed Tariff Modifications

49 **Q. Has ComEd prepared a redline version of the tariff revisions proposed by Staff that**
50 **ComEd either accepts or accepts with modifications?**

51 A. Yes. However, at this point, ComEd Exhibit 3.5 only reflects the proposed changes that
52 do not affect the cost recovery mechanism or discount rate. In keeping with the
53 agreements reached with CUB, ICEA and RESA, ComEd must first review its proposed
54 response with these parties before it may present them for consideration in this
55 proceeding, and there was insufficient time to complete that review. Therefore, ComEd
56 will file a corrected ComEd Exhibit 3.5 by July 14, 2010 that will include ComEd's
57 response to specific tariff changes concerning the cost recovery mechanism and discount
58 rate. While the rationale and support provided in my rebuttal testimony reflects ComEd's
59 views, the positions taken reflect the agreement in principle reached among the parties on
60 the proposed revisions concerning the cost recovery mechanism and discount rate.

61 **II. Rider PORCB and Rider RCA**

62 **A. Discount Rate and Cost Recovery**

63 **1. Allocation of Costs to RESs**

64 **Q. Dominion disagrees with ComEd's proposed allocation of "non-POR costs" to**
65 **RESs, opining that such an allocation "raises a classic barrier to market entry" and**
66 **suggesting that "ComEd should use the authority granted it in PA 95-0700, which**
67 **allows the utility to collect these costs via distribution rates." (Dominion Ex. JC-1.0,**
68 **8:173-182.) How do you respond?**

69 A. Because Dominion witness Mr. Crist appears to introduce a legal argument regarding
70 ComEd's authority under the legislation, I will defer to ComEd's legal counsel to address
71 further in briefs, as needed.

72 With respect to Mr. Crist's use of the term "non-POR costs," I assume Mr. Crist is
73 referring to the recovery of costs associated with the provision of consolidated billing.
74 Based on Staff's Office of Retail Market Development ("ORMD") workshop discussions,
75 however, these costs were determined to be a necessary part of, and essential to, the
76 process of purchasing receivables. As a result, these consolidated billing costs are being
77 incurred solely for the purpose of purchasing receivables in compliance with the
78 requirements of Section 16-118(c) of the Public Utilities Act ("Act").

79 Although all costs are being incurred to offer purchase of receivables, as Staff
80 correctly recognized (*see* Staff Ex. 1.0, 4:65-80), it is important to distinguish and
81 separately track costs associated with the provision of consolidated billing for purposes of
82 addressing the appropriate cost recovery when a tariff filing pursuant to Section 16-
83 118(d) is made.

84 Dominion also ignores the way in which it and other RESs will benefit from
85 ComEd's existing infrastructure and investments. Through the proposed \$0.50 per bill
86 charge and cost recovery mechanism, ComEd has not sought to allocate to RESs any
87 portion of the embedded capital investments or operating and maintenance ("O&M")
88 expenses associated with the ComEd billing system itself, even though RESs served
89 under Rider PORCB will be utilizing those core systems (not just the enhancements
90 required to provide PORCB service) just as ComEd does to bill its (or the Illinois Power

91 Agency's) supply customers. Rather, ComEd seeks only the recovery of those
92 incremental costs associated with the provision of PORCB services from RESs utilizing
93 the services.

94 Finally, I note that Dominion is the only party to suggest that such costs should
95 not be borne by RESs served under Rider PORCB and instead should be socialized.

96 **Q. Staff recommends that in light of the fact that some of the system modifications**
97 **made to provide PORCB service may also be utilized to provide stand-alone**
98 **consolidated billing and the purchase of uncollectibles services pursuant to**
99 **subsections (d) and (e) of Section 16-118, respectively, the Commission should**
100 **expressly note in its order in this proceeding that such future tariff filings could**
101 **impact the level of the Consolidated Billing (“CB”) Adjustment and Purchase of**
102 **Receivables (“POR”) Adjustment in Rider RCA. (Staff Ex. 1.0, 4:65-80.) Would**
103 **such an acknowledgement be appropriate?**

104 A. Yes. Staff's interest here seems to be one of ensuring that RESs that use the variety of
105 services required by Public Act 95-0700 are all allocated their fair share of the costs of
106 the modifications required to enable the particular service or services they are using.
107 ComEd shares this interest in appropriate cost allocation. While it would be much easier
108 for ComEd administratively to simply lump all the PORCB costs together, appropriate
109 cost allocation was the purpose of creating the four PORCB cost categories – the
110 Developmental and Implementation Costs (“DICs”) and Administrative and Operations
111 Costs (“AOCs”) associated with POR and the Billing System Modification and
112 Implementation Costs (“BSMICs”) and Billing System Administrative and Operations
113 Costs (“BSAOCs”) associated with CB – in ComEd's proposed Rider PORCB.

114 However, as I will address later, Staff’s proposed tariff revisions blur the
115 distinction between POR- and CB-related costs.

116 **Q. Dominion observes that if all of the PORCB implementation costs are assigned just**
117 **to RESs and their customers, then a small number of customers will be bearing a**
118 **relatively large cost. (Dominion Ex. JC-1.0, 10: 215-217.) How does ComEd**
119 **respond?**

120 A. ComEd, in cooperation with CUB and the RES community, as represented by ICEA and
121 RESA, has taken great steps to develop a cost recovery mechanism and discount rate that
122 allows for the recovery of the startup costs over time in a manner that is reasonable and
123 affordable to RESs. (*See* ICEA Ex. 1.0, 4:1-9.) The recovery timeframe and mechanism
124 recognize that initially RESs may not have many customers for which they will have
125 ComEd purchase receivables. It is only after the RESs utilize Rider PORCB and ComEd
126 purchases receivables for significant numbers of customers that cost recovery
127 responsibility eventually shifts from all of ComEd’s residential customers and other
128 customers with demands that are less than 400 kilowatts (“kW”) to RESs. At that point,
129 the \$0.50 charge will be above cost, allowing the customers with demands under 400 kW
130 to begin being reimbursed. The \$0.50 per bill charge, which does not change as this shift
131 takes place, is a product of the discussions with CUB and the RES community.

132 **2. Discount Rate**

133 **Q. Dominion asserts that a fixed, \$0.50 per bill charge for the recovery of startup and**
134 **administrative costs is inappropriate because it would represent a larger percentage**
135 **of a small customer’s bill and potentially discourage market entry. (Dominion Ex.**
136 **JC-1.0, 11:243-12:252.) How does ComEd respond?**

137 A. Again, I would note that the vast majority of RESs participating in this case, as
138 represented by ICEA and RESA, have found the \$0.50 per bill charge to be reasonable
139 and, presumably, not a barrier to entry. (*See* ICEA Ex. 1.0, 4:1-9.)

