STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission, On Its Own Motion,	**)))**	
-vs-	**))**	
Commonwealth Edison Company.	**))**	**Docket No. 09-0378**
Reconciliation of revenues collected under Rider EDA with the actual costs associated with energy efficiency and demand response programs.	**))))**	

DRAFT PROPOSED ORDER
SUBMITTED BY COMMONWEALTH EDISON COMPANY

Dated: September 16, 2010

STATE OF ILLINOIS

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ORDER

By the Commission:

I. Procedural History

On August 19, 2009, the Illinois Commerce Commission ("Commission") entered its Order commencing this reconciliation proceeding. The Order required Commonwealth Edison Company ("ComEd") to reconcile the revenues it collected under its Energy Efficiency and Demand Response Adjustment ("Rider EDA"), from June 1, 2008 through May 31, 2009 ("reconciliation period"), with the costs it prudently incurred with respect to energy efficiency and demand response measures, as that term is defined in Rider EDA.

On August 31, 2009, ComEd filed its Annual Report to the Commission Concerning the Operation of Rider EDA ("Annual Report") for Plan Year 1 beginning June 1, 2008 and ending May 31, 2009 ("Plan Year 1" or "PY1"). The Annual Report was accompanied by Direct Testimony. ComEd posted notice of the filing of its testimony and exhibits in its offices and in newspapers with general circulation in ComEd's service territory, in the manner prescribed by 83 Ill. Adm. Code Sec. 255, in compliance with the Commission's Order initiating this proceeding.

On March 25, 2010, the Commission's Staff ("Staff") filed Direct Testimony.

Pursuant to notice given as required by law and by the rules and regulations of the Commission, the hearing in this proceeding convened at the Commission office in Chicago, Illinois on July 28, 2010, before a duly authorized Administrative Law Judge ("ALJ"). Appearances were entered by counsel on behalf of ComEd and Staff. ComEd presented the testimony of Michael S. Brandt, ComEd's Manager – Energy, Efficiency

Planning & Measurement Department. Staff presented the testimony of Bonita Pearce, an accountant in the Accounting Department of Staff's Financial Analysis Division, and David Brightwell, an economic analyst in Policy Program of Staff's Energy Division. At the conclusion of the hearing, the record was marked "Heard and Taken." There were no contested issues at the completion of the hearing, and ComEd was granted leave to file a Proposed Order. On September 16, 2010, ComEd filed a Proposed Order for the ALJ's consideration that had previously been reviewed by Staff, and to which Staff did not object.

II. ComEd's Position

A. Overview of ComEd's Energy Efficiency and Demand Response Plan

Mr. Brandt testified about (i) ComEd's 2008-2010 Energy Efficiency and Demand Response Plan ("Plan"); (ii) the various energy efficiency and demand response measures ComEd implemented for Plan Year 1 and ComEd's accounting for Plan Year 1 expenditures; (iii) ComEd's process for the selection and the oversight of contractors to ensure costs are reasonable; (iv) the reasonableness and prudence of Plan Year 1's measures and costs; and (v) the reconciliation of revenues collected under Rider EDA with the costs incurred by ComEd associated with the implementation of the energy efficiency and demand response measures approved in the Plan, as recorded on ComEd's books, for the period beginning August 29, 2007 and extending through May 31, 2009. (ComEd Ex. 2.0, p. 1.)

In addition to implementing the programs set forth in its Plan, Mr. Brandt explained that ComEd worked closely with the Stakeholder Advisory Group ("SAG") throughout the Plan Year on many issues, including evaluation methodologies and protocols, evaluation work, Plan development and review, portfolio and program status and updates, portfolio and program design changes, demand response programs and potential market studies. (ComEd Ex. 2.0, p. 2.)

