

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

COMMONWEALTH EDISON COMPANY)	
)	Docket No. 11-0721
)	
Proposed general increase in electric rates filed)	
pursuant to Public Act 97-0616 (tariffs filed)	
Nov. 8, 2011))	

**POSITION STATEMENT OF THE CITIZENS UTILITY BOARD
AND THE CITY OF CHICAGO**

Pursuant to the direction of the Administrative Law Judges and the Rules of Practice of the Illinois Commerce Commission, the Citizens Utility Board and the City of Chicago herby submit the attached Position Statement.

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April 11, 2012

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ORDER

I. INTRODUCTION/STATEMENT OF THE CASE
A. Applying Prudency and Reasonableness

CUB/City’s Position

CUB/City avers that, even under new provisions of the Act, ComEd can only recover costs of delivery service that are “prudently incurred and reasonable in amount consistent with Commission practice and law.” 220 ILCS 5/16-108.5(c)(1). When the Commission believes that the risk of an otherwise prudent expenditure should fall on ComEd, CUB/City argues that the Commission has the authority to deny recovery of that expenditure from ratepayers under its reasonableness tests. ComEd admits that the Commission has this review power through reconciliations of expenditures and projections of capital that will be spent in the future. Tr. at 180. To be recoverable under this standard, an expenditure must be the lowest-feasible-cost means of achieving ComEd’s prudent objectives. CUB/City notes that both individual expenditures and larger projects must be proven prudent in light of all feasible alternatives.

B. Costs and Expected Benefits of All Expenditures

CUB/City’s Position

CUB/City notes that no expenditure is “prudent” or “reasonable” simply because it relates to projects detailed in the new provisions of the Act. ComEd admits that the Commission retains its duty to review the prudence and reasonableness of costs and to ensure the accuracy of cost and revenue data. ComEd Corr. Init. Br. at 2. CUB/City avers that cost-effectiveness should be judged against all relevant alternatives in order to motivate ComEd to excel in its performance. CUB/City also argues that ComEd should detail its efforts to cap vendors’ costs, given that control over the information relating to vendor costs rests with the utility.

C. Detailed Information on Costs and Benefits

CUB/City’s Position

CUB/City notes that an incurred cost is not necessarily a prudent or reasonable one. ComEd admits that the \$2.6 billion of investments authorized under new provisions of the Act risk changing in project size and per-unit costs over time. Tr. at 135; 156-58. CUB/City argues that the Commission should require ComEd to document expenditures with comparative analyses of all relevant alternatives in light of the risk of granting piecemeal approval, a risk worsened by the resource disparity between ComEd and the Commission. CUB/City notes that the new provisions' directed expenditure amount, along with a provision terminating the formula rate upon failure to spend that amount, creates a risk of unnecessary expenditures. 220 ILCS 5/16-108.5(b). Because the necessity of electric delivery infrastructure depends on customers' consumption patterns, CUB/City believes that properly designed dynamic rate structures are essential to ensure customer benefits from ComEd's expenditures.

D. Long-Term Benefits

CUB/City's Position

CUB/City believes that the risk of benefits or losses from any long-term investment project should be shared by ComEd and customers. Although goals from new provisions of the Act provide a starting point to evaluate long-term benefits, CUB/City argues that the Commission should ensure that approved expenditures reflect best practices at lowest feasible cost – relative to a full range of relevant alternatives. CUB/City notes that a review of the long-term benefits of expenditures should include the measured success or failure of any specific expenditure.

E. Evaluation Under the Formula Rate

CUB/City's Position

CUB/City argues for periodic re-evaluation of ComEd's proposed long-term projects, given changing underlying facts that may require a shift to better alternatives to provide the lowest feasible cost service. The Commission risks approving capital expenditures before other facts, like consumer behavior change, obviate the need for such investments. CUB/City notes that forcing customers to pay for these sunk costs lessens their incentive to align their behavior with customer benefit-maximizing practices. To determine the best possible provider of any project, FERC Form 1 data are a fraction of the information necessary. CUB/City argues that ComEd has the burden to provide information regarding the best performing utility practices under their statutory burden to prove the prudence and reasonableness of any expenditure.

