STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
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Petition for approval of an Alternative	:	No. 10-0527
Rate Regulation program pursuant to	:	
Section 9-244 of the Public Utilities Act	:	

COMMONWEALTH EDISON COMPANY'S
INITIAL POST-HEARING BRIEF

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Commonwealth Edison Company ("ComEd") submits this initial post-hearing brief in accordance with the order of the Administrative Law Judge and the Rules of Practice of the Illinois Commerce Commission (the "Commission" or "ICC").

I. INTRODUCTION / RELIEF REQUESTED

ComEd proposes a pilot of alternative regulation and a means of testing whether it should be pursued on a larger scale. If approved, this pilot will give the Commission, ComEd, and other stakeholders valuable experience with incentive ratemaking and with the process of collaboratively and prospectively guiding long-term investment programs. Section 9-244 of the Public Utilities Act ("Act" or "PUA") is a forward looking statute that allows the Commission to explore a broad range of such "alternatives to rate of return regulation" including flexible rate options, price caps, and performance based rates; it need only find that eight specific criteria are met. Section 9-244 also expressly authorizes the Commission to approve alternative regulation plans that are, as here, limited to only "some" utility services and to specific projects. 220 ILCS 5/9-244(a). Thus, the Commission, ComEd and all stakeholders can test how an alternative regulatory structure works in a way that delivers benefits to customers without putting them at risk. Pet., p. 1.

ComEd's proposal is comprised of three building blocks: an incentive regulation mechanism designed to drive costs down, a group of modestly-sized projects with direct customer benefits to be implemented through that mechanism, and a structure to review and adapt the program based on what is learned. The proposal envisions that future Smart Grid advanced metering infrastructure ("AMI") and distribution automation ("DA") investments could also be undertaken through the Alternative Regulation program structure if and only if such AMI and DA projects are *approved* by the Commission in subsequent proceedings. ComEd's proposal should be approved for two reasons.

First, the pilot Alternative Regulation program and the projects it funds will deliver significant and identifiable benefits to customers. The evidence shows:

- The Urban Underground Facility Reinvestment ("UUFR") project "will improve both service reliability and safety" for customers served by underground mainline feeders. Hemphill Dir., ComEd Ex. 1.0 Rev, 25:530-31. Although these customers already receive reliable service, all witnesses who testified on this subject concluded that the additional benefits were significant. No witness argues that, even if the full $45 million budget were spent, the benefits would not be worth it to customers. The majority of that cost is for capital investment and would be recovered only over an extended period of time. *E.g.*, Hemphill Dir., ComEd Ex. 1.0 Rev, 22:453 (Table).
- Electric Vehicles ("EVs") "… represent a dramatic shift in the way that energy is used, enhance US energy security, and offer a host of potential benefits to the

existing electricity grid."[1] Learning more about EVs and the "system operations issues, regulatory issues and concerns, and other key impacts"[2] is a priority of the Commission. Hemphill Sur., ComEd Ex. 8.0, 4:67-69. ComEd's EV pilot project will provide meaningful information about the operation, use, and life cycle cost of fleet electric vehicles. This "research will advance knowledge of this technology, which will improve how ComEd manages this new type of load as penetration of EVs increases throughout the service territory." Hemphill Dir., ComEd Ex. 1.0 Rev, 26:532-34. The information gained will also be freely publicized by ComEd so that all may benefit. The cost of this pilot, by contrast, is very modest, and the controversy over its budget appears to have been based on confusion over the types of vehicles and equipment included. McMahan Reb., ComEd Ex. 7.0, 2:22-29, 14:254-67. Even if the full $5 million budget is spent, it would represent less than 0.25% of ComEd's annual revenue requirement.

- The Low Income Assistance project will allow for the continuation of a range of programs that provide assistance to customers with limited means. It benefits not just the customers that receive assistance, but provides "clear societal benefits." It may also help other customers by reducing uncollectibles and collections costs. Hemphill Dir., ComEd Ex. 1.0 Rev, 26:536-542. Again, the cost of this project is very modest.

[1] CUB witness Christopher Thomas, in comments to the Commission's EV Initiative, Jan. 22, 2011. Available on the web at http://www.icc.illinois.gov/ContactUs/ElectricVehicle/View.aspx.

[2] Letter of September 13, 2010 from Acting Chmn. Flores and Cmr. O'Connell-Diaz to utility executives. Available on the web at "http://www.icc.illinois.gov/downloads/public/EV Utility letter for website.docx"

Although parties contest the Alternative Regulation program mechanism that enables these projects, the evidence clearly shows that the projects themselves will benefit customers.

Second, the pilot Alternative Regulation proposal will enable the Commission to learn, initially on a very modest basis, how operational incentive regulation works as well as whether and how much it can reduce costs to customers. Hemphill Sur., ComEd Ex. 8.0, 3:48-53. Many witnesses opposing ComEd's proposal claim that the incentive process is not perfect and, in particular, that budgets cannot be reviewed by the Commission effectively. The fact is that there is a great deal of detail in and behind the budgets; far more than is typically reviewed *post hoc* during a general rate case. *Id.* at 11:234-44. And, while no regulatory process is perfect, improvements cannot be made if pilot efforts aimed at augmenting knowledge are killed by fear and suspicion. Yet, ComEd's proposal has been met with harsh opposition.

- Some opponents openly suggest that customers can gain these benefits without allowing ComEd timely cost recovery, let alone approving the Alternative Regulation proposal. They are wrong. ComEd is capital constrained. There are numerous demands on its limited resources, and its rates have not allowed ComEd to earn even its previously allowed return. These projects cannot and will not be funded without approval of this Alternative Regulation program.
- Other opponents openly champion unreformed test year ratemaking and all of its imperfections as the only option, seeking to kill this experiment before it can even begin to produce evidence for the Commission to consider. The Commission should view that effort with grave suspicion. It is *conceivable* that customers could be as well off if policy decisions concerning projects were reached only *after* tens of millions of dollars of investments were already made in those projects based on

unilateral choices by utilities. But, logic and common sense powerfully argue otherwise. It is far better to provide guidance before valuable time and money is expended than to force parties to anticipate and, when they inevitably do so imperfectly, waste still more time and energy debating whom, if anyone, is at fault and should pay. A desire to pin the blame for inevitable imperfections on utilities is not a fair answer.

- Still others think that they have a better alternative regulation mousetrap on the drawing board. *See, e.g.*, Thomas Dir., CUB Ex. 1.0 Rev, 16:364 – 17:372, 18:408 – 20:450. That remains to be seen. In this case, however, they propose no concrete alternative and the prospect that another viable plan might exist is no reason to reject ComEd's pilot. If CUB and others want constructive engagement on alternatives, the first step is to react to ComEd's proposal fairly and constructively. Hemphill Sur., ComEd Ex. 8.0, 5:108 – 6:129. Demanding that the first step into alternative regulation must be "comprehensive," *i.e.*, that it cover all delivery services without an initial pilot is not fair or constructive criticism of the proposal ComEd put on the table. Nor is insisting that only performance incentives that mix delivery and supply features can be considered.

The evidence in this record shows that ComEd's proposal can benefit customers now, and that it offers both a structure and an opportunity for parties and the Commission to learn more about alternative regulation going forward. Particularly as major initiatives – such as deploying Smart Grid technologies and enabling electric vehicles – begin to be confronted, it is essential to have in place a process that allows the Commission, if it so decides, to use an alternative regulatory model. Refusing to approve this pilot either because of inertia or a desire to try to

"force" ComEd to operate only under test year ratemaking is contrary both to the vision expressed in Section 9-244 and to the public interest.

II. PROCEDURAL HISTORY

On August 31, 2010, ComEd filed a petition with the Commission seeking approval of an Alternative Rate Regulation Plan pursuant to Section 9-244 of the PUA ("Petition"). Filed with and supporting ComEd's Petition were the direct testimonies of Ross C. Hemphill, Ph.D., Vice President, Regulatory Policy & Strategy (ComEd Exs. 1.0 Rev.); Michael McMahan, P.E., Vice President, Smart Grid / Technology (ComEd Ex. 2.0); Fidel Marquez, Senior Vice President, Customer Operations (ComEd Ex. 3.0); Michelle Blaise, Vice President, Engineering & Project Management (ComEd Ex. 4.0); and Mary Anne Emmons, Director, Customer Assistance Programs (ComEd Ex. 5.0). ComEd also submitted the rebuttal and surrebuttal testimonies of Dr. Hemphill (ComEd Exs. 6.0 and 8.0) and Mr. McMahan (ComEd Exs. 7.0 and 9.0).

The following parties' petitions to intervene were granted: Illinois Power Agency, Citizens Utility Board ("CUB"), the Illinois Attorney General's Office ("AG"), AARP; Natural Resources Defense Council ("NRDC"); Commercial Group; Chicago Transit Authority ("CTA"), Illinois Industrial Energy Consumers ("IIEC"), Environmental Law & Policy Center ("ELPC"); Northeast Illinois Regional Commuter Railroad d/b/a Metra ("Metra"), Nucor Steel Kankakee, Inc., Illinois Competitive Energy Association, and Building Owners and Managers Association of Chicago. The City of Chicago also filed an appearance.

The following witnesses filed testimony on behalf of Staff: David Rearden (Staff Exs. 1.0 and 8.0), Jennifer L. Hinman (Staff Exs. 2.0 Rev. and 9.0 Rev.), Eric P. Schlaf (Staff Ex. 3.0 and 10.0), John V. Stutsman (Staff Exs. 4.0 and 11.0), Dianna Hathhorn (Staff Exs. 5.0 and 12.0), Cheri L. Harden (Staff Exs. 6.0 and XX.0) and Harold Stoller (Staff Exs. 7.0 and 13.0).

The AG filed the testimony of Michael L. Brosch (AG Exs. 1.0 and 3.0) and Roger D. Colton (AG Exs. 2.0 and 4.0). AARP submitted the testimony of Barbara R. Alexander (AARP Exs. 1.0 and 2.0). CTA/Metra offered the testimony of James Bachman (CTA/Metra Joint Ex. 1.0). CUB filed the testimony of Christopher C. Thomas (CUB Ex. 1.0 Rev. and 2.0). IIEC submitted the testimony of Robert R. Stephens (IIEC Exs. 1.0-C and 2.0). Finally, NRDC offered the testimony of Dylan Sullivan (NRDC Exs. 1.0 and 2.0).

The Administrative Law Judge entered a Protective Order on October 15, 2010.