140 **Q. Do ComEd’s proposed tariffs require that RESs utilizing Rider PORCB service**
141 **charge their customers this \$0.50 per bill charge directly on the bills that ComEd**
142 **will produce for the RESs?**

143 A. No. The \$0.50 per bill charge is only a discount to the amounts paid to RESs using
144 PORCB service. Each RES may package this cost, along with its own administrative
145 costs for account management and the like, in their pricing structures as they see fit.

146 **Q. How do you respond to Staff’s proposal to recover startup and administrative costs**
147 **through a 0.68% charge based on the receivables purchased? (Staff Ex. 1.0, 9:176-**
148 **15:323.)**

149 A. In essence, “Staff is concerned that, under ComEd’s fixed [\$0.50] per bill charge
150 proposal, the effective discount rate has the potential to be too high for some portion of
151 customers and to be too low for other portions of customers.” (*Id.*, 11:225-228.)
152 Having worked with both CUB and RESs, as represented by ICEA and RESA, and by
153 applying traditional ratemaking principles to the extent possible, ComEd believes that the
154 \$0.50 charge strikes the right balance. Indeed, Staff’s concerns reflect the tension that
155 ComEd faced in attempting to set the rate for what is essentially a competitive service
156 within the confines of the traditional regulatory paradigm. ComEd believes it has
157 resolved this tension, as reflected in the agreements it has reached with key parties.

158 **Q. Are there any specific issues or problems that you see with the use of a 0.68%**
159 **charge as opposed to a fixed charge?**

160 A. Yes. Putting aside questions I have regarding the appropriateness of using the same
161 0.68% charge approved for the Ameren Illinois Utilities (“AIU”), which is a separate
162 matter altogether, there are fundamental policy concerns that I have regarding Staff’s
163 proposal and approach to PORCB service pricing. While Staff appears to share ComEd’s
164 objective of encouraging PORCB usage in order to promote recovery of PORCB costs
165 from those using PORCB (*see* Staff Ex. 1.0, 9:181-183) and ComEd certainly appreciates
166 Staff’s desire to see alternative supply options made available to low use customers,
167 particularly residential customers (Staff Ex. 1.0, 10:197-199), there is clearly a difference
168 of opinion as to the role a percentage charge should or will play in accomplishing either
169 of these objectives, which is summarized as follows:

170 **1. Setting the Charge to Attempt to Address Potential Market Failures in**
171 **Certain Sectors of the Mass Market Before Any Such Failures Occur Is**
172 **Premature:** ComEd has no reason to believe that RESs will not seek to serve
173 low use customers, and Staff’s claims to that effect are unsupported. If, however,
174 such failures do begin to appear, attention should then be focused on the root
175 causes, which may or may not relate to ComEd’s Rider PORCB service. In fact,
176 the agreement reached with ICEA and RESA embodies such an approach, as it
177 contains formal plans to check in on how PORCB service is working and discuss
178 potential corrective actions. (*See* ComEd Ex. 1.3.) Further, as evidenced by
179 ComEd’s non-residential switching statistics, it should be recognized that the
180 Northern Illinois retail market participants have followed a pattern of seeking out
181 high use customers first and progressing to low use customers. Whether this will
182 continue in the presence of PORCB service, which is regarded by many as the
183 missing piece required to make mass market competition feasible, remains to be
184 seen.

185 **2. Using a Percentage Charge Is Inconsistent with the Use of a Fixed Charge for**
186 **the Recovery of Similar Costs through Distribution Rates:** In setting
187 distribution rates, the costs of billing and payment processing are recovered
188 through the fixed, monthly customer charge applied on a dollars per month basis.
189 Moreover, these distribution service costs are also allocated to delivery classes
190 based on the number of customers in the embedded cost of service studies filed

191 with the distribution rate cases. Additionally, the costs to provide such services
192 do not vary with the amounts billed for ComEd energy supply or distribution
193 service. Similarly, under Rider PORCB, ComEd will also provide billing and
194 payment processing services for RESs. ComEd's cost to provide these services
195 also do not vary from month to month or year to year as the receivables purchased
196 for supply will vary, primarily as the result of changes in the market price of
197 electric energy and capacity. That is, the PORCB startup and administration costs
198 are largely fixed or sunk. This, again, makes a per customer charge the most
199 appropriate means of recovering such costs under traditional ratemaking practices.
200 On the other hand, to apply a percentage based charge for the recovery of PORCB
201 startup and administrative costs would strike me as being unduly discriminatory,
202 as it effectively would result in applying different charges for each RES customer
203 every month for the exact same service based on a factor completely unrelated to
204 the underlying cost of such service.

205 3. **A Percentage Charge May Create Inappropriate Intra-Class Subsidies:**
206 RESs that may not be interested in serving low use customers (*e.g.*, residential)
207 will be penalized by a percentage charge and pay more for the exact same service.
208 However, as I discuss later, it is unclear whether RESs actually would use
209 PORCB to serve their existing or future high use, mass market customers.
210 Nevertheless, the fixed per bill charge avoids potential intra-class subsidies.

211 4. **A Percentage Charge Is Inconsistent with the Credit Paid under Rider SBO –**
212 **Single Billing Option (Ill. C.C. No 10, Original Sheet No. 365 *et seq.*) (“Rider**
213 **SBO”):** Under Rider SBO, RESs seeking to consolidate the energy-related bills
214 for their customers see a \$0.54 per bill monthly credit for the billing of ComEd's
215 distribution and related charges. Thus, under Staff's proposal, ComEd would be
216 paid by RESs for PORCB service based on a percentage of the receivables
217 purchased, but pay RESs for essentially the same service a fixed monthly amount.
218 Further, with respect to larger, non-residential customers, namely those with
219 demands between zero and 400 kW, a percentage charge distorts the economics of
220 the decision to continue using SBO (or other billing and bad debt management
221 options) or to switch to PORCB, as discussed further below.