F. Focus on Utility Performance

CUB/City's Position

CUB/City notes that in order to align ComEd's privately-motivated behavior with the public interest of its customers in the provision of new products, services, providers, and technologies, the Commission should evaluate whether: (1) ComEd achieves new levels of performance in customer service in a more cost-effective manner; (2) new opportunities arise for

investment in energy efficiency and demand response; (3) customers receive timely and useful information to manage their energy costs and consumption; (4) customers enroll in new rate structures that save customers money; and (5) ComEd’s investments in general plant and smart grid technologies are cost-effective over ten years.

II. RATE BASE

A. Overview

Commission Analysis and Conclusions

Based on the testimony of all parties, the Commission adopts the following adjustments to ComEd’s proposed jurisdictional rate base:

	Schedule	Rate Base Impact	Estimated Revenue Requirement Impact
Effect of CUB Adjustments to Rate Base			
Cash Working Capital for Operating Expense - Lead/Lag Study Corrections	B-1	(45,752)	\$ (6,166)
Remove Capitalized Restricted Stock from CWIP/Accumulated Depreciation	B-2	(787)	\$ (106)
Reallocation of General and Intangible Plant - Jurisdictional	B-3	(18,197)	\$ (2,452)
Capitalized Miscellaneous Disallowances	B-4	(492)	\$ (66)
Adjustment for Three Years of Illinois Distribution Tax Credits Recorded in 2010	B-5	3,131	\$ 422
Adjustment to Capitalized AIP -From 112.2% to 102.9% and 100% of Target	B-6	1,905	\$ 257
Miscellaneous Jurisdictional ADIT Components	B-7	(42,883)	\$ (5,779)
Other Cash Working Capital Adjustments	B-8	(14,281)	\$ (1,925)
Reserves for Accrued Vacation and Accrued Incentive, Net of Related ADIT	B-9	(43,913)	\$ (5,918)
Jurisdictional ADIT on Bad Debt Reserve	B-10	(19,440)	\$ (2,620)
Estimated ADIT Impact from Tax Over Book Depreciation on 2011 Distribution Plant Additions	B-11	(201,742)	\$ (27,187)
Treat Supplemental Employee Retirement Plan ADIT as a Net Pension Asset Component	B-12	(5,067)	\$ (683)
Total CUB Adjustments to Rate Base		\$ (387,517)	\$ (52,223)
Rate Base per Company's Filing	B	\$ 6,647,180	
CUB Adjusted Rate Base	B	\$ 6,259,663	

C. POTENTIALLY CONTESTED ISSUES

1. Average Year or End of Year Rate Base

CUB/City’s Position

CUB/City, Staff, AG/AARP and IIEC all argue that the rate base calculation in reconciliations should be based on an average rate base for the calendar year being reconciled. ComEd argues that year-end rate base should be used instead because of the timing of reconciliations. ComEd Corr. Init. Br. at 115-16. CUB/City claims that ComEd is wrong because its proposed rate base is not reflective of the plant actually in service for the entire year being reconciled. ComEd’s argument that FERC Form 1 data should be relied upon misses the point that the FERC data is not representative of plant that was actually in service during the entire year. Tr. at 944. ComEd’s claim that formula rate making is akin to using a historical test year ignores its own witnesses conclusion that “test year rules have little or no remaining application in the annual formula ratemaking world.” ComEd Ex. 11.0 at 6.

The Company’s argument regarding regulatory lag ignores the General Assembly’s mandate for predictable, stable, and transparent ratemaking – ends that CUB/City notes are served by use of the average year rate base. Public Act 97-0616 § 108.5(a). Finally, ComEd

claims that the process will prevent ComEd from over-earning on return on equity. However, CUB/City notes that given the statutory formula for determining ComEd's cost of equity, if the Company's rate base is over-recovered, its rate of return will be as well. 220 ILCS 5/16-108.5(c)(3).

