

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company)
Proposal to establish Rider PORCB)
(Purchase of Receivables with Consolidated Billing) and) Docket No. 10-0138
To revise other related tariffs)

**RESPONSE OF THE RETAIL ENERGY SUPPLY ASSOCIATION
TO THE COMMISSION STAFF’S EMERGENCY MOTION FOR CLARIFICATION**

The Retail Energy Supply Association (“RESA”) submits this Response to the Illinois Commerce Commission Staff’s Emergency Motion for Clarification of February 9, 2011 Amendatory Order (the “Emergency Motion”).

RESA is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than a regulated utility structure. In particular, RESA is interested in a Purchase of Receivables/Utility Consolidated Billing (“POR/UCB”) program that will be successful in the service territory of Commonwealth Edison Company (“ComEd”) and has been an active participant in this proceeding.¹

RESA agrees with the Commission Staff that there are three issues to be resolved as a result of the Amendatory Order, but only agrees with the Commission Staff’s proposed

¹ RESA’s members include Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; NextEra Energy Services; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MX Energy; Noble Americas Energy Solutions LLC; PPL EnergyPlus; Reliant Energy Northeast LLC; and TriEagle Energy. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

resolution of two of those three issues. The three issues are the appropriate method for the recovery of implementation costs for Rider PORCB, whether to use separate uncollectible rates for residential and non-residential customers or one combined uncollectible rate, and whether ComEd should make a compliance filing pursuant to the Amendatory Order.

First, RESA agrees with the Commission Staff that the language from the paragraph added to the Amendatory Order which suggests the use of a percentage to recover implementation costs is inconsistent with the remainder of the Commission's Order which supports a fifty cent fixed charge per bill. RESA agrees with the Commission Staff that the Commission should amend the Amendatory Order to remove such language. As stated by the Commission Staff, this new language is "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". (Staff Emergency Motion, p. 2) RESA agrees with the Commission Staff's proposal to eliminate the first two sentences and the last sentence of the second paragraph on page 25 of the Amendatory Order. (*Id.*, p. 3)

Second, RESA agrees with the Commission Staff that the remaining language of the second paragraph on page 25 of the Amendatory Order creates confusion regarding whether there should be separate uncollectible rates for residential and non-residential customers or a single combined rate. However, RESA disagrees that this issue could be decided either way and disagrees with Staff's proposing language to cover either of the two alternatives. There is no support in the evidentiary record for a combined uncollectible rate. As the Commission Staff correctly points out, no party proposed to use a combined uncollectible rate during the evidentiary proceeding. The proposal did not appear until the Administrative Law Judge's Proposed Order ("ALJPO"). (*Id.*, pp. 3-4) While a combined rate was provided by ComEd, after

the record was closed, pursuant to the Administrative Law Judge's Post-Record Data Request, ComEd made clear that it did not support a combined uncollectible rate, but rather continued to support separate rates as it proposed during the evidentiary proceeding. Moreover, ComEd's compliance filing submitted after the Commission's final order, dated December 15, 2010, in this proceeding utilized separate uncollectible rates and that filing was accepted by the Commission. ComEd has implemented Rider PORCB in accordance with that compliance filing. In fact, as pointed out by ComEd's Verified Comments supporting the Emergency Motion, ComEd had about 3200 customers enrolled in Rider PORCB in roughly the first month of operation, about 2800 of who were new residential customers. (ComEd's Verified Comments, p. 2) Accordingly, the Commission should revise the Amendatory Order by striking the second paragraph on page 25 and substituting:

“The evidence in the record supports the use of separate uncollectible rates for residential and non-residential customers. The Commission finds that it is in the best interests of ComEd's customers to have a separate uncollectible rate for residential customers and non-residential customers. The proposal for a combined uncollectible rate, made after the evidentiary record was closed, is hereby rejected.”

With respect to the third issue, RESA agrees with the Commission Staff's recommendation that the status quo should remain in place in order to minimize market disruptions until the Commission has an opportunity to address these issues and clarify the Amendatory Order. The Commission Staff correctly pointed out the problems that would be created if ComEd were to file new tariffs attempting to comply with an ambiguous direction. (Staff Emergency Motion, pp. 7-8) In light of the fact that the Staff's Emergency Motion is on the agenda for the Commission's Special Open Meeting scheduled for February 23, 2011, it makes no sense for ComEd to make any filing pursuant to the Amendatory Order.

Wherefore, for all of the above reasons, the Retail Energy Supply Association respectfully requests that the Commission clarify its Amendatory Order by eliminating the language suggesting a percentage rate to recover implementation costs and adding language to clarify that it is adopting the use of separate uncollectible rates for residential and non-residential customers.

Respectfully submitted,

/S/ GERARD T. FOX

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NOTICE OF FILING

Please take note that on February 18, 2011, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the Response of the Retail Energy Supply Association to the Commission Staff's Emergency Motion for Clarification in this proceeding, ILL. C. C. Docket 10-0138.

Dated: February 18, 2011

/s/GERARD T. FOX
Gerard T. Fox

CERTIFICATE OF SERVICE

I, Gerard T. Fox, certify that I caused to be served copies of the Response of the Retail Energy Supply Association to the Commission Staff's Emergency Motion for Clarification upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system in ILL. C. C. Docket 10-0138 via electronic delivery on February 18, 2011.

/s/ GERARD T. FOX
Gerard T. Fox