222 5. **Staff's Proposal Is Not More Likely to Promote the Use of PORCB for Non-**
223 **Residential Customers or Cost Recovery from RESs:** Staff's proposal is
224 predicated on the assumption that if a fixed per bill charge discourages RESs from
225 acquiring low use customers, the resulting revenue from PORCB charges assessed
226 to RESs will be lower. (Staff Ex. 1.0, 10:213-217.) Conversely, Staff believes
227 that a fixed charge would cause ComEd to forgo increased cost recovery from
228 RESs serving high use customers. (*Id.*, 10:217-11:219.) The fault in this logic,
229 however, is the implicit assumption that RESs would use PORCB to serve high
230 use customers under a percentage charge. ComEd does not believe that this is a
231 reasonable assumption, particularly as it concerns the non-residential portion of
232 the mass market, where there are clearly alternatives to taking PORCB service
233 from ComEd. In fact, a percentage-based charge potentially could discourage the
234 use of PORCB for larger, non-residential customers – specifically, those

235 customers in the Small and Medium Load Delivery Classes, which have demands
236 of 0 to 100 kW and 100 to 400 kW, respectively – where competition has already
237 taken root. Staff’s proposal would distort the economics of PORCB service in
238 favor of RESs continuing to use the billing and bad debt management practices
239 that they use today to serve any new non-residential customers, calling such
240 potential revenue streams from the non-residential segment into question. As
241 shown in ComEd Exhibits 3.1 and 3.2, RESs would pay hundreds of dollars more
242 per year to serve these customers under a percentage charge versus a \$0.50 per
243 bill charge. Indeed, if cost recovery and PORCB usage are Staff’s goal, then at
244 this point in the development of mass market competition, the better bet now is
245 seemingly on the use of PORCB to serve some portion of the nearly 260,000
246 customers in the Small¹ and Medium Load Delivery Classes – roughly 19% of
247 which already have switched from ComEd fixed-price supply as of May 2010.
248 Although it is unclear whether RESs, having already sunk costs into credit checks
249 and billing processes for the customers they currently serve, would switch all of
250 their existing non-residential customers to PORCB service, at \$0.50 per bill, the
251 use of PORCB to serve this corner of the mass market alone could cover over half
252 of the annualized cost of the program.²

253 6. **The Assertion that a Fixed, \$0.50 Per Bill Charge Will Discourage RESs**
254 **from Signing Up Low Use Customers Because Such a Charge Would**
255 **Represent a Proportionately Larger Portion of the Supply Service Billed to**
256 **Such Customers Is Speculative, at Best:** Staff apparently envisions that, like a
257 fisherman, a RES will throw the little fish (so to speak) back in the water. This
258 does not appear to be the case thus far, as RESs are enrolling low-use, non-
259 residential customers. Reviewing ComEd’s monthly switching report to the
260 Commission for May 2010³ reveals that while RESs have made small inroads into
261 serving the non-residential, Watt-hour Delivery Class relative to other classes and
262 tend to serve the customers in that class that generally use more energy monthly,
263 553 kilowatt-hours (“kWh”) on average than the class average (417 kWh) for that
264 month, these customers still used less than residential customers did on average
265 for that month (600 kWh). Further, while Staff has made much of the fact that a
266 fixed \$0.50 per bill charge has a proportionally higher impact on the cost to serve
267 low use customers, these differences are not significant in dollars and cents.
268 Using the Watt-hour Delivery Class as an indication of how small a customer
269 RESs have sought to serve in Northern Illinois and Staff’s assumed supply price
270 of 9 cents per kWh⁴, the difference between ComEd’s proposed \$0.50 per bill

¹ ComEd fixed-price supply service to customers with demands over 100 kW has been declared competitive by the Commission. (Docket No. 07-0478, Order (October 11, 2007).)

² Assuming all 259,269 customers in the small and medium delivery service classes switch to RES supply under PORCB, the resulting annual revenue would be \$1.6 million (259,269 * 12 * \$0.50).

³ ComEd’s switching reports are available on the Commission’s website at: <http://www.icc.illinois.gov/electricity/switchingstatistics.aspx>

⁴ For the sake of simplicity of the illustrations and to avoid competing supply charge estimates, I accept Staff’s 9.0 cent per kWh price as a proxy for supply and transmission prices. However, I would also note that while at this point in time, a supply and transmission price of 9.0 cents per kWh may seem a little high, it is not

271 charge and Staff's .68% charge amounts to only 16 cents per month (*i.e.*, 0.68% *
272 553 kWh * 9 cents per kWh = 34 cents). To further put this into perspective, it
273 should be noted that in 2009, which was a cooler than normal year, roughly 50%
274 of ComEd's residential customers used more energy than 553 kWhs per month on
275 average, as shown in ComEd Exhibit 3.3.

276 **7. Staff's Proposal May Have the Unintended Effect of Further Stalling**
277 **Development of Certain Segments of the Residential Market:** Similar to its
278 impact on serving non-residential, Small and Medium Load Delivery Classes,
279 Staff's percentage charge proposal makes it more expensive for RESs to serve
280 high use residential customers using PORCB, particularly those using electric
281 space heating. The top 20% of residential customers use energy in excess of
282 1,000 kWh per month, many of whom use electricity for space heating. As shown
283 in ComEd Exhibits 3.1 and 3.4, roughly 190,000 single-family and multi-family
284 residential customers with electric space heat use, on average, more than twice the
285 amount of electric energy than their counterparts without electric space heating.
286 In light of their high usage and, in turn, high supply bills, these customers would
287 naturally have the greatest incentive to seek out alternative providers in light of
288 the potential dollar savings they might receive. But, by burdening RESs with
289 needlessly higher PORCB charges to serve customers with high use, Staff's
290 proposal in this case only exacerbates potential barriers that still exist today with
291 respect to residential customers with electric space heat. Specifically, in Docket
292 Nos. 07-0528/07-0531 (cons.), a Staff proposal was adopted that halted the
293 movement of ComEd supply charges for customers with electric space heat
294 toward fully cost-based rates and locked in an inter- and intra-class supply charge
295 subsidy for electric space heating customers, which is worth nearly 3 cents per
296 kWh and \$72.5 million annually in total. (Docket Nos. 07-0528/07-0531 (cons.),
297 Order at 91 (December 19, 2007).) Thus, in my opinion, the Commission should
298 focus first on eliminating the barriers to RES acquisition of the high use
299 customers that would stand to gain the most from retail competition in the long
300 run – not erect additional barriers to competition for these customers through a
301 well-meaning but unjustified PORCB cost recovery scheme.