Staff and Intervenors filed direct and rebuttal testimony on November 9, 2010 and December 22, 2010, respectively. ComEd filed rebuttal and surrebuttal testimony on December 3, 2010 and January 10, 2011, respectively. Evidentiary hearings were held on January 25, 26, and 27, 2011 at the conclusion of which the record was marked Heard and Taken. Tr. at 638.

III. RATE ACEP PROPOSAL

A. Proposed Rate ACEP Mechanism

Section 9-244 of the PUA allows the Commission, upon petition by a utility, to authorize for some or all of the regulated services of that utility, "the implementation of one or more programs consisting of (i) alternatives to rate of return regulation, including but not limited to earnings sharing, rate moratoria, price caps or flexible rate options, or (ii) other regulatory mechanisms that reward or penalize the utility through the adjustment of rates based on utility performance." 220 ILCS 5/9-244(a). ComEd's proposal is both – it is a flexible rate option that adjusts rates to reflect costs and investments and also rewards or penalizes ComEd based upon its performance implementing Commission-approved projects. Under the proposal, ComEd will commit to capital investment and Operating and Maintenance ("O&M") expense budgets that are approved by the Commission.

As discussed in more detail below, ComEd's proposed Alternative Regulation program and the tariff that implements it, Rate ACEP – Accelerated Customer Enhancements Pilot ("Rate ACEP"), provide strong, objective incentives for ComEd to spend and invest most efficiently. Hemphill Dir., ComEd Ex. 1.0 Rev., 6:130-131. The Commission has acknowledged that one very important aspect of a sharing mechanism is that "it is consistent with the basic premise of incentive regulation, that companies with rate incentives are likely to be more efficient and productive than if there were no incentives." *Northern Illinois Gas Company*, Petition for permission to place into effect Rider 4, Gas cost, pursuant to Section 9-244 of the Illinois Public Utilities Act, Docket No. 99-0127, Order (Nov. 23, 1999), 198 P.U.R.4th 436, 1999 Ill. PUC LEXIS 921*88-89. ("*Nicor Alt Reg Order*") The Commission added that "[e]conomic incentives … promote innovation, encourage efficiency, lower regulatory costs and encourage utilities to respond to new market challenges." *Id.*

Under the proposed program, ComEd is strongly incentivized to control costs because it can benefit from those savings, which customers will also benefit from without having to wait for the next rate case. Hemphill Dir., ComEd Ex. 1.0 Rev., 10:206-208. These incentives operate together with the mechanism ensuring customers enjoy both rate benefits of the proposed alternative regulation structure and the reliability, environmental, and operational benefits of the proposed projects themselves. *Id.* at 7:133-135.

1. Proposed Budget Baseline

Under the Alternative Regulation program, and unlike the typical rate case process, the prudence of undertaking each proposed project will be reviewed prior to ComEd making the actual investments. Except for future Smart Grid technology proposals, the review and approval

of ComEd's proposed investments and O&M projects will be made in this proceeding.[3] Each approved project will include a capital investment and O&M expense budget along with a benchmark of the investment or work to be accomplished within those budgets. Petition, ¶12; Hemphill Dir., ComEd Ex. 1.0 Rev., 18:374-375. Capital costs and O&M expenses, which are discussed further below, each have incentive mechanisms.

In constructing these budgets, ComEd used the same budgeting process it uses in its own internal review evaluation of various investment proposals. Hemphill Reb., ComEd Ex. 6.0, 14:306-308; *see also* McMahan, Tr. 146-78 (discussing detailed budgeting, challenge and review process). Further, the budgets are based upon vendor proposals and on the costs ComEd has historically incurred. *Id.* 14:309-310.

The budget-based evaluation mechanism is an effective tool to evaluate a project's benefits and costs. Before approving any investment, the Commission will consider the investment and the O&M budgets to determine whether the programs are likely to result in net benefits to customers. Further, during the operation of the program, the budgets serve as a powerful incentive mechanism for ComEd to operate efficiently. The budgets also ensure that ComEd actually makes the investment it is ordered to make up front. Hemphill Reb., ComEd Ex. 6.0, 11:240-12:246. Thus, in making investments under the Alternative Regulation program, ComEd is accepting the risk under Rate ACEP that the approved budgets may not be adequate to meet its up-front investment and O&M obligations under the approved projects. *Id.*, 16:341-342; Hemphill Sur., ComEd Ex. 8.0, 10:208-209. ComEd would be bound to complete the work as

[3] Determinations for Smart Grid technology proposals, which are subject to the Commission's Policy Docket (*see* Section III.C. of this Initial Brief), will be made in a subsequent proceeding.

prescribed in the Commission-approved budgets.[4] *Id.*, 10:209-210. Finally, during the biennial review proceeding after a project is completed, the Commission will be able to review ComEd's performance against the original, Commission-approved budget, as well as performing other tasks pursuant to Section 9-244(c) of the PUA. Hemphill Dir., ComEd Ex. 1.0 Rev., 18:378-379.

Therefore, ComEd respectfully requests that the Commission approve the budget-based evaluation mechanism of ComEd's Alternative Regulation program.

2. Recovery of O&M Expenses

Rate ACEP allows ComEd to recover, on Commission-approved projects, its O&M expenses as incurred but only up to the budgeted amounts. The O&M expenses are calculated quarterly. Rate ACEP will allow recovery of the expenses incurred through the previous quarter for approved programs. Hemphill Dir., ComEd Ex. 1.0 Rev., 7:138-143; 22:455-458. O&M expenses will also include the amortization expenses associated with the full recovery of prematurely retired assets associated with the proposed projects. The quarterly amortization expense is computed by dividing the undepreciated costs of the assets which are removed before being fully depreciated, such as retired non-AMI meters, by the applicable amortization period. This treatment is consistent with the Commission's Order in Docket No. 07-0566, in which ComEd's Rider AMP – Advanced Metering Program Adjustment was approved. The Commission agreed that it was appropriate to establish a regulatory asset for the cost associated with the remaining net book value of the prematurely retired meters. Full recovery of these assets is appropriate because the cost of these assets was prudently incurred and reasonable at the

[4] If capital cost exceeds 105% of budget, ComEd will collect no carrying costs on the difference between its actual investment expenditure and the budgeted amount unless and until consideration is given to the prudence and reasonableness of the expenditure in excess of the budget in ComEd's next general rate case.

time that they were installed and placed in service. Thus, they should continue to be recovered through rates over an appropriate period of time. *Id.*, 22:461-23:478.

Under Rate ACEP, customers receive an immediate benefit. ComEd's proposal includes a 5% reduction that is applied to all O&M expenses, with the exception of low income assistance expenses, up to a $2 million cap. That reduction flows directly back to customers. Also, if ComEd reduces its operating costs in response to the proposed incentives, those additional savings will be passed on to customers immediately. Hemphill Dir., ComEd Ex. 1.0 Rev., 7:138-143; 22:455-458. Thus, as ComEd recovers the O&M costs under Rate ACEP, the costs should already include any ascertainable operational savings, less a further voluntary deduction of 5% of those expenses up to a cap of $2 million. As an additional incentive, ComEd will not recover O&M costs above the Commission-approved budget. Hemphill Dir., ComEd Ex. 1.0 Rev., 19:394-399; Verified Petition ("Pet."), ¶14;. It is only if ComEd can beat the O&M budget by more than the voluntary deduction credited to customers can it gain any additional benefit from O&M cost savings. *Id*.

1. <u>Recovery of Capital Investments</u>

While Commission-approved projects are underway, Rate ACEP allows ComEd to recover a return of and on its actual capital investment for each project until after the project is complete. ComEd Ex. 1.2 Original Sheet No. X+15. The carrying costs of ComEd's actual investments made will be recovered on a quarterly basis, calculated at the most recently allowed weighted average cost of capital for ComEd. Hemphill Dir., ComEd Ex. 1.0 Rev., 7:144-146, 18:375-377.

During the biennial review proceeding, after the project is complete, the Commission will be able to review ComEd's performance against the original Commission-approved budget. *Id.*,

18:378-379. If the project has been completed at a capital cost that is within 5% of the approved capital budget (a ±5% "deadband"), then ComEd will continue to recover its carrying costs through Rate ACEP until such time that the investment is included in rate base in a future general rate case. ComEd Ex. 1.2 Original Sheet No. X+15. Further, if the capital investment is under budget (*i.e.*, comes in under 95% of the budget), then ComEd will share with customers on a 50/50 basis the savings realized as a result. That 50/50 sharing is implemented through an adjustment to the balancing amount. *Id.*, Original Sheets Nos. X+14 and X+15.

However, if the capital cost exceeds 105% of the capital budget, ComEd will not collect any carrying costs on the difference between its actual investment expenditure and the budgeted amount until consideration is given to the prudence and reasonableness of the expenditure in excess of the budget in ComEd's next general rate case. Carrying charges previously recovered under Rate ACEP for such difference will be refunded to customers. *Id.*

2. Treatment of Costs Under/Over Budget

See Section III.A.3 of this Brief, beginning at page 11.

B. Description of Proposed Projects

1. Urban Underground Facilities Reinvestment ("UUFR")

The UUFR project would provide an incremental $45 million over 18 months to accelerate proactive maintenance and reconstruction of underground mainline cable, cable support hardware and manholes in Chicago and other urban areas. Blaise Dir., ComEd Ex. 4.0, 8:114-19, 14:240-44; Pet., ¶ 7. Of this, $30 million would be capital investment and $15 million would be incremental operating and maintenance ("O&M") expense. The UUFR project would accelerate and re-prioritize the process of testing and, where indicated by those tests, replacing underground mainline feeder cable. Blaise Dir., ComEd Ex. 4.0, 2:34-36. It also includes

accelerated inspection and, where appropriate, repair, rebuilding, or replacement of the cable support hardware and, where necessary, the manholes through which mainline cable runs. *Id*. at 2:36-38. The UUFR project will allow ComEd to refurbish or rebuild approximately 2,400 – 3,600 manholes, test approximately 130 – 196 miles of cable, and replace approximately 25 – 37 miles of cable. ComEd's work plan for the UUFR project is broken down by region (inside and outside Chicago) and by each quarter over its 18-month term. *Id*. at 9:131-40 The UUFR project is estimated to prevent about 30,000 to 40,000 customer interruptions – and many more thereafter. *Id*. at 12:196-8.

