STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	)	
	)	Docket No. 10-0467
Proposed general increase in electric rates	)	

PUBLIC

REPLY BRIEF OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

(Confidential Marked By Highlight)

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JOHN C. FEELEY
JENNIFER L. LIN
MEGAN C. MCNEILL
Illinois Commerce Commission
Office of General Counsel
160 N. LaSalle St., Ste. C-800
Chicago IL 60601
312-793-2877
jfeeley@icc.illinois.gov
jlin@icc.illinois.gov
mmcneill@icc.illinois.gov

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NOW COMES Staff of the Illinois Commerce Commission ("Staff"), by and through its undersigned counsel, pursuant to Section 200.800 of the Illinois Commerce Commission's Rules of Practice (83 Ill. Adm. Code 200.800), and respectfully submits its Reply Brief in the instant proceeding.

I. INTRODUCTION / STATEMENT OF THE CASE

In addition to Staff and Commonwealth Edison Company ("ComEd" or "Company"), the following parties submitted Initial Briefs in this matter: Illinois Attorney General ("AG"), Citizens Utility Board ("CUB"), Environmental Law & Policy Center ("ELPC"), Coalition to Request Equitable Allocation of Costs Together ("REACT"), Natural Resources Defense Council ("NRDC"), Illinois Industrial Energy Consumers ("IIEC"), the Northeast Illinois Regional Commuter Railroad Corporation d/b/a Metra ("Metra"), Dominion Retail Inc., the City of Chicago, the Commercial Group ("CG"), the Kroger Co., AARP, Retail Energy Supply Association ("RESA"), Chicago Transit Authority ("CTA"), United States Department of Energy ("DOE"), and the Illinois Competitive Energy Association.

Aside from issues addressed in this Reply Brief, Staff stands by its positions articulated in its Initial Brief. Failure to address a specific issue in this Reply Brief does not constitute a change of position from Staff's Initial Brief. A revised summary of Staff's final recommendations to the Commission in this proceeding is attached hereto as Appendix A. For the reasons stated below, Staff's proposed adjustments should be adopted by the Commission.

II. OVERALL REVENUE REQUIREMENT AND REVENUE DEFICIENCY

As reflected on page 1, line 5, column (i) of Appendix A to Staff's Initial Brief, Staff recommends revenues of $2,160,708,000. This is an increase of $113,388,000 or 5.54%, to ComEd's pro forma present revenues of $2,044,866,000 as shown in Appendix A, page 1, line 5, column (d). This revenue increase is calculated at line 26, column (i) of page 1 of Appendix A.

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a. AMI Pilot Costs (including AMI Meter Redeployment)

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C. Potentially Contested Issues

1. Post-Test Year Adjustments

a. Pro Forma Capital Additions

ComEd continues its claim that because it has a robust planning process and that the forecast compares favorably with prior 18 month periods as to overall amounts of plant placed into service, its current budget through June 2011 should be found to be known and measurable. The Company mistakenly interprets 83 Ill. Adm. Code 287.40 to simply apply to the **amount** of the adjustment and not to the **specific details** making up the amount. (ComEd IB, pp. 9-13) If the Company wanted to include all of its projected plant additions in rate base, 83 Ill. Adm. Code 287.20 provides the option of filing a future test year. The Company, however, chose to file an historic test year so the Company must be held to the standards required for that decision. (Tr., January 11, 2011, pp. 780-781) If the Company had filed for a future test year it would need to meet a whole different set of requirements vs those required for a historical test year. One of the significant requirements that the Company would have had to meet would be to provide a statement from a Certified Public Accountant that the preparation and presentation of the forecast complies with the AICPA Guide for Prospective Financial Information as required by Section 285.7010(a). However, since the Company did not file a future test year, that information was not required. The Company filed the information that was required for an historic test year. (Staff Ex. 16.0, pp. 6-8) The Company should not be able to get the benefits that can be derived from filing a future test year without providing all of the information that is required to support a future test year.

The Company wants the Commission to approve an overall amount for a pro forma adjustment without providing sufficient support for the specific projects that produce the total amount of dollars estimated. While the Company points to the 41,000 pages of documentation it has provided (ComEd IB, p. 11), which ComEd witness Donnelly characterized as "a sample of documentation of various scopes of work" (Tr., January 11, 2011, p. 628), the sample documentation did not provide sufficient support. For example, the support for vehicles discussed during ComEd witness Donnelly's cross-examination (Staff IB, pp. 6-7) and the support for ITN 29259 – Spare Transformers (Staff Ex. 16.0, p. 16) were clearly insufficient. The documentation included as ComEd Ex. 32.2 was never updated during the case to account for the changes whereby projects were dropped and other projects were added. (Staff Ex. 16.0 Attachment B; Confidential Staff Group Cross Ex. 1, pp. 228-246)

The Company claims it provided "comprehensive and voluminous" evidence in support of its pro forma plant additions. (ComEd IB, pp. 12-13) This claim is an exaggeration. While ComEd did provide voluminous information, it is Staff's opinion that this information further called into question whether ComEd's proposed plant additions are known and measurable rather than demonstrating that they are in fact known and measurable. While project authorization documents were provided (ComEd Ex. 32.2), Ms. Ebrey explained during cross examination that these documents provided conflicting completion date information which could not be relied upon. (Staff IB, p. 7) Furthermore, the work orders and project engineering documents included in ComEd Ex. 32.2 do not provide evidence that the projects will in fact proceed to be placed into service by June 2011 since all of the projects listed as "dropped" on the Company's response to Staff data request TEE 17.01 Attach 1 (Confidential Staff Group Cross Ex.

1, pp. 228-246) were included in the evidence provided in ComEd Ex. 32.2. In addition, none of the "new" projects on the Company's response to Staff data request TEE 17.01 Attach 1 (Confidential Staff Group Cross Ex. 1, pp. 228-246) were included in the evidence provided in ComEd 32.2. Further, no projects under $100,000 were supported by any documentation.

The Company states that "four, six-inch binders containing hard copies of contract requisition documents" for third party contractors were provided. In actuality, Ms. Ebrey only received four **three-inch** binders[1] (Confidential Staff Group Cross Ex. 1, Company response to TEE 14.03 Attach 03), which included superfluous pages for tab dividers and cover sheets, were provided, thereby increasing the thickness of the attachment without adding any substance. Furthermore, these documents are mostly for work that was completed prior to the end of 2010, work that has already been allowed in Staff's adjustment. Of the 55 ITN's for which contracts requisition documents were provided, documents for only 15 ITN's relate to any work beyond December 31, 2010. However, those documents do not support the total amounts included in the Company's pro forma adjustment for those ITN's for January through June 2011.

For most of the ITN's included in this exhibit (*Id*.), nothing was provided as support for the 2011 projections which Staff recommends be disallowed. For example:

a) The documentation provided for ITN 14235 shows end dates in 2007 on all but two contract requisition screen prints which show end dates of 10/21/2010. However, ITN 14235 shows all costs being placed into service in the second quarter of 2011. There is no explanation for this disparity in dates.

b) Every piece of evidence provided for ITN 10622 indicates the work was performed in 2009 and 2010.

[1] Ms. Ebrey checked the hard copies provided to the Clerk's Office by the Company and verified the same content.

c) Two projects (ITNs 38714 and 45038) were dropped from the pro forma adjustment between the Company's direct and rebuttal positions. (Staff Ex. 16.0, Attachment B)

d) Two projects (ITNs 31432 and 41216) were dropped from the pro forma adjustment between the Company's rebuttal and surrebuttal positions. (Confidential Staff Group Cross Ex. 1, p. 235, TEE 17.01 Attach 1)

The Company claims that, in its interpretation, the same type of documentation it provided in this proceeding was accepted in the 2009 Ameren case as sufficient to meet the known and measurable standard. (ComEd IB, p. 18) What the Company chooses to ignore are the numerous issues Staff has raised with the support provided by the Company in the current case that were not raised in the Ameren case. While decisions in prior cases can be instructive, new arguments not raised in those prior cases must be given appropriate consideration in the Commission's conclusion in an instant case. The evidence in each case must be evaluated on its own merits.

While the Company casts dispersions at Ms. Ebrey's testimony and expertise as an accountant, the expertise of Company witnesses regarding projections of plant additions adds nothing to the basis for allowable pro forma plant additions. (ComEd IB, p. 11) Company witness Donnelly admitted during cross-examination that the actual projects that will be placed in service during January through June 2011 will change from those projected. (Tr., January 11, 2011, pp. 659-662) In fact, Mr. Donnelly conceded that those projections decreased by $13 million ($1,030 million minus $1,017 million) between the rebuttal testimony filed on November 22 and surrebuttal testimony filed on January 4, just six weeks later.[2] Staff addressed changes such as this in rebuttal testimony. (Staff Ex. 16.0, pp. 10-11)

AG/CUB witness Effron continues to support pro forma plant additions through March 31, 2011 with a true up of the amount before the final order is approved, consistent with the methodology in ComEd's 2007 rate case. (AG IB, pp. 9-11) The projected pro forma plant additions through March 31, 2011 are not known and measurable as already addressed in Staff testimony. (Staff Ex. 16.0, pp. 18-20) While the AG entered the Stipulation in the ComEd 2007 rate case into the record in this case (AG Cross Ex. 7), it should be given no weight in the ultimate decision here. The Order in ComEd's 2007 rate case treated the Stipulation as follows:

> In this instance, of key importance is that neither Commission Staff nor the Company are requesting that the Commission enter an Order approving the agreement or Stipulation that they have reached regarding resolution of various issues in this matter. Instead, the Commission, as we are lawfully mandated, will conduct a *BPI* analysis and base our determinations and ultimate conclusions on the record evidence. Hence, the Stipulation is irrelevant to the Commission for purposes of our determinations in this matter. **Accordingly, the Stipulation will be treated as merely another proposed resolution for the various contested issues addressed in this proceeding that must be considered based on the record evidence adduced in this docket**. (Order, September 10, 2008, Docket No. 10-0566, p. 11, emphasis added)

Staff's recommendation to allow only those projects to be placed into service by December 31, 2010 should be approved by the Commission.

[2] The overall change from the initial filing ($1.038 million) to the surrebuttal filing ($1.017 million) was a net decrease of over $21 million.

b. Accumulated Provisions for Depreciation and Amortization Related Provisions for Accumulated Depreciation

The Company continues to opine that "given the status of the appeal" in Docket No. 07-0566, the pro forma adjustment to roll forward the depreciation reserve and ADIT is not warranted. (ComEd IB, p. 25) The AG provides a succinct discussion of ComEd's position on this issue and why it is without merit in this case. (AG IB, pp. 11-13) Staff agrees with the AG's characterization of the issue and urges the Commission to approve the adjustment to roll forward both Accumulated Depreciation and ADIT as of the date for which pro forma plant additions are allowed. The evidence shows that rolling forward ComEd's plant balances without also recognizing the contemporaneous offsetting decreases in the value of the existing investment, as ComEd proposes to do, would overstate ComEd's rate base. (Staff Ex. 1.0, pp. 10-15)

c. Accumulated Deferred Income Taxes (ADIT)

2. Construction Work in Progress

3. Specific Plant Investments

a. West Loop Project Repair Disallowances

ComEd maintains its position that the Commission should allow into rate base its $4.1 million cost to repair a failed high pressure fluid filled (HPFF) 138,000 volt cable, and Staff maintains its position that this expense was not prudently incurred. ComEd's position is that the cable failure was due to unprecedented human error that could not have been anticipated. ComEd specifically focuses on its selection of contractors and its supervision of the job site prior to placing the HPFF 138,000 volt cable into service. (ComEd IB, p. 27) ComEd claims its management cannot be blamed for an employee's error and that in recommending this disallowance: “Mr. Rockrohr would establish a standard of perfection that is untenable,” and that “so long as ComEd’s management directed matters responsibly, given what management knew at the time, there is no basis for disallowance.” (ComEd IB, p. 29)

However, ComEd’s continued focus on its selection of contractors and management of the job site prior to the time the HPFF 138,000 volt cable was energized should not distract the Commission from the fact that ComEd’s costs for this cable repair were not prudently incurred. Staff did not criticize ComEd’s selection of contractors, or its supervision of the job site prior to energizing the cable. Staff does not know, and considers it largely irrelevant, how [redacted] at the time ComEd initially energized the cable. The fact remains that ComEd imprudently left [redacted] for more than two years, despite the fact that ComEd could and should have easily identified and corrected [redacted] prior to cable failure. (Staff IB, p. 15)

There are several reasons Staff concluded that ComEd management should and could have taken steps to prevent the cable failure from occurring. Even though operating the cables without adequate insulating fluid would cause a short circuit and cable damage, ComEd’s management never [redacted] (Staff Ex. 6.0, p. 8; Staff IB, pp. 12-17) By May of 2008, [redacted] (ComEd Ex. 60, p.11), yet ComEd management did not act upon the inspectors' reports, and the cable eventually failed in November of 2008.

To explain away its [redacted], as required by ComEd's established procedures. (ComEd Ex. 33.0, p. 11) ComEd management's ignorance about facts it should have known[3], but claims it did not know, specifically [redacted], reinforces the fact that ComEd's $4.1 million dollar repair cost was avoidable and was not prudently incurred. (ComEd IB, p. 32; Staff IB pp. 15-17) ComEd further argues that even if ComEd's management had acted appropriately after [redacted], "there is no reason to believe that, by such time, the cable would not already have been seriously damaged." (ComEd IB, p. 32) This is clearly not the case. [redacted] The 138,000 volt cable did not fail until November of 2008, and could not reasonably have been expected to operate at 138,000 volts from February, or even

[3]Section 9-212 of the PUA provides in part that " 'prudent' means that at the time of certification, initiation of construction and each subsequent evaluation of any construction project until the time of completion, based on the evidence introduced in any hearings and <u>all information which was known or should have been known at the time</u>, and relevant planning and certification criteria, it was prudent and reasonable to conclude that the generating or production facility would be used and useful in providing service to customers at the time of completion. …" (220 ILCS 5/9-212)(emphasis added) ComEd witness McMahan testified in part that prudence "is a question of whether ComEd's management acted reasonably, given the information <u>it knew or should have known at the time</u>." (ComEd Ex. 33.0, p. 3)(emphasis added)

May, until November if it were seriously damaged at the time [redacted] (Staff IB, pp. 15-16)

In defense of the fact that ComEd's management imprudently placed in service a HPFF system design that provided no means to monitor [redacted], ComEd stated "a design like ComEd's is used confidently by numerous specialist engineers across the nation with countless years of experience with just these types of lines." (ComEd IB, p. 33) However, as Staff noted, ComEd actually named only one other utility that utilized this design. (Staff IB, p. 13)

In an attempt to support its position that costs for the HPFF 138,000 volt cable repair should be included in rate base ComEd argues because "The specific circumstances leading to this failure had never before occurred… [t]here was no reasonable basis to expect this type of error or the resulting cable failure." (ComEd IB, p. 31) This reasoning is flawed. Automobile mechanics know that if they operate an automobile for an extended period of time without any engine oil, they can expect the automobile engine to fail. Prudent automobile mechanics verify proper fluid levels to avoid engine failure; they do not ignore pools of fluid on the garage floor and then act surprised and plead ignorance when the engine from which the oil leaked fails. The fact that a HPFF 138,000 volt cable system like the one that ComEd installed cannot operate without adequate insulating fluid was well known, but ComEd's management chose to witness that fact for itself by ignoring opportunities to prevent the cable failure from occurring. (Staff Ex. 21.0, pp. 9-10)

Staff continues to recommend that the Commission disallow ComEd's $4.1 million repair cost from rate base.

b. Plymouth Court Feeders

c. Underground Cable

The Company mischaracterizes the AG and Staff proposal to reduce ComEd's rate base for this issue by arguing that it is based on the contention of a Staff witness in Docket No. 07-0566. (ComEd IB, p. 34) Both the AG and Staff base their proposals on the Commission's Final Order in that case. (Staff Ex. 1.0, pp. 16-17; AG/CUB Ex. 8.0, p. 6) The Company claims that the AG and Staff proposal supports the conclusion that otherwise escalating costs could never be recovered. (ComEd IB, p. 35) Plant-in-Service costs are evaluated during a rate case and Original Cost Determinations are made related to those costs[4]. The costs for plant in service disallowed in one case are therefore not, as a rule, relitigated in later rate cases. What is at issue here is ComEd's attempt to add back something that is no longer even recorded on its books because it was previously disallowed by the Commission. While the Company claims that new evidence presented in this case renders previously disallowed costs allowable, the mechanism for providing that new evidence would have been through rehearing in that case, not in a later rate case.

d. PORCB Costs

When it comes to the issue of the so-called PORCB costs, it appears that both ComEd and Dominion's positions are unreasonable and Staff recommends that the Commission not adopt either of those two positions.

Starting with ComEd's position, it is striking how ComEd wants to force the Commission to decide, in this Docket, an issue which it, in another Docket, argued

[4] No Original Cost Determination was made in Docket No. 07-0566 because a separate Delivery System Original Cost Audit was being conducted concurrently. However, that does not overturn the determinations made by the Commission in the Docket No. 07-0566 regarding specific plant additions.

should be decided at a later time. In Docket No. 10-0138 (ComEd's Rider PORCB investigation), ComEd stated that the PORCB cost estimates "were presented for informational purposes only and not for approval in this docket"[5] and that these costs will be subject to Commission review in the reconciliation proceedings.[6] Furthermore, even after it made its instant rate case filing, ComEd recognized, albeit not cherished, that the PORCB reconciliation proceedings are the venue for the Commission to decide whether certain costs are truly associated with the provision of Rider PORCB pursuant to Section 16-118. In August 2010, ComEd stated the following:

> With the particularly long reconciliation periods proposed in this docket by both Staff and ComEd; no proposed time limit on the reconciliation periods themselves; and the fact that reconciliation proceedings are notoriously long and drawn out, even when there are no issues, it will be several years before the Commission rules on whether an allocation of a particular cost to RESs under Rider PORCB is actually recoverable through the rider mechanism. During this time period, ComEd may forgo opportunities to recover such costs through other means, such as delivery service rate cases. As a result, to the extent there are any disagreements in the future as to whether certain costs that are reasonable and prudently incurred are properly allocated to RESs, recovery of some or all of these costs may be lost or trapped forever. Therefore, there is a clear incentive for ComEd to allocate and recover its costs wisely. (Docket No. 10-0138, ComEd Ex. 6.0, p. 18-19)

However, ComEd's Initial Brief in this proceeding now argues that the Commission cannot make a decision on the allocation of all of the costs labeled PORCB by ComEd in the PORCB reconciliation proceeding but instead should make the decisions in this proceeding.[7] Additionally, ComEd actually seems to fault the parties for not reviewing the entirety of its so-called PORCB costs in this proceeding[8] and

[5] Docket No. 10-0138, ComEd Ex. 7.0, p. 3
[6] *Id*., p. 4
[7] ComEd IB, pp. 37-40
[8] *Id.*, pp. 37-38

seems to explicitly request that the Commission not only decide the allocation issue but also find that the costs are "prudently incurred, reasonable in amount, and used and useful."[9] In fact, ComEd states that "no Staff or intervenor witness challenged the prudence or reasonableness of the PORCB project costs."[10] Staff recommends that the Commission not make a prudency finding of all of ComEd's PORCB costs in this case.

Staff continues to recommend that the Commission perform a detailed review of ComEd's costs during the PORCB reconciliation proceeding. Such a review will allow the Commission to decide whether all of the costs have indeed been prudently incurred and it will allow the Commission to decide whether there are some capital costs that are more appropriately recovered through future base rates because they are not directly associated with the provision of PORCB pursuant to Section 16-118.[11] Having said that, Staff cannot ignore the apparent agreement among some parties regarding the treatment of two specific costs incurred by ComEd and the request that the Commission make a decision in this Docket on the proper treatment of the Customer Data Warehouse ("CDW") and Retail Office (market settlement system) costs. ComEd states that "[…] these enhanced functions are not required as such to effectuate the purchase of receivables and place associated RES supply charges on customers' bills […]"[12] Additionally, ComEd argues that its prior treatment of these specific costs is consistent with recovering them through base rates[13]. Staff does not take a position on this issue given that it did not have a chance to respond to this change in position by ComEd in testimony. Staff recommends, however, that if the Commission decides to give rate

[9] *Id.*, p. 40
[10] *Id.*, p. 39
[11] Staff Ex. 16.0, pp. 30-31
[12] ComEd Ex. 61.0 Rev., p. 9
[13] ComEd IB., p. 38

base treatment to Customer Data Warehouse ("CDW") and Retail Office (market settlement system) costs (i.e., determine the costs to not be recoverable under the PORCB rider), the Commission will need to make it clear in the Order in this case that it rules solely on the inclusion of these two specific items, totaling approximately $6.8 million according to ComEd.[14] To be more specific, the Commission should clearly state that it does not make a finding on the remainder of the PORCB costs and that allocating these specific costs to rate base does not indicate that the Commission somehow foregoes its cost review of the remainder of the PORCB costs during the PORCB reconciliation proceedings in any way.

Turning to Dominion's position, Dominion now argues that *all* of the PORCB costs should be socialized and recovered through base rates except those specifically identified as strictly applicable to POR customers - $2,474,211[15]. (Dominion IB, p. 16) This is nothing more than an effort to rehabilitate the arguments it put forth that were rejected in Docket No. 10-0138. (Staff Ex. 16.0, pp. 31-33) It is unclear how the total amount included in the Dominion Initial Brief, $18,567,728[16], relates to the total amount used for the basis of ComEd's alternate position, $18,414,000[17].