302 **8. By Approving ComEd's Proposed \$0.50 Per Bill Charge, the Commission**
303 **Has the Opportunity to Examine the Differences, If Any, Between the Impact**
304 **of ComEd's and AIU's Discount Rate Structures:** To my knowledge, as of the
305 time when my rebuttal testimony was prepared, PORCB service incorporating the
306 same 0.68% charge that Staff proposes in this case has been available for nearly
307 eight months in the AIU service territories, and not a single mass market
308 customer, big or small, has been billed. Thus, the AIU discount rate structure can
309 hardly be held up as an Illinois success story worthy of emulation – at least not
310 yet. Thus, to the extent the Commission has any lingering reservations regarding
311 the impact of ComEd's discount rate structure on mass market development,

inconceivable that market prices reach such levels in the not too distant future. In fact, today ComEd's residential customers pay an average of 8.17 cents per kWh for energy supply procured by the Illinois Power Agency and transmission.

312 which is based on classic rate design principles, approving the more appropriate
313 fee structure will give the Commission the opportunity to examine what
314 differences, if any, there may be in PORCB usage and customer switching levels.

315 **Q. Previously, you mentioned that ComEd Exhibits 3.1 and 3.2 demonstrate the**
316 **economic distortions of Staff's proposal. Would you expound upon the calculations**
317 **reflected in ComEd Exhibits 3.1 and 3.2 and the graphical illustrations in ComEd**
318 **Exhibits 3.3 and 3.4?**

319 A. Certainly. In essence, what these exhibits show is that a percentage charge makes
320 PORCB service less expensive for RESs to serve those mass market customers that are
321 seemingly the least likely to switch to alternative supply, while making PORCB service
322 more expensive to serve customers that are more likely to take alternative supply or that
323 have already switched suppliers.

324 ComEd Exhibit 3.1 employs weather normalized 2009 usage data derived from
325 ComEd's recent rate case filing to compare the rate impacts that a percentage charge
326 versus a fixed charge would have on mass market customers by delivery service class.
327 As the exhibit shows, of the 3.4 million residential customers, the 2.2 million residential
328 customers that fall under single family without electric space heat class (or 65% of all
329 residential customers) use 796 kWh per month on average, which at an assumed supply
330 and transmission price of 9.0 cents per kWh, puts them just slightly below the breakeven
331 point that Staff identified. (See Staff Ex. 1.0, 12:253-14:293.) That is, a supply bill
332 based on the average usage for these customers is just under \$73.50 per month, making
333 the \$0.50 per bill charge just over a penny a month more expensive for RESs than the
334 0.68% charge. Moreover, the multi-family customers without electric space heating,
335 which represent 30% of all residential customers, are among the lowest users with an

336 average of 367 kWh per month. The same would be true of the nearly 100,000 customers
337 in the non-residential, watt-hour delivery class, which average 468 kWh per month –
338 although, as previously noted, there has been a small amount of switching in this class.
339 Thus, to put a slightly finer edge to Staff’s point, these are generally the classes of
340 customers to which Staff is referring. However, for the roughly 190,000 residential
341 customers using electric space heating (both multi-family and single-family) and the
342 255,000 non-residential customers in the Small and Medium Load Delivery Classes,
343 which use energy at levels far in excess of Staff’s breakeven point, the cost to RESs of a
344 percentage charge would increase considerably.

345 In the interest of providing the Commission a full record (and because I do not
346 like to draw too many conclusions from class averages), ComEd Exhibits 3.2, 3.3 and 3.4
347 drill a little more deeply into the usage of the residential classes by employing data that
348 illustrates the distribution of customer usage in deciles based on annual usage. This data
349 is actual 2009 usage data that, unlike weather normalized usage data, is slightly skewed
350 by the effects of the cool summer that year.

351 As ComEd Exhibit 3.2 shows, on a per customer basis, RESs would be unduly
352 over-charged approximately \$2.74 more per year on average to serve the top 30% of all
353 residential customers and under-charged approximately \$4.42 per year to serve customers
354 in the bottom 30% of all residential users under the percentage. With respect to those
355 customers with usage that places them somewhere in the four middle deciles, a
356 percentage charge will bring a more modest reduction of approximately \$2.10 per year
357 per customer on average – or 18 cents per bill. A reduction of approximately \$4.22 per
358 year for the lowest 30% of customers might seem meaningful; however, when

359 considering just how low the usage is for these customers (roughly 215 kWh per month),
360 any perceived benefits of a percentage charge for the provision of PORCB service would
361 likely be lost. To put this level of usage into perspective, a seventeen cubic foot
362 refrigerator running 10 hours a day draws about 150 kWh per month, while a relatively
363 small 25” television running 4 hours a day draws an additional 20 kWh per month. Thus,
364 these usage patterns are commensurate with largely vacant premises. Marketing electric
365 supply to customers with usage this low would seem tantamount to trying to sell gasoline
366 to someone who does not own a car. Overall, the data shows that on a per customer
367 basis, RESs would incur higher costs to serve the top 30% of residential customers than
368 they would save by serving the 40% of customers with usage in the middle of the pack.

369 ComEd Exhibits 3.3 and 3.4 graphically illustrate the differences in average
370 residential customer usage by decile and the composition of the residential customers that
371 fall into each decile by class. These illustrations generally corroborate the conclusions
372 reached in ComEd Exhibit 3.1 regarding which residential classes are high and low users.

373 **Q. Dominion proposes that late payment charges collected by ComEd from customers**
374 **enrolled in PORCB “should be applied against the uncollected revenue balances to**
375 **reduce the uncollectible percentage.” (Dominion Ex. JC-1.0, 14:303-305.) Would**
376 **such an adjustment be appropriate?**

377 A. No. The purpose of late fees is to incent customers to pay their bills on time. Under
378 Rider PORCB, RESs will not be exposed to any delays in customer payments or incur
379 any carrying costs by virtue of ComEd’s purchase of the RESs’ receivables. RESs are
380 paid timely, per customer, regardless of customer payment activity. Only ComEd will be
381 exposed to such delays and activity. Therefore, to credit the payment of any late fees

382 billed to and paid by customers enrolled in Rider PORCB against the percentage charge
383 in the discount rate assessed to RESs for the recovery of uncollectible costs would be
384 inappropriate. In essence, Dominion seeks to share late fee payments for a risk it never
385 assumes under Rider PORCB. Similarly, Dominion ignores the fact that before a debt is
386 written off, there are also late fees applied that go unpaid. Dominion does not seek to
387 reflect any unpaid late fees in the bad debt portion of the discount rate.

