STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	No. 10-0467
Proposed general increase in electric rates	:	

Surrebuttal Testimony of

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I. Introduction and Background

A. Identification of Witnesses

Q. What is your name and your business address?

A. Martin G. Fruehe, Commonwealth Edison Company, Three Lincoln Centre, Oakbrook Terrace, Illinois 60181.

Q. Are you the same Martin G. Fruehe who submitted Rebuttal Testimony on behalf of Commonwealth Edison Company ("ComEd")?

A. Yes.

B. Purpose of Testimony

Q. What is the purpose of your surrebuttal testimony?

A. The purpose of my surrebuttal testimony is to respond to certain positions taken in the Rebuttal Testimony of the following Illinois Commerce Commission Staff and Intervenor witnesses: Staff witnesses Theresa Ebrey, Bonita Pearce, Dianna Hathhorn and Scott Tolsdorf; and Illinois Attorney General's Office and Citizen's Utility Board witnesses Michael Brosch, David Effron and Ralph Smith.

Q. How is your surrebuttal testimony organized?

A. My surrebuttal testimony is divided into seven sections:

(1) Introduction and Background - Sets forth the scope of my testimony, summarizes my conclusions, and identifies the attachments to my testimony;

(2) Response to Illinois Commerce Commission ("Commission" or "ICC") Staff and Illinois Attorney General's Office / Citizens Utility Board ("AG/CUB") proposed changes to operating expenses;

23 (3) Response to Staff and AG/CUB proposed changes to the new business revenue
24 credit, other revenues, and miscellaneous fees;
25 (4) Response to Staff proposed change to ComEd's cost of short term debt;
26 (5) Response to Staff proposed change to ComEd's uncollectible factor;
27 (6) Response to Staff recommendation to remove Rider AMP pilot costs from the
28 revenue requirement; and
29 (7) Response to Staff recommendation to remove purchase of receivables /
30 consolidated billing ("PORCB") costs from rate base.

31 **C. <u>Summary of Conclusions</u>**

32 **Q. Please summarize the conclusions in your surrebuttal testimony.**

33 A. In brief, I conclude as follows:

34 (1) ComEd's operating expenses related to wages and salaries, charitable
35 contributions, legal expenses, professional sporting activities, the Illinois Electric
36 Distribution Tax, rate case expenses, and directors' fees are appropriately
37 calculated and included in the revenue requirement.
38 (2) ComEd's operating revenue adjustments for the new business revenue credit, late
39 payment charges, and miscellaneous fees are appropriately calculated and
40 considered in calculating the revenue requirement.
41 (3) ComEd's cost of short term debt is appropriately calculated.
42 (4) The operating expenses ComEd will incur related to its AMI pilot through the
43 conclusion of this docketed proceeding are appropriately included in the revenue
44 requirement.

45 (5) ComEd's proposal to include in the revenue requirem ent certain costs associated
46 with the PORCB program is calculated appropriately.

47 **D. <u>Itemized Attachments to Surrebuttal Testimony</u>**

48 **Q. What are the attachments to your testimony?**

49 A. They are:

50 (1) **ComEd Exhibit (Ex.) 56.1** consists of

51 • Revised Sch. C-2.10
52 • Revised Sch. C-2.14
53 • Revised Sch. C-2.16
54 • Revised Sch. C-2.21

55 These schedules have been subm itted in support of the revised revenue
56 requirement included in the surrebuttal testimony of Ms. Kathryn Houtsm a,
57 ComEd Ex. 55.0.

58 (2) **ComEd Ex. 56.2** consists of work papers supporting the schedules
59 provided in ComEd Ex. 56.1.

60 (3) **ComEd Ex. 56.3** consists of detail supporting C omEd's requested
61 rate case costs.

62 (4) **ComEd Ex. 56.4** includes Customer Growth deta il in support of
63 ComEd's new business revenue credit calculation

64 (5) **ComEd Ex. 56.5** consists of a revision to ICC Staff Ex. 16.14
65 regarding the new business revenue credit should the amount of
66 pro forma plant additions be limited to December 31, 2010.

67 (6) **ComEd Ex. 56.6** includes support of ComEd's estimated AMI
68 pilot O&M expenses to be incurred through June, 2011

69 (7) **ComEd Ex. 56.7** Consists of calculations supporting ComEd's
70 PORCB cost recovery proposal.

71 **II. Operating Expenses**

72 **A. Workforce Expense Adjustments**

73 **Q. AG/CUB witness David Effron recommends a reduction to ComEd's adjustment**
74 **related to the pro forma 2010 wages and salaries increase based on a decrease in the**
75 **number of ComEd employees for a portion of 2010. Is his adjustment appropriate?**

76 A. No. The purpose of the wages and salaries pro forma adjustment is to present a
77 reasonable estimation of the wages and salaries expense that will be realized when the
78 rates requested are in effect. What Mr. Effron fails to consider is that the rates proposed
79 by ComEd in this proceeding will be in effect beginning mid 2011 and will be in effect
80 for some time afterwards. ComEd, like other Chicago-area businesses, has made
81 adjustments to its staffing levels over the last two years as a result of the economic
82 slowdown as well as productivity enhancements. In the event the economy continues to
83 recover and gain momentum, however, especially after mid-2011, either these currently
84 open positions are likely to be filled by ComEd, or the amount of overtime paid likely

85 will increase. Either way, Mr. Effr on's proposed adjustment would understate Co mEd's
86 wages and salaries expense.