Further, Dominion argues that "the real task should be to verify which POR costs are incremental because only those costs can be placed in the POR discount rate pursuant to Section 16-118(c). ComEd must propose a different mechanism to recover costs associated with UCB." (Dominion IB, p. 7) More importantly, Dominion's entire line of reasoning seems to rest on its rather surprising new claim that ComEd's current

[14] *Id.*, p. 38
[15] This appears to be a change from the position put forth in Dominion Ex. 1.0, p. 13, where Mr. Christ proposed that ComEd be limited to recovery of $2 million through base rates.
[16] ComEd Ex. 61.0 WP-4
[17] ComEd Ex. 56.7

"PORCB tariff does not require an ARES that uses consolidated billing to also use POR." (Dominion IB, p. 6) That claim, however, is incorrect. Not only does the tariff make it clear that Rider PORCB requires the ARES to use UCB and POR, there was never any question in the workshop process leading up to Docket No. 10-0138, as well Docket No. 10-0138 itself, that ComEd's proposed, and now effective, Rider PORCB is a combination service. An ARES wanting to use UCB is required to sell its receivables to ComEd and vice versa. This, of course, is the same approach that was taken for Ameren's UCB/POR service (Docket No. 08-0619-0621 (Cons.)). Dominion is correct that Sections 16-118(c) and (d) are separate requirements. However, as stated by Staff in Docket No. 10-0138, "it is not clear at this point what level of demand there will be for services other than ComEd's proposed PORCB service and what additional changes to ComEd's systems and processes might be necessary. However, it is certainly possible that those future services will utilize some of the modifications to ComEd's systems and processes that were necessary for the provision of the PORCB service in the instant filing." (Docket No. 10-0138, Staff Ex. 1.0, p. 4) Further, Staff stated that "future tariff filings pursuant to Public Act 95-0700 could impact the level of the proposed Consolidated Billing ("CB") Adjustment and the Purchase of Receivables ("POR") Adjustment, as well as the PORCB discount rate." (*Id.*) Simply put, at this time there is no mechanism for the Commission to assign costs to "POR-only" customers. As such, Dominion's request is impossible to fulfill at this time.

Also as Staff explained in its Initial Brief (Staff IB, pp. 20-22), care must be taken in this proceeding to coordinate any amount approved for recovery through base rates in the Commission's final order in this proceeding with the amounts ComEd includes in its informational filing for the CB adjustment under Rider RCA so as to prevent any double recovery. Staff continues to recommend that the PORCB costs, except for the CDW and Retail Office cost on which Staff does not take a position, be disallowed from the delivery services revenue requirement in this case, as discussed in Staff's Initial Brief.[18] However, ComEd's alternative proposal is not reflected in its latest revenue requirement.[19]

e. Allocation of G&I Plant

f. Other

4. Cash Working Capital (CWC)

ComEd, at the surrebuttal stage, requested a CWC requirement of $67.741M (ComEd Ex. 55.1, Sched. B-1 Revised, p. 1, line 9). This amount is based on the results of a lead/lag study prepared by Company witness Subbakrishna (ComEd Exs. 57.0, 57.1, 57.2 and 57.3) and reflects updates from the Company's final revenue requirement (ComEd Ex. 55.1, Sched. B-8). Both the Company and Staff agree that the final CWC requirement will be based on the revenue requirement that is ultimately approved by the Commission in this proceeding. (Staff Ex. 3.0R, pp. 37-38; ComEd Ex. 31.0, p. 5)

However, a few issues concerning the lead/lag study remain contested between the Company and Staff. Those issues include lead/lag days associated with certain pass-through taxes and expense lead days associated with intercompany expenses, as more fully described below:

1) Energy Assistance Charges/Renewable Energy pass-through tax ("EAC/REC") for which Staff proposes 0 revenue lag days and

[18] Staff IB, pp. 19-22
[19] Confidential Staff Group Cross Ex. 1, p. 222

35.21 expense lead days as opposed to the Company's proposed 42.11 revenue lag days and 26.11 expense lead days;

2) Gross Receipts/Municipal Utility pass-through Tax ("GRT/MUT") for which Staff proposes 0 revenue lag days and 44.21 expense lead days as opposed to the Company's proposed 42.11 revenue lag days and 26.11 expense lead days; and

3) Intercompany expenses for which Staff proposes 45.35 expense lead days as opposed to the Company's proposed 30.35 expense lead days. (ComEd Ex. 57.0, pp. 2-3)

<u>Revenue Lag and Expense Lead Days for Pass-through Taxes</u>

The Company asserts in its Initial Brief that Staff's proposal to change the revenue lags and expense leads for certain taxes does not match the reality of when these amounts are required to be and are paid by ComEd to the taxing authorities versus when they are collected from customers. (ComEd IB, p. 44) However, the evidence clearly demonstrates that it is the Company's position that is inconsistent with the requirements of the underlying statutes that impose the taxes. The Commission should accept Staff's position, which is based on a plain reading of the statutes, as more fully explained below.

<u>Revenue Lag and Expense Lead Days for EAC/REC Pass-through Taxes</u>

Staff's adjustment to the expense lead days associated with EAC/REC pass-through taxes is based on language contained in the statute governing the Energy Assistance Charge ("EAC") (305 ILCS 20/13) which provides that a public utility engaged in the delivery of electricity shall assess each of its customer accounts a monthly charge. (Staff IB, pp. 22 – 24) The utility shall remit all moneys received as payment to the Illinois Department of Revenue by the 20th day of the month ***following the month of collection***. The statute requires ComEd to remit these pass-through taxes **after** they have been collected from customers. Therefore, there is no revenue lag associated with these collections. However, there is an expense lead because the Company has the use of these monies until they are remitted to the State of Illinois. Staff calculated an expense lead time of 35.21 days based on the assumption that revenues (including the collection of pass-through taxes) would occur on average, at the midpoint of a given month, 15.21 days, as calculated by Company witness Subbakrishna (ComEd Ex. 7.0, page 14) and accepted by Staff, plus the number of days in the month prior to remittance, 20 days. The sum of these two amounts (15.21 plus 20) equals the average number of expense lead days for which the Company has the use of EAC/REC pass-through taxes, 35.21 days. (Staff Ex. 3.0R, p. 40)

The Company opposed Staff's calculation of expense lead days and instead argues that it remits the EAC/REC pass-through taxes 16 days before it collects them (revenue lag of 42.11 days minus expense lead of 26.11 days produces a net revenue lag of 16 days). The Company produces this counter-intuitive result by starting the clock, not when the taxes are collected, but at the end of the month for which the tax relates, regardless of when those taxes are collected from customers. (ComEd Ex. 31.0, p. 16) In so doing, Mr. Subbakrishna essentially utilized accrual basis accounting to derive a cash basis impact. (Staff Ex. 18.0, p. 33)

This result is counter-intuitive based on a plain reading of the statute. Regardless of the methodology used by Mr. Subbakrishna to derive a net revenue lag of 16 days, the language in the law clearly states that these pass-through taxes are not due until after they are collected from ratepayers. Furthermore, it is undisputed that ComEd simply acts as a tax collector and tax remitter. (ComEd Ex. 31.0, pp. 15-16) Therefore, Staff urges the Commission to accept Staff's calculation of zero revenue lag days and 35.21 expense lead days for EAC/REC pass-through taxes, which is consistent with both the statute and the reality of the cash flows.

Revenue Lag and Expense Lead Days for GRT/MUT Pass-through Taxes

As described in testimony and Staff's Initial Brief (Staff IB, pp. 24-25), Staff adjusted the GRT/MUT pass-through taxes based on the language contained in the City of Chicago's ordinance. This ordinance requires ComEd to file a monthly tax return to accompany the remittance of such taxes, due by the last day of the month following the month during which such tax is ***collected***. The ordinance requires ComEd to remit these pass-through taxes after they have been collected from customers. Accordingly, there is no revenue lag associated with such collections. Moreover, there is an expense lead arising from the fact that the Company is not required to remit these taxes until after they are collected, thereby having the use of these monies until such time as they are remitted to the City of Chicago or other municipality. Staff calculated an expense lead time of 44.21 days based on the assumption that revenues (including the collection of pass-through taxes) would occur on average, at the midpoint of a given month, 15.21 days, as calculated by Company witness Subbakrishna (ComEd Ex. 7.0, p. 14) and accepted by Staff, plus a full 29 days prior to remittance in the month after collection. Staff asserts that the sum of these two amounts (15.21 plus 29) equals the average number of expense lead days for which the Company has the use of GRT/MUT pass-through taxes. (Staff Ex. 3.0R, pp. 41-42)

Because Mr. Subbakrishna made the same arguments against Staff's calculation of GRT/MUT as he made against Staff's calculation of EAC/REC, Staff will not repeat its EAC/REC arguments here. Staff's response is the same as described previously. Accordingly, Staff urges the Commission to conclude that the CWC calculation for

GRT/MUT pass-through taxes should reflect zero revenue lag days and 44.21 expense lead days, as supported by Staff.

<u>Expense Lead Days Associated with Intercompany Expenses</u>

The Company asserts in its Initial Brief that Staff's proposal to change the expense leads for intercompany billings is arbitrary and does not match the reality of when these amounts are paid by ComEd. (ComEd IB, p. 44) The Commission should accept Staff's position, which is based on sound ratemaking principles of reasonableness and avoidance of cross-subsidization, as more fully explained below.

The Commission should accept Staff's proposed adjustment to increase the number of expense lead days for intercompany expenses from 30.35 to 45.35. These payments to affiliates are within the Company's discretion and a higher CWC charge for early payment represents a form of cross subsidization that is generally prohibited. Initially, Staff proposed to increase the intercompany expense lead days to 64.34 days to be consistent with the expense lead days for nonaffiliated vendors utilized for other O&M expenses in the Company's CWC calculation. However, Staff reduced it to 45.35 days to recognize that non-affiliated vendors are paid later than affiliated vendors partly because of wide variations in the non-affiliated vendors' billing and remittance requirements. (Staff Ex. 18.0, pp. 30-31) Staff's final proposal utilizes the midpoint of the service month, 15.35 days, and adds 30 days for payment. This length of time more closely approaches the expense lead time for non-affiliates, while recognizing that affiliates invoice charges for their services promptly and on a monthly basis. (Staff Ex. 18.0, p. 31)

The Company argued for 30.35 expense lead days for intercompany expenses based on "billing and settlement procedures contained in an annex to ComEd's General

Service Agreement ("GSA"), i.e., payments due on or around the 15th of the month following the provision of service." (ComEd Ex. 7.0, p. 21) This is insufficient to support the Company's position for a number of reasons.

First, because the timing of payment to affiliated interests is within the Company's discretion, it would be improper to charge ratepayers a higher CWC requirement in order to compensate ComEd for paying its affiliates earlier than non-affiliated vendors are paid. This would constitute a form of cross-subsidization that is inappropriate. (Staff Ex. 3.0R, pp. 39-40) Second, Staff is not aware of any "annex" to ComEd's GSA, as referenced by Company witness Subbakrishna. The GSA itself calls for preparation of monthly invoices, but appears to be silent as to the timing of remittance. Again, the timing of payment remains within the Company's discretion. (Staff Ex. 18.0, p. 31) Accordingly, Staff urges the Commission to accept Staff's proposed number of expense lead days, 45.35, based on the fact that such payments are within the Company's discretion and allowing a higher CWC charge for early payment represents a form of cross subsidization that is generally prohibited in affiliated interest agreements.

5. 2009 Pension Trust Contribution

ComEd included as an addition to rate base a deferred debit of $92.591M, which it calls a pension asset. This deferred debit represents the jurisdictional portion of a discretionary cash contribution by ComEd to the Exelon pension plan that covers ComEd employees. (Staff Ex. 3.0R, p. 4) Staff opposed the Company's treatment of the 2009 pension contribution as an addition to rate base. Instead, Staff proposed to allow cost recovery associated with the contribution only to the extent there is a corresponding ratepayer benefit. Staff's proposal, which is in the spirit of the Commission's Order in Docket No. 05-0597, would limit recovery through the operating statement to an amount of costs up to (but not greater than) the amount of the corresponding savings (i.e., ratepayer benefit) that is reflected in the 2009 test year. (Staff Ex. 3.0R, pp. 3-15; Staff Ex. 18.0, pp. 4-9)

The Company argued that Staff's alternative proposal would disallow a significant portion of the costs based on a novel and unsupported limitation. Specifically, the Company asserted that limiting the recoverable costs to the amount by which pension expense is immediately lowered would result in a $1.4M reduction to the revenue requirement. (ComEd IB, p. 46)

Staff opposes the Company's treatment of the discretionary 2009 pension contribution as an increase to rate base because that would cost ratepayers an amount equal to the approved rate of return multiplied by the $68.750M net pension asset ($92.591M discretionary 2009 contribution minus accumulated deferred income taxes of $23.841M), without regard to the amount of benefit to ratepayers. (Staff Ex. 18.0, Schedule 18.01) The expected benefit that the 2009 pension contribution may have on 2010 pension expense and rate base shows that there is an incremental cost to ratepayers using the treatment proposed by the Company. The cost is calculated to be $851,000 ($7,899,000 - $7,048,000) using Staff's proposed rate of return under the analysis provided by ComEd witness Houstma. (ComEd Ex. 29.6, p. 1) Accordingly, to the extent that ratepayers benefit from the prepayment in the determination of rates in this case, a cost that equals the ratepayer benefit of the prepayment in the test year should be allowed for recovery. (Staff Ex. 18.0, p. 8) Staff's proposal would not be inconsistent with the treatment allowed by the Commission in Docket No. 05-0597.

(Order on Rehearing, December 20, 2006, p. 28) Therefore, it does not constitute a novel approach. Moreover, even if the Commission agrees that such a prepayment is prudent, the cost to ratepayers must also be reasonable. Staff's proposal ensures the reasonableness of the cost by limiting recovery to the amount of ratepayer benefits.

6. Capitalized Incentive Compensation

Staff proposed to remove capitalized costs of incentive compensation disallowed by the Commission in previous dockets and the Company removed these costs in rebuttal testimony. This issue is no longer contested. (Staff Ex. 3.0R, pp. 25-26; Staff Ex. 18.0, pp. 3, 15) The portion of capitalized incentive compensation associated with the 2009 test year is discussed in Section V.C.1.

7. Customer Deposits

The following issues remain contested concerning the ratemaking treatment of customer deposits:

a. Utilization of a December 31, 2009 balance rather than a thirteen-month average as proposed by the Company; and
b. Utilization of a total Company balance rather than a jurisdictional balance as proposed by the Company.

December 31, 2009 Balance vs. Thirteen Month Average

Staff witness Tolsdorf (Staff Ex. 19.0, p. 5) along with AG/CUB witness Brosch (AG/CUB Ex. 7.0, p. 31) proposed the use of a 2009 year-end balance for customer deposits. The Company's historical customer deposit balance has demonstrated a consistently increasing trend from 2006 through 2009.

ComEd rejects the rationale offered by Staff witness Tolsdorf and AG/CUB witness Brosch and argues that, "No party has presented any evidence showing that the three year ‘increasing trend’ posited by Messrs. Brosch and Tolsdorf is likely to continue in the future…” (ComEd IB, p. 50) Staff’s response to the Company’s argument is that first, by this statement the Company acknowledges that the increasing trend exists and second, it is the Company that bears the burden of proof and the Company has presented no evidence that the increasing trend will **not** continue into the future.

Total Company Balance vs. Jurisdictional Balance

Staff witness Tolsdorf (Staff Ex. 19.0, p. 5), along with AG/CUB witness Brosch (AG/CUB Ex. 1.0, pp. 38-39; AG/CUB Ex. 7.0, pp. 29-30), proposed the total Company balance of customer deposits be considered in rate base as opposed to the Company proposed jurisdictional balance. The Company maintains that the customer deposits collected are based on the customer’s total bill which includes energy and supply costs as well as delivery service costs. (ComEd Ex. 55.0, p.26; ComEd IB, pp. 50-52) ComEd argues that the portion of customer deposits related to energy and supply are energy and supply costs and should not be considered for distribution ratemaking. However, if these deposits are in fact energy and supply costs, then the Company should not be allowed to recover these costs through its delivery service tariffs. The total Company balance of customer deposits represents a cost-free source of capital for the Company. The total Company balance of customer deposits are collected pursuant to the Company’s delivery service tariffs. Therefore, the total Company balance of customer deposits should be considered in the determination of the Company’s delivery service rates.

8. Material and Supplies Inventories

The following issues existed at the filing of Initial Briefs concerning the determination of a balance for materials and supplies included in rate base:

a. Utilization of a thirteen-month average balance rather than a year-end balance as proposed by the Company; and
b. Reduction of the balance by associated accounts payable.

However, in order to narrow the issues in this proceeding, and without conceding the validity of its position, Staff accepts ComEd's proposed year-end balance for materials and supplies as reasonable.

<u>Reduction of Balance by Associated Accounts Payable</u>

The Company argues against Staff's proposed reduction of materials and supplies by the associated accounts payable. The Company maintains that the accounts payable balances are a form of cash working capital which is measured through the cash working capital calculation that is based on the lead-lag study. (ComEd IB, p. 52) However, the Company is incorrect. The cash working capital calculation has not captured the benefit of accounts payable associated with the balance sheet portion of materials and supplies. The study utilized by the Company applies the lead-lag days only to revenues and expenses. The December 31, 2009 balance of materials and supplies proposed by the Company are balance sheet items and have yet to be expensed. The lead-lag days have not been applied to these balance sheet items. The lead-lag days have only been applied to the materials and supplies that have been *expensed.* Thus, the appropriate ratemaking treatment is to reduce rate base by these payables. (Staff Ex. 4.0, pp. 3-4; Staff Ex. 19.0, pp. 3-4)

The Company also argues that there is a need for consistency when determining the appropriate accounts payable balance associated with materials and supplies.

(ComEd IB, p. 52) Staff agrees with the Company and proposes the 2009 year-end balance of accounts payable be used in conjunction with the 2009 year-end balance of materials and supplies as proposed by the Company and accepted by Staff.

The balance of materials and supplies included in rate base must be adjusted to reflect Staff's acceptance of the Company's year-end proposal. The calculation is based on the year-end balance of materials and supplies ($71,326,000) minus the year-end balance of accounts payable ($13,496,000) with the difference multiplied by the jurisdictional allocation percentage of 37.27%. (ComEd Ex. 29.1, Schedule B-8.1, pp. 1-2) The result is a jurisdictional materials and supplies balance net of accounts payable of $21,522,000. The Company has proposed a balance of $26,586,000. Therefore Staff's adjustment is a ($5,064,000) reduction to materials and supplies.

9. Severance Cost – Regulatory Debit

Staff witness Tolsdorf proposed an adjustment (Staff Ex. 4.0, p. 8; Staff Ex. 19.0, pp. 9-11) to reduce the severance cost-regulatory debit associated with the termination of 108 management employees in 2009. Staff's adjustment offsets the cost of severance incurred by the Company with the annual savings achieved by the Company in the form of reduced payroll expense. The Company incurred approximately $12.8 million in severance costs which resulted in approximately $6.3 million in annual savings. Those annual savings to the Company will total $11.6 million by the time new rates from this proceeding go into effect. (Staff Ex. 19.0, Schedule 19.04, p. 2) The Company's proposed regulatory debit would lead to a $24.4 million dollar windfall for the Company ($11.6 million in savings + $12.8 million in cost recovery). Staff maintains its position that the expense incurred should be offset by the savings achieved and that only the difference should be amortized over three years.

The Company argues that Staff's position is single-issue ratemaking and cites to the Commission's Order in Docket No. 08-0312. (ComEd IB, p. 75) However, the facts of the two cases are distinguishable. In Docket No. 08-0312, the Commission rejected an adjustment that attempted to defer savings resulting from an event that occurred in between rate cases in a year prior to the test year. In the current case, Staff witness Tolsdorf calculated the net regulatory asset that would result from an event that occurred in the test year, where all the elements of the revenue requirement are considered together, considering when the new rates will go into effect. (Order, Docket No. 08-0312, January 12, 2010, p. 3)

D. Rate Base (Total)

See Appendix A.

V. Operating Expenses

A. Overview

B. Potentially Uncontested Issues

State Income Tax Adjustment

The Company claims that Staff Cross Ex. 15, DLH 21.01 Revised reflects the mechanics of making the change from 7.3% to 9.5% for state income tax. (ComEd IB, p. 88) Staff's review of the calculations on DLH 21.01 Revised, Attach 2 uncovered certain errors in the calculation. First and foremost is that the calculations assume the Company assumptions to Cost of Capital (lines 1 through 6), Uncollectible Expense (line 8), and Rate Base (line 16). Therefore, any amounts that are derived using those lines are also incorrect to reflect an adjustment to Staff's position. In addition, the Company Rebuttal Pro Forma Operating Income and Rebuttal Proposed Increase were not adjusted to reflect the new state tax rate.

Since the filing of Staff's Initial Brief, certain inaccuracies have been determined in Staff's calculation to reflect the updated State Income Tax Rate. Having worked through the calculations with the Company, Staff believes the impact of the change in the state income tax rate is correct in Appendix A attached to this Reply Brief.

1. 2009 Amortization Adjustment of Existing Regulatory Assets

2. Outside Professional Services – Jacobs Consulting (Staff)

3. Advertising Expense (Staff)

4. Investment Tax Credit Amortization (AG)

5. Photovoltaic Pilot Costs

C. Potentially Contested Issues

1. Incentive Compensation Cost and Expenses

The Company contests Staff's proposed adjustment to disallow approximately 17% of costs in the Company's Long Term Incentive Plan – Cash ("LTIP – Cash") and 100% of costs in the Company's Long Term Incentive Plan – Restricted Stock ("LTIP – Stock"). (ComEd IB, pp. 54-58)

<u>LTIP – Cash</u>

Staff witness Pearce maintains that two of three goals (within a metric that is weighted at 25 percent) are not recoverable in delivery services rates; therefore, she proposes to disallow 17 percent of costs (i.e., two-thirds of 25 percent) related to the LTIP – Cash in the 2009 test year. The specific goals for which Ms. Pearce proposes to disallow related costs are: achievement of specific emissions targets and Smart Grid.

Staff witness Pearce contends that achievement of specific emissions targets is a goal not related to delivery services. She further contends that the Commission has not approved Smart Grid costs for recovery in base delivery services rates; therefore, the cost of achieving this goal is not recoverable either. (Staff Ex. 18.0, p. 19)

In its Initial Brief (ComEd IB, p. 55-58), the Company cited the surrebuttal testimony of its witness Mr. Trpik, who asserted that both of these goals are specific, operational metrics of the type the Commission has repeatedly approved as appropriate bases for recoverable incentive compensation expenses. He further contended that both goals provide benefits to customers and are appropriate for a delivery services company to try to achieve. (ComEd Ex. 54.0, p. 6)

Staff strongly disagrees with Mr. Trpik's contention that the two goals at issue are the type of operational metrics the Commission has approved *in delivery services rates.* As the Commission is well aware, an underlying premise for recovery of any cost through delivery service rates is that *the cost must relate to the provision of delivery services*. Another premise underlying cost recovery is that the cost must be ordinary and necessary, and prudently incurred for the provision of delivery services. Other than Mr. Trpik's bald assertion that the achievement of emissions targets is a worthy goal for a delivery services company, ComEd provides no support for recovery of these costs through delivery service rates. A plain reading of the description of this metric would indicate that emissions relate to power generation, not delivery services. Accordingly, achievement of a goal related to power generation would not be appropriate for recovery in a delivery service rate case, as Staff witness Pearce contends.

