

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Commonwealth Edison Company	)	
	)	
Proposal to Implement a Purchase	)	No. 10-0138
Of Receivables with Consolidated	)	
Billing (PORCB) Service	)	
	)	
(Tariffs filed January 20, 2010)	)	

---

**STAFF EMERGENCY MOTION FOR CLARIFICATION OF FEBRUARY 9, 2011  
AMENDATORY ORDER**

---

NOW COME the Staff of the Illinois Commerce Commission (“Staff”), through its undersigned counsel, and pursuant to 83 Ill. Adm. Code 200.190, files this Emergency Motion For Clarification of the February 9, 2011 Amendatory Order (“Motion for Clarification”).

**Introduction**

On February 9, 2011, the Commission issued an Amendatory Order in this proceeding. The Amendatory Order added one new paragraph to the Final Order, issued on December 15, 2010. On page 25 of the Amendatory Order, the Commission added the following language:

Additionally, to aid in the sustained profitability of retail electric suppliers in ComEd’s territory, which could help to ensure that competition endures and thrives in Illinois, we decrease the discount rate in the manner that was proffered by Commission Staff as an alternative to Staff’s original proposal. We conclude that Staff’s alternative recovery charge of 0.44%, as opposed to 0.68%, should be imposed here. Also, it is in the best interests of Illinoisans in ComEd’s service territory if there were one single charge for uncollectibles, as opposed to one uncollectible charge for residential customers and a different uncollectible charge for commercial customers. ComEd shall amend its tariffs to reflect this

charge, which is 1.843%. When this figure is added to 0.44%, it yields a discount rate of 2.293%. (0.44% + 1.843%).

Amendatory Order, at 25 (footnote omitted).

This language, with a few changes, first appeared in the ALJ Proposed Order (“Proposed Order”), filed October 7, 2010. This paragraph in the Proposed Order addresses two distinct issues. The first issue is the appropriate method for the recovery of start-up and ongoing administrative costs. ComEd proposed a fixed charge of fifty cents. Staff proposed a percentage charge. The second issue is whether to use a single percentage reduction for the recovery of uncollectible costs or two distinct percentage reductions; one for residential and a separate one for commercial customers. The proposal to use a “unified” or “combined” percentage reduction for uncollectibles (“combined uncollectibles charge”) first appeared in this proceeding in the Proposed Order.

### **The Cost Recovery Method**

Regarding the cost recovery issue, the Proposed Order adopted a variant of Staff’s percentage recovery method. It adopted Staff’s alternative proposal of 0.44% rather than Staff’s original proposal of 0.68%. Proposed Order, at 23. The Final Order, however, adopted ComEd’s proposed \$0.50 cent, per-bill, fixed charge. Final Order, at 24-25. Staff was therefore somewhat surprised to find new language in the Amendatory Order that references Staff’s proposed percentage charge when the Final Order had rejected Staff’s proposed percentage charge. This new language appears to be inconsistent with the rest of the language on pages 24 and 25 of the Amendatory Order that adopts ComEd’s fixed charge of fifty cents. Further, Staff’s alternative recovery charge of 0.44% appears to have then also leaked through into an unnecessary, in light

of the Commission's prior conclusion adopting a fixed charge, discount rate computation.

Consequently, Staff recommends that the Commission clarify its Amendatory Order to remove any ambiguity about which cost recovery method the Commission has adopted. Assuming the Commission did not intend to reverse its previous decision to adopt the proposed charge of fifty cents; Staff recommends that the Commission strike the following language from its Amendatory Order:

~~Additionally, to aid in the sustained profitability of retail electric suppliers in ComEd's territory, which could help to ensure that competition endures and thrives in Illinois, we decrease the discount rate in the manner that was proffered by Commission Staff as an alternative to Staff's original proposal. We conclude that Staff's alternative recovery charge of 0.44%, as opposed to 0.68%, should be imposed here. Also, It is also in the best interests of Illinoisans in ComEd's service territory if there were one single charge for uncollectibles, as opposed to one uncollectible charge for residential customers and a different uncollectible charge for commercial customers. ComEd shall amend its tariffs to reflect this charge, which is 1.843%.<sup>1</sup> When this figure is added to 0.44%, it yields a discount rate of 2.293%. (0.44% + 1.843%).~~

Amendatory Order, at 25 (footnote included).

