

**OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION**

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**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission : Docket No.: 11-0434
On It Own Motion :
vs. : December 29, 2011
Commonwealth Edison Company :
Investigation of Rate GAP Pursuant to :
Section 9-250 of the Public Utilities Act. :

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ILLINOIS COMMERCE
COMMISSION

VERIFIED COMMENTS OF VERDE ENERGY USA ILLINOIS, LLC

I. Introduction

The Illinois Commerce Commission ("Commission") is investigating Commonwealth Edison Company's ("ComEd") Government Aggregation Protocols ("Rate GAP") to determine whether the "Rate GAP is unjust, unreasonable, discriminatory or preferential, or in any way in violation of any provisions of law. . . ." (Commission's *Order Initiating Investigation*, May 18, 2011).

In accordance with the Commission's request for verified comments, Verde Energy USA Illinois, LLC ("Verde") respectfully submits these comments. Verde appreciates the opportunity to submit its comments in relation to ComEd's proposed Rate GAP.

II. Background on Verde

Verde is a wholly-owned subsidiary of Verde Energy USA Holdings, LLC ("Verde Holdings"). Verde Holdings owns other entities which also operate as retail electric suppliers in other jurisdictions (collectively the "Verde Energy Group of Companies").

Verde is an alternative retail electric supplier ("ARES"), authorized by the Commission to sell electricity and power to all eligible residential and nonresidential retail customers in the respective service territories pursuant to Docket No.11-0666. In addition, the Verde Energy Group of Companies operate as retail electric suppliers in Connecticut, New Jersey and Pennsylvania and one of Verde's affiliates recently applied for certification to serve retail customers in Ohio. Verde's customers have saved more than \$12 million in more than two years of operations and the Verde Energy Group of Companies have been a consistent advocate in these markets in encouraging regulatory policies and procedures that promote efficiency and reductions of unnecessary roadblocks to unlock customer access to energy savings.

Verde's experience in different markets affords it unique and valuable perspectives on the implementation ComEd's Rate GAP. As a supplier of retail electric power in Illinois, ComEd's proposed municipal aggregation tariff presents important issues which directly affect Verde's business interests in Illinois.

III. Verde's Comments

Verde commends the Commission for launching this investigation into ComEd's Rate GAP as it raises concerns for the retail electric energy market in Illinois. The Commission recognizes that competitive retail markets are the best way for Illinois's consumers to receive the most reliable and affordable electric products and services from suppliers who are positioned to meet customers' individual needs and that municipal aggregation is one way to accomplish this goal.

The purpose of ComEd's Rate GAP by its own terms is to:

[D]efine the circumstances when and the terms and conditions under which [ComEd] provides retail customer data to a Government Authority in order for such Government Authority to aggregate retail customer electric power and energy requirements in accordance with Section 1-92 of the Illinois Power Agency Act.

Commonwealth Edison Company; Ill. C.C. No. 10, Original Sheet No. 406.

Verde is concerned, however, with one aspect of ComEd's Rate GAP and this is ComEd's transfer of customer information to local governments operating aggregation programs.

a. ComEd Providing Government Authorities with Customer Information

ComEd believes that pursuant to Section 1-92 of the Illinois Power Agency Act ("IPA Act") that it is "obligated to provide the names and addresses of all customers within the Government Authority's jurisdiction, regardless of their source of energy supply...all electricity consumers take delivery service from ComEd under Rate RDS, and therefore are all retail customers of ComEd." *Commonwealth Edison Company - Initial Verified Comments in Docket No. 11-0434 at 11 (Nov. 28, 2011).*

Verde disagrees with ComEd's interpretation and proposed application of Section 1-92 under its Rate GAP as it relates to providing Government Authorities with customer information.

Verde believes that the information of residents who have already participated in ComEd's Customer Choice Program and who are registered with electric suppliers should not be provided to the Government Authorities because they have already made an electric supplier decision and should not, by default, be incorporated into the municipal aggregation plan.