Mr. Brandt stated that on November 15, 2007, ComEd filed its Plan pursuant to the requirements imposed by Section 8-103 of the Public Utilities Act. The core of ComEd's Plan was a portfolio of energy efficiency and demand response measures designed to meet the statutory energy savings goals within the spending screens in each of the three Plan years. Mr. Brandt testified that for Plan Year 1, Section 8-103(b) required that ComEd "implement cost-effective energy efficiency measures" to achieve an annual energy savings goal of 0.2% of energy delivered during Plan Year 1. 220 ILCS 5/8-103(b). Section 8-103(c) required that ComEd "implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers..." 220 ILCS 5/8103(c). Section 8-103(d) established a "spending screen" which provided that ComEd reduce the amount of energy efficiency and demand-response measures implemented by an amount necessary to limit the estimated average increase in the amounts paid by retail customers for electric service due to the cost of the measures to no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007. 220 ILCS 5/8-

103(d). Applying these goals to Plan Year 1, ComEd's Plan calculated an energy efficiency savings goal of 188,729 MWhs, a demand response savings goal of 11.7 MWs and a spending screen of $39.4 million. (ComEd Ex. 2.0, pp. 4-5.)

According to Mr. Brandt, ComEd was responsible for implementing all of the demand response measures in the Plan. However, ComEd shared responsibility for the implementation of energy efficiency measures with the Department of Commerce and Economic Opportunity ("DCEO"). ComEd was responsible for implementing 75% of the energy efficiency measures and DCEO was responsible for implementing the remaining 25%. He explained that ComEd and DCEO calculated the split by considering the nature of the programs and allocating the amount under the statutory spending screen to correspond with the statutory percentage. Mr. Brandt testified that as a result, of the 188,729 MWh energy efficiency savings goal, ComEd was responsible for 148,842 MWhs and DCEO was responsible for 39,887 MWhs. (ComEd Ex. 2.0, pp. 5-6.)

In its February 6, 2008 Order, the Commission approved the calculations of the energy efficiency savings goals, the spending screen and ComEd's split of the energy savings goal with DCEO. (*See* Order Dkt. No. 07-0540 (Ill Commerce Comm'n Feb. 6, 2008); ComEd Ex. 2.0 p. 6.)

Mr. Brandt described the various energy efficiency measures that ComEd implemented in Plan Year I to achieve its energy savings goals. He explained that the individual energy efficiency measures were organized into an overall portfolio consisting of a variety of programs. The basic building block of the portfolio is the energy efficiency measure – an individual technology or service that reduces the amount of electricity used when installed or performed. An energy efficiency program or program element consists of the bundling of one or more of these energy efficiency measures into an entire program concept, which includes program delivery mechanisms, incentive rebate levels and marketing approaches. The measure is one component of the program element. A program represents a bundle of program elements. (ComEd Ex. 2.0, p. 6.)

Mr. Brandt testified that the portfolio was designed to blend together the program elements under two broad solutions-based programs for Residential and Business customers – "Smart Ideas for Your Home" and "Smart Ideas for Your Business." ComEd's final Plan Year 1 portfolio consisted of a set of energy efficiency program elements that included eight energy efficiency programs - four residential programs and four commercial and industrial programs ("C&I") programs. (ComEd Ex. 2.0, pp. 6-7.)

As Mr. Brandt explained, the "Smart Ideas for Your Home" program elements were technology based, focused on simple customer actions and emphasized customer education with the goal of moving residential customers to comprehensive "whole home" solutions. They included the Residential Lighting Program element, the Appliance Recycling Program element, the Residential Multi-Family "All-Electric" Sweep Program element, and the Central Air Conditioning ("AC") Cycling Program element (formerly "Nature First"). (ComEd Ex. 2.0, pp. 7-8.) Mr. Brandt further testified that the

"Smart Ideas for Your Business" program elements offered a complementary set of energy efficiency options to C&I customers during Plan Year I. These included the Prescriptive Incentive Program element, the Custom Incentive Program element, the Retrocommissioning Program element, and the Small C&I Intro Kit Program element. (ComEd Ex. 2.0, pp. 9-10.)

