

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>MALIBU CONDOMINIUM,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Docket No. 08-0401</b>
	)	
<b>COMMONWEALTH EDISON COMPANY,</b>	)	
	)	
<b>Respondent.</b>	)	

**STATEMENT AND DISCLOSURE OF DOCUMENTS AND WITNESSES**

The Petitioner, Malibu Condominium (“Malibu”), by its attorneys, Goldin, Hill & Associates, P.C., pursuant to the Administrative Law Judge’s Order entered April 20, 2010 and filed in the within Docket on May 5, 2010 and to the Illinois Supreme Court Rules, hereby states as follows:

**I. DOCUMENTS**

Malibu may introduce, utilize or rely upon the following documents at the trial on this matter:

1. The Amended Complaint filed February 5, 2009 (the “Complaint”);
2. The documents attached as Exhibits A-M to the Complaint;
3. The Answer to the Complaint filed by Commonwealth Edison Company (“ComEd”) February 16, 2010, together with such other pleadings as shall have heretofore been filed with the Commission in the within Docket;

4. The documents attached as Pages A1 through A53, and a 16-page Excel spreadsheet hereto; and
5. Such additional documents as may be produced by ComEd pursuant to Malibu's First Set of Data Requests served May 25, 2010.

Malibu reserves the right to seasonably supplement the foregoing and to introduce, utilize or rely upon at trial such additional documents as may hereafter be disclosed to or discovered by Malibu, it being specifically stated that trial preparation is continuing in this matter.

## **II. WITNESSES**

Malibu may call upon the following witnesses to testify at trial:

### **A. LAY WITNESSES:**

1. Lynn Cohen, President, Malibu Condominium, 6007 North Sheridan Road, Chicago IL. Ms. Cohen will testify as to the use, operation and management of the property operated by Malibu, the electric service therein, the payment and processing of utility bills, the unauthorized switching of and overcharging for Malibu's electric service by ComEd, Malibu's efforts to obtain a refund of overcharges, and the other acts and omissions of ComEd alleged in the Complaint.
2. Brian Kelly, Property Manager, Malibu Condominium, 6007 North Sheridan Road, Chicago IL. Mr. Kelly will testify as to the use, operation and management of the property operated by Malibu, the electric service therein, the payment and processing of utility bills, the unauthorized switching of and overcharging for Malibu's electric service by ComEd, Malibu's efforts to obtain a refund of overcharges, and the other acts and omissions of ComEd alleged in the Complaint.
3. Irma Ruiz Collins, former property manager for Malibu Condominium, 3660 N. Lake Shore Drive, Chicago IL. Ms. Collins will testify as to the use, operation and management of the property operated by Malibu, the electric service therein, the payment and processing of utility bills, the unauthorized switching of and overcharging for Malibu's electric service by ComEd.

4. Marshall Shiffrin, energy consultant, Mid-Western Energy Consultants, Inc., 3049 W. Dorainn Drive, No. 101, Northbrook IL 60062. Mr. Shiffrin will testify as to retention of his services by Malibu for the purpose of reviewing its utility bills, the performance of such services, the unauthorized switching of and overcharging for Malibu's electric service by ComEd, Malibu's efforts to obtain a refund of overcharges and the other acts and omissions of ComEd alleged in the Complaint.

**B. EXPERT WITNESSES**

1. Jose Lozano, 1407 Grommon Road, Naperville IL 60564. Mr. Lozano will testify as a retained controlled expert witness as to the rate classifications applicable to Malibu, the correctness of the rate classifications applied to residential condominium customers, the correctness of Malibu's electric bills, ComEd's tariffs, policies and procedures governing billing metering, rate selection and rate classification, the applicability of Rider CABA and Section 16-103.1 of the Act and other matters relating to the allegations of the Complaint. Based upon Mr. Lozano's professional experience and review and knowledge of the provisions of the Public Utility Act and of ComEd's tariffs, procedures and policies, Mr. Lozano will opine as to the correctness of relevant utility charges and bills and as to whether applicable laws, policies and procedures were adhered to in connection with the switching of Malibu's rate classification. Mr. Lozano's review is ongoing and reports about the case have yet been prepared by the witness. Mr. Lozano's professional experience includes over 30 years as a ComEd engineering, procurement and marketing employee, where he was a Senior Marketing Engineer, Assistant Supervisor of Marketing and Sales, Field and Planning Engineer and purchasing executive. A copy of Mr. Lozano's professional resume is attached as Exhibit A hereto.

Malibu reserves the right to seasonably supplement the foregoing list of witnesses and to call upon to testify at trial such additional documents as may hereafter be disclosed or discovered by Malibu, it being specifically stated that trial preparation is continuing in this matter.

Respectfully submitted,

MALIBU CONDOMINIUM



By: \_\_\_\_\_

One of its attorneys

Kenneth G. Goldin  
Goldin, Hill & Associates, P.C.  
9100 Plainfield Road  
Brookfield IL 60513  
Tel: 708-485-8300  
FAX: 708-485-8301  
kgoldin@ghlaw.net

Dated: June 7, 2010

**CERTIFICATE OF SERVICE**

I, Kenneth Goldin, hereby certify that a copy of the above-referenced Statement and Disclosure were served on the persons on the service list in the within Docket by electronic mail on June 7, 2010.



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Kenneth G. Goldin  
Goldin, Hill & Associates, P.C.  
9100 Plainfield Road  
Brookfield IL 60513  
Tel: 708-485-8300  
FAX: 708-485-8301  
kgoldin@ghlaw.net  
June 7, 2010

**ICC Docket No. 08-0401**  
**Service List**

Darryl Bradford  
Senior Vice President & General Counsel  
COMMONWEALTH EDISON COMPANY  
440 S. LaSalle, 33rd Fl.  
Chicago, IL 60605  
[darryl.bradford@comed.com](mailto:darryl.bradford@comed.com)

Jerry D. Brown  
Atty. for Commonwealth Edison Company  
CHICO & NUNES, P.C.  
333 W. Wacker Dr., Ste. 1800  
Chicago, IL 60606  
[jbrown@chiconunes.com](mailto:jbrown@chiconunes.com)

Lynn Cohen  
MALIBU CONDOMINIUM ASSOCIATION  
6007 N. Sheridan Rd.  
Chicago, IL 60660  
[malibu.enteract@rcn.com](mailto:malibu.enteract@rcn.com)

Kenneth G. Goldin  
Atty. for Malibu Condominium Association  
GOLDIN HILL & ASSOCIATES, P.C.  
9100 Plainfield Rd.  
Brookfield, IL 60513  
[kgoldin@ghlaw.net](mailto:kgoldin@ghlaw.net)

Edward C. Hurley  
Atty. for Commonwealth Edison Company  
CHICO & NUNES, P.C.  
333 W. Wacker Dr., Ste. 1800  
Chicago, IL 60606  
[ehurley@chiconunes.com](mailto:ehurley@chiconunes.com)

Eve Moran  
Administrative Law Judge  
ILLINOIS COMMERCE COMMISSION  
160 N. LaSalle St., Ste. C-800  
Chicago, IL 60601-3104  
[emoran@icc.illinois.gov](mailto:emoran@icc.illinois.gov)

Michael A. Munson  
Atty. for Malibu Condominium Association  
LAW OFFICE OF MICHAEL A. MUNSON  
810 W. Washington Blvd.  
Chicago, IL 60607  
[michael@michaelmunson.com](mailto:michael@michaelmunson.com)

Kendra N. Thompson  
Atty. for Commonwealth Edison Company  
EIMER STAHL KLEVORN & SOLBERG, LLP  
224 S. Michigan Ave., Ste. 1100  
Chicago, IL 60604  
[kthompson@eimerstahl.com](mailto:kthompson@eimerstahl.com)