

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

Commonwealth Edison Company	)	
	)	
Approval of Multi-Year Performance Metrics	)	Docket No. 11-0772
pursuant to Section 16-108.5(f) & (f-5) of the	)	
Public Utilities Act.	)	
	)	

**APPENDIX**  
**EXCEPTIONS TO PROPOSED ORDER**

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**TABLE OF CONTENTS**

**I. Exception 1: Correction of Certain Descriptions of Penalty Calculations .....1**

**II. Exception 2: Timing of Rider DSPM Compliance Filing.....2**

**III. Exception 3: Proposed Revisions to Strengthen the Proposed Order.....3**

## APPENDIX A

### I. **Exception 1: Correction of Certain Descriptions of Penalty Calculations**

#### *Page 6, second paragraph under Section III.A.3.a.:*

Twenty percent improvement in the **System Average Interruption Frequency Index for its Southern Region (SAIFI-Southern)** using a baseline of the average of data from 2001 through 2010. The penalties applicable to ComEd under Section 16-108.5(f-5) for failure to achieve its annual goals for both SAIFI-Southern and System Average Interruption Frequency Index for its Northeastern Region (SAIFI- Northeastern) (infra., Section III.A.3.b.) shall result in a 5 bps reduction for years 1 through 3; a 6 bps reduction for years 4 through 6; and a 7 bps reduction for years 7 through 10.

#### *Page 7, second paragraph under Section III.A.3.b.:*

Twenty percent improvement in the **System Average Interruption Frequency Index for its Northeastern Region (SAIFI-Northeastern)** using a baseline of the average of data from 2001 through 2010. The penalties applicable to ComEd under Section 16-108.5(f-5) for failure to achieve its annual goals for both SAIFI-Southern and SAIFI-Northeastern shall result in a 5 bps reduction for years 1 through 3; a 6 bps reduction for years 4 through 6; and a 7 bps reduction for years 7 through 10.

#### *Page 10, second paragraph under Section III.C.2.:*

Fifty percent improvement in **unaccounted for energy** using a baseline of the non-technical line loss unaccounted for energy kilowatt hours for the year 2009. The goal shall be calculated in terms of the percentage of the achievement. The percentages for the metrics relating to unaccounted for energy, consumption on inactive meters, and uncollectible expense shall be aggregated and averaged; if ~~the~~ ComEd does not achieve an aggregated average percentage value of at least 95% in a given year, then the return on equity shall be reduced by 5 bps.

#### *Page 11, first paragraph:*

A ~~n~~Ninety percent improvement in the **consumption of electricity on inactive meters** using a baseline of the average unbilled kilowatt hours for the years 2009 through 2010. The goal shall be calculated in terms of the percentage of the achievement. The percentages for the metrics relating to unaccounted for energy, consumption on inactive meters, and uncollectible expense shall be aggregated and averaged; if ~~the~~ ComEd does not achieve an aggregated average percentage value of at least 95% in a given year, then the return on equity shall be reduced by 5 bps.

#### *Page 11, second paragraph under Section III.C.4.:*

Thirty million dollar reduction in **uncollectible expense** using a baseline of the average uncollectible expense for the years 2008 through 2010. The goal shall be calculated in terms of the percentage of the achievement. The percentages for the metrics

relating to unaccounted for energy, consumption on inactive meters, and uncollectible expense shall be aggregated and averaged; if the ComEd does not achieve an aggregated average percentage value of at least 95% in a given year, then the return on equity shall be reduced by 5 bps.

## II. Exception 2: Timing of Rider DSPM Compliance Filing

### *Page 19, first full paragraph:*

In the Company's rebuttal testimony, Mr. McMahan testified that if the Commission approves the workpaper proposed by Ms. Ebrey in Docket 11-0721, which the Company does not oppose, ComEd will implement the change proposed by Ms. Ebrey, through a compliance filing following the issuance of the Commission's order in ICC Docket No. 11-0721~~this docket~~. ComEd Ex. 4.0, pp. 3-4.