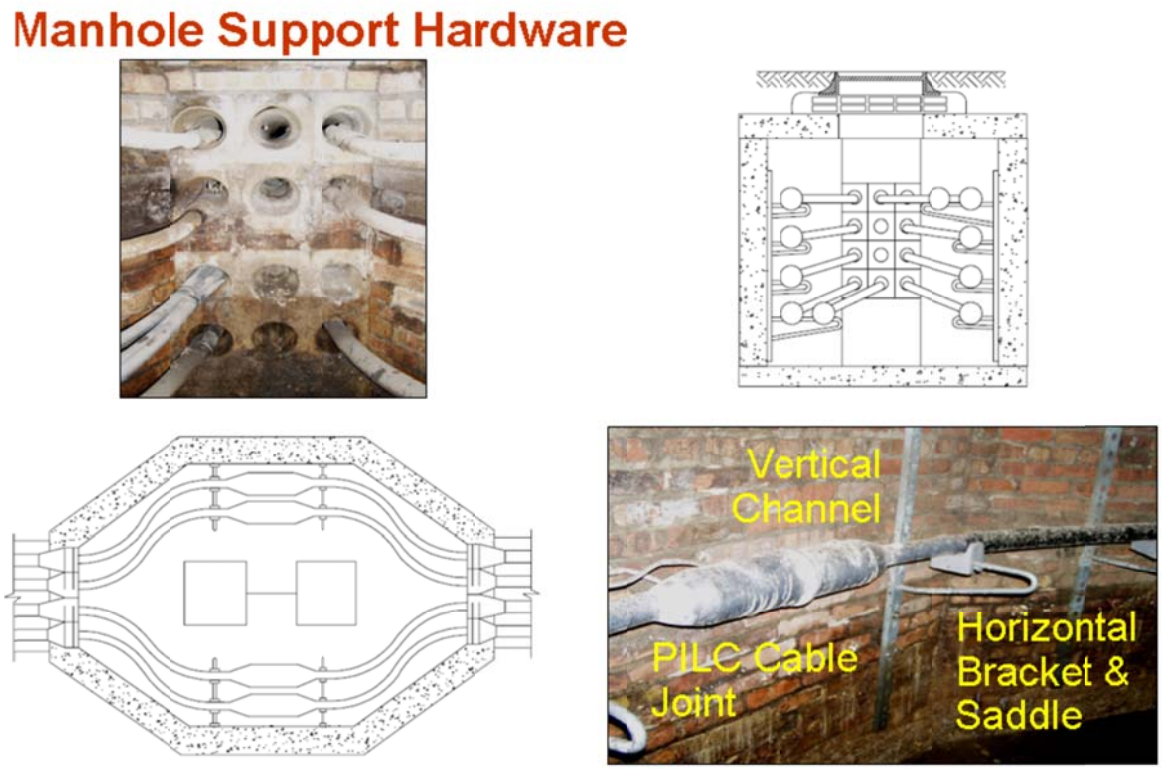
The UUFR project and its benefits are described in greater detail below. This additional investment will also create jobs; not only will the project itself employ workers, but the additional investment and economic activity will also create jobs indirectly through what economists refer to as the multiplier effect. Hemphill Dir., ComEd Ex. 1.0 Rev., 27:560-58:580; *see also* Blaise Dir., ComEd Ex. 4.0, 12:202-6; Pet., ¶ 7.

a. <u>Description of the UUFR Project</u>

ComEd's mainline feeder cable system consists of cable, joints, terminations, cable support hardware (vertical channels, horizontal brackets, & cable saddles), conduit, and manholes. Underground mainline cables are generally high-capacity 12kV cables. Most are insulated by oil-impregnated paper enclosed by a solid lead sheath, called Paper Insulated Lead Covered ("PILC") cables. Blaise Dir., ComEd Ex. 4.0, 2:39-3:47. The mainline cables supply switchgear and transformers that, in turn, provide power to most of the residential customers, and many of the commercial and small and medium sized industrial customers, in these areas. *Id*. at 3:47-52.

In dense urban areas that include the Cities of Chicago, Evanston, Aurora, Elgin, Joliet, Rockford, and several immediate suburbs of Chicago, mainline feeder cable is typically installed in concrete or masonry manhole structures connected by conduit which is typically fiber/PVC pipe encased in concrete. This conduit and manhole system protects the cable from many types of physical disturbances that can occur in this type of urban environment and also allows for the cable to be removed and/or replaced without the need to excavate the streets, alleys, and property under which they run. In addition, the manholes provide a location where splices and joints can be located. *Id*. at 4:59-67.

Illustrative pictures showing the interior of a manhole and how cable supports and other hardware are installed are provided below.



Id. at 6:71-3.

ComEd routinely inspects its manhole systems and its cable. ComEd also tracks cable faults and failures and reacts when data indicates that a cable is failing. While failures of underground mainline feeder cable systems are a leading cause of customer interruptions, only a very small proportion of the mainline cable system fails. Blaise Dir., ComEd Ex. 4.0, 7:93-95. Therefore, ComEd has historically refurbished manholes and related cables opportunistically, as failures occur or new business or capacity expansion projects require. The current testing program targets 60-100 circuit sections per year, out of approximately 1,800 targeted cable sections that have experienced two or more mainline failures in a 36-month period, under a budget of about $2 million per year. ComEd targets for replacement underground mainline segments on these circuits that have cable joint issues, fail diagnostic testing, or are of relatively smaller length. The replacement program targeting known joint issues is primarily in cable in conduit systems, typically circuit sections of greater length, and inside dense urban areas. Smaller length replacements are typically direct buried cable in suburban areas outside Chicago. This program currently has an annual budget of about $5 million and will annually repair or replace about 45 – 55 underground circuit segments. This current approach is reasonable, prudent, and consistent with good utility practice. Blaise Dir., ComEd Ex. 4.0, 6:77-7:100.[5]

Although ComEd's system already provides acceptable levels of reliability, ComEd is proposing the UUFR project to build on those levels of reliability and to prevent problems that might otherwise occur. Addressing the cable support system and manholes on a larger and accelerated basis through the UUFR project will provide a significant enhancement to the

[5] Staff witness Mr. Stutsman agrees that the UUFR project will provide significant reliability and other benefits. Stutsman Dir., Staff Ex. 4.0, 2:57-63. However, he also recommends "that the Commission order ComEd to undertake the UUFR program irrespective of whether ComEd receives approval of and moves forward with its alternative regulation proposal." *Id.* at 6:122-4. As explained in the surrebuttal testimony of Mr. McMahan, ComEd disagrees with this recommendation on multiple grounds. McMahan Surrebuttal, ComEd Ex. 9.0. This exact same recommendation was made by Mr. Stutsman in ComEd's pending rate case, Docket 10-0467, and ComEd understands that this issue is being pursued and considered in that docket.

performance of the underground cable system, reducing customer interruptions. Moreover, by planning cable testing and manhole refurbishment in advance – rather than reacting to emergent conditions – the unit costs of replacement and refurbishment work completed and, thus, the total cost of the underground cable operations over the long term, could be reduced. Blaise Dir., ComEd Ex. 4.0, 7:101-8:110.

As noted above, if the Commission approves ComEd's proposed UUFR project, ComEd intends to devote an additional $45 million over 18 months to accelerate proactive maintenance and reconstruction of cable support equipment in manholes and the testing, repair, and replacement of mainline distribution feeder cable in Chicago and other urban areas. Blaise Dir., ComEd Ex. 4.0, 8:114-18. ComEd would conduct diagnostic testing – using state-of-the-art Very Low Frequency (VLF) technology – on underground circuits not previously tested that have experienced two outages due to an underground fault in the past 36 months. For cable in conduit sections, typically of longer lengths, ComEd will target cable segment replacements where visual inspection has revealed cable joint issues are present. Following proactive maintenance and reconstruction of cable support hardware in the manholes, VLF validation of the cable section will be completed. An accelerated repair or replacement effort would also target sections that are approximately 3,000 feet or less for full replacement. PILC cable segments that require replacement will be replaced with a more modern dielectric polymer insulated cable. Under this approach, ComEd anticipates replacing or refurbishing approximately 2,400 - 3,600 additional manholes, VLF testing 130 – 196 circuit miles of cable, and replacing approximately 25 – 37 miles of cable over the 18-month program time frame. *Id.* at 8:119-9:140.

A major component of the planned work is VLF testing and replacement of cable that fails testing. VLF testing involves applying high voltages to a cable segment while monitoring the cable segment for evidence of failure, as described in IEEE publication 400.2-2004. Cable segments are selected for VLF testing based on their past performance history, when a failure occurs, or when manhole cable support hardware refurbishment work is identified. Cable will also be tested following cable replacements. Cable segments can often be replaced by using existing conduit and installing the necessary joints in manholes. In the atypical case where a manhole itself needs to be rebuilt or replaced, that work will be performed too. Blaise Dir., ComEd Ex. 4.0, 9:142-10:153.

Under the UUFR project, the order in which testing will be performed will be prioritized based on historical performance and likelihood of future failure based on indicators such as the material condition of the facilities, the incidence of failures on the same line, and the condition of other facilities. Manholes will be selected for refurbishment based on the material condition of the equipment and the performance history of the mainline feeder cables using the manhole. Blaise Dir., ComEd Ex. 4.0, 10:158-11:165.

In addition, ComEd will increase the priority of work in areas where underground mainline crews are already deployed and working. While the likelihood of finding equipment that requires work may be lower, the unit cost savings of proceeding in this way is significant. It will also reduce public inconvenience by reducing the number of construction disruptions and reducing the chance that crews will have to come back later and fix a second problem in a nearby location. *Id.* at 11:166-171. Finally, ComEd will prioritize work in areas where municipal or other public works projects are underway and require opening streets or relocating electric

facilities. This, too, will reduce unit costs in the long term and reduce public inconvenience. *Id*. at 11:166-74.

The details of the planned work under this program, broken down by quarter, are provided in the tables below. Blaise Dir., ComEd Ex. 4.0, 9:1436-40.

