

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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

**INITIAL BRIEF ON REHEARING OF
COMMONWEALTH EDISON COMPANY**

The issue before the Illinois Commerce Commission (“Commission”) on rehearing is straightforward – whether to apply the same, unique uncollectibles (or “bad debt”) charges already established under Rider UF – Uncollectible Factors (“Rider UF”) that correspond to each of the customer segments included under Rider PORCB – Purchase of Receivables with Consolidated Billing (“Rider PORCB”) or to impose a single, blended bad debt charge applicable to all receivables purchased under Rider PORCB. Although the use of the Rider UF bad debt factors was uncontested in this docket, the Commission’s Amendatory Order made an unexpected change to the Final Order when it imposed a single, blended uncollectibles charge. To explain this change, the Amendatory Order, as later modified by the Order upon Emergency Motion for Clarification, only stated that a single charge was “in the best interests of Illinoisans.”

Although the Commission granted rehearing for the purpose of conducting additional discovery regarding the blended bad debt charge, none of the evidence proffered during rehearing lends support to the imposition of such a charge. To the contrary, the evidence submitted unquestionably demonstrates that the residential customer segment incurs higher bad debt costs than the nonresidential customer segment, and the unique bad debt factors established

under Rider UF reflect this fact. As a result, a blended bad debt charge will under-recover bad debt costs associated with residential receivables and over-recover costs associated with the purchase of nonresidential receivables. Having now exhausted the discovery period on rehearing, it is no clearer how a single, blended bad debt charge that artificially props up retail electric suppliers (“RESs”) serving a particular customer segment is “in the best interests of Illinoisans”. Indeed, in light of the testimony of the Retail Electric Supply Association (“RESA”) and the Illinois Competitive Energy Association (“ICEA”), the only thing that can be said for certain is that the blended bad debt charge is in the best interests of Dominion Retail Inc. As ICEA witness Mr. Wright notes, such a result suggests that “the Commission appears intent on picking winners and losers with regard to ComEd’s Rider PORCB tariff.” Wright Dir. on Rehearing, ICEA Ex. 3.0, 5:84-85.

BACKGROUND

Section 16-118(c) of the Public Utilities Act (“Act”) requires Commonwealth Edison Company (“ComEd”) to provide a new tariffed service whereby a retail electric supplier (“RES”) may, at its option, sell to ComEd receivables for power and energy service for certain of its customers at a discount rate. In particular, the statute provides that “[t]he 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).

To facilitate discussion among interested stakeholders regarding the implementation of the purchase of receivables program described in the Act, the Office of Retail Market Development conducted a collaborative workshop process beginning in January 2008.

Mittelbrun Dir., ComEd Ex. 2.0, 5:98-6:110. Prompted by these discussions, during the fall of 2009 RESA, ICEA, and ComEd began having settlement discussions with some 15 RESs to narrow the issues in this proceeding, and were able to reach a formal agreement on the discount rate and cost recovery mechanism and other terms and conditions, including the use of the Rider UF uncollectible cost factors to set the bad debt portion of the discount rate. Garcia Dir., ComEd Ex. 1.0, 7:169-77; ComEd Ex. 1.3.¹

Based on this agreement, ComEd proposed to set the bad debt portion of the discount rate by applying the same supply-related uncollectible cost factors set forth in Rider UF (ILL. C.C. No. 10, Second Revised Sheet No. 267 *et seq.*) that it applies to its own supply charges (*i.e.*, Purchased Electricity Charges) under Rate BES – Basic Electric Service (“Rate BES”), which is ComEd’s fixed price bundled electric service tariff (ILL. C.C. No. 10, Original Sheet No. 10 *et seq.*). Rider UF establishes two separate supply-related uncollectible cost factors, the base uncollectible cost factor and the incremental uncollectible cost factor, for each of three distinct customer groupings – residential customers; nonresidential customers to which the Watt-Hour Delivery Class, Small Load Delivery Class, Medium Load Delivery Class, or Large Load Delivery Class is applicable; and all other customers (*e.g.*, nonresidential customers with demands in excess of 1,000 kW or served from high voltage lines, and lighting customers). Under this approach, the applicable supply-related uncollectible cost factors would be applied to develop the discount rate in Rider PORCB based on the delivery class of the customer whose receivables are purchased by ComEd. Furthermore, because the applicable incremental supply uncollectible cost factors in Rider UF, and in turn, ComEd’s supply charges will be updated annually for application beginning with the June monthly billing

¹ Prior to ComEd’s discussions with RESA and ICEA, ComEd and the Citizens Utility Board worked together to develop the cost recovery mechanism and were able to reach informal agreement as to how it should function. Garcia Dir., ComEd Ex. 1.0, 7:169-77.

period (*see* ILL. C.C. No. 10, 1st Revised Sheet No. 267.13 and 2nd Revised Sheet No. 21), the percentage reduction reflected in the discount rate also would be updated annually during the June billing period. Garcia Dir., ComEd Ex. 1.0, 14:333-15:351.