### *Page 19, third full paragraph:*

Staff proposed certain limited language changes to Rider DSPM. For consistency and sake of clarity purposes Staff witness Ebrey testified that Rider DSPM should include language indicating how any penalty determined under the Rider would be reflected in the annual reconciliation of under the Company's formula rate, Rate DSPP. Staff Ex. 2.0, p. 3. Ms. Ebrey proposed specific language for Rider DSPM to be included in the "Implementation of Penalty" section of Rider DSPM. See, Staff Ex. 2.0, Attachment B. The Company does not oppose the change proposed by Staff. Therefore the Commission approves the change and ComEd will implement the change proposed by Ms. Ebrey, through a compliance filing following the issuance of the Commission's ~~an~~ order in ICC Docket No. 11-0721~~this docket~~.

### *Pages 28-29, Findings and Ordering Paragraphs (5) through (7):*

- (5) ~~Commonwealth Edison Company should be directed to make a compliance filing in this proceeding which incorporates the conclusions in this Order, such amended Multi-Year Performance Metrics Plan should be filed within three business days after the entry of this Order;~~
- (56) Commonwealth Edison Company should be directed to file a revised Rider DSPM, consistent with the conclusions in this Order; ~~such revised Rider DSPM should be filed as part of the compliance filing in ICC Docket No. 11-0721, and in the same format as such filing, within three business days after the entry of is Order in ICC Docket No. 11-0721 with anthe same effective date as the tariff sheets filed in compliance with ICC Docket No. 11-0721 no earlier than five business days after such filing is made; and~~
- (67) all motions, petitions, objections, and other matters in this proceeding which remain unresolved should be disposed of consistent with the conclusions herein.

### III. Exception 3: Proposed Revisions to Strengthen the Proposed Order

*Page 1, first paragraph, first sentence:*

On December 8, 2011 Commonwealth Edison Company (“ComEd” or the “Company”) filed a petition with the Commission pursuant to subsections (f) and (f-5) of Section 16-108.5 of the Illinois Public Utilities Act (“PUA”, 220 ILCS 5/16-108.5(f), (f-5)), for the Commission to issue an order on or before April 6, 2012 approving ComEd’s Multi-Year Performance Metrics Plan (“Plan”) and its proposed penalty mechanism, Rider DSPM – Delivery Service Performance Metrics (“Rider DSPM”).

*Page 2, carryover paragraph:*

The record was marked “heard and taken” on March 14, 2012.

*Page 2, third full paragraph:*

Under Section 16-108.5(f) ComEd must achieve improvements over baseline performance values “ratably (i.e., in equal segments)” (220 ILCS 5/16-108.5(f)) for the following ten metrics over a ten year period:<sup>1</sup>

*Page 2, item 2:*

2. Fifteen percent improvement in the system **Customer Average Interruption Duration Index (CAIDI)** using a baseline of the average of ~~data~~ data from 2001 through 2010;

*Page 3, first full paragraph, second sentence:*

The specific penalties for failing to meet the improvements required under the law are imposed by the Commission on the Company as a basis point reduction to the Company’s return on equity through a tariff (Rider DSPM) which is separate from ComEd’s formula rate tariff (Rate DSPP).

*Page 4, first full paragraph, citation:*

220 ILCS 5/16-108.5(f) (~~emphasis added~~).

*Page 4, Section III heading:*

### III. DEVELOPMENT OF THE SECTION 16-108.5(f) PERFORMANCE METRICS AND TARIFF MECHANISM

*Page 4, first paragraph under Section III.A.1.:*

Under Section 16-108.5(f) ComEd must achieve improvements over baseline performance values “ratably (i.e., in equal segments)” (220 ILCS 5/16-108.5(f)) for the following metric over a ten year period.

***Page 4, fourth paragraph under Section III.A.1.:***

**ComEd's Position**

This reliability-related metric relates to ComEd's provision of reliable electric service to its customers. ComEd Ex. 1.0 Corrected, pp. 4-5. Neither Staff nor any intervenor takes issue with the calculations of the baseline values or the annual performance goals for any of these metrics. In fact, ICC Staff witness Mr. Stutsman performed his own calculations of the reliability-related metrics' baseline values and annual performance goals reflected in the Plan and confirmed their accuracy. ComEd Ex. 4.0, p. 3; Staff Ex. 1.0, p. 5.