		2011		2012			
Chicago Program	**18 Month Total**	**3 Q**	**4 Q**	**1 Q**	**2 Q**	**3 Q**	**4 Q**
Manholes	1962 - 2942	140 - 211	513 - 769	483 - 724	172 - 257	140 - 211	514 - 770
Circuit Miles VLF Tested	116 - 174	10 - 14	29 - 43	30 - 46	8 - 12	12 - 18	27 - 41
Total Cable Replacement Miles	20 - 30	1.7 - 2.6	4.8 - 7.2	4.8 - 7.2	2.1 - 3.2	1.7 - 2.6	4.8 - 7.2

		2011		2012			
Outside Chicago Program	**18 Month Total**	**3 Q**	**4 Q**	**1 Q**	**2 Q**	**3 Q**	**4 Q**
Manholes	438 - 658	33 - 49	113 - 170	106 - 160	40 - 60	33 - 49	113 - 170
Circuit Miles VLF Tested	14 - 22	1 - 3	3 - 5	4 - 6	1 - 1	2 - 2	3 - 5
Total Cable Replacement Miles	5 - 7	0.3 - 0.5	1.3 - 2	1.2 - 1.9	0.4 - 0.6	0.3 - 0.5	1.3 - 2.0

		2011		2012			
Inside/Outside Chicago Program	**18 Month Total**	**3 Q**	**4 Q**	**1 Q**	**2 Q**	**3 Q**	**4 Q**
Manholes	2400 - 3600	173 - 260	626 - 939	589 - 884	212 - 317	173 - 260	627 - 940
Circuit Miles VLF Tested	130 - 196	11 - 17	32 - 48	34 - 52	9 - 13	14 - 20	30 - 46
Total Cable Replacement Miles	25 - 37	2.0 - 3.1	6.1 - 9.2	6.0 - 9.1	2.5 - 3.8	2 - 3.1	6.1 - 9.2

b. Benefits of the UUFR Project

While the UUFR work model will reduce public inconvenience, use resources more efficiently, and offer opportunities to lower unit costs in the long term, those benefits do cost money. Blaise Dir., ComEd Ex. 4.0, 11:178-81. There are four main benefits that will result from undertaking the Urban Underground Facility Reinvestment program (*Id*. at 12:186-90):

- Improved reliability;
- Improved safety;
- Meaningful job creation; and
- Potential reduction in long-term costs.

The UUFR project will enhance reliability by reducing customer interruptions. The failure of mainline underground cable – in conduit or otherwise – is the single leading cause of interruptions on ComEd's urban underground system. Within the City of Chicago, mainline

underground faults account for approximately one third of the total customer interruptions. Improving the performance of that system will have significant reliability benefits. Quantitatively, ComEd estimates[6] that rebuilding or refurbishing 2,400 – 3,600 manholes and replacing approximately 25 – 37 miles of cable will prevent about 30,000 to 40,000 customer interruptions after the work is complete. Blaise Dir., ComEd Ex. 4.0, 12:192-98. Of course, this program of work will provide a significant enhancement to the performance of the underground cable system providing reliability benefits that will continue years after the program period, although the longer-term benefits are harder to quantify. Blaise Dir., ComEd Ex. 4.0, 12:192-201.

The UUFR project will also enhance safety. Current technology has a solid operating history, but it also presents inherent risks. PILC, the type of cable currently in place, is manufactured using oil impregnated paper tapes wound around copper conductors and covered with a lead sheath. It requires working with molten lead in confined spaces. The replacement polymer cable uses solid insulation with no lead and involves no oil that can leak. Blaise Dir., ComEd Ex. 4.0, 13:208-20. In sum, this extruded dielectric cable involves:

- No occupational exposure to lead fumes;
- No handling of molten lead solder;
- No combustible insulating oil in the cable or joint; and
- No susceptibility to oil migration or leakage.

There are additional long-term benefits to phasing out PILC cable in a more expeditious manner. The installation and splicing of PILC cable requires highly specialized skills that are

[6] This is a statistical estimate. The actual number of interruptions that *would have* occurred absent the work cannot be directly measured once the work is done.

difficult to acquire. Even when performed by highly-qualified personnel, making PILC cable terminations and splices is labor-intensive and potentially error prone, and there are no commercially available splicing and terminating components. Finally, only one PILC manufacturing plant remains in North America, limiting ComEd's access to supply. Blaise Dir., ComEd Ex. 4.0, 13:222-14:227.

The proposed UUFR project would create 40-50 full-time equivalent jobs on an annual basis. These positions will be both within ComEd and the contractors ComEd may hire to work on the UUFR project. These jobs are skilled positions; the workers who fill them will gain valuable training as well as employment. Blaise Dir., ComEd Ex. 4.0, 13:203-6.

The proposed UUFR project may also reduce costs in the long-run. By taking a more proactive approach, UUFR will maximize efficiency and reduce the total cost of the repairs, refurbishments, and replacements. But, achieving this requires a significantly greater commitment of capital up front. Without that additional investment in UUFR, ComEd will meet its obligations by continuing to respond on an emergent basis. Blaise Dir., ComEd Ex. 4.0, 14:229-36.

c. Costs of the Program

As noted above, ComEd proposes to spend $45 million over 18 months on the UUFR project. $30 million would be capital investment in cable, manhole refurbishment, and related cable support systems. The remaining $15 million would be O&M expense for testing, inspection, and related activities. Blaise Dir., ComEd Ex. 4.0, 14:240-44. ComEd's budget for these sums is specified for each of the program's six quarters as indicated in the tables below:

Quarterly Incremental Costs

Chicago Program	18 Month Total	2011		2012			
		3 Q	4 Q	1 Q	2 Q	3 Q	4 Q
Manhole Costs ($M)	$19.8	$2.6	$4.0	$4.0	$2.6	$2.6	$4.0
VLF Test Costs ($M)	$0.3	$0.0	$0.1	$0.1	$0.0	$0.0	$0.1
Total Cable Replacement Costs ($M)	$18.3	$1.2	$4.9	$4.6	$1.5	$1.2	$4.9
Total Costs ($M)	$38.4	$3.9	$8.9	$8.6	$4.2	$3.9	$8.9

Outside Chicago Program	18 Month Total	2011		2012			
		3 Q	4 Q	1 Q	2 Q	3 Q	4 Q
Manhole Costs ($M)	$3.0	$0.4	$0.6	$0.6	$0.4	$0.4	$0.6
VLF Test Costs ($M)	$0.1	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0
Total Cable Replacement Costs ($M)	$3.5	$0.2	$0.9	$0.9	$0.3	$0.2	$0.9
Total Costs ($M)	$6.7	$0.6	$1.6	$1.5	$0.7	$0.6	$1.6

Inside/Outside Chicago Program	18 Month Total	2011		2012			
		3 Q	4 Q	1 Q	2 Q	3 Q	4 Q
Manhole Costs ($M)	$22.8	$3.0	$4.6	$4.6	$3.0	$3.0	$4.6
VLF Test Costs ($M)	$0.4	$0.0	$0.1	$0.1	$0.0	$0.0	$0.1
Total Cable Replacement Costs ($M)	$21.9	$1.5	$5.8	$5.5	$1.8	$1.5	$5.8
Total Costs ($M)	$45.0	$4.5	$10.5	$10.1	$4.9	$4.5	$10.5

Id. at 15:247-50 (Table).

ComEd developed this budget based on actual unit costs i of underground mainline work performed system wide in 2009 and in Chicago in 2008. Blaise Dir., ComEd Ex. 4.0, 15:252-253. To be conservative, ComEd also did not apply any inflation or supply cost indices to these prices. Much of the work involves skilled labor and the installation of equipment whose costs are generally rising. However, for purposes of the proposed Alternative Regulation program, no cost or inflation escalators were included with respect to labor or materials for the UUFR project. *Id.* at 15:252-58.

ComEd has also accounted for anticipated efficiencies in developing its cost budgets in two ways. First, ComEd's budget contains a built-in discount of approximately 10%. When priced at actual historical cost, the work ComEd is budgeting for this program would cost just over $49 million. Assuming a nearly 10% productivity gain on a program that is scheduled to be completed over only 18 months is very aggressive and overstates the savings that are likely to be achieved absent innovation in work management. Blaise Dir., ComEd Ex. 4.0, 15-16:261-265. In addition, ComEd has not increased the historical unit costs for increases in underlying labor

and supply costs. Thus, the initial $49 million used to develop the budget is already an understatement of what the work would cost in 2011 and 2012 based on actual experience. The O&M work undertaken as part of the UUFR project will be tracked separately from the emergent corrective maintenance work that ComEd has been doing. *Id*. at 15:260-16:271.

d. Summary

Approving the UUFR project will further improve reliability, create meaningful jobs, and reduce risks to safety and the environment. However, achieving those benefits will require a significant capital and O&M commitment above that required to meet minimum service requirements. This program represents an excellent opportunity to demonstrate how proactive replacement, enhancement, and upgrade programs, when properly designed and approved by the Commission, can benefit customers. ComEd's proposed Alternative Regulation program provides a means for the Commission to make the policy decision to proceed with this program. Blaise Dir., ComEd Ex. 4.0, 16:276-83; *see also* Hemphill Dir., ComEd Ex. 1.0 Rev, 12:242-43, 248-50.

In addition, by approving a program like this in advance, ComEd hopes to be able to achieve work management and other operational efficiencies. One purpose of alternative regulation is to promote such efficiencies. This program will be a good "field test" of whether alternative incentive regulation works for this type of distribution work. Blaise Dir., ComEd Ex. 4.0, 16:284-17:288; Hemphill Dir., ComEd Ex. 1.0 Rev, 13:267-72.