388 **Q. Staff proposes that the Commission expressly reserve the right to leave the discount**
389 **rate above the level that would be needed to recover ComEd’s uncollectibles and**
390 **ongoing administrative expenses beyond the end of the amortization period for**
391 **capital investments. (Staff Ex. 1.0, 19:423-22:478.) Is such a declaration necessary?**

392 A. No, not really. This is already reflected in, and a feature of, ComEd’s cost recovery
393 proposal. The \$0.50 cent per bill charge portion of the discount rate does not decrease
394 until customers with demands under 400 kW are repaid for the costs incurred to provide
395 PORCB service, as recovered through the POR and CB Adjustments in Rider RCA.
396 Further, as reflected on Original Sheet No. 399 of proposed Rider PORCB (ComEd Ex.
397 1.1), the proposed tariff only calls for any excess recoveries, beyond those required to
398 reimburse customers with demands under 400 kW, to be applied as an offset to the \$0.50
399 per bill charge. ComEd does not, at this time, propose what the new charge for the
400 recovery of solely the ongoing administrative expenses or net uncollectible expenses
401 should be and has not prescribed any formulas or methodologies for the calculation of
402 such charge in its proposed tariffs. Therefore, once the revenues received through the
403 \$0.50 per bill charge bring RESs current with the cost incurred to provide PORCB
404 service, a tariff filing will be required to set a different charge or formula for the

405 calculation of such charge. Indeed, ComEd cannot unilaterally change the \$0.50 per bill
406 charge without seeking revisions to Rider PORCB.

407 For some reason, however, Staff appears to have identified this matter as an
408 inappropriate inconsistency with the tariffs approved for Ameren. Putting aside the fact
409 that based on Staff's description, there does not appear to be any inconsistency on this
410 matter, it should be noted that what was approved for Ameren, based on the record in that
411 proceeding, is of little relevance to the instant proceeding, especially when considering
412 the fact that no party (not even Staff) is proposing identical cost recovery mechanisms be
413 employed for ComEd. (*See, e.g., id.*, 24:518-536.). Therefore, it is unclear how
414 "adopting ComEd's proposal would effectively prejudge an issue the Commission will be
415 deciding at the end of the AIU's five-year cost recovery period," as Staff claims. (*Id.*,
416 21:470-472.)

417 3. Scope of Rider Recoverable Costs

418 **Q. Staff proposes to limit rider recovery of capital investments to those capital**
419 **investments incurred after the enactment of Section 16-118(c), but before January 1,**
420 **2012, opining that "[c]osts incurred to modify the system after December 31, 2011**
421 **would ... not be for the 'development,' 'modification' or 'implementation' of the**
422 **program but would be further enhancements that may be required for reasons**
423 **unrelated to the initiation of the PORCB program." (Staff Ex. 3.0, 5:112-121.) How**
424 **does ComEd respond?**

425 **A.** ComEd does not oppose limiting rider recovery of capital expenses to those incurred after
426 November 9, 2007, as this modification is consistent with ComEd's proposal. ComEd
427 accepts this clarification, as proposed by Staff, with modification. Rather than the

428 cumbersome reference to the enactment of legislation (*see* Staff Ex. 2.0, App. A), ComEd
429 proposes to simply set a date certain (*i.e.*, November 9, 2007), as the Commission has
430 approved in other tariffs.

431 ComEd, however, opposes limiting rider recovery of capital expenses to those
432 incurred on or before December 31, 2011. While such a recommendation may be
433 consistent with the AIU utility tariffs (*id.*, 5:123-124), it plainly ignores the facts of this
434 case and ComEd’s circumstances. Contrary to Staff’s assertions, and as described by Mr.
435 Mittelbrun, there are potential future capital investments that would constitute
436 development, modification or implementation of PORCB.

437 For example, as discussed extensively during the ORMD Workshop process,
438 ComEd is initially pursuing a form of PORCB service known as “bill ready” (where the
439 utility sends customer usage data to the RESs each month and the RESs respond with the
440 computation of the applicable charges for ComEd to present on customers’ bills) because
441 this form of PORCB service can be implemented before the alternative form of PORCB
442 service, “rate ready” (where in essence ComEd would calculate and bill customers under
443 a predetermined schedule of RES charges, just as it would for its own tariffed rates).
444 Based on ORMD Workshop discussions, it is ComEd’s understanding that Ameren is
445 offering both “bill ready” and “rate ready” PORCB. Thus, this cutoff date comports with
446 Ameren’s deployment schedule. In ComEd’s case, however, it does not, as ComEd has
447 no current plans to pursue “rate ready” before December 31, 2011. As a result, Staff’s
448 proposal will lead to unnecessary delay in the implementation of future PORCB service
449 offerings, such as “rate ready,” as it will require cost recovery questions to be revisited
450 and potentially re-litigated before such offerings are made available. It also would

451 unnecessarily disturb provisions of the agreement reached with the RES community that
452 are aimed at making sure PORCB is used. ICEA, RESA and ComEd have made plans to
453 revisit PORCB service, through the ORMD Workshop process, in December 2011 to
454 determine what changes, if any, are needed. Adoption of Staff's proposal would delay
455 the implementation of changes requiring further capital investment that parties may agree
456 are needed to enhance usage of PORCB and, in turn, mass market development.

457 Lastly, from a rate design perspective, it would seem that adoption of Staff's
458 proposal and interpretation also will result in an inappropriate allocation of costs. If these
459 costs are not recoverable from RESs using PORCB, then they would presumably be
460 recovered from all distribution service customers, regardless of whether they receive their
461 energy from ComEd or RESs employing Rider SBO or other billing options. Such costs
462 should be allocated to RESs through the proposed Rider PORCB-Rider RCA mechanism.

463 **Q. Does ComEd propose a "10-year cost recovery period," as Staff suggests? (See Staff**
464 **Ex. 1.0, 19:412-422.)**

465 A. No. ComEd does not propose a 10-year cost recovery period. ComEd proposes a 10-
466 year amortization period for the recovery of capital investments. Staff's testimony
467 oversimplifies the concept. Presumably, it has done so in light of Staff's proposal to limit
468 rider recovery of capital expenses to those incurred on or before December 31, 2011. If
469 Staff's proposed limitation is adopted, then the effect essentially would be to set a 10-
470 year cost recovery period. However, as I noted above, ComEd opposes Staff's proposal.

471 **Q. What is the difference?**

472 A. Under ComEd's proposal, if a capital investment is required two or three years from now,
473 the clock on the 10-year amortization period would not start until the investment is made.
474 Thus, some capital cost recovery (from either customers with demands under 400 kW or
475 RESs) would continue until 12 or 13 years from now, as such costs are incurred.