***Page 5, second paragraph:***

Neither Staff nor any intervenor takes issue with the calculations of the baseline values or the annual performance goals for ~~any~~ of this metric. Therefore, the Company's proposal on this issue is approved by the Commission.

***Page 5, first paragraph under Section III.A.2.:***

Under Section 16-108.5(f) ComEd must achieve improvements over baseline performance values "ratably (i.e., in equal segments)" (220 ILCS 5/16-108.5(f)) for the following metric over a ten year period.

***Page 5, third paragraph under Section III.A.2.:***

**ComEd's Position**

This reliability-related metric relates to ComEd's provision of reliable electric service to its customers. ComEd Ex. 1.0 Corrected, pp. 6-7. Neither Staff nor any intervenor takes issue with the calculations of the baseline values or the annual performance goals for any of these metrics. In fact, ICC Staff witness Mr. Stutsman performed his own calculations of the reliability-related metrics' baseline values and annual performance goals reflected in the Plan and confirmed their accuracy. ComEd Ex. 4.0, p. 3; Staff Ex. 1.0, p. 5.

***Page 6, first paragraph under Section III.A.3.a.:***

Under Section 16-108.5(f) ComEd must achieve improvements over baseline performance values "ratably (i.e., in equal segments)" (220 ILCS 5/16-108.5(f)) for the following metric over a ten year period.

***Page 6, third paragraph under Section III.A.3.a.:***

**ComEd's Position**

The reliability-related metrics relate to ComEd's provision of reliable electric service to its customers. ComEd Ex. 1.0 Corrected, pp. 8-9. Neither Staff nor any intervenor takes issue with the calculations of the baseline values or the annual performance goals for any of these metrics. In fact, ICC Staff witness Mr. Stutsman

performed his own calculations of the reliability-related metrics' baseline values and annual performance goals reflected in the Plan and confirmed their accuracy. ComEd Ex. 4.0, p. 3; Staff Ex. 1.0, p. 5.

***Page 7, first paragraph under Section III.A.3.b.:***

Under Section 16-108.5(f) ComEd must achieve improvements over baseline performance values “ratably (i.e., in equal segments)” (220 ILCS 5/16-108.5(f)) for the following metric over a ten year period.

***Page 7, third paragraph under Section III.A.3.b.:***

**ComEd's Position**

This reliability-related metric relates to ComEd's provision of reliable electric service to its customers. ComEd Ex. 1.0 Corrected, pp. 9-11. Neither Staff nor any intervenor takes issue with the calculations of the baseline values or the annual performance goals for any of these metrics. In fact, ICC Staff witness Mr. Stutsman performed his own calculations of the reliability-related metrics' baseline values and annual performance goals reflected in the Plan and confirmed their accuracy. ComEd Ex. 4.0, p. 3; Staff Ex. 1.0, p. 5.

***Page 8, first paragraph under Section III.B.:***

**ComEd's Position**

The service reliability targets metric relates to ComEd's provision of reliable electric service to its customers. ComEd Ex. 1.0 Corrected, pp.12-14. Neither Staff nor any intervenor takes issue with the calculations of the baseline values or the annual performance goals for any of these metrics. Staff Ex. 1.0, p. 3; ComEd Init. Br. at 7.

***Page 8, first and second paragraphs under Section III.C.:***

**ComEd's Position**

The customer benefits metrics are those metrics designed to reduce ComEd's costs of providing electric service through achievement of reductions in the issuance of estimated electric bills, consumption on inactive meters, non-technical line loss unaccounted for energy, and uncollectible expense. ComEd Ex. 1.0 Corrected, p. 14; ComEd Ex. 3.0 Corrected, pp. 11-12. Consistent with Section 16-108.5(f)'s directive, the customer benefits metrics “are based on the assumptions that the participating utility may fully implement the technology described in subsection (b) of [Section 16-108.5], including utilizing the full functionality of such technology and that there is no requirement for personal on-site notification.” 220 ILCS 5/16-108.5(f). In other words, the customer benefits metrics do not assume or speculate as to whether ComEd will be subject to future limitations, and therefore reflect the most aggressive and robust goals that can be proposed under Section 16-108.5(f). ComEd Init. Br. at 8.