2. Utility Electric Vehicle ("EV") Pilot

The Alternative Regulation project would fund investment of $5 million in a pilot of utility EVs and charging stations. Plug-in EVs, unlike hybrids, derive all or a significant portion of their motive power from being charged through the electric grid. They are the next generation

in clean vehicle technology. ComEd's operational pilot not only will help educate ComEd and the public about uses of commercial EVs, but will have its own environmental benefits.

a. Description of the EV Pilot Program

ComEd proposes to invest $5 million dollars in EVs for its utility vehicle fleet and associated charging stations. Of that amount, $4.43 million is functionalized as distribution function and, therefore, Illinois-jurisdictional. ComEd requests that the Commission authorize this investment and provide for its recovery via Rate ACEP. The requested investment would be to purchase the following EV pilot equipment:

ComEd EV Pilot Program Assets	Unit Cost	Quantity	Total ComEd Cost
Plug-in car	$ 36,000	45	$ 1,620,000
Plug-in cargo/service vehicle	$ 135,000	8	$ 1,080,000
Hybrid bucket truck (non-pluggable)	$ 250,000	4	$ 1,000,000
PHEV digger-derrick	$ 350,000	2	$ 700,000
Level 2 charging stations for company vehicles	$ 10,000	55	$ 550,000
Incidental equipment and contingency	$ 50,000		$ 50,000
Total Vehicles:		**59**	
Total Charging Stations:		**55**	
Total EV Pilot Program Investment:			**$ 5,000,000**

The majority of the EVs to be purchased under the EV Pilot are plug-in electric vehicles rather than hybrids. McMahan Reb., ComEd Ex. 7.0, 5:77-90. ComEd explained the basis for the unit cost estimates of the assets in the EV Pilot in ComEd's Response to Staff Data Request JLH 1.09 (Staff Ex. 9.1 at 34-43). In addition, Mr. McMahan explained that the plug-in car unit cost is based on the MSRP of $32,780 for a Nissan Leaf plus tax, title, and freight costs. McMahan Reb., ComEd Ex. 7.0, 6:96-8. Mr. McMahan also clarified that the hybrid bucket trucks to be purchased under the EV Pilot are to include a variety of aerial equipment of varying heights and capabilities (*e.g.*, Altec TA40, TA45, and TA50 Telescopic/Articulating Aerial Devices), and not just the Altec TA40 listed in ComEd's Response to Staff Data Request JLH 1.09. *Id*. at 3:41-2. The $250,000 unit cost is the average of the prices paid by ComEd for a

hybrid bucket truck in 2009. *Id.* at 3:44-56. The faster Level 2 charging stations were chosen because the EVs will be used in a commercial utility fleet and must be available at least 8 hours per day and potentially 16 hours or more during emergency situations. *Id*. at 8:152-4. The charging stations selected by ComEd also provide communications, control, and data collection capability which are vital to the informational gathering goal of the EV Pilot. *Id*. at 10:173-8.

b. Costs of the EV Pilot Program

ComEd's proposed installation cost budget also reflects additional material and labor costs to reflect the following circumstances: (i) the majority of existing parking spaces at ComEd's facilities where charging stations would be located are not within 40 feet of the breaker panel; (ii) a portion of the existing circuit breaker panels will not be able to accommodate additional circuit breaker locations to serve the new EV charging loads, given the age of many of ComEd's facilities and the fact that load has already been added to them over the years; and (iii) concrete saw cutting or additional concrete work will be required because a majority of ComEd's parking spaces where charging stations would be located are not directly adjacent to buildings housing electric service panels. McMahan Reb., ComEd Ex. 7.0, 11:207-12:233. The costs of the investment will be recovered in accordance with Rate ACEP.

The EV Pilot program investments would be made over the period from approximately August, 2011 through May 2012. Individual investments may vary slightly based on factors such as availability of particular vehicles and equipment, but the schedule below, which does not include the incidental equipment and contingency of $50,000, accurately depicts the anticipated tempo of the investment proposed:

MONTH/YEAR	ITEM	QUANTITY	COST	ITEM	QUANTITY	COST	Total
Jun-11							-
Jul-11							-
Aug-11	Charging Station	15	10,000				150,000
Sep-11	Charging Station	15	10,000				150,000
Oct-11	Charging Station	15	10,000				150,000
Nov-11	Charging Station	10	10,000				100,000
Dec-11				Plug-in Cargo/Service Vehicle	2	135,000	270,000
Jan-12	Plug-in Car	10	36,000	Plug-in Cargo/Service Vehicle	4	135,000	900,000
Feb-12	Plug-in Car	10	36,000	Plug-in Cargo/Service Vehicle	2	135,000	630,000
Mar-12	Plug-in Car	10	36,000	Hybrid Bucket Truck	2	250,000	860,000
Apr-12	Plug-in Car	10	36,000	Hybrid Bucket Truck	2	250,000	860,000
May-12	Plug-in Car	5	36,000	PHEV Digger Derrick	2	350,000	880,000
							4,950,000

The Pilot study period would extend through December 2013, although ComEd expects to use the vehicles and charging stations beyond that time.

ComEd does not believe the EV Pilot will cause it to incur additional O&M costs. ComEd is, therefore, not requesting any additional O&M costs be recovered through Rate ACEP. ComEd also does not plan on removing any vehicles from service prematurely as a result of this project.

ComEd proposes to provide information about the EV experience at the end of the pilot period. While we are proposing the pilot period conclude at the end of 2013, ComEd believes it will have collected enough data by that time to develop a total life cycle cost of ownership for each class of vehicle as well as data on how the vehicles performed. Additionally, ComEd will use information acquired through the pilot to help our customers prepare for EV adoption. To the extent the information is not a trade secret of a third party, or ComEd is not otherwise legally prohibited from doing so, ComEd will make the results of the EV Pilot public.

There was some dispute concerning the estimated costs of the various vehicles and other facilities to be used for the pilot. However, the evidence shows this was almost exclusively the unfortunate result of confusion about what assets would be acquired and piloted. For example, Staff questioned the per-unit costs for hybrid bucket trucks used by ComEd in its budget estimate. *See* Hinman Dir., Staff Ex. 2.0 Rev, 7:115 – 9:148. However, in rebuttal, ComEd explained that bucket truck costs vary widely depending on the type of mounted aerial equipment as well as other vehicle components such as lighting and storage compartments. McMahan Reb., ComEd Ex. 7.0, 2:36-3:56. Additionally, in its response to Staff data request JLH 1.10, ComEd provided invoices from past purchases of hybrid bucket trucks that illustrate this price variability and shows that the estimate ComEd used is within the range of expected costs. *Id*. The record shows that ComEd's budget, for the EV Pilot is reasonable.

Finally, ComEd recognizes that tax credits and/or grants may be available for both EVs and charging infrastructure when ComEd makes its equipment purchases. ComEd witnesses Dr. Hemphill and Mr. McMahan testified that if these credits and/or grants are available at the time of EV and charging infrastructure purchases, ComEd will offset the approved budgeted amounts to take those credits and/or grants into account. Hemphill Reb., ComEd Ex. 6.0, 32:711-33:714; McMahan Reb., ComEd Ex. 7.0, 6:115-7:119, 11:198-200. Additionally, Dr. Hemphill explained that ComEd is willing to work with Staff to develop appropriate language and identify appropriate places in the tariff to insert such language. Hemphill Reb., ComEd Ex. 6.0, 47:1033-1036.

c. **Benefits of the EV Pilot Program**

EVs hold great potential to revolutionize transportation. They offer environmental benefits and studies suggest lower costs for "fuel" and maintenance may offset higher upfront

costs over the life of the vehicle. McMahan Dir., ComEd Ex. 2.0, 3:72-73. However, many EVs are in the early stages of commercialization, and little information is available about the total life-cycle costs of these vehicles in a fleet environment. There is especially little information about how such vehicles perform in an industrial setting, or in an area like ComEd serves, which includes urban, suburban, and rural areas over a large geographic footprint with diverse climate conditions. *Id*., 3:55-57, 4:69-72. A pilot program is, thus, appropriate.

The pilot will provide new information about EV lifecycle costs and operational considerations that will be valuable in the operation of our own utility fleet, as well as to customers considering EVs. ComEd's use of EVs and EV charging stations through the EV Pilot program will provide much needed experience and information at the product introduction stage regarding the use, benefits, and costs of EVs in an industrial and commercial fleet. *Id*, 3:48-52. Much of the information gained will also be valuable to both residential and commercial customers who may be considering adopting EVs for their personal use and fleet applications. *Id*., 4:75-77. This is why ComEd has committed to make the results of this Pilot public.

The EV Pilot will also produce operational benefits in its own right, although they will be limited by the limited size of the pilot itself. For example, ComEd believes that EVs may be an effective means of reducing emissions, replacing carbon-fueled vehicles. The limited deployment of EVs can also be expected to produce a limited reduction in emissions and other environmental benefits compared to vehicles that run on conventional fuels. EVs also run more quietly than their combustion-powered counterparts, which should enhance worker health and comfort. *Id*., 3:64-4:67.

3. Low-Income Customer Assistance Program

Another project included in ComEd's Alternative Regulation program is the Low Income Customer Assistance Program ("Low Income Program"). Because a sizeable amount of ComEd's low income customers have difficulty paying their bills, ComEd believes that low income assistance programs are necessary to ensure these customers are not deprived of essential electric service. Emmons Dir., ComEd Ex. 5.0, 3:50-52. Therefore, ComEd is proposing to fund seven low income programs with $10 million each year for the next two years under the Alternative Regulation program. ComEd estimates that its program will help 300,000 customers per year, with an expected dollar value of benefits to customers between $10 and $1,000[7]. ComEd anticipates that incremental administrative costs may include contractors, third party low income agency administration, and vendors. *Id.*, 6:83-85, 13:226-242.

Since 2007, ComEd has administered its Customers' Affordable Reliable Energy ("CARE") programs, which offer a broad range of assistance programs for customers in need. The CARE programs have been funded under Public Act 95-0481 ("PA-95-0481"), which expired in 2010.[8] The CARE programs are unique in that they work in concert with multiple nonprofit organizations and extend assistance to the working poor and the small business community. For example, the Residential Special Hardship program provides assistance for the working poor not eligible for federal or state programs, such as LIHEAP and PIPP. The Small Businesses and Non-Profit Energy Assistance program assists the small business community. Other customer assistance programs available in 2010 include: Helping Hand, C.H.A.M.P. (ComEd Helps Activated Military Personnel), Fresh Start Payment Plan, All Clear, CARE Technology Pilot Program, Community Education, and Outreach. Emmons Dir., ComEd Ex.

[7] The specific dollar value amount will depend on the customer's individual circumstances.

[8] 220 ILCS 5/16.111.5A(e)

5.0, 3:54-65. Even though that funding for these programs has varied since 2007, ComEd has distributed more than 800,000 grants to eligible customers. *Id.*, 4:67-74.

Given the success of ComEd's CARE program and the continued need of its low income customers, ComEd now seeks to obtain funding through its Alternative Regulation program to continue seven Low Income Programs, including: (1) Residential Special Hardship (Emmons Dir., ComEd Ex. 5.0, 8:113-9:138), (2) Summer Assistance Program (*Id.*, 9:139-147), (3) Fresh Start Payment Plan (*Id.*, 9:148-10:167), (4) Helping Hand Program (*Id.*, 10:168-177), (5) Small Business and Non-Profit Energy Assistance Program (*Id.*, 11:178-189), (6) Nonprofit Agency Matching Programs (*Id.*, 11:190-12:201), and (7) Educational Outreach (*Id.*, 12:202-214).