### **Uncollectibles Charge**

Regarding the uncollectibles charge, the Proposed Order adopted a combined uncollectibles charge. Proposed Order, at 23. No party had proposed to use a combined uncollectibles charge until that point. Staff only pointed out in its direct testimony that Ameren's UCB/POR discount rate uses a combined uncollectibles charge for residential and commercial customers. In its Brief on Exceptions, Staff pointed out some technical inaccuracies with respect to calculating a combined

---

<sup>1</sup> This amount is taken from a filing made by ComEd on November 8, 2010, in which, pursuant to a ALJ's Post-Record Data Request, ComEd calculated the weighted average of its residential uncollectibles and the uncollectibles for its small commercial customers. Therein, ComEd also combined those two weighted averages.

uncollectibles charge but did not express a preference for or against the use of a combined uncollectibles charge. In its Application for Rehearing, Dominion Retail Inc. (“Dominion”) argued that the Final Order did not fully address this issue. Dominion Application for Rehearing, at 2-5. Staff notes, however, that both the Final Order and the Amendatory Order contains the same language under Uncontested Issues, heading G (at 5), which appears to indicate that the Commission rejected the idea of a combined uncollectibles charge and instead adopted separate uncollectible rates for residential and small commercial customers. Section G of the Uncontested Issues provides, in full, the following:

**G. Use of Rider UF to Determine Percentage Reductions for the Recovery of Uncollectible Costs**

No party contested ComEd’s proposal that, to determine the percentage reduction for the recovery of uncollectible costs that are associated with the purchase of receivables, ComEd will apply the same supply-related uncollectible cost factors set forth in its Rider UF – Uncollectible Factors (“Rider UF”) that it applies to its own supply charges under Rate BES, ComEd’s fixed-price bundled electric service tariff. This proposal links the historic bad debt rates used in setting ComEd’s supply charges with those used in the PORCB discount. It also identifies when the uncollectible cost factors will be established. (ComEd Initial Brief at 8-9).

Final Order, at 5; Amendatory Order, at 5.

The Proposed Order’s language adopting the single discount rate (at 23) is roughly the same as the language in the second half of the new paragraph on page 25 in the Amendatory Order, which provides that:

Also, it is in the best interests of Illinoisans in ComEd’s service territory if there were one single charge for uncollectibles, as opposed to one uncollectible charge for residential customers and a different uncollectible charge for commercial customers. ComEd shall amend its

tariffs to reflect this charge, which is 1.843%.<sup>2</sup> When this figure is added to 0.44%, it yields a discount rate of 2.293%. (0.44% + 1.843%).

Amendatory Order, at 25 (footnote included).

First, as noted above, the percentage of 0.44% is from Staff's cost recovery percentage proposal, which the Final Order rejected. As footnote 10 in the Amendatory Order explains, the 1.843% number is taken from ComEd's response to an ALJ's Post-Record Data Request, and consists of the weighted average of its residential uncollectibles and the uncollectibles for its commercial customers with demands below 400kW. There appears to be a typographical error with the value for the combined uncollectibles charge because ComEd's response to the ALJ's Post-Record Data Request states that value to be 1.8453%. More importantly, charging participating suppliers a percentage charge of 0.44% in addition to the previously adopted fixed charge of fifty cents would result in a double recovery. Accordingly, Staff recommends, that whatever the Commission concludes on the uncollectibles charge, it should delete the references to the 0.44% charge.