As the December 15, 2010 Final Order and February 9, 2011 Amendatory Order in this docket recognized, the use of ComEd's Rider UF uncollectible cost factors was uncontested and therefore adopted:

No party contested ComEd's proposal that, to determine the percentage reduction for the recovery of uncollectible costs that are associated with the purchase of receivables, ComEd will apply the same supply-related uncollectible cost factors set forth in its [Rider UF] that it applies to its own supply charges under Rate BES, ComEd's fixed-price bundled electric service tariff. This proposal links the historic bad debt rates used in setting ComEd's supply charges with those used in the PORCB discount [rate]. It also identifies when the uncollectible cost factors will be established.

Commonwealth Edison Co., ICC Docket No. 10-0138, Final Order (Dec. 15, 2010) at 5 ("Final Order"); *Commonwealth Edison Co.*, ICC Docket No. 10-0138, Amendatory Order (Feb. 9, 2011) at 5 ("Amendatory Order"). However, the Amendatory Order also abruptly added new, conflicting language that appeared to adopt a single, blended uncollectibles charge based only on the unsupported assertion that "it is in the best interests of Illinoisans in ComEd's service territory." Am. Order at 25. On February 23, 2011, the Commission issued its Order upon Emergency Motion for Clarification, which amended the Amendatory Order to clarify that the Commission was indeed adopting a single, blended uncollectibles charge instead of the uncontested Rider UF uncollectible cost factors. *Commonwealth Edison Co.*, ICC Docket No. 10-0138, Order upon Emergency Motion for Clarification (Feb. 23, 2011).

On March 23, 2011, the Commission granted the respective Applications for Rehearing of ICEA and RESA, which sought rehearing regarding the February 9, 2011 Amendatory Order and February 23, 2011 Order upon Emergency Motion for Clarification.

ARGUMENT

The use of the uncollectible factors derived from Rider UF is reasonable and consistent with the recovery of such costs from the overwhelming majority of mass market customers receiving fixed-price supply from ComEd today. These separate uncollectible factors have been approved on several occasions, most recently in ICC Docket No. 10-0467, for use and application to all customers taking fixed-price supply service under Rate BES. As of April 2011, roughly 98% of all customers eligible to be enrolled by a RES in Rider PORCB (nearly 3.8 million customers in total) have been and currently are subject to the application of these bad debt rates to their fixed-price supply charges from ComEd. Garcia Reb. on Rehearing, ComEd Ex. 13.0, 2:43-3:46. As explained below, no party has provided sufficient justification for the Commission to require ComEd to charge RESs a different bad debt rate to serve customers under Rider PORCB than it would have charged such customers had they remained on ComEd fixed-price supply.

I. The Rider UF Uncollectible Cost Factors Are Commission-Approved, Consistent with Cost Causation Principles and Ensure a Level Playing Field.

It is beyond dispute that ComEd's bad debt experience differs materially between residential and nonresidential customers, a fact that is reflected in the different Rider UF factors approved by the Commission for residential, nonresidential and other customer segments as filed under ComEd Tariff Supplement to Rider UF, 1st Revised Sheet 20 Informational Filing. Specifically, the percentage reductions for the recovery of bad debt under ComEd's proposed method were as follows for the period December 2010 through February 2011: residential 2.24%, nonresidential² 0.77% and lighting 0.11%. Applying the applicable Rider UF factor in

² Inclusive of all nonresidential customers.

the Rider PORCB discount rate to each unique customer segment therefore helps avoid over-or under-charging RESs, both collectively and respectively, all else being equal, and is consistent with cost causation principles. Garcia Dir. on Rehearing, ComEd Ex. 12.0, 5:92-101.