Like the reliability-related metrics, neither Staff nor any of the intervenors proposes any alternate values or methodologies relating to the proposed baseline values and annual performance goals for the customer benefits metrics. ComEd Init. Br. at 8-12.

***Page 9, first paragraph under Section III.C.1.:***

Under Section 16-108.5(f) ComEd must achieve improvements over baseline performance values “ratably (i.e., in equal segments)” (220 ILCS 5/16-108.5(f)) for the following metric over a ten year period.

***Page 10, first paragraph:***

**ComEd’s Position**

This customer benefits metric is designed to reduce ComEd’s costs of providing electric service through achievement of reductions in the issuance of estimated electric bills. ComEd Ex. 1.0 Corrected, pp. 15-16. Like the reliability-related metrics, neither Staff nor any of the intervenors proposes any alternate values or methodologies relating to the proposed baseline values and annual performance goals for the customer benefits metrics. ComEd Init. Br. at 8.

***Page 10, first paragraph under Section III.C.2.:***

Under Section 16-108.5(f) ComEd must achieve improvements over baseline performance values “ratably (i.e., in equal segments)” (220 ILCS 5/16-108.5(f)) for the following metric over a ten year period.

***Page 10, third paragraph under Section III.C.2.:***

**ComEd’s Position**

This customer benefits metric is designed to reduce ComEd’s costs of providing electric service through achievement of reductions in unaccounted for energy. ComEd Ex. 1.0 Corrected, pp. 18-19. Like the reliability-related metrics, neither Staff nor any of the intervenors proposes any alternate values or methodologies relating to the proposed baseline values and annual performance goals for the customer benefits metrics. ComEd Init. Br. at 8.

***Page 10, first paragraph under Section III.C.3.:***

Under Section 16-108.5(f) ComEd must achieve improvements over baseline performance values “ratably (i.e., in equal segments)” (220 ILCS 5/16-108.5(f)) for the following metric over a ten year period.

*Page 11, second paragraph:*

**ComEd's Position**

This customer benefits metric is designed to reduce ComEd's costs of providing electric service through achievement of reductions in the consumption on inactive meters. ComEd Ex. 1.0 Corrected, pp. 16-18. Like the reliability-related metrics, neither Staff nor any of the intervenors proposes any alternate values or methodologies relating to the proposed baseline values and annual performance goals for the customer benefits metrics. ComEd Init. Br. at 8.

*Page 11, first paragraph under Section III.C.4.:*

Under Section 16-108.5(f) ComEd must achieve improvements over baseline performance values “ratably (i.e., in equal segments)” (220 ILCS 5/16-108.5(f)) for the following metric over a ten year period.

*Page 11, third paragraph under Section III.C.4.:*

**ComEd's Position**

This customer benefits metric is designed to reduce ComEd's costs of providing electric service through achievement of reductions in uncollectible expense. ComEd Ex. 1.0 Corrected, pp. 19-21. Like the reliability-related metrics, neither Staff nor any of the intervenors proposes any alternate values or methodologies relating to the proposed baseline values and annual performance goals for the customer benefits metrics. ComEd Init. Br. at 8.

*Page 12, second full paragraph:*

Neither Staff nor any intervenor takes issue with the calculations of the baseline values or the annual performance goals for this metric. While AG/AARP take exception to this metric due to the notice provision, this is address below. Therefore, the Company's proposal on this issue is approved by the Commission.

