

Jose Lozano

November 2, 2010

<p style="text-align: center;">STATE OF ILLINOIS ILLINOIS COMMERCE COMMISSION</p> <p>MALIBU CONDOMINIUM,)) Petitioner,) Docket -vs-) No. 08-0401 COMMONWEALTH EDISON COMPANY,)) Respondent.)</p> <p>The deposition of JOSE LOZANO, called for examination, taken before THERESA A. VORKAPIC, a Notary Public within and for the County of Kane, State of Illinois, and a Certified Shorthand Reporter CSR No. 84-2589, of said state, at Suite 1100, 224 South Michigan Avenue, Chicago, Illinois, on November 2, 2010, at approximately 9:46 a.m.</p>	<p style="text-align: right;">1</p> <p>1 (WHEREUPON, the witness was duly 2 sworn.) 3 JOSE LOZANO, 4 called as a witness herein, having been first duly 5 sworn, was examined and testified as follows: 6 EXAMINATION 7 BY MS. THOMPSON: 8 Q. Will you please state and spell your 9 name for the record? 10 A. Jose Lozano, first name is spelled 11 J-o-s-e, last name L-o-z-a-n-o. 12 Q. What is your home address? 13 A. 1407 Grommon Road, Naperville Illinois, 14 60564, G-r-o-m-m-o-n. 15 Q. Do you have a business address? 16 A. No. That is, in fact, my business 17 address. 18 Q. Are you currently employed? 19 A. No, I'm retired. 20 MS. THOMPSON: Will you please mark this copy 21 of Mr. Lozano's Curriculum Vitae as Exhibit 1. 22 (WHEREUPON, a certain document 23 was marked Lozano Deposition 24 Exhibit No. 1, for</p>
<p style="text-align: right;">2</p> <p>1 PRESENT: 2 GOLDIN HILL & ASSOCIATES, 3 (9100 Plainfield Road, 4 Brookfield, Illinois 60513, 5 708-485-8300), by: 6 MR. KENNETH G. GOLDIN, 7 kgoldin@ghlaw.net, 8 appeared on behalf of the Petitioner; 9 EIMER STAHL KLEVORN & SOLBERG, LLP, 10 (224 South Michigan Avenue, Suite 1100, 11 Chicago, Illinois 60604, 12 312-660-7611), by: 13 MR. SCOTT C. SOLBERG, 14 ssolberg@eimerstahl.com, 15 MS. RONIT C. BARRETT, 16 rbarrett@eimerstahl.com, 17 MS. KENDRA N. THOMPSON, 18 kthompson@eimerstahl.com, 19 appeared on behalf of Respondent. 20 21 22 23 REPORTED BY: THERESA A. VORKAPIC, 24 C.S.R. Certificate No. 84-2589</p>	<p style="text-align: right;">4</p> <p>1 identification, as of 11/02/2010.) 2 (WHEREUPON, the document was 3 tendered to the witness.) 4 BY MS. THOMPSON: 5 Q. Mr. Lozano, have you attended any 6 educational institutions since high school? 7 A. Yes. 8 Q. If so, for each institution -- how many 9 actually have you attended? 10 A. Two. 11 Q. What are the names of those? 12 A. University of Illinois in Chicago, and 13 the other one is DePaul University. 14 Q. Beginning with the University of 15 Illinois, can you tell me the years attended? 16 A. 1968 to 1972 when I graduated. 17 Q. Your major or concentration? 18 A. Engineering and electrical. 19 Q. For DePaul, can you tell me the years 20 attended? 21 A. I'm going to have to guess at that one. 22 1992 for six months. 23 Q. Did you get a degree? 24 A. Not a degree. I had a certificate.</p>



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<p>1 Purchasing management. 2 Q. Can you tell me more about that degree? 3 What's a purchasing management degree? 4 A. It's to become certified as a 5 purchasing manager. 6 Q. What does a purchasing manager do? 7 A. A buyer. 8 Q. With respect to any particular 9 industry? 10 A. No. Just a general certificate. 11 Q. Have you completed any teaching work? 12 A. No. 13 Q. Have you ever published any scholarly 14 work? 15 A. I believe I have. It was a long time 16 ago. 17 Q. Was it published in a journal or -- 18 A. I believe it was published in the IEEE 19 and it had to do with electric space heating. 20 Q. What is the IEEE? 21 A. Institute of Electrical Engineering -- 22 I forget what the last E means. It's been awhile. 23 Q. In your Curriculum Vitae, it indicates 24 that you attended numerous ComEd courses and</p>	<p>5</p>	<p>1 Q. You mentioned one license earlier; is 2 that correct? Do you have any licenses or 3 certifications? 4 A. It's just a certificate. 5 Q. Just a certificate. 6 A. Yes. 7 Q. And that was the certificate that you 8 got at DePaul? 9 A. Purchasing, yes. 10 Q. Were there any tests or training that 11 were required to obtain that certificate? 12 A. Yes. 13 Q. Can you tell me about that? 14 A. There were four major components to 15 that particular certificate. There was material 16 buying, contract service buying and the other two 17 were more in depth of the same things. 18 Q. And that was issued in 1992? 19 A. I'm guessing. 20 Q. Is that certificate renewed? 21 A. No. 22 Q. Have you ever been subject to any 23 disciplinary actions or revocations related to 24 that certificate?</p>	<p>7</p>
<p>1 seminars. 2 A. Yes. 3 Q. For each course generally that you've 4 attended in your Curriculum Vitae, I'm interested 5 to know the year of the course or seminar? 6 A. I would have to get that information 7 for you because there were a few. 8 Q. Do you remember the years generally? 9 A. Generally, the first one was 1976 and 10 that was roughly a six or eight-week course for 11 the provision of electrical service. 12 Q. So that's the first. 13 A. That's the first. The others were more 14 or less dealing with electrical equipment, for 15 example, like heat pumps, process heating, any 16 type of electrical equipment that would help us be 17 able to serve our customers, and there were a few. 18 And I couldn't give you years. 19 Q. Not even generally? 20 A. I'd have to look. 21 Q. Okay. So were you ever an instructor 22 or otherwise assisted in creating or preparing 23 materials for any of those courses or seminars? 24 A. Not for the courses, no.</p>	<p>6</p>	<p>1 A. No. 2 Q. Are you a member of any professional 3 organizations? 4 A. Currently, no. 5 MS. THOMPSON: Will you please mark this copy 6 of Malibu's Statement and Disclosure of Documents 7 and Witnesses as Exhibit 2. 8 (WHEREUPON, a certain document 9 was marked Lozano Deposition 10 Exhibit No. 2, for 11 identification, as of 11/02/2010.) 12 (WHEREUPON, the document was 13 tendered to the witness.) 14 BY MS. THOMPSON: 15 Q. Mr. Lozano, have you ever seen this 16 document before? 17 A. Yes. 18 Q. On Page 3 of this document, Paragraph 19 B-1, towards the end of that paragraph it says: 20 "Mr. Lozano's professional experience includes 21 over 30 years" and it lists various positions 22 you've held. 23 A. It's 29 years really. 24 Q. 29 years.</p>	<p>8</p>



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<p>1 A. Right. 2 Q. When did your employment tenure at 3 ComEd begin? 4 A. Begin? 1972, roughly July. 5 Q. When did your employment tenure at 6 ComEd end? 7 A. December of 2001. 8 Q. Can you tell me the reason or reasons 9 your employment tenure at ComEd ended? 10 A. Early retirement. 11 Q. Now, I'd like us to go back to your 12 Curriculum Vitae if we can, and the way that 13 you've listed your positions at ComEd, is that in 14 reverse chronological order? 15 A. Yeah. 16 Q. So starting with field and planning 17 engineer, is it accurate to say that that was your 18 first position? 19 A. Correct. Well, those are two separate 20 positions. 21 Q. Can you tell me the dates you were 22 employed in those positions? 23 A. You mean when I was working in those 24 positions?</p>	<p>9</p>	<p>1 marketing engineer. 2 A. You want to not go over planning? 3 Q. No. 4 A. Okay. Because that's where I had my 5 first encounter with tariffs. 6 Q. I'm sorry. Going back to the field and 7 planning engineer -- 8 A. Those are two separate. 9 Q. So you're saying as a planning 10 engineer? 11 A. Right. 12 Q. Okay. Sure. Tell me about that. 13 A. Planning engineer, different from field 14 service, we would actually come up with one line 15 electrical diagrams of how to provide service to a 16 customer, and those one line diagrams and plans 17 were then transferred over to field engineering. 18 Now, at that time, I would receive 19 information from at that point a marketing 20 department that would tell me, for example, if the 21 service is for a customer and under what rates and 22 riders would be applicable. 23 Q. So marketing would tell you the rates 24 and riders that were applicable?</p>	<p>11</p>
<p>1 Q. Right, when you were a field and 2 planning engineer. 3 A. That was in 1972, I believe, through 4 '73. 5 Q. Were any disciplinary actions taken 6 against you in that position? 7 A. No. 8 Q. Why did you leave that position? 9 A. Transferred. 10 Q. Did you ask to transfer? 11 A. No. 12 Q. So you got transferred? 13 A. Right. It was customary at the time. 14 Q. Can you tell me a little bit about what 15 you did in your capacity as a field and planning 16 engineer? 17 A. It was a long time ago, but I drew up 18 work orders and plans for electrical distribution 19 systems, in other words, for providing service to 20 ComEd customers. 21 Q. Did you have any involvement with any 22 of ComEd's tariff's in that position? 23 A. No. 24 Q. So now we'll move up to senior</p>	<p>10</p>	<p>1 A. Well, they would tell me that it's 2 under this particular rate and that, what's called 3 a service estimate request, is really a request to 4 engineering for a response from engineering. 5 Q. What would that response look like? 6 A. We would, for example, set up what a 7 standard type of a service would be for the 8 customer. 9 Q. So would you say you became familiar 10 with ComEd's tariffs -- 11 A. I was starting to become familiar with 12 the tariffs at that time. 13 Q. Can you describe generally your 14 familiarity? Would you know the difference 15 between what sort of customer would be a 16 residential rate versus a non-residential rate 17 versus commercial? 18 A. No. At that time, I wasn't that privy 19 to it. Most of the requests that I received 20 typically dealt with commercial and industrial 21 type customers. 22 Q. With respect to your next position you 23 had listed here which is senior marketing 24 engineer --</p>	<p>12</p>



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<p>13</p> <p>1 A. Marketing rep would be more 2 appropriate. 3 MR. GOLDIN: Let her complete the question 4 before you provide a response, please. 5 THE WITNESS: Okay. My apologies. 6 BY MS. THOMPSON: 7 Q. So you were a senior marketing rep? 8 A. Yes. Marketing rep, right. 9 Q. Can you tell me the dates you were 10 employed as a senior marketing rep? 11 A. That I worked as a marketing rep? 12 Q. Yes. 13 A. 1975 through '78. 14 Q. And can you tell me an a little bit 15 generally about what you did as a senior marketing 16 rep? 17 A. Marketing rep, senior marketing rep, I 18 would actually meet customers and at that point I 19 would -- depending on what kind of service that 20 they were asking for, I may have to ask them for 21 blueprints, plans, things of that nature. 22 Q. Why did you leave that position? 23 A. Actually I was promoted to marketing 24 rep to marketing engineer.</p>	<p>15</p> <p>1 Residential has to be a residence. General 2 service, which at that time was Rate 6, in essence 3 was a non-residential rate. It's a general 4 service rate. A lot of different classes of 5 customer fell under that like commercial, like 6 industrial and anything else that was 7 non-residential. 8 Q. How would you go about determining 9 whether a building was residential if it was mixed 10 use? 11 A. I'd ask for plans. 12 Q. You'd ask for plans? 13 A. Right. Blueprints. 14 Q. What would you be looking for in those 15 blueprints? 16 A. Well, I'd be looking to see if it's a 17 residence or not. 18 Q. Right. But going back to the question 19 of when it's a mixed use building, let's say, for 20 example, maybe a few floors in the building are 21 used for commercial purposes and then the rest for 22 residential. 23 A. If the complexity of the type of 24 electric service that was being requested,</p>
<p>14</p> <p>1 Q. How did your job duties change going 2 from rep to engineer? 3 A. Typically I would have larger 4 customers. 5 Q. What do you mean by "larger customers"? 6 A. More electrical load. 7 Q. Were there any disciplinary actions 8 that were taken against you in that position? 9 A. No. 10 Q. Did you have any connection with 11 ComEd's tariffs in that position? 12 A. Oh, yes. 13 Q. Can you tell me about that? 14 A. This is where the training took place 15 when I went to school for the provision of 16 electrical services, and at that school we were 17 briefed as to when residential rates were 18 applicable versus general service or commercial 19 and also governmental. 20 Q. Can you tell me generally what you 21 learned about when residential rates were 22 applicable versus commercial or -- I forget the 23 third category? 24 A. Well, it's really kind of simple.</p>	<p>16</p> <p>1 typically I would ask for a letter, and in that 2 letter I would ask them please tell me what is 3 residential and then please tell me what would be 4 non-residential. And at that point, I can 5 determine are we talking the public areas, are we 6 talking a commercial area perhaps on the first 7 floor, things of that nature, so that we know what 8 rate or tariff to put them under. 9 Q. Did you ever encounter a situation 10 where a building had residences in it, but was on 11 a non-residential rate? 12 A. No. 13 Q. Never? 14 A. No, I would say never. That's usually 15 -- let me put it this way. In my experience, no. 16 Q. And continuing with your other 17 experience in the marketing department, I think 18 the next is assistant supervisor of marketing? 19 A. No. The next one is marketing 20 engineer. 21 Q. Yes. We had rep and engineer and I 22 think we were just speaking about your time as a 23 marketing engineer. 24 A. No. We were speaking about my time as</p>



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<p>17</p> <p>1 marketing rep, I was promoted, marketing engineer, 2 and then I started dealing with a larger class of 3 customers at that point. 4 Q. What would that class of customers be? 5 A. Subdivisions, for example. In the area 6 that I was which was the Mt. Prospect area, it was 7 not uncommon for developers to be building 500 8 single family homes and we would have to be able 9 to generate a plan for them to let them know this 10 is how we're going to service them and we would 11 also have to let them know we're also going to 12 need easements in order to be able to provide a 13 pathway for the high voltage lines and also for 14 transformers, switching equipment, all that kind 15 of that electrical equipment that is necessary to 16 be able to provide service to a large subdivision 17 like that. That's one. 18 The second would be commercial 19 industrial. I was given larger industrial 20 customers that may be dealing with manufacturing 21 and many times either they're new industrial 22 customers or they may be adding space. They may 23 be adding new buildings. 24 Q. And now the assistant supervisor of</p>	<p>19</p> <p>1 marketing engineer, senior marketing engineer. 2 Q. Originally you said 1975 to 1978, so 3 that's 1975 to 1985? 4 A. Yes. In the marketing capacity. 5 Q. Did you have any involvement with 6 ComEd's tariffs in that position? 7 A. Absolutely. 8 Q. Can you tell me about that involvement? 9 A. It mostly dealt with actually now I was 10 supervising other people, other marketing 11 engineers, so I was reviewing their service 12 estimate requests and checking to be sure that the 13 rate tariffs were appropriate and also any other 14 information that may have dealt with the provision 15 of electric service. 16 Q. How would you determine I'm sorry, I 17 forgot what you call it, the rate tariffs -- 18 A. Right. 19 Q. How would you determine whether that 20 was correct? 21 A. It became more involved after awhile. 22 In addition to the tariffs, there's also different 23 levels of electrical service, 12240, 12208, 480, 24 277480, 12,000 volts, all fell under Rate 6, and</p>
<p>18</p> <p>1 marketing -- 2 A. Well, there's one more. 3 Q. I'm sorry. Go ahead. 4 A. That's all right. Promoted from 5 marketing engineer to senior marketing engineer. 6 Q. And then how did your responsibilities 7 change as a senior marketing engineer? 8 A. I didn't really notice much to be 9 honest. I was still dealing with the same class 10 of customers. 11 Q. So there wasn't a big destination 12 between what you were doing as a senior marketing 13 engineer and marketing engineer? 14 A. Not really. 15 Q. Okay. And then with respect to the 16 assistant supervisor of marketing, can you tell me 17 the years you were employed in that position? 18 A. Not really. I'd have to guess. 19 Q. Will you guess? 20 A. 1985, I believe, and perhaps for a year 21 and a half to two years. I'm not exactly sure. 22 Q. What were you doing between 1978 and 23 1985? 24 A. Marketing. I was a marketing rep,</p>	<p>20</p> <p>1 there are standards in which you apply when does a 2 customer qualify for that level of service. That 3 was my function. 4 Q. So you worked primarily with Rate 6 in 5 this position? 6 A. Both Rate 1 and Rate 6 because we still 7 had large, large residential complexes, for 8 example, like this building that we're talking 9 about. 10 Q. I'm not familiar with Rate 1. Can you 11 tell me about that? 12 A. Residential rate. 13 Q. When was that rate in effect? 14 A. Before I came to the company. 15 Q. Do you remember when it no longer was 16 offered, Rate 1? 17 A. No. 18 Q. And Rate 6, do you know when ComEd 19 began to offer Rate 6 to its customers? 20 A. That was even before I came with the 21 company or hired, excuse me. 22 Q. Do you know when they ended offering 23 Rate 6? 24 A. I mean -- can I talk to Ken for a</p>



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<p>21</p> <p>1 second? 2 MR. GOLDIN: If you don't know, then you 3 don't know. 4 BY THE WITNESS: 5 A. Then I don't know. I'm not sure. 6 BY MS. THOMPSON: 7 Q. We will go on now to your position as a 8 major account representative. 9 When were you employed in that 10 capacity? 11 A. Right after being assistant supervisor, 12 so that would be roughly about '86 up to '88. 13 Q. What did you do in this position? 14 A. I handled large accounts, for example, 15 like the University of Illinois, Rush Presbyterian 16 St. Luke's, the medical complex west of the 17 University of Illinois, Finkl Steel, large 18 customer accounts, Rate 6. 19 Q. Did you do any work with Rate 14 during 20 this time? 21 A. Yes. 22 Q. Can you tell me about your involvement 23 with Rate 14? 24 A. There would be times when apartment</p>	<p>23</p> <p>1 A. Yes, it could. 2 Q. Do you know when ComEd began offering 3 Rate 14? 4 A. No. 5 Q. Do you know when it ended offering Rate 6 14? 7 A. After reading this document, I'd have 8 to take a closer look, but apparently it ended in 9 2007. 10 Q. I'm sorry. Which document are you 11 referring to? 12 A. The informal complaint and then the 13 formal complaint. 14 Q. But prior to reading the informal 15 complaint and the formal complaint, you would not 16 have known when it ended? 17 A. Oh, no, not at all. 18 Q. Let's now move on to the positions that 19 you held in the procurement department. So your 20 first position there it looks like is buyer in the 21 purchasing department. 22 Can you tell me the years you were 23 employed? 24 A. In purchasing?</p>
<p>22</p> <p>1 complexes -- and part of my responsibility as I 2 looked at these plans if I saw an opportunity for 3 the client to become all electric, in other words, 4 provide space heating electrically, I would be 5 there to be able to assist them in making that 6 decision. 7 Q. Can you tell me generally about the 8 eligibility requirements for Rate 14? 9 A. It had to be electrically space heated, 10 and by electric, I mean all electrically space 11 heated, no portion. 12 Q. Was that the only eligibility 13 requirement for service under Rate 14? 14 A. Under Rate 14. 15 Q. So they just had to be all electric 16 space heated and that was it? 17 A. There were other components to it, you 18 could have hot water, but then there would be 19 variations of the rate, but as far as Rate 14 is 20 concerned, it has to be all electrically space 21 heated. 22 Q. So what you're saying is any building 23 that was all electric space heated could take 24 service under Rate 14?</p>	<p>24</p> <p>1 Q. As a buyer in the purchasing 2 department? 3 A. As a buyer only? 4 Q. Yes because in here you have several 5 positions listed -- 6 A. Right. They were all promotions. 7 Q. And the first is buyer so I'm wondering 8 when you were just a buyer? 9 A. That would be from 1988 to 1990. 10 Q. I want to ask a clarifying question. 11 A. Certainly. 12 Q. So was the last time you did any 13 marketing 1988? 14 A. '88. 15 Q. As a buyer in the purchasing 16 department, did you have any involvement with 17 ComEd's tariffs? 18 A. No. 19 Q. I asked whether you had any involvement 20 with ComEd's tariffs while you were a buyer in the 21 purchasing department and you said no? 22 A. No. 23 Q. So I believe you got promoted to senior 24 buyer in the purchasing department?</p>



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<p style="text-align: right;">25</p> <p>1 A. Uh-huh. 2 Q. Can you tell me when you were employed 3 as a senior buyer, the dates? 4 A. I was promoted from buyer to senior 5 buyer in 1990 to I believe '98. 6 Q. Did you have any involvement with 7 ComEd's tariffs? 8 A. At that time, no. 9 Q. And then you got another promotion; is 10 that correct? 11 A. Correct. 12 Q. You were promoted to senior process 13 specialist one in the power delivery services 14 ITEC? 15 A. Correct. 16 Q. What years were you employed in that 17 position? 18 A. From 1998 until when I retired, 1998 to 19 2001. 20 Q. Did you have any involvement with 21 ComEd's tariffs in that position? 22 A. No. 23 Q. So the last time you held a position 24 where you had personal involvement with ComEd's</p>	<p style="text-align: right;">26</p> <p>1 tariffs was 1988? 2 A. That's correct. 3 Q. Is that correct? 4 A. Yes. 5 MR. GOLDIN: I'm going to object to that 6 question on the basis of vague. I'm not sure 7 candidly what you mean by involvement with. 8 MR. SOLBERG: Object to the form. Asked and 9 answered. You can keep asking questions. 10 BY MS. THOMPSON: 11 Q. So you formally retired in 2001? 12 A. Correct. 13 Q. Have you had any sort of consulting 14 work with ComEd -- 15 A. Yes, I did. 16 Q. Since that time? 17 A. Not with ComEd directly, but with 18 contractors that they hired. 19 Q. So you consulted with contractors for 20 ComEd? 21 A. Correct. 22 Q. Can you tell me the dates that you were 23 acting as a consultant? 24 A. 2002 through 2006. It might have</p>
<p style="text-align: right;">27</p> <p>1 spilled over to '07, but I'd have to think about 2 that a little bit. 3 Q. Can you tell me what you were doing as 4 a consultant for those contractors? 5 A. Basically the same thing I was doing as 6 a purchasing agent. 7 Q. So the same sort of things you were 8 doing from 1988 to 2001? 9 A. Correct. 10 Q. And then what did you begin doing after 11 late 2006, early 2007? 12 A. I was contracting with other 13 contractors besides ComEd contractors. I got 14 involved with windmill projects and alternate 15 independent power producers. 16 Q. Now I'd like to ask you about your 17 expert witness experience. 18 Have you ever testified at trial in any 19 case in the last ten years as a witness? 20 A. No. 21 Q. Have you ever testified by deposition? 22 A. Yes. 23 Q. How many times have you been deposed? 24 A. I'd have to be guessing.</p>	<p style="text-align: right;">28</p> <p>1 Q. Can you guess for me? 2 A. Four, maybe five. 3 Q. When was the first time you were 4 deposed? 5 A. I'd be guessing again. 6 Q. Please guess for me. 7 A. I'd say 1996, maybe seven. 8 Q. The second time you were deposed in a 9 case? 10 A. The next year. 11 Q. So '97 to '98? 12 A. Something like that. 13 Q. And the third time? 14 A. Next year after that. 15 Q. Say '98 to '99? 16 A. Okay. 17 Q. And the fourth time? 18 A. '99 to 2000. There may have been two 19 depositions in that year. 20 Q. Beginning with the first that was in 21 1996 or 1997, can you tell me the subject matter 22 of that case? 23 A. I don't recall. 24 Q. For the second time you were deposed</p>



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1 during 1997 or 1998, do you remember the subject
2 matter of that case?
3 A. No.
4 Q. For the third time you were deposed?
5 A. Nope. I don't recall.
6 Q. Just to clarify, you don't recall the
7 subject matter?
8 A. I don't recall. Right.
9 Q. And for the fourth time which was 1999
10 or 2000, do you recall the subject matter?
11 A. That one I do. It dealt with an
12 accident from a driver who apparently ran into the
13 contractor's equipment who was performing work for
14 Commonwealth Edison.
15 Q. Sorry. Just to go back and clarify.
16 For all of these four to five times, were you
17 acting as an expert witness?
18 A. No. I was being deposed by the other
19 attorneys.
20 Q. So you were testifying as just a
21 witness?
22 A. As a witness, correct.
23 Q. So you didn't give an expert opinion in
24 any of these?

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1 A. That's correct.
2 Q. On what date were you retained in this
3 case?
4 A. I was asked I believe in July.
5 Q. Is that July of 2010?
6 A. I'm sorry. This year, July of 2001.
7 Q. Will you please state and spell for the
8 record the names of the persons making initial and
9 subsequent contact to retain you?
10 A. First person is Marshall Shiffrin, last
11 name is spelled S-h-i-f-f-r-i-n, second person is
12 Ken Goldin.
13 Q. How do you know Marshall Shiffrin?
14 A. We worked together in the Mt. Prospect
15 office.
16 Q. The Mt. Prospect office of ComEd?
17 A. Correct.
18 Q. What years did you work together?
19 A. This goes way back now. 1976 through
20 1985.
21 Q. And at the Mt. Prospect office, were
22 you in the same department together?
23 A. Yes. We were both in the marketing
24 department.

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1 Q. Have you been given a statement of your
2 assignment in this case?
3 A. I've been asked to testify as an expert
4 witness.
5 Q. And that was the statement of your
6 assignment?
7 A. Yes.
8 Q. And who gave that to you?
9 A. Ken Goldin.
10 Q. Can you elaborate for me on the
11 statement of testifying as an expert witness?
12 A. I was to give what would I have done in
13 a case where a customer being on Rate 14 -- what
14 changes would be -- what would have to happen for
15 that customer to go from Rate 14 to Rate 6.
16 Q. Were you to give that opinion based on
17 your experience in the marketing department?
18 A. Correct.
19 Q. From 1972 to 1988?
20 A. Well, I was not in the marketing
21 department from 1975 or six all the way out to
22 1988.
23 Q. Were there any restrictions placed on
24 your assignment?

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1 A. No.
2 Q. Are you aware of the Daubert standard?
3 A. No.
4 Q. Are you aware that we asked Counsel to
5 provide and/or list all documents you reviewed in
6 forming your opinion?
7 A. Repeat that question.
8 Q. Sure. Are you aware that we asked Ken
9 and Mike to give us a list of everything that you
10 looked at in forming your opinion?
11 A. That you asked?
12 Q. Yes.
13 A. I'm going to say no.
14 Q. Well, we did.
15 MS. THOMPSON: Will you please mark this copy
16 of Malibu's e-mail response dated Friday
17 October 29, 2010 as Exhibit 3.
18 (WHEREUPON, a certain document
19 was marked Lozano Deposition
20 Exhibit No. 3, for
21 identification, as of 11/02/2010.)
22 (WHEREUPON, the document was
23 tendered to the witness.)
24 BY MS. THOMPSON:



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<p>33</p> <p>1 Q. Do you see the list of documents listed 2 in 1 through 4? 3 A. Yes. 4 Q. Of Mr. Goldin's e-mail? 5 A. Yes. 6 Q. Is this list complete and accurate? 7 A. I'm not sure about one of these. 8 MR. GOLDIN: You can answer the question. 9 BY THE WITNESS: 10 A. No. 3 doesn't sound familiar. It's the 11 way it's stated. 12 BY MS. THOMPSON: 13 Q. I actually have available the documents 14 listed here so would it help if I brought those 15 out and you could look at them? 16 A. It would. It certainly would. 17 MR. SOLBERG: Kendra, when you give them 18 those because they're slightly voluminous, can we 19 take a short break while he looks at those? 20 MS. THOMPSON: Sure. 21 BY MS. THOMPSON: 22 Q. The first document listed is the 23 amended complaint of Malibu, I have the complaint 24 and, I apologize, I don't have the exhibits I</p>	<p>35</p> <p>1 A. It says here fourth set. 2 Q. It says first through fourth. 3 A. Right. So we're going to get there. I 4 apologize. There were some attachments to some of 5 these that in the interests of the environment we 6 didn't print out, but we can get those for you. 7 So the First and Second Set of Data Request 8 Responses is Exhibit 6. 9 (WHEREUPON, a certain document 10 was marked Lozano Deposition 11 Exhibit No. 6, for 12 identification, as of 11/02/2010.) 13 (WHEREUPON, the document was 14 tendered to the witness.) 15 BY MS. THOMPSON: 16 Q. Exhibit 7 is Malibu's Responses to 17 ComEd's Third and Fourth Set of Data Requests, but 18 I just wanted to clarify that it only contains 19 answers to ComEd's Third Set of Data Requests. 20 (WHEREUPON, a certain document 21 was marked Lozano Deposition 22 Exhibit No. 7, for 23 identification, as of 11/02/2010.) 24 (WHEREUPON, the document was</p>
<p>34</p> <p>1 don't think. Can we mark this as Exhibit 4? 2 (WHEREUPON, a certain document 3 was marked Lozano Deposition 4 Exhibit No. 4, for 5 identification, as of 11/02/2010.) 6 (WHEREUPON, the document was 7 tendered to the witness.) 8 BY MS. THOMPSON: 9 Q. And the second document listed is 10 ComEd's Answer and Affirmative Defenses to the 11 Amended Complaint and we'll be marking that as 12 Exhibit 5. 13 (WHEREUPON, a certain document 14 was marked Lozano Deposition 15 Exhibit No. 5, for 16 identification, as of 11/02/2010.) 17 (WHEREUPON, the document was 18 tendered to the witness.) 19 BY MS. THOMPSON: 20 Q. And the third set of documents listed 21 is Malibu's responses to ComEd's First Through 22 Fourth Set of Data Requests. So we'll be marking 23 as Exhibit 6 Malibu's Response to the First and 24 Second Set of Data Requests.</p>	<p>36</p> <p>1 tendered to the witness.) 2 BY MS. THOMPSON: 3 Q. And Exhibit 8 will be -- it's labeled 4 Malibu's Response to Third and Fourth Set of Data 5 Requests, but actually Exhibit 8 will be the 6 response to the fourth set of data requests. 7 (WHEREUPON, a certain document 8 was marked Lozano Deposition 9 Exhibit No. 8, for 10 identification, as of 11/02/2010.) 11 (WHEREUPON, the document was 12 tendered to the witness.) 13 BY MS. THOMPSON: 14 Q. Exhibit 9 is Malibu you a restated 15 response to data request 4.05? 16 (WHEREUPON, a certain document 17 was marked Lozano Deposition 18 Exhibit No. 9, for 19 identification, as of 11/02/2010.) 20 (WHEREUPON, the document was 21 tendered to the witness.) 22 BY MS. THOMPSON: 23 Q. And the fourth set of documents listed 24 in Mr. Goldin's October 29 e-mail is the documents</p>



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<p>37</p> <p>1 attached in Malibu's statement and disclosure of 2 witnesses, so that will be Exhibit 10. 3 (WHEREUPON, a certain document 4 was marked Lozano Deposition 5 Exhibit No. 10, for 6 identification, as of 11/02/2010.) 7 (WHEREUPON, the document was 8 tendered to the witness.) 9 BY MS. THOMPSON: 10 Q. The spread sheet that you produced to 11 us -- 12 MR. GOLDIN: That was part of the disclosure 13 of witnesses that was provided to Mr. Lozano. 14 MS. THOMPSON: I have that available as well 15 and so we're going to mark the spread sheet, we 16 had to make it kind of large, as Exhibit 11. 17 (WHEREUPON, a certain document 18 was marked Lozano Deposition 19 Exhibit No. 11, for 20 identification, as of 11/02/2010.) 21 (WHEREUPON, the document was 22 tendered to the witness.) 23 MS. THOMPSON: Now that we have all of the 24 exhibits marked, we'd like to take a short break.</p>	<p>39</p> <p>1 Q. So to be clear, in forming your 2 opinion, you looked at only the documents listed 3 here? 4 A. That plus the one that I mentioned 5 before, the informal complaint. 6 Q. Plus the informal complaint. 7 A. Right. 8 Q. Outside of the four documents that 9 Mr. Goldin listed and the informal complaint, you 10 didn't look at any other documents? 11 A. That's correct. 12 MR. GOLDIN: Just to be clear, this isn't 13 four documents. It's four classes of documents. 14 MS. THOMPSON: Four classes of documents, 15 correct. 16 BY MS. THOMPSON: 17 Q. Are you aware that Mr. Goldin produced 18 a copy of your handwritten notes? 19 A. Yes. 20 MS. THOMPSON: Can we mark these as Exhibit 21 12. 22 (WHEREUPON, a certain document 23 was marked Lozano Deposition 24 Exhibit No. 12, for</p>
<p>38</p> <p>1 MR. SOLBERG: That will give you an 2 opportunity to sort through it. 3 (WHEREUPON, a recess was had.) 4 BY MS. THOMPSON: 5 Q. Before our break, you were saying that 6 you weren't sure whether you had viewed Malibu's 7 responses to ComEd's First Through Fourth Set of 8 Data Requests. 9 A. That's correct. That's what I said. 10 Q. Is that still the case? 11 A. No, it's not. I did review these. 12 Q. You reviewed every answer? 13 A. Yes. 14 Q. Did you participate in the drafting of 15 any of those answers? 16 A. No. 17 Q. Were you in any way involved in 18 answering? 19 A. No. 20 Q. So everything that Mr. Goldin listed in 21 one through four -- 22 A. That I see here. 23 Q. That you see here you've reviewed? 24 A. I've reviewed.</p>	<p>40</p> <p>1 identification, as of 11/02/2010.) 2 (WHEREUPON, the document was 3 tendered to the witness.) 4 BY MS. THOMPSON: 5 Q. Referring to the third page of your 6 handwritten notes, beginning on June 1st, 2010, 7 can you tell me what you did for an hour and a 8 half? 9 A. I don't have the third page. 10 MR. GOLDIN: This is the third page. 11 BY THE WITNESS: 12 A. Oh, I'm sorry. I see what you're 13 saying. One first, I was having a discussion with 14 Marshall at that time. 15 BY MS. THOMPSON: 16 Q. Can you tell me what you talked about? 17 A. We talked about Malibu. 18 Q. Can you tell me what you talked about 19 with respect to Malibu? 20 A. About the fact that they were 21 transferred from Rate 14 to Rate 6, and then we 22 started talking about the separate incidences 23 where from November 27, 1999 to November I'm going 24 to assume it's like 27 or 22 of 2000, the meters</p>



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1 were not changed. They remained watt hour meters.
2 And then we went on to talk more about 2001 when
3 they were exchanged out from watt-hour meters to
4 demand meters.
5 Q. Did you take any notes during this
6 conversation?
7 A. Not really. I mean, they were just
8 these kind of notes, and I don't have them with
9 me.
10 Q. Going back to your first page, is that
11 October -- what date is that?
12 A. 12. It looks like October 12.
13 Q. And then the next date is October 18?
14 A. 18, correct.
15 Q. But you did take notes in this case
16 prior to October 12?
17 A. I believe I did.
18 Q. Returning to the third page, the next
19 entry is for August 3rd, and it's for a half hour.
20 Can you tell me what you did then?
21 A. Basically that I would be deposed and
22 at that time I believe I accepted the assignment
23 as an expert witness and those are what the dates
24 would look like and to be available. And we may

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1 have gone over the case a little bit more.
2 Q. Who were you meeting with?
3 A. I wasn't meeting with anybody. I
4 talked on the phone.
5 Q. Who were you having the phone
6 conversation with?
7 A. Marshall, Marshall Shiffrin. I'm
8 sorry.
9 Q. And for the September 2nd entry?
10 A. Same thing.
11 Q. Three quarters of an hour you spoke on
12 the telephone with Marshall?
13 A. Yes.
14 Q. What were you speaking about?
15 A. Again, that the deposition and the case
16 was being pushed back again.
17 Q. Did you take any notes on
18 September 2nd?
19 A. Not really.
20 Q. Not really or no?
21 A. What I mean by that is what I wrote
22 down is some of our conversation in regards to
23 what we talked about.
24 Q. So you did make notes about your

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1 conversation?
2 A. Cursory type notes.
3 Q. Of course. So the next entry is for
4 September 21 for one hour?
5 A. Right.
6 Q. What were you doing on that date?
7 A. On that particular date, again, we were
8 talking about now I had to try to remember -- I
9 believe at that time there was a debate as to
10 whether or not I could be viewed as an expert
11 witness.
12 Q. Who were you having that conversation
13 with?
14 A. Marshall. And I believe Ken. We may
15 have had a separate conversation.
16 Q. Can you tell me about that
17 conversation?
18 A. Someone from your office was trying to
19 put through a motion that I should not be
20 considered an expert witness, but a layperson and
21 I gave more information about my background at
22 that point.
23 Q. The September 24 entry which is for an
24 hour and a half, can you tell me what you did on

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1 that date?
2 A. Now I'm going through the formal
3 complaint.
4 Q. So September 24 is the first time that
5 you've reviewed --
6 A. Formal complaint.
7 Q. Had you reviewed any documents prior to
8 September 24?
9 A. I believe I was reviewing Rate 14 and
10 Rate 6 prior to that. I do keep copies of the old
11 rates.
12 Q. For the October 12 entry which is for
13 an hour and a half, can you tell me what you did
14 on that date?
15 A. I received a call from Ken to meet on
16 October 18 to discuss ComEd dep with their
17 attorneys on 10/21. We'll also meet with Mike
18 Munson and Marshall, meeting place such and such
19 and at that time Ken suggested that I should
20 review the recent documents on the ICC's website,
21 which is what I did.
22 Q. So you reviewed those recent documents
23 on October 12?
24 A. Right.



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<p style="text-align: right;">45</p> <p>1 Q. So between the conversation and the 2 review, you spent an hour and a half that day? 3 A. Right. 4 Q. On October 18 you spent three and a 5 half hours on this case, and that's also described 6 on Page 1? 7 A. Correct. 8 Q. So you had a meeting; is that correct? 9 A. Uh-huh, yes. 10 Q. Do you recall how long that meeting 11 lasted? 12 A. About three hours. 13 Q. So that day you were just meeting? 14 A. We were meeting, Marshall, Ken and Mike 15 Munson. 16 Q. And it says here, I guess I described 17 that as Paragraph 1, will you read that for me? 18 A. You want me to read the whole thing? 19 Q. No. 20 A. What do you want me to read? 21 Q. Next to the No. 1. 22 A. "My review is still continuing. If I 23 would be asked a question in regards to some 24 specifics as it relates Rate 14, Rate 6, rate</p>	<p style="text-align: right;">47</p> <p>1 Q. It doesn't have to be written. Just 2 your final opinion that you hold. 3 A. By that time, yes, I will. 4 Q. The next entry is October 20 for a time 5 period of one hour? 6 A. Correct. 7 Q. And on that day, you were just engaged 8 in discussions with Ken Goldin? 9 A. Right. 10 Q. Is that correct? 11 A. That's correct. And the fact that the 12 October 21 deposition from this organization is 13 going to be rescheduled and also we talked a 14 little bit about CABA and we discussed the spread 15 sheet calculations. 16 Q. Was October 20 the first time that you 17 had had a conversation with either counsel or 18 Marshall Shiffrin about Rider CABA? 19 A. No. I think we had one on the 18th. 20 That's when I saw the document Rider CABA and at 21 that time trying to understand what it meant. 22 Q. So was October 18, 2010 the first time 23 that you looked at Rider CABA? 24 A. I believe it was.</p>
<p style="text-align: right;">46</p> <p>1 differentials, rate calculations and if I'm not 2 really certain about something, my review is still 3 continuing." 4 Q. Is that still true today? 5 A. Yes, it is still true. 6 Q. Is your review still continuing? 7 A. Right. 8 Q. So you have not formed a final opinion 9 in this case? 10 A. No. 11 Q. Do you know when you will expect to 12 form a final opinion in this case? 13 MR. GOLDIN: I'm going to object. That calls 14 for speculation. You can answer it if you know. 15 BY THE WITNESS: 16 A. No, I don't. 17 BY MS. THOMPSON: 18 Q. You do know that the evidentiary 19 hearing is scheduled for Tuesday of next week? 20 A. Correct. 21 Q. But you don't know whether you would 22 have a final opinion by next Tuesday? 23 A. All right. When you say "final 24 opinion," written or --</p>	<p style="text-align: right;">48</p> <p>1 Q. It also says for the October 20 entry 2 that you discussed the spread sheet calculations? 3 A. Correct. 4 Q. Was that the first date that you looked 5 at the spread sheet? 6 A. Yes. 7 Q. Moving on to the next entry for 8 October 22, which is for a half hour, you just had 9 a phone conversation on that day with Mr. Goldin? 10 A. Yes. We had a talk about the fact that 11 I had several different appointments and I need to 12 know. 13 Q. So you were just discussing scheduling? 14 A. Scheduling at that point. That's all 15 that it looks like here. 16 Q. So the next entry is October 25. Did 17 you spend a half hour on that day? 18 A. Yes. We talked a little bit about the 19 deposition. 20 Q. And it looks like you maybe discussed 21 scheduling, too? 22 A. Right. 23 Q. And then the next entry is for 24 October 27 for a half hour?</p>



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<p>49</p> <p>1 A. Right. 2 Q. And you talked to Ken Goldin about the 3 deposition? 4 A. Correct. And that you were looking for 5 notes. 6 Q. That we were looking for notes? 7 A. Yes. 8 Q. So that day you just had a discussion; 9 is that correct? 10 A. Right. 11 Q. The final entry that we have here in 12 your handwritten notes is for October 28 for a 13 period of one and a half hours? 14 A. Right. 15 Q. And, again, you're having another 16 discussion this time with Ken Goldin, Michael 17 Munson and Marshall Shiffrin? 18 A. Correct. 19 Q. Is that all you did that day was have a 20 discussion? 21 A. Yes. And I had to fax over notes to 22 Ken that day, which I did. 23 Q. Were there any new notes that you made 24 for October 28?</p>	<p>51</p> <p>1 The following there and there is a 2 question mark, why did it take that long to change 3 out the watt-hour meters to demand meters and the 4 question in my mind the question would come up has 5 the marketing department at this point even 6 initiated a service estimate request because I 7 couldn't see any notes to that effect in the 8 formal complaint to change their standard. What 9 you went through from 14 to 6 is a 10 reclassification of rate and somebody at that time 11 should have initiated a request. Now this is 12 interdepartmental from the marketing department to 13 the engineering department, what impacts are there 14 to go from 14 to of 6. 15 Q. I'm sorry. I just want to clarify. 16 You were making these judgments about what 17 happened in 1999 based on your experience in 1988? 18 A. Experience, exactly. Correct. 19 Correct. Then I move on. We're not done yet 20 because it changed, again, from cum demand meters 21 to time of day and, again, I'm asking this 22 question why has there been no contact with the 23 customer. And from what I could tell, there 24 doesn't seem to be any interdepartmental notes</p>
<p>50</p> <p>1 A. Just what you see here. 2 Q. Just what I see here? 3 A. Right. 4 Q. Today is Tuesday, November 2nd. 5 How much time have you spent between 6 today and October 28? 7 A. Probably about eight hours. Maybe 8 more. 9 Q. Can you tell me what you've been doing 10 in those eight hours? 11 A. I was going through all the details. 12 Q. Can you tell me what you mean by 13 details? 14 A. Details. I'm now starting to put on my 15 hat as a rate coordinator and an engineer so as I 16 look at the complaint and follow the sequence of 17 events when Malibu's account changed from Rate 14 18 to Rate 6 and I noticed that No. 1, there was 19 never a request to change the rate from four to 20 six -- 14 to six, excuse me. I had to start 21 asking, jotting down a number of notes why was 22 this customer never contacted and why did ComEd 23 not change out the watt-hour meters to what should 24 have been demand meters at that time.</p>	<p>52</p> <p>1 indicating that a sizable customer of this kind 2 has not been reclassified -- their standard has 3 not been reclassified. 4 Q. And so you have been taking notes since 5 October 28? 6 A. Yeah. It goes on further. 7 Q. Would you say that -- is this accurate 8 to say that the bulk of your review has taken 9 place since October 28? 10 A. Yes, yes. 11 Q. I'm sorry. I didn't mean to interrupt. 12 You can continue. 13 A. No. I was done. 14 Q. Okay. You mentioned earlier that 15 Marshall Shiffrin was the individual that 16 initially contacted you, that's correct? 17 A. Yes. 18 Q. Can you describe to me Mr. Shiffrin's 19 involvement in formulating your opinion? 20 A. We talked about it. 21 Q. When you say it -- 22 A. What we talked about the case. 23 Q. What about the case specifically? 24 A. We were -- I was trying to understand</p>



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<p style="text-align: right;">53</p> <p>1 how a customer like Malibu Condominiums who had 2 been on Rate 14 from 1969 all the way to 1999 3 could have been changed, and I kept asking 4 questions why didn't these things take place, why 5 wasn't there a written letter, why wasn't there a 6 written contract, why was it even, for example, 7 being an engineer would a response to a service 8 estimate request have been written, responded to 9 and delivered to the marketing department to have 10 indicated a reclassification of a standard? I was 11 asking all those questions. I mean, it gets very 12 involved after awhile. As I see the formal 13 complaint, I would say there's even more missing. 14 Q. Did Mr. Shiffrin give you his opinion? 15 A. Yes. 16 Q. On this case? 17 A. Uh-huh. 18 Q. Did that impact your opinion? 19 A. He just complied with mine. 20 Q. So you're saying that you all were of 21 the same mind? 22 A. I would have responded the same way. 23 In fact, as I mentioned before, I would have added 24 on because I'm still surprised at what I see.</p>	<p style="text-align: right;">55</p> <p>1 particular topics, and what I'd like to do with 2 you right now is sort of walk through your opinion 3 on each of those. 4 A. Okay. 5 Q. Have you formed an opinion relating to 6 the rate classifications applicable to Malibu? 7 A. When you say that, are you asking me -- 8 please clarify. 9 Q. That language is quoted directly from 10 the disclosure statement. If you can actually 11 read the first three lines to me up to the point 12 in the comma from the third line? 13 A. "Jose Lozano, 1407 Grommon Road, 14 Naperville, Illinois 60564. Mr. Lozano will 15 testify as a retained controlled expert witness as 16 to the rate classifications applicable to Malibu, 17 the correctness of the rate classifications 18 applied to the residential condominium customers." 19 MR. GOLDIN: I object to this line of 20 questioning. He already testified he didn't 21 prepare this document. This is a legal pleading. 22 MS. THOMPSON: You're only supposed to object 23 to the form. 24 MS. BARRETT: There are not supposed to be</p>
<p style="text-align: right;">54</p> <p>1 Q. When you say you would have responded 2 the same way, does that apply to Malibu's damages 3 calculations, too? 4 A. Yes. I would have been in agreement. 5 Q. What would you have added on? 6 A. The fact that there was no at least 7 from what I could tell any effort to reclassify 8 the standard. In addition to the change in rate 9 from 14 to 6, I would have made the assumption 10 that there would have been a Rider 7 and then also 11 a Rider 6. 12 Q. And you formed these assumptions based 13 on? 14 A. My experience. 15 Q. Right, your experience in the marketing 16 department? 17 A. And engineering. 18 Q. And engineering concluding in 1988? 19 A. I would also -- I could say also in 20 purchasing because I was buying those materials. 21 Q. So referring back to Malibu's 22 disclosure statement, which is Exhibit 2, and on 23 the third page, we've read this paragraph to mean 24 that Malibu is offering you as an expert on six</p>	<p style="text-align: right;">56</p> <p>1 speaking objections in Illinois. 2 MR. GOLDIN: I want to finish this on the 3 record. 4 He is not obligated to make legal 5 conclusions or to opine as to the sufficiency of 6 legal pleadings. If you have a question 7 concerning the subject matter of this, ask about 8 the subject matter of this. 9 MS. BARRETT: And she's doing that. And we 10 can continue. And in the future, I think 11 objections should be just to the form. 12 MR. GOLDIN: I object as to form and content. 13 Please continue. 14 BY MS. THOMPSON: 15 Q. Given that we've taken this from 16 Malibu, what is your understanding of the rate 17 classifications applicable to Malibu? 18 A. What is -- 19 Q. So I'd like to go back and maybe 20 clarify a point about what is your understanding 21 about what you're supposed to be opining on in 22 this case. 23 A. My opinion would be as an expert 24 witness what should have happened, as another</p>



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<p>1 marketing engineer, how this account should have 2 been handled based on the prevailing rates tariffs 3 and any other memorandums that would be applicable 4 to this. 5 Q. Is that the full extent of your 6 understanding of what you have been asked to do in 7 this case? 8 A. No. 9 Q. Can you tell me? 10 A. Also, reviewing the spread sheet to 11 review the accuracy, the appropriateness of the 12 rate calculation differentials between Rate 14 and 13 Rate 6. 14 Q. So do you have an opinion about what 15 rates Malibu was eligible to take service under on 16 November 22, 1999? 17 A. My opinion is that it should never have 18 been changed. 19 Q. I want to clarify because that wasn't 20 the question that I asked. 21 A. Please do, then. 22 Q. Do you have an opinion about the rates 23 that Malibu would have been eligible for on 24 November 22, 1999?</p>	<p>57</p>	<p>1 only point of service? Are there several other 2 risers that go up through the building? 3 Q. How is that relevant to rates? 4 A. Because depending on what type of 5 facilities they have, we might have been -- we 6 might have generated a Rider 6 because their 7 standard has changed. 8 Q. I'd like to now go to the second 9 category for which Malibu is offering you as an 10 expert based on this disclosure statement. That 11 second category is the correctness of the rate 12 classifications applied to residential condominium 13 customers. 14 A. Uh-huh. 15 Q. Do you understand that statement? 16 A. Please read it to me. 17 Q. Sure. The correctness of the rate 18 classifications applied to residential condominium 19 customers. 20 MR. GOLDIN: Is there a question pending? 21 BY MS. THOMPSON: 22 Q. My question pending is whether he 23 understands that statement? 24 A. Correct. Yes, I do.</p>	<p>59</p>
<p>1 A. Rate 14. 2 Q. And what in your experience qualifies 3 you to opine as an expert on Malibu -- on the rate 4 classifications applicable to Malibu? 5 A. My experience. 6 Q. What experience specifically? 7 A. From 1972 through 1988 and, again, I 8 would have to review the kind of experience I had 9 as a purchasing assist -- a purchasing agent 10 because I did buy these kind of materials. 11 Q. How does purchasing materials relate to 12 rate eligibility? 13 A. When I did my review the past couple of 14 days, I had to start asking questions what type of 15 electric service does this building have? It's a 16 39-story, 357-unit condo building. It is served 17 by a 12,000-volt riser that goes up to the back of 18 the building, or excuse me, through the building 19 itself. Does it have dry type transformers? What 20 kind of electrical facilities does this building 21 have? 22 And those are questions I would ask. 23 Is it also serviced by a pad-mounted compartmental 24 transformer outside the building? Is that the</p>	<p>58</p>	<p>1 Q. Have you formed an opinion? 2 A. Yes, I have. 3 Q. What is that opinion? 4 A. It should be under Rate 14. 5 Q. So just to clarify, residential 6 condominium customers should be on Rate 14? 7 A. If they're all electric. 8 Q. And that applies to all the universe of 9 all electric residential condo buildings? 10 A. If you're asking me does Rate 14 only 11 apply to all electric, the answer is yes, condo 12 buildings. Excuse me. I should have finished 13 that statement. 14 Q. When would this particular class of 15 buildings have taken service under Rate 14? 16 A. I wouldn't know. 17 Q. Do you think they could still take 18 service under Rate 14 today? 19 A. As I understand it, Rate 14 was 20 replaced by another rate. 21 Q. Did you review any documents in forming 22 this particular opinion? 23 A. Yes. 24 Q. Can you tell me those documents?</p>	<p>60</p>



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<p>61</p> <p>1 A. Rate 14 tariff. I should add my 2 experience, too. 3 Q. You relied on your experience and you 4 looked at Rate 14? 5 A. Right because Rate 14, they do change 6 over time. 7 Q. Right. Do you have an opinion on about 8 how many times Rate 14 changed? 9 A. I don't have an opinion, but what I can 10 tell you is no, I don't know how many times Rate 11 14 has changed. 12 Q. And to clarify, you don't have any 13 opinion on any other rates that these buildings 14 would be eligible for? 15 A. If it's all electric, it qualifies for 16 Rate 14R. If it has another source of heating, 17 then Rate 1 is what applies for the residential 18 units and Rate 6 applies for the public areas. 19 Q. But for all electric buildings, your 20 only opinion is as it relates to Rate 14? 21 A. Yes, it's Rate 14. It applies. That 22 would be my opinion. 23 Q. Now I'd like to move on to the third 24 category for which you're being offered as an</p>	<p>63</p> <p>1 A. No. 2 Q. Can you tell me who created the spread 3 sheet? 4 A. I believe Marshall did. 5 Q. Do you know when the spread sheet was 6 created? 7 A. No. 8 Q. When forming the basis of your opinions 9 about the correctness of Malibu's bills, you 10 relied on Marshall's work? 11 A. Correct. 12 Q. Is there any particular reason why you 13 didn't look at any of the bills that ComEd sent to 14 Malibu? 15 A. No. 16 Q. Are you aware of the time period when 17 this spread sheet ends? 18 A. Let me take a look at it because there 19 is a lot of information on this. 20 Q. That's true. 21 A. According to this spread sheet, the 22 last entry was May from 12 had been 2/7/06 to 23 1/2/07. That was the last entry. It starts 24 9/25 --</p>
<p>62</p> <p>1 expert witness, which is the correctness of 2 Malibu's electric bills. 3 Do you understand that statement? 4 A. Yes. 5 Q. Have you formed an opinion relating to 6 the correctness of Malibu's electric bills? 7 A. Why don't you clarify that for me? Can 8 you give me a time? 9 Q. Have you reviewed the electric bills 10 that ComEd -- 11 A. Yes, I have. I reviewed the spread 12 sheet. 13 Q. Have you reviewed the electric bills 14 that ComEd sent to Malibu? 15 A. I only have one bill. 16 Q. Can you tell me what bill that is? 17 A. It's dated May 2002 or three. 18 Q. If you were to have an opinion relating 19 to the correctness of Malibu electric bills, it 20 would be to that one bill that you reviewed? 21 A. No. I'm also basing my opinion on the 22 spread sheet. 23 Q. The spread sheet is Exhibit 11. Did 24 you create this spread sheet?</p>	<p>64</p> <p>1 Q. It's very small? 2 A. I know. I'm having trouble reading 3 this. '85, to 10-25-85 which would have been 4 under the correct rate and it demonstrates that 5 until then the rate was changed from 11-22-99 to 6 12-28-99, then the account changes from Rate 14 to 7 Rate 6 and then from then on because of the fact 8 that the meters were -- I don't know how else to 9 put this, just weren't changed out correctly. It 10 kept changing from Rate 6 to in lieu of demand to 11 Rate 6T and then it goes on and on. 12 Q. Are you aware of an interim order 13 entered in this case? 14 A. Explain that. I'm not sure what you 15 mean. 16 Q. Sure. So there's an interim order 17 entered by a judge in this case that says that for 18 the purposes of our upcoming evidentiary hearing 19 Malibu's claims prior to June 24, 2006 are time 20 barred. 21 MR. GOLDIN: Is there a question? 22 BY MS. THOMPSON: 23 Q. You weren't aware of that? 24 A. I was given to understand that there is</p>



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<p>65</p> <p>1 a two-year Statute of Limitations. 2 Q. So based on the interim order, can you 3 tell me how much of this spread sheet is still 4 helpful to your review? 5 A. No. 6 Q. So you said this ends January 2nd, 7 2007, is that correct? 8 A. Yes, January 2nd, 2007. 9 Q. Have you formed an opinion about the 10 correctness of any electric bills ComEd sent to 11 Malibu after January 2nd, 2007? 12 A. No. 13 Q. If I could, I'd like to have you take a 14 look at some of the bills that ComEd sent to 15 Malibu and that Malibu attached to its complaint. 16 I understand it may be the first time that you're 17 seeing that. 18 This first set of bills which we'll 19 marking as Exhibit 13 is from November 1985 to 20 June 1998. 21 (WHEREUPON, a certain document 22 was marked Lozano Deposition 23 Exhibit No. 13, for 24 identification, as of 11/02/2010.)</p>	<p>67</p> <p>1 it's a variation of Rate 14. 2 Q. What would that variation have 3 included? 4 A. It might be light bulb service. It 5 might also -- there might be some and, again, I'm 6 going back, electric water heating. Sometimes the 7 A designation may indicate that there is more than 8 one or two public meters. 9 Q. Again, looking at these bills contained 10 in Exhibit 13, was Malibu on a residential or 11 commercial rate during this time? 12 A. Residential. 13 Q. I'm now going to hand you a set of 14 bills from June 1998 through October 1999 that 15 ComEd sent to Malibu. And these are going to be 16 Exhibit 14. 17 (WHEREUPON, a certain document 18 was marked Lozano Deposition 19 Exhibit No. 14, for 20 identification, as of 11/02/2010.) 21 (WHEREUPON, the document was 22 tendered to the witness.) 23 BY MS. THOMPSON: 24 Q. Looking at these bills --</p>
<p>66</p> <p>1 (WHEREUPON, the document was 2 tendered to the witness.) 3 BY MS. THOMPSON: 4 Q. Looking at these bills, do you have an 5 opinion about what rate Malibu was on? 6 A. It's clearly stated. Rate 16A. 7 Q. Do you know what a rate designation is? 8 A. A rate designation should be the rate 9 classification or rate class. 10 Q. So it's your opinion that Malibu was at 11 Rate 16A? 12 MR. GOLDIN: That's not what he testified to. 13 MS. BARRETT: Could you repeat your answer? 14 BY MS. THOMPSON: 15 Q. Is 16A your opinion about what rate 16 Malibu was on during this period? 17 A. Restate that question. 18 Q. Looking at the bills and looking at 19 what's on the face of these bills, it's your 20 opinion that Malibu was on Rate 16A? 21 A. Correct. 22 Q. Could you tell me about the 23 significance of the 16A rate or rate designation? 24 A. It's an electric space heating rate and</p>	<p>68</p> <p>1 A. I just want to go through the original 2 batch because I notice that there's Rider 7 now 3 appearing on the bill. And it started a couple of 4 bills later. 5 Q. And you're talking about the bills 6 contained in Exhibit 13? 7 A. Correct. So this is from July 28, 1998 8 until October 22, 1999. 9 Q. Looking at the face of these bills, can 10 you tell what rate Malibu was on? 11 MR. GOLDIN: There is numerous bills here. 12 Are you representing that they're all the same? 13 MS. THOMPSON: I'm representing that they are 14 all the same. 15 MR. GOLDIN: Okay. 16 BY THE WITNESS: 17 A. Let me look through all of them. I do 18 not see Rate 16A here. 19 As I look at this bill, several things 20 jump out. One there is only an energy charge. 21 There's no demand charge so that would tell me 22 more than likely it's not a Rate 6. You have key 23 commissioning adjustments, franchise costs, 24 regulatory tax, state tax, so on and so forth.</p>



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<p>69</p> <p>1 Those are just add-ons. So as I look at this, I 2 just caught it, it does say "residential space 3 heat multiple." 4 Q. Can you tell me what you know about 5 that rate? 6 A. No. Well, it won't tell me, for 7 example is it 16A, is it 15, is it 14, any of the 8 variants that would occur as a result of maybe a 9 little twist here and there. All I see here is 10 residential space heat multiple. That's it. 11 Q. So looking at these bills, was Malibu 12 in a residential or commercial -- 13 A. I would say here it's saying 14 "residential space heat multiple." I don't know 15 why they took away the rate designation. 16 Q. So now I'm going to be handing you a 17 set of bills from January 2000 through November of 18 2000 that ComEd sent to Malibu and that we'll be 19 marking as Exhibit 15. 20 (WHEREUPON, a certain document 21 was marked Lozano Deposition 22 Exhibit No. 15, for 23 identification, as of 11/02/2010.) 24 (WHEREUPON, the document was</p>	<p>71</p> <p>1 Q. If you would turn with me to the very 2 last bill in this grouping, there looks to be a 3 handwritten note. 4 Can you read that for me in the upper 5 righthand corner? 6 A. "Malibu 7-12-07, prior to 11-22-00, 7 ComEd did not bill for demand charges or even in 8 lieu. Shall we include a copy of bills prior to 9 11-22-00?" I'm going to assume that's '00. 10 Q. Is that your handwriting? 11 A. No. 12 Q. Do you know whose handwriting that is? 13 A. I wouldn't be sure or I couldn't be 14 sure. 15 Q. Do you know the significance of what is 16 written in this note? 17 A. I'll go over the note again. "ComEd 18 did not bill for demand charges or even in lieu." 19 I'll deal with that statement first. 20 It's just what I indicated when you 21 asked me what rate designation this would be. It 22 says general service non-TOU, which I'm going to 23 assume means time of use. I look at the bill. 24 It's only energy charges. There's no demand</p>
<p>70</p> <p>1 tendered to the witness.) 2 BY MS. THOMPSON: 3 Q. Looking at these bills, can you tell me 4 what rate Malibu was on? 5 A. No. 6 MR. GOLDIN: Once again, are all these bills 7 the same? Other than the amounts. 8 MS. THOMPSON: Other than the amounts. 9 MR. GOLDIN: Okay. You can answer the 10 question if you can. 11 BY THE WITNESS: 12 A. I said no because I see here there's no 13 rate designation. It says general service, non 14 TOU. 15 BY MS. THOMPSON: 16 Q. That's not a rate designation? 17 A. Again, there can be different variants 18 of Rate 6. As I look at this again, there's an 19 energy charge, meter rental, decommissioning 20 adjustment. I see no demand charges. For 21 electrical usage of that magnitude, 462 kilowatt 22 hours, I would have to start asking questions just 23 because it says general service non-TOU. I don't 24 know if it's 6, 6T, 6L. I can't tell.</p>	<p>72</p> <p>1 charges. So the first thing I think of this 2 doesn't look right. And you really need to 3 investigate it to see what's going on here. I 4 don't know if any layperson will be able to tell 5 you that. 6 Q. Do you have an opinion about whether a 7 professional property manager would be able to say 8 that? 9 A. I wouldn't know. 10 Q. So now I'm going to be handing to you a 11 bill that ComEd sent to Malibu in December of 2000 12 and we'll be marking this as Exhibit 16. 13 (WHEREUPON, a certain document 14 was marked Lozano Deposition 15 Exhibit No. 16, for 16 identification, as of 11/02/2010.) 17 (WHEREUPON, the document was 18 tendered to the witness.) 19 BY MS. THOMPSON: 20 Q. Looking at this bill, can you tell me 21 what rate Malibu was on? 22 A. No, it says general service watt hour 23 only, but now I see the in lieu of -- 24 Q. Does it say WHR or watt hour?</p>



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<p style="text-align: right;">73</p> <p>1 A. I'm sorry, WHR. I'm assuming it's a 2 watt hour. 3 Q. I think you were going to say more. 4 A. I'm looking through the entire bill now 5 to form an opinion. You do have energy charges 6 that are now staggered. You have the in lieu of 7 demand charge. There is a meter rental, but 8 unfortunately the note covers it. Decommissioning 9 adjustment and you have all the other little 10 add-ons so at this particular instance, I would 11 say now you are on Rate 6 but being billed in lieu 12 of demand in spite of the fact that with the 13 amount of kilowatt hour usage this would not 14 qualify for that. 15 Q. What is in lieu of demand? 16 A. If a customer's kilowatt hour usage is 17 under 2000 kilowatt hours per month or ten 18 kilowatts of demand, it would qualify for just a 19 watt-hour meter. 20 Q. And that would qualify for a watt-hour 21 meter even in 2000? 22 A. You mean the year 2000. 23 Q. Even in the year 2000? 24 A. Yes.</p>	<p style="text-align: right;">75</p> <p>1 of bills from January 2002 to October 2002 that 2 ComEd sent to Malibu that we're going to be 3 marking as Exhibit 18. 4 (WHEREUPON, a certain document 5 was marked Lozano Deposition 6 Exhibit No. 18, for 7 identification, as of 11/02/2010.) 8 (WHEREUPON, the document was 9 tendered to the witness.) 10 BY MS. THOMPSON: 11 Q. Looking at these bills, can you tell me 12 what rate Malibu was on? 13 A. General service, non-TOU, probably time 14 of use, which would be Rate 6. 15 Q. And the next set of bills that ComEd 16 sent to Malibu January 2003 through December 2006 17 we're marking these as Exhibit 19. 18 (WHEREUPON, a certain document 19 was marked Lozano Deposition 20 Exhibit No. 19, for 21 identification, as of 11/02/2010.) 22 (WHEREUPON, the document was 23 tendered to the witness.) 24 BY MS. THOMPSON:</p>
<p style="text-align: right;">74</p> <p>1 Q. How do you know that? 2 A. Because if it's Rate 6 that applies. 3 From what I understand, that rate was not changed 4 until 2007. I'm guessing at this point. 5 Q. I'm now handing you another set of 6 bills that ComEd sent to Malibu from January 2001 7 through October 2001 and we'll be marking this set 8 of bills as Exhibit 17. 9 (WHEREUPON, a certain document 10 was marked Lozano Deposition 11 Exhibit No. 17, for 12 identification, as of 11/02/2010.) 13 (WHEREUPON, the document was 14 tendered to the witness) 15 BY MS. THOMPSON: 16 Q. Can you tell me what rate Malibu was on 17 looking at these bills? 18 A. Again, I see general service in lieu of 19 demand. 20 Q. Is that a rate? 21 A. It would be Rate 6. To me this is 22 incorrectly billed just looking at the kilowatt 23 hour usage. 24 Q. I'm now going to be handing you a stack</p>	<p style="text-align: right;">76</p> <p>1 Q. Looking at these bills, can you tell me 2 what rate Malibu was on? 3 A. Not really. I can give a guess, but I 4 would tell you no. It says "general service TOU." 5 I can only make an assumption. 6 Q. Now I'm moving on to the January 2007 7 bill that ComEd sent to Malibu and we are going to 8 be marking that as Exhibit 20. 9 (WHEREUPON, a certain document 10 was marked Lozano Deposition 11 Exhibit No. 20, for 12 identification, as of 11/02/2010.) 13 (WHEREUPON, the document was 14 tendered to the witness) 15 BY MS. THOMPSON: 16 Q. Looking at this bill, can you tell me 17 what rate Malibu was on? 18 A. No, it says general service TOU like I 19 said before. 20 Q. Is that what it says? 21 A. TOU, general service TOU. It does say 22 com. I don't know what that means. 23 Q. You don't another what com means? 24 A. No.</p>



<p style="text-align: right;">77</p> <p>1 Q. And the last bill I'm going to show you 2 is the bill that ComEd sent to Malibu in 3 February 2007 which we'll be marking as Exhibit 4 21. 5 (WHEREUPON, a certain document 6 was marked Lozano Deposition 7 Exhibit No. 21, for 8 identification, as of 11/02/2010.) 9 (WHEREUPON, the document was 10 tendered to the witness.) 11 BY MS. THOMPSON: 12 Q. Looking at this bill, can you tell me 13 what rate Malibu was on? 14 A. No. I've never heard of a commercial 15 annual. 16 Q. So now I'd like to go back to the 17 disclosure statement and get into the fourth 18 category that it appears that you've been offered 19 as a witness to opine on and I'm going to read it 20 verbatim from the disclosure statement and then 21 I'll ask you whether you understand. 22 So the fourth category that you are to 23 testify on as a retained controlled expert witness 24 on is ComEd's tariffs, policies and procedures</p>	<p style="text-align: right;">79</p> <p>1 selection and rate classification? 2 A. Say that question again. 3 Q. Can you tell me -- we can break it up. 4 Can you tell me if you have an opinion relating to 5 the correctness of ComEd's policies and procedures 6 governing billing in this case? 7 A. Are you asking me the question again 8 were the policies and procedures applied 9 correctly. 10 Q. Yes. 11 A. I do have an opinion and they were not. 12 Q. What policies and procedures were not 13 applied correctly? 14 A. Rate 14 and Rate 6. I can specify a 15 little bit further. 16 Q. You don't have an opinion with respect 17 to any other policies or procedures, it's just 18 Rate 14 and Rate 6? 19 A. I do have some other opinions, yes, and 20 we spoke of them. 21 Q. Relating to ComEd's policies and 22 procedures? 23 A. Yes, I do. 24 Q. What policies and procedures are those?</p>
<p style="text-align: right;">78</p> <p>1 governing billing metering, rate selection and 2 rate classification. 3 Do you understand that statement? 4 A. Yes. 5 Q. Do you have an opinion on that? 6 A. What do you mean by opinion? 7 Q. Based on your review of all the 8 materials in this case, have you formed an opinion 9 relating to the correctness of ComEd's tariffs, 10 policies and procedures governing billing, 11 metering, rate selection and rate classification? 12 A. The question I have is are you asking 13 me was it applied correctly? I mean, I understand 14 the rates. 15 Q. If that's how you understand the 16 question, yes. 17 A. Okay. I understand the question and I 18 will tell you I have formed an opinion as far as 19 that's concerned. 20 Q. Will you tell me that opinion? 21 A. They were on the wrong rate. 22 Q. Can you tell me your opinion relating 23 to the correctness of ComEd's policies and 24 procedures governing billing, metering, rate</p>	<p style="text-align: right;">80</p> <p>1 A. It would have to be when a customer is 2 reclassified from 14 to 6 and what happens to 3 their standard service. 4 Q. And your opinion on that, is it based 5 on a policy or procedure that is in writing? 6 A. I believe it is. 7 Q. Could you point me to that or tell me 8 the name of it? 9 A. I'm not sure I would see it here. It 10 has to do with general procedures and memorandums 11 that involve engineering. 12 Q. So in forming this opinion, you 13 reviewed Rate 14 and Rate 6? 14 A. Correct. 15 Q. I just want to be absolutely clear. 16 Anything else? 17 A. I just mentioned it. There are other 18 ramifications to changing a rate from 14 to 6 and 19 it has to do with optional facilities. It has to 20 do with Rider 7. There may be multiple points of 21 service in which case there could be meter rentals 22 and there could also be facility rentals, and by 23 that I mean transformers, et cetera. 24 Q. And the other policies and procedures</p>

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1 that you're mentioning, were those -- do you know
2 if those were ever produced to us?
3 A. I don't know. I couldn't tell you.
4 Q. Can we go back to the --
5 A. It might have been in the informal
6 complaint, the first one.
7 Q. So referring back to Exhibit 3, the
8 October 29, 2010 e-mail.
9 A. I'm really looking for the formal
10 complaint.
11 MR. GOLDIN: What's your question?
12 BY MS. THOMPSON:
13 Q. I'm just wondering if we've ever seen
14 these extra policies and procedures that
15 Mr. Lozano has mentioned, whether it was listed in
16 the October 29, 2010 e-mail?
17 A. Oh, in the e-mail, no. I saw it in the
18 formal complaint, and it makes references to
19 writing an SER, engineering becoming involved,
20 trying to determine what the standard facilities
21 would be and there would be a response back to
22 marketing, this is what their new standard would
23 be.
24 Q. Do you know where those documents came

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1 from?
2 A. I believe they would be memorandums. I
3 can't recall if they're marketing or engineering
4 memorandums. I'd have to look.
5 Q. So now I'd like to go on to the fifth
6 category for which Malibu has offered you as a
7 witness. Exhibit 2, and, again, I'm going to read
8 what we believe to be the fifth category verbatim
9 from Malibu's disclosure statement. And that is
10 that you will be testifying as a retained
11 controlled expert witness as to and I quote the
12 applicability of rider CABA in Section 16-103.1 of
13 the Act.
14 Do you understand that statement?
15 A. Yes.
16 Q. Have you formed an opinion on those
17 matters?
18 A. Not yet.
19 Q. Have you looked at Section 16-103.1 of
20 the Public Utilities Act?
21 A. I looked at Rider CABA.
22 Q. But not Section 16 --
23 A. That doesn't look familiar right now
24 and I may have seen it, but I cannot recollect.

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1 Q. Can you tell me what in your experience
2 qualifies you to opine as an expert on the
3 applicability of Rider CABA in section 16-103.1?
4 A. My understanding of rates and riders.
5 Q. Are you familiar when Rider CABA became
6 effective?
7 A. I'd have to look at the rider itself to
8 be sure of the date it became effective. I want
9 to say it's in '07, but I'm not sure.
10 MS. THOMPSON: I'd like to mark this copy of
11 ComEd's Rider CABA common area billing adjustment
12 as Exhibit 22.
13 (WHEREUPON, a certain document
14 was marked Lozano Deposition
15 Exhibit No. 22, for
16 identification, as of 11/02/2010.)
17 (WHEREUPON, the document was
18 tendered to the witness.)
19 BY MS. THOMPSON:
20 Q. Can you point out for me the date
21 effective on this copy?
22 A. May 31, 2007.
23 Q. And you were not employed at ComEd on
24 May 31, 2007?

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1 A. That's correct. That's correct.
2 Q. I think we're at our sixth and final
3 category listed in the disclosure statement. It
4 states that you will testify as retained
5 controlled expert witness as to and I quote other
6 matters relating to the allegations of the
7 complaint.
8 A. Okay.
9 Q. Do you know what those other matters
10 are?
11 MR. GOLDIN: If you know, you can answer, if
12 you don't know --
13 BY THE WITNESS:
14 A. No, I don't know at this point. No.
15 BY MS. THOMPSON:
16 Q. If I tell you an acronym and the
17 acronym is ARES, does that mean anything to you?
18 A. No.
19 Q. If I said the acronym RES, would that
20 have a meaning to you?
21 A. RES? Spell it.
22 Q. R-E-S.
23 A. It might be residential.
24 Q. Have you ever heard of an alternative



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<p>1 retail electric supplier? 2 A. Independent power producers? 3 Q. Yes. 4 A. Yes. 5 Q. Please tell me your understanding about 6 ARES or independent power producers? 7 A. I only know of ARES heard of it the 8 first time Ken and I talked about it today. 9 Independent power producers have been around for a 10 while. When ComEd became deregulated I believe in 11 around 2000, they actually invited independent 12 power producers to be part of our grid and have 13 the ComEd customers the availability of alternate 14 power suppliers. 15 Q. Where did you learn about ComEd 16 allowing its customers to take energy from 17 alternative suppliers? Where did you learn that? 18 A. When I was in the purchasing 19 department. 20 Q. Remind me again of the year. 21 A. 1998 through 2001. We were actually 22 working with independent power producers at the 23 time to be able to hook them up to the 24 Commonwealth Edison electric grid system.</p>	<p>85</p>	<p>1 A. No. 2 Q. Can you tell me the dates that Malibu 3 has taken electric service from an ARES? 4 A. No. 5 Q. Can you tell me the electric supply 6 rates the ARES charged? 7 A. No. 8 Q. To Malibu. Can you tell me if a 9 customer was taking electric service from an ARES, 10 would ComEd also be charging the customer for that 11 electric service? 12 A. It's a rather open question. I don't 13 know. They may. They may not be. 14 Q. I'm going to be handing you a copy of 15 ComEd's general terms and conditions that we'll 16 mark as Exhibit 23. 17 (WHEREUPON, a certain document 18 was marked Lozano Deposition 19 Exhibit No. 23, for 20 identification, as of 11/02/2010.) 21 (WHEREUPON, the document was 22 tendered to the witness) 23 BY MS. THOMPSON: 24 Q. Can you tell me the date effective of</p>	<p>87</p>
<p>1 Q. Are you familiar with the term open 2 access as it relates to the electric utility 3 industry? 4 A. I am. I'm just familiar. I don't know 5 all the details. 6 Q. Can you tell me what you do know about 7 open access? 8 A. No. 9 Q. Can you tell me everything you know 10 about ComEd and its practices regarding open 11 access? 12 A. They were allowing it. 13 Q. Are you familiar with the phase-in 14 schedule that established open access at ComEd? 15 A. No. 16 Q. I'd like to go back to the question 17 about the ARES. 18 Do you know whether Malibu has ever 19 taken electric service from an ARES? 20 A. I just found out today that they did. 21 Q. Can you tell me the name of the ARES? 22 A. I don't understand that question. 23 Q. Can you tell me the name of the 24 company?</p>	<p>86</p>	<p>1 this version? 2 A. September 2nd, 2002. 3 Q. Have you ever seen this version of 4 ComEd's terms and conditions? 5 A. This is the first time I've seen it in 6 this format. 7 Q. What format have you seen it in before? 8 A. I have read rate classification for 9 service. It's another terms and conditions. Now 10 I would have to go back to see if it's the same 11 12th revised sheet. It appears to me that 12 customers taking service that have installed their 13 own generation is an add-on. 14 Q. Can you please read aloud for me the 15 first four full sentences under rate 16 classification for service? 17 A. Certainly. "A customer who has applied 18 for electric service will be given reasonable 19 opportunity to determine which rate or combination 20 there of is the most favorable for the estimated 21 connected load provided by the customer. When 22 there is a choice of rates under which service can 23 be rendered, the responsibility for the final 24 selection will be with the customer or the</p>	<p>88</p>



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<p>89</p> <p>1 customer's representative. The company does not 2 guarantee that the rate or combination of rates 3 selected will be the most advantageous nor is the 4 company responsible to notify the customer of the 5 most advantageous rate or combination thereof. No 6 refunds will be made representing the differences 7 in the charges under different rates applicable to 8 the same class of service." 9 Q. Are you familiar with whether this is 10 still the effective version of ComEd's terms and 11 conditions? 12 A. Yes. 13 Q. So you're saying that it is still 14 effective or you think that it's not? 15 A. Are you asking me if this is effective? 16 Q. Yes. 17 A. Yes. 18 Q. In your opinion, was there a choice of 19 tariffs under which ComEd could have provided 20 electric service to Malibu? 21 MR. GOLDIN: When? 22 BY MS. THOMPSON: 23 Q. Let's say at any time. 24 A. No.</p>	<p>91</p> <p>1 other service characteristics change and affect 2 the application of rate or combination thereof, 3 the customer can make written application for a 4 rate change subject to the customer as exist being 5 contract provision. Upon request, the company 6 will assist the customer in determining if a 7 change of rate is advisable. Selection of rates 8 shall be the responsibility of the customer. Upon 9 selection by the customer, the new rate will be in 10 effect subject to the requirements for service 11 within a reasonable time following receipt of the 12 customer's written request." 13 Q. Do you know if at any time relevant to 14 this case Malibu made a written application for a 15 rate change? 16 A. In going through the formal complaint, 17 I see no evidence of that. 18 Q. So from 1999 to the present you don't 19 see any evidence of that? 20 A. No. 21 Q. Now I'd like to move on and ask you 22 about your opinion on the damages allegedly due to 23 Malibu. 24 Do you have an opinion?</p>
<p>90</p> <p>1 Q. Would you agree that if there was 2 choice of tariffs under which electric service 3 could be provided by ComEd that it was Malibu as 4 the customer who was responsible for tariff 5 selection? 6 A. No. 7 Q. Why not? 8 A. If you're asking me does this apply, I 9 would tell you no, it does not apply. 10 Q. Why not? 11 A. I'll read it to you again. 12 Q. Oh, no. Just tell me why not. 13 A. Because it says here estimated 14 connected load. That's new load. 15 Q. What line is that? 16 A. That's line No. 2. Malibu's load is 17 not estimated. It's established. It's actually 18 the second paragraph that applies. 19 Q. So it's only the second paragraph that 20 applies to Malibu? 21 A. That would be applicable to Malibu. 22 Q. Will you read that second paragraph to 23 me? 24 A. Certainly. "When a customer's loads or</p>	<p>92</p> <p>1 MR. GOLDIN: Would you restate the question? 2 BY THE WITNESS: 3 A. I'm having a little trouble with that 4 one. 5 MS. THOMPSON: Will you read that back. 6 (WHEREUPON, the record was 7 read by the reporter.) 8 BY THE WITNESS: 9 A. Based what I've seen, reading the 10 formal complaint, seen all the errors that were 11 made from November 22, 1999 all the way until when 12 Rate 14 and 6 was done away with, yes, I have 13 formed an opinion. They were billed incorrectly. 14 BY MS. THOMPSON: 15 Q. Do you have an opinion about the total 16 amount? 17 A. That would be based on the spread 18 sheet. 19 Q. But you haven't conducted your own 20 calculation? 21 A. That's correct. What I see here is 22 something that I probably would have done. This 23 is very thorough. 24 MR. GOLDIN: Ms. Thompson, it's 12:21. How</p>



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<p style="text-align: right;">93</p> <p>1 much longer are you going to need? We have a 2 three-hour cutoff, and I need about three minutes 3 at the end. 4 MS. BARRETT: I think we're okay on time. We 5 started at 9:46 and we took a break. 6 MR. GOLDIN: If it's five minutes I'm really 7 not worried. 8 BY MS. THOMPSON: 9 Q. I'd like to ask you a question about 10 one of Malibu's responses to our data request 11 regarding the way the calculations have been made 12 after this spread sheet. 13 A. After? 14 Q. After this spread sheet. So I'm 15 looking now at Exhibit 8, Page 15 and this request 16 references a response that Malibu sent ComEd 17 that's contained in Exhibit 6 so they can be 18 understood together. So we'll be looking at 19 Exhibit 8 and Exhibit 6 together. 20 A. Okay. You want to look at 6 also. 21 Q. Exhibit 6, yes. Because it refers to 22 Malibu's response to our first and second set of 23 data requests, Exhibit A to that. 24 MR. GOLDIN: To which exhibit?</p>	<p style="text-align: right;">95</p> <p>1 A. The spread sheet. 2 Q. The spread sheet. And is that an 3 estimation? 4 MR. GOLDIN: He testified that he didn't 5 prepare this. If you have an opinion, you can 6 state it, but if you don't know, then you don't 7 know. 8 MS. BARRETT: Do you have an objection? 9 MR. GOLDIN: I do have an objection. 10 MS. BARRETT: Is it to form? 11 MR. GOLDIN: It's assuming facts not in 12 evidence. Assuming facts that he hasn't testified 13 to. 14 MS. THOMPSON: This isn't facts not in 15 evidence. I'm not assuming anything. It's here. 16 MR. GOLDIN: You're asking him to opine on 17 something he didn't create. He already said he 18 didn't create this. 19 MS. THOMPSON: I don't think these objections 20 are appropriate. 21 MR. GOLDIN: He's not required to make 22 assumptions. 23 MS. THOMPSON: If he's not required to opine 24 here, then he's not required to opine at the</p>
<p style="text-align: right;">94</p> <p>1 MS. BARRETT: Exhibit No. 6, the fourth page 2 from the back. 3 MR. GOLDIN: What's the question? 4 MS. BARRETT: In Exhibit 6, Exhibit A the 5 response. 6 BY MS. THOMPSON: 7 Q. Were you involved in these calculations 8 contained in Exhibit A? 9 A. No. 10 Q. Looking at Paragraph 3 of that 11 response, of Exhibit A, which is the rate cost 12 difference between the commercial rate and the 13 residential rate with space heating multiple? 14 A. All right. I'm there. 15 Q. Can you explain to me your 16 understanding of this calculation? 17 A. We have a total number of kilowatt 18 hours 1,695,365 times three and a half cents per 19 kilowatt hour which comes out to \$59,334.27 times 20 4.08 years so the 242,083.82 is a total. The 21 three and a half cents per kilowatt hour in my 22 mind would be a differential. 23 Q. Where does the 1,695,265 number come 24 from?</p>	<p style="text-align: right;">96</p> <p>1 evidentiary hearing. 2 MR. GOLDIN: Objection. Argumentative. You 3 can answer if you have an opinion. 4 BY THE WITNESS: 5 A. No, I don't. 6 BY MS. THOMPSON: 7 Q. You don't have an opinion about the one 8 million number, why that was used? 9 A. No. 10 Q. If you had to start over again, would 11 you used one million number? 12 A. If it came from the spread sheet, yes. 13 Q. So what you're saying is that you would 14 just follow what Marshall did? 15 A. This is an enormous amount of work. 16 The creation of this spread sheet would probably 17 parallel what I would be doing myself. 18 Q. Have you verified the accuracy of the 19 data in the spread sheet? 20 A. I went through a couple of 21 calculations, yes. 22 Q. But not all of the calculations? 23 A. No, not all this. It's an enormous 24 amount of information. I can tell you basically</p>



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<p>97</p> <p>1 what I did first was to go through prior to them 2 being taken off of Rate 14 and then try to follow 3 the errors that occurred for the first year and 4 then the second year and then from there. 5 Q. And referring back to Exhibit 8, which 6 is the third and fourth set of data requests 7 responses, I'm now looking at Page 12. 8 A. Are we looking at Exhibit 8 now? 9 Q. Yes, Exhibit 8, Page 12. Can you read 10 the first paragraph of response to request 11 No. 4.08 aloud? 12 A. You want me to read the response? 13 Q. Yes, the first paragraph. 14 A. "The date of the new rates Rider CABA 15 began on January the 2nd, 2007. The date of the 16 filing of the original formal complaint was on 17 June 25, 2008. The difference in that time period 18 was 18 months or one and a half years." 19 Q. And then will you go ahead and read the 20 second paragraph? 21 A. "Utilizing the usage amount for 2006, 22 the calculation would begin with 1,862,268 23 kilowatt hours per year and the total amount 24 expended per year would be \$65,179.38</p>	<p>99</p> <p>1 BY MS. THOMPSON: 2 Q. Are you familiar with whether there is 3 a formula contained in Rider CABA for calculating 4 credits? 5 A. Only what I see on this page. 6 Q. Can you explain to me what you see on 7 the page? 8 A. It says annual percentage billing 9 adjustment equals 2007 revenue minus, in 10 parenthesis, (2006 revenue times 1.24.) 11 Q. Now, is the credit -- the formula 12 contained in Rider CABA, is that the same formula 13 used in 4.08? 14 A. I haven't done an investigation of this 15 yet. 16 Q. So you don't know? 17 A. I don't know. 18 MS. BARRETT: Let's take a five-minute break 19 just to make sure we've covered everything we need 20 to. 21 MR. GOLDIN: I'm going to need three minutes 22 after that. 23 (WHEREUPON, a recess was had.) 24 BY MS. THOMPSON:</p>
<p>98</p> <p>1 extrapolating this to one and a half years the 2 product then comes out to \$97,769.07. 3 Q. Do you understand to what calculation 4 this is referring to? 5 A. It's referring to Rider CABA. This is 6 the refund or credit adjustment. 7 Q. If you had to start over and do a Rider 8 CABA credit, would you do it the same way? 9 A. Yes. 10 Q. Can we look back to Exhibit 22 which is 11 Rider CABA? Are you familiar with the formula 12 contained in Rider CABA for calculating -- 13 MR. GOLDIN: He's already testified that he 14 hasn't formulated his opinion on Rider CABA yet. 15 This is the same question. 16 MS. BARRETT: I think you need to stop 17 coaching the witness with your objections. Object 18 to the form if you want to have a side bar with us 19 we can talk about it. 20 MR. GOLDIN: Object to the form. You're 21 assuming -- 22 MS. BARRETT: It ends at form. 23 MR. GOLDIN: Do not cut off my objections. 24 Asked and answered.</p>	<p>100</p> <p>1 Q. Earlier in the deposition, you had 2 mentioned that you had taken additional notes that 3 we have not seen and we would like you to get 4 those to your counsel as soon as possible because 5 we are entitled to see any and all notes you take 6 prior to next Tuesday? 7 A. Certainly. 8 MR. GOLDIN: What about Garrity's notes. 9 Have we been provided with those? 10 MS. BARRETT: I don't think Garrity has taken 11 notes, but he's not an expert witness I don't 12 think. We can talk about that, but you haven't 13 asked for that before. 14 MR. GOLDIN: We don't have a data request for 15 this, either. We're doing this as an 16 accommodation. 17 MS. BARRETT: It's not an accommodation. 18 It's a document rider. 19 MR. GOLDIN: Are you not going to provide 20 them or are you going to provide them? That's the 21 question. 22 MS. BARRETT: We can talk about that. This 23 is the first time you're asking me for them. I 24 think we ought to talk about that outside the</p>

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<p style="text-align: right;">101</p> <p>1 context of this deposition. I don't think it's a 2 related issue. We'd like to finish up the things 3 we need to talk about today. 4 MS. THOMPSON: Ronit has asked Counsel to 5 provide originals of bills and I thought you would 6 come today with those. 7 MR. GOLDIN: I think you were informed by 8 Mr. Munson we don't have the originals of the 9 bills. You have the copies that we have. 10 MS. BARRETT: He indicated he thought maybe 11 Malibu or Marshall had them. 12 MR. GOLDIN: Marshall doesn't have them. We 13 asked him and Malibu I think just kept copies. It 14 may be that your client has the originals, but you 15 have what we have. 16 MS. BARRETT: Some of the bills -- 17 MR. GOLDIN: This is a unrelated issue so we 18 should probably take this off the record. 19 MS. BARRETT: It's related in the sense that 20 I had asked to have you bring them today to the 21 deposition. 22 MR. GOLDIN: I don't have them. 23 MS. THOMPSON: I think that that concludes my 24 questions for now.</p>	<p style="text-align: right;">103</p> <p>1 on Rate 1, should be on 6T, should be on 6L, 2 should be on 14 or 22. I didn't have that 3 authority, but I still kept in touch with the 4 marketing people who I worked with for all those 5 years and I still kept apprised of the rate 6 tariffs. 7 Q. And during this period which was from 8 and after 2008 until you retired in 2007, did you 9 remain familiar with ComEd's current rates and 10 tariffs? 11 A. Through my -- 12 MS. BARRETT: You asked him about the period 13 between 2008 and -- 14 MR. GOLDIN: No. From and after 1988 when he 15 went to purchasing through 2007 when he retired. 16 BY MR. GOLDIN: 17 Q. The question was did you remain 18 familiar with ComEd's rates and tariffs and 19 policies? 20 A. Yes, I did and I was through my 21 association with the marketing people and also the 22 engineering people who I would work with in order 23 to get standards of service for customers. 24 Q. You were also asked if you were given</p>
<p style="text-align: right;">102</p> <p>1 MR. GOLDIN: I have just a couple of 2 clarifying type questions. 3 EXAMINATION 4 BY MR. GOLDIN: 5 Q. Mr. Lozano, you testified that after 6 approximately 1988 you left the marketing and 7 engineering side to work as a purchasing agent for 8 ComEd thereafter from 2001 to approximately 2007. 9 A. Correct. 10 Q. You were providing consulting to ComEd 11 among others; is that right? 12 A. Correct. 13 Q. And then you were asked if from and 14 after 1988 when you were working on the purchasing 15 side if you were quote-unquote involved with rates 16 and you testified that no, you weren't; is that 17 correct? 18 A. Correct. 19 Q. Could you clarify that, please? 20 A. Yes. What I meant by that was that I 21 no longer wrote SEC, service estimate requests, 22 nor did I respond to them since I was no longer in 23 that department. So I would not, for example, say 24 that customer ABC should be on Rate 6, should be</p>	<p style="text-align: right;">104</p> <p>1 by me, by Mr. Goldin, a statement of the scope of 2 your testimony and your responsibilities as an 3 expert witness; is that correct? 4 A. That's correct. 5 Q. And you answered that you had. Is that 6 an oral scope or written scope? 7 A. Oral scope. 8 Q. And you testified I believe that you 9 were asked to review or to look at the propriety 10 of the switch from a Rate 14 to Rate 6; is that 11 correct? 12 A. That's correct. 13 Q. Is it also true that that scope 14 included the six or so general categories that 15 were -- that you were asked about in the statement 16 and disclosure of witnesses specifically, things 17 like correctness of billings? 18 A. Yes. 19 Q. Final question. You were shown a 20 series of bills that were marked I believe as 21 Exhibit 14 that related to the period prior to 22 1988; is that correct? 23 A. Yes. 24 Q. And these bills stated on their face</p>



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<p>1 that the customer was taking a Rate 16A? 2 A. Correct. 3 Q. So the bill itself said it was Rate 16A 4 and you testified -- what did you testify as to 5 your understanding of that designation? 6 A. Rate 16 is a form of 14. It's electric 7 space heating. 8 Q. Then you were shown a series of bills 9 as Exhibits 15, 16, 17, 18, 19 and 20 that related 10 to the period from June 1998 through February 27, 11 2007; is that correct? 12 A. Correct. 13 Q. And you were asked about certain words 14 and designations that appear on these bills? 15 A. Correct. 16 Q. Could you take a minute and look at 17 these various exhibits and tell me if the actual 18 rate that the customer was on is marked on these 19 bills? 20 A. No, it's not. 21 Q. And is it your expert opinion that a 22 reasonable layperson would be able to ascertain 23 from these bills specifically Exhibits 14 through 24 21 what actual rate he was taking service on?</p>	<p>105 1 like to take a minute and discuss it. 2 (WHEREUPON, a recess was had) 3 BY MS. THOMPSON: 4 Q. You just told Mr. Goldin that from 1998 5 through 2007 you remained familiar with ComEd's 6 rates and tariffs? 7 A. Yeah. 8 Q. Correct? 9 A. Right. 10 Q. And that was through your 11 associations? 12 A. With ComEd engineers. In spite of the 13 fact -- well, I'm sorry. Continue. 14 Q. Were those friendly 15 conversations? 16 A. Actually they were work. 17 Q. Can you tell me more about the 18 work-related conversations? 19 A. Absolutely. And it was from 1998 -- 20 I'm sorry, 1988 to 2001. By 2001 I retired. From 21 2002 to roughly about 2007, I became an 22 independent consultant. I could not work for 23 ComEd directly otherwise I would be in violation 24 of my pension, so I worked for the contractor that</p>
<p>1 A. No, a layperson, unless they were 2 familiar with ComEd rates, would not understand 3 this. 4 MS. BARRETT: I'm going to object that you 5 have -- there is no foundation that he's an expert 6 on what a layperson would know. 7 You can continue your answer. 8 MR. GOLDIN: We're finished. 9 MS. THOMPSON: I just wanted to clarify 10 something. 11 FURTHER EXAMINATION 12 BY MS. THOMPSON: 13 Q. You said that from 2001 to 2007 you 14 were consulting to ComEd among others, but when I 15 asked you the question you said that you consulted 16 for contractors for ComEd. 17 A. Well, if I said that I consulted for 18 ComEd, no. I think you may have miswrote that 19 because I never worked for ComEd directly. I 20 could not because otherwise I would be in 21 violation of my pension. 22 MS. THOMPSON: Just wanted to make sure. 23 MS. BARRETT: I think we are going to 24 actually have some additional recess. I would</p>	<p>106 107 1 was providing construction services for 2 Commonwealth Edison. I can go deeper into what 3 type of services, but let's just say that as the 4 contractor was receiving blueprints, documents, 5 engineering records, anything to construct a 6 substation, an overhead transmission line, they 7 would be receiving engineering documents 8 standards, you name it, from Commonwealth Edison 9 engineering and I was the one who was talking 10 directly to them. 11 Q. You talked directly to who? 12 A. ComEd engineers, whoever the design 13 engineers were on the project, so there were 14 numerous. 15 Q. But this was not related to rate 16 administration; it was just construction and 17 engineering? 18 A. Construction and engineering, 19 standards. 20 Q. And so you were having 21 these conversations on a daily basis, 22 weekly? 23 A. Daily basis. 24 MS. THOMPSON: Okay. Thank you.</p>



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<p style="text-align: right;">109</p> <p>1 THE WITNESS: You're welcome. 2 MR. GOLDIN: We'll reserve signature. 3 FURTHER DEPONENT SAITH NOT. 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: right;">111</p> <p>1 my hand of office at Chicago, Illinois, this 2nd 2 day of November, 2010. 3 4 5 Theresa A. Vorkapic 6 Notary Public, Kane County, 7 Illinois. 8 My commission expires 10/17/11. 9 10 11 C.S.R. Certificate No. 84-2589. 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">110</p> <p>1 STATE OF ILLINOIS) 2) SS: 3 COUNTY OF K A N E) 4 I, THERESA A. VORKAPIC, a Notary Public 5 within and for the County of Kane, State of 6 Illinois, and a Certified Shorthand Reporter, CSR 7 No. 84-2589, of said state, do hereby certify: 8 That previous to the commencement of 9 the examination of the witness, the witness was 10 duly sworn to testify the whole truth concerning 11 the matters herein; 12 That the foregoing deposition 13 transcript was reported stenographically by me, 14 was thereafter reduced to typewriting under my 15 personal direction and constitutes a true record 16 of the testimony given and the proceedings had; 17 That the said deposition was taken 18 before me at the time and place specified; 19 That I am not a relative or employee or 20 attorney or counsel, nor a relative or employee of 21 such attorney or counsel for any of the parties 22 hereto, nor interested directly or indirectly in 23 the outcome of this action. 24 IN WITNESS WHEREOF, I do hereunto set</p>	<p style="text-align: right;">112</p> <p>1 I N D E X 2 WITNESS EXAMINATION 3 JOSE LOZANO 4 By Ms. Thompson 3:6, 106:11 5 By Mr. Goldin 102:3 6 E X H I B I T S 7 Lozano Deposition Exhibit Page Line 8 No. 1 3 24 9 No. 2 8 10 10 No. 3 32 21 11 No. 4 34 5 12 No. 5 34 16 13 No. 6 35 12 14 No. 7 35 23 15 No. 8 36 10 16 No. 9 36 19 17 No. 10 37 6 18 No. 11 37 20 19 No. 12 40 1 20 No. 13 65 24 21 No. 14 67 20 22 No. 15 69 23 23 No. 16 72 16 24 No. 17 74 12</p>



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<p style="text-align: right;">113</p> <p>1 No. 18 75 7</p> <p>2 No. 19 75 21</p> <p>3 No. 20 76 12</p> <p>4 No. 21 77 8</p> <p>5 No. 22 83 16</p> <p>6 No. 23 87 20</p> <p>7 ***ORIGINAL EXHIBITS RETAINED BY COUNSEL***</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">115</p> <p>1 DEPOSITION ERRATA SHEET</p> <p>2 Page No.____Line No.____Change to:_____</p> <p>3 _____</p> <p>4 Reason for change:_____</p> <p>5 Page No.____Line No.____Change to:_____</p> <p>6 _____</p> <p>7 Reason for</p> <p>8 change:_____</p> <p>9 Page No.____Line No.____Change to:_____</p> <p>10 _____</p> <p>11 Reason for change:_____</p> <p>12 Page No.____Line No.____Change to:_____</p> <p>13 _____</p> <p>14 Reason for change:_____</p> <p>15 Page No.____Line No.____Change to:_____</p> <p>16 _____</p> <p>17 Reason for change:_____</p> <p>18 Page No.____Line No.____Change to:_____</p> <p>19 _____</p> <p>20 Reason for change:_____</p> <p>21 _____</p> <p>22 _____</p> <p>23 SIGNATURE:_____DATE:_____</p> <p>24 JOSE LOZANO</p>
<p style="text-align: right;">114</p> <p>1 DEPOSITION ERRATA SHEET</p> <p>2 Assignment No. 185082</p> <p>3 MALIBU CONDOMINIUM,)</p> <p>4 Petitioner,) Docket</p> <p>5 -vs-) No. 08-0401</p> <p>6 COMMONWEALTH EDISON COMPANY,)</p> <p>7 Respondent.)</p> <p>8 DECLARATION UNDER PENALTY OF PERJURY</p> <p>9 I declare under penalty of perjury that</p> <p>10 I have read the entire transcript of my deposition</p> <p>11 taken in the captioned matter or the same has been</p> <p>12 read to me, and the same is true and accurate,</p> <p>13 save and except for changes and/or corrections, if</p> <p>14 any, as indicated by me on the DEPOSITION ERRATA</p> <p>15 SHEET hereof, with the understanding that I offer</p> <p>16 these changes as if still under oath.</p> <p>17 Signed on the _____ day of</p> <p>18 _____, 20____.</p> <p>19 _____</p> <p>20 _____</p> <p>21 JOSE LOZANO</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">116</p> <p>1 DEPOSITION ERRATA SHEET</p> <p>2 Page No.____Line No.____Change to:_____</p> <p>3 _____</p> <p>4 Reason for change:_____</p> <p>5 Page No.____Line No.____Change to:_____</p> <p>6 _____</p> <p>7 Reason for change:_____</p> <p>8 Page No.____Line No.____Change to:_____</p> <p>9 _____</p> <p>10 Reason for change:_____</p> <p>11 Page No.____Line No.____Change to:_____</p> <p>12 _____</p> <p>13 Reason for change:_____</p> <p>14 Page No.____Line No.____Change to:_____</p> <p>15 _____</p> <p>16 Reason for change:_____</p> <p>17 Page No.____Line No.____Change to:_____</p> <p>18 _____</p> <p>19 Reason for change:_____</p> <p>20 Page No.____Line No.____Change to:_____</p> <p>21 _____</p> <p>22 Reason for change:_____</p> <p>23 SIGNATURE:_____DATE:_____</p> <p>24 JOSE LOZANO</p>



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