Linking the uncollectible cost factors reflected in ComEd's supply charges and the Rider PORCB discount rate puts RES supply offerings via Rider PORCB on a level playing field with ComEd's default supply offerings. *Id.*, 4:74-76. For example, if the factor used to gross up ComEd's supply charges for bad debt is lower than the one applied through the discount rate to RESs using Rider PORCB, the RESs using Rider PORCB would be at a disadvantage in their efforts to compete against the default supply rate. This could be particularly detrimental to a RES that does not have adequate billing and bad debt management capabilities to serve the mass market and is, therefore, reliant upon Rider PORCB to some extent for their market participation. For those RESs with alternative means of billing and bad debt management, it may discourage the use of Rider PORCB in favor of less expensive alternatives to the detriment of Rider PORCB cost recovery. RESs with alternative means of billing and bad debt management may view the use of Rider PORCB as being uneconomical relative to their incremental cost to use their own or other outsourced billing and bad debt management operations. *Id.*, 4:76-88.

II. A Single, Blended Bad Debt Charge Neither Reflects the Uncollectibles Costs Related to Each Customer Segment Nor Enhances Competition.

Averaging the distinct bad debt rates to create a single, blended rate for residential and nonresidential customers necessarily results in a rate that does not reflect the actual uncollectible experience of any of these customers, which creates a variety of adverse outcomes. These include the following:

- **Violates Traditional Ratemaking Practices and the Principle of Cost Causation:** All else being equal, averaging the various uncollectible cost factors to create a single, blended charge will result in the overcharging of RESs that use Rider PORCB to serve non-residential customers and the undercharging of RESs that use Rider PORCB to serve residential customers. This is due to the fact that residential customers' bad debt rates have historically been higher than those for non-residential customers. In sum, this averaging results in a rate that is not reflective of the bad debt risk of either of these customer groups. Garcia Dir. on Rehearing, ComEd Ex. 12.0, 6:129-7:136.
- **Discourages Use of Rider PORCB to Serve Non-Residential Customers:** Because a single, blended bad debt charge imposes higher uncollectibles costs related to nonresidential customers' receivables than otherwise would apply, RESs, particularly those with alternative billing and credit and collections processes, may be discouraged from using Rider PORCB to serve those customers because the cost of the service is uneconomic relative to alternative means of billing and credit and collections. In addition to discouraging the use of a legislatively mandated service option for RESs, this single charge would also impede the recovery of start-up and administrative costs from RESs because of lower participation. *Id.*, 7:137-43.
- **Imposes Increased Costs on Customers:** If in fact RESs elect to use Rider PORCB to serve only residential customers (because it is uneconomic to serve nonresidential customers), then ComEd will under-recover its costs from RESs because the blended uncollectible charge is less than the unique uncollectible cost factor that would otherwise apply to residential receivables. As a result, the net actual uncollectible costs will

eventually be recovered from all customers with demand under 400 kW through the POR Adjustment set forth in Rider RCA – Retail Customer Assessments. *Id.*, 7:144-50.

- **Tilts Playing Field Against RESs Reliant on PORCB to Serve the Mass Market:** By adding over 1% to a RES's cost of service in an industry with already narrow margins, it may become uneconomic for a RES to use Rider PORCB to serve nonresidential customers. *Id.*, 7:153-8:156.
- **Forecloses an Opportunity to Study an Alternative Approach:** In weighing the needs for uniformity in rates among utilities (*i.e.* attempting to align ComEd's discount rate to the one approved for Ameren Illinois Utilities) against the needs of the marketplace and customers, the Commission previously has recognized the value in evaluating the strengths and weaknesses of the different approaches and the collaborative efforts of the parties. *See Commonwealth Edison Co.*, ICC Docket No. 10-0138, Final Order (Dec. 15, 2010) at 24-25.

In sum, none of these outcomes is in “the best interests of Illinoisans.” To the contrary, because RESs are not required to pass through any cost savings that might be achieved through the application of a blended bad debt charge to the purchase of residential customer receivables, the only certain beneficiary of a blended charge is a RES serving such customers under Rider PORCB.

CONCLUSION

For the reasons set forth above, ComEd respectfully requests that the Commission reinstate the use of the separate uncollectible cost factors set forth in Rider UF as originally proposed and approved in this docket.

Dated: June 20, 2011

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

By: _____

Michael S. Pabian
Attorney for Commonwealth Edison Company
10 South Dearborn Street, 49th Floor
Chicago, Illinois 60603
(312) 394-5832
michael.pabian@exeloncorp.com

Mark R. Johnson
Eimer Stahl Klevorn & Solberg LLP
224 South Michigan Avenue, Suite 1100
Chicago, Illinois 60604
312.660.7628
mjohnson@eimerstahl.com