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.	)	

COMMONWEALTH EDISON COMPANY'S PRETRIAL MEMORANDUM

<u>TABLE OF CONTENTS</u>

COMMONWEALTH EDISON COMPANY'S PRETRIAL MEMORANDUM

In accordance with the schedule approved by the Administrative Law Judge ("ALJ") on March 24, 2010, as modified by the ALJ's ruling on August 10, 2010, Commonwealth Edison Company ("ComEd"), by its attorneys, submits this Pretrial Memorandum.

I. INTRODUCTION

On January 19, 2010, ComEd filed tariffs with the Illinois Commerce Commission ("Commission") to implement Section 16-118(c) of the Public Utilities Act ("PUA" or "Act"), which requires ComEd to provide a new tariffed service whereby a retail electric supplier ("RES") may, at its option, sell to ComEd receivables for power and energy service for certain of its customers at a discount rate, which is based on both the costs the utility incurs in setting up and administering the program and historic bad debt. These tariffs include a new rider, Rider PORCB – Purchase of Receivables with Consolidated Billing ("Rider PORCB"), which includes the provisions under which ComEd purchases receivables from RESs for the electric power and energy supply service provided by such RESs to selected retail customers, as well as proposed tariff revisions to Rider RCA – Retail Customer Assessments ("Rider RCA") and General Terms and Conditions, which also provide for the recovery of the costs ComEd incurs in providing service under Rider PORCB and serve to enable ComEd to effectively provide service under Rider PORCB.

In addition, the tariff filing reflects various other tariff changes stemming from the collaborative stakeholder workshop process conducted by the Office of Retail Market Development ("ORMD Workshops") and settlement discussions with certain stakeholders. These proposed changes affect the switching rules applicable to mass market customers, which include all residential customers and other customers that establish demands for electricity that do not exceed 100 kilowatts ("kW"). These changes, which are reflected in Rate BES – Basic Electric Service ("Rate BES"), Rate BESH – Basic Electric Service Hourly Pricing ("Rate BESH"), Rate RDS – Retail Delivery Service ("Rate RDS"), Rate RESS – Retail Electric Supplier Service ("Rates RESS") and Rate MSPS – Metering Service Provider Service ("Rate MSPS"), will facilitate the orderly switching of large numbers of customers as the competitive market becomes more robust and will provide additional customer protections.

II. OVERVIEW OF SECTION 16-118(c) OF THE ACT

The primary purpose of ComEd's filing is to implement Section 16-118(c) of the Act, which provides as follows:

> An electric utility with more than 100,000 customers shall file a tariff pursuant to Article IX of this Act that provides alternative retail electric suppliers, and electric utilities other than the electric utility in whose service area the retail customers are located, with the option to have the electric utility purchase their receivables for power and energy service provided to residential retail customers and non-residential retail customers with a non-coincident peak demand of less than 400 kilowatts. Receivables for power and energy service of alternative retail electric suppliers or electric utilities other than the electric utility in whose service area the retail customers are located shall be purchased by the electric utility at a just and reasonable discount rate to be reviewed and approved by the Commission after notice and hearing. The discount rate shall be based on the electric utility's historical bad debt and any reasonable start-up costs and administrative costs associated with the electric utility's purchase of receivables. The discounted rate for purchase of receivables shall be included in the tariff filed pursuant to this subsection (c). The discount rate filed pursuant to this subsection (c) shall be subject to periodic Commission review. The electric utility retains the right to impose the same terms on retail customers with respect to credit and collection, including requests for deposits, and retain the electric utility's right to disconnect the retail customers, if it does not receive payment for its tariffed services or purchased receivables, in the same manner that it would be permitted to if the retail customers purchased power and energy from the electric utility. The tariff filed pursuant to this subsection (c) shall permit the electric utility to recover from retail customers any uncollected receivables that may arise as a result of the purchase of receivables under this subsection (c), may also include other just and reasonable terms and conditions, and shall provide for the prudently incurred costs associated with the provision of this service pursuant to this subsection (c).

> Nothing in this subsection (c) permits the double recovery of bad debt expenses from customers.

220 ILCS 5/16-118(c). Consistent with the statute, ComEd's tariffs address all of the features of Section 16-118(c), including (i) applicability to residential retail customers and non-residential retail customers with non-coincident peak demand of less than 400 kW; (ii) a just and reasonable discount rate based on ComEd's historic bad debt and reasonable start-up and administrative costs and provision for the recovery of the prudently incurred costs associated with the provision of PORCB; (iii) a periodic Commission review process; and (iv) terms and conditions applicable to retail customers enrolled under Rider PORCB such as disconnection policies. Each of these features is discussed in more detail below.

III. <u>INPUT OF AND COLLABORATION WITH STAKEHOLDERS</u>

ComEd's initial January 19, 2010 tariff filing reflected a remarkable degree of stakeholder input, collaboration and agreement at the outset, which has served the parties well in narrowing and refining the issues in this docket. Beginning in January 2008, ORMD began conducting workshops concerning, among other things, the requirements of Section 16-118(c) of the Act, and since then a variety of stakeholders have participated, including utilities, the Staff of the Commission ("Staff"), ORMD, RESs, the Citizens Utility Board ("CUB"), the Attorney General, and other interested parties. Several of the changes proposed reflect the input obtained from this process, as ComEd witness Mr. John Mittelbrun explains. (ComEd Ex. 2.0.)

ComEd witness Mr. Robert Garcia notes that the cost recovery mechanism itself was developed in cooperation with CUB, and CUB and ComEd were able to reach an informal agreement as to how it should function. (ComEd Ex. 1.0.) Moreover, last fall, the Retail Energy

Supply Association ("RESA")[1], the Illinois Competitive Energy Association ("ICEA")[2] and ComEd began having settlement discussions with RESs to narrow the issues in this proceeding, and were also able to reach a formal agreement on the discount rate and cost recovery mechanism and other terms and conditions. (*See* ComEd Ex. 1.3.) Ultimately, ComEd was able to strike a balance between CUB and RESA/ICEA on several key aspects of this filing.

Notably, ComEd's cost recovery mechanism also reflects the key features of the cost recovery mechanism approved for the Ameren Illinois Utilities ("AIU"). There, CUB's proposal to reimburse customers with demands under 400 kW and ultimately recover such costs from RESs through the discount rate was ultimately approved. (Order, Dkt. No. 08-0619, 08-0620, 08-0621 (Cons.) (Aug. 19, 2009).)

IV. <u>STATEMENT OF UNCONTESTED ISSUES</u>

In addition to the formal and informal agreements ComEd has reached with both RESA/ICEA and CUB, respectively, ComEd has also reached agreement with Staff and certain intervenors with regard to a variety of proposals. These are described below.

- ***Impact of Future Filings under Section 16-118(d) & (e):*** Staff recommends that in light of the fact that some of the system modifications made to provide PORCB service may also be utilized in the future to provide stand-alone consolidated billing and the purchase of uncollectibles services pursuant to subsections (d) and (e) of Section 16-118, respectively, the Commission should expressly note in its order in this proceeding that such future tariff filings could impact the level of the Consolidated Billing ("CB") Adjustment and Purchase of Receivables ("POR") Adjustment in Rider RCA. (ICC Staff Ex. 1.0.) ComEd agrees with Staff's interest to ensure that RESs that use the variety of services required by Public Act 95-0700 are allocated their fair share of the costs of the modifications required to enable the particular service or services they are using. (ComEd Ex. 3.0.)

[1] The members of RESA at the time the parties reached agreement included Consolidated Edison Solutions, Inc., Direct Energy Services, LLC, Exelon Energy Company, Gexa Energy, Hess Corporation, Liberty Power, Sempra Energy Solutions LLC, GDF SUEZ Energy Resources NA, Inc., and Just Energy Illinois Corp. (ComEd Ex. 1.3.)

[2] The members of ICEA at the time the parties reached agreement included Constellation NewEnergy, Inc., Direct Energy Services, LLC, Exelon Energy Company, Integrys Energy Services, Inc., MC Squared Energy Services, LLC, and Midwest Generation. (ComEd Ex. 1.3.)

- ***Purpose and Applicability:*** Consistent with the statute, RESs may enroll "residential retail customers and non-residential retail customers with a non-coincident peak demand of less than 400 kilowatts," as set forth in Section 16-118(c) of the PUA. (ComEd Ex. 1.0.)

- ***Setting the Initial Adjustments at Zero:*** With one exception, ComEd's proposed cost recovery mechanism appears to be acceptable to the parties.[3] Although Staff initially objected to ComEd's proposal to set the POR and CB Adjustments at zero for the first three monthly billing periods of any POR Application Period, Staff withdrew this proposal in its rebuttal testimony to narrow the issues in this docket. (ICC Staff Ex. 7.0.) Moreover, no party objects to ComEd's proposal that in calculating the POR Adjustment, no carrying costs will be applied to the amounts under-recovered from RESs in one POR Application Period and essentially reallocated to customers with demands under 400 kW in the subsequent POR Application Period. (ComEd Ex. 1.0.)

- ***Use of Rider UF to Determine Percentage Reduction for Recovery of Uncollectible Costs:*** No party contests ComEd's proposal that, to determine the percentage reduction for the recovery of uncollectible costs associated with the purchase of receivables, ComEd proposes to apply the same supply-related uncollectible cost factors set forth in its Rider UF – Uncollectible Factors ("Rider UF") that it applies to its own supply charges under Rate BES, ComEd's fixed price bundled electric service tariff. Mr. Garcia explains why it is appropriate to link the historic bad debt rates used in setting ComEd's supply charges with those used in the PORCB discount rate and when the uncollectible cost factors will be established. (ComEd Ex. 1.0.)

- ***Net Actual Uncollectible Costs:*** Staff accepts the formula ComEd proposed in ComEd Exhibit 3.5 (Corrected) to clarify the calculation of these costs, and ComEd does not object to including a definition of this cost in Rider PORCB. ComEd notes there is one inconsistency in the definition, however: Staff's proposed definition uses the term "calendar year" but Staff's rebuttal also accepted ComEd's formula, which is applicable during the "prior POR Application Period." ComEd proposes that Staff's definition incorporate the latter term. (ComEd Ex. 6.0.)

- ***Cost Estimates:*** Both Staff witness Ms. Theresa Ebrey and ICEA witness Mr. Kevin Wright correctly note that ComEd's cost estimates were presented for informational purposes only and not for approval in this docket. Rather, these costs will be subject to a prudence review in the reconciliation proceedings. (ICC Staff Ex. 3.0 and ICEA Ex. 1.0.)

- ***Amortization Period:*** Mr. Garcia explains that, based on pre-filing discussions with CUB, Rider PORCB reflects a 10-year amortization period for cost recovery purposes in this case only, which will lower the annual costs that customers with demands under 400 kW will incur through the application of both the CB Adjustment and POR Adjustment in Rider RCA and provide more time for RESs to ramp up their use of PORCB service and

[3] As explained in more detail *infra*, only Dominion Retail Inc. ("Dominion") proposes socialization of the PORCB costs related to modification of the billing system. (Dominion Ex. JC-1.0.)

begin covering the entire costs of this service through the $0.50 per bill charge. The amortization period was also part of the overall cost recovery mechanism upon which RESA, ICEA and ComEd reached agreement, and Staff does not oppose the 10-year amortization period. (ComEd Ex. 1.0; ICC Staff Ex. 1.0.)

- ***Review of CB Adjustments:*** ComEd does not object to Staff witness Ms. Ebrey's recommendation "that the Commission direct ComEd to evaluate the CB Adjustment rate in effect for the first Application Period when they file the first annual report as provided for in Rider PORCB, Original Sheet 399. Based on the total costs included in that annual report, ComEd should confer with Staff to determine if an interim revision to the CB adjustment rate is necessary." (ICC Staff Ex. 7.0.)

- ***Mid-Application Period Adjustments:*** ComEd has no objection to Staff's proposal to include the ability to adjust the POR and CB Adjustments in the middle of a POR Application Period. (ComEd Ex. 3.0.)

- ***Audit and Reporting Requirements:*** ComEd witness Mr. Garcia explains that ComEd proposes to establish a Commission reconciliation process that reflects the major features commonly implemented for the oversight of tracking riders. ComEd also proposes that the first reconciliation process occur after the initial three-year POR Application Period and sets a two-year cycle for reconciliations occurring thereafter. ComEd also accepts Staff's proposed revisions to Rider PORCB concerning the audit and reporting requirements and reconciliation process, including express acknowledgment that the Commission will "allow only prudently incurred costs to be recovered." (ComEd Ex. 3.0; Staff Ex. 3.0.)

- ***General Terms and Conditions:*** Neither Staff nor intervenors objected to ComEd's proposed modifications to its General Terms and Conditions to incorporate the authority granted to ComEd in Section 16-118(c) to disconnect electric service to participants that default on the payment of charges for the receivables that ComEd purchases from RESs, which will only be undertaken in conformance with the relevant provisions of Part 280 of the Commission's rules. (ComEd Ex. 1.0.)

- ***"All In" Provision:*** No party contests the proposed "all-in" provision. Although ComEd does not object to certain wording changes proposed by Staff, ComEd notes that there are minor inconsistencies between the terminology employed in Staff's proposal and the terminology used in ComEd's tariffs, which can be corrected as part of the compliance filing process. (ComEd Ex. 6.0.)

- ***Switching Rules:*** Although Staff originally proposed that the Commission reject ComEd's proposed changes to the switching rules, in rebuttal, without conceding it agreed with ComEd's changes, Mr. Torsten Clausen explains that Staff could recommend approval of the switching provisions if the Commission notes in its order in this docket that it is not deciding a new rescission period generally and that the order in this docket will have no impact on the Part 412 rulemaking docket (Dkt. No. 09-0592). (ICC Staff Ex. 5.0.) Mr. Wright also states that ICEA would not support Staff's rejection of

ComEd's proposed changes to the switching rules because of the possibility of delay cited by ComEd. (ICEA Ex. 2.0.) ComEd has no objection to Staff's revised proposal. (ComEd Ex. 6.0.)

- ***Bill Inserts:*** Although Staff initially proposed additions to Rider PORCB requiring that ComEd offer a bill insert service to RESs for their Rider PORCB customers, in rebuttal Staff explains that it "does not wish to force the Commission to make a decision on this issue in this proceeding as it did not have to do so in the AIU tariff investigation, either." Mr. Clausen further observes "that, as of now, no RES has currently used that provision of the AIU tariffs." (ICC Staff Ex. 5.0.) ICEA witness Mr. Wright also concedes that this is not necessarily an issue for the present proceeding and may be more appropriate for the ORMD Workshop process. (ICEA Ex. 2.0.)

- ***Various Other Tariff Changes:*** As reflected in the testimony, ComEd and Staff have been able to reach agreement on a number of other issues regarding tariff language.

V. STATEMENT OF CONTESTED ISSUES

This section provides an overview of the relevant contested issues with respect to each of the key requirements of Section 16-118(c), and identifies the witnesses who provide testimony with respect to each issue.

A. Rider PORCB and Rider RCA

1. Purpose and Applicability

As originally proposed, RESs would be allowed to begin enrolling customers through direct access service requests ("DASRs") beginning December 1, 2010. As described in more detail below, however, ComEd witnesses Messrs. Garcia and Mittelbrun explain that certain proposals affecting the information technology ("IT") infrastructure, if adopted, would result in a delay in availability until no later than April 1, 2011. (ComEd Exs. 3.0, 4.0, 6.0 and 7.0.)

2. Discount Rate and Cost Recovery

Section 16-118(c) provides that "[t]he discount rate shall be based on the electric utility's historical bad debt and any reasonable start-up costs and administrative costs associated with the electric utility's purchase of receivables," and ensures the utility's recovery of the "prudently incurred costs associated with the provision of this service pursuant to this subsection (c)." 220 ILCS 5/16-118(c). ComEd witness Mr. Garcia explains that because RESs' enrollment of their customers in Rider PORCB is not mandatory and therefore the number of customers that could be enrolled at any given point in time could vary from zero to 3.8 million, ComEd proposes to recover the costs associated with PORCB through a combination of tracking rider mechanisms set forth in Rider PORCB and Rider RCA:

- ***Rider PORCB Charge Applicable to RESs (Discount Rate):*** ComEd will initially allocate and attempt to recover costs associated with purchasing RESs' receivables under Rider PORCB from RESs through application of the discount rate.
- ***Rider RCA Charges Applicable to Under 400 kW Customers:*** For the costs associated with enabling ComEd to bill the charges associated with the receivables purchased, ComEd will initially allocate and recover those costs from all customers with demands under 400 kW.

Mr. Garcia notes that this approach avoids setting charges that would prove cost-prohibitive to RES participation while also ensuring that all of the costs associated with PORCB will be recovered from RESs to the extent PORCB usage reaches threshold levels – that is, to the extent PORCB is sufficiently utilized, the RESs using PORCB service will reimburse customers with demands under 400 kW for the costs they have borne. (ComEd Ex. 1.0.)

The two-part discount rate is addressed further below.

a) <u>Percentage reduction for the recovery of uncollectible costs</u>

Although no party contests ComEd's proposal to use Rider UF to determine the percentage reduction for the recovery of uncollectible costs associated with the purchase of receivables, only Dominion witness Mr. James L. Crist proposes that late payment charges collected by ComEd from customers enrolled in PORCB "should be applied against the uncollected revenue balance to reduce the uncollectible percentage." (Dominion Ex. JC-1.0.)

Mr. Garcia responds that such an adjustment is not appropriate because RESs will not be exposed to any delays in customer payments or incur any carrying costs by virtue of ComEd's purchase of the RESs' receivables. RESs are paid timely, per customer, regardless of customer payment activity, and therefore only ComEd will be exposed to such delays and activity. Moreover, Dominion ignores the fact that before a debt is written off, there are also late fees applied that go unpaid. Dominion does not seek to reflect any unpaid late fees in the bad debt portion of the discount rate. (ComEd Ex. 3.0.)

b) <u>Recovery of start-up and administrative costs</u>

ComEd witness Mr. Garcia explains that ComEd anticipates incurring developmental, implementation, administrative, uncollectible and operation costs associated with the implementation of Rider PORCB (ComEd Ex. 1.0), and ComEd witness Mr. Mittelbrun provides a detailed description of the costs ComEd anticipates that it will incur to modify its billing and related systems to enable it to reflect on applicable retail customer bills the charges associated with the receivables purchased from RESs under Rider PORCB (ComEd Ex. 2.0). These include costs associated with (i) the redesign of ComEd's bills, (ii) the upgrade of ComEd's Choice Electronic Data Interchange ("EDI") infrastructure, and (iii) the modifications to ComEd's customer billing system. (ComEd Ex. 2.0.)

Mr. Garcia explains that ComEd has categorized these costs into two categories for cost recovery purposes: (1) costs associated with purchasing RESs' receivables under Rider PORCB and (2) costs associated with modifying ComEd's billing system to enable it to reflect on its bills the charges associated with the receivables purchased from RESs. Each of these categories is then further broken down between operating and maintenance ("O&M") expense and capital investments. As a result, the costs related to the purchase of receivables include Developments and Implementation Costs ("DICs") and Administrative and Operations Costs ("AOCs"), and the costs related to billing system modifications include Billing System Modification and Implementation Costs ("BSMICs") and Billing System Administrative and Operations Costs ("BSAOCs"). (ComEd Ex. 1.0.)

Mr. Garcia further explains that these categorizations are used to determine which costs are initially allocated for rate setting and cost recovery purposes to RESs (through the discount rate in Rider PORCB) and to customers with demands under 400 kW (through Rider RCA), and can be summarized as follows:

- ***Rider PORCB Charge Applicable to RESs:*** ComEd will initially allocate and attempt to recover costs associated with purchasing RESs receivables under Rider PORCB (*i.e.*, DICs and AOCs) from RESs through the fixed, $0.50 per bill charge portion of the discount rate, which will remain in effect through the initial three-year POR Application period. The $0.50 per bill charge was the product of settlement discussion with ICEA and RESA and CUB, and strikes a balance between full and somewhat timely cost recovery and a discount rate that is not so high as to make RESs' participation under Rider PORCB cost prohibitive or make full cost recovery from RESs doubtful. Mr. Garcia further explains what happens if ComEd either over- or under-recovers during that initial three-year period.

- ***Rider RCA Charges Applicable to Under 400 kW Customers:*** For the costs associated with enabling ComEd to bill the charges associated with the receivables purchased (*i.e.*, BSMICs and BSAOCs), ComEd will initially allocate and recover those costs from all customers with demands under 400 kW through the CB Adjustment, which can be applied to the fixed, monthly Customer Charge applicable to such customers as early as the April 2011 monthly billing period, and will continue into subsequent two-year POR Application periods. Mr. Garcia further explains what happens if recovery exceeds the costs.

(ComEd Ex. 1.0.)

Staff witness Mr. Clausen proposes that the start-up and administrative costs be recovered through a 0.68% charge based on the receivables purchased. Staff states they are "concerned that, under ComEd's fixed [$0.50] per bill charge proposal, the effective discount rate has the potential to be too high for some portion of customers and to be too low for other portions of customers." (Staff Ex. 1.0.) Mr. Garcia responds that based on the discussions and agreements reached with CUB and RESs (as represented by ICEA and RESA), on this issue, ComEd believes that the $0.50 charge strikes the right balance. Moreover, Mr. Garcia highlights a variety of policy concerns with a percentage charge. (ComEd Exs. 3.0 and 6.0.) Witnesses submitting rebuttal testimony on behalf of ICEA and RESA also support ComEd's proposed discount rate. (ICEA Exs. 1.0 and 2.0; RESA Ex. 1.0.)

Dominion is the only party to argue that the costs related to modifying the billing system should be socialized to all customers eligible for Rider PORCB, opining that such an allocation "raises a classic barrier to market entry" and suggesting that "ComEd should use the authority granted it in PA 95-0700, which allows the utility to collect these costs via distribution rates." (Dominion Ex. JC-1.0.) In response, Mr. Garcia notes that this is a legal issue that ComEd will address in briefing, as needed. (ComEd Ex. 3.0.)

3. <u>Scope of Rider Recoverable Costs</u>

Staff proposes to limit rider recovery of capital investment to those capital investments incurred after the enactment of Section 16-118(c), but before January 1, 2012, opining that "[c]osts incurred to modify the system after December 31, 2011 would … not be for the 'development,' 'modification' or 'implementation' of the program but would be further enhancements that may be required for reasons unrelated to the initiation of the PORCB program." (Staff Ex. 3.0.) ComEd witness Mr. Garcia responds that ComEd does not oppose limiting rider recovery of capital expenses to those incurred after the enactment of Section 16-118(c). Concerning Staff's proposed December 31, 2011 cut-off date, however, Messrs. Garcia and Mittelbrun respond that limiting rider recovery of capital expenses to those incurred on or before December 31, 2011 ignores the facts of this case and ComEd's circumstances, and would lead to unnecessary delay in the implementation of future PORCB service offerings because they will require cost recovery questions to be revisited and fully litigated before such offerings are made available. (ComEd Exs. 3.0, 4.0, 6.0 and 7.0.)

In response to Staff's mischaracterization of ComEd's proposal as setting forth a "10-year cost recovery period," Mr. Garcia explains that ComEd proposes only a 10-year amortization period for the recovery of capital investments. He further responds that if Staff's proposal seeks to conclude capital cost recovery through the POR Adjustment within a 10-year timeframe by applying the POR Adjustment sooner, ComEd submits that such a proposal should be rejected. (ComEd Ex. 3.0.)

In response to Staff witness Ms. Ebrey's claims that ComEd's tariff changes to the definitions of rider-recoverable costs reflect an expansion, Mr. Garcia responds that the revised language reflected in ComEd Exhibit 3.5 (Corrected) attempts to respond to Staff's call for greater clarity regarding the categories of recoverable costs while also ensuring that costs related to PORCB are not arbitrarily excluded. The language reflected in ComEd Exhibit 3.5 (Corrected) is consistent with every one of ComEd's tracking riders. (ComEd Ex. 6.0.)

Staff witness Ms. Ebrey also questions the appropriateness of ComEd's deferred costs and suggests that such costs must be pre-approved. (ICC Staff Ex. 7.0.) However, as Mr. Garcia and ComEd witness Martin Fruehe explain, there is no basis for requiring preapproval of such costs or denying their recovery. In fact, ComEd's other tracking riders permit the recovery of such costs. (ComEd Exs. 6.0 and 8.0.) ComEd witness Mr. Mittelbrun further describes what the deferred expenses are. (ComEd Ex. 7.0.)

Staff witness Ms. Ebrey also raises a concern regarding the allocation of costs associated with consolidated billing, speculating that "[t]he Commission might find that the costs identified 'to facilitate the orderly switching of customers and the expected increase in RES activity and electronic data interchange transactions' are not 'incremental costs' related to billing for purchased receivables. Therefore they would not be recoverable costs under Rider PORCB." Ms. Ebrey goes on to propose that ComEd provide workpapers and third party invoices to Staff no later than February 1, 2011, well after the final order in this docket has been entered. (ICC Staff Ex. 7.0.) In response, ComEd witness Mr. Fruehe notes that it is unclear what sort of process or outcome is contemplated by Staff for this informal review. In response, Mr. Fruehe proposes that because ComEd has also included the costs associated with the PORCB program in its rate case revenue requirement until the Rider PORCB mechanism is approved, the cost allocation issue should be reviewed as part of ComEd's current rate case (Dkt. No. 10-0467), which is in the initial discovery phase. (ComEd Ex. 8.0.)

Only Dominion argues that the Commission should impose an arbitrary cap on ComEd's costs. (Dominion Ex. JC-2.0.) ComEd witness Mr. Mittelbrun responds that this is a legal issue that ComEd will address in briefs, and further responds to Mr. Crist's inaccurate statements about the costs of purchase of receivables programs. (ComEd Ex. 7.0.)

4. Calculation of Costs

ComEd witness Mr. Garcia testifies that for the capital investments associated with the POR and CB Adjustments, ComEd proposes to use the sum of the annual revenue requirement equivalents of the BSMICs and DICs, amortized over a 10-year period at the most recent weighted average cost of capital approved by the Commission, over the relevant application period. With respect to O&M expenses, those related to the POR Adjustment will be actual costs at the time the Adjustment is determined, whereas those related to the CB Adjustment will employ estimates over the relevant application period.

Although Staff does not object to the 10-year amortization period, Staff witness Ms. Phipps proposes to reduce the return afforded capital investments recovered through Rider PORCB and Rider RCA to one of two rates, depending on whether or not the Commission accepts or rejects Staff's proposed tariff language requiring a prudence review as part of the reconciliation proceeding. Assuming a prudence review, she recommends a 6.61% rate of return on common equity for PORCB assets, which is a 369 basis point adjustment from the base cost of equity the Commission authorized in ComEd's last rate case. (Staff Ex. 4.0.)

ComEd witness Mr. Fruehe responds to Staff's proposal. He explains that although ComEd does not object to a prudence review, Ms. Phipps' analysis is fundamentally flawed and results in an absurdly low rate of return. Specifically, Ms. Phipps' analysis is incorrectly based on an apples to oranges comparison – she relies upon four "similarities" to transitional funding instruments in order to support her assumption that the PORCB projects could be financed using AAA rated securitized debt, but at the same time ignores the numerous differences between the statutory framework behind the transitional funding instruments, which was specifically designed to allow securitization of a guaranteed revenue stream related to transitional costs, and that of the PORCB program, which involves recovery of an investment mainly in IT infrastructure to implement a new and uncertain regulatory program. Mr. Fruehe further rebuts Ms. Phipps' unfounded assertion that the investment in PORCB assets is somehow "less risky" than other assets. (ComEd Ex. 5.0.)

Testifying as an expert witness on behalf of ComEd, Ms. Susan Abbott explains that Ms. Phipps' and CUB witness Mr. Thomas' arguments that the Rider PORCB mechanism neutralizes risk fail to recognize that the investing community does not necessarily ascribe an absence of risk, or even a lowering of risk, to assets subject to adjustment clauses. Investors generally perceive that the relationship between these mechanisms and return on equity is a complicated one that requires the evaluation of the specifics of the mechanism in question. Ms. Phipps' general assumption that the adjustment clause associated with the PORCB program neutralizes risks is overreaching and overly simplistic. Ms. Abbott further shows how the PORCB statute lacks the critical requirements contained in the transitional funding statute (upon which Ms. Phipps incorrectly relies), without which the transition bonds would not have attainted to an AAA rating. Ms. Ebrey's challenge to the costs before the program even starts only further emphasizes that regulatory risk is real and present, and therefore ComEd should be entitled to its generally allowed return on equity to reflect the risk demonstrated in Staff's own recommendations. (ComEd Ex. 9.0.)

ComEd witness Mr. Scott Vogt further responds to Ms. Phipps and Mr. Thomas, and explains that they propose a return level that presupposes that ComEd can issue individual debt and equity securities to finance different investments and thus achieve returns commensurate with the risks of the individual assets being financed. However, as Mr. Vogt explains, ComEd finances its entire construction budget and projects as a whole, and incurs a cost equal to its overall costs of capital when it does so. (ComEd Ex. 10.0.)

B. <u>Rate BES, Rate BESH, Rate RDS and Rate MSPS</u>

1. <u>ComEd's proposed changes to the switching rules</u>

ComEd witness Mr. Mittelbrun explains that ComEd proposes revisions to Rate BES, Rate BESH, Rate RDS, and Rate MSPS in order to update the rules pertaining to switching electric power and energy suppliers and open access in the electricity market that are applicable to mass market customers. The changes will provide for the orderly switching of large numbers of customers in the event that competition for the 3.7 million customers that comprise the mass market becomes more robust as a result of the provision of PORCB service. In addition, these proposed changes also enable the establishment of a process for the rescission of switching requests before they are effectuated. Based on the ORMD Workshops, it is ComEd's understanding that the workshop participants generally indicated that the mass market would be defined as all residential customers having demands of less than 100 kW, and that certain changes to the switching rules applicable to mass market customers should be implemented. (ComEd Ex. 2.0.)

Concerning the switching rules in Rate BES, Rate BESH, Rate RDS, and Rate MSPS, Mr. Mittelbrun explains that the proposed changes affect the minimum amount of time required for the submission of a DASR in advance of the switch of a mass market customer (a) from ComEd supply under Rate BES or Rate BESH to RES supply (Rate RDS); (b) from one RES to another RES while on Rate RDS; or (c) from RES supply (Rate RDS) to ComEd supply on Rate BES or Rate BESH. (*See* ComEd Ex. 1.5 at Sheet No. 26; ComEd Ex. 1.6 at Sheet No. 44; ComEd Ex. 1.7 at Sheet Nos. 76-77.) A similar increase in time would also be implemented for switching metering service providers. (*See* ComEd Ex. 1.9 at Sheet No. 115.) Rate RDS is also modified to require a new mass market account that has never received any tariffed service from ComEd (*e.g.*, a new customer or newly constructed premises) to initially take bundled service from ComEd before being allowed to switch to a RES, and Rider SBO – Single Billing Option ("Rider SBO") is revised to ease the ability for a RES to utilize Rider SBO and reduce the amount of customers who would be ineligible to participate because of past due bundled balances that arose after the switching request was received. (ComEd Ex. 2.0.)

Mr. Mittelbrun further explains that, based on discussions at the ORMD Workshops, ComEd understands that participants generally reached a consensus to limit mass market switching to the four-day billing window and to delete the requirement for meter numbers in DASRs. ComEd therefore is proposing such changes to its business rules. Mr. Mittelbrun further notes that the dispute resolution process for RES charges that appear on ComEd's bills is currently pending in Docket No. 09-0592, and ComEd will update its RES Handbook and Customer Handbook at the conclusion of that rulemaking proceeding as appropriate. (ComEd Ex. 2.0.)

With respect to rescission, which refers to the cancellation of a pending DASR prior to the effective date associated with the DASR, Mr. Garcia explains that ComEd proposes to set forth in its tariff its current business rules allowing RESs to rescind and to extend this ability to mass market customers. Allowing mass market customers to rescind through direct notice to ComEd represents a new tariffed service to shopping customers that ComEd has not previously offered. Specifically, mass market customers, the RES, or ComEd may rescind provided that ComEd receives notification at least five calendar days before the effective date of the switch. Inclusion of this provision is the result of an agreement ComEd reached with CUB, and is intended to create a new consumer protection. (ComEd Ex. 1.0.)

2. <u>Staff's and intervenors' response and ComEd's reply</u>

Although Staff, with ICEA's concurrence, no longer recommends rejection of ComEd's proposed switching rules, Dominion continues to do so. (Dominion Ex. JC-2.0.) Moreover, RESA, for the first time in rebuttal testimony, recommends that the definition of mass market customers be changed to include a new definition of small commercial customers. (RESA Ex. 1.0.)

Mr. Garcia responds that these proposals have been vetted over a period of several years through the ORMD Workshops, long before the initiating order in the new Part 412 rulemaking proceeding was entered, and were matters that required some resolution before ComEd could pursue implementation of PORCB service. (ComEd Ex. 3.0.) Mr. Mittelbrun further explains that all of the IT infrastructure that has been designed and is being built to accommodate Rider PORCB is predicated upon an 18-day DASR process and that ComEd's systems currently do not flag or identify the small commercial customers in RESA's proposed definition. As a result, any changes or delays in the implementation of these tariff provisions would cause ComEd to incur additional costs to remove (and eventually restore) these processes and delay the "go-live" date for operations under Rider PORCB, as well as undermine the progress made through the ORMD Workshop process and ComEd's ability to implement the requirements of Section 16-118. (ComEd Exs. 4.0 and 7.0.) Mr. Garcia further explains that, because of the uncertainty created by Staff's proposals, ComEd has revised the Availability section of Rider PORCB and replaced the previous go-live date of December 1, 2010 to a date no later than April 1, 2011. (ComEd Ex. 3.0.)

Staff also proposes revised language to Rate RDS to clarify that new residential customers are not eligible to take delivery service and RES supply until after they have first established service with ComEd under its bundled service tariff. (ICC Staff Exs. 2.0 and 6.0.) Mr. Garcia responds to the language regarding new customers, and explains that it does not comport with ComEd's overall ratebook. (ComEd Exs. 3.0 and 6.0.)

In addition, Staff witness Ms. Pound proposes an expansive definition of "legitimate billing dispute." (ICC Staff Exs. 2.0 and 6.0.) Mr. Mittelbrun responds that ComEd does not believe that the operational detail reflected in Ms. Pound's proposed language is appropriate for the tariff, and should instead be set forth in the RES and Customer Handbooks, which allows for the revision of operational rules in the Handbooks, as and when appropriate, after discussion with the impacted parties. (ComEd Exs. 4.0 and 7.0.) ComEd's proposed revision to the definition of "legitimate billing dispute" is set forth in ComEd Exhibit 3.5 (Corrected).

VI. ACRONYMS AND TERMS

The following list defines acronyms and terms that ComEd expects to be used at trial in this matter.

1.	**ACH**	Automated Clearing House
2.	**Act**	Section 16-118(c) of the Public Utilities Act
3.	**AIU**	Ameren Illinois Utilities
4.	**AOCs**	Administrative and Operational Costs
5.	**ARES**	Alternative Retail Electric Supplier
6.	**BlueStar**	Bluestar Energy Services, Inc.
7.	**BSAOCs**	Billing Systems Administrative Operational Costs
8.	**BSMICs**	Billing Systems Modification and Implementation Costs
9.	**BUF**	Base Uncollectible Cost Factor
10.	**CB**	Consolidated Billing
11.	**CB Adjustment**	Consolidated Billing Adjustment
12.	**CB Balance**	Consolidated Billing Balance
13.	**CBBF**	Consolidated Billing Balancing Factor
14.	**CBOR**	Consolidated Billing Ordered Reconciliation Adjustment
15.	**CIMS**	Customer Information Management System
16.	**ComEd**	Commonwealth Edison Company
17.	**Commission**	Illinois Commerce Commission

18.	**CPWG**	Illinois Communications Protocol Working Group
19.	**CUB**	Citizens Utility Board
20.	**DASR**	Direct Access Service Request
21.	**DIC(s)**	Developmental and Implementation Costs
22.	**Dominion**	Dominion Retail Inc.
23.	**DRECc**	Discounted Receivables
24.	**Ebcb**	Expected Bills to which the CB Adjustment is applicable.
25.	**EBpor**	Expected Bills to which the POR Adjustment is applicable
26.	**EDI**	Electronic Data Interchange
27.	**EFT**	Electronic Funds Transfer
28.	**FERC**	Federal Energy Regulatory Commission
29.	**Funding Law**	Electric Utility Transitional Funding Law of 1997, 220 ILCS 5/18-101 et seq.
30.	**ICC**	Illinois Commerce Commission
31.	**ICEA**	Illinois Competitive Energy Association
32.	**ILEMC**	Illinois Energy Marketers Coalition
33.	**ISUF**	Incremental Supply Uncollectible Cost Factor
34.	**IT**	Information Technology
35.	**kW**	Kilowatts
36.	**KWh**	Kilowatt-hour
37.	**MSP**	Metering Service Provider Service
38.	**NEM**	National Energy Marketers Association
39.	**O&M**	Operating and Maintenance

40.	**ORMD**	Office of Retail Market Development
41.	**POR**	Purchase of Receivables
42.	**POR Adjustment**	Purchase of Receivables (POR) Adjustment
43.	**POR Balance**	Purchase of Receivables Balance
44.	**PORBF**	Purchase of Receivables Balancing Factor
45.	**PORCB**	Purchase of Receivables with Consolidated Billing service
46.	**POROR**	Purchase of Receivables Ordered Reconciliation Adjustment
47.	**RATE BES**	Basic Electric Service
48.	**Rate BESH**	Basic Electric Service Hourly Pricing
49.	**Rate MSPS**	Metering Service Provider Service
50.	**Rate RDS**	Retail Delivery Service
51.	**Rate RESS**	Retail Electric Supplier Service
52.	**RECc**	Receivables.
53.	**RESA**	Retail Energy Supply Association
54.	**RESs**	Retail Electric Suppliers
55.	**Restructuring Act**	Article XVI of the Public Utilities Act
56.	**Rider AMP**	Advanced Metering Program Adjustment
57.	**RIDER EDA**	Energy Efficiency and Demand Response Adjustment
58.	**RIDER PORCB**	Purchase of Receivables with Consolidated Billing
59.	**RIDER PPO**	Power Purchase Option
60.	**Rider RCA**	Retail Customer Assessments
61.	**Rider RRTP**	Residential Real Time Pricing Program

62.	**Rider SBO**	Single Bill Option
63.	**Rider UF**	Uncollectible Factors
64.	**Staff**	Staff of the Illinois Commerce Commission
65.	**UCB**	Utility Consolidated Billing
66.	**Ufc**	Uncollectible Factor

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Respectfully submitted,

COMMONWEALTH EDISON COMPANY

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