The second goal at issue, related to implementation of Smart Grid, has not yet been approved for recovery in the delivery service rates. Again, Staff notes that the

Company provided no support for recovery of these costs other than the contention of Mr. Trpik, as noted previously. (ComEd Ex. 54.0, p. 6) Recoverable costs must be ordinary and necessary, and prudently incurred for the provision of delivery services, as well as used and useful. Although the Company has requested permission to recover the cost of Smart Grid in the instant proceeding via the bridge tariff, the Commission has not yet approved these costs for recovery in base delivery service rates. Accordingly, the Company is attempting to use circular reasoning by using its request for recovery of Smart Grid costs in the instant proceeding to support its position that achievement of Smart Grid goals in the incentive compensation plan are ordinary, necessary and prudently incurred costs that are properly recoverable in delivery service rates.

For all these reasons, Staff urges the Commission to accept Staff's disallowance of 17 percent of the costs related to the LTIP – Cash Plan, as proposed by Staff witness Pearce. (Staff Ex. 18.0, Schedule 18.04)

<u>LTIP – Restricted Stock Plan</u>

Staff witness Pearce proposed to disallow 100 percent of costs related to the Exelon 2009 Key Manager Restricted Stock Award, referenced herein as the LTIP – Restricted Stock Plan. As noted by the Company (ComEd IB, p. 58), Staff disallowed these costs because the objectives of the plan are to further the financial and operational success of Exelon, not ComEd. Moreover, Staff asserted that this plan provided no benefits to ComEd ratepayers.

The Company responded that the LTIP – Restricted Stock Plan provides the same benefits as the LTIP – Cash because compensation in the form of restricted stock incentivizes managers to stay focused on the long-term health of the business. Staff responds that the "business" referred to by the Company would be Exelon, not ComEd, since managers receive shares of Exelon restricted stock, not ComEd. Again, Staff notes that the financial success of Exelon is favorably impacted by ComEd rate increases. Additionally, ComEd made no showing that Exelon's financial and operational success directly benefits ComEd ratepayers. (Staff Ex. 18.0, p. 20)

Finally, the Company argues that denial of this cost would require ComEd to adjust its Key Manager compensation program to provide an alternative form of compensation but would lose the linkage to long-term performance. Accordingly, customers would bear the same cost, but would not be likely to receive the same level of benefit. (ComEd IB, p. 58) Again, Staff notes that the Company could modify its plan to align the interest of management and ratepayers, as Mr. Trpik asserts has been done with the AIP for Senior Vice Presidents and higher level executives. (Staff Ex. 18.0, p. 21) If the Company chooses not to do so, there is no basis for cost recovery since the plan does not conform to the well-established standards of the Commission.

Based on the evidence presented, it is clear that the LTIP – Restricted Stock Plan is designed to align the interests of ComEd's key managers with those of Exelon shareholders. Accordingly, there is no evidence that this program provides any direct benefit to ComEd ratepayers. Therefore, Staff urges the Commission to support Staff's proposed disallowance of 100 percent of the costs related to the LTIP – Restricted Stock Plan.

2. Rate Case Expenses

a. Rate Case Expenses of the Instant Case

ComEd contends it has presented extensive data and other information more than sufficient to show that its requested rate case expenses are reasonable and meet the standards of the new Section 9-229 of the Act, and that the Commission should allow the full $8.5 million requested, amortized over three years. (ComEd IB, pp. 63-64) Staff's Initial Brief succinctly describes Staff's adjustments to reduce the $8.5 million, and those arguments will not be repeated here. (Staff IB, pp. 39-41)

AG/CUB advocate a greater disallowance than Staff, relying on a belief that the new Section 9-229 requires a greater level of scrutiny than in past Commission decisions regarding the justness and reasonableness of rate case expenses. (AG IB, p. 50) The AG further criticizes Staff's examination of ComEd's proposed costs as cursory. (AG IB, p. 55) Staff disagrees on both points. Section 9-229 requires <u>the Commission</u> to "specifically assess the justness and reasonableness of any amount expended by a public utility to compensate attorneys or technical experts to prepare and litigate a general rate case filing" and requires the Commission to expressly address the issue in the Commission's final order. Staff correctly pointed out in direct testimony that it is the Company's burden, not Staff's, to make the showing of justness and reasonableness of its rate case expenses. (Staff Ex. 2.0, p. 14) Staff conducted a thorough, not cursory, analysis of ComEd's requested rate case expenses in total, including requesting supporting documentation including invoices, requests for proposals, engagement letters, and comparing the proposed expense to prior cases. (Tr., January 18, 2011, pp. 1942-1944)

CUB argues that ComEd has not provided information with the level of specificity required to make the Section 9-229 determination "such as failing to turn over the hours charged in order to determine the reasonableness of attorney fees." (CUB IB, p. 25) There is no requirement in Section 9-229 that a line by line assessment or level of documentation as suggested by AG/CUB is mandated in order for the expenses for attorneys and technical experts to prepare and litigate a general rate case filing to be specifically assessed for their justness and reasonableness. What is simply required by Section 9-229 is that expenses for attorneys and technical experts to prepare and litigate a general rate case filing must be specifically assessed by the Commission, which Staff has done in this docket. It is not up to the AG and CUB but rather the Commission to determine whether the evidence provided by ComEd and any other parties allow the Commission to "specifically assess the justness and reasonableness of any amount expended by a public utility to compensate attorneys or technical experts to prepare and litigate a general rate case filing." (220 ILCS 5/9-229)

b. Alternative Regulation Case (Alt. Reg.)

3. Administrative and General (A&G) Expenses

a. Exelon Way Severance Amortization

b. Accounts 920-923

c. Pension Costs

i. Recovery of Actuarially-Determined 2010 Pension and OPEB Costs

ii. 2005 Pension Funding Cost Recovery

The Commission should accept Staff's adjustment to reduce the amount of recovery for the 2005 pension contribution due to the passage of time. (Staff Ex. 3.0R, pp. 16-18; Staff Ex. 18.0, pp. 9-12) The Company's proposal effectively treats this as a permanent investment that will never decline, even though the Company itself acknowledges that the contribution does not exist in perpetuity and will decrease over time. (ComEd Ex. 55.0, p. 14)

The Order on Rehearing in Docket No. 05-0597 allowed ComEd to recover an imputed debt return of 4.75% on the 2005 jurisdictional pension contribution in an annual amount of $25.3M in operating expenses. Although the Order on Rehearing in Docket No. 05-0597 permitted the recovery of these costs, it did not specify how long the Commission intended such costs to be reflected in utility rates. (Order on Rehearing, Docket No. 05-0597, December 20, 2006, p. 28) Accordingly, Staff proposed to reduce the amount of cost reflected in the 2009 test year for recovery of the 2005 pension contribution. Staff reduced the recovery related to the pension contribution based on the principle that the underlying debt (as more fully described in "Alternative 3" of the Order on Rehearing in Docket No. 05-0597) balance will decline over time and with it, the related interest thereon.

The Company asserts that Staff's presumption of diminishing debt is both unsupported and unrealistic. (ComEd IB, p. 69) To support this assertion, the Company addresses the actual debt that is issued and outstanding by the Company today, in complete disregard for Alternative 3 that was selected by the Commission as the basis on which the original $25.3M of cost recovery was calculated in Docket No. 05-0597

(Order on Rehearing, p. 28). The Company's argument misses the point because it focuses on actual debt issuances rather than the imputed cost of the contribution itself. By disregarding the hypothetical Alternative 3, which is the only basis for **any** amount of cost recovery (allowed by the Commission in Docket No. 05-0597 in its Order on Rehearing), the Company can ignore the fact that the amount of cost recovery will diminish over time, as the underlying 5-, 10- and 30-year bonds mature. Staff's calculation estimates the average outstanding term of the hypothetical underlying bonds with maturities of 5, 10, and 30 years, as more fully described in the hypothetical scenario selected under Alternative 3. (Docket No. 05-0597, ComEd Ex. 52.15) Based on this calculation, Staff estimates that approximately 25% of the average term of debt assumed to finance the 2005 pension contribution would have been recovered between the effective date of the rates established in Docket No. 05-0597 (January 2007) and the effective date of rates established in the instant proceeding (June 2011). Accordingly, in test year 2009 Staff proposes to reflect 75% of the original $25.078M cost approved in the Order on Rehearing in Docket No. 05-0597, or approximately $18.749M. (Staff Ex. 18.0, Schedule 18.02)

The Company further asserts that the Company often refinances its debt at maturity. (ComEd IB, p. 69) This too is irrelevant because there is no basis under the scenario selected by the Commission in Docket No. 05-0597, to assume that any of the debt described in Alternative 3 would be refinanced. Staff simply acknowledges that the entire balance of debt would not be outstanding for a full 30-year period under Alternative 3. Accordingly, Staff's adjustment seeks to calculate a reasonable amount of cost that would be incurred by the Company in the 2009 test year, based on the information contained in Alternative 3.

Finally, the Company mischaracterizes the issue raised by Staff, instead describing the treatment of pension assets. (ComEd IB, p. 69) Again, this argument is irrelevant to the issue raised by Staff. The issue does not concern treatment of the 2005 pension contribution itself, but rather the amount of cost recovery associated with the 2005 contribution in the 2009 test year, to the extent permitted by Alternative 3. As the Commission is well aware, the Company's request to include the 2005 pension contribution as a pension asset in rate base was **denied**. Instead, the Commission utilized Alternative 3 as the cost recovery mechanism that was ultimately approved in Docket No. 05-0597. (Order on Rehearing, December 20, 2006, p. 28) The resulting amount, $25.1M, was also reflected in the Company's operating statement in its next rate case, Docket No. 07-0566 and approved by the Commission, possibly because no witness challenged this treatment. (Tr., January 20, 2011, pp. 2557-2558) In the current proceeding, Staff witness Pearce has challenged the Company's inclusion of the full amount that was approved in Docket No. 05-0597. The issue now before the Commission concerns the application of Alternative 3 to the 2009 test year.

The proposal put forth in Staff Ex. 18.0, Schedule 18.02 recognizes that the basis for cost recovery of the 2005 pension contribution under Alternative 3 was a series of 5, 10, and 30 year bonds. Given that five years have passed since the Commission approved recovery of 2005 pension contribution costs, it is necessary to address the application of Alternative 3 to the 2009 test year. Accordingly, Staff urges the Commission to accept Staff's proposal to reduce the amount of cost recovery associated with the 2005 pension contribution.

d. Wages and Salaries Pro Forma Adjustment

The Commission should accept Staff's proposed adjustment to reduce the amount of the Company's pro forma adjustment for 2010 wages and salaries increases (Staff Ex. 18.0, Schedule 18.03). Staff's adjustment does take into account the IBEW Local 15 increase for 2011, reduced by the overall decline in 2010 forecast payroll expense, as quantified in response to Staff Data Request BAP-23.01.

The Company argues that the amount of 2010 wages and salaries is known and measurable, and that ComEd has already reflected sustainable savings in the test year revenue requirement. Additionally, the Company asserts that the proposed disallowance overlooks offsetting increases in overtime and fringe benefits, and finally, excludes wage increases applicable to 2011. (ComEd IB, p. 70)

The Company's response to Staff Data Request BAP-23.01, Attachment 1, reflects a **decrease** in overall wages and salaries for 2010 (Staff Ex. 18.0, p. 14), even after giving effect to increases for overtime and fringe benefits. Moreover, Staff recognized the amount of 2011 increase based on the Memorandum of Agreement with IBEW Local 15, offset by the decline in overall 2010 wages and salaries expense that was reflected in the most recent forecast provided by the Company. (Staff Ex. 18.0, Schedule 18.03)

For the reasons herein, Staff urges the Commission to accept Staff's adjustment to reduce the Company's pro forma 2010 increase for wages and salaries.

e. Director Fees and Expenses

As the Company contends (ComEd IB, p. 70), Staff proposes to disallow half the board's fees and expenses because board members "primarily represent the interests of shareholders in their activities and decision-making." (Staff Ex. 3.0R, p. 36) The Company further asserts that because a utility must have a board of directors the related costs are a necessary, non-discretionary expense associated with the business of operating a public utility; therefore, all of these costs should be recovered from ratepayers. The Company rejected all of Staff's efforts to derive a reasonable basis for allocating these costs between ratepayers and shareholders. In the absence of any proposal by the Company, Staff proposes an equal sharing of these costs.

ComEd now cites an Illinois Supreme Court Case that the Company maintains would prohibit any sharing of these costs. (ComEd IB, p. 71, citing Citizens Util. Bd. v. Illinois Commerce Comm'n. 166 Ill. 2d 111,121,651N.E. 2d 1089, 1095 (1995)) (reversing Commission Order directing the sharing of costs incurred by utilities under environmental laws) According to the Company, this case puts an end to the inquiry. In review of that case, Staff notes that the issue concerned sharing of statutorily imposed costs of coal tar remediation, which is not the same fact pattern as the issue of board expenses in the instant proceeding.

One significant difference is that in the coal tar remediation case, the Court overturned the Commission's approved sharing of remediation costs, partly because there was no equitable basis for a division of costs between shareholders and ratepayers. However, in the instant proceeding, there is a direct link between the activities of the board and the beneficiaries of those activities, some which benefit ratepayers, some which benefit shareholders, and many which benefit both parties. The dispute concerns how these costs should be assigned, given that ratepayers are not the sole beneficiaries from all the activities of the board, and moreover, do not benefit in any way from certain activities. For example, at least some portion of the board's time is devoted to areas that primarily benefit shareholders, such as legislative and public affairs, and investor activities. Even if the activities of the board do not primarily benefit shareholders, as the Company asserts, it is equally true that ratepayers do not exclusively benefit from these activities either. Moreover, if as the Company argues, the majority of the board's time is devoted to management of ComEd, some portion of the board's time is certainly not. (Staff Ex. 18.0, p. 27) Therefore, the Company's proposal that ratepayers should be assigned 100 percent of these costs is unsupportable, and the Company's reliance on the Illinois Supreme Court case is off-point.

f. Corporate Aircraft Costs

g. Perquisites and Awards

The Commission should accept Staff's proposed adjustment to remove the cost of stock awards and executive perquisites from the test year, consistent with Staff's proposed disallowance of comparable categories of costs from incentive compensation. (Staff Ex. 3.0R, p. 35; Staff Ex. 18.0, pp. 21-24) The arguments supporting the removal of costs associated with the LTIP – Cash plan and LTIP – Restricted Stock Plan support this adjustment as well.

The Company asserts that Staff's proposed disallowance of a portion of perquisites and awards includes retention awards, special recognition performance awards and meter performance awards designed to improve accuracy and completeness of meter reads. (ComEd IB, p. 72) However, in rebuttal testimony, Staff witness Pearce carefully considered the details of such expenses and revised her proposed adjustment to recognize that a greater amount of perquisites and awards provides ratepayer benefit. Specifically, she withdrew her opposition to retention awards, special recognition performance awards and meter performance awards designed to improve accuracy and completeness of meter reads. Accordingly, the portion that remains contested includes the jurisdictional portion of other stock awards and executive perquisites. (Staff Ex. 18.0, pp. 21-24 and Schedule 18.05)

h. Severance Expenses

The Company did not specifically respond to Staff's proposal to remove the portion of 2009 severance costs that relates to stock compensation benefits. However, given that the arguments supporting the removal of associated costs for the LTIP – Cash plan and LTIP – Restricted Stock Plan are contested, those same arguments support this adjustment as well. Staff does not take issue with the Company's proposed 3 year amortization of these costs. (Staff Ex. 3.0R, pp. 35-36; Staff Ex. 18.0, pp. 25-26)

i. Charitable Contributions

At issue is the disallowance of certain charitable contributions for one or more of the following reasons:

a. Contributions made by Exelon that have been allocated to ComEd,
b. Contributions to organization's outside of ComEd's service territory, and
c. Contributions that represent promotional or goodwill advertising.

<u>Contributions made by Exelon that have been allocated to ComEd</u>

Staff maintains its position that Exelon's charitable contributions should be removed from ComEd's revenue requirement. (Staff Ex. 19.0, pp. 6-7) ComEd has stated in part that, "The contributions made in conjunction with [Exelon Business Services Company] are functionally equivalent to the donations made by ComEd in its own name." (ComEd IB, p. 77) Staff disagrees with that premise. Staff argues that the only similarity between ComEd's contributions and Exelon's contributions is that ComEd's customers are paying for both. The issue is not the charitable organizations themselves, but rather the reasonableness of charging ratepayers for both ComEd's and Exelon's charitable contributions, which are sometimes even to the same organization.

<u>Contributions to organization's outside of ComEd's service territory</u>

The Company did not address Staff witness Tolsdorf's adjustment to disallow donations made to organizations outside of ComEd's service territory in its initial brief. (Staff IB, p. 53)

<u>Contributions that represent promotional or goodwill advertising</u>

As stated in Staff's Initial Brief, Staff witness Tolsdorf disallowed donations (Staff IB, pp. 53-54) that represent goodwill or promotional advertising. The Company argues in its initial brief that "the fact that ComEd may receive some <u>unintended</u> positive recognition for its contribution is not reason to recharacterize the contribution." (ComEd IB, p. 78, emphasis added) Staff questions how "unintended" this recognition is when ComEd directs the manner in which it is given. Staff believes this is an issue of substance over form. ComEd acknowledged that it receives public recognition for its donations and directs the manner in which that recognition is given. (Tr., January 20, 2011, pp. 2436-2437; ComEd Ex. 56.0, p. 7) In effect, what the Company has done is to circumvent the intent of Section 9-225 and recover those otherwise unrecoverable costs through Section 9-227. By making charitable contributions and directing those organizations how to publicly recognize ComEd, the Company is receiving a benefit in the form of goodwill advertising which is specifically denied for recovery in the Act.

j. Legal Fees – IRS Dispute

ComEd admits that the cost in question is not distribution. (ComEd IB, pp. 78-79) There should be no debate that non-distribution costs are not appropriate for cost recovery in this proceeding. Staff continues to recommend adoption of the AG/CUB adjustment. (Staff IB, pp. 54-55; AG IB, pp. 82-84)

k. Professional Sporting Activity Expenses

The Company argues that luxury box catering expenses and individual game tickets are reasonable business expenses and should be allowed for recovery. (ComEd IB, pp. 79-80) The Company's normal accounting treatment of professional sporting activity expenses is to reclassify them "below the line" as they are not appropriate for ratemaking consideration. (ComEd IB, pp. 79-80) During 2009, there were luxury box catering expenses and individual game tickets of $64,000 in O&M expense and $8,000 allocated to a capital account that were not reclassified "below the line" as they normally would have been. (ComEd IB, pp. 79-80) However, an accounting oversight does not create justification for an expense. These extravagances are not necessary costs for providing safe, reliable electric service to customers and should be removed from the Company's revenue requirement. (Staff IB, p. 55)

4. AMI Pilot Expenses

Staff witness Tolsdorf proposed an adjustment to disallow the pro forma AMI Pilot expenses from December 2010 through June 2011 because they do not meet the known and measurable standard under Part 287.40 of the Illinois Administrative Code. (Staff Ex. 19.0, pp. 11-13) The Company has suggested that Mr. Tolsdorf has an "unprecedentedly strict interpretation of the *pro forma* rule…" (ComEd IB, p. 81) The *pro* *forma* rule states in part, "Any proposed known and measurable adjustment to the test year shall be individually identified and *supported* (*emphasis added*) in the direct testimony of the utility." (83 Ill. Admin Code 287.40) The only "support" provided by the Company for these *pro forma* adjustments is a single sheet of paper (ComEd Ex. 56.6) with ComEd's best guess as to what its expenses will be. The Company's best guess does not represent sufficient support as required by Part 287.40. Additionally, Staff's position to require support beyond the Company's "because we said so" is not an overly strict interpretation of the *pro forma* rule. Staff needs to be able to verify expenses and reliance upon a single sheet of paper generated by the Company for such verification of these AMI Pilot expenses is insufficient in Staff's opinion.

5. New Business Revenue Credit

6. Tax Repair Methodology – New IRS Procedures

7. Depreciation of Intangible Plant

8. Late Repayment Charge Reclassification

9. Illinois Electricity Distribution Taxes

10. Depreciation and Amortization Expenses (Derivative and Direct)

11. Regulatory Asset Relating to Tax Liability for Medicare Part D

12. Taxes Other Than Income Taxes (Derivative Adjustments)

13. Income Taxes (Derivative Adjustments)

14. Customer Deposits – Interest Expense Component

D. Operating Expenses (Total)

See Appendix A.

VI. RATE OF RETURN

A. Overview

The Company's Initial Brief's interpretations of the evidence are filled with clear misstatements of fact and imagined facts from unrelated citations. For example, the Company claims that "The Commission has recently rejected use of such a pure 'spot date' approach in its *North Shore* decision," citing a witness's on-the-spot recollection of an Order issued a year earlier. (ComEd IB, p. 96) That citation does not support the Company's suggestion that the Commission rejected spot data, only that the Commission "cautioned that in setting ROE, we should be aware of the conditions or financial climate, not just on the spot day, but in the surrounding days and times." In fact, the Commission adopted the use of spot data at least three times in the *North Shore* case, including a capital asset pricing model ("CAPM") analysis and a discounted cash flow ("DCF") analysis used to determine the cost of common equity. (Order, Docket No. 09-0166/0167 (Cons.), January 21, 2010, pp. 126-127)

The Company also cites to Staff witness McNally's testimony as supporting its claim that the U.S. Treasury yield he used in his CAPM analysis was "nearly an all-time low." (ComEd IB, p. 97) However, while Mr. McNally did acknowledge the U.S. Treasury yield he used was among the lowest yields for 2010, his testimony did not compare that yield to "all-time" yields. (Tr., January 18, 2011, p. 1880)

Additionally, the Company's Initial Brief fails to get even the most basic facts correct when it states that Dr. Hadaway used a 31-company sample, (ComEd IB, p. 97) when, in fact, he used a 35-company sample. (ComEd Ex. 11.0, p. 3; ComEd Ex. 37.0, p. 31)

In addition, the Company implies that if a December 29, 2010 U.S. Treasury yield were used instead of the September 22, 2010 yield Mr. McNally used, Staff's CAPM cost of common equity would have been 10.99%, citing to Mr. McNally's direct testimony and cross examination. (ComEd IB, p. 97) That testimony does not support that implication. As Mr. McNally explained, substituting a yield from December 29, 2010 into a September 22, 2010 CAPM does not create a new CAPM cost of common equity, but a meaningless amalgam of data from different time periods. (Tr., January 18, 2011, pp. 1878-1879) In fact, the Company attorney performing Mr. McNally's cross examination seemed to agree, saying "I'm not representing to [sic] that this is a complete CAPM." (*Id.*) Even if it were acceptable to combine data from different dates, the Company's implication is mathematically incorrect, since the 67 basis point difference in yields cannot simply be added, one-for-one, to Staffs' CAPM result. As Mr. McNally explained, the risk-free rate that those yields represent is input into the CAPM twice, as shown below:

$$R_j = \boldsymbol{R_f} + \beta_j \times (R_m - \boldsymbol{R_f})$$

where R_j $\equiv$ the required rate of return for security *j*;

R_f $\equiv$ the risk-free rate;

R_m $\equiv$ the expected rate of return for the market portfolio; and

β_j $\equiv$ the measure of market risk for security *j*.