Under CARE, ComEd administered these programs with third parties. Emmons Dir., ComEd Ex. 5.0, 4:75-6:78. As a result, aside from some additional information technology capabilities that may be required, the program mechanics and network of community agencies are already in place and can begin immediately. *Id.*, 13:232-234.

C. Mechanism for Future Rate ACEP Projects

1. Subsequently-Approved Smart Technology Investments

ComEd's proposal is designed to accommodate future Commission-approved Smart Grid projects. There are good reasons for adopting that approach, the foremost being the capability of alternative regulation to coordinate policy and investment decisions. The design and plan for deployment of Smart Grid investments is necessarily infused with policy decisions. Some are not unlike those that utilities make every day, for example, determining the best location to deploy a new, modern substation system. But others touch on broader public policy questions foreign to most utility investment decisions. For example:

- To what degree can and should utilities rely on customers installing complementary equipment in their homes, or rely on customers modifying their behavior in response to price or demand signals, as part of the economic justification for an investment?
- What standards must customers' equipment meet before utilities systems are required to be capable to "talking" with it?
- What is "behind the meter" equipment in a Smart Grid world? Does the meter, for example, include a device to allow a customer to read the meter?
- How should social and environmental externalities be measured and, if at all, monetized and reflected is a Smart Grid project's cost-benefit analysis?

These are *not* typical questions for utility engineers and managers. They are also not questions that utilities should be called on to answer in advance of receiving regulatory guidance, especially not with the degree of certainty needed to support investment that Smart Grid technology requires. The "utility decides and regulators review years later" model may have worked for conventional investments that were aimed at simply "keeping the lights on." But, that model is not suited for the world of the Smart Grid.

ComEd's Alternative Regulation proposal is designed to be able to support Smart Gird investment. Approving Rate ACEP does not mean that the Commission must support the Smart Grid generally nor any particular Smart Grid plan or technology. Indeed:

> Investments in [Smart Grid] will only occur after Commission approval of specific smart technology proposals in a subsequent proceeding. The Commission's decision will be informed by stakeholder input, the lessons learned from ComEd's AMI Pilot approved by the Commission in ICC Docket No. 09-0263, the results of the ISSGC, and the policies articulated in the upcoming Smart Grid policy docket. Specific capital and O&M budgets for each AMI and DA investment would be developed and approved in an implementation proceeding.

Pet., ¶ 11. When a specific proposal is ready to be made, stakeholders will have the opportunity both for informal input at workshops and for formal input in the required implementation docket that would precede any approval or deployment of Smart Grid technology under Rate ACEP.

There are three reasons why the Commission should approve a Smart Grid cost recovery mechanism in Rate ACEP. First, the Commission should make clear that Smart Grid funding will be reviewed and approved on a prospective basis, so that policy issues can be determined before rather than after the commitment of funds.

Second, the Commission should put in place a mechanism that allows utilities to plan and justify Smart Grid investments on a programmatic basis. "The time frames involved with Smart Grid, for example, extend well beyond the outer limits of test year ratemaking." Hemphill Dir., ComEd Ex. 1.0 Rev. 8:165-67. The costs and benefits of such programs "should be assessed on a project basis" (*id.* at 8:167-68), not only through test year "snapshots."

Third, waiting to confront all over again the issues that have been litigated in this docket will complicate and – inevitably – delay the deployment of whatever Smart Grid programs the Commission does approve. "If we wait to begin [the task of developing a cost recovery and approval mechanism] until after we have finished deciding what technologies ought to be deployed, benefits will be delayed or lost and customers will lose out." Hemphill Dir., ComEd Ex. 1.0 Rev, 15:309-11. In addition, that delay will decrease the influence and flexibility Illinois will have in guiding and, then, choosing among Smart Grid options. "By delaying, Illinois also risks ceding its important role in guiding the development and deployment of Smart Grid technologies. Other utilities and states are already moving forward and their preferences and decisions will guide the development of future technology." *Id.* at 15:311-14.

Of course, there are additional advantages to be gained from alternative regulation (*e.g.*, improved efficiency), but these are the main reasons why a decision should be made to establish that structure now.

2. Proposed Future Use of Rate ACEP as a Cost Recovery Mechanism

Under the process articulated in ComEd's 2007 Rate Case, the Commission is expected to open a Smart Grid Policy Docket ("Policy Docket") soon. In addition, the results of ComEd's Advanced Metering Infrastructure ("AMI") Pilot authorized in Docket No. 09-0263 will soon be available. If, as a result of the Policy Docket and the AMI Pilot, the Commission determines to move forward with further Distribution Automation ("DA") or AMI deployment, specific capital and O&M budgets for DA and AMI investment would be developed and approved in a later implementation proceeding. Pet., ¶11. With the approval of the Alternative Regulation program, ComEd would be able to move forward immediately following the Smart Grid implementation proceeding as a cost recovery mechanism would already be in place. Approving a recovery mechanism for future Smart Grid technology does not prejudge or presuppose what the AMI Pilot might show or what the Commission Policy Docket will conclude. The proposed Alternative Regulation program provides the means to timely use the data that the ISSGC and AMI Pilot will provide and to implement the policies set in the Policy Docket. ComEd will not ask to recover the costs of future expanded Smart Grid pilots or Smart Grid deployments through Rate ACEP unless they meet the policy directives established by the Commission and will benefit customers. Moreover, under the Alternative Regulation program, ComEd will not proceed with any Smart Grid projects unless the Commission approves such projects. Hemphill Dir., ComEd Ex. 1.0 Rev., 14:300-15:317.

3. Proposed Rate ACEP Review Procedure

As required by Section 9-244(c) of the PUA, ComEd's tariff provides for a biennial review cycle after the Alternative Regulation program is initially approved and implemented. During this review (1) the Commission can assess the success of the efforts to date; (2) stakeholders can express their views; (3) the Commission can reassess the appropriate program levels of spending and investment; and (4) the alternative regulation program can further evolve. Petition, ¶18; Hemphill Dir., ComEd Ex. 1.0 Rev., 20:413-416. The review, however, is not a reconciliation docket. *Id.*, 24:496-500. If approved in this proceeding, pursuant to the Commission Order and Rate ACEP, ComEd can immediately proceed with the UUFR project, the EV pilot, and the Low Income project and provide for their funding. These projects can then be reviewed and modified as appropriate based upon the experience gained. Pet., ¶¶ 16, 18; ComEd Ex. 1.2 (Original Sheet No. X+2).

For the first review, in 2013, any approved Smart Grid projects will have been in effect for a shorter time, because AMI and DA investments will not occur until they are separately approved by the Commission. However, if the Commission chooses, they can be evaluated as well if they have been operating for enough time that it makes sense to review them again going forward.

Finally, the review cycle for the Alternative Regulation program will be every two years. These additional review proceedings will allow Stakeholders to stay engaged and for the Commission to continue to evaluate and adjust the Alternative Regulation program and the specific projects it funds.

D. Alternative Regulation in General and Rate ACEP

1. Defining Alternative Regulation

Generally, traditional test-year ratemaking largely relies on the dual premises that a utility should make investment decisions subject to after-the-fact regulatory review, and that rates should be set and investments reviewed based upon a snapshot of costs. However, Section 9-244 of the PUA allows the Commission to authorize for some or all of the regulated services of that utility the implementation of one or more programs through alternatives to rate of return regulation, such as earnings sharing, rate moratoria, price caps or flexible rate options, or through other regulatory mechanisms that reward or penalize the utility through the adjustment of rates based on utility performance. 220 ILCS 5/9-244(a). Thus, "Alternative Regulation" is a form of utility rate-making where additional factors are used to set utility rates, separate from traditional rate cases. Under alternative regulation, rate changes can be based on external benchmarks of utility efficiency, industry rates of inflation, or improvements in reliability or operational performance. These changes are usually tied to some benchmark measuring success in achieving whatever goal is set, such as pre-approved budgets as ComEd proposed in this proceeding. While Section 9-244 of the PUA allows a utility to propose alternative regulation, it does not specify the form that alternative regulation must take. Hemphill Reb., ComEd Ex. 6.0, 5:105-6:113.

Thus, alternative regulation under Section 9-244 allows another model that can benefit customers, utilities, and the public in ways that are unlikely to be obtained under traditional regulation. Under ComEd's proposed Alternative Regulation model, utilities, stakeholders, and the Commission can work together to develop, review, and approve ongoing investment programs before those investments are made. ComEd can make those investments under an objective and targeted incentive mechanism that rewards extraordinary performance and

penalizes failings. The Commission has acknowledged that with rate incentives, utilities are likely to be more efficient and productive than if there were no incentives. *Nicor Alt Reg Order*, 1999 Ill. PUC LEXIS 921*88-89. Further, that targeted incentive structure enables customers to receive the same service and cost savings benefits from new investments as would be theoretically hoped for under traditional ratemaking (assuming the same investments could be made at all), but it delivers those benefits faster, in addition to giving customers the benefits of a guaranteed reduction in O&M costs.

ComEd's Alternative Regulation program is alternative regulation as contemplated under Section 9-244 and thus, should be approved.

2. Analyzing Rate ACEP

ComEd's Alternative Regulation program is a pilot of alternative regulation and a means of testing whether it should be pursued on a larger scale. The Commission has authority to approve the proposal provided that the Commission finds that the eight requirements set forth under Section 9-244(b) of the PUA have been satisfied. ComEd has satisfied these eight criteria. *See* Section IV.A.1 of this Initial Brief. The proposal is also designed so that customers are not at risk. Customers are guaranteed to receive financial benefits from the alternative regulation program that they could not otherwise receive in addition to the benefits of the specific projects implemented through alternative regulation. Moreover, the total dollars proposed to flow through the Alternative Regulation mechanism are modest compared to ComEd's overall costs and rates.

E. Rate Design Issues

See Section IV.A.2 of this Brief, beginning at page IV.A.2.