87 **Q. Has ComEd reflected any reduction of employees in its revenue requirement?**
88 A. Yes. As shown in ComEd Ex. 6.0, Schedule C-2.4, ComEd has reflected over $11 million
89 in sustainable savings associat ed with a reduction in em ployees because of its 2009 costs
90 savings program, which reduced its revenue requirement.

91 **Q. Staff witness Bonita Pearce has a lso reco mmended an adjustment to ComEd's pro**
92 **forma 2010 wages and salaries increase. Is her adjustment appropriate?**
93 A. No.

94 **Q. Please explain Ms. Pearce's adjustment.**
95 A. Ms. Pearce's approach is som ewhat different from Mr. Effr on's in that is based on the
96 change in total Com Ed wages and salari es during 2010 with an adjustm ent to
97 acknowledge the contractual 3.5% increase in 2011 IBEW wages. Ms. Pearce basically
98 eliminates ComEd's 2010 pro forma wages and sa laries adjustment, but then includes the
99 2011 IBEW increase net of a reduction in fo recasted 2010 salary and wage expense over
100 2009.

101 **Q. Why is this not appropriate?**
102 A. Although Ms. Pearce recognizes that the wa ges and salaries expense in 2011 will be
103 higher, for the sam e reasons I disagree wi th Mr. Effron's approa ch, it is also not
104 appropriate. Again, the issue here is wages and salaries expense. ComEd has already
105 accounted for the sustainable sa vings associated with its co st reduction program. Thus, it
106 is not appropriate to ignore the pro forma wages and salaries expense increase in 2010, a

107 known and measureable change. The increase in wages and salaries expense in 2011 for
108 IBEW would be on top of the pro forma wages and salaries expense increase in 2010.

109 **B. Charitable Contributions**

110 **Q. In his rebuttal testimony, ICC Staff witness Scott Tolsdorf still recommends several**
111 **reductions to ComEd's charitable contributions. Are you in agreement with his**
112 **reductions?**

113 A. No. Mr. Tolsdorf's recommended disallowances of the contributions allocated to ComEd
114 and what he considers "promotional" are not appropriate.

115 **Q. Mr. Tolsdorf characterizes the contributions made by Exelon and allocated to**
116 **ComEd are "duplicative and unnecessary". Is this accurate?**

117 A. No, they are not. No one, including Mr. Tolsdorf, is questioning the charitable nature of
118 the organizations to which the donations were made, whether they are inside ComEd's
119 service territory or not. Simply because the donation was made in conjunction with a
120 larger contribution made by Exelon does not mean it is not a reasonable business
121 expense. The source of the funds donated to a charity—whether from Exelon, from
122 investments, from revenues from rates, or from internal funds—is not what determines its
123 suitability as a charitable expense. It is whether the donation is made "for charitable
124 scientific, religious or educational purposes", and whether it is "reasonable in amount."
125 220 ILCS 5/9-227. Moreover, as I discussed in my rebuttal testimony, the overall
126 amount of charitable contributions that ComEd is seeking recovery of in this proceeding
127 is actually lower than the amount approved in ComEd's last proceeding (ICC Docket No.
128 07-0566) by approximately $500,000.

Q. In his rebuttal testimony, Mr. Tolsdorff continues to suggest that several of ComEd's donations should be disallowed as being promotional or goodwill advertising because ComEd's logo was displayed by the charitable organization. Is this disallowance appropriate?

A. No, it is not. It is commonplace for charitable organizations to display the names of organizations and individuals who contribute to the charity. In some instances, the charitable organization asks also to display a corporate contributor's logo, such as that of ComEd. One reason charitable organizations display the names and logos of contributors is to encourage others also to contribute. Moreover, if, for example, ComEd donates to The National Museum of Mexican Art and receives recognition by having its logo printed on the back page of a brochure recognizing it as a sponsor, that does not diminish the fact that funds are being used for charitable purposes. Mr. Tolsdof's comment in his rebuttal testimony that the donations made to the charitable organizations in which ComEd receives some form of recognition and funds spent for a promotional billboard at U.S. Cellular field are "quite similar" is completely off base and should be ignored.

Q. Does the fact that ComEd issues instructions of how its logo is to be displayed undermine the nature of the donation?

A. No. ComEd's logo is a company asset and it is reasonable to instruct those who may use it to recognize ComEd as a sponsor to use it properly.

Q. How does ComEd account for its promotional advertising?

A. Amounts spent for promotional advertising are recorded in FERC Account 930.1 and removed from the revenue requirement on Schedule C-8 in ComEd Ex. 6.1.

151 **Q. Does ComEd include any of the donations in question in Account 930.1?**

152 A. No. The funds donated are not promotional or general advertising in nature and should
153 not be included in Account 930.1.

154 **Q. Has AG/CUB Witness Michael Brosch presented any new arguments or changed his**
155 **position on this issue in his rebuttal testimony?**

156 A. No. Mr. Brosch's recommended disallowance of 50% of ComEd's charitable contribution
157 from the revenue requirement is not only arbitrary, but inconsistent with Section 9-227 of
158 the Public Utilities Act, 220 ILCS 5/9-227. I understand the point of Section 9-227 to be
159 that the Commission may not disallow a prescribed portion of an otherwise reasonable
160 charitable contributions by rule; rather, it must examine each of these contributions to
161 determine if it was made to a proper charitable organization and is reasonable in amount.
162 Mr. Brosch proposes to disallow one-half of Com Ed's charitable contributions as a
163 purported compromise sharing between shareholders and ratepayers. This is in effect
164 disallowance by "rule", rather than disallowance by examination of the appropriateness
165 and reasonableness of each contribution, and is therefore inconsistent with my
166 understanding of 220 ILCS 5/9-227.

