

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY,)
)
Reconciliation of revenues collected under Rider EDA) Docket No. 10-0537
with actual costs associated with energy efficiency and)
demand response programs.)

Rebuttal Testimony of
MARTIN G. FRUEHE
Manager, Revenue Policy Department
Commonwealth Edison Company

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1 **I. Introduction and Background**

2 **A. Identification of Witness**

3 **Q. Please state your name and your business address.**

4 A. Martin G. Fruehe, Commonwealth Edison Company (“ComEd”), Three Lincoln Centre,
5 Oakbrook Terrace, Illinois 60181.

6 **Q. Mr. Fruehe, by whom are you employed and in what capacity?**

7 A. I am employed by ComEd as Manager, Revenue Policy Department.

8 **B. Purpose of Testimony**

9 **Q. What is the purpose of your rebuttal testimony?**

10 A. My rebuttal testimony is provided in response to Illinois Commerce Commission Staff
11 (“Staff”) witness Scott Tolsdorf’s recommendation that the Illinois Commerce
12 Commission (“Commission”) disallow recovery through Rider EDA – Energy Efficiency
13 and Demand Response Adjustment (“Rider EDA”) of all incentive compensation expense
14 that is related to the incremental employees hired by ComEd to implement its energy
15 efficiency portfolio and whose costs are recovered through Rider EDA.

16 **C. Identification of Exhibit**

17 **Q. What exhibit is attached to and incorporated in your rebuttal testimony?**

18 A. I have attached ComEd Ex. 4.1 to my rebuttal testimony, which is ComEd’s 2010 Annual
19 Incentive Program.

20 **D. Background and Experience**

21 **Q. What are your professional responsibilities in your current position with ComEd?**

22 A. In my role as Manager, Revenue Policy Department, I am responsible for the financial
23 and tactical review and evaluation of potential regulatory alternatives for ComEd. I also
24 am responsible for the oversight and coordination of rate case related activities at both the
25 State and Federal levels.

26 **Q. Have you held previous professional positions with ComEd?**

27 A. Yes. I have been employed by ComEd since 1992. I held the position of Account
28 Representative from 1992 to 1997, in which I serviced the accounts of many of ComEd's
29 large commercial, industrial, and governmental customers. In 1998, I was promoted to
30 the Strategic Analysis Department as an Economic Analyst, where I was responsible for
31 supporting the capital budgeting process by evaluating the economic performance of
32 major discretionary investments, as well as other operational financial analyses. In 2003,
33 I was promoted to the Regulatory Services and Strategy Department as a Senior
34 Regulatory Analyst. In that position, I was responsible for the strategic and financial
35 evaluation of post-2006 regulatory strategies, including power procurement and
36 associated cost recovery. In 2006, I transferred to the Revenue Policy Department, where
37 I was responsible for assisting in the determination of ComEd's revenue requirement and
38 preparation of regulatory filings with both the Commission and the Federal Energy
39 Regulatory Commission ("FERC"). In 2007, I was named Manager – Rates in the
40 Revenue Policy Department. My title has subsequently changed to Manager, Revenue
41 Policy Department.

42 **Q. What is your educational background?**

43 A. I hold a Bachelor of Science Degree in Marketing from Northern Illinois University in
44 1987. In 1997, I received a Masters of Business Administration with a concentration in
45 Finance from DePaul University's Kellstadt Graduate School of Business.

46 **II. Rationale for the Recovery of Incentive Compensation Costs through Rider EDA**

47
48 **Q. Please generally describe the type of incentive compensation costs that ComEd**
49 **proposes to recover through Rider EDA.**

50 A. The incremental ComEd employees whose costs are recovered through Rider EDA
51 ("incremental employees") are ComEd employees, and therefore they participate in the
52 ComEd Annual Incentive Program ("AIP") along with all other ComEd employees. The
53 incentive compensation expense to be recovered through Rider EDA is one part of the
54 overall compensation costs of the incremental employees who work directly on the
55 energy efficiency initiatives required by Section 8-103 of the Public Utilities Act.