(Staff Ex. 5.0, p. 22; Tr., January 18, 2011, pp. 1874-1875) While such a change would increase the first component by 67 basis points, it would decrease the second component (i.e., $\beta_j \times (R_m - R_f)$) by 49 basis points, given Staff's beta estimate of 0.73. Thus, a 67 basis point increase in the risk-free rate would result in only an 18 basis point increase in the CAPM cost of common equity. Consistently, the Company's own exhibit shows that the substitution of the December 29, 2010 U.S. Treasury yield into Staff's CAPM would change the result from 10.32% to 10.50%, not 10.99% as the Company now suggests. (ComEd Cross, Ex. 22) Nonetheless, Staff cannot stress strongly enough to the Commission that the 10.50% estimate, while mathematically correct, is not a valid estimate of the cost of common equity given that its components, (i.e., the risk free rate, beta and the required rate of return on the market) are measured at different points of time.

Also, by juxtaposing a citation to Mr. McNally's testimony with its (fallacious) claim that New Jersey Resources and South Jersey Industries "receive the lion's share of their revenues…from unregulated activities," the Company disingenuously implies that Mr. McNally agrees. (ComEd IB, p. 97) However, the subject matter on the page of the transcript that was cited does not deal with the percentage of revenue from unregulated operations. Moreover, when the percentage of revenues from unregulated operations actually was addressed, Mr. McNally only discussed the percentages for New Jersey Resources and South Jersey Industries in comparison to the rest of his sample, not in absolute terms. (Tr., January 18, 2011, pp. 1873-1874) Thus, Mr. McNally did not testify that both companies receive the "lion's share" of their revenues from unregulated activities. In fact, the record indicates that, while New Jersey Resources generated 64% of its revenues from unregulated operations in 2009, South Jersey Industries generated only 43% of its revenues from unregulated operations, hardly the "lion's share" the Company claims. (Staff Ex. 20.0, p. 6)

Further, the Company claims the removal of New Jersey Resources and South Jersey Industries from Staff's Comparable Sample would have increased Staff's constant growth DCF and non-constant growth DCF results by 25 and 40 basis points, respectively. (ComEd IB, p. 98) Aside from the fact that it would be inappropriate to remove those companies, as Staff explained in great detail, (Staff IB, pp. 69-74) that calculation is simply incorrect. The Company's own witness's testimony correctly calculated that the removal of those companies would have only increased Staff's constant growth DCF and non-constant growth DCF results by 24 and 20 basis points, respectively. (ComEd Ex. 37.0, p. 14) This fact, indeed the specific citation to Dr. Hadaway's testimony, was brought to the Company's attention during the hearing. (Tr., January 18, 2011, pp. 1881-1882)

Finally, the Company concludes that if "Staff's 'DCF Average'" were "adjusted" by 40 basis points (to 10.09%) and combined with "Staff's adjusted CAPM" of 10.99%, Staff's cost of common equity would rise to 10.54%. (ComEd IB, p. 98) That conclusion is erroneous for several reasons. First, the Company's calculation of "Staff's adjusted CAPM" of 10.99% suffers from the defects explained above; even if it were acceptable to mix and match data from different time periods, which it is not, the result would be a CAPM cost of common equity of only 10.50%. Second, the Company's calculation of "Staff's adjusted DCF" is also flawed. In addition to the fact that removing New Jersey Resources and South Jersey Industries from Staff's Comparable Sample would not increase either Staff's constant growth DCF or non-constant growth DCF results by more than 24 basis points, as explained above, the Company's simplistic approach of adding 40 basis points to "Staff's 'DCF Average'" ignores the fact that the removal of those two companies would have different effects on Staff's constant growth

DCF and non-constant growth DCF estimates. Indeed, the Company's Initial Brief itself presented different adjustments for Staff's constant growth DCF and non-constant growth DCF analyses. Even if removing New Jersey Resources and South Jersey Industries from Staff's Comparable Sample were appropriate, which it is not, their removal would increase Staff's constant growth DCF from 9.91% to 10.15% and Staff's non-constant growth DCF from 9.47% to 9.67%. Thus, the result would not be 10.09%, but only 9.91% ((10.15% + 9.67%) ÷ 2 = 9.91%). The average of the 10.50% "adjusted CAPM" and the 9.91% "adjusted DCF" would be only 10.21%, not 10.54%, as the Company asserts.

The foregoing examples exhibit, at very least, carelessness in the Company's citations and computations and a willingness to exaggerate or misstate facts and, therefore, call into question the reliability of the Company's calculations and the credibility of the Company's claims in general.

B. Capital Structure

In its Initial Brief, Staff explained why the 13-month period centered on March 2010 that Mr. McNally used is preferable for measuring short-term debt. (Staff IB, pp. 59-60) Nevertheless, the Company claims that the "use of an average balance for the consistent 13-month period ending March 31, 2010 is preferred," which implies that the 13-month period over which the Company measured short-term debt is somehow consistent with the other components of ComEd's capital structure, while the 13-month period Staff used is not. (ComEd IB, p. 92) That is nonsense. The Company's proposal is a 13-month average, just as Staff's is – both include March 2010 data, but neither represents only a March 2010 balance. The Company's attempt to associate its

13-month period with March 2010 and Staff's 13-month period with September 2010, based on their ending dates, does not make the Company's measurement period more consistent with a March 31, 2010 measurement date than Staff's. One could just as easily associate the Company's measurement period with September 2009 and Staff's with March 2010, based on their midpoints. In fact, as Staff demonstrated, the Company's measurement period is actually less "consistent" with the measurement date of the other components of ComEd's capital structure than Staff's, since, on average, the Company's observations are farther removed from March 31, 2010 than those used by Staff. (Staff IB, pp. 59-60) The Commission should pay no attention to the Company's transparent attempt to use semantics to portray Staff's measurement period as inferior when, if anything, it is superior.

C. Cost of Short-Term Debt

D. Cost of Long-Term Debt

E. Cost of Common Equity

Response to CUB

CUB's Initial Brief suggests that Staff's DCF cost of common equity estimate is biased upward due to its reliance on analyst growth rates. CUB argues that the 8.99% cost of common equity Dr. Hadaway calculated for Staff's sample using the "b times r" growth approach confirms Mr. Thomas's 8.94% cost of common equity estimate and highlights the bias in Staff's estimate. CUB further notes the fact that Staff's 5.53% analyst growth rate exceeds 5.0% long-term GDP estimate demonstrates that the current 3-5 year estimates are not sustainable. (CUB IB, pp. 61-62) Staff disagrees with CUB's conclusions. First, while Mr. McNally acknowledged that the continuous sustainability of the Zacks growth rates for the Comparable Sample is questionable, he could not conclusively establish that those growth rates are unsustainable, as CUB suggests. That is precisely why Mr. McNally recommended the use of both a single stage, constant growth DCF analysis and a multi-stage non-constant DCF analysis. (Staff Ex. 5.0, pp. 15-16) Second, Dr. Hadaway's 8.99% cost of common equity calculation both fails to consider the external growth component of the sustainable growth formula and is mathematically incorrect. When those flaws are corrected, the DCF result is 9.60%. (Staff Ex. 20.0, pp. 9-13) The similarity of that result to Staff's 9.69% DCF recommendation corroborates Staff's decision to use a combination of constant growth and a non-constant growth DCF analyses. In fact, that 9.60% result is much closer to Staff's 9.69% DCF recommendation than to CUB's 8.94% DCF recommendation. Thus, contrary to CUB's assertion, that result validates Staff's recommendation rather than CUB's.

<u>Response to IIEC</u>

IIEC's Initial Brief states that Staff's 12.74% estimated required return on the market is "problematic," noting that it implies a growth rate of over 10%. (IIEC IB, p. 31) However, that growth rate estimate is not provided in the testimony cited and, to Staff's knowledge, is not a part of the record. Thus, it is unclear how IIEC arrived at that number. Regardless, the approach Staff used to estimate the required return on the market has been adopted numerous times by the Commission, including in the recent Ameren rate case. In that case, IIEC made a similar argument as it makes now. As Staff explained in that proceeding:

> IIEC argues that Staff's market risk premium in its CAPM analysis is overstated, Staff recognizes that some of the growth rates used in Staff's DCF analysis of the S&P 500 are unsustainably high, which produces an

> upward bias in Staff's market return estimate, and, thus in Staff's CAPM cost of equity estimate. Staff avers that while there is upward bias in Staff's estimate of the market return, there is no way to know the extent of the bias. Staff notes it did not use a non-constant growth DCF to estimate the return on the market because of the extreme difficulty of applying the more elaborate model to 500 companies. Staff states Mr. Gorman's non-constant DCF analysis of the S&P 500 illustrates the difficulty of applying that model to the diverse group of companies that compose that index, as his estimate of the required return of the market is 8.71%, 129 basis points below his 10.00% rate of return on common equity recommendation for AIU. Staff asserts his results imply that the S&P 500 is less risky than AIU, which is not plausible.

(Order, Docket No. 09-0306/0307/0308/0309/0310/0311 (Cons.), April 29, 2010, p. 186 and 214) Furthermore, Mr. Gorman testified that he used a market risk premium that was "developed in a manner very similar to Staff witness McNally's development of his market risk premium." (IIEC Exhibit 4.0, p. 7) This would suggest that Mr. Gorman's criticism would likely apply to his analysis, too.

Response to ComEd

Staff's CAPM Analysis

The Company laments that Mr. McNally's choice of a September 22, 2010 spot date for his CAPM calculation was "particularly and extraordinarily unfair." Instead, the Company suggests that if the December 29, 2010 30-year U.S. Treasury rate were substituted into Staff's CAPM, the result would be higher. (ComEd IB, p. 97) The Company's distortion of Staff's CAPM analysis is inappropriate for several reasons.

First, as explained earlier, mixing and matching data from different time periods is a corruption of the CAPM that produces a meaningless amalgam of data. Indeed, when Mr. McNally pointed out that the other CAPM inputs, aside from that U.S. Treasury rate, may have changed as well, the Company's attorney agreed and clarified that "I agree, and I am not asking you about a complete CAPM analysis done on any other date." (Tr., January 18, 2011, pp. 1878-1879) Changing a single input in the CAPM outside of context of the rest of the inputs is nothing more than an abstract exercise that serves no practical purpose. In fact, accepting such an argument would only encourage parties to manipulate cost of common equity results by presenting similar such "analyses" based purely on hypothetical speculation. For example, one could just as accurately argue that if the August 31, 2010 U.S. Treasury rate of 3.52% were utilized, the CAPM result would be *lower*. (ComEd Cross Ex. 20) If, for comparison's sake, a party wishes to provide a second analysis from a different date, that party must perform a complete analysis, rather than just subjectively selecting individual inputs to modify.

Second, the Company's argument suggests that September 22, 2010 was in some way anomalous. However, Mr. McNally testified that September 22, 2010 was a normal day (Tr., January 18, 2011, pp. 1876-1877); the Company offers no evidence to suggest otherwise. Aside from the fact that the U.S. Treasury rates were more favorable <u>to the Company</u> on December 29, 2010, the Company provided no explanation, much less any evidence, as to why that date would be preferable for calculating ComEd's cost of common equity.[20] Moreover, the Company provides no analysis of the other inputs to the CAPM as of December 29, 2010, changes in which may have more than offset any increase in the 30-year U.S. Treasury rate. Without such an examination, the Company cannot decry the normalcy of Staff's CAPM results

[20] Of course, the choice to use a December 29, 2010 measurement date was not an option for Mr. McNally, since both his direct and rebuttal testimonies were due prior to that date. Rather, Mr. McNally's choice of using September 22, 2010 was dictated by the schedule set for this proceeding, which was a function of the filing date the Company chose.

or speculate whether they would have been higher or lower if performed on any other date.

Finally, although the Company's argument suggests that the Company is extremely concerned about changes in capital costs from September 2010 to December 2010, its counsel adamantly objected when Staff offered to provide an appropriate, complete update of its CAPM analysis. (Tr., January 18, 2011, pp. 1877, 1879, and 1882-1883) It would appear that the Company is more interested in deriving a misleading, improper cost of common equity result than obtaining a legitimate cost of common equity estimate from a different day. This exposes the Company's argument as the disingenuous pretense that it is.

Staff's Comparable Sample

In its Initial Brief, the Company continues its attempt to impugn Staff's Comparable Sample. (ComEd IB, pp. 97-98) The propriety of Staff's sample and the impropriety of the Company's attempt to cherry-pick for removal from that sample only the companies with the lowest cost of equity results, without consideration of the overall risk of the sample, was discussed in Staff's Initial Brief. (Staff IB, pp. 69-74) The Company now suggests that Staff's 12-company sample is too small. However, that suggestion is contrary to recent Commission findings, a vast majority of which adopted costs of common equity based on smaller samples. Indeed, based on those Commission decisions, a sample of 12 companies would be one of the largest samples (see table below). Of the rate setting proceedings before the Commission since 2005, the Final Orders in 12 of those cases specify the number of companies in the sample(s) underlying the adopted cost of common equity. A sample with greater than 12 companies was used in only one of those proceedings, while all of the other cost of equity decisions were based on samples with *fewer* than 12 companies (with one having as few as 5 companies). None included as many as 35 companies.

Docket No.	Company	# of Sample Companies
10-0276	Consumers Gas Company	7
10-0194	Aqua Illinois, Inc	5 and 9
09-0319	Illinois-American Water Company	5
09-0312	MidAmerican Energy Company	9
09-0306-0311	Ameren Illinois	9, 16, and 29
09-0166-0167	Peoples Gas / North Shore Gas	9
08-0549	Sundale Utilities, Inc	8
08-0482	Illinois Gas Company	7
07-0566	Commonwealth Edison Company	9
07-0357	Mt. Carmel Public Utility Company	11
06-0285	Aqua Illinois, Inc	8 and 9
05-0071-0072	Aqua Illinois, Inc	6 and 9

(Order, Docket No. 10-0276, October 6, 2010, pp. 6 and 8; Order, Docket No. 10-0194, December 2, 2010, pp. 16 and 22; Order, Docket No. 09-0319, April 13, 2010, pp. 93 and 112-113; Order, Docket No. 09-0312, March 24, 2010, pp. 12 and 26; Order, Docket Nos. 09-0306/0307/0308/0309/0310/0311 (Cons.), April 29, 2010, pp. 159 and 175; Order, Docket Nos. 09-0166/0167 (Cons.), January 21, 2010, pp. 103 and 123-128; Order, Docket No. 08-0549, April 22, 2009, pp. 8 and 11; Order, Docket No. 08-0482, May 13, 2009, pp. 18-19; Order, Docket No. 07-0566, September 10, 2008, pp. 98-99; Order, Docket No. 07-0357, March 12, 2008, pp. 23-24; Order, Docket No. 06-0285, December 20, 2006, pp. 9 and 11; Order, Docket Nos. 05-0071/0072 (Cons.), November 8, 2005, pp. 52-53) Thus, it is clear that Commission does not agree that a 12-company sample is too small, nor that a 35-company sample is necessary.

As Mr. McNally explained, to derive his sample, he ranked ordered 62 utilities for which the necessary financial and operating ratio data was available and chose the 12 utilities the least distance from, and therefore, the most comparable to, ComEd that met three conditions: (1) they are assigned an investment grade rating from S&P; (2) they have growth rates from Zacks Investment Research, Inc. ("Zacks"); and (3) they have neither pending nor recently completed significant mergers, acquisitions, or divestitures. (Staff Ex. 5.0, pp. 10-12) Using the Company's logic that a 35-company sample is superior to a 12-company sample due to its relative size, then a 62-company sample would be better still. However, while Mr. McNally could have utilized a sample with as many as 62 companies, each additional company added would be less and less similar to ComEd in risk, making the sample less comparable in risk to ComEd overall. Staff performed rigorous, comprehensive quantitative and qualitative analyses that demonstrated Staff's 12-company sample to be very similar in risk to ComEd. (Staff Ex. 5.0, pp 10-12 and 33-34) In contrast, the Company has presented no such analytical evidence for Dr. Hadaway's 35-company sample. Instead, the Company implores the Commission to simply ignore Staff's analysis and blindly accept the unfounded insinuation that Dr. Hadaway's sample is more similar in risk to ComEd than is Staff's Comparable Sample. The Commission should reject the Company's plea.

F. Adjustments to Rate of Return

G. Overall Cost of Capital (Derivative)

VII. COST OF SERVICE AND ALLOCATION ISSUES

A. Overview

B. Potentially Uncontested Issues

C. Potentially Contested Issues

1. Embedded Cost of Service Study Issues

a. Class Definitions

i. Residential Classes

ii. Non-residential Classes

b. Primary/Secondary Split

i. Appropriate Methodology (Compliance With Docket No. 08-0532)

(a) Functional Identification of Costs

Single-Phase Primary Lines

IIEC takes issue with ComEd's proposed allocation of single phase primary line costs to primary voltage customers. The problem, according to IIEC, is that single phase distribution lines are not a viable option to serve three-phase customers and, if used for this purpose, "can lead to localized system load imbalances and voltage instabilities." IIEC considers ComEd's approach inconsistent with the Commission directive that ComEd adopt function-based definitions of service voltages. (IIEC IB, p. 46) Since primary customers do not use these facilities, IIEC contends that they should not be allocated any of the attendant costs. (IIEC IB, p. 47)

IIEC witness Stowe's argument is flawed. The problem lies with his claim that primary customers cannot be served by single phase lines because their end uses require three phase service. If true, the Company has no choice but to use three phase distribution lines to serve primary customers. This contrasts with the flexibility of secondary customers who can also receive service from single phase lines. Thus, serving primary voltage customers on a circuit may require the Company to incur the additional cost of a three phase line while a single phase line might be sufficient to serve secondary loads. (Staff IB, pp. 96-97) Mr. Stowe's argument does not take into account this potential cost of primary service and it should therefore be rejected. (*Id.*, p. 97)

(b) Direct Observation of ComEd Facilities

ComEd contends that it has satisfactorily addressed the Commission directive to use direct observation in its analysis of primary and secondary costs. Specifically, the Company extends its definition of direct observation to include the "analysis of ComEd's system maps." (ComEd IB, p. 112) ComEd contends that its approach is reasonable because of the quality and accuracy of system maps which play an integral role in protecting the safety of its employees. (ComEd IB, p. 112)

ComEd's argument fails to recognize that direct observation is fundamentally different from reading a map or reviewing records. The former entails a physical inspection of the system itself in the field, while the latter involves looking at secondhand data gathered by someone else for another purpose. Thus, ComEd's review of maps fails to satisfy this direct observation directive. (Staff IB, p. 99)

The Company also criticizes Staff witness Lazare for the specific areas where he believes direct observation may prove useful. ComEd cites Mr. Lazare's admission that this approach "does not guarantee useful information for determining the primary and secondary facilities and related costs." (ComEd IB, p. 113) Thus, the Company finds no compelling reason to incur the substantial costs it believes the Staff proposal would create. (ComEd IB, p. 113)

Staff has clearly acknowledged that direct observation may not prove effective in each and every situation. Nevertheless, the Company has the responsibility to satisfy the Commission directive that it directly observe its system and it has failed to do so.

That leaves no reasonable alternative to specifically requiring that ComEd use direct observation in the analysis of primary and secondary cost issues to be presented in its next rate filing. (Staff IB, p. 101)

(c) Sampling

ComEd argues that it has employed sampling techniques as required in the Commission directive from Docket No. 08-0532. The Company responds to Staff's concern that the four circuits it examined did not constitute a large enough sample to represent the 6,400 circuits on the system. ComEd insists that Company witness Alongi presented information to show that the sample is "representative of the majority of ComEd's circuits" which Staff "did not attempt to refute." (ComEd IB, p. 114) The Company further argues that satisfying Staff's concern by examining "a larger sample of ComEd's circuits and ComEd's customers would be an arbitrary and unnecessarily complicated undertaking." (ComEd IB, p. 114) Thus, ComEd finds that Staff's criticism should be dismissed. (ComEd IB, p. 114)

Staff finds no basis for the Company's claim that Mr. Alongi has shown these circuits to be representative for identifying primary and secondary costs. In fact, the statement on this issue in ComEd's Initial Brief that these four circuits are "representative of the majority of ComEd's circuits" undermines that claim. It is not clear what ComEd means by a majority, whether it constitutes 51%, 99% or somewhere between the two figures. In addition, for those circuits not in the majority, ComEd fails to indicate how they diverge from the four circuits in the sample. So, the Company's own arguments raise questions about the value of these four circuits as a representative sample. That, combined with the fact that ComEd's sample consists of only four out of almost 6,400 primary distribution circuits on the system (Staff IB, p. 102), makes it difficult to draw conclusions concerning the shares of primary and secondary costs on the nearly 6,400 ComEd distribution circuits.

The Commission should address this shortcoming by directing the Company to examine a larger, representative sample in its analysis and present the results contemporaneously with the initial filing in its next rate case. (Staff IB, p. 102)

(d) Review of Other Utilities' Treatment of Primary/Secondary Issues

ComEd argues that its review of other utility primary and secondary cost analyses is responsive to the Commission's 08-0532 directive. The Company indicates that its review of the issue focused on how other utilities treated primary and secondary customers in their respective rate tariffs. Most of the utilities ComEd examined use a specific voltage to distinguish between primary and secondary customers and many of those use 4 kV as the dividing line between the two groups. ComEd regards these results as affirmation "that the basic approach used by ComEd is consistent with the approach used by other utilities." (ComEd IB, p. 115)

ComEd goes on to state that it sought to examine how other utilities allocate costs between primary and secondary service but could not proceed because the information "was simply unavailable." (ComEd IB, p. 115) Nevertheless, ComEd insists that it addressed the Commission's directive on this issue and the Company concludes that Staff's claims on the issue should be rejected. (ComEd IB, p. 115)

Again, the Company is impeached by its own statements on the issue. As ComEd notes in its Initial Brief, the Commission directive pertains to "other utilities' methods in differentiating primary and secondary systems and costs." (ComEd IB, p.