IV. STATUTORY REQUIREMENTS AND REQUESTED APPROVALS

A. Section 9-244 of the Public Utilities Act

This case is governed by Section 9-244. As amended by the General Assembly in 1997, Section 9-244 states, in relevant part, as follows:

> (a) Notwithstanding any of the ratemaking provisions of this Article IX or other Sections of this Act, or the Commission's rules that are deemed to require rate of return regulation, and except as provided in Article XVI, the Commission, upon petition by an electric or gas public utility, and after notice and hearing, may authorize for some or all of the regulated services of that utility, the implementation of one or more programs consisting of (i) alternatives to rate of return regulation, including but not limited to earnings sharing, rate moratoria, price caps or flexible rate options, or (ii) other regulatory mechanisms that reward or penalize the utility through the adjustment of rates based on utility performance. In the case of other regulatory mechanisms that reward or penalize utilities through the adjustment of rates based on utility performance, the utility's performance shall be compared to standards established in the Commission order authorizing the implementation of other regulatory mechanisms. The Commission is specifically authorized to approve in response to such petitions different forms of alternatives to rate of return regulation or other regulatory mechanisms to fit the particular characteristics and requirements of different utilities and their service territories.
>
> (b) The Commission shall approve the program if it finds, based on the record, that:
>
> > (1) the program is likely to result in rates lower than otherwise would have been in effect under traditional rate of return regulation for the services covered by the program and that are consistent with the provisions of Section 9-241 of the Act; and
> >
> > (2) the program is likely to result in other substantial and identifiable benefits that would be realized by customers served under the program and that would not be realized in the absence of the program; and
> >
> > (3) the utility is in compliance with applicable Commission standards for reliability and implementation of the program is not likely to adversely affect service reliability; and
> >
> > (4) implementation of the program is not likely to result in deterioration of the utility's financial condition; and
> >
> > (5) implementation of the program is not likely to adversely affect the development of competitive markets; and

(6) the electric utility is in compliance with its obligation to offer delivery services pursuant to Article XVI; and

(7) the program includes annual reporting requirements and other provisions that will enable the Commission to adequately monitor its implementation of the program; and

(8) the program includes provisions for an equitable sharing of any net economic benefits between the utility and its customers to the extent the program is likely to result in such benefits.

The Commission shall issue its order approving or denying the program no later than 270 days from the date of filing of the petition. Any program approved under this Section shall continue in effect until revised, modified or terminated by order of the Commission as provided in this Section. If the Commission cannot make the above findings, it shall specifically identify in its order the reason or reasons why the proposed program does not meet the above criteria, and shall identify any modifications supported in the record, if any, that would cause the program to satisfy the above criteria. In the event the order identifies any such modifications it shall not become a final order subject to petitions for rehearing until 15 days after service of same by the Commission. The utility shall have 14 days following the date of service of the order to notify the Commission in writing whether it will accept any modifications so identified in the order or whether it has elected not to proceed with the program. If the utility notifies the Commission that it will accept such modifications, the Commission shall issue an amended order, without further hearing, within 14 days following such notification, approving the program as modified and such order shall be considered to be a final order of the Commission subject to petitions for rehearing and appellate procedures.

* * *

(e) The Commission shall not be authorized to allow or order an electric utility to place a program into effect, pursuant to this Section, applicable to delivery services provided by a utility, unless the utility already has in effect a delivery services tariff conforming to the requirements of Section 16-108 of this Act.

220 ILCS 5/9-244.

1. Section 9-244(b): Findings for Approval of Alternative Rate Regulation Program

The Commission has authority to approve ComEd's Alternative Regulation program under Section 9-244 of the PUA. Specifically, Section 9-244 provides that the Commission

"may authorize for some or all of the regulated services" of a utility, alternatives to rate of return regulation including, but not limited to, "flexible rate options" and "other regulatory mechanisms that reward or penalize the utility through the adjustment of rates based on utility performance." 220 ILCS 5/9-244(a). Specifically, Section 9-244(b) of the PUA allows and directs the Commission to approve such a program if it satisfies a list of criteria. ComEd seeks approval of an Alternative Regulation program under Section 9-244 as an alternative to traditional regulation of its costs for the specific projects described above.

a. Finding under 9-244(b)(1)

The finding required under Section 9-244(b)(1) is that "the program is 'likely' to result in rates lower than otherwise would have been in effect under traditional rate of return regulation for the services covered by the program and that are consistent with the provisions of Section 9-241 of the Act." 220 ILCS 5/9-244(b)(1). ComEd's proposed Alternative Regulation program, including all of the proposed projects taken as a whole, meets this requirement.

From the start, customers' rates will be lower than they would be if the same projects were implemented through traditional rate of return regulation. Were ComEd to fund the same investments through traditional test year regulation – *e.g.*, by annually filing a future test year general rate case – where customers would receive no 5% credit and the realization of savings would await the next general rate case. Moreover, because of the pass-through nature of O&M costs under the Alternative Regulation program, customers will receive the benefit of any actual operational savings and additional efficiency benefits without waiting for the next rate case, or for alternative regulation review. The program also limits the recovery of capital costs to approved budgeted amounts ±5%, which incentivizes ComEd to reduce capital costs below approved budgeted amounts and allows ratepayers to share in any savings achieved below the

budgeted amounts. These incentive and sharing mechanisms are likely to produce greater cost savings for ratepayers than would occur under traditional rate of return regulation. Hemphill Reb., ComEd Ex. 6.0, 27:597-28:602, 40:868-76, 40:888-41:893.

The determination of whether to proceed with an alternative regulation program cost recovery mechanism is a separate question from the determination of which AMI and DA projects should or will be deployed. ComEd will only proceed with those AMI and DA projects ultimately approved by the Commission, with Commission approved budgets and work scopes. Approved AMI and DA projects will be likely to result in rates lower than otherwise would have been in effect under traditional rate of return regulation for the same reasons expressed above, including the budget limitations and sharing provisions. Moreover, continuing compliance with the requirements of Section 9-244 is an issue that can be considered when ComEd subsequently submits specific AMI and DA projects for approval by the Commission.

b. Finding under 9-244(b)(2)

The finding required under Section 9-244(b)(2) is that "the program is likely to result in other substantial and identifiable benefits that would be realized by customers served under the program and that would not be realized in the absence of the program." 220 ILCS 5/9-244(b)(2). The Alternative Regulation program is likely to result in other substantial and identifiable customer benefits that would not be otherwise realized without the program. Unlike subparagraph (1) of Section 9-244(b), subparagraph (b) does not require a demonstration that the program is likely to result in other benefits that would not be available if the services covered by the program were implemented under traditional regulation. The relevant comparison is benefits without the Alternative Regulation program versus benefits with the Alternative Regulation program.

The Urban Underground Facilities Reinvestment project has direct and significant reliability benefits. The EV Pilot will help educate ComEd and the public about uses of commercial EVs. ComEd will gain an understanding of how EV technology can be used and how it can impact its system. Hemphill Reb., ComEd Ex. 6.0, 43:935-40. ComEd's Low Income Assistance Program will help customers who otherwise might be unable to receive essential electric service. In addition, low-income assistance will mitigate some of the costs recovered under Rider UF. Hemphill Reb., ComEd Ex. 6.0, 43:954-6. AMI and DA investments will timely proceed only if the Commission adopts this Alternative Regulation program and then expressly finds those investments to be cost-beneficial. The AMI, DA, and EV projects also have potential environmental benefits.

c. Finding under 9-244(b)(8)

The finding required under Section 9-244(b)(8) is that "the program includes provisions for an equitable sharing of any net economic benefits between the utility and its customers to the extent the program is likely to result in such benefits." 220 ILCS 5/9-244(b)(8). The proposed Alternative Regulation program provides for equitable sharing of any net economic benefits between the utility and its customers. Customers get a guaranteed O&M credit and shared efficiency benefits, on top of program benefits. In addition, ComEd's recovery of its O&M expenses and return on capital investments are at risk. Full recovery thereof is dependent on ComEd successfully bringing plan benefits to customers on or within the budget deadband.

d. Findings under 9-244(b)(3) – (b)(7)

The finding required under Section 9-244(b)(3) is that "the utility is in compliance with applicable Commission standards for reliability and implementation of the program is not likely to adversely affect service reliability." 220 ILCS 5/9-244(b)(3). ComEd is in compliance with

applicable Commission standards for reliability. Implementing this proposal is not likely to adversely affect service reliability. In fact, the UUFR project and future AMI and DA investments are expected to increase service reliability.

The finding required under Section 9-244(b)(4) is that "implementation of the program is not likely to result in deterioration of the utility's financial condition." 220 ILCS 5/9-244(b)(4). The proposed Alternative Regulation program is not likely to result in deterioration of ComEd's financial condition. The program allows ComEd to recover budgeted capital carrying costs and incremental O&M expenses, less the guaranteed customer credit, provided ComEd successfully implements the approved projects.

The finding required under Section 9-244(b)(5) is that "implementation of the program is not likely to adversely affect the development of competitive markets." 220 ILCS 5/9-244(b)(5). Implementation of the program is not likely to adversely affect the development of the competitive markets. Indeed, AMI investment may improve the ability of competitive suppliers to deal with their customers.

The finding required under Section 9-244(b)(6) is that "the electric utility is in compliance with its obligation to offer delivery services pursuant to Article XVI." 220 ILCS 5/9-244(b)(6). ComEd is in compliance with its obligation to offer delivery services pursuant to Article XVI of the PUA. ComEd has offered retail delivery services since 1999, and continues to offer those services.

The finding required under Section 9-244(b)(7) is that "the program includes annual reporting requirements and other provisions that will enable the Commission to adequately monitor its implementation of the program." 220 ILCS 5/9-244(b)(7). The program includes reporting requirements and other provisions that will enable the Commission to adequately

monitor ComEd's implementation of the program. The Commission will have a central role in determining the direction ComEd will take with future investments in Smart Grid technology, accelerated underground facility reinvestment, and EVs, as well as low income assistance. Further, Rate ACEP contains reporting requirements that will ensure that the Commission can adequately monitor the implementation of the program.

2. Request for Approval of Rate ACEP Tariff

a. Approval of Terms and Provisions

Rate ACEP is attached to Dr. Hemphill's direct testimony as ComEd Ex. 1.2. Rate ACEP contains the detailed terms and provisions to implement the cost recovery mechanism of ComEd's Alternative Regulation program. ComEd requests approval of Rate ACEP. Many parties did not address Rate ACEP aside from their general opposition to ComEd's Alternative Regulation program. With respect to those parties that addressed the specific provisions of Rate ACEP, ComEd has accepted certain proposed revisions to Rate ACEP as set forth below.

ComEd accepts the recommendation of Staff witness Harden that Rate ACEP costs be reflected separately from other customer charges on customer bills, and is willing to discuss its implementation with Staff. Harden Dir., Staff Ex. 6.0, 5:102-9; Hemphill Reb., ComEd Ex. 6.0, 46:1009-13.