Second, regarding what the Commission concluded, or intended to conclude, on the issue of a combined uncollectibles charge, Staff is simply unable to come to an unambiguous conclusion. In light of the language in the Uncontested Issues, G., entitled the "Use of Rider UF to Determine Percentage Reductions for the Recovery of Uncollectible Costs," one could make an argument that the Commission intended to adopt separate and distinct uncollectible charges for residential and commercial customers. On the other hand, one could argue that, because the Commission

---

<sup>2</sup> This amount is taken from a filing made by ComEd on November 8, 2010, in which, pursuant to a ALJ's Post-Record Data Request, ComEd calculated the weighted average of its residential uncollectibles and the uncollectibles for its small commercial customers. Therein, ComEd also combined those two weighted averages.

appeared to reach back into the Proposed Order for language on this issue, the Commission intended to adopt a combined charge. Based on the language found in the Proposed Order, the Final Order and the Amendatory Order, Staff is unsure as to which conclusion the Commission intended. Consequently, if the Commission intended to adopt the combined uncollectibles charge, Staff would recommend clarifying the Amendatory Order similar to the following:

~~Additionally, to aid in the sustained profitability of retail electric suppliers in ComEd's territory, which could help to ensure that competition endures and thrives in Illinois, we decrease the discount rate in the manner that was proffered by Commission Staff as an alternative to Staff's original proposal. We conclude that Staff's alternative recovery charge of 0.44%, as opposed to 0.68%, should be imposed here. Also, It is also in the best interests of Illinoisans in ComEd's service territory if there were one single charge for uncollectibles, as opposed to one uncollectible charge for residential customers and a different uncollectible charge for commercial customers. ComEd shall amend its tariffs to reflect this charge, which is 1.8453%.<sup>3</sup> When this figure is added to 0.44%, it yields a discount rate of 2.293%. (0.44% + 1.843%).~~

Amendatory Order, at 25 (footnote included).

The Commission should also clarify section G in the Uncontested Issues to ensure that there is no conflict. It appears that the best way to accomplish this would be by striking Section G in its entirety. On the other hand, if the Commission intended to affirm its conclusion in the Final Order and did not intend to adopt the Proposed Order's conclusion on the uncollectibles charge, thereby leaving distinct uncollectible charges for residential and commercial customers, Staff recommends that the Commission leave section G in the Uncontested Issues as it is and contemplate adding a few sentences on page 25 expressly rejecting the combined approach. However, given that no party

---

<sup>3</sup> This amount is taken from a filing made by ComEd on November 8, 2010, in which, pursuant to a ALJ's Post-Record Data Request, ComEd calculated the weighted average of its residential uncollectibles and the uncollectibles for its small commercial customers. Therein, ComEd also combined those two weighted averages.

recommended a combined uncollectibles charge before the record was marked heard and taken and the first time it was proposed was as part of the Proposed Order, it is not clear that an express rejection of the combined uncollectibles charge is necessary in the Commission's Order.

### **In The Interim**

Finally, Staff understands that some retail electric suppliers (RESs) are currently using service under the ComEd PORCB tariffs filed in compliance with the December 15 Final Order. These tariffs are currently effective. Staff also understands that other RESs are, or at least were, planning on doing so shortly also based upon the currently effective tariffs. The Amendatory Order, however, requires ComEd to file new tariffs in compliance with its new directives within five business days.

Staff would like to avoid the scenario wherein ComEd would file new tariffs based upon a good faith interpretation of the Amendatory Order, which ultimately may prove to be wrong. For instance, if ComEd believes the Amendatory Order requires it to file new tariffs adopting the combined uncollectibles charge but the Commission, in fact, did not intend to reach that conclusion, ComEd would be required to change its systems to implement the combined uncollectibles charge and, after the Commission issues its clarification, would have to change back to the current status quo. Likewise, RESs would effectively have to base their business models first on the two distinct uncollectible discount rates, then adapt their plans to a unified rate, and then back to the two separate uncollectible discount rates. In Staff's view, this scenario should be avoided. Accordingly, Staff suggests that the Commission allow the current status quo to remain in place in order to minimize market disruptions until such time as it has an

opportunity to address these issues at an open meeting and clarify the Amendatory Order.

**Conclusion**

WHEREFORE, for all of the noted above reasons, Staff respectfully requests that the Commission clarify its Amendatory Order as discussed above.

Respectfully submitted,

---

Michael Lannon  
Jessica Cardoni  
160 North LaSalle Street  
Suite C-800  
Chicago, Illinois 60601  
312 / 793-2877

Illinois Commerce Commission

February 15, 2011