167 **C. Legal Fees**

168 **Q. AG/CUB Witness David Effron reiterates his position to reduce ComEd's operating**
169 **expenses for legal fees included in Account 923 related to the sale of the fossil**
170 **generating units. Have you changed your position on this issue?**

171 A. No. Account 923 includes literally thousands of different charges from outside agencies,
172 most of which cannot be allocated to a single function. Since reviewing each line item

173 for appropriate allocation is not a reasonable task, an overall allocator, such as the wages
174 and salaries allocator is applied. The amount related to Account 923 requested in this
175 proceeding represents a reasonable amount of costs that will be realized when rates go
176 into effect. For example, the total (non jurisdictional) amount in Account 923 in 2006
177 (Docket No. 07-0566) was $174 million. In the 2009 test year, the amount is
178 $139 million. The make-up of the costs can change from year to year and applying a
179 general allocator to the total provides a reasonable amount for rate making purposes.

180 **D. Professional Sporting Activity Expense**

181 **Q. In his rebuttal testimony, ICC Staff witness Tolsdorf recommends reducing**
182 **ComEd's operating expenses for Professional Sporting Activity Expenses. Has he**
183 **raised any new issues?**

184 A. No.

185 **Q. AG/CUB witness Ralph Smith has proposed a similar adjustment. Does his rebuttal**
186 **testimony include any new arguments apart from those raised by Mr. Tolsdorf?**

187 **A.** No.

188 **Q. Has your position changed on this issue?**

189 A. No. My position on this issue remains as described in my rebuttal testimony.

190 **Q. In addition to what you discussed in your rebuttal testimony, are there any other**
191 **reasons this should be viewed as an appropriate expense to be included in ComEd's**
192 **revenue requirement?**

193 A. This type of venue can also be used to develop business relationships with key customers
194 within ComEd's service territory which can help the company function more efficiently.

195 **E. <u>Illinois Electric Distribution Tax</u>**

196 **Q. In his rebuttal testimony, AG/CUB witness Michael Brosch argues that "The**
197 **Company's estimation of a weather normalized IEDT produces a large upward**
198 **adjustment amount that fails to account for the fact that total receipts under this tax**
199 **are capped on a statewide basis pursuant to the Public Utilities Revenue Act (35 802**
200 **ILSCS 620/)." Do you agree with this statement?**

201 A. The statement is misleading. As I stated in my rebuttal testimony, ComEd's adjustment
202 provides a weather-normalized estimate of the tax that it will pay. Mr. Brosch's approach
203 underestimates the tax ComEd will pay by only focusing only on 2009, a cooler than
204 normal year. As a point of reference, the year 2009 had the smallest number of cooling
205 degree days (using O'Hare weather station data) since 1992. My adjustment also takes
206 the statutory cap into account by reducing the tax by the average credit received over the
207 past six years. Mr. Brosch further ignores that the credit lags the tax by three years and is
208 based upon the total amount of tax taken in for all utilities, not just ComEd. Using
209 ComEd's approach provides a better estimate of the net amount of the tax ComEd will
210 pay in a given year.

211 **Q. Have any other parties taken a position on this issue?**

212 **A.** Yes. In her rebuttal testimony, Staff witness Dianna Hathhorn states "I agree with
213 ComEd that the AG methodology does not reflect the reality that the credits lag the taxes
214 paid by several years, that 2009 was an abnormally low kilowatt-hour use year and,
215 therefore, a normalized credit as ComEd proposed is more appropriate."

216 **F. Rate Case Expenses**

217 **1. Response to Ms. Hathhorn**

218 **Q. In her rebuttal testimony, does Staff witness Dianna Hathhorn revise any of the**
219 **adjustments she proposed in her direct testimony?**

220 A. Yes. Ms. Hathhorn has eliminated one and has revised several other of her proposed
221 adjustments.

222 **Q. Please explain the eliminated adjustment.**

223 A. Ms. Hathhorn has eliminated her proposed adjustment to remove the expense associated
224 with P. Moul and Associates, stating that the company has addressed her concerns
225 through discovery.

226 **Q. Which rate case expense adjustments has Ms. Hathhorn revised?**

227 A. Mrs. Hathhorn has revised her proposed adjustments to the outside legal costs associated
228 with the alt reg proceeding and the consultant/outside legal costs associated with Dr.
229 Hewings and Dr. Andrade.

230 **Q. Please describe Ms. Hathhorn's revised adjustment related to the outside legal costs**
231 **associated with the alt reg proceeding.**

232 A. Ms. Hathhorn initially proposed eliminating 50% of ComEd's recovery of outside legal
233 costs. Ms. Hathhorn asserted that ComEd should not recover any outside legal costs
234 associated with the Alt Reg proceeding, and assumed that 50% of ComEd's total outside
235 legal costs are attributable to the Alt Reg proceeding. On rebuttal, Ms. Hathhorn
236 maintains that ComEd should not recover any outside legal costs for the Alt Reg
237 proceeding, but has reduced the percentage of total legal costs allocated to that

238 proceeding to 18.33% of the R3 law firm charges, or $445,000, plus another reduction of
239 $51,000 for work performed by Sidley and Austin..