2. Plant-in-Service

b) 2010 General and Intangible Plant Functionalization

(1) Methodologies

CUB/City's Position

Staff, AG/AARP, and CUB/City all recommend that the Commission reject ComEd's proposal to functionalize plant accounts in a manner inconsistent with methodology approved by the Commission in ComEd's last two rate cases. Using the Commission-approved approach reduces plant by \$17.7 million and depreciation expense by \$492,000. CUB Ex. 1.0 Rev., 22:493-25:552. CUB/City argues that the Company offers no reason why a change in jurisdictional plant is appropriate under the formula rate since there were no changes in the underlying assets or how they are used. Tr. at 1007-08. ComEd argues that their proposal is "at least as reasonable as the old methodology." ComEd Corr. Init. Br. at 30-31. CUB/City cites *Central Illinois Public Service Company v. Illinois Commerce Commission* for the proposition that the burden to prove a newly proposed rate falls on the utility. 5 Ill. 2d 195 (1955). CUB/City also notes that requiring it and other intervenors to prove unreasonableness is no substitute for requiring proof of reasonableness. *People ex rel. Hartigan v. Ill. Commerce Comm'n*, 117 Ill. 2d 120, 135-36 (1987).

d) Derivative: Restricted Stock

CUB/City's Position

CUB/City argues that the Commission should reduce ComEd's rate base by \$787,000 to remove the capitalized restricted stock from Construction Work in Progress/Accumulation. CUB/City notes that, consistent with the Commission's Order in Docket 10-0467, costs of restricted stock should be borne by shareholders since they relate to the performance of ComEd's parent company. CUB/City notes that this adjustment is related to the adjustment in Section V.C.1.b below.

e) Derivative: Incentive Compensation

CUB/City's Position

CUB/City argues that the Commission should reduce ComEd's rate base to remove the capitalized portion of 2010 Annual Incentive Plan costs in excess of 100 percent of the target level. CUB/City notes that this adjustment relates to the adjustment proposed in Section V.C.1.c below.

f) Derivative: Perquisites and Awards

CUB/City's Position

CUB/City avers that the Commission should reduce ComEd's rate base by \$492,000 for Other Stock Awards and Perquisites, Retention Awards, and 50% of Performance Awards. CUB/City notes that this adjustment is related to the adjustment in Section V.C.1.d below.

4. Cash Working Capital Issues **a) Revenue Collections Lag**

CUB/City's Position

CUB/City claims that ComEd fails to remove uncollectible amounts from its Accounts Receivable, and thus proposes an incorrect revenue collection lag. CUB witness Mr. Smith testified that because ComEd only collects cash from customers who pay their bills, any revenue collection lag should be computed only on the collectible portion of Accounts Receivable. CUB Ex. 3.0 at 10. CUB/City notes that this would reduce ComEd's proposed revenue collections lag by 4.5 days. CUB Ex. 10 at 32. Alternatively, CUB/City notes that the Commission could adjust ComEd's revenue collection lag by 5.17 days. CUB Ex. 3.1.

b) Pass-Through Taxes

CUB/City's Position

CUB/City notes that the Commission found, in ComEd's last rate case, that the lag time for the Energy Assistance Charges/Renewable Energy Charges ("EAC/REC") and Gross Receipts/Municipal Utility ("GRT/MUT") pass-through taxes should be zero. Here, ComEd proposes to use a revenue lag of 51.25 days. ComEd Corr. Init. Br. at 39-41. Despite ComEd's protestation that the utility remits these taxes before they are due, ComEd is not obligated to remit the EAC/REC charges until 20 days after the month the utility collects the charges. CUB Ex. 3.0 at 3-4. GRT/MUT taxes are not required to be remitted until the last day of the month after the taxes were collected or are required to be collected. *Id.* CUB/City agrees with IIEC that it is unfair to force ratepayers to pay more for electric delivery service because ComEd volunteers to remit taxes before it is required to. IIEC Init. Br. at 30. ComEd admits that its collection and remittance practices for EAC/REC and GRT/MUT have not changed since the Commission's order in ComEd's last rate case. *Tr.*, March 6, 2012, p.236. Thus, CUB/City argues that there is no factual basis for the Commission to change its finding that zero lag days should be used.