107) However, ComEd indicates that it was unable to examine how “these utilities allocated the costs” between primary and secondary service. (ComEd IB, p. 115) Given this fundamental shortcoming, there is no reasonable way ComEd can conclude that it satisfied this directive.

ii. Other Primary/Secondary Split Issues

(a) 4kV Facilities Allocation

c. Investigation of Assets Used to Serve Extra Large Load Customer Class

d. NCP vs. CP

IIEC’s arguments that primary lines and substations should be allocated on a noncoincident peak (NCP), rather than a coincident peak (CP), basis are unsupported by evidence and should be rejected by the Commission. IIEC did not offer any new arguments in its Initial Brief that has not already been successfully rebutted before by Staff.

IIEC attempts to undermine the CP approach by arguing that substations and primary lines were not “sized to meet the demands of any single class, but rather the collective demands of customers from multiple classes” and by contending that noncoincident peak lighting class demands play a role in shaping substation and primary line investments. (IIEC IB, p. 48)

With respect to the issue of single class versus collective demands, IIEC claims that its witness Mr. Stowe has presented un-refuted testimony that the NCP method, like the CP method, reflects the demands of all classes. (*Id.*, p. 48) In his testimony, Mr. Stowe contended that “[t]he difference between the two methods is that the CP method focuses on the load contribution of each class during a particular hour of the year, whereas the NCP method reflects a theoretical or "worst case" estimate of the potential load distributions." (*Id.*, pp. 48-49) IIEC goes on to argue that "while the Commission is certainly correct that substations and primary lines are sized to meet the collective demands of customers from multiple classes, this fact does not disqualify the NCP method since the NCP method considers the collective demand of all classes as well." (*Id.*, p. 49)

IIEC further argues that Mr. Stowe testified that it is the CP method - not the NCP method - that fails to reflect the combined customer class load that ComEd distribution designers relied upon when they designed the Company's primary lines and substations. (IIEC IB, p. 51) And, Mr. Stowe further testified because the "NCP demands of the Fixture Included Lighting and Dawn-to-Dusk lighting classes are nearly 7,300% of, or 73 times, their respective CP demands" (*Id.*, p. 51), it follows that "[w]hen ComEd designs and builds its primary circuits and lines, the NCP loads of the Fixture Included Lighting and Dawn-to-Dusk lighting classes <u>weigh more heavily</u> in that process than the CP demands used to allocate costs." (*Id.*, p. 52, emphasis added)

Staff disagrees with IIEC's arguments because the evidence in this case clearly shows that coincident, rather than noncoincident, demands for all classes drive distribution substation and primary line investments. An examination of lighting class demands demonstrates why this is so. Mr. Stowe claims that the Company considers noncoincident lighting demands more heavily in its planning process. (*Id.*) However, ComEd witness Hemphill indicated that is not true. When asked which are more relevant in sizing distribution facilities designed to meet peak summer loads, lighting demands at the time of the peak or Lighting demands at night when they reach their noncoincident peak, Dr. Hemphill replied that lighting demands <u>at the time of system</u>

peak are more relevant. (Staff IB, p. 106) Thus, ComEd itself directly contradicts IIEC's claims about the Company's planning process.

Dr. Hemphill further indicates that the coincident peak demands of all rate classes are the relevant factor in the distribution planning process. Mr. Hemphill testified that he considers most distribution facilities sized to meet summer (system peak) rather than winter demands. (*Id.*) Therefore, the most reasonable, cost-based approach is to allocate the cost of this equipment according to the collective peak demands of all rate classes. While IIEC may be concerned that the Lighting class receives a smaller allocation, it should be remembered that a class with lower usage at the time of system peak bears less responsibility for these costs to be incurred.

Thus, despite IIEC's arguments to the contrary, investments in distribution substations and primary lines are more likely to be shaped by system peak demands (summer peak demands), than the demands of individual rate classes, such as lighting customers, which can occur at other times of the year. Therefore, Staff recommends that the Commission continue to uphold its decision in Docket No. 08-0532 and continue to use the CP method as its preference for allocating distribution primary lines and substation costs in ComEd's ECOSS.

e. Allocation of Primary Lines and Substations

f. Functionalization of General and Intangible Plant

In its Initial Brief, ComEd seeks to defend its proposed functionalizaiton of G&I plant against Staff's criticism. The Company claims that Staff has not given sufficient consideration to ComEd's argument on the issue, arguing as follows:

> Mr. Rukosuev simply disregards Ms. Houtsma's testimony that by this change "ComEd will not over (or under) recover its associated General and Intangible Plant costs in either jurisdiction." This is a statement about consistently identifying cost causation between the two jurisdictions, not simply a statement about "overlaps or gaps", as Mr. Rukosuev implies. (ComEd IB, p. 42, emphasis added)

The Company is wrong in claiming that Staff has failed to consider this argument. In fact, Staff has examined the argument and found it to be deficient. The purpose of delivery service ratemaking is not to identify cost causation between the "two jurisdictions" which Staff assumes to mean transmission and distribution. Rather, this proceeding seeks to identify a cost-based functional allocation to the distribution function only. The focus is on cost, not achieving consistency with the functionalization of transmission costs. (Staff IB, p. 108)

ComEd in its Initial Brief also sought to understate the impact on ratepayers of its proposed revisions to the functional allocation of G&I plant, contending as follows:

> …if the previous methods for functionalizing General and Intangible plant had been used, then jurisdictional test year General and Intangible plant would have been only about 1.2% lower than the $1,280,718,000 (gross plant amount) requested in this proceeding. Thus, the simplified methodology is not biased towards assigning more costs to distribution service in this case. (*Id.*, pp. 42-43)

This argument should be dismissed as irrelevant. The main focus of cost causation should be with cost drivers, not with results. Therefore, even if the impact of its proposed changes is "only about 1.2%", that should not serve as an excuse to adopt ComEd's arbitrary approach to functionalize G&I plant. Furthermore, this 1.2% change is non-trivial, because it corresponds to approximately $15,693,000 increase in rate base if approved by the Commission. (Staff Ex. 16.0, Schedule 16.12)

Thus, Staff recommends the Commission to reject these changes and direct ComEd to decrease the distribution rate base by approximately $15,693,000.

g. Street Lighting

h. Allocation of Illinois Electricity Distribution Tax

Both IIEC and REACT disagree with the Company's proposed method of recovering IEDT costs.

IIEC focuses on ComEd's per-kWh allocation of IEDT costs, claiming that cost causation and record evidence argue support an allocation "only partly on the basis of kWh delivered and partly on the basis of plant in-service." (IIEC IB, p. 53) In fact, IIEC contends that invested capital contributes more to the level of taxes for utilities than kWhs consumed. In support, IIEC traces the history of the tax, noting that it was based on invested capital before 1998 and has since escalated by the minimum of 5% or the Consumer Price Index. This leads IIEC to conclude that "[t]he tax is not, and never has been, exclusively a function of kWh delivered." (IIEC IB, p. 54)

This argument is not convincing. It is certainly true that: (1) the distribution tax was previously determined by the levels of investment plant, and (2) the initial levels of the taxes paid by individual utilities were based on previously calculated amounts determined by their respective plant investment levels. However, the Illinois General Assembly changed the way the distribution tax is determined in its amendatory Act of 1997 from a tax on "invested capital" to a "tax based on the quantity of electricity that is delivered." (35 ILCS 620/1a, PA. 90-561, eff. 1-1-98)

It is true that the starting point for the tax levels after the Amendatory Act of 1997 corresponded to previous tax levels based on invested capital. However, usage has since become the determining factor for these taxes, with the total taxes paid by Illinois utilities as well as any rebates they receive based solely on their share of deliveries by Illinois electric utilities. In addition, the total amount of distribution taxes collected by utilities increases each year by the lesser of 5% over the existing level or the yearly consumer price increase. None of these factors bear any relationship to plant investments. (Staff Ex. 26.0, p. 21)

IIEC further seeks to undermine the role of usage in the allocator. IIEC suggests that the annual cap undermines the impact usage has on the amount of taxes paid. (IIEC IB, p. 54) However, this cap bears no relationship to invested capital.

IIEC also argues that "[i]f the utility maintains the same proportional share of deliveries over time, it makes no difference whether it delivers more or fewer kWh in a year; its tax burden remains the same, adjusted only for the lesser of a non-energy related 5% or the percentage change in the CPI." (IIEC IB, p. 55) This argument is confused because IIEC admits that deliveries play a critical role in determining IEDT costs, but contends that it is the utility's share of deliveries, rather than their absolute levels. Either way, the focus is on deliveries, rather than invested capital, which IIEC proposes to use for these costs.

IIEC then discusses its specific proposal in this case to allocate over 90% of these costs on the basis of plant in service and the remainder on kWh sales. This approach is designed to reflect IIEC's contention that the allocation of these costs is largely determined by utility plant in service before 1998. (IIEC IB, pp. 56-57) This approach does not conform to cost causation. As the previous discussion reveals, these costs are determined by usage, rather than plant in service and IIEC's plant-based allocator is clearly inappropriate.

Importantly, the Commission recently rejected these same arguments by IIEC in Ameren's most recent rate case. (Order, Docket No. 09-0306 (Cons.), April 29, 2010, p. 244) IIEC provides no new arguments in this case for the Commission to reconsider its position on the issue. (Staff Ex. 26.0, p. 22)

REACT also opposes ComEd's proposed approach to IEDT. REACT contends it would conflict with the causation of these costs on a plant in service basis; contradict the SFV rate design; and "add an unnecessary lay of complexity" for over-10 MW customers. (REACT IB, p. 45) Furthermore, on the complexity issue, REACT states that Staff simply disagreed with REACT without explaining why. (REACT IB, p. 45)

Each of these arguments is flawed. With regard to cost causation, Staff has already shown in response to the same argument by IIEC that the IEDT relates to usage, not plant.

Furthermore, ComEd's SFV pricing proposal fails to support the recovery of IEDT taxes on a per kW basis as REACT witnessFults suggests. The Company's SFV pricing proposal is advocated as a vehicle to recover fixed costs. However, the IEDT taxes in question are variable costs that relate to the volume of electricity consumed. Thus, these are separate issues. (Staff Ex. 26.0, pp. 18-19)

Finally, REACT has failed to substantiate the claim that ComEd's proposal would be too complex and confusing for over-10 MW customers. The proposal would add a single line item to ratepayer bills and as Staff explained in testimony, Mr. Fults provides no evidence why these customers would fail to understand this component of the bill. (Staff Ex. 26.0, p. 19) Furthermore, despite Mr. Fults' suggestion otherwise, this was a position clearly explained in Staff testimony as the reference indicates.

i. Indirect Uncollectible Costs and Uncollectible Costs

j. Customer Care Cost Allocation

i. Allocation Study vs. Switching Study

REACT contends in its Initial Brief that the Company has improperly allocated customer care costs to delivery customers. However, the argument does not reflect the weight of evidence in this case and should be rejected. The Commission should instead adopt ComEd's Switching Study the results of which are consistent with ComEd's customer service operations and the way other Illinois utilities allocate such costs between distribution and supply.

REACT begins its discussion by attacking ComEd's Switching Study, arguing that it "purports to allocate current costs based on <u>ComEd's guess</u> about what costs will be avoided in the future based on unknown customer switching scenarios, rather than whether the costs are caused by supply or delivery functions <u>today</u>." (REACT IB, p. 51, emphasis added) REACT's statement is incorrect because the Switching Study does present a scenario based on current switching levels. The study finds that the current level (i.e., today) of customers switching to RES service, which conforms to the 1% switching scenario[21], has not impacted ComEd's costs related to customer services. (Staff Ex. 28.0, p. 13) Thus, there is nothing speculative about the 1% scenario. (ComEd IB, p. 123)

For the future 10% or 100% switching scenarios in the study, ComEd estimates that customer services costs will not be reduced in either case but will actually <u>increase</u>. (Staff Ex. 12.0, p. 29) While switching levels of 10% or 100% are not likely in the foreseeable future, these scenarios nevertheless show that customer care costs can be

[21] Public switching statistics: http://www.icc.illinois.gov/electricity/switchingstatistics.aspx

expected to rise as additional customers switch suppliers. Thus, for both current and future scenarios ComEd finds that customer switching will not reduce costs. (ComEd IB, pp. 123-124)

REACT also presents a results-driven argument against the Switching Study, arguing that it generates a nonsensical, anti-competitive result by allocating less than 1% of the customer care cost to supply. REACT notes that ComEd's own Allocation Study allocates over 13 times more costs to the supply function and argues that demonstrates ComEd's Switching Study is implausible. (REACT IB, p. 52)

Staff strongly disagrees with Mr. Merola's logic. He is seeking to use the Allocation Study, which Staff finds to be arbitrary, divergent from cost, and speculative, to impeach ComEd's Switching Study. Staff believes the Switching Study should be regarded as a more reliable analysis. That study demonstrates that customer care costs ComEd incurs persist regardless of the level of customer switching or the entity providing supply services. (Staff Ex. 28.0, p. 11) In contrast, the Allocation Study arbitrarily creates disparities in rates between sales and delivery customers that are difficult to justify from a cost standpoint. (Staff Ex. 28.0, p. 12)

Just because ComEd's overall cost of service study is based on an embedded cost approach does not necessarily mean that an artificial manipulation of certain costs within the general study is warranted, especially when such cost re-allocation is based on arbitrary base allocators which render such exercise practically unsound. Under the Allocation Study's approach, bundled and unbundled customers would pay significantly different billing costs despite the fact that the underlying costs have not changed substantially. (Staff Ex. 28.0, p. 12)

ii. Direct Operation and Maintenance (O&M) Costs vs. Total Costs

This discussion is only relevant in the event that the Commission decides to adopt the Allocation Study.

Staff and REACT both agree that there is no justification to limit the scope of ComEd's customer care costs analysis to direct O&M costs only. In its Initial Brief, the Company identifies nothing specific or unique to render its limited analysis as the preferable approach. Therefore, the Commission should reject the Company's proposal to limit the definition of customer care costs to direct O&M costs only. Instead, the Commission should direct ComEd to include in its analysis the costs associated with the full revenue requirement (i.e., direct O&M costs, indirect costs, and capital costs) as identified by Mr. Merola. (REACT Ex. 2.3)

iii. Adjustment of Allocation Study Allocators

In the event that the Commission adopts an allocation study, REACT argues that the Commission should accept its revisions to ComEd's allocation factors for customer care costs. However, Staff finds REACT's proposals are flawed and they should therefore be rejected by the Commission. (Staff IB, pp. 114-16)

REACT contends that these changes are necessary to <u>accurately reflect cost causation</u>, as required by the Act, and will therefore better conform to the Act's requirement for pro-competitive, <u>cost-based</u> delivery services rates. (*Id.*, p. 56, emphasis added) However, the evidence suggests otherwise. REACT's alternative approach features an arbitrary (50/50) allocator which has not been shown to bear any relationship to costs. (Staff IB, p. 114) Furthermore, REACT acknowledges that this 50/50 allocator was employed because it lacked information on how customer care costs are determined and relied on this approach in lieu of performing a comprehensive analysis to generate a more accurate result. (REACT IB, p. 57)

Thus, while claiming to employ more reasonable assumptions about cost causation than ComEd's approach which had little to do with cost causation, REACT has yet to provide a coherent analysis. In fact, REACT presented an almost identical arbitrary allocation methodology in previous ICC proceedings dealing with this issue which was rejected by the Commission in each case. (Staff IB, p. 115)

In the event the Commission chooses to adopt the Allocation Study, it should, nevertheless reject the adjustments to ComEd's allocators proposed by REACT. Instead, the Commission should direct ComEd to update its Allocation Study to include all customer care costs as discussed above.

k. Other Docket 08-0532 Compliance Issues

l. Other Issues

D. Rate Moderation

VIII. RATE DESIGN

A. Overview

B. Potentially Uncontested Issues

1. High Voltage Rate Design Simplification

2. Rate MSPS

3. General Terms and Conditions

a. New Customer with load that includes motors equal or greater than five horsepower

4. Miscellaneous Charges and Fees

5. Meter Lease Charges

6. Residential Real Time Pricing Program Costs

7. Standard Meter Allowances

C. Potentially Contested Issues

1. SFV (ComEd Proposal)

ComEd presents a number of arguments to support its Straight Fixed Variable ("SFV") rate design. First, it contends that an SFV rate design is appropriate because it more aligns respective fixed and variable cost recovery with fixed and variable cost causation. (ComEd IB, p. 137) Second, ComEd contends that the current rate design penalizes utilities for implementing conservation programs. (*Id.)* Lastly, ComEd argues that the Commission has approved similar rate design methodology for other utilities. (*Id.,* p. 138*)*

ComEd's argument about aligning fixed charges with fixed costs is flawed in two respects. First, it does not consider that many of these fixed costs are driven by variable demands which more closely correspond with variable usage charges than fixed customer charges. (Staff IB, pp. 123-124) Second, ComEd's proposal does not specifically focus on the recovery of fixed costs alone. Rather, ComEd proposes to ultimately recover 80% of all costs, fixed and variable, through the customer charge. (*Id.*, pp. 126-127*)*

The second argument that ComEd presents fails to consider that the SFV would undermine conservation by encouraging ratepayers to use more electricity. Section 5/8-103 (b) of the PUA promotes conservation by requiring Illinois utilities to reduce overall electric usage by 0.2% in 2008 escalating to 2.0% by 2015. The SFV rate design would undermine this effort by lowering usage charges and thereby reducing customers' incentive to conserve electricity. (Staff IB, p. 123)

ComEd's argument that that the Commission has approved similar rate design methodology for other utilities is problematic because there is no precedent in the electricity industry in Illinois or the nation as a whole for ComEd's SFV rate design proposal. (*Id.*, p. 126)

Staff is not alone in opposing the Company's SFV rate design proposal. NRDC, the AG, and the City of Chicago also contend that it should be rejected by the Commission. (NRDC IB, pp. 3-6; AG IB, p. 106; City of Chicago IB, p. 5) The weight of the evidence clearly fails to justify the adoption of the SFV in this case.

2. Decoupling (NRDC Proposal)

NRDC recommends in its Initial Brief that the Commission approve a modified version of its initial decoupling plan with one that would include adoption of Rider DA presented by ComEd as a substitute for the Company's SFV rate design proposal. NRDC would also add a "3% cap on refunds or charges, with any unrecovered balances carried forward and refunds or charges based on a per kWh basis." (NRDC IB, p. 26) NRDC assures that the decoupling proposal "is consistent with the Appellate Court decision and is permitted under Illinois law. There is also no reason to delay the implementation of a decoupling plan." (*Id.*, p. 16) NRDC further believes it is reasonable to act now because "[t]he parties have had an opportunity to review and challenge the plan proposed by NRDC, which is based on decoupling mechanisms used throughout the country." (*Id.,* p. 16)

NRDC's arguments present problems. For one, NRDC's claim that the proposal is consistent with the Appellate court decision is questionable. Staff understands that the Illinois Appellate Court, Second District has found a ComEd rider, Rider AMI, contrary to the PUA and there is reason to believe that ruling calls into question the role of riders in the ratemaking process. It is Staff's understanding that this decision by the Illinois Appellate Court has been appealed to the Illinois Supreme Court and in the meantime, the legality of riders remains in question. (Staff Ex. 29C, p. 19)

In addition, Staff believes it is possible to implement a reasonable rate design in this case that sends appropriate price signals to ratepayers and does not require the adoption of a cumbersome decoupling apparatus. That would be accomplished by approval of Staff's proposed rate design.

Staff also finds that the complexity and amount of time involved in properly reviewing and designing the tariff details to ensure proper implementation of such a proposal renders it impracticable to adopt NRDC's proposal in this rate case at this late stage. (Staff Ex. 29C, p. 19)

Finally, the AG also weighs in against NRDC's decoupling proposal, stating:

> Mr. Cavanaugh's proposal, which mirrors the decoupling agenda NRDC promotes throughout the United States, is based on neither accepted rate design principles nor ComEd's cost of service. Worse yet, it includes no analysis of rate impacts on ComEd customers. Finally, the decoupling rider is unlikely to pass Illinois Appellate Court scrutiny, in light of the Second District Appellate Court's recent ruling in *Commonwealth Edison Co. v. Illinois Commerce Comm'n,* ("*ComEd*"), 937 N.E.2d 685, 708-711 (2d Dist. 2010) (reversing Commission's decision to authorize a rider and discussing five prior Illinois court decisions addressing riders.) For these and other reasons…, this ill-conceived proposal should be rejected. (AG IB, p. 137)

For these and those arguments previously stated in Staff's Initial Brief, the Commission should reject NRDC's decoupling plan.