240 **Q. Do you agree with these adjustments?**

241 A. I agree that substantially less than 50% of ComEd's total outside legal costs are
242 attributable to the Alt Reg proceeding. However, for the reasons I discussed in my
243 rebuttal testimony, I do not agree that any outside legal costs should be removed from the
244 revenue requirement on account of the Alt Reg proceeding or otherwise.

245 **Q. Do you agree with Ms. Hathhorn's revised adjustment for the legal and consultant**
246 **costs associated with Dr. Hewings and Dr. Andrade?**

247 A. I agree that Ms. Hathhorn has accurately stated the legal and outside costs associated with
248 the testimony of Drs. Hewings and Andrade. However, for the reasons discussed in my
249 rebuttal testimony, ComEd reasonably expected that the testimony of Drs. Hewings and
250 Andrade would be fully admissible and considered by the Commission. Therefore, no
251 legal or consultant expenses associated with those witnesses should be excluded from
252 recovery.

253 **2. <u>Response to Mr. Smith</u>**

254 **Q. AG/CUB Witness Ralph Smith has submitted rebuttal testimony suggesting a**
255 **significant reduction to ComEd's proposed rate case expenses. He states, " Given**
256 **the poor economy and high unemployment rate, one might expect that the company**
257 **would show a higher degree of sensitivity to holding down rate case costs". In**
258 **general, how do you respond?**

259 A. I will discuss Mr. Smith's specific proposed adjustments in more detail below, but in
260 general, Mr. Smith's adjustments are unwarranted and should be rejected. Mr. Smith's
261 statement regarding ComEd not holding down rate case costs completely ignores the fact
262 that ComEd has taken measures to reduce rate case costs, the result of which is to reduce
263 the costs by nearly 20% from ComEd's prior case. In ComEd's previous rate case (ICC
264 Docket No. 07-0566), ComEd's approved rate case expense was $10.5 million. ComEd is
265 requesting $2 million less in this proceeding. Through discovery, ComEd has already
266 provided an explanation of the steps it took to manage and reduce rate case expenses
267 related to this proceeding.

268 **Q. In regards to the reasonableness of ComEd's proposed rate case expenses, Mr.**
269 **Smith states that ComEd has failed "to disclose hours charged and hourly rates for**
270 **a number of its consultants, or to provide invoices containing descriptions of**
271 **services that ComEd requests to recover from rate payers". Has ComEd failed to**
272 **provide invoices and documentation regarding the services its consultants have**
273 **provided?**

274 A. No. Throughout this proceeding, ComEd has consistently provided on-going status
275 updates regarding its rate case expenses with invoices and descriptions.

276 Q. Has any of the information on the invoices been redacted?

277 A. Only information that is privileged. I would note that in response to the Administrative
278 Law Judge's motion to compel, ComEd has provided additional information regarding its
279 consultant and legal costs.

Q. Mr. Smith opposes the inclusion in rate case expenses of the all consultant costs associated with Dr. Hewings and $13,000 of those associated with Dr. Andrade. Do you agree with his position?

A. No. This is the same adjustment proposed by Ms. Hathhorn. I do not agree with it for the reasons laid out in my rebuttal testimony and in this testimony. Moreover, Mr. Smith's adjustment would even remove the costs of the portion of Dr. Andrade's testimony that is still part of the record in this proceeding.

Q. Mr. Smith proposes that an additional $225,000 be removed from rate case for consultant work regarding Economic Development/Jobs creation. Is this an appropriate reduction?

A. No. In preparation for this rate case, ComEd sought the opinion and assistance of several consultants, one of which was Chicago Partners. Although ComEd ultimately chose to present the testimony of Dr. Hewings and Dr. Andrade in regards to the issue of Economic Development and Jobs Creation, it does not diminish the upfront investigation of the issue. This is similar to Staff's proposal to remove all the costs associated with Dr. Hewings and 50% of the costs associated with Dr. Andrade. ComEd should be allowed to recover its costs of preparing its case.

Q. Does Mr. Smith's adjustment remove all of Dr. Andrade's consultant costs?

A. Yes.

Q. Given that approximately half of Dr. Andrade's testimony was stricken, is this appropriate?

301 A. No. Although I believe that all of Dr. Andrade's costs should be included, Mr. Smith's
302 adjustment would even remove the costs of the portion of his testimony that is still part of
303 the record in this proceeding.

304 **Q. Mr. Smith has characterized four of ComEd's financial witnesses, including Samuel**
305 **Hadaway, Carl Seligson, Susan Tierney, and Susan Abbott/Steve Fetter, as**
306 **providing only cost of capital testimony. Is this accurate?**

307 A. No. Mr. Smith's characterization would lead one to believe that all four witnesses
308 provided cost of equity calculations.[1] Only Dr. Hadaway and Mr. Seligson have provided
309 testimony regarding the actual calculation of ComEd's required return on equity.
310 Dr. Tierney's testimony supplied an expert's point of view regarding the financial impact
311 of lost sales ComEd will experience as it expands its energy efficiency program as well
312 as the prudence of ComEd's 2009 pension contribution. The Abbott/Fetter testimony
313 provided a financial expert's perspective on why maintaining or improving the
314 company's credit rating is critical to financing new projects.

