

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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

**MOTION FOR RESCISSION (OR, IN THE ALTERNATIVE, FURTHER CLARIFICATION OF)
THE COMMISSION’S FEBRUARY 9, 2011 AMENDATORY ORDER**

The Illinois Competitive Energy Association (“ICEA”) is appreciative of the Commission’s apparent desire to ensure that no loose ends or ambiguities exist that might delay or hinder the development of competitive retail electric choices for Commonwealth Edison’s (ComEd) three million plus residential and small commercial electric customers. However, the Commission’s February 9, 2011 Amendatory Order appears to be the case of a well-intended clarification going unexpectedly awry.

As the Commission is aware, ICEA did not file an Application for Rehearing in this proceeding.¹ No Application for Rehearing was filed because in ICEA’s opinion no Application for Rehearing was needed.

The Commission’s December 15, 2010 Final Order established the POR and UCB program that virtually the entire Illinois ARES community had asked the Commission to implement. The Commission’s Final Order established the POR-UCB program that ICEA and the Retail Energy Supply

¹ ICEA’s members include Ameren Energy Marketing Company; Champion Energy Services, LLC; Constellation NewEnergy Inc.; Direct Energy Services, LLC; Exelon Energy Company; FirstEnergy Solutions Corp.; Integrys Energy Services, Inc.; MC2 Energy Services, LLC; and Nordic Energy Service, LLC. The comments expressed in this filing represent the position of ICEA as an organization but may not represent the views of any particular member of ICEA.

Association (“RESA”) and ComEd as well as the Citizens Utility Board (“CUB”) worked collaboratively to develop.

The Final Order has fostered a level of ARES market activity focused on residential and small commercial customers heretofore unseen in Illinois. Thanks to the Commission’s Final Order, residential and small commercial customers have a number of new ARES choices to serve their electric supply needs that they did not have prior to December 15, 2010. Thanks to the Commission Final Order, POR-UCB is being used today to serve residential customers. Other ARES were finalizing plans to enter the ComEd service territory based on what the Commission decided on December 15.

Unfortunately, the Commission’s February 9, 2011 Amendatory Order has thrown any continued market progress into doubt. ICEA suspects this result was inadvertent and respectfully requests that the Commission rescind its February 9 Amendatory Order all together or in the alternative clarify that it is neither adopting Staff’s cost recovery proposal nor the ALJ’s proposed combined discount rate for uncollectibles.

ICEA maintains that the December 15 Final Order clearly adopted separate uncollectible rates for residential and small commercial customers. Separate uncollectible rates were a key component of the agreement reached between ComEd, ICEA and RESA and supported by CUB. The use of separate discount rates was never a contested issued in the evidentiary phase of the proceeding. The use of separate discount rates was clearly set forth in ComEd testimony. *See, e.g.* Direct Testimony of Robert Garcia, ComEd Ex. 1.0 beginning at line 329. The Final Order, in a section reserved for uncontested issues, notes the use of Rider UF to determine percentage reductions for the recovery of uncollectible costs. Final Order at 5; Amendatory Order at 5. ComEd’s compliance filing pursuant to the Final Order established separate uncollectible rates. ComEd’s PORCB tariff compliance filing was accepted by the

Commission and has been in place—to the best of ICEA’s knowledge— without complaint or objection for over a month-and-a-half now.

It was only after the record was marked heard-and-taken, that the ALJ in her Proposed Order, on her own initiative, proposed the use of a combined discount rate. The language initially proposed by the ALJ to arrive at a combined discount rate was flawed and the ALJ engaged in a series of post-record data requests to further refine her proposal. Given the origin of the proposal and the lateness of its arrival—coming as it did after the evidentiary phase of the hearing was complete—parties were unable to provide testimony or engage in cross-examination as to the merits or lack thereof to such an approach. Since the issue was proposed for the first time in the ALJ’s Proposed Order, and was never raised by a party before the record was marked heard-and-taken, ICEA did not, and does not now, believe an express rejection of the combined uncollectible approach by the Commission is necessary.

ICEA urges the Commission to act promptly on this matter. Until such time that the Commission can act, ICEA supports efforts to stay the filing by ComEd of a compliance tariff. Without such a stay, further market uncertainty and delay will ensue.

WHEREFORE, for the reasons noted above, ICEA respectfully requests that the Commission rescind its February 9 Amendatory Order all together or in the alternative clarify that it is neither adopting Staff’s cost recovery proposal nor the ALJ’s proposed combined discount rate for uncollectibles.

Respectfully Submitted,

THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION

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