3. Class Definitions

a. Residential Rate Design – Consolidation of Classes

The AG argues against ComEd's proposal to consolidate the residential heating and non-heating subclasses contending it would create inequities in the amount of revenues collected from the heating classes versus those revenues collected from the non-heating classes. (AG IB, p. 110) The AG notes that "simply because the current heating rate per KWH already is lower than the non heating rate per KWH does not mean that it costs less to distribute electricity to a heating customer than a non-heating customer." (*Id.*, p. 111) In fact, the AG argues that although it costs 35% more to serve a single family ("SF") heating customer than a SF non-heating customer, the SF heating customer uses about 2.4 times as much electricity. (*Id.*, p. 112) The AG contends that while it costs more to serve an average heating customer than it does to serve a non-heating customer, that cost could be recovered by selling more KWH to the heating customer so the cost per KWH should be substantially lower for a heating customer than a non-heating customer. (*Id.*) The AG argues that because there is a real difference in the costs of serving heating and non-heating customers that there should be a difference in the prices being paid by those respective subclasses of residential customers. Therefore, it contends that the elimination of the subclasses is "neither equitable nor cost-based." (*Id.*, p. 113)

Staff finds that the Company's proposal to consolidate the residential space heat and non-space heating classes is reasonable and should be approved by the Commission despite the objections of the AG. The AG's proposal to keep different rates for residential space heating and non-space heating customers should be rejected because first, it is difficult for the Company to monitor end-use consumption of electricity for each of its customers. Because of this difficulty, any data it collects may or may not be useful for billing purposes. The consolidation would make distinguishing high use non-space heat customers apart from normal use space heat customers inconsequential and take a dilemma off the Company to try to make these distinctions in designing rates. (Staff Ex. 13.0 p. 31) Second, Staff contends that because electric utilities no longer own and maintain the electric generating facilities, it is unnecessary to differentiate between space heat and non-space heat customers. In fact, space heating customers are already paying lower supply charges than non-space heating customers. In addition, ComEd does not currently have specific space heating rates for non-residential customers. Therefore, consolidation of residential rate classes would provide consistency among residential and non-residential ratepayers.

b. New Primary Voltage Delivery Class vs. Primary Subclass Charges

4. Non-Residential

a. Movement Toward ECOSS Rates

i. Extra Large Load and High Voltage Customer Classes

The Company is joined by IIEC in arguing for ComEd's proposed class revenue allocations. ComEd's specific proposal, based on its ECOSS, is to move the Extra Large Load ("ELL") class and the High Voltage ("HV") class toward cost of service by adjusting only the distribution facilities charges ("DFC") for those rate classes. ComEd and IIEC contend that this proposal is consistent with the approach the Commission approved in its Final Order in Docket No. 07-0566 and should therefore be approved in this rate case. (ComEd IB, p. 145; IIEC IB, p. 67)

IIEC also criticizes Staff's alternative proposal to allocate revenues and contends that approach is actually recommending "movement *somewhat more than* just the second and third steps." (*Id.,* p. 68)

Staff contends that the Company's allocation approach for the HV and ELL delivery classes does not move these classes sufficiently towards costs. Staff contends that these classes must receive significantly greater-than-average revenue increases to effectively move closer to fully associated cost recovery. This is a particular problem for the HV class which actually receives a below-average increase under ComEd's approach. (Staff Ex. 29.0C, p. 7) Since the Commission announced a four-step process in ComEd's last case, that leaves three cases to bring revenues for these classes up to costs. Therefore, the objective of Staff's revenue allocation proposal in this case is to move overall revenues for these classes, not just the DFCs, one third of the distance to full cost-based rates as explained more fully in Staff's Initial Brief (Staff IB, pp. 133-136) and in both direct testimony (Staff Ex. 13.0, pp. 4-15) and rebuttal testimony (Staff Ex. 29.0C, pp. 1-9). This approach is reasonable and should be approved by the Commission.

ii. Railroad Customer Class

Com Ed has proposed a ten-step process to move the Railroad Delivery Class to cost of service in order to mitigate the effects of rate shock. ComEd contends that proposing a 10% increase to the DFC in this case is consistent with the Commission's previous directive to propose mitigated rates for the Railroad Delivery Class to avoid rate shock due to public interest considerations and therefore should be approved. (ComEd IB, pp. 145-146)

This proposed revenue allocation also presents problems. For one, it produces a below average revenue increase compared to the nonresidential delivery class average and the system as a whole. Furthermore, the 10% movement in the DFC for the Railroad Delivery Class falls behind the movement toward costs set by the Commission in Docket No. 07-0566. (Staff IB, pp. 136-137) As an alternative, Staff proposes that Railroad class revenues be increased by 25% of the difference between the Company's exemplar revenues presented in ComEd Ex. 43.3 and full embedded costs. The allocation approach provided by Staff in direct (Staff Ex. 13.0, pp. 4-15) and rebuttal testimony (Staff Ex. 29.0C, pp. 3-9) is reasonable and should be approved because Staff's approach achieves full cost recovery from the Railroad class in fewer steps than the Company's proposed ten-step approach, while at the same time, moderates revenue increases to avert rate shock for these customers.

iii. What classes should pay for any revenue shortfall from not moving 100% to ECOSS

IIEC proposes that "the Commission should recognize here the importance of the policy of rate moderation, without regard to which customer classes may need the protection. Customer classes that experience unduly large delivery service increases, i.e. more than 150% of the overall ComEd increase, should receive protection, regardless of the identity of the particular rate class." (IIEC IB., p. 60) IIEC argues that it will be necessary to spread revenue requirement shortfalls to other classes that would not experience rate shock and the Commission should direct that they be spread to other classes on a *pro rata* basis, based on total class revenues. (IIEC IB, p. 71)

According to IIEC's proposal, if the redistribution of revenue requirement to a class would cause it to exceed the maximum moderated revenue increase, such amounts should be spread to remaining classes that have not been maxed out. (*Id.*)

Staff proposes in this case that the Small Load, Medium Load, Large Load and Very Large Load classes provide subsidies to the classes that suffer from a revenue shortfall from not moving 100% to ECOSS. Staff's recommendation that the Commission consider the approach used in Staff Ex. 29.01C (pp. 2-3) as the basis for this recommendation is reasonable and should be approved in this case because it minimally affects only four classes while allowing all other delivery classes to fully recover their respective costs to serve the customers in each class. The proposed subsidies that the four classes provide would eventually disappear at the conclusion of the fourth and final step toward full revenue recovery for all rate classes.

b. Allocating Secondary Costs Among Customer Classes

c. Railroad Customers – Utilization of Railroad Customers' Facilities

d. Dusk to Dawn Street Lighting

5. Collection of Illinois Electricity Distribution Tax

IIEC also opposes ComEd's proposed method of collecting the IEDT tax. IIEC asserts that the IEDT tax is imposed directly on ComEd, not its customers and, therefore, should be considered part of the Company's overall cost of service. IIEC argues that such costs should be recovered through existing delivery service charges without a compelling reason to do otherwise which ComEd has failed to provide. Thus, IIEC opposes the imposition of a new per-kWh charge for larger customers. (IIEC IB, pp. 71-72)

IIEC then responds to ComEd's claim that a per-kWh charge is justified because "the IEDT is imposed on ComEd on the basis of kWh delivered." IIEC contends that it has, in fact, demonstrated that not to be the case based on the previously-discussed analysis and therefore, continued base rate recovery is justified. (IIEC IB, p. 72)

The issue boils down to the previous discussion of whether these costs are related to plant or usage. Staff has already refuted IIEC's arguments that they pertain to plant and instead show that they are determined by usage. Since the IEDT is related to usage, cost causation principles would argue for recovery through a per-kWh charge from all customers. Thus, IIEC's argument on this issue should be rejected.

CTA makes a novel argument that "as a matter of law the CTA is exempt from paying the [IEDT] tax" and therefore "ComEd's proposal to collect the tax from the CTA must be rejected." (CTA IB, pp. 13-14) The Commission should reject this argument. CTA argues that under the Metropolitan Transit Authority Act, 70 ILCS 3605, the CTA is exempt from paying to ComEd a charge for the IEDT. (*Id.*) CTA fails to recognize that while it may be exempt from certain taxes, the IEDT as pointed out by IIEC in its Initial Brief is not a tax imposed on customers but rather is directly imposed on ComEd. (IIEC IB, p. 71) Therefore, Section 70 ILCS 3605 does not apply to the IEDT tax imposed on ComEd. In addition, as IIEC further points out, the IEDT is similar to sales taxes, income taxes, property taxes and other taxes imposed on ComEd. (*Id*., pp. 71-72) Not surprisingly, CTA has not claimed that 70 ILCS 3605 somehow exempts it from paying for those taxes through charges imposed on them by ComEd. For these reasons, the Commission should reject CTA's argument.

6. Distribution Loss Factors

In response to Staff's recommendation that, upon completing an updated transmission loss study, ComEd promptly update the distribution loss factors referenced in certain tariffs, ComEd indicated its agreement, but only if it also received several other authorizations from the Commission. (ComEd IB, pp. 150-151) While Staff continues to recommend that ComEd update its distribution loss factors promptly following completion of an updated transmission loss study, Staff believes that the additional authorizations that ComEd identified would be more appropriately included in ComEd's next rate proceeding. (Staff IB, pp. 144-145) See also Section X.C.

7. General Terms and Conditions

a. Residential Service Station (Ownership of Residential Primary Service Connection facilities on private property)

ComEd opposes Staff's recommendation that ComEd own and maintain overhead primary-voltage service connection facilities on the private property of residential customers in a similar manner as it does for non-residential customers. In its Initial Brief, ComEd reiterated the same arguments it included in its rebuttal testimony. (ComEd IB, pp. 151-152) Staff previously addressed each of ComEd's objections. In particular, Staff explained that most residential customers likely already assume ComEd owned these facilities, and would never anticipate that ComEd had assigned ownership and maintenance responsibilities to them. These residential customers would have no reason to object to ComEd owning and maintaining the high-voltage service connection facilities on their property. ComEd would not require easements to access and maintain the high-voltage service connection facilities on residential private property, and Staff's proposal would be far less confusing to customers than ComEd's proposal of mixed ownership, which even includes mounting a transformer that ComEd owns and maintains on a pole that the customers must own and maintain. (Staff Ex. 21.0, pp. 12-17)

In its Initial Brief, ComEd repeatedly refers to these overhead primary service connections on the private property of residential customers as “non-standard,” seemingly implying that the facilities would not satisfy ComEd’s requirements in some manner. (ComEd IB, pp. 151-153) However, that is not the case. ComEd witness McMahan explained that:

> These facilities are non-standard not in the sense that they do not comply with safety standards or “applicable electric, safety, and local codes, and Company specifications.” They are non-standard in the sense that they are a type of facility that ComEd’s tariffs do not require ComEd to provide and maintain and are not the type of facility that is provided as “standard” to other customers of the same class and type (i.e., overhead). (ComEd Ex. 60.0, p. 18)

ComEd suggests that, rather than simply adopting Staff’s straightforward recommendation, ComEd should create a regulatory asset to cover its cost to study the matter. (ComEd IB, p. 153) Staff does not believe that a study is necessary. (Tr., January 12, 2011, p. 847) ComEd has not explained why it will not simply agree to modify its tariff in a manner that provides overhead primary service connections to residential customers in the same manner as it provides them to non-residential customers, as Staff continues to recommend. Staff knows of no reason that ComEd should create an additional cost to rate payers in the form of a regulatory asset for an unnecessary study. (Staff IB, pp. 145-146; Staff Ex. 21.0, pp. 17-18)

b. Limitation of Liability Language

8. Rider UF

As noted by the Company, this issue is now uncontested. (ComEd IB, pp. 154-155) Staff recommended that the Commission order the Company to begin using the net write-off method instead of using Account 904 for the purpose of determining the utility's uncollectible amount in rates. Staff calculated the percentage of uncollectibles related to delivery services using the net write-off method to be 1.37%. In surrebuttal testimony, Company witness Alongi submitted his own calculation of uncollectibles related to delivery services, which agreed to Staff's calculated percentage of 1.37 percent. (ComEd Ex. 68.2) This exhibit also included the Company's calculation of uncollectibles expense related to supply, 1.59 percent. (ComEd Ex. 68.2) The Company recommends that if the Commission determines that net write-offs should be used instead of bad debt expense in the determination of uncollectible cost factors, the computation of the factors should be performed in accordance with the model provided in ComEd Ex. 68.2, attached to the surrebuttal testimony of Mr. Alongi. (ComEd Ex. 68.0, p. 8) Additionally, if the Commission agrees, the use of such net write-offs in the determination of uncollectible cost factors would begin in the calendar year following the Order in this rate case. (ComEd IB, p. 155)

Staff has no objection to using the Company's model (ComEd Ex. 68.2) or to the implementation of the net write-off method in the determination of uncollectible cost factors beginning in the calendar year following the Order in the instant proceeding (January 1, 2012).

9. Notification Regarding Elimination of Self Generation Customer Group

10. Docket 08-0532 Compliance Issues

11. Other Issues

IX. REVENUES

A. Uncontested Issues – Other Revenues – Rate Relief Payment

B. Miscellaneous Revenues

C. Weather Normalization

D. Late Payment Charge Revenues

E. New Business Revenue Credit

X. OTHER

A. RES Service Issues

B. UUFR

It is ComEd's position[22] that Staff witness Stutsman's recommendation to proceed with the UUFR project should be rejected as it suffers from three flaws.

<u>The UUFR Project Is Not Required</u>

Although ComEd witness Hemphill opines that the UUFR project would provide additional reliability benefits, ComEd does not believe the project is required for it to meet its service reliability obligations. Staff's review of the UUFR project found that it was necessary to meet statutory requirements[23] and that ComEd's position that the UUFR project exceeded minimum service requirements was without merit.[24]

[22] Public ComEd IB, p. 162
[23] Public Staff IB, pp. 156-160
[24] Public Staff IB, pp. 161-164

<u>Staff's Recommendation Is an Unfunded Mandate</u>

Dr. Hemphill opines that "Mr. Stutsman's recommendation constitutes a request that the Commission issue an unfunded mandate, compliance with which would necessitate significant cutbacks in other areas."[25] ComEd's arguments are without merit.[26] Staff has never proposed an unfunded mandate which would also be precluded by the PUA. ComEd is well aware that reasonable costs of the UUFR project will be afforded recovery in the next rate case and until then ComEd would reap the operational savings.

<u>UUFR Should Only Be Funded Under Alt. Reg.</u>

Dr. Hemphill opines the Commission should consider and provide for the funding of the UUFR project under ComEd's alternative regulation proposal and not in the context of this rate case. Staff found that the budget driven design of the Alt. Reg. proposal could incentivize ComEd to forgo reliability improvements in order to reap the maximum revenue from its preapproved budgets.[27] Customer interests would be better served by ComEd recovering its reasonable UUFR project costs in a future rate case.[28]

Accordingly, the Commission should adopt Staff's recommendation that ComEd initiate the UUFR project.

C. Updated Distribution Loss Study

In its Initial Brief, CG objected to modifications ComEd made to its distribution loss study. (CG IB, pp. 12-14; ComEd Ex. 67.1 Rev; ComEd Ex. 67.2) As indicated by the title of Appendix C to ComEd's distribution loss study, "2009 Loss Factors -Percent

[25] Public ComEd IB, p. 162
[26] Public Staff IB, pp. 161, 165-166
[27] Public Staff Group Cross Ex. 1, p. 23
[28] Public Staff IB, pp. 165-166

of Class Load through Elements," the values listed in each cell of the table represents the percentage of each class load that utilizes each element of ComEd's distribution system. For the SEC/SERVICE element, which represents ComEd's secondary distribution facilities as well as its services to individual customers, CG specifically objected to the values of 50% and 40% assigned to the Medium Load and Large Load customer classes, respectively, and the effect these values have on ComEd's Distribution Loss Factors. Staff understands ComEd's "SEC" elements to consist of low voltage secondary conductors that can supply multiple customers, such as exist along many urban streets, and ComEd's "SERVICE" elements to consist of the conductors on private property that supply individual customers. (Tr., January 12, 2011, pp. 818-819) CG suggests that SEC/SERVICE values of 20% and 10% in Appendix C would be more appropriate for the Medium and Large Load customer classes. CG opines that "...the correct SEC/SERVICES values for Medium and Large Load classes are probably closer to the original 0% than 50% or 40%, but what the exact values should be is guesswork." (CG IB, pp. 12-14)

Staff agrees with CG that what the exact values should be for the SEC/SERVICES values within Appendix C of ComEd's distribution loss study are not known, but that the values indicated are the result of "an approximation based upon engineering judgment of the people conducting the study." (Tr., January 12, 2011, p. 849) Mr. Rockrohr, in direct testimony, explained his rationale for recommending the values of 50% and 40%, and stated "I would consider alternative non-zero percentages to represent losses in the services to members of the 100-400 kW and 400-1000kW classes if a reasonable argument were to be presented for those alternative values." (Staff Ex. 6.0, p. 25)

Staff disagrees with CG that the SEC/SERVICE values should be closer to 0% for Medium and Large Load customer classes than the 50% and 40% presented in ComEd Ex. 67.1 Revised and ComEd Ex. 67.2. CG argued that Very Large and Extra Large Load classes may have even higher levels of current flowing through their service drops, but in Appendix C to its distribution loss study, ComEd assigned a value of only 5% for those customer classes for SEC/SERVICE elements. (CG IB, p. 14) However, Mr. Rockrohr previously pointed out that often customers in the Very Large and Extra Large Load classes take service at a non-transformed voltage level, such as 12 kV, so that the line that supplies them would not be included as a SEC/SERVICE element at all. (Tr., January 12, 2011, pp. 817-819) Therefore, it is logical that the Very Large and Extra Large Load classes have a SEC/SERVICE value in Appendix C that is significantly lower than the Medium and Large Load classes.

CG then points to the assumption that no losses occur through the SEC (secondary) part of the SEC/SERVICE element of ComEd's distribution model for members of the Medium and Large Customer classes. (CG IB, p. 14) However, Mr. Rockrohr already made this point when making his recommendation. Specifically, he explained that he believed the values of 50% and 40% would "strike a reasonable balance between the reality that these customers do not typically utilize ComEd's secondary systems, and the reality that the current that does flow on the services to these customers is typically large, so some losses are present." (Staff Ex. 6.0, p. 25) This is true because "Line losses are calculated by the formula: Loss = the square of the current through the line times resistance." (CG IB, p. 12)

Lastly, CG referenced a cost study that indicated ComEd's costs assigned to the Medium and Large Load classes for service lines is only 0.7% and 0.25% respectively of ComEd's total service line costs. (CG IB, p. 14) However, Staff does not understand how the cost of services for any single class of customer provides any indication whatsoever of the percentage of the load for each class that passes through those services. In other words, the statistic that CG presents is not an indicator of losses. Staff does not believe CG provided a reasonable argument for the alternative Appendix C SEC/SERVICE values of 20% and 10% values that it suggested.

Staff supports CG's suggestion that ComEd further study how the various customer classes utilize each element of ComEd's distribution system (CG IB, p. 14), and would add that ComEd should also segregate the SEC (secondary) and SERVICE elements to eliminate future disagreement and confusion. Staff, however, believes the distribution loss study ComEd presented in ComEd Ex. 67.1 Revised and ComEd Ex. 67.2 should be accepted at this time, and does not support CG's recommendation that the values of SEC/SERVICE for the Medium and Large Load customer classes be reduced to 20% and 10% respectively, as Staff believes those values would under-represent class use of the SEC/SERVICE elements of ComEd's distribution system.

D. Meters and Meter Reading

ComEd stated that it "believes that it has addressed all the issues regarding meter reading, estimated bills and unbilled meters. (ComEd IB, p. 163) However, Staff identified two metering issues that ComEd failed to adequately address.

First, Staff found that ComEd is not keeping seals on its meters, and ComEd cannot know whether customers or other individuals are disturbing or tampering with un-sealed meters. Staff recommended that ComEd consistently keep seals on its meters to counter tampering and theft, and to promote safety. (Staff IB, pp. 166-167)

ComEd provided no indication that it intends to change its existing practice of leaving meters unsealed for extended periods of time until its investigation personnel can receive notice of the missing seal and eventually schedule a time to place a seal back on the meter. (ComEd Ex. 61.0, p. 12) Staff continues to recommend that the Commission order ComEd to modify its ineffective practice and instead promptly seal or re-seal meters in the field. (Staff IB, pp. 166-167)

Additionally, Staff expressed concern about high numbers of estimated meter readings associated with ComEd customer accounts. ComEd's response to Staff's concern was to state "ComEd attempts to read meters in accordance with the Commission's rules governing meter reads and bill estimation." (ComEd IB, p. 162) Staff notes that estimated bills are the cause of many customer complaints and requests for meter accuracy tests, and is concerned that ComEd either underestimates, or is not concerned by, the scale of this problem. Staff recommends that the Commission order ComEd to develop internal audits that include accountability for occurrences of meters going unread without a valid and documented reason. (Staff IB, p. 167)

E. Competitive Retail Market Development Issues

F. New Section 9-250 Investigation of ComEd's Electric Rate Design

G. Other

<u>ComEd's Reliance Upon Traction Power Substation Equipment</u>

CTA and Metra both object to Staff witness Rockrohr's recommendation that the Commission require ComEd to present a plan to eliminate its current practice of supplying other customers through railroad-owned traction power substations. (CTA IB, pp. 22-24; Metra IB, p. 21)

CTA expressed concern over potential costs that ComEd would assign to it under Rider NS to cover modifications to existing distribution circuits. (CTA IB, p. 24) However, it is not clear to Staff why there would be any ComEd charges under Rider NS from ComEd, since CTA and Metra already have connections to two different ComEd circuits, and Staff's recommendation requires ComEd to make no change to that configuration. ComEd estimated it would need to spend $2.1 million to modify its circuits to eliminate the overloads that would exist on its circuits if it no longer supplied customers through railroad traction power substation (Staff IB, p. 171; Tr. January 14, 2011, pp. 1707-1708). Staff is not aware of any claim by ComEd in this proceeding that it would charge the CTA "tens of millions of dollars" under Rider NS, and does not believe that any such charge could be appropriately made. (CTA IB, p. 24; Staff IB, p. 173)

Rather than supporting a solution that eliminates ComEd's use of railroad facilities, CTA and Metra prefer a solution whereby other customer classes continue to compensate CTA and Metra for ComEd's use of their traction power substation facilities by subsidizing ComEd's costs to supply CTA and Metra. Staff understands CTA to indicate that, even though it believes its annual credit for ComEd's use of its traction power substations should be $678,103, it would be willing to accept the annual amount of $452,069 that ComEd proposed. (CTA IB, p. 25) Metra, however, insists the annual subsidy provided by ComEd's other customer classes should be $678,104 or even $1,356,207. (Metra IB, pp. 17-18) Metra stated, "ComEd evaluated the cost to construct facilities to avoid the need to use Railroad Class facilities to serve other customers, and has proposed that the cost to serve the Railroad Class should be reduced by approximately $452,000." (Metra IB, p. 17) Staff would simply clarify here that ComEd's computation of $452,000 was not based upon its cost to construct facilities to avoid the need to use Railroad Class facilities, as Metra represents, but rather its estimate of "...the installed cost of the railroad electric facilities through which power may flow, which is about $10.721 million..." (ComEd Ex. 16.0, 2nd Rev., p. 13) Staff believes this clarification is important, since ComEd's $10.721 million estimate of the installed cost of the railroad electric facilities through which power may flow to supply other customers is more than five times higher than ComEd's $2.1 million estimate to eliminate its dependence upon those railroad electric facilities. (Staff IB, p. 171; Tr., January 14, 2011, pp. 1707-1708)

Metra criticized Staff for not putting forth a position in either of the previous two rate cases regarding ComEd's use of Railroad Class facilities. (Metra IB, p. 18) This criticism puzzles Staff, since no verification of ComEd's use existed until the instant proceeding. (ComEd Ex. 16.0 2nd Revised, p. 13) In addition, Metra stated, "In his rebuttal testimony, Mr. Rockrohr also threw out the idea of requiring the installation of automatic throw-over switchgears so that the switching between ComEd circuits takes place on ComEd's distribution system." (Metra IB, p. 19) Staff would like to clarify that the term "threw out" should be replaced with the term "presented," meaning Staff witness Rockrohr did not discard this option, but rather presented it as another viable alternative. Staff witness Rockrohr did not discard his suggestion that ComEd consider automatic throw-over switchgear to eliminate its use of railroad customer traction power substations to supply its other customers. (Staff Ex. 6.0, Attach O, ComEd's response to Staff data request GER 5.07(c))

CTA and Metra want ComEd to eliminate its use of the traction power substations to supply other customers only when new traction power substations are added or existing substations are renovated and the costs justify the change. (CTA IB, pp. 24-25; Metra IB, p. 21) While Staff is sensitive to CTA and Metra's concerns regarding their potential costs associated with eliminating ComEd's use of their railroad traction power substations to supply other customers (Staff Ex. 21.0, p. 22), Staff is also sensitive to the ongoing subsidies other customer classes may be required to provide to CTA and Metra, as a result of ComEd's ongoing use of railroad facilities. (Staff IB, p. 173) Views about whether or not costs justify modifications to ComEd's existing closed-loop service to the railroad traction power substations likely depends upon whether a party is receiving or providing the subsidy. Staff is opposed to the proposed subsidy being used as a long-term answer to ComEd's use of railroad facilities to supply its other customers. (Staff IB, p. 173) ComEd's dependence upon customer facilities that it does not own, maintain, or control to supply other customers is a poor utility practice and a serious reliability risk (Staff Ex. 6.0, p. 27; Staff IB, p. 174) Staff continues to recommend that the Commission require ComEd to present a plan to eliminate its practice of supplying other customers by using CTA and Metra facilities, and that ComEd's plan should initially focus on those railroad traction power substations that ComEd is most dependent upon to supply other customers. (Staff Ex. 6, p. 31; Staff Ex. 21.0, p. 22)

XI. CONCLUSION

WHEREFORE, for all of the following reasons, Staff respectfully requests that the Commission's order in this proceeding reflect all of Staff's recommendations regarding the Company's request for a general increase in electric rates.