315 **Q. Has ComEd used a combination of these witnesses in previous rate cases?**

316 A. Yes. In Docket No. 07-0566, ComEd relied upon testimony from Dr. Hadaway, Dr.
317 Tierney and Ms. Abbott. The Commission accepted their respective testimonies and no
318 adjustment was made to reduce rate case expenses for their consulting costs.

319 **Q. Mr. Smith also recommends that the cost associated with P. Moul and Associates be**
320 **removed from rate case expenses. Do you agree?**

[1] Because Ms. Abbott died during the pendency of this proceeding, Mr. Fetter has adopted her Direct testimony and has prepared rebuttal and surrebuttal testimony Ms. Abbott would otherwise have prepared.

321 A. No. For the reasons I presented in my rebuttal testimony, I do not agree with his
322 recommended adjustment. I would also note that, although Mr. Smith would not have
323 known this at the time he submitted his rebuttal testimony, Staff witness Dianna
324 Hathhorn has eliminated her adjustment to remove these expenses as I previously
325 discussed in this surrebuttal testimony.

326 **Q. Is Mr. Smith's proposal to limit the recoverable charges associated with these**
327 **witnesses and consultants to $100,000 reasonable?**

328 A. Not at all. First, as described above, apart from the testimonies from Dr. Hadaway and
329 Mr. Seligson, the other witnesses provided expert testimony on matters other the
330 appropriate calculation of return on equity. Second, Mr. Smith's "cap" is completely
331 arbitrary. He provides no studies, support or rationale related to his recommended limit
332 of $100,000.

333 **Q. Mr. Smith proposes another rate case expense reduction related to the work**
334 **performed by Sullivan and Associates. He characterizes Mr. Sullivan as an**
335 **"unknown consultant" performing "unknown services". Is this characterization**
336 **accurate?**

337 A. No. Mr. Sullivan is an accounting and financial contractor who provides a necessary and
338 cost effective augment to ComEd's regulatory staff during rate case preparation. The
339 heavy work load associated with rate cases is intermittent and thus ComEd does not staff
340 for the peak work load. Mr. Sullivan assists in the preparation of the voluminous
341 Part 285 filing requirement schedules and in responding to discovery. ComEd has
342 received over 1,550 individual data requests to date, not to mention the numerous

343 subparts included in many of the requests, all of which must be responded to in specified
344 time frames. Mr. Sullivan provides an enormous amount of value by assisting in getting
345 the responses out to Staff and intervening parties in a timely manner.

346 **Q. Have the costs associated with Sullivan and Associates been included in previous**
347 **rate cases?**

348 A. Yes. The costs associated with Sullivan and Associates were included in the approved
349 rate case expenses in ICC Docket Nos. 05-0597 and 07-0566.

350 **Q. Mr. Smith suggests the same reduction for Alt Reg consultants as Ms Hathhorn. Is**
351 **your response the same?**

352 A. Yes, as discussed above.

353 **Q. Mr. Smith suggests that you made an "offer" to remove 11% of ComEd's legal**
354 **expenses related to the work on alternative regulation. Is this accurate?**

355 A. No. I made no such "offer". I was simply providing an estimate of the amount of time
356 external legal has spent on alternative regulation to counter Staff's original position of
357 50%.

358 **Q. Mr. Brosch characterizes ComEd's Cash Working Capital study as "severely flawed**
359 **and unreliable", and thus Mr. Smith proposes that the associated costs be**
360 **eliminated from rate case expenses. Is this reasonable?**

361 A. No. ComEd is required to perform and present a lead-lag analysis to support a cash
362 working capital component of rate base. Simply because Mr. Brosch does not agree with
363 the methodology and results does not mean that the costs were imprudently incurred or

364 unreasonable and should be excluded from rate case expenses. It should be noted that
365 ComEd and Staff are mostly in agreement with the inputs to the study.

366 **Q. Mr. Smith states that ComEd has "overstated its consultant and expert witness**
367 **costs" in its direct case. He recommends reducing these costs by 35% as well as**
368 **reducing the post direct costs by the same amount. How do you respond?**

369 A. Mr. Smith's speculation about consultant and expert witness costs is misconceived. Data
370 through the end of November show that the amount ComEd has paid to consultants and
371 expert witnesses for the direct case is relatively close to its estimate. This data was
372 included in ComEd's response to DLH 1.04 5th Supplemental Confidential, and is
373 included on page 2 of ComEd Ex. 56.3. Mr. Smith seems to question why ComEd would
374 likely spend even more on the post direct case, but that the post direct case might cost
375 more should come as no surprise. The post direct case includes both rebuttal and
376 surrebuttal testimony, preparation of witnesses for the hearings and preparation and filing
377 of four rounds of briefs, plus the Administrative Law Judges have required a pretrial
378 memorandum. It also bears repeating that ComEd's requested rate case expenses are
379 about $2 million less than the amount allowed in its last rate proceeding.

380 Q. How do ComEd's rate case expenses incurred through the first five months of this
381 proceeding compare with its expenses incurred during the same time period during its
382 previous delivery services case (ICC Docket No. 07-0566)?