In addition to these eight Plan Year 1 program elements, Mr. Brandt testified that ComEd's Plan provided for the development of additional program elements developed during Plan Year 1 that would be offered during Plan Year 2. These programs included the Residential Heating, Ventilation and Air Conditioning ("HVAC") Diagnostic & Tune - Up and New HVAC with Quality Installation Program (or Central AC Efficiency Program) and the C&I New Construction Program. (ComEd Ex. 2.0, p. 11.)

B. Plan Year 1 Incremental Costs

Mr. Brandt also testified about the incremental costs ComEd incurred related to implementing energy efficiency and demand response measures during Plan Year 1. He explained that the incremental costs included costs for (i) residential programs, (ii) C&I programs, (iii) the demand response program, (iv) education and market transformation activities, (v) DCEO costs, and (vi) portfolio-level costs. (ComEd Ex. 2.0, p. 12.)

Mr. Brandt stated that the incremental costs for program elements during Plan Year 1 were as follows: Residential Lighting - $5,267,140.80; Appliance Recycling - $2,021,124.96; Residential Multi-Family "All-Electric" Sweep - $653,409.75; Residential HVAC Diagnostic & Tune-Up and Residential New HVAC with Quality Installation - $408,269.85; AC Cycling - $476,027.70; C&I Prescriptive - $8,372,918.84; C&I Custom - $2,093,326.49; C&I Retrocommissioning - $416,256.42; Small C&I CFL Intro Kit - $610,420.31; and C&I New Construction - $100,000.00. (ComEd Ex. 2.0, p. 12.)

According to Mr. Brandt, ComEd also undertook a variety of education and market transformation activities that were designed to promote energy efficiency education and awareness of ComEd's Plan. These activities included (i) providing Energy Insights Online and Energy Data Services for business customers, (ii) launching the "Change the World" promotion for CFLs (iii) partnering with the City of Chicago project on industrial rebuild, (iv) participating in green ribbon fairs and trade ally events to promote the programs, (v) conducting general marketing activities, and (vi) launching two pilot programs - ComEd Community Energy Challenge and the Positive Energy Home Energy Report - whose costs were split with the Research and Development budget. Mr. Brandt testified that the incremental costs associated with these activities during Plan Year 1 were $1,685,306.55. (ComEd Ex. 2.0, p. 13.)

Mr. Brandt also explained that because ComEd collects 100% of the revenue, it must reimburse DCEO for its incremental costs relating to the energy efficiency measures DCEO implemented. As DCEO executed grants or contracts for energy efficiency measures during Plan Year 1, it would forward to ComEd an invoice including all of the supporting documentation for these grants and contracts. ComEd reviewed all of the invoice documentation to ensure completeness and then released the money to DCEO. Mr. Brandt explained that this process provided oversight and ensured that the money was being allocated towards energy efficiency measures. ComEd reimbursed DCEO $6,949,809.14 for its incremental costs. (ComEd Ex. 2.0, p. 13.)

Mr. Brandt testified that the Plan Year 1 portfolio-level costs included the operation and administration costs of the Plan and consisted of three categories – portfolio administration costs, measurement and verification costs, and research and development and emerging technology costs. The portfolio administration costs included costs associated with (i) internal ComEd labor for new, incremental positions added to implement ComEd's Plan, (ii) external consultant support for SAG, (iii) market research and baseline studies across all customer classes, (iv) Plan start-up costs and (v) implementation and management of the tracking system. According to Mr. Brandt, during Plan Year 1 the incremental costs were $3,423,682.20. The measurement and verification costs related to expenses incurred in retaining a consultant to conduct the required independent evaluation function for the portfolio. Mr. Brandt explained that the hiring of the consultant was subject to the Commission Staff's approval. According to Mr. Brandt, the incremental costs incurred during Plan Year 1 for measurement and verification were $1,200,000.00. Mr. Brandt stated that research and development and emerging technologies costs could be divided into three groups: (i) pilot programs, (ii) energy efficiency industry memberships and (iii) technology research. He testified that during Plan Year 1, these incremental costs totaled $628,266.58. (ComEd Ex. 2.0, pp. 14-15.)