February 23, 2011

Respectfully submitted,

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John C. Feeley
Jennifer L. Lin
Megan C. McNeill

Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street
Suite C-800
Chicago, Illinois 60601
(312) 793-2877

Counsel for the Staff of the
Illinois Commerce Commission

Commonwealth Edison Company
Statement of Operating Income with Adjustments
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Company Rebuttal Pro Forma Jurisdictional Operating Income (Ex. 29.1,Sch. C-1)	Staff Adjustments (App A p.5)	Staff Pro Forma Present (Cols. b+c)	Company Rebuttal Proposed Increase (Ex. 29.1, Sch. C-1)	Staff Gross Revenue Conversion Factor	Proposed Rates With Staff Adjustments (Cols. d+e+f)	Adjustment To Proposed Increase	Staff Pro Forma Proposed (Cols. g+h)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1	Operating Revenues	$ 1,941,094	-	$ 1,941,094	$ 353,912	$ 7,859	$ 2,302,865	$ (245,949)	$ 2,056,916
2	Other Revenues	106,226	(2,434)	103,792	-	-	103,792	-	103,792
3		-	-	-	-	-	-	-	-
4		-	-	-	-	-	-	-	-
5	Total Operating Revenue	2,047,320	(2,434)	2,044,886	353,912	7,859	2,406,657	(245,949)	2,160,708
6	Uncollectibles Expense	29,864	(33)	29,831	5,530	(574)	34,787	(3,370)	31,417
7	Distribution	313,962	(5,098)	308,864	-	-	308,864	-	308,864
8	Customer Accounts	159,886	(2,117)	157,769	-	-	157,769	-	157,769
9	Customer Services and Informational Services	9,016	(213)	8,803	-	-	8,803	-	8,803
10	Sales	-	-	-	-	-	-	-	-
11	Administrative and General	343,523	(5,477)	338,046	-	-	338,046	-	338,046
12	Depreciation and Amortization	405,509	(15,489)	390,020	-	-	390,020	-	390,020
13	Taxes Other Than Income	147,571	(562)	147,009	-	-	147,009	-	147,009
14	Regulatory Debits	39,215	(5,190)	34,025	-	-	34,025	-	34,025
15		-	-	-	-	-	-	-	-
16		-	-	-	-	-	-	-	-
17	Total Operating Expense								
18	Before Income Taxes	1,448,546	(34,179)	1,414,367	5,530	(574)	1,419,323	(3,370)	1,415,953
19	State Income Tax	(4,466)	(1,562)	(6,028)	25,432	8,466	27,870	(23,045)	4,825
20	Federal Income Tax	(92,387)	(245)	(92,632)	113,050	(33)	20,385	(76,837)	(56,452)
21	Deferred Taxes and ITCs Net	226,881	35,703	262,584	-	-	262,584	-	262,584
22	Total Operating Expenses	1,578,574	(283)	1,578,291	144,012	7,859	1,730,162	(103,252)	1,626,910
23	NET OPERATING INCOME	$ 468,746	(2,151)	$ 466,595	$ 209,900	$ -	$ 676,495	$ (142,697)	$ 533,798
24	Staff Rate Base (Appendix A, p. 6, column (d), line 23)								$ 6,479,571
25	Staff Overall Rate of Return (ICC Staff Exhibit 5.0, Schedule 5.1)								8.24%
26	Revenue Change (column (i), line 5 minus column (b), line 5)								$ 113,388
27	Percentage Change (column (i), line 26 divided by column (d), line 5)								5.54%

Commonwealth Edison Company
Adjustments to Operating Income
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Interest Synchronization (App A p.10)	Pro Forma Plant Additions (App A p.12)	Underground Cable Adjustment (Sch.16.09)	PORCB Adjustment (Sch. 16.10)	Reallocation of G&I Plant (Sch.16.12)	Miscellaneous Fees (App A p.19)	Revenues for New Business (App A p.20)	Subtotal Operating Statement Adjustments
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1	Operating Revenues	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Other Revenues	-	-	-	-	-	(1,045)	$ (1,389)	(2,434)
3	-	-	-	-	-	-	-	-	-
4	-	-	-	-	-	-	-	-	-
5	Total Operating Revenue	-	-	-	-	-	(1,045)	(1,389)	(2,434)
6	Uncollectibles Expense	-	-	-	-	-	(14)	(19)	(33)
7	Distribution	-	-	-	-	-	-	-	-
8	Customer Accounts	-	-	-	-	-	-	-	-
9	Customer Services and Informational Services	-	-	-	-	-	-	-	-
10	Sales	-	-	-	-	-	-	-	-
11	Administrative and General	-	-	-	-	-	-	-	-
12	Depreciation and Amortization	-	(11,705)	(433)	(2,611)	(619)	-	-	(15,368)
13	Taxes Other Than Income	-	-	-	-	-	-	-	-
14	Regulatory Debits	-	-	-	-		-	-	-
15	-	-	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-	-	-
17	Total Operating Expense								
18	Before Income Taxes	-	(11,705)	(433)	(2,611)	(619)	(14)	(19)	(15,401)
19	State Income Tax	3,701	(5,821)	41	248	59	(98)	(130)	(2,000)
20	Federal Income Tax	12,341	(19,406)	137	827	196	(327)	(434)	(6,666)
21	Deferred Taxes and ITCs Net	-	30,047	-	-	-	-	-	30,047
22	Total Operating Expenses	16,042	(6,885)	(255)	(1,536)	(364)	(439)	(583)	5,980
23	NET OPERATING INCOME	$ (16,042)	$ 6,885	$ 255	$ 1,536	$ 364	$ (606)	$ (806)	$ (8,414)

Commonwealth Edison Company
Adjustments to Operating Income
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Subtotal Operating Statement Adjustments	Rate Case Expense (Sch. 17.01)	Remove Pension Asset (Sch. 18.01)	Remove Regulatory Debit (Sch. 18.02)	Reduce 2010 Wage and Salary (Sch. 18.03)	Reduce Incentive Compensation (Sch. 18.04)	Directors' Fees and Expenses (Sch. 18.07)	Subtotal Operating Statement Adjustments
	(a)	(j)	(k)	(l)	(m)	(n)	(p)	(p)	(q)
1	Operating Revenues	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Other Revenues	(2,434)	-	-	-	-	-	-	(2,434)
3	-	-	-	-	-	-	-	-	-
4	-	-	-	-	-	-	-	-	-
5	Total Operating Revenue	(2,434)	-	-	-	-	-	-	(2,434)
6	Uncollectibles Expense	(33)	-	-	-	-	-	-	(33)
7	Distribution	-	-	-	-	(2,978)	(2,102)	-	(5,080)
8	Customer Accounts	-	-	-	-	(2,106)	-	-	(2,106)
9	Customer Services and Informational Services	-	-	-	-	(72)	-	-	(72)
10	Sales	-	-	-	-	-	-	-	-
11	Administrative and General	-	-	-	-	(518)	(387)	(312)	(1,217)
12	Depreciation and Amortization	(15,368)	-	-	-	-	(29)	-	(15,397)
13	Taxes Other Than Income	-	-	-	-	(530)	(32)	-	(562)
14	Regulatory Debits	-	(263)	6,464	(6,329)	-	-	-	(128)
15	-	-	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-	-	-
17	Total Operating Expense								
18	Before Income Taxes	(15,401)	(263)	6,464	(6,329)	(6,204)	(2,550)	(312)	(24,595)
19	State Income Tax	(2,000)	25	(614)	601	589	242	30	(1,127)
20	Federal Income Tax	(6,666)	83	(2,047)	2,005	1,965	808	99	(3,753)
21	Deferred Taxes and ITCs Net	30,047	-	-	-	-	-	-	30,047
22	Total Operating Expenses	5,980	(155)	3,803	(3,723)	(3,650)	(1,500)	(183)	572
23	NET OPERATING INCOME	$ (8,414)	$ 155	$ (3,803)	$ 3,723	$ 3,650	$ 1,500	$ 183	$ (3,006)

Commonwealth Edison Company
Adjustments to Operating Income
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Subtotal Operating Statement Adjustments	Perquisites and Awards (Sch. 18.05)	Severence Expense (Sch. 18.06)	Customer Deposits (Sch. 19.02)	Charitable Contributions (Sch. 19.03)	Regulatory Debit (Sch. 19.04)	AMI Pilot Program Outlays (Sch 19.05)	Subtotal Operating Statement Adjustments
	(a)	(r)	(s)	(t)	(u)	(v)	(w)	(x)	(y)
1	Operating Revenues	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Other Revenues	(2,434)	-	-	-	-	-	-	(2,434)
3	-	-	-	-	-	-	-	-	-
4	-	-	-	-	-	-	-	-	-
5	Total Operating Revenue	(2,434)	-	-	-	-	-	-	(2,434)
6	Uncollectibles Expense	(33)	-	-	-	-	-	-	(33)
7	Distribution	(5,080)	(18)	-	-	-	-	-	(5,098)
8	Customer Accounts	(2,106)	(11)	-	-	-	-	-	(2,117)
9	Customer Services and Informational Services	(72)	(131)	-	-	-	-	-	(203)
10	Sales	-	-	-	-	-	-	-	-
11	Administrative and General	(1,217)	(341)	(40)	653	(2,281)	-	-	(3,226)
12	Depreciation and Amortization	(15,397)	-	-	-	-	-	-	(15,397)
13	Taxes Other Than Income	(562)	-	-	-	-	-	-	(562)
14	Regulatory Debits	(128)		-	-	-	(3,867)	(1,108)	(5,103)
15	-	-	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-	-	-
17	Total Operating Expense								
18	Before Income Taxes	(24,595)	(501)	(40)	653	(2,281)	(3,867)	(1,108)	(31,739)
19	State Income Tax	(1,127)	48	4	(62)	217	367	105	(448)
20	Federal Income Tax	(3,753)	159	13	(207)	723	1,225	351	(1,489)
21	Deferred Taxes and ITCs Net	30,047	-	-	-	-	-	-	30,047
22	Total Operating Expenses	572	(294)	(23)	384	(1,341)	(2,275)	(652)	(3,629)
23	NET OPERATING INCOME	$ (3,006)	$ 294	$ 23	$ (384)	$ 1,341	$ 2,275	$ 652	$ 1,195

Commonwealth Edison Company
Adjustments to Operating Income
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Subtotal Operating Statement Adjustments	Professional Sporting Activity Expense (App A p. 22)	Project ITN # 37977 (Sch. 16.11)	Photovoltaic Pilot Costs (Sch 19.07)	Legal Fees (AG/CUB Ex. 2.1, p. 11)	State Tax Adjustment (App A, p. 21)	Rate Case Expense Adjustment (App A, p. 23)	Total Operating Statement Adjustments
	(a)	(z)	(aa)	(ab)	(ac)	(ad)	(ae)	(af)	(ag)
1	Operating Revenues	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Other Revenues	(2,434)	-	-	-	-	-	-	(2,434)
3	-	-	-	-	-	-	-	-	-
4	-	-	-	-	-	-	-	-	-
5	Total Operating Revenue	(2,434)	-	-	-	-	-	-	(2,434)
6	Uncollectibles Expense	(33)	-	-	-	-	-	-	(33)
7	Distribution	(5,098)	-	-	-	-			(5,098)
8	Customer Accounts	(2,117)	-	-	-	-			(2,117)
9	Customer Services and Informational Services	(203)	-	-	(10)	-	-	-	(213)
10	Sales	-	-	-	-	-	-	-	-
11	Administrative and General	(3,226)	(64)	-	-	(2,187)		-	(5,477)
12	Depreciation and Amortization	(15,397)	-	(92)		-	-	-	(15,489)
13	Taxes Other Than Income	(562)	-	-	-	-	-	-	(562)
14	Regulatory Debits	(5,103)	-	-	-			(87)	(5,190)
15	-	-	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-	-	-
17	Total Operating Expense								
18	Before Income Taxes	(31,739)	(64)	(92)	(10)	(2,187)	-	(87)	(34,179)
19	State Income Tax	(448)	6	9	1	208	(1,346)	8	(1,562)
20	Federal Income Tax	(1,489)	20	29	3	693	471	28	(245)
21	Deferred Taxes and ITCs Net	30,047	-	-	-	-	5,656	-	35,703
22	Total Operating Expenses	(3,629)	(38)	(54)	(6)	(1,286)	4,781	(51)	(283)
23	NET OPERATING INCOME	$ 1,195	$ 38	$ 54	$ 6	$ 1,286	$ (4,781)	$ 51	$ (2,151)

Commonwealth Edison Company
Rate Base
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Company Rebuttal Pro Forma Jurisdictional Rate Base (Ex. 29.1 Sch. B-1)	Staff Adjustments (App A p.8)	Staff Pro Forma Rate Base (Col. b+c)
	(a)	(b)	(c)	(d)
1	Gross Utility Plant	$ 14,758,892	$ (425,175)	$ 14,333,717
2	Accumulated Provision for Depreciation and Amortization	(5,297,269)	(394,254)	(5,691,523)
3	-	-	-	-
4	Net Plant	9,461,623	(819,429)	8,642,194
5	Additions to Rate Base			
6	Materials and Supplies	26,586	(3,265)	23,321
7	Construction Work in Progress	12,591	-	12,591
8	Regulatory Assets	11,040	-	11,040
9	Deferred Debits	98,463	(95,313)	3,150
10	Cash Working Capital	89,703	(9,417)	80,286
11	-	-	-	-
12	Deductions From Rate Base			
13	Accumulated Deferred Income Taxes	(1,718,643)	(64,352)	(1,782,995)
14	Non-Pension Post Retirement Benefit Obligations	-	-	-
15	Other Accumulated Provisions for Pensions and Benefits	-	-	-
16	Accumulated Provision for Injuries and Damages	-	-	-
17	Accumulated Misc. Operating Provisions	(306,818)	-	(306,818)
18	Asset Retirement Obligation	(18,750)	-	(18,750)
19	Other Deferred Credits	(11,665)	-	(11,665)
20	Customer Advances	(42,273)	-	(42,273)
21	Customer Deposits	(44,548)	(85,962)	(130,510)
22		-	-	-
23	Rate Base	$ 7,557,309	$ (1,077,738)	$ 6,479,571

Commonwealth Edison Company

Adjustments to Rate Base

For the Test Year Ending December 31, 2009

(In Thousands)

Line No.	Description	Pro Forma Plant Additions (App A p. 12)	Underground Cable Adjustment (Sch.16.09)	PORCB Adjustment (Sch. 16.10)	Project ITN # 37977 (Sch. 16.11)	Reallocation of G&I Plant (Sch.16.12)	Remove Pension Asset (Sch. 18.01)	Cash Working Capital (App A p. 6)	Subtotal Rate Base Adjustments
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1	Gross Utility Plant	$ (373,970)	$ (18,730)	$ (11,691)	$ (4,067)	(15,693)	$ -	$ -	$ (424,151)
2	Accumulated Provision for Depreciation and Amortization	(398,951)	1,956	2,338	92	282	-	-	(394,283)
3	-	-	-	-	-	-	-	-	-
4	Net Plant	(772,921)	(16,774)	(9,353)	(3,975)	(15,411)	-	-	(818,434)
	-								
5	Additions to Rate Base								
6	Materials and Supplies	-	-	-	-	-	-	-	-
7	Construction Work in Progress	-	-	-	-	-	-	-	-
8	Regulatory Assets	-	-	-	-	-	-	-	-
9	Deferred Debits	-	-	(2,722)		-	(92,591)	-	(95,313)
10	Cash Working Capital	-	-	-	-	-	-	(9,417)	(9,417)
11	-	-	-	-	-	-	-	-	-
12	Deductions From Rate Base	-	-	-	-	-	-	-	-
13	Accumulated Deferred Income Taxes	(90,476)	1,552	618	113	-	23,841	-	(64,352)
14	Non-Pension Post Retirement Benefit Obligations	-	-	-	-	-	-	-	-
15	Other Accumulated Provisions for Pensions and Benefits	-	-	-	-	-	-	-	-
16	Accumulated Provision for Injuries and Damages	-	-	-	-	-	-	-	-
17	Accumulated Misc. Operating Provisions	-	-	-	-	-	-	-	-
18	Asset Retirement Obligation	-	-	-	-	-	-	-	-
19	Other Deferred Credits	-	-	-	-	-	-	-	-
20	Customer Advances	-	-	-	-	-	-	-	-
21	Customer Deposits	-	-	-	-	-	-	-	-
22	-	-	-	-	-	-	-	-	-
23	Rate Base	$ (863,397)	$ (15,222)	$ (11,457)	$ (3,862)	$ (15,411)	$ (68,750)	$ (9,417)	$ (987,516)

Commonwealth Edison Company
Adjustments to Rate Base
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Subtotal Rate Base Adjustments	Reduce Incentive Compensation (Sch. 18.04)	Perquisites and Awards (Sch. 18.05)	Professional Sporting Activity Expense (App A p. 22)	Materials & Supplies Adjsutment (Sch. 19.01)	Customer Deposits (Sch. 19.02)	(Source)	Total Rate Base Adjustments
	(a)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)
1	Gross Utility Plant	$ (424,151)	$ (953)	$ (62)	(9)	$ -	$ -	$ -	$ (425,175)
2	Accumulated Provision for Depreciation and Amortization	(394,283)	29		-	-	-	-	(394,254)
3	-	-	-	-	-	-	-	-	-
4	Net Plant	(818,434)	(924)	(62)	(9)	-	-	-	(819,429)
	-								
5	Additions to Rate Base								-
6	Materials and Supplies	-		-		(3,265)	-	-	(3,265)
7	Construction Work in Progress	-	-	-	-	-	-	-	-
8	Regulatory Assets	-		-	-	-	-	-	-
9	Deferred Debits	(95,313)	-	-	-	-	-	-	(95,313)
10	Cash Working Capital	(9,417)	-	-	-	-	-	-	(9,417)
11	-	-	-	-	-	-	-	-	-
12	Deductions From Rate Base	-	-	-	-	-	-	-	-
13	Accumulated Deferred Income Taxes	(64,352)	-		-	-	-		(64,352)
14	Non-Pension Post Retirement Benefit Obligations	-	-	-	-	-	-	-	-
15	Other Accumulated Provisions for Pensions and Benefits	-	-	-	-	-	-	-	-
16	Accumulated Provision for Injuries and Damages	-	-	-	-	-	-	-	-
17	Accumulated Misc. Operating Provisions	-	-	-	-	-	-	-	-
18	Asset Retirement Obligation	-	-	-	-	-	-	-	-
19	Other Deferred Credits	-	-	-	-	-	-	-	-
20	Customer Advances	-	-	-	-	-	-	-	-
21	Customer Deposits	-	-		-		(85,962)	-	(85,962)
22	-	-	-	-	-	-	-	-	-
23	Rate Base	$ (987,516)	$ (924)	$ (62)	$ (9)	$ (3,265)	$ (85,962)	$ -	$ (1,077,738)

Commonwealth Edison Company

Revenue Effect of Staff's Adjustments

For the Test Year Ending December 31, 2009

(In Thousands)

Line No.	Description	ComEd's Rebuttal Proposal	Staff's Adjustments		Staff's Initial Brief
	(a)	(b)	(c)		(d)
1	**Summary**				
2	Current Revenues	$ 2,047,320			$ 2,047,320
3	**Proposed Increase**	**353,912**	**(240,524)**	#	**113,388**
4	Proposed Revenue Requirement	$ 2,401,232	$ (240,524)		$ 2,160,708
5	**Percentage Increase**	**17.29%**	**-11.75%**		**5.54%**
6	**Effect of Each Staff Adjustment**				
7	Pro Forma Plant Additions		$ (113,577)		
8	Rate of Return		(96,632)		
9	Customer Deposits		(9,465)		
10	Remove Regulatory Debit		(6,417)		
11	Reduce 2010 Wage and Salary		(6,291)		
12	PORCB Adjustment		(3,997)		
13	Regulatory Debit		(3,921)		
14	Reduce Incentive Compensation		(2,694)		
15	Reallocation of G&I Plant		(2,442)		
16	Charitable Expenses		(2,311)		
17	Underground Cable Adjustment		(2,233)		
18	Legal Fees		(2,216)		
19	Remove Pension Asset		(1,544)		
20	AMI Pilot - Program Outlays		(1,124)		
21	Cash Working Capital		(1,109)		
22	Project ITN # 37977		(548)		
23	Perquisites and Awards		(514)		
24	Materials & Supplies Adjustment		(385)		
25	Directors' Fees and Expenses		(315)		
26	Rate Case Expense		(267)		
27	Rate Case Expense - Cost of Capital witness		(88)		
28	Professional Sporting Activity Expense		(66)		
29	Severence Expenses		(40)		
30	PV Pilot Costs		(10)		
31	Other Revenues Correction		(1)		
32	New Business Revenues		(1)		
33	Interest Synchronization		1,584		
34	Gross Revenue Conversion Factor		7,859		
35	State Tax Adjustment		8,241		
36			-		
37	Rounding		-		
38			**$ (240,524)**	#	
39	**Reconciliation to Page 1 of 23**				
40	Column (c), line 5.		(2,434)		
41	Column (f), line 5.		7,859		
42	Column (h), line 5.		(245,949)		
43	Total Effect of Staff's Adjustments		**$ (240,524)**	#	