383 A. As shown on page 1 of ComEd Ex. 56.3, ComEd had incurred $7.1 million of rate case
384 expenses through March 2008, approximately five months after the beginning of that
385 case. This equates to approximately 68% of its total allowed rate case expense of $10.5

386 million. When compared to the approximately same time period in this proceeding,
387 ComEd has incurred just over $5 million, or 59% of its request rate case expense of
388 $8.5M (see Com Ed Ex. 56.3, page 2). This shows that (1) Com Ed is on track to incur
389 $8.5M of rate case expenses and that the costs in general have been significantly reduced
390 from the previous rate case.

391 Q. If the referenced time period is the same, why are the percentages shown above not
392 exactly equal to each other?

393 A. It is not surprising the percentages are not exactly equal. Each case is a little different in
394 terms of testimony preparation and discovery which can lead to differences in the timing
395 in which costs are incurred. Additionally, the timing of when accruals are made and
396 invoices are actually received can vary depending upon the witnesses and consultants
397 internal billing processes.

398 **Q. Can you comment on Mr. Smith's proposal to "normalize" rate case expenses?**

399 A. Mr. Smith's proposal to normalize rate case expenses, as discussed in his direct and
400 rebuttal testimony appears somewhat vague and has, to my knowledge, not been vetted in
401 Illinois, nor has it been the practice in Illinois. To my knowledge, there has been no
402 showing that the current practice of amortizing the Commission approved rate case
403 expense has resulted in rates that are under or over-recovering rate case expenses.
404

405 **G. Directors Fees**

406 **Q. IStaff w itness Bonita Pearce maintains her proposal to remove 50% of ComEd's**
407 **directors fees from ComEd's operating expenses. Do you agree w ith her**
408 **adjustment?**

409 A. No. Ms. Pearce offers no new rationale for her adjustment in her rebuttal testimony other
410 than to refer to a statement I made in my rebuttal testimony that the majority of the
411 board's time is spent on ComEd matters. From this statement, Ms. Pearce somehow
412 concludes that 50% of their time is spent on other matters. She provides no response to
413 the myriad of board responsibilities I described that relate to ComEd's ability to provide
414 reliable and cost effective delivery services. Her adjustment is unwarranted and should
415 be rejected.

416 **III. Operating Revenues**

417 **A. New Business Revenue Credit**

418 **Q. Does Mr. Effron ma intain the position he presented in his direct testimony that the**
419 **new business revenue credit should be based upon the growth in overall kWh sales?**

420 A. No. He has changed his position to one based on customer growth (as ComEd originally
421 proposed) – possibly b ecause the updated sale s forecast I presented in m y rebuttal
422 testimony showed his adjustm ent would result in a reduction to overall sales and thus
423 would increase the revenue requirement.

424 **Q. Does Mr. Effron agree w ith the new bus iness revenue credit you present in your**
425 **rebuttal testimony?**

426 A. Not entirely. Although Mr. Effron now agrees that it is more appropriate to use the kWh
427 growth associated with the anticipated change in the number of customers, he does not
428 agree with the amount I presented.

429 **Q. Please explain.**

430 A. The new business revenue credit calculation I provided in ComEd Ex. 30.2, WPC-2.9,
431 includes the anticipated change in all customer classes. The residential and small C&I
432 (commercial and industrial) classes are forecast to increase while the large C&I class is
433 forecasted to decrease. Mr. Effron proposes to remove the decrease in the large C&I class
434 from the calculation, which increases the credit.

435 **Q. Do you agree with this adjustment?**

436 A. No. The idea behind the new business revenue credit is to provide an estimate of the
437 change in kWh sales the Company may experience related to the change in customers
438 when the new rates are in effect. Although some large C&I customers may continue to
439 be connected to the system, others may shut down, and still others may downsize
440 operations and be included as an increase to the small C&I class. The adjustment should
441 take into account the overall change in kWh sales by customer class, not only the
442 selective changes Mr. Effron proposes. Further, Mr. Effron mischaracterizes the data by
443 stating "ComEd is forecasting a decrease in large commercial and industrial ('LCI')
444 customers from the test year into 2011." In fact, ComEd is forecasting an increase in the
445 number of large C&I customers as the economy recovers. As shown on ComEd Ex. 56.4,
446 the number of large C&I customers, after a reduction in 2010 is actually increasing in

447 2011. For example, in January 2010, the actual amount of large C&I customers was
448 1,987, but ComEd is estimating that this number will increase to 2,021 by June, 2011.

449 Q. If some large C&I customers have migrated to the small C&I class, does this create any
450 issues with Mr. Effron's proposal to exclude the reduction of the large C&I customers in
451 the calculation of the new business revenue credit?

452 A, Yes. It in essence double counts those migrating customers. By ignoring the reduction to
453 the large C&I, any customer that migrates to the small C&I will be viewed as a new
454 customer, when in reality, the net customer count change is zero. In this case, not
455 accounting for the reduction to the large C&I artificially inflates the new business
456 revenue credit.

457 **Q. Did Mr. Effron make the same type of adjustment when he based his new business**
458 **revenue credit on the overall estimate growth in kWh sales?**

459 A. Although the sales forecast he used included a reduction for the small C&I class, he
460 included the reduction as part of this overall calculation.

461 **Q. Did Staff make any other recommendations regarding the new business revenue**
462 **credit?**

463 A. Yes. Ms. Ebrey agreed with the methodology ComEd presented, but suggested that if her
464 recommendation regarding limiting the pro forma plant additions is accepted by the
465 Commission, then the new business revenue credit should also be reduced.