56 **Q. Why does ComEd offer an AIP to its employees?**

57 A. The AIP, similar to paid vacation and certain healthcare related benefits, is a standard
58 component of compensation offered to all ComEd employees, and is necessary for
59 ComEd to remain competitive in the labor market with other utilities to attract qualified
60 employees.

61 **Q. Did ComEd fully recover the incentive compensation costs it incurred for**
62 **incremental employees during Plan Year 1?**

63 A. Yes, it did. *See Commonwealth Edison Co.*, ICC Docket No. 09-0378, Final Order (Oct.
64 6, 2010).

65 **Q. Why does Staff witness Mr. Tolsdorf now claim that incentive compensation**
66 **expense is not recoverable under Rider EDA?**

67 A. Mr. Tolsdorf incorrectly claims that “ComEd has failed to show how its incentive
68 compensation costs relate to energy efficiency (EE) or how it’s [sic] [AIP] has been
69 tailored for its EE employees as intended by the Commission in the proceeding that
70 established the EE Plan (“Plan”) for ComEd.” Tolsdorf Dir., Staff Ex. 1.0, 3:48-51. Mr.
71 Tolsdorf then quotes the Commission’s order in Docket No. 10-0570, which approved
72 ComEd’s second energy efficiency plan and directed that “in ComEd’s next
73 reconciliation filing it should show how its current incentive compensation relates to EE
74 or how it has tailored its incentive compensation for these employees.” *Id.* at 3:61-63
75 (quoting *Commonwealth Edison Co.*, ICC Docket No. 10-0570, Final Order (Dec. 21,
76 2010) at 44 (“*2011 – 2013 Plan Order*”)).

77 **Q. Do you agree with Mr. Tolsdorf?**

78 A. I do not. The *2011 – 2013 Plan Order* quoted by Mr. Tolsdorf was issued on December
79 21, 2010, and approved the energy efficiency programs to be offered during Plan Years 4
80 through 6 (*i.e.*, June 1, 2011 through May 31, 2014). The present docket, on the other
81 hand, involves the reconciliation of Plan Year 2, and, as required by Rider EDA, ComEd
82 filed its Plan Year 2 Annual Report in this docket on August 31, 2010, which was over
83 four months before the *2011 – 2013 Plan Order* was issued. Importantly, the *2011 –*
84 *2013 Plan Order* directed ComEd to address incentive compensation “in [its] *next*
85 *reconciliation filing.*” *2011 – 2013 Plan Order*, at 44 (emphasis added). Although I am
86 not a lawyer, it is my understanding that ComEd makes its reconciliation filings on
87 August 31 of each year pursuant to the terms of Rider EDA, and, as a result, the next

88 reconciliation filing after the December 21, 2010 order was August 31, 2011. Consistent
89 with the *2011 – 2013 Plan Order*, ComEd’s August 31, 2011 reconciliation filing
90 specifically addressed incentive compensation expense in the direct testimony of ComEd
91 witness Michael Brandt. *See* Brandt Dir., ComEd Ex. 2.0 Rev., ICC Docket No. 11-0646
92 (Oct. 14, 2011), 19:421 – 21:455.

93 However, even if the Commission’s directive in its *2011 – 2013 Plan Order*
94 retroactively applied to the present docket (and I understand from counsel that it does
95 not), the incentive compensation costs which ComEd requests recovery through Rider
96 EDA clearly relate to energy efficiency.

97 **Q. How does ComEd’s AIP relate to energy efficiency?**

98 A. The incremental employees ComEd has hired to implement its energy efficiency plan
99 (and whose costs are recovered through Rider EDA) provide the benefits identified by the
100 General Assembly in Section 8-103 of the Act: “Requiring investment in cost-effective
101 energy efficiency and demand-response measures will reduce direct and indirect costs to
102 consumers by decreasing environmental impacts and by avoiding or delaying the need for
103 new generation, transmission, and distribution infrastructure.” 220 ILCS 5/8-103(a).
104 These savings, as well as the energy savings achieved under subsection (b) of Section 8-
105 103 of the Act, are effected in part by the employees, including the incremental
106 employees, who implement the energy efficiency plan, and who are compensated to do
107 so.

