

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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

REPLY BRIEF ON EXCEPTIONS OF DOMINION RETAIL, INC.

Pursuant to Section 200.830 of the Rules of Practice of the Illinois Commerce Commission (“Commission” or “ICC”), Dominion Retail Inc. (“Dominion”), through its attorneys, Rowland & Moore LLP, files this Reply Brief on Exceptions to the Administrative Law Judges’ Proposed Order (“ALJPO”) issued April 1, 2011. This brief addresses a single issue of the treatment of costs that Commonwealth Edison Company (“ComEd”) incurred to start up its Purchase of Receivables program (“POR”) and Consolidated Billing (“CB”).

In Initial Brief on Exceptions, Dominion showed that the ALJPO improperly decided that ComEd could include all of its claimed startup costs for POR and CB in the POR discount rate, even though there has been no determination of the prudence of those expenditures or showing that those expenditures were for facilities and services that are used and useful to POR customers. The ALJPO found that the issues raised by Dominion were either definitively determined in Docket 10-0138 or can be determined either in an investigation into new tariffs the ALJPO invites ComEd to file or in the future reconciliation proceedings. Thus, the ALJPO found that POR customers must pay for all costs that ComEd has identified as being potential startup costs of POR and CB. Dominion’s brief showed that the ALJPO is inconsistent with the record and with the Public Utilities Act.

The Exceptions Briefs of Commission Staff and ComEd each addressed the issue of the allocation of the startup costs of POR and CB. Dominion will respond to those two briefs separately

Response to Staff Brief on Exceptions

One issue raised by Dominion was the fact that ComEd has agreed that it could place the costs of improvements to its Customer Data Warehouse (CDW) and Retail Office in rate base because ComEd agrees that these enhanced functions are not required to effectuate the purchase of receivables and place associated RES supply charges on customers' bills. Additionally, ComEd states that the costs of these systems have been included in rate base in the past. The Staff indicates in its Brief on Exceptions ("BOE") that it is neutral on putting these costs in rate base. Staff BOE, p. 12. The Staff notes, however, that if the Commission decides to place CDW and Retail Office costs in rate base, then

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.

Id.

Dominion does not object to that qualification. In fact, such clarity is exactly what is needed on this issue so that all parties understand what issues are being dealt with here and what issues will be dealt with in future proceedings. In this sense, Dominion agrees with ComEd's comment that it does not wish to be whip-sawed in the various POR related proceedings. Whereas ComEd wishes to avoid being precluded from arguing for the recovery of all prudently incurred costs, (ComEd BOE, p. 29), Dominion wishes to avoid being precluded from arguing

that some of those costs (whether or not they are prudent) should not be recovered from POR customers and instead should be recovered from other customers for whom those costs are used and useful.

The Staff agrees with that sentiment, stating:

However, regardless of whether the Commission makes those determinations in this case or in a future proceeding, the Commission might identify costs that the Commission finds were prudently incurred but not associated with the provision of PORCB service. If the Commission makes such a determination for some of the costs originally labeled PORCB costs, ComEd would be allowed to recover those prudently incurred costs through base rates.

Staff BOE, p. 11.

The only qualification that Dominion wishes to make is that there may also be costs that, while they were prudently incurred, they were associated with CB and not POR. In that circumstance, those costs should not be recovered from POR customers, who may not be the same as CB customers.

Dominion notes, however, that like the ALJPO, the Staff is treating the start-up costs as defaulting to POR customers until the Commission gets around to determining which customers should pay those costs. The lack of concern for “getting it right” for POR customer costs is illustrated by the next issued raised by the Staff. The Staff notes that ComEd recently filed its Original Information Sheet No. 22 setting forth the initial Consolidated Billing Adjustment under Rider RCA pursuant to the provisions in Docket No. 10-0138. After reviewing amounts reflected in that filing, the Staff recommends that if any of these costs are placed in rate base, then ComEd must clarify what Staff believes are discrepancies in total costs reported in the various filings. Staff BOE, p. 13. It is troubling that the Staff is only concerned with discrepancies if any of these costs are being placed in rate base and has no concerns if they are

being paid entirely by POR customers. As noted by Dominion in its Initial Brief on Exceptions, forcing POR customers to pay all of the costs claimed by ComEd and sorting it all out later is discriminatory, is in violation of the Act and would also have a negative impact on the introduction of competition into the residential and small commercial market by sending a distorted, unnecessarily high price signal to customers.