466 **Q. Do you agree with Ms. Ebrey's proposal?**

467 A. I am in agreement that if ComEd's pro forma plant additions are reduced, the new
468 business revenue credit should also be reduced, but I do not agree with her method or her
469 calculations.

470 **Q. Please explain.**

471 A. There seem to be a couple of errors in Ms. Ebrey's calculations. First, her rebuttal
472 testimony states "Since my proposed adjustment disallows 19.87% of the Company's
473 proposed pro forma plant additions for new business, I am reducing the revenues included in
474 the Company's rebuttal revenue requirement by the same 19.87%, consistent with the
475 Company's recommendation." Upon review of her Schedule 16.14, however, the
476 calculated reduction is 17.13%. Additionally, the amounts presented in Schedule 16.14
477 are not the New Business plant additions, but rather the capital associated with customer
478 operations. If the data for new business plant additions is used, her adjustment is a
479 reduction of 33%. See ComEd Ex. 56.5.

480 **Q. What is your recommendation?**

481 A. I recommend that if Ms. Ebrey's position limiting pro forma plant additions to December
482 2010 is approved, than ComEd's new business revenue credit should be reduced by 33%
483 (2 quarters / 6 quarters = 33%), or $1,140,000.

484 **B. <u>Late Payment Charge Reclassification</u>**

485 **Q. Has Mr. Brosch revised his position regarding the late payment charge**
486 **reclassification?**

487 A. Mr. Brosch has reduced the amount he believes should be reclassified to delivery services
488 by $2 m illion to accou nt for th e amount allo cated to th e transm ission function, b ut he
489 continues to argue that the full remaining amount should be allocated to delivery services.

490 **Q. Have you revised your position on this issue?**

491 A. No. The late payment charges in question are not a function of delivery services and, for
492 the reasons I presented in m y rebuttal te stimony, should not be al located to delivery
493 services.

494 **Q. Have any other parties taken a position on this issue?**

495 A. Yes. Staff witness Dianna Hathhorn stat es in her rebuttal testim ony "The AG makes an
496 adjustment since it believes there h as been no showing by the Com pany that justifies
497 removal of certain revenues from the revenue requirement. It appears, however, that the
498 adjustment would result in supply revenues being included in the delivery services
499 revenue r equirement, which is in appropriate; therefore, I agree with Com Ed that the
500 adjustment should not be adopted."

501 **C. <u>Miscellaneous Fees and Expenses</u>**

502 **Q. Based on t he testimon y presented by St aff witness Ha rden regarding rate design,**
503 **Ms Ebrey had revised ComEd's adjustment for proposed tariff ch anges (Schedule**
504 **C-2.16 in ComEd Ex. 6.1). Do you agree with her changes?**

505 A. As discussed in the surrebuttal testimony of Mr. Alongi, ComEd accepts the adjustm ents
506 to reduce the overall leve l of increase of the charges as suggested by Ms. Harden, but as
507 Ms. Ebrey has accep ted Com Ed's inclus ion of AIP in its operatin g expenses, her

508 exclusion of AIP from the calculation of the charges is not needed. See ComEd Ex 56.2,
509 Schedule C-2.16 REVISED.

510 **IV. Cost of Capital**

511 **A. Short Term Debt**

512 **Q. Staff witness Michael McNally opposes your position that the average short term**
513 **debt balance be calculated as of March 31, 2010, rather than September 30, 2010.**
514 **How do you respond?**

515 A. While either method could be used and the overall difference between the two methods is
516 minimal, I believe using the ending date of March 31, 2010 provides a better indication
517 of the cost and balance of short term debt over the historical test year period because
518 more of the 2009 test year is used to calculate the average and aligns with the other
519 components of capital structure, which are similarly measured as of March 31, 2010.

520 **V. Uncollectible Factor Change**

521 **Q. Ms. Pearce has proposed the Uncollectible Factor in Rider UF be revised from one**
522 **based on Account 904 to one based on net charge-offs, resulting in an uncollectibles**
523 **percent of 1.37%. Do you agree with her proposal?**

524 A. ComEd does do not object to the change, as more fully described in the testimony of
525 Larry Alongi (ComEd Ex. 68.0).

526 **VI. Rider AMP**

527 **Q. Subsequent to your rebuttal testimony, the Commission approved ComEd's "bridge**
528 **tariff" for recovery of the otherwise stranded costs associated with ComEd's AMI**

pilot. Have you made any revisions to the amounts presented in your rebuttal testimony to take the Commission's action into account?

A. Yes. I have made two. First, in my rebuttal testimony, I assumed that the Commission would approve the bridge tariff in November 2010 and that recovery of the June through August 2010 O&M costs would cease prior to December 2010, leaving one-third, or $618,000, unrecovered through Rider AMP. I had originally included these costs on Schedule C-2.21 in ComEd Ex. 30.1. Because the Commission approved the bridge tariff in December 2010 and ComEd recovered all the June through August O&M costs, I have removed this amount from Schedule C-2.21. (See ComEd Ex. 56.1 Sch. C-2.21 REVISED)

Q. Please describe the second adjustment.

A. It was initially estimated that ComEd would incur $2,836,000 of additional AMI Pilot Program Outlays (CAP Program, communications and customer education expenses) from October 2010 through June 2011. These are costs which, barring the appellate court's September 30, 2010 decision regarding Rider AMP, would have been included for rider recovery. ComEd has subsequently reduced this estimated amount to $1,306,000.