Staff witness Hathhorn recommends that "all references to the "August 2012" date on ComEd Ex. 1.2, Original Sheet X + 3 be deleted since the date represents when ComEd anticipates that a Smart Grid Implementation Order will be completed." Hathhorn Dir., Staff Ex. 5.0, 7:131-4. ComEd intends to honor the outcome of the Policy Docket and will base this date on that outcome. ComEd is willing to work with Staff to develop appropriate alternative language for the tariff. Hemphill Reb., ComEd Ex. 6.0, 46:1009-13.

ComEd accepts Staff witness Ms. Hathhorn's recommendation to add language to Rate ACEP to ensure applicable grants would offset costs identified for recovery under Rate ACEP. ComEd is willing to work with Staff to develop appropriate language and identify appropriate places in the tariff to insert such language. Hathhorn Dir., Staff Ex. 5.0, 9:205-10; Hemphill Reb., ComEd Ex. 6.0, 47:1033-6.

ComEd accepts Staff witness Ms. Hinman's recommendation to revise Rate ACEP to ensure all investments and expenses under Rate ACEP associated with government grants or tax credits are credited to Rate ACEP recoveries, and is willing to work with Staff to clarify the proposed language. Hinman Reb., Staff Ex. 9.0, 3:56-4:59; Hemphill Sur., ComEd Ex. 8.0, 22:480-5.

While ComEd finds Ms. Hinman's recommendation "that ComEd include … additional language in its Rate ACEP tariff to remove any revenues received from implementation of the EV Pilot, or any other project under Rate ACEP, from the cost recovery under Rate ACEP" to be too vague to accept in its present form, ComEd is willing to work with Staff to address Staff's concern. Hinman Reb., Staff Ex. 9.0, 3:60-4:63; Hemphill Sur., ComEd Ex. 8.0, 22:486-92. It is not ComEd's intention to double recover its costs.

ComEd accepts Staff witness Ms. Hathhorn's recommendation to require a biennial report be filed on e-Docket and is willing to work with Staff to clarify the proposed language. Hathhorn Dir., Staff Ex. 5.0, 9:205-10; Hemphill Reb., ComEd Ex. 6.0, 47:1042-48:1045.

ComEd accepts Staff witness Ms. Hathhorn's recommendation that the biennial review report "quantify separately for each program the Investment Recovery Amounts, Expense Limiter Components, and Expense Cap Components related to the previous two year period."

Staff Ex. 5.0, 13:317-14:319. ComEd is also willing to work with Staff to clarify the proposed language. Hemphill Reb., ComEd Ex. 6.0, 48:1046-51.

ComEd accepts Staff witness Ms. Hathhorn's recommendation to accompany the biennial filing with a statement from a ComEd officer regarding the reasonableness of the costs of the programs as compared to the Commission-approved budgets. ComEd is also willing to work with Staff to clarify the proposed language. Hathhorn Dir, Staff Ex. 5.0, 14:322-5; Hemphill Reb., ComEd Ex. 6.0, 48:1052-6.

ComEd accepts the recommendation of Staff witness Ms. Hathhorn that ComEd file testimony with its biennial filing and is willing to work with Staff to clarify the proposed language. Hathhorn Dir., Staff Ex. 5.0, 14:328-32; Hemphill Reb., ComEd Ex. 6.0, 48:1057-60.

ComEd accepts the recommendation of Staff witness Ms. Hathhorn to change the section title "Approval of Recovery" to "Recoverable Costs". Hathhorn Dir., Staff Ex. 5.0, 16:419-17:427; Hemphill Reb., ComEd Ex. 6.0, 48:1061-3.

With respect to the allocator used in the determination of the UFA_{DC} and DAA_{DC} addressed by IIEC witness Mr. Stephens, ComEd's position is that the allocator used in the determination of the UFA_{DC} and DAA_{DC} should be consistent with the allocator the Commission approves in ComEd's pending rate case (Docket No. 10-0467) for primary lines and substations. Stephens Dir., IIEC Ex. 1.0, 29:648-30:675; Hemphill Reb., ComEd Ex. 6.0, 49:1073-85; Hemphill Sur., ComEd Ex. 8.0, 22:493-23:503. The Commission explicitly directed ComEd to allocate the cost of primary facilities on the basis of coincident peak ("CP") allocation factors. *Illinois Commerce Comm'n v. Commonwealth Edison Co.*, Docket No. 08-0532 (Order, April 21, 2010), at 55. If the Commission reverses this ruling, then a corresponding change to the allocation factors for UFA_{DC} and DAA_{DC} would be reasonable.

b. Approval of the UUFR, EV Pilot and Low Income Assistance Projects

Rate ACEP provides that the costs of approved programs[9] may be recovered under Rate ACEP and shall be treated as follows:

> The Company is allowed to begin recovery of certain costs it incurs in accordance with the provisions of this tariff only after receiving approval from the ICC for specifically proposed programs or modifications to previously approved programs associated with such costs. Approval from the ICC for any such program constitutes a determination by the ICC that implementing such program at the approved budgeted cost is prudent. Any such approved program may not again be subject to review with respect to the prudence of such approved program or the reasonableness of the costs associated with such program up to and including the amounts approved for recovery for such program.

ComEd Ex. 1.2, Original Sheet X + 1. ComEd is requesting approval of the proposed investment budgets (targeted investment expenditure amounts), expense budgets, and work plans, as applicable, under Rate ACEP for the UUFR, EV Pilot and Low Income Assistance projects. Proposed Rate ACEP recognizes and provides for these requested approvals as follows:

> Beginning with the August 2011 monthly billing period, in accordance with the ICC's Order in Docket No. 10-[0527] and the provisions of this tariff, the Company begins recovery (a) of operating expenses it incurs to provide assistance to low income residential retail customers associated with the Low Income Assistance Program approved by the ICC in such Order; (b) of and on the ICC-jurisdictional investment expenditures the Company incurs for EV-related facilities associated with the EV Pilot approved by the ICC in such Order; (c) of and on the investment expenditures the Company incurs for underground-related facilities associated with the Urban Underground Facility Reinvestment Program approved by the ICC in such Order; and (d) of the operating and maintenance (O&M) expenses the Company incurs that are associated with such Urban Underground Facility Reinvestment Program approved by the ICC in such Order, reduced by five percent (5%).
>
> The Company is allowed to recover the expenses it incurs to provide assistance to low income residential retail customers associated with the Low Income Assistance Program approved by the ICC in its Order in Docket No. 10-[0527] up

[9] The UUFR, EV Pilot and Low Income Assistance programs are generally referred to as "projects" in this Brief to avoid confusion with and distinguish them from ComEd's overall proposed Alternative Regulation program.

> to a maximum of $10,000,000 annually. Only operating expenses associated with such Low Income Assistance Program that the Company incurs on or after the date of such Order are recoverable under this tariff.
>
> The targeted investment expenditure amount for the EV Pilot approved by the ICC in its Order in Docket No. 10-[0527] is $5,000,000 with $4,430,000 of that amount identified as being ICC jurisdictional and therefore, recoverable under this tariff. Only investment expenditures for such EV Pilot that the Company incurs on or after the date of such Order are recoverable under this tariff.
>
> The targeted investment expenditure amount for the Urban Underground Facility Reinvestment Program approved by the ICC in its Order in Docket No. 10-[0527] is $30,000,000, all of which is ICC jurisdictional and therefore, recoverable under this tariff. Only investment expenditures for such Urban Underground Facility Reinvestment Program that the Company incurs on or after the date of such Order are recoverable under this tariff.
>
> The Company is allowed to recover the O&M expenses it incurs that are associated with the Urban Underground Facility Reinvestment Program approved by the ICC in its Order in Docket No. 10-[0527] up to a maximum of $15,000,000, subject to applicable provisions in this tariff addressing reductions applied to the recovery of expenses. Only O&M expenses associated with such Urban Underground Facility Reinvestment Program that the Company incurs on or after the date of such Order are recoverable under this tariff.

Id. at Original Sheet No. X + 2.

For all the reasons stated earlier in this Brief, ComEd requests that the Commission specifically approve the proposed capital investment budgets and expense budgets, as applicable, for the UUFR project, the EV Pilot project and the Low Income Assistance project, including the work scopes provided for thereunder. ComEd further requests that the Commission specifically find that the budgeted amounts for those projects constitute reasonable and prudent costs and that completion of those projects at the budgeted amounts is prudent.

B. Interaction with General Rate Case

ComEd's ability to proceed with this Alternative Regulation program is contingent on ComEd general delivery services rates allowing it a fair opportunity to recover its reasonable and prudent costs of delivery service. Hemphill Dir., ComEd Ex. 1.0 Rev, 9:181-85, 10:212-16. If

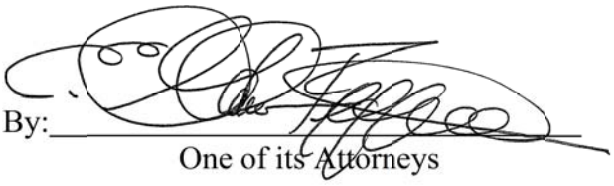
ComEd's rates do not allow it that opportunity, the competition for resources will necessitate cuts in existing operations and investments. Proceeding with the Alternative Regulation program under such circumstances would compound the competition for already inadequate financial resources. Projects such as the EV Pilot and UUFR, in particular, require capital investments which are paid for up front, but recovered only over a period of years. *Id.* at 10:214-16. That is why, from the start, ComEd has been clear about this contingency. To be clear, this does not mean that ComEd must be awarded every penny of revenue requirement it requests for the Alternative Regulation program to proceed. However, a revenue increase like that currently recommended by Staff (between $100 and $110 million) would require ComEd to implement strong capital conservation measures under which the proposed Alternative Regulation program cannot proceed.

V. OTHER ISSUES RAISED BY PARTIES

ComEd raised no other issue that would affect the Commission's approval of its Alternative Regulation program. In the event that other parties raise such issues in their initial briefs, ComEd will respond in its Reply Brief.

VI. CONCLUSION

ComEd respectfully requests that the Illinois Commerce Commission approve ComEd's proposed Alternative Regulation program and authorize ComEd to file, subject to the provisions of Section 9-244 of the Act, tariffs implementing that program in accordance both with ComEd's initial proposal and the revisions accepted by ComEd during this proceeding.

Dated: February 17, 2010	Respectfully submitted, COMMONWEALTH EDISON COMPANY  By:_____ One of its Attorneys
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