Verde believes that ComEd's Rate GAP is contrary to the guiding principle of Illinois's competitive retail electricity market "to promote the development of an effectively competitive retail electricity market that operates efficiently and benefits all Illinois consumers" (Section 20-102 of the Retail Electric Competition Act of 2006) as it relates to both consumers and electric suppliers.

One of the reasons ComEd cites for why it has to provide Government Authorities with all of its customers information is in order to ensure that the Government Authority "has the ability to contact and properly inform its constituent [sic] regarding the municipal aggregation plan and associated electric supply options; respond to questions regarding the program; and generally avoid customer confusion." *Commonwealth Edison Company - Initial Verified Comments in Docket No. 11-0434* at 12. ComEd's reasons for believing that it is required to provide Government Authorities with all of its customers' information is inapplicable to those customers who have already participated in ComEd's Customer Choice program and who have made informed choices about switching to electric suppliers and who have in fact chosen retail electric suppliers because those customers are already "associated [with] electric supply options" and will be aware of their respective municipality's aggregation program by virtue of the public referendums that will take place.

Verde respectfully requests that the Commission give guidance on its interpretation of the definitions of "small commercial retail customer" and "retail customer" pursuant to Section 16-102 - *Definitions* of the Public Utilities Act as used in Section 1-92 of the IPA Act because Verde believes this will help to clarify some of the confusion that surrounds which groups of customers' information ComEd is required to transfer to the Government Authorities.

Additionally, Verde proposes that the definition of "residential and small commercial retail customer" as used in Section 1-92 of the IPA Act should be limited to include ComEd bundled customers only because the definitions of "retail customer" and "small commercial retail customers" pursuant to Section 16-102 are broad categories which include customers who have already participated in ComEd's Customer Choice program and who have already chosen retail suppliers.

Verde believes that electric suppliers who operate in the ComEd territories that are implementing municipal aggregation programs, which include at least twenty ComEd service communities,¹ will be adversely affected by the default enrollment of those customers which ARESSs have already acquired. Verde believes that this adverse impact on retail electric suppliers is inherently unfair and discourages competition.

¹ See, Illinois Commerce Commission - Municipal Aggregation - listing the communities with an opt-out Municipal Aggregation Program - <http://www.icc.illinois.gov/ORMD/municipalaggregation.aspx> (last visited on December 22, 2011).

IV. Conclusion

Verde appreciates this opportunity to submit its Comments to the Commission. Verde hopes that its recommendations are helpful to the Commission and will promote continued development of Illinois's competitive retail electric supply market, for the ultimate benefit of Illinois's consumers. Verde thanks the Commission for its commitment to laying the regulatory framework for a vibrant marketplace.

Dated: December 29, 2011

Respectfully submitted,



Stephen J. Humes

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

VERIFICATION

Stephen J. Humes, being first duly sworn, on oath deposes and says that he is an attorney for Verde Energy USA Illinois, LLC, that he has read the foregoing Comments, and that he knows of the contents thereof, and that the same is true to the best of his knowledge, information, and belief.



Stephen J. Humes

Attorney for Verde Energy USA Illinois, LLC

SUBSCRIBED and SWORN to me
This 29th of December, 2011



NOTARY PUBLIC

WALLIS BETH KARPf
Notary Public, State Of New York
No. 01KA6047092
Qualified in New York County
Commission Expires August 28, 2012

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NOTICE OF FILING

TO: (Attached Service List)

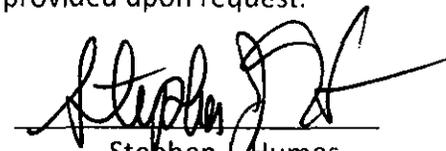
PLEASE TAKE NOTICE that on December 29, 2011, I submitted the *Verified Petition to Intervene of Verde Energy USA, LLC* and *Verified Comments* to the Chief Clerk of the Illinois Commerce Commission in the above-referenced docket.

Dated: December 29, 2011


Stephen J. Humes
Attorney for Verde Energy
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CERTIFICATE OF SERVICE

I, Stephen J. Humes, hereby certify that the foregoing documents, together with this Notice of Filing and Certificate of Service, were sent to all parties of record listed on the attached service list by e-mail on December 29, 2011. Paper copies will be provided upon request.


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