Commonwealth Edison Company
Interest Synchronization Adjustment
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Amount
	(a)	(b)
1	Rate Base	$ 6,479,571 (1)
2	Weighted Cost of Debt	3.53% (2)
3	Synchronized Interest Per Staff (Line 1 x Line 2)	228,567
4	Company Interest Expense	267,529 (3)
5	Increase (Decrease) in Interest Expense	(38,962)
6	Increase (Decrease) in State Income Tax Expense	
7	at 9.500%	$ 3,701
8	Increase (Decrease) in Federal Income Tax Expense	
9	at 35.000%	$ 12,341

(1) Source: Appendix A, p. 6, column (d), line 23
(2) Source: ICC Staff Exhibit 5.0, Schedule 5.1
(3) Source: Company Exhibit 29.1, Schedule C-5.4 page 2, line 3

Commonwealth Edison Company
Gross Revenue Conversion Factor
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Rate	Per Staff With Bad Debts	Per Staff Without Bad Debts
	(a)	(b)	(c)	(d)
1	Revenues		1.000000	1.000000
2	Uncollectibles per Staff (1)	1.3700%	0.013700	
3	State Taxable Income		0.986300	
4	State Income Tax	9.5000%	0.093700	0.095000
5	Federal Taxable Income		0.892600	0.905000
6	Federal Income Tax	35.0000%	0.312400	0.316750
7	Operating Income		0.580200	0.588250
8	Gross Revenue Conversion Factor Per Staff (Line 1 / Line 7)		1.723540	1.699958

(1) Staff Ex. 18.0, Schedule 18.09, Line 5, Column (c)

Commonwealth Edison Company
Pro Forma Plant Adjustment
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Amount	Source
	(a)	(b)	(c)
1	Pro Forma Plant Additions per Staff	$ 656,622	Page 13 line 2
2	Pro Forma Plant Additions per Company	1,030,592	Page 13 line 3
3	Staff Proposed Adjustment	$ (373,970)	Line 1 minus Line 2
4	Accumulated Depreciation per Staff	$ (369,074)	Page 13 line 6 plus page 15 line 1
5	Accumulated Depreciation per Company	29,877	Page 13 line 7 plus page 15 line 2
6	Staff Proposed Adjustment	$ (398,951)	Line 4 minus Line 5
7	ADIT per Staff	$ (215,433)	Page 13 line 10 plus page 15 line 4
8	ADIT per Company	(124,957)	Page 13 line 11 plus page 15 line 5
9	Staff Proposed Adjustment-Admin. & General Expense	$ (90,476)	Line 7 minus Line 8
10	Depreciation Expense per Staff	$ 28,010	Page 13 line 14
11	Depreciation Expense per Company	39,715	Page 13 line 15
12	Staff Proposed Adjustment	$ (11,705)	Line 10 minus Line 11
	Income Tax Effects of Above Adjustments:		
13	State Income Taxes per Staff	$ (39,463)	Page 14 line 12
14	State Income Taxes per Company	(33,642)	= ($39,715 + ($124,964/41.175%)) * 9.5% *-1
15	Staff Proposed Adjustment	$ (5,821)	Line 13 minus line 14
16	Federal Income Taxes per Staff	$ (131,577)	Page 14 line 13
17	Federal Income Taxes per Company	(112,171)	= ($39,715 + ($124,964/41.175%)) * 31.675% *-1
18	Staff Proposed Adjustment	$ (19,406)	Line 16 minus line 17
19	Deferred Income Taxes	$ 159,507	Page 14 line 14
20	Deferred Income Taxes per Company	129,460	=124,964/.39745%*41.1755%
21	Staff Proposed Adjustment	$ 30,047	Line 19 minus line 20

Commonwealth Edison Company
Pro Forma Plant Adjustment
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description		Amount	Source
	(a)		(b)	(c)
1	2010 Pro Forma Plant Additions per Staff	$ 656,622		(2)
2	2011 Pro Forma Plant Additions per Staff	-	656,622	
3	Pro Forma Plant Additions per Company		1,030,592	(1)
4	Staff Proposed Adjustment		$ (373,970)	Line 3 minus Line 4
5	2010 Accumulated Depreciation per Staff	$ 19,406		(2)
6	2011 Accumulated Depreciation per Staff	-	19,406	
7	Accumulated Depreciation per Company		29,877	(1)
8	Staff Proposed Adjustment		$ (10,471)	Line 6 minus Line 7
9	2010 ADIT per Staff	$ (159,507)		(2)
10	2011 ADIT per Staff	-	(159,507)	
11	ADIT per Company		(124,957)	(1)
12	Staff Proposed Adjustment-Admin. & General Expense		$ (34,550)	Line 10 minus Line 11
13	2010 Depreciation Expense per Staff	$ 28,010		(2)
14	2011 Depreciation Expense per Staff	-	28,010	
15	Depreciation Expense per Company		39,715	(1)
16	Staff Proposed Adjustment		$ (11,705)	Line 14 minus Line 15

(1) Source: ComEd Ex. 29.2, Workpaper WPB-2.1a
(2) Source: Staff Appendix B, p. 1.

Commonwealth Edison Company
Income Effect of Plant Additions
(In Thousands)

Line No.	Description		Projects Reasonably Expected to be Placed In Service (1)	Supporting Schedule
	(A)		(B)	(F)
1	Depreciation Class:			
2	Distribution Projects	$	547,201	Staff Initial Brief, Appendix B page 1
3	General Plant Projects		44,930	Staff Initial Brief, Appendix B page 1
4	Intangible Plant Projects		64,491	Staff Initial Brief, Appendix B page 1
5	Project Cost Expected to be Placed In-Service	$	656,622	
6	Depreciation Expense:			
7	Distribution Projects	$	12,640	Staff Initial Brief, Appendix B page 1
8	General Plant Projects		2,472	Staff Initial Brief, Appendix B page 1
9	Intangible Plant Projects		12,898	Staff Initial Brief, Appendix B page 1
10	Total Depreciation Expense	$	28,010	
11	Income Tax Effects of Above Adjustments:			
12	State Income Taxes (1)	$	(39,463)	Formula from ComEd Ex. 55.1, Schedule C-2.7, line 12
13	Federal Income Taxes (1)		(131,577)	Formula from ComEd Ex. 55.1, Schedule C-2.7, line 13
14	Deferred Income Taxes		159,507	Staff Initial Brief, Appendix B page 1
15		$	(11,533)	

Note:
(1) Formula adjusted to reflect change in State Tax Rate.

Commonwealth Edison Company

Pro Forma Plant Adjustment
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Amount	Source
	(a)	(b)	(c)
1	Increased Accumulated Depreciation per Staff	$ (388,480)	(1)
2	Increased Accumulated Depreciation per Company filing	-	
3	Staff Proposed Adjustment	$ (388,480)	Line 1 minus Line 2
4	Increased ADIT per Staff	$ (55,926)	(2)
5	Increased ADIT per Company filing	-	
6	Staff Proposed Adjustment	$ (55,926)	Line 4 minus Line 5

(1) Source: Company response to Staff data request TEE 2.01, Corrected, Attach 1 (582,720*.667)
(2) Source: Company response to Staff data request TEE 2.01, Corrected, Attach 2 (83,889*.667)

Commonwealth Edison Company
Adjustment to Cash Working Capital
For the Test Year Ending December 31, 2009
(In Thousands)

Line	Item (a)	Amount (b)	Lag (Lead) (c)	CWC Factor (d) (c/365)	CWC Requirement (e) (b*d)	Column C Source (f)
1	Revenues	$ 1,400,018	54.470	0.14923	$ 208,929	Appendix A, p. 17, column b, line 7
	Collections of Pass-through Taxes:					
2	Energy Assistance/Renewable Energy	40,584	0.00000	0.00000	-	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 34
3	Gross Receipts/Muni Utility Tax	209,867	0.00000	0.00000	-	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 35
4	Illinois Excise Tax	251,725	39.260	0.10756	27,076	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 36
5	City of Chicago Infrastrastructure Maintenance Fee	87,942	39.260	0.10756	9,459	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 37
6	Total Receipts	$ 1,990,136			245,464	Lines 1 through 5
7	Base Payroll and Withholdings	263,849	(14.640)	(0.04011)	(10,583)	Appendix A, p. 18, Column b, Line 8
8	Employee Benefits - Pension & OPEB	186,231	0.000	0.00000	-	Appendix A, p. 18, Column b, Line 15
9	Employee Benefits - Amort. Of Sever.		0.000	0.00000	-	
10	Employee Benefits - Other		(5.120)	(0.01403)	-	
11	Inter-Company billings - Less Pass-throughs	99,668	(45.350)	(0.12425)	(12,383)	Appendix A, p. 17, Column b, Line 12
12	Inter-Company billings - Pass-throughs	45,911	(45.350)	(0.12425)	(5,704)	Appendix A p. 17, Column b, Line 13
13	Property Leases	25,645	(7.820)	(0.02142)	(549)	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 15
14	Other Operations and Maintenance Expenses	192,178	(64.340)	(0.17627)	(33,876)	Appendix A, p. 17, Column b, Line 21
15	Property/Real Estate Tax	12,124	(383.960)	(1.05195)	(12,754)	Company Schedule C-18, Page 1, Column C, Line 5
16	FICA Tax	18,527	(14.640)	(0.04011)	(743)	Appendix A, p. 17, Column b, Line 12
17	Federal Unemployment Tax	172	(75.630)	(0.20721)	(36)	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 19
18	State Unemployment Tax	337	(75.630)	(0.20721)	(70)	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 20
19	Electricity Distribution Tax	108,759	(29.630)	(0.08118)	(8,829)	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 21
20	State Franchise Tax	1,728	(177.500)	(0.48630)	(840)	Company Schedule C-18, Page 1, Column C, Line 11
21	City of Chicago Dark Fiber Tax	83	(75.630)	(0.20721)	(17)	Company Schedule C-18, Page 1, Column C, Lines 12 + 14
22	State Public Utility Fund Tax	3,848	(6.520)	(0.01786)	(69)	Company Schedule C-18, Page 1, Column C, Line 7
23	Illinois Sales and Use Tax	385	(45.130)	(0.12364)	(48)	Company Schedule C-18, Page 1, Column C, Line 9
24	Chicago Sales and Use Tax	293	(30.290)	(0.08299)	(24)	Company Schedule C-18, Page 1, Column C, Line 10
25	Interest Expense	228,567	(91.020)	(0.24937)	(56,998)	Appendix A, p. 10, Column b, Line 3
26	State Income Tax	4,825	(37.880)	(0.10378)	(501)	Appendix A, p. 1, Column i, Line 19
27	Federal Income Tax	(56,452)	(37.880)	(0.10378)	5,859	Appendix A, p. 1, Column i, Line 20
	Payments of Pass-through Taxes					
28	Energy Assistance/Renewable Energy	40,584	(35.210)	(0.09647)	(3,915)	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 40
29	Gross Receipts/Municipal Utility Tax	209,867	(44.210)	(0.12112)	(25,420)	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 41
30	Illinois Excise Tax	251,725	13.300	0.03644	9,172	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 42
31	City of Chicago Infrastructure Mainenance Fee	87,942	(28.430)	(0.07789)	(6,850)	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 43
32	Total Outlays	$ 1,462,947			$ (165,178)	Sum of Lines 7 through 31
33	Cash Working Capital per Staff				$ 80,286	Line 6 plus line 32
34	Cash Working Capital per Company				89,703	ComEd Ex. 29.1, Schedule B-8, Page 1, Column H, Line 46
35	Difference -- Adjustment per Staff				$ (9,417)	Line 33 minus Line 34

Commonwealth Edison Company
Adjustment to Cash Working Capital
For the Test Year Ending December 31, 2009
(In Thousands)

Line	(a)	Amount (b)	Source (c)
1	Total Operating Revenues	$ 2,160,708	Appendix A, p. 1, Column i, Line 5
2	Purchased Power	-	
3	Uncollectible Accounts	(31,417)	Appendix A, p. 1, Column i, Line 6
4	Depreciation & Amortization	(390,020)	Appendix A, p. 1, Column i, Line 12
5	Return on Equity	(305,228)	Line 10 below
6	Regulatory Debits	(34,025)	Line 19 below
7	Total Revenues for CWC calculation	$ 1,400,018	Sum of Lines 1 through 6
8	Total Rate Base	$ 6,479,571	Appendix A, p. 6, Column d, Line 23
9	Weighted Cost of Capital	4.71%	Schedule 20.1
10	Return on Equity	$ 305,228	Line 8 times Line 9
11	Operating Expense Before Income Taxes	$ 1,415,953	Appendix A, p. 1, Column i, Line 18
12	Intercompany billings - Less Pass-throughs	(99,668)	ComEd Ex. 29.1, Schedule B-8, Page 1, Column (E), Line 13
13	Intercompany billings - Pass-throughs	(45,911)	ComEd Ex. 29.1, Schedule B-8, Page 1, Column (E), Line 14
14	Employee Benefits Expense	(186,231)	Appendix A, p. 18, Column b, Line 15
15	Payroll Expense	(263,849)	Appendix A, p. 18, Column b, Line 8
16	Uncollectible Accounts	(31,417)	Appendix A, p. 1, Column i, Line 6
17	Depreciation & Amortization	(390,020)	Appendix A, p. 1, Column i, Line 12
18	Property Leases	(25,645)	ComEd Ex. 29.1, Schedule B-8, Page 1, Column E, Line 15
19	Regulatory Debits	(34,025)	Appendix A, p. 1, Column i, Line 14
20	Taxes Other Than Income	(147,009)	Appendix A, p. 1Column i, Line 13
21	Other Operations & Maintenance for CWC Calculation	$ 192,178	Sum of Lines 11 through 20

Commonwealth Edison Company
Adjustment to Cash Working Capital
For the Test Year Ending December 31, 2009
(In Thousands)

Line	Description (a)		Amount (b)	Source (c)
1	Direct O & M Payroll per Company	$	299,076	Schedule C-11.1, Page 1, line 8, column (B)
2	less: Power Production payroll		(1,090)	Schedule C-11.1, Page 1, line 2, column (B)
3	less:Transmission payroll		(28,463)	Schedule C-11.1, Page 1, line 8, column (B)
4	less: Pro forma 2010 salary and wage increase		(5,674)	ICC Staff Ex. 18.0, Schedule 18.03, line 14 minus line 13, net
5	less: Incentive Compensation disallowed		(424)	ICC Staff Ex. 18.0,Sched. 18.04, line 10, col. (C)
6	less: Perquisites and Awards disallowed		(501)	ICC Staff Ex. 18.0, Sched. 18.05, line 3, col. (C)
7	less: Severance expenses disallowed		-	Note 1., line 18
8	Direct Payroll per Staff	$	263,849	Sum of Lines 1 through 7
9	FICA Taxes	$	19,089	Schedule C-18, Page 1, Column (C), Line 8
10	less: Pro forma 2010 salary and wage increase		(530)	ICC Staff Ex. 18.0, Schedule 18.03, line 13, col. (C)
11	less: Incentive Compensation disallowed		(32)	ICC Staff Ex. 18.0,Sched. 18.04, line 12, col. (C)
12	FICA Tax	$	18,527	Sum of Lines 9 through 11
13	Employee Benefits per Company	$	186,231	Schedule C-11.3, line 10, column (D)
14	less: 2010 pension/OPEB increase		-	ICC Staff Ex. 18.0
15	Employee Benefits per Staff	$	186,231	Sum of Lines 13 through 14
	Note 1. Cash portion of severance costs disallowed:			
16	Remove cost of Cash Incentive Compensation Benefits	$	-	Sched. 18.06
17	Period of amortization for severance costs (in years)		3	Sched. 18.06, line 2, col. (C)
18	Staff reduction of annual severance costs (cash portion)	$	-	Line 16 divided by line 17

Commonwealth Edison Company
Adjustment to Miscellaneous Fees
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Amount	Source
	(a)	(c)	(d)
1	Miscellaneous Fees per Staff	$ (79)	Staff Ex. 27.0,Schedule 27.1R, line 18
2	Miscellaneous Fees per Company	966	ComEd Schedule C-2.16
3	Staff Adjustment to Miscellaneous Fee	$ (1,045)	Line 1 minus line 2

Commonwealth Edison Company

Adjustment toRevenues for New Business

For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Amount	Amount	Source
	(a)	(b)	(c)	(d)
1	New Business Plant Additions per Staff	$ 114,761		(1)
2	New Business Plant Additions per Company	191,819		(2)
3	Staff Adjustment to New Business Plant Additions		$ (77,058)	Line 1 minus line 2
4	Percentage of New Business Plant disallowed		-40.17%	Line 3 divided by line 2
5	Estimated Revenues per Staff	2,068		Line 6 minus line 7
6	Estimated Revenues per Company	3,457		ComEd Ex. 30.1, Schedule C-2.9
7	Staff Adjustment to Revenues for New Business		$ (1,389)	Line 6 times line 4

(1) Staff Appendix B, p. 8.
(2) ComEd Ex. 55.2, p. 1

Commonwealth Edison Company
Adjustment to State Income Tax
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Amount	Amount	Source
	(a)	(b)	(c)	(d)
1	Company Rebuttal State Tax before Proposed Increase	$ (4,466)		ComEd Ex. 29.01 Schedule C-1
2	Previous State Tax Rate	7.30%		
3	Company Taxable Income before Proposed Increase		$ (61,178)	Line 1 divided by line 2
4	Current State Tax Rate		9.50%	
5	State Tax before proposed Increase per Staff		$ (5,812)	Line 3 times line 4
6	Staff Proposed Adjustment to State Tax		$ (1,346)	Line 5 minus line 1
7	Operating Revenues		$ 2,047,320	ComEd Ex. 29.01, Schedule C-1, Page 1, Column E, Line 3
8	Less: Operating Expenses		(1,448,546)	ComEd Ex. 29.01, Schedule C-1, Page 1, Column E, Line 17
9	Operating Income		$ 598,774	
10	Less: Synchronized Interest		(267,529)	ComEd Ex. 29.01, Schedule C-5.4, Page 2, Column B, Line 3
11	Medicare Pro Forma - Non Taxable		3,104	ComEd Ex. 29.01, Schedule C-2, Page 3, Column G
12	Company Taxable Income Before Proposed Increase		$ 334,349	Sum of lines 9 through 11
13	Updated State Tax Rate		9.50%	
14	Original State Tax Rate		7.30%	
15	Increase in State Tax Rate		2.20%	Line 13 less line 14
16	Company Increase in State Taxes		$ 7,356	Line 12 multiplied by line 15
17	Less: Reduction in Federal Taxes Due to Additional State Tax Deduction		(2,574)	Line 16 multiplied by 35% multiplied by -1
18	Increase in State Taxes on Taxable Income Before Proposed Increase (a) Updated Adjustment on Appendix A, Page 5, Column AE		$ 4,781	Line 16 plus line 17 (a) Represents Federal and state taxes
19	Change in Current State Income tax		$ (1,346)	Line 6
20	Change in Current Federal Income tax		471	Line 19*35%
21	Change in Deferred Income Taxes		5,656	Line 22-line 19-line 20
22	Total		$ 4,781	

Commonwealth Edison Company
Professional Sporting Activity Expense Adjustment
For the Test Year Ended December 31, 2009
(In Thousands)

Line No.	Description	Amount	Source
	(a)	(b)	(c)
1	Allowable Sports Usage Expense in distribution plant in service per Staff	$ -	
2	Allowable Sports Usage Expense in distribution plant in service per Company	$ 9	ComEd response to ST 14.02
3	Staff adjustment	$ (9)	Line 1 - line 2
4	Allowable Sports Usage Expense in administrative and general expenses per Staff	$ -	
5	Allowable Sports Usage Expense in administrative and general expenses per Company	$ 64	ComEd response to ST 14.02
6	Staff adjustment	(64)	Line 4 - line 5

Commonwealth Edison Company
Rate Case Expense Adjustment
For the Test Year Ended December 31, 2009
(In Thousands)

Line No.	Description (a)	Amount (b)	Amount (c)	Source (d)
1	Rate of Return Rate Case Expense per Staff		$ 100	AG/CUB Exhibit 9.0, p. 26
2	Cost of Capital	$ 200		(1)
3	EE (Recovery of Lost Sales)	100		(1)
4	Financial Witness	60		(1)
5	Rate of Return Rate Case Expense per ComEd		360	Sum of lines 2 through 4
6	Rate of Return Costs Disallowed per Staff		$ (260)	Line 1 minus line 5
7	Amortization period		3	
8	Staff Proposed Adjustment to Rate Case Expense		$ (87)	Line 6 divided by line 7

Source (1): Company response to Staff data request DLH 1.04 SUPP 4 Attach 1

Commonwealth Edison Company
Original Cost Determination
For the Test Year Ending December 31, 2009
(In Thousands)

Line No.	Description	Amount	Amount	Source
	(a)	(b)	(c)	(d)
1	Unadjusted Delivery Service Rate Base		$ 13,932,447	Company Schedule B-1, column (B), line 4
2	Project ITN # 37977	$ (4,065)		Staff Ex. 1.0, Schedule 1.11, line 3
3	Reallocation of G&I Plant	(15,693)		Staff Ex. 16.0, Schedule 16.12, line 3
4	Incentive Compensation adjustment-contested	(953)		Staff Ex. 18.0, Schedule 18.04
5	Incentive Compensation adjustment-uncontested	(7,330)		Company Schedule B-2.5
6	Perquisites and Awards adjustment	(62)		Staff Ex. 18.0, Schedule 18.05
7	Total Staff adjustments to historic plant		(28,103)	Sum of lines 2 through 5
8	Staff proposed Original Cost amount		$ 13,904,344	Line 1 plus line 6