Q. Why has ComEd adjusted its estimated spend on AMP Pilot Program Outlays?

A. The reduction is a result of ComEd's belief that it can complete the AMI pilot, as directed by the Commission, without spending as much as originally anticipated on general communications. This subject is addressed by Mr. Marquez. It is also the result of an increase in the level of uncertainty regarding cost recovery driven by the challenge described below.

Q. Please explain the challenge to ComEd's inclusion of its Program Outlays in its revenue requirement.

A. Staff witness Scott Tolsdorf has recommended that only the O&M incurred from September through November 2010 be included in ComEd's revenue requirement.

Q. Please Explain.

A. Mr. Tolsdorf states: "The Company has provided documentation in support of costs incurred through November 2010; however, no such documentation has been provided which establishes that the estimated AMI costs from December 2010 through June 2011 are known and measurable. Rate case treatment of these AMI costs, per 83 Ill. Adm. Code 287.40, requires that they be known and measurable since the Company has chosen to use an historical test year. The Company has not provided such documentation and the costs should not be included in the test year."

Q. Is this appropriate?

A No. In its Order in Docket No. 09-0267, the Commission approved ComEd's AMI pilot and ordered ComEd to complete it. ComEd has, in good faith, subsequently moved ahead with the pilot and disallowing these costs undermines both the pilot and the bridge tariff.

Q. How does Mr. Tolsdorf's adjustment undermine the bridge tariff?

A. The bridge tariff clearly states that ComEd's otherwise unrecoverable O&M expenses will be recovered through application of the bridge tariff. Paragraph 6, page 4, states "**The Bridge Tariff does three things:**

572 **It terminates recovery of operating expenses through Rider AMP effective as**
573 **of ComEd's December 2010 monthly billing period. This certainty will allow**
574 **ComEd and the Commission to determine a defined quantity of operating expense**
575 **that ComEd cannot recover through the rider, regardless of any appeal. The Bridge**
576 **Tariff authorizes ComEd to include those otherwise unrecoverable operating**
577 **expenses, which ComEd estimates will be approximately $6M, in a general rate case**
578 **where they fall within the test year or an appropriate pro forma period. There, they**
579 **would be recovered – appropriately normalized or amortized, as needed – like any**
580 **other operating expenses**."
581 Mr. Tolsdorf's adjustment does not allow ComEd to recover the majority of the
582 2010 and 2011 program outlay O&M expenses it will incur during the pro forma period,
583 which is clearly in opposition to the bridge tariff.

584 **Q. If ComEd is not allowed to include its program outlay costs in its revenue**
585 **requirement, will it fully recover its AMI pilot costs?**
586 A. No. Other than through ComEd's revenue requirement, the bridge tariff does not include
587 recovery of O&M expenses. Excluding them from the revenue requirement leaves
588 ComEd with no ability to recover these costs. Because ComEd will not complete the
589 pilot until after the Commission rules in the instant proceeding, there appears to be no
590 way for ComEd to recover these costs if Mr. Tolsdorf's proposed disallowance is
591 accepted.

592 **Q. Do you have any support for the December 2010 through June 2011 program outlay**
593 **expenses of which ComEd is seeking recovery**?

594 A. ComEd Ex. 56.6 provides a detailed list of ComEd's latest estimate of the program outlay
595 expenses it has incurred and will incur from October 2010 through June 2011,
596 $1,306,000, of which invoices for $130,000 have been provide to Mr. Tolsdorf.

597 **Q. Are the any other changes as a result of the bridge tariff?**

598 A. Yes. ComEd has adjusted its AMI Docket expenses to include the $21,000 it incurred
599 related to the bridge tariff filing. See. ComEd Ex. 56.2, WPC-2.10 REVISED.

600 **VII. Rider PORCB**

601 **Q. In his surrebuttal testimony, Mr. Marquez discusses ComEd's proposal for an**
602 **allocation of PORCB costs between base rates and the PORCB cost recovery**
603 **mechanism that ComEd is proposng in the interests of narrowing the issues. Can**
604 **you provide a description of the amounts to be removed from ComEd's rate base if**
605 **the Commission accepts this proposal?**

606 A. Yes. Removing all PORCB costs, except those associated with the Customer Data
607 Warehouse ("CDW") and Retail Office, as Mr. Marquez suggests, would reduce
608 ComEd's jurisdictional rate base by $9,780,000. The amount of CDW and Retail Office
609 costs currently included in ComEd's jurisdictional rate base is $6,842,000, which consists
610 of $6,062,000 of plant additions and $780,000 of deferred O&M expenses. Details behind
611 these amounts are presented in ComEd Ex. 56.7.

612 **Q. Has the total jurisdictional amount of PORCB costs changed since the submission of**
613 **your rebuttal testimony?**

614 A. Yes. Based on the actual amount spend through November, 2010 and the latest December
615 2010 forecast, the total amount of PORCB jurisdictional pro forma plant additions has

616 been reduced from $14,147,000 to $13,927,000 and the deferred expenses have increased
617 from $2,517,000 to $2,695,000. The change in deferred expenses is included in ComEd
618 Ex. 56.1 Sch. C-2.14 REVISED.

619 **Q. Does this conclude your surrebuttal testimony?**

620 A. Yes.