c) Intercompany Billing Lead

CUB/City's Position

CUB/City notes that the Commission's order in ComEd's last rate case rejected ComEd's proposed payment lead for inter-company payments of 15 days. Instead, the Commission adopted a payment lead of 30 days. ICC Docket 10-0467, Final Order at 48. CUB/City claims that the record shows that ComEd has an average payment lead of 55.04 days for its operations and maintenance vendors. Staff Ex. 3.0 at 13. ComEd failed to produce any inter-affiliate

agreement requiring ComEd to pay affiliates by the 15th of the month. *Id.* at 14. ComEd provided no evidence why the Commission should change its conclusion from ComEd's last rate case.

d) Employee Benefits – Pensions and OPEB Lead

CUB/City's Position

CUB/City avers that zero lead days should be assigned for pensions and other post-employment benefits. ComEd admits that a zero lag day amount is used for pensions and OPEB amounts. CUB Ex. 1.0 at 30. However, ComEd impliedly applies its proposed revenue lag of 51.25 days, creating a CWC requirement of \$15.8 million. *Id.* CUB/City agrees with AG/AARP witness Mr. Brosch's explanation that these expenses are on an accrual basis for which there are no recurring periodic cash flow. AG/AARP Ex. 1.0 at 32. It is unreasonable for ComEd to attribute a revenue lag for delay in recovering these expenses, but then pretend that cash has been disbursed immediately when recording these expenses on its books. *Id.*

e) Accounts Payable Related to CWIP

CUB/City's Position

CUB/City avers that CUB witness Smith, AG/AARP witness Brosch, and ComEd witness Hengtgen differ on the amount of Accounts Payable Related to construction work in progress ("CWIP") that should be included in CWC. CUB witness Smith testified that it does not make sense to apply an expense lead to a balance sheet account, the Accounts Payable, as ComEd does in this case. CUB Ex. 1.0 at 30-31; CUB Ex. 3.0 at 7-8. Mr. Smith explained that the Accounts Payable balance related to CWIP should be directly included in the CWC calculation since it is the best indicator of how much the CWIP balance has not been funded in cash. AG/AARP witness Mr. Brosch proposes a similar adjustment by recommending that the Accounts Payable balance associated with CWIP should be deducted directly in determining the CWC requirement.

5. Accumulated Deferred Income Taxes

a) 2011 Plant Additions

CUB/City's Position

CUB/City argues that the Commission must consider accumulated deferred income taxes ("ADIT") on 2011 plant additions, despite ComEd's proposal to omit certain ADIT. Although Section 16-108.5(c)(6) of the Act does not specifically list ADIT as an item which must be updated, the Act does not bar the Commission from incorporating any appropriate adjustments. Indeed, CUB/City point out that Section 16-108.5 of the Act is expressly subject to the Commission's duty to ensure that only prudently incurred, reasonable costs are included in rates. 220 ILCS 5/16-108.5(c). CUB/City argues that this provision requires considering contemporaneous offsets to projects costs. The omission of substantial ADIT resulting from the 2011 bonus federal income tax depreciation overstates rate base.

ComEd claims that any over-statement now can be fixed in reconciliations going forward. Even if that is true, CUB/City notes, ratepayers will be harmed if they over-pay from now until that first reconciliation. ComEd admits that a promise of later reconciliation does not allow the Commission to approve rate base that is not prudent, just or reasonable. Tr. at 141. By including the effect of the 2011 bonus tax depreciation, CUB/City believes that the ADIT amounts for 2011 plant additions will be the closest approximation of their actual calculation. CUB Cross Exhibit 1 includes ComEd's most recent estimate of this adjustment and should be used by the Commission.

b) Bad Debt Reserve

CUB/City's Position

CUB/City, Staff, and AG/AARP agree that ADIT associated with bad debt reserve should be allocated using the same method applied to the uncollectible expenses that give rise to that ADIT. CUB/City notes that CUB witness Smith's recommendation reduces ComEd's proposed rate base by \$19.44 million.

c) Vacation Pay

CUB/City's Position

CUB/City argues that reserve for accrued vacation pay should offset rate base since it is a source of non-investor provided capital. CUB witness Smith recommended restoring the related ADIT in Account 190 for vacation pay, to reduce ComEd's jurisdictional rate base by \$44.164 million. CUB/City notes that this adjustment is related to one discussed in Section III.C.6.a below.

d) Incentive Pay

CUB/City's Position

CUB/City