476 **Q. Staff recommends that Rider RCA be revised to include a final reconciliation**
477 **proceeding at the end of the 10-year cost recovery period, calling upon ComEd to**
478 **provide tariff language changes to effectuate this process. (Staff Ex. 1.0, 22:479-**
479 **494.) How does ComEd respond?**

480 A. As indicated previously, ComEd opposes Staff's proposal to limit rider recovery to
481 capital costs incurred on or before December 31, 2011, which is seemingly the predicate
482 for this proposal. Nevertheless, in response to Staff's request, ComEd would suggest that
483 a 10-year reconciliation process could be effectuated through a simple adjustment to the
484 POR Application Period definition (ComEd Ex. 1.3 at Sheet No. 393.) As indicated in
485 my direct testimony, the initial POR Application Period is a three-year period, while all
486 subsequent POR Application Periods are two-year periods. Therefore, simply adjusting
487 the duration of these periods such that they sum to ten years would accomplish Staff's
488 objective (*e.g.*, 4 years + 2 years + 2 years + 2 years = 10 years; 3 years + 3 years + 2
489 years + 2 years; *etc.*).

490 However, as Staff correctly recognizes (*id.*, 22:488-491), the POR Adjustment, as
491 proposed, operates on a lagged basis, leaving the sum of the annualized expenditures of
492 the POR Application Period to be recovered from RESs initially through the proposed
493 \$0.50 per bill charge portion of the discount rate. Any unrecovered amounts are then

494 reflected in and recovered through the POR Adjustment applied to all customers with
495 demands under 400 kW. While its proposal with respect to the POR Adjustment is
496 unclear, to the extent that Staff seeks to conclude capital cost recovery through the POR
497 Adjustment within a 10-year timeframe by applying the POR Adjustment sooner, ComEd
498 submits that such a proposal should be rejected. Staff's proposal, if adopted, would
499 effectively require more costs to be imposed on all customers with demands under
500 400kW much sooner than may be necessary, without giving RESs a chance to cover at
501 least some of these costs through the discount rate. Moreover, Staff's proposal is largely
502 form over function because it ignores the fact that the recovery of administrative O&M
503 expenses and net uncollectibles will continue indefinitely and, therefore, require
504 reconciliations to continue indefinitely after the recovery of capital investments.

505 Overall, while ComEd can appreciate Staff's desire to be able to tie up recovery
506 of all outstanding capital investments through a 10-year reconciliation proceeding, doing
507 so will require fundamental and unnecessary changes to the operation of the proposed
508 cost recovery mechanism, which CUB, ICEA and RESA have worked hard to develop.

509 **Q. Staff calls for more specific tariff language regarding the scope of costs recoverable**
510 **through the Rider PORCB and Rider RCA cost recovery mechanism and offers**
511 **proposed revisions to the tariff language. (Staff Ex. 3.0, 4:76-6:137.) Can ComEd**
512 **accommodate this request or accept Staff's proposed revisions?**

513 A. Yes, but with three modifications: First, Staff's proposed revisions include the December
514 31, 2011 cutoff date for the incurrence of capital costs that would be recoverable through
515 the rider mechanism. ComEd objects to Staff's proposed December 31, 2011 cutoff date,
516 as previously noted.

517 Second, Staff’s proposed language authorizes the recovery “of costs for obtaining
518 Commission approvals” (*id.*, 4:105), which ComEd construes to include litigation costs
519 associated with this proceeding. ComEd did not seek rider recovery of such costs per its
520 agreement with CUB, ICEA and RESA – although that agreement was predicated on the
521 assumption that the scope of rider recoverable costs would not have to be revisited by the
522 Commission, which (again) Staff’s proposed December 31, 2011 cutoff date now calls
523 into question.

524 Third, as addressed below, ComEd objects to Staff’s proposed reduction of the
525 return on capital investments recovered through the riders.

526 As a final matter, while Staff proposed to include a definition of “net uncollectible
527 costs,” it appears to have omitted such costs from its proposed definitions identifying the
528 scope of rider recoverable costs. ComEd construes this omission as a mere oversight and
529 not an indication of an intent to deny rider recovery of such costs, as no rationale for
530 denying such recovery was offered.

531 **Q. Staff objects to ComEd’s proposal to set the POR and CB Adjustments to zero (0)**
532 **for the first three monthly billing periods of any POR Application Period and offers**
533 **associated tariff modifications. (Staff Ex. 3.0, 6:138-7:161.) Staff also proposes to**
534 **extend the deadline for informational filings from the twentieth day of the month**
535 **preceding the monthly billing period when a POR or CB Adjustment will be applied**
536 **to customer bills to 30 days prior to such monthly billing period. In addition, Staff**
537 **proposes tariff language authorizing adjustments to the POR and CB Adjustments**

538 **during a POR Application Period. (*Id.*, 12:285-14:355.) How does ComEd**
539 **respond?**

540 A. ComEd has no objection to including the ability to adjust the POR or CB Adjustments in
541 the middle of a POR Application Period. On Staff’s other proposals, ComEd offers the
542 following observations for Staff’s consideration:

543 The assertion that “[s]etting the adjustment rates to zero does not provide any
544 benefits to either ratepayers or the Company” (*id.*, 7:156-158) is unfounded. As ComEd
545 has gained experience with the management of tracking rider tariffs that utilize formulas
546 to determine charges and credits, it has determined that the use of adjustments that are set
547 to zero for specified periods of time allow for more accuracy in reconciling costs and
548 revenues for the applicable periods (which in most cases are one-year periods, but here
549 are proposed three- and two-year periods). Improved accuracy is a benefit to all parties.
550 Furthermore, two of ComEd’s newest tariffs, Rider AMP – Advanced Metering Program
551 Adjustment (“Rider AMP”) and Rider UF – Uncollectible Factors (“Rider UF”), utilize
552 adjustments that are set to zero for specified periods of time. The formulas in these
553 tariffs were reviewed by Staff and approved by the Commission in docketed proceedings.
554 (Docket No. 09-0263 and Docket No. 09-0433.)