Response to ComEd Brief on Exceptions

In its Initial Brief on Exceptions, Dominion noted that the Public Utilities Act contains separate sections for the implementation of POR and CB. Dominion showed that Section 16-118(c) of the Act allows the utilities to recover POR startup costs by including those costs in the discount rate.¹ Section 16-118(d), which requires utilities to provide CB, does not contain a similar provision allowing for the recovery of startup costs. Thus, those costs must be recovered in some other way. Dominion argued in its Initial Brief on Exceptions that such costs should be recovered either directly from CB customers or from all ComEd customers because, as shown in Dominion's BOE, many of those startup costs are for systems ComEd is obligated to maintain and has traditionally recovered in base rates and will be used by ComEd to serve all of its customers. Dominion also noted that POR and CB customers are not necessarily the same because POR is available to customers with demands up to 400 kW, whereas there is no such limit for the provision of Consolidated Billing.

¹ "The discount rate shall be based on the electric utility's historical bad debt and any reasonable start-up costs and administrative costs associated with the electric utility's purchase of receivables." 220 ILCS 5/16-118(c).

ComEd attempts to evade this issue by claiming that it is offering POR and CB as a combination service under Section 16-118(c). Thus, according to ComEd, it can recover both POR and CB costs in the discount rate for POR.² ComEd's gambit violates the Act. The Act imposes separate obligations to provide POR and CB and establishes different eligibility criteria for each. It explicitly allows the recovery of POR startup costs in the discount rate. It does not provide for the recovery of CB startup costs in CB rates and it certainly does not provide for the recovery of CB startup costs in the POR discount rate. Moreover, if ComEd is to be believed that it is offering POR and CB as a combination service pursuant to Section 16-118(c), then it is violating the Act by not offering a separate service of CB pursuant to Section 16-118(d), almost four years after the Act was amended to create that obligation.

ComEd's argument is also contrary to this Commission 10-0138 Order, where it found that ComEd was entitled to recover startup costs of CB pursuant to language in Section 16-118(d). (*see* 10-0138 Order, p. 31.) Dominion disagrees with the Commission's analysis of Section 16-118(d) in the 10-0138 Order. Nevertheless, ComEd cannot side step Dominion's objection to POR customers paying for costs needed to implement CB simply by disavowing the Commission's previous reliance on Section 16-118(d). Again, the Act is clear that POR and CB

² ComEd's argument, which is contained in footnote 14 on page 29 of its BOE is as follows: ComEd is offering CB only in combination with POR service, and not as a separate service, hence ComEd's entire PORCB service offering is made under Section 16-118(c). ComEd Reply Brief, p. 49, fn. 9; *Proposal to Establish Rider PORCB*, ICC Docket No. 10-0138 (the "PORCB Docket"), pp. 4-5 (Order Dec. 15, 2010, and Amendatory Order Feb. 9, 2011). The first full paragraph of page 40 of the Proposed Order refers to both Section 16-118(c) and Section 16-118(d), 220 ILCS 5/16-118(d), but ComEd does not understand the Proposed Order to disagree with the point that ComEd's entire PORCB service offering is made under Section 16-118(c).

are separate services with separate eligibility and separate recovery mechanisms. ComEd's argument obliterates those distinctions.

Conclusion

For the reasons provided above and in Dominion's Initial Brief on Exceptions, the Commission should modify the ALJPO in a manner that adjusts ComEd's charges for POR to the amount ComEd calculates is applicable to POR customers. The balance of its total IT modification costs should be placed in rate base. The Commission should also modify the ALJPO to direct ComEd to reduce the \$0.50 per bill charge currently being imposed on POR customers to reflect their fair share of ComEd's IT costs by making a pro rata adjustment to that charge equal to the percentage allocated between POR customers and rate base.

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Respectfully submitted,
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Dominion Retail, Inc.'s Reply Brief On Exceptions has been served upon the parties reported by the Clerk of the Commission as being on the service list of this docket, on the 18th day of April, 2011, by electronic mail.

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