*Page 13, beginning with the last paragraph, through page 15:*

**ComEd's Position**

Because the customer benefits metrics are based on the assumptions that ComEd can fully implement and fully utilize the technology described Section 16-108.5(b) of the Act, the General Assembly recognized and provided for a situation in which those assumptions prove to be incorrect: “If the utility is unable to meet the metrics and performance goals set forth in subparagraphs (5) through (8) of this subsection (f) for such reasons [*i.e.*, the utility is unable to fully implement and fully utilize the technology], and the Commission so finds after notice and hearing, then the utility shall be excused from compliance, but only to the limited extent achievement of the affected metrics and performance goals was hindered by the less than full implementation.” 220

ILCS 5/16-108.5(f); ComEd Init. Br. at 7. In other words, the General Assembly has left it up to the utility to decide whether it will seek to be excused from a customer benefits-related annual performance goal in the future following the end of a performance year. If the utility decides to request a waiver, the burden will be on the utility to demonstrate that “achievement of the affected metrics and performance goals was hindered by the less than full implementation.” 220 ILCS 5/16-108.5(f); ComEd Init. Br. at 9~~4~~. AG/AARP witness Ms. Alexander takes issue with the General Assembly’s directive and instead proposes that the parties and Commission engage in a speculative and hypothetical inquiry *now* (or in the near future) regarding whether ComEd will ever seek to be excused from an annual performance goal due to an on-site notification requirement. Alexander Dir., AG/AARP Ex. 1.0, at 8:158-64; 12:255-66. Because it cannot be known *at this time* whether ComEd will ever fail to achieve its annual performance goals or whether there will be an on-site notification requirement during the 10-year metrics period, the Commission should decline AG/AARP’s invitation to pre-litigate or pre-excuse ComEd’s future performance now based only on inappropriate speculation and assumptions about conditions that might exist in the future. ComEd Init. Br. at 9.

As an initial matter, AG/AARP do not propose any different values or methodologies regarding the calculations of the customer benefits-related baseline values and annual performance goals. Id. at 10. Indeed, as ComEd witness Mr. McMahan testified during the evidentiary hearing, these values and goals are based on simple mathematical computations:

Our goal in filing the metric testimony was as faithfully as we could reproduce the statute. The statute laid out how to calculate the baseline. We did that, and it laid out what the [ratable] improvements were over 10 years. We did that. There was no linkage to on-site notification or not on-site notification. It was just simply math, the way the statute’s laid out.

Tr. at 115:12-21. In summary, ComEd calculated the baseline values in accordance with Section 16-108.5(f)’s specific directives, determined the 10-year goals pursuant to the statutorily-mandated improvements, and proposed annual performance goals designed to achieve the 10-year goals ratably. ComEd Init. Br. at 10.

Rather, AG/AARP propose that ComEd identify how the current disconnection rules set forth in Part 280 of the Commission’s Rules “would impact the Company’s ability to achieve its required performance standards for each of the AMI-related metrics during the 10-year plan.” Alexander Dir., AG/AARP Ex. 1.0, at 2:38-40. This proposal, however, is irrelevant to both the historic baseline values and annual performance goals proposed in this docket, and instead seeks to engage the parties and the Commission in speculation regarding future and unknown performance and how that future performance might be limited. ComEd Init. Br. at 10. As summarized below, the structure set up by the General Assembly in subsections (f) and (f-5) of Section 16-108.5 is designed to consider issues of waiver only after all of the relevant facts can be gathered. Id. In general, the chain of events leading up to a waiver determination based on an on-site notification requirement would include the following steps:

- ***Identification of a Relevant Performance Year for the Assessment of a Customer Benefits-Related Goal:*** Although ComEd has not yet elected when the customer benefits metrics will begin, the statute requires that they commence no later than 14 months following the Commission's order approving the AMI Plan. 220 ILCS 5/16-108.5(f). ComEd must file the AMI Plan within 180 days of the effective date of Public Act 97-0616, which means by April 23, 2012, and the Commission must issue its order within 60 days of that filing. 220 ILCS 5/16-108.6(c). Assuming that the Commission takes the full 60 days and ComEd takes the full 14 months, the first performance year would commence in August 2013 and end in August 2014.
- ***Identification of a Failure to Achieve a Customer Benefits-Related Annual Performance Goal:*** Following the end of a performance year, the utility will file its annual report by June 1 regarding, *inter alia*, whether it achieved each of its customer benefits-related annual performance goals. Of course, if the utility reports that it has achieved such goals, the issue of waiver is irrelevant.
- ***Identification of Whether an On-Site Notification Requirement was in Effect During the Performance Year:*** The Commission is currently considering in the Part 280 rulemaking docket whether the new rules will impose an on-site notification requirement. *See* ICC Docket No. 06-0703. Therefore, it is not known at this time what on-site notification requirement, if any, might be in effect during any of the 10 performance years.
- ***Determination of Whether the On-Site Notification Requirement Caused the Failure to Achieve the Annual Performance Goal:*** In the event an on-site notification requirement was in effect during a performance year in which ComEd failed to achieve a customer benefits-related annual performance goal, ComEd must determine whether that requirement was the reason it failed to achieve the annual performance goal.
- ***Utility Election of Whether to Seek a Waiver from an Annual Performance Goal:*** If ComEd determines that an on-site notification requirement was responsible for its failure to achieve an annual performance goal, then it may petition the Commission to be excused from compliance with that goal.
- ***ICC Determination of Whether to Permit a Waiver After Notice and Hearing:*** Following an evidentiary hearing during which Staff and intervenors can present evidence rebutting ComEd's request to be excused from an annual performance goal, the Commission will make a determination as to whether the on-site notification requirement hindered ComEd's ability to meet one or more of the annual performance goals, and to what extent, and whether ComEd should be excused from compliance.

ComEd Init. Br. at 11. In summary, not one of these events has occurred. ComEd is not requesting to be excused (or pre-excused) from any performance goal in this docket and therefore the issue of waiver is irrelevant in this docket. Moreover, it is wholly unknown (i) when the customer benefits metrics will commence, (ii) whether ComEd will ever fail to achieve a customer benefits-related annual performance goal, (iii) whether an on-site notification requirement will be imposed during any year of the

10-year metrics period, (iv) if ComEd fails to achieve a customer benefits-related annual performance goal, whether that failure was caused by any on-site notification requirement that existed, and (v) assuming a failure to achieve such a goal due to such a requirement, whether ComEd would in fact petition the Commission for a waiver. Id. at 11-12.

***Page 16, first paragraph under Section III.D.:***

Under Section 16-108.5(f) ComEd must achieve improvements over baseline performance values “ratably (i.e., in equal segments)” (220 ILCS 5/16-108.5(f)) for the following metric over a ten year period.

***Page 16, first paragraph under Section III.E.1.:***

With the exception of the clarifying language for Rider DSPM agreed to by Staff and ComEd (*see* Section III.E.2., *infra*), no party proposed any alternative tariff mechanism or alternative language for proposed Rider DSPM. ComEd Init. Br. at 12.

***Page 17, first paragraph:***

Notwithstanding the previous provisions of this Determination of the Penalty section, in the event the Company does not meet the target level of achievement provided in the definition of an aforementioned penalty, but the Company ~~is found to be exempt~~ requests to be excused from the requirement to meet such target level of achievement in accordance with the provisions of Section 16-108.5(f) of the Act, then such penalty, if any, is equal to such amount as determined by the ICC in accordance with such section of the Act zero (0.0).

***Page 17, fourth paragraph:***

Notwithstanding the previous provisions of this Determination of the Penalty section, in the event the Company does not meet the target level of achievement provided in the definition of an aforementioned penalty, but the Company ~~is~~ is found to be exempt from the requirement to meet such target level of achievement in accordance with the provisions of Section 16-108.5(f) of the Act, then such penalty is equal to zero (0.0).

***Page 20, fourth full paragraph:***

ComEd has proposed that if the Company fails to reach the goal it has set for itself on this metric, expenditures for minority-owned and female-owned businesses, as required under 16-108.5(f-5) of the PUA, it will include that failure in its report to the Commission. ComEd will also include in that report the corrective action taken by the Company to address its failure to meet the goal. Staff recommends the Commission adopt the Company’s proposal.

***Page 29, first Ordering Paragraph:***

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Multi-Year Performance Metrics Plan and its proposed tariff mechanism, Rider DSPM –

Delivery Service Performance Metrics (“Rider DSPM”) outlined in this order ~~is~~ are hereby approved consistent with the conclusions contained herein.