

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY :
 : No. 10-0467
Petition for General Increase in Delivery Service :
Rates :

**COMMONWEALTH EDISON COMPANY’S RESPONSE TO VERIFIED MOTION
FOR LEAVE TO FILE CORRECTED BRIEF ON EXCEPTIONS**

Commonwealth Edison Company (“ComEd”), by its attorneys, respectfully files this Response to the People of the State of Illinois’ (“AG”) Verified Motion for Leave to File Corrected Brief on Exceptions (“Motion”). In support, ComEd states as follows:

1. The AG recently sought an extension to file Briefs on Exceptions (“BOE”) in this matter, and represented to all parties that BOEs would be filed and served by 5:00pm on April 11, 2011. The Commission’s E-docket reflects that the AG did not file its BOE by 5:00pm on that date.

2. Three days after it filed its initial BOE, the AG filed its Motion seeking leave to file a “corrected” BOE, on the ostensible grounds of a sudden and belated recognition that certain arguments contained in the originally filed BOE relating to *pro forma* plant additions and the roll forward of accumulated depreciation and ADIT were “unclear or inconsistent with” *Commonwealth Edison Co. v. Ill. Commerce Comm’n*, 405 Ill.App.3d 389 (2d Dist. 2010). See Motion ¶ 2.

3. The reality is that the AG’s initial BOE arguments on the *pro forma* and “roll forward” issues were not “unclear” in any way. Moreover, the allegation that those arguments

were “inconsistent” with the *Commonwealth Edison* opinion is belied by the fact that the *Commonwealth Edison* opinion did not address the “roll forward” issue in the context of partial *pro forma* adjustments as the ALJs have proposed here, and did not address ADIT at all. The ALJs would be justified in inferring that the real reason for the AG’s attempt to file a “corrected” BOE is to adopt an argument on the “roll forward” issue similar to one proposed by the IIEC that is even more extreme than the ones in the AG’s initial BOE.

4. Reply BOEs are due in two business days.
5. The AG has not shown good cause to grant this Motion, and the ALJs would be well within the proper exercise of their discretion to deny it. However, in the event that it is denied, the AG may simply make the same arguments in its RBOE, denying ComEd *any* opportunity to reply. Therefore, ComEd proposes that if the ALJs allow the AG’s Motion, the parties should be granted a modest extension of one additional business day to file those portions of the Reply BOEs that are affected by the AG’s “corrected” BOE. Three Reply BOE sections – *Pro Forma* Capital Additions, Accumulated Provisions for Depreciation and Amortization-Related Provisions for Accumulated Depreciation, and Accumulated Deferred Income Taxes (ADIT) – would then be due by 5:00pm on Tuesday, April 19. The remainder of the Reply BOEs would still be due by 5:00pm on Monday, April 18.

WHEREFORE, ComEd respectfully requests that the Administrative Law Judges only grant the AG's Motion on the condition that the extension detailed above also be granted.

Dated: April 15, 2011

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

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