Summarizing the PY1 incremental costs, Mr. Brandt testified that the actual incremental costs ComEd incurred related to the implementation of the Plan during Plan Year 1 totaled $34,305,959.59. (*See* ComEd Ex.1.0; ComEd Ex. 2.0, p. 15.) He explained that ComEd accounts for the expenditures associated with the measures by assigning each program and activity a unique project number within ComEd's accounting system. He testified that the Plan Year 1 forecast of expenditures associated with the measures was $39,391,000.00 (ComEd Ex. 2.1) and actual expenditures for Plan Year 1 were $34,305,959.59 (ComEd Ex. 1.0). However, actual revenues collected for Plan Year 1 were $38,208,976.52. (ComEd Ex. 1.0.) Subtracting $34,305,959.59 from $38,208,976.52 resulted in an over-collection of $3,903,016.93. Mr. Brandt stated that the primary reasons for the difference between the forecast and actual expenditures are (i) ComEd's success in managing the residential programs for approximately $1.8 million less than projected and (ii) DCEO costs were less than projected. (ComEd Ex. 2.0, pp. 15-16.)

C. Contractor Selection and Oversight

Mr. Brandt also described the types of activities for which ComEd retained third-party consultants and contractors. Specifically, these roles included (i) program implementation, (ii) program evaluation, (iii) market research, (iv) program tracking system development and implementation, and (v) educating SAG concerning program evaluation. Mr. Brandt explained that to ensure the consultant and contractor costs are reasonable and prudent, ComEd uses a standard competitive solicitation process administered by its affiliate, Exelon Business Services Company ("BSC"). According to Mr. Brandt, ComEd, in conjunction with BSC, developed Request for Proposals ("RFP") documents that detailed the requirements for the programs. A list of qualified vendors was created for the programs and projects based on numerous sources and then the RFPs were sent to the vendors for bid. For each RFP, ComEd and BSC put together an internal team to review each bid based on specific qualifications, including previous experience and cost. In all cases, contract negotiations were conducted by the BSC procurement team and followed standard procedures. Mr. Brandt explained that in the case of the evaluation contract, Staff was also offered the opportunity to review all bids, participate in any vendor interviews, and have sign-off on the vendor selection. In addition, SAG members were kept apprised of all steps in the process and had the opportunity to comment on the process at any time. (ComEd Ex. 2.0, pp. 16-17.)

Mr. Brandt further testified that during the contract implementation phase, ComEd's program managers review the invoices submitted by the consultants and contractors to ensure the invoices reflect only those charges that relate to work that has been authorized. He explained that to assist its review of expenditures, ComEd requires that invoices include detailed backup documentation. (ComEd Ex. 2.0, p. 17.) Mr. Brandt also identified primary consultants and contractors that worked on the project, including those contractors who were responsible for implementing the programs. (ComEd Ex. 2.0, pp. 7, 8, 10, 17.)

D. Operation of Rider EDA

Mr. Brandt testified that Rider EDA prescribes the method of computing the charges that reflect the recovery of the incremental costs associated with energy efficiency and demand response measures. He explained that the purpose and intent of Rider EDA is to pass through to retail customers the incremental costs incurred by ComEd associated with the measures, without markup or profit. Each May, ComEd files with the Commission an Informational Filing for Energy Efficiency and Demand Response Adjustments ("Informational Filing"), which includes its projected costs for measures to be implemented during the next Plan year and the calculations necessary to determine the Rider EDA charges for the coming Plan year for each of the three customer classes identified in the rider. Rider EDA provides that the Rider EDA charges may be revised by ComEd during a given Plan year if ComEd determines that, "a revised EDA results in a better match between EDA revenues and costs." (ComEd Ex. 2.0, p. 18.)

Mr. Brandt further explained that a key component of the Rider EDA calculation is the Automatic Reconciliation Factor ("ARF"), which Rider EDA defines as "equal to the cumulative over collection or under collection resulting from the application of then applicable EDAs through the twelve (12) month period ending May 31 prior to such calendar year." He explained that because Plan Year 1 was the first year of Rider EDA's operation, the ARF was set at "0" during this initial period. (*Id.*)

Mr. Brandt also testified that all incremental costs associated with the measures were recoverable under Rider EDA. He stated that Rider EDA defines "Energy Efficiency and Demand Response Measures (Measures)" as "activities and programs that are developed, implemented, or administered by or for the Company, or the Department of Commerce and Economic Opportunity (DCEO), that are related to energy efficiency and demand response plans approved by the ICC." Rider EDA defines "Incremental Costs" as:

> [C]osts incurred after August 28, 2007 by the Company or recovered on behalf of DCEO in association with the Measures and include, but are not limited to (a) fees, charges, billings, or assessments related to the Measures; (b) costs or expenses associated with equipment, devices, or services that are purchased, provided, installed, operated, maintained, or monitored for the Measures; (c) the revenue requirement equivalent of the return of and on a capital investment associated with a Measure, based on the most recent rate of return approved by the ICC; and (d) all legal and consultative costs associated with the Measures.
>
> Incremental Costs also include incremental expenses for wages, salaries, and benefits of Company employees, including direct and indirect incremental costs associated with such Company employees, who are hired for positions that are specifically related to the Measures and that were created after August 28, 2007.
>
> Incremental Costs may not include any expenses for wages, salaries, and benefits of Company employees, employed either before or after August 28, 2007, that are otherwise recovered under other effective tariffs.

(ComEd Ex. 2.0, pp. 18-19 (quoting Rider EDA).)

Exhibit 2.1 to Mr. Brandt's Direct Testimony showed how ComEd calculated the Rider EDA charges for the reconciliation period. Mr. Brandt explained that for each of the three customer classes, the following information was included in the calculations of Rider EDA for Plan Year 1: (1) the Plan Year 1 projected incremental costs associated with the measures, (2) the Total Dollar Amount to be recovered through the rider, (3) the Projected Energy to be Delivered to each of the three classes of Retail Customers (in kWhs), (4) the Uncollectible Factor, and (5) the Plan Year 1 Rider EDA Adjustments, rounded to the nearest thousandth of a cent. (ComEd Ex. 2.0, p. 20.)

Moreover, Mr. Brandt explained that the methodology used to calculate the Rider EDA charges, described in Rider EDA, takes into account the Reimbursements of Incremental Costs ("RIC"), which is equal to reimbursement funds from any source other than the application of the Rider EDA charges to the bills of retail customers. If the RIC is greater than zero, then the amount of the RIC is subtracted from the projected incremental costs to obtain the total amount to be charged through the rider. Mr. Brandt testified that in Plan Year 1 the value of the RIC was zero and, therefore, with no offsetting credits, the total amount to be charged through the rider was equal to the projected incremental costs associated with the measures. (ComEd Ex. 2.0, pp. 20-21.)

Mr. Brandt also explained how ComEd determined the projected energy to be delivered during PY1 to retail customers in the Rider EDA calculations, stating that ComEd obtained a forecast of the projected energy to be delivered to its retail customers in Plan Year 1 from its Load Forecasting Division, which is part of ComEd's Financial Planning and Analysis department. He also testified as to how ComEd determined the Uncollectible Factor. He explained that Rider EDA provides that the Uncollectible Factor is "equal to the uncollectible factor listed in Rider UF – Uncollectible Factors (Rider UF) for retail customers taking service under Rate BESH – Basic Electric Service Hourly Pricing (Rate BESH)." Mr. Brandt said that for the Plan Year 1 EDA charges, the Rider UF uncollectible factor for retail customers taking service under Rate BESH was 1.0072. (ComEd Ex. 2.0, p. 21.)

According to Mr. Brandt, the Rider EDA charges for each customer group were then determined by dividing the projected incremental costs associated with the measures for Plan Year 1 for that customer group by the projected energy to be delivered to that customer group in Plan Year 1, multiplying that figure by the Uncollectible Factor, and rounding to the nearest thousandth of a cent. He explained that, as shown in ComEd's Informational Filing, the Rider EDA charges appearing on retail customers' bills beginning June 1, 2008 and extending through the May 2009 billing period were as follows: Residential (EDA-R) - 0.053 cents per kWh; Small C&I (EDA-NS) - 0.035 cents per kWh; and Large C&I (EDA-NL) - 0.040 cents per kWh. The relevant Rider EDA charge was then applied to each kWh of electricity delivered to ComEd's retail customers and the total charge or credit applied is separately stated on each retail customer's monthly bill as "Energy Efficiency Programs." (ComEd Ex. 2.0, pp. 21-22.)

Mr. Brandt testified that ComEd filed an annual report, Exhibit 1.0, with the Commission consistent with Rider EDA, which requires that the annual report summarize the operation of Rider EDA and compare actual incremental cost recovery from customers in Plan Year 1 with the incremental costs incurred in accordance with the provisions of Rider EDA for Plan Year 1. Mr. Brandt testified that the first page of the Annual Report shows the ARF for each of the customer classes for Plan Year 1 activity. The second page shows the amounts recovered through rates by class of retail customers to whose bill Rider EDA charges were applied in Plan Year 1. Finally, the third page shows the incremental costs incurred by ComEd and associated with the measures during Plan Year 1. The costs are broken down by program and activities, and then by customer group. (ComEd Ex. 2.0, pp. 22-23.)

With respect to the calculation of the ARF for Plan Year 1 activity, Mr. Brandt explained that, for the PY1 reconciliation period, each ARF is equal to the amount of the over collection of incremental costs resulting from the application of the Rider EDA adjustment to retail customers' bills. According to Mr. Brandt, the difference between the incremental costs incurred for each of the three customer classes and the amount recovered in rates from each of the customer classes resulted in an over collection for each class – $1,728,911.23 for residential, $1,284,007.14 for small C&I, and $890,098.56 for large C&I. (*See* ComEd Ex. 1.0; ComEd Ex. 2.0, p. 23.)

Mr. Brandt also testified that ComEd made changes to Rider EDA charges for Plan Year 2 based on two factors. First, under ComEd's Plan, both the energy savings goal and spending screen increased substantially for Plan Year 2, with the spending screen doubling to $79.3 million. As a result, the Rider EDA charges had to be recalculated for all three customer classes, using the same methodology employed during Plan Year 1. (*See* ComEd Ex. 2.2.) Second, as shown in ComEd's Revised Informational Filing for Energy Efficiency and Demand Response Adjustment, sent to the Commission on May 19, 2009 for charges to be effective beginning with the June 2009 monthly billing period and extending through the May 2010 monthly billing period, ComEd estimated an over collection at that time for each of the three customer classes: $1,483,991.00 for residential; $1,164,648.00 for small C&I; and $1,151,361.00 for large C&I. (*See id*.) Mr. Brandt stated that as such, the estimated amount of over collection was subtracted from the estimated incremental costs for each customer class for Plan Year 2 to determine the total amount to be recovered through the rider from each class. (ComEd Ex. 2.0, pp. 23-24.)

Mr. Brandt further testified that as required by Rider EDA, the Annual Report included "the results of an internal audit verified by an officer of the Company." (*See* ComEd Ex. 2.3.) He explained that consistent with Rider EDA, Exelon's internal audit team performed testing to ensure that: (1) expenses recovered through the rider were associated with the energy efficiency programs and were not recovered through other approved tariffs; (2) revenue obtained through the rider was correctly stated; (3) funds other than those collected through the rider were identified and reflected in the EDA and ARF; and (4) customer bills accurately reflected the appropriate rate. According to Mr. Brandt, the audit found that the control activities were effective at mitigating the financial risks mentioned above and no issues were discovered as a result of the above tests. (ComEd Ex. 2.0, p. 24.)

III. Staff's Position

In her testimony, Ms. Pearce presented her position on ComEd's Annual Report, which specifically addressed the incremental costs incurred and the recoveries collected by ComEd under Rider EDA. Ms. Pearce recommended that the Commission accept ComEd's Annual Report and that the Commission should find ComEd's total over-recovery to be $3,903,016.93. (ICC Staff Ex. 1.0 Revised, pp. 2, 12 ("ICC Staff Ex. 1.0R").)

Ms. Pearce testified that ComEd's Annual Report included the information required by Rider EDA. In particular, she explained that it was filed in conjunction with and was supported by the direct testimony of Mr. Brandt and accompanying exhibits. (ICC Staff Ex. 1.0R, p. 3.) Ms. Pearce also testified that the Internal Audit Report submitted by ComEd met the requirements of Rider EDA and that there were no issues identified. (ICC Staff Ex. 1.0R, p. 4.)

Ms. Pearce described the incremental costs recoverable by ComEd under Rider EDA as those costs incurred by ComEd or on behalf of DCEO in association with the energy efficiency and demand response measures approved in the Commission's Order in Docket No. 07-0540 entered February 6, 2008. She explained that Docket No. 07-0540 concerned the Commission's approval of ComEd's Plan pursuant to Section 12-103(f) and that the Commission-approved Plan covers a three-year period beginning June 1, 2008 and ending May 31, 2011. Ms. Pearce noted however, that incremental costs incurred after August 28, 2007 (the effective date of the Illinois energy efficiency legislation) are reflected in the initial reconciliation for the period ended May 31, 2009, as permitted by statute. (ICC Staff Ex. 1.0R, p. 5.)

Ms. Pearce testified that ComEd's spending screen of $39.4 million complied with Section 8-103(d)(1) of the Act and was consistent with the Plan Year 1 spending screen calculated by ComEd in Ex. 5.3 of Docket No. 07-0540. She explained that it was her understanding that Mr. Brandt, in his direct testimony in that docket (Docket No. 07-0540, ComEd Ex. 2.0, page 50, lines 1123-1124), requested approval of the spending screens estimated and presented by Mr. Crumrine (Docket No. 07-0540, ComEd Ex. 5.0) for Plan Years 1-3. Ms. Pearce stated that in its February 6, 2008 Order, the Commission found that the statutory spending screens should be updated on an annual basis because they change from year to year based on differences between initial projections and actual experience. (Docket No. 07-0540, Order at 29-30.) She explained that the spending screen for the initial Plan Year 1 was based on costs and energy delivered during the year ended May 31, 2007 and that the initial Plan Year 1 spending screen was accordingly based on the 2008 amount in Mr. Crumrine's testimony, $39,369,795 (ICC Docket No. 07-0540, ComEd Ex. 5.3). However, ComEd reported actually incurred incremental costs of $34,305,959.59, an amount less than the spending screen during Plan Year 1. (ICC Staff Ex. 1.0R, pp. 7-8.)

Ms. Pearce testified that ComEd recovered $38,208,976.52 through Rider EDA during the year ended May 31, 2009 and that ComEd collected its recoveries in accordance with the terms of Rider EDA. She stated that ComEd calculated the initial EDA costs from the Commission-approved Plan for Plan Year 1 and that these estimated costs formed the basis of ComEd's informational filing on May 15, 2008 to establish the EDA. (ICC Staff Ex. 1.0R, p. 8.)

Ms. Pearce further testified that ComEd recovered costs on behalf of DCEO during the reconciliation period and reimbursed DCEO $6,949,809.14 for incremental costs incurred by DCEO in connection with DCEO's implementation of the Plan measures. The amount of the reimbursement is included in the total Plan Year 1 revenue shown on page two of the Annual Report. Ms. Pearce explained that Section 8-103(e) of the Act requires DCEO to report the results of its activities pursuant to the Plan approved in Docket No. 07-0540. 220 ILCS 5/8-103(e). (ICC Staff Ex. 1.0R, p. 9.) Because she had not seen a report from DCEO to the Commission for PY1 at the time of her direct testimony, Ms. Pearce stated that she did not know if the costs incurred by DCEO for PY1 would agree with the amount reported by ComEd, and thus reserved the right on behalf of Staff, to file supplemental direct testimony to address the DCEO report, as necessary for Plan Year 1, when the report is filed by DCEO with the Commission. (ICC Staff Ex. 1.0R, pp. 9-10.) During the July 28, 2010 evidentiary hearing, Ms. Pearce testified that DCEO had since filed its report entitled "Energy Efficiency Portfolio Measures Schedule of Actual Costs Program Year 1" on July 9, 2010. She noted that the amount DCEO reported agreed with the amount ComEd reimbursed DCEO during PY1. (Tr. at 20-21.)

Ms. Pearce explained that in the calculation of ComEd's Revised Informational Filing for Energy Efficiency and Demand Response Adjustment sent to the Commission on May 19, 2009 (ComEd Ex. 2.2) for Plan Year 2, ComEd reflected an estimated over collection for each of the three customer classes that totaled $3,800,000 - $1,483,991 for Residential; $1,164,648 for Small C&I; and $1,151,361 for Large C&I. In accordance with the calculation set forth in Rider EDA, this amount was subtracted from the estimated incremental costs for each customer class for Plan Year 2 to determine the total amount to be recovered through the rider from each class. Ms. Pearce testified that the difference between the estimated over-recovery of $3,800,000 and the actual over-recovery of $3,903,016.93 will be reflected in the cumulative ARF at the end of the following reconciliation period. (ICC Staff Ex. 1.0R, p. 11.)

Mr. Brightwell testified that he reviewed whether ComEd's expenditures were consistent with the Energy Efficiency and Demand Response Plan filed by ComEd in Docket 07-0540. He stated that he had reviewed ComEd's Plan, the annual report for Plan Year 1 that ComEd filed in Docket 07-0540, the Final Order in Docket 07-0540, and the testimony of Mr. Brandt in this docket, and did not find any program or expenditure levels that were inconsistent with the Final Order. (ICC Staff Ex. 2.0, pp. 2-3.)

IV. Commission Analysis and Conclusions

There are no issues between the parties for the Commission to resolve in this proceeding. Accordingly, based on the record herein the Commission concludes that ComEd's Rider EDA expenditures covering Plan Year 1 beginning June 1, 2008 and ending May 31, 2009 are reasonable, prudent and consistent with the terms of Rider EDA and should be recovered.

V. Findings and Orderings Paragraphs

The Commission, having given due consideration to the entire record and being fully advised in the premises, is of the opinion and finds that:

(1) Commonwealth Edison Company is an Illinois corporation engaged in the transmission, sale and distribution of electricity to the public in Illinois, and is a public utility as defined in Section 3-105 of the Public Utilities Act;

(2) the Commission has jurisdiction over Commonwealth Edison Company and the subject matter of this proceeding;

(3) the statements of fact set forth in the prefatory portion of this Order are supported by the evidence and the record and are hereby adopted as findings of fact;

(4) for the period June 1, 2008 through May 31, 2009, ComEd prudently incurred Rider EDA program expenditures of $34,305,959.59;

(5) for the period June 1, 2008 through May 31, 2009, ComEd recovered $38,208,976.52 from ratepayers in accordance with the terms of Rider EDA, resulting in an over-recovered amount of $3,903,016.93 as reflected in ComEd Ex. 1.0 and attached hereto as Appendix A.

IT IS THEREFORE ORDERED that the reconciliation submitted by Commonwealth Edison Company of the energy efficiency and demand response measures and associated costs actually incurred with the revenues received under Rider EDA covering the period beginning June 1, 2008 and ending May 31, 2009, is hereby approved.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Illinois Administrative Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this _____ day of ________________, 2010.

(SIGNED) MANUEL FLORES

Acting Chairman