108 Moreover, as explained in the AIP plan, one of the Funding Key Performance
109 Indicators (“KPI”) is the Focused Initiatives & Environmental Index, which includes a

110 measure of energy efficiency savings achieved through ComEd's energy efficiency
111 programs offered pursuant to Section 8-103 of the Act, the incremental costs of which are
112 recovered through Rider EDA. The efforts and contributions of the employees, including
113 incremental employees, are critical to ensuring ComEd achieves this operation KPI.

114 **Q. Does the fact that the AIP applicable to incremental employees also includes goals**
115 **related to other initiatives, such as operational performance metrics, provide a**
116 **rationale for excluding it from recovery through Rider EDA?**

117 A. No. AIP is a cost of doing business, just as base salaries and other benefits (such as
118 medical and pension costs) are, and should be recovered. The incremental employees are
119 ComEd employees, and as such, participate in ComEd's AIP, just as all other ComEd
120 employees do. In his or her own way, each employee has a stake in how successful
121 ComEd as a whole is in achieving its goals.

122 **Q. Can you provide any other examples of how the AIP costs included in Rider EDA**
123 **relate to energy efficiency?**

124 A. Yes. Each employee's AIP is subject to an individual multiplier, which is based upon
125 how well an employee meets his or her goals in a particular year. For example, if an
126 employee fails to meet all of his or her individual goals, the individual multiplier for that
127 employee will be something less than one, thus resulting in a lower AIP award. So, if an
128 EE employee fails to meet his or her goals (which are directly related to achieving
129 ComEd's overall energy efficiency goals), his or her award will be lower than 100%.

130 **Q. How do you respond to Mr. Tolsdorf's claim that AIP is considered "extra" or**
131 **"additional" compensation?**

132 A. I strongly disagree with this mischaracterization of incentive compensation expense
133 because it is misleading. The total compensation of ComEd employees, including
134 incremental employees, consists of base salary and "pay at risk." AIP-related
135 compensation is actually the "pay at risk" component of each employee's total
136 compensation. There is no guarantee that an employee will receive 100% of his or her
137 AIP in a given year.

138 **Q. Why wouldn't an employee receive 100% of his or her AIP in a given year?**

139 A. There are a couple of reasons. First, if ComEd fails to meet any of its goals as described
140 in the AIP, then the payout for those goals would be something less than 100%. The
141 second reason is that each employee's AIP amount is subject to an individual multiplier.
142 The multiplier is a gauge of how well an employee met his or her individual goals for a
143 particular year. A multiplier of less than 1.0 would result in an AIP less than the amount
144 that would have resulted if the goals had been met.

145 **Q. Has the Commission allowed recovery of AIP or other forms of incentive**
146 **compensation in previous orders?**

147 A. Yes. For example, in ICC Docket No. 10-0467 the Commission allowed recovery of
148 100% of ComEd's AIP costs. *Commonwealth Edison Co.*, ICC Docket No. 10-0467,
149 Final Order (May 24, 2011), at 65. The Commission has also allowed recovery of AIP in
150 other, previous cases as long as it was not related to net income or earnings per share.

151 *See, e.g., Commonwealth Edison Co., ICC Docket No. 07-0566, Final Order (Sept. 10,*
152 *2008), at 61.*

153 **Q. Does ComEd's 2010 AIP include a net income or earnings per share component?**

154 A. No.

155 **Q. Does Mr. Tolsdorf suggest where ComEd should recover the AIP costs if they**
156 **cannot be recovered through Rider EDA?**

157 A. No, he does not.

158 **Q. Does this complete your rebuttal testimony?**

159 A. Yes.