555 Further, other cost tracking rider mechanisms require the use of forecasts to
556 complete the computations required under the tariffs to set the new charges because the
557 informational filings to set such new charges are due by the twentieth calendar day of the
558 final month of the applicable period. As a result, ComEd has a routine with some riders
559 of making mid-period adjustments to reflect the final actual costs and revenues for the
560 reconciliation period. Staff’s proposal to require the informational filing 30 days in

561 advance of the monthly billing period when CB and POR Adjustments are applied would
562 only exacerbate the situation, requiring up to two months of revenues and costs to be
563 forecasted. Thus, given that Staff finds no benefit in multiple adjustments to a rate
564 during a period, it should be noted that this proposal would not be a solution to that
565 concern.

566 Aside from the procedural benefits, the three-month period also affords time for
567 ComEd to consider whether a CB Adjustment charge should be applied to customers with
568 demands under 400 kW during an Application Period and how much of its costs needs to
569 be recovered through such charge during the upcoming POR Application Period. Rider
570 RCA, as proposed, provides ComEd with some discretion regarding the amounts to be
571 recovered from customers with demands under 400 kW through the CB Adjustment,
572 specifically allowing ComEd to recover certain capital investments and O&M expenses
573 “to the extent that [they] are not expected to be recovered” through the discount rate
574 during the POR Application Period. Such a situation could arise if RES usage of PORCB
575 service has reached and sustained levels high enough to cover some or all of the costs to
576 be recovered through the CB Adjustment during the next Application Period. The
577 additional three months would afford ComEd time to consult with Staff, just as it does on
578 other informational filings of import, and other key parties to determine what level of
579 recovery from all customers with demands under 400 kW is needed during the next POR
580 Application Period. Again, the objective of ComEd’s proposal is to recover PORCB
581 costs from RESs and to rely on recovery from under 400 kW customers as a contingency.
582 Further, reducing the amounts recovered from all customers with demands under 400kW
583 will expedite the repayment process, allowing the \$0.50 charge to be revisited sooner.

584 Lastly, Staff’s proposal to extend the time for informational filings to 30 days
585 prior to the monthly period when POR and CB Adjustments will be applied to customers
586 bills, coupled with the facts that the initial POR Application Period is set to begin January
587 2011 and the deadline for a Commission order in this proceeding is in December, 2010,
588 make applying the CB Adjustment during the January 2011 monthly billing period
589 impossible and the February monthly billing period unlikely. Thus, at best, with these
590 constraints, a two month lag will be required for at least the initial POR Application
591 Period.

592 **B. Calculation of Costs**

593 **Q. Staff proposes to reduce the return afforded capital investments recovered through**
594 **Rider PORCB and Rider RCA to one of two rates, depending on whether or not the**
595 **Commission accepts or rejects Staff’s proposed tariff language requiring a prudence**
596 **review as part of the reconciliation proceeding. (Staff Ex. 4.0, 6:104-115.) How does**
597 **ComEd respond to Staff’s proposal?**

598 A. ComEd witness Martin Fruehe (ComEd Ex. 5.0) addresses Staff’s proposed reductions.

599 **C. Commission Review and Reconciliation**

600 **Q. Staff proposes revisions to Rider PORCB concerning the audit and reporting**
601 **requirements and reconciliation process, including express acknowledgement that**
602 **the Commission will “allow only prudently incurred costs to be recovered.” (Staff**
603 **Ex. 3.0, 10:217-11:284.) Does ComEd accept these proposed revisions?**

604 A. Yes.

605 **III. Rate BES, Rate BESH, Rate RDS, Rate RES and Rate MSPS**

606 **Q. With respect to ComEd’s proposed revisions to the switching rules for residential**
607 **and non-residential customers less than 100 kW contained in Rate BES, Rate BESH,**
608 **Rate RDS, Rate RESS and Rate MSPS that would establish a rescission process for**
609 **customers and extend from seven to eighteen days the minimum amount of time**
610 **required for the submission of a direct access service request (“DASR”) to switch a**
611 **mass market customer, Staff recommends that ComEd’s proposed tariff revisions**
612 **be rejected at this time.” (ICC Staff Ex. 1.0, 26:564-565.) Does ComEd accept**
613 **Staff’s proposal?**

614 A. No. ComEd opposes Staff’s recommendation for several reasons.
615

616 First, the only basis of support that Staff offers for its proposed rejection of
617 ComEd’s proposed rule is the notion that these matters will be addressed in the new Part
618 412 rulemaking proceeding (Docket No. 09-0592). However, ComEd’s proposed
619 changes have been vetted over a period of several years through the ORMD Workshops,
620 long before the initiating order in the new Part 412 rulemaking proceeding was entered,
621 and were matters that required some resolution before ComEd could pursue
622 implementation of PORCB service. While Staff notes that the results of the Part 412
623 rulemaking may influence ComEd’s proposed tariff revisions and that the definition of
624 small commercial customer is being contested in the rulemaking, Staff fails to recognize
625 that these revisions are technically compliant with the competing versions of the
626 proposed rule, including Staff’s own proposal.

627 Second, while it correctly notes that the draft Code Part 412 is “applicable to
628 customers of both ComEd and AIU,” Staff neglects to mention in its numerous
629 comparisons of the Ameren and ComEd filings that similar provisions have already been
630 approved for AIU in its PORCB proceeding. (ICC Staff Ex. 1.0, 26:577-579.) As a
631 rulemaking proceeding, Docket 09-0592 does not have a set end date; rulemakings are
632 generally lengthy proceedings; and, therefore, it is conceivable that an order may not be
633 entered in the Part 412 rulemaking proceeding until long after an order is entered in this
634 proceeding. Thus, whenever the final Part 412 rules are promulgated by the Commission,
635 both ComEd and AIU will have to ensure its provisions are compliant with the final order
636 in Docket No. 09-0592.

637 Finally and most importantly, ComEd has pursued the implementation of PORCB
638 in good faith based on the ORMD Workshop process discussions in order to make the
639 service available to customers as soon as possible. While it would have been less risky
640 for ComEd to have delayed work on implementation until after issues such as this are
641 resolved in this proceeding, which it contemplated doing at one point, it continued work
642 toward implementation in light of the responses it received from workshop participants,
643 most notably Staff. Moreover, as Mr. Mittelbrun will address further, all the Information
644 Technology (“IT”) infrastructure that has been designed and is being built to
645 accommodate Rider PORCB is predicated upon an eighteen day DASR process. Thus,
646 not only would any change or delay in the implementation of these tariff provisions cause
647 ComEd to incur additional costs to remove (and eventually restore) these processes and
648 delay the “go live” date for operations under Rider PORCB, as Mr. Mittelbrun explains,

649 but it would seriously undermine the progress made through the ORMD Workshop
650 process and ComEd's ability to implement the requirements of Section 16-118.

651 My understanding is that in its rebuttal testimony, a CUB witness will further
652 address the need to approve these provisions, particularly the rescission process, in the
653 instant proceeding.

654 **Q. Staff proposes revisions to Rate RDS to clarify that new residential customers are**
655 **not eligible to take delivery service and RES supply until after they have first**
656 **established service with ComEd under its bundled service tariff, Rate BES. (Staff**
657 **Ex. 2.0, 8:205-222). Do you agree with Staff's revisions to Sheet No. 48 of Rate**
658 **RDS?**

659 A. No. Staff's revisions to Sheet No. 48 of Rate RDS are not appropriate because Staff
660 identifies an applicant for electric service as a "new customer," which is not technically
661 correct. An applicant for electric service is not a "customer" at the time such application
662 is made. A retail customer, as defined in ComEd's General Terms and Conditions, refers
663 to the definition of retail customer in Section 16-102 of the Act, which defines a retail
664 customer as an entity using electric power and energy at a single premises. An applicant
665 for electric service is not using electric power and energy at the time such application is
666 made, and ComEd makes this distinction between applicants for electric service and retail
667 customers in ComEd's Schedule of Rates. (*See, e.g.*, ComEd's General Terms and
668 Conditions at Sheet No. 149.) Moreover, it appears that Staff's proposed change does not
669 align with the definition of retail customer as provided in the Act. In addition, Illinois
670 Administrative Code 280.40 defines the term "applicant" as "a person who applies for
671 residential or non-residential utility service." Thus, while ComEd appreciates Staff's

672 desire to make such distinctions clearer, in the context of ComEd's ratebook such
673 distinctions are already clear.

674 **Q. Do you agree with Staff's revision to Sheet No. 26 of Rate BES? (Staff Ex. 2.0,**
675 **7:178-8:204).**

676 A. ComEd has no objections to the removal of the phrase "on a continuous basis," and this
677 change is reflected in ComEd Ex. 3.5.

678 **Q. What impact does this newly introduced uncertainty have on ComEd's proposed**
679 **tariffs?**

680 A. In light of the uncertainty Staff's proposal has created, ComEd has revised the
681 Availability section of Rider PORCB, which replaces the previous go-live date of
682 December 1, 2010 to a date no later than April 1, 2011, as reflected in ComEd Exhibit
683 3.5.

684 **IV. Billing Inserts**

685
686 **Q. Drawing from provisions found in ComEd's Rider SBO, Staff proposes additions to**
687 **Rider PORCB requiring that ComEd offer a bill insert service to RESs for their**
688 **Rider PORCB customers. (Staff Ex. 1.0, 28:613-29:677.) Does ComEd accept**
689 **Staff's proposed revisions?**

690
691 A. No. ComEd opposes this proposal for four reasons. First, based on the advice of
692 counsel, ComEd is not legally obligated to provide bill inserts under Section 16-118(c) as
693 a tariffed service. Moreover, it is my understanding that the Commission would be
694 barred by Section 16-103(e) from compelling utilities to offer billing inserts under

695 tariffed rates. Indeed, as Staff noted, “Staff and Ameren agreed” on this matter. (*Id.*,
696 28:617.) ComEd will address this legal matter further in its briefs, as needed.

697 Second, putting the foregoing legal matter aside, Staff’s proposed revisions would
698 either result in insufficient or excessive cost recovery from the RESs using PORCB
699 because Staff proposes that ComEd be paid an amount equal to the “net costs that the
700 RES avoids” – not an amount equal to ComEd’s cost. (*See* Staff Ex. 1.0 29:664-665.)
701 Moreover, the determination of each RES’s avoided cost would be a tremendously
702 cumbersome administrative process to implement for the twenty-seven RESs, to say the
703 least. Most importantly, even assuming a utility could be compelled to offer bill inserts
704 as a tariffed service, it would be grossly inappropriate and discriminatory for a regulated
705 utility to effectively charge different customers different amounts for the same service
706 based on factors unrelated to ComEd’s cost to provide such service.

707 Third, ComEd submits that there is no compelling reason to allow RESs to
708 include inserts with utility bills. Specifically, it is unclear what value a ComEd bill insert
709 holds for RESs, especially in light of the fact that under Staff’s proposal, RESs would be
710 charged the same amount they otherwise would have incurred to mail such information
711 themselves. Staff has not offered any evidence that a bill insert from a RES will garner
712 any more attention from their customers than a separate letter bearing the RES’s logo.
713 Further, it should be noted that none of the RESs intervening in this proceeding has asked
714 for bill inserts. In addition, as Mr. Mittelbrun will address further, the business rules
715 under development for Rider PORCB will allow a RES to produce two bill messages per
716 month, specific to each individual customer – at no additional cost.

717 Fourth, as Mr. Mittelbrun also will discuss, the provision of bill inserts to RESs
718 may cause a vast array of problems with ComEd's bill print vendor, which could delay all
719 of ComEd's bills and increase costs significantly.

720 **Q. Staff suggests that its proposed revisions to Rider PORCB will create parity with**
721 **the provisions of Rider SBO, which imposes similar bill insert requirements on**
722 **RESs that bill and collect ComEd's distribution and related charges. Is ComEd**
723 **proposing inconsistent treatment of RESs when they bill ComEd's charges under**
724 **Rider SBO?**

725 A. No. Rider SBO addresses a different circumstance, which is only similar to PORCB
726 service superficially. To the extent ComEd, as the distribution company, needs to
727 communicate with its customers and a RES's use of Rider SBO prevents ComEd from
728 using bill inserts as a means of doing so, it is logical that ComEd should pay RESs no
729 more than its avoided costs for bill inserts. To pay the RES more in that situation would
730 raise ComEd's distribution costs, which would be borne by all distribution customers, to
731 accommodate a RES's use of Rider SBO for a subset of all customers. Thus, avoided
732 cost based payments under Rider SBO is fair to all distribution customers.
733

734 Nevertheless, to the extent the Commission finds that RESs are being treated
735 unfairly under Rider SBO, ComEd would be willing to remove the provisions from Rider
736 SBO that Staff cited as the basis for its proposed revisions to Rider PORCB as part of its
737 compliance filing in this proceeding. (*See* Staff Ex. 1.0, 28:622-645.) It is my
738 understanding that ComEd has never exercised its authority under Rider SBO to include
739 bill inserts in RES bills and has no intentions of ever doing so.

740 **Q. Does this conclude your rebuttal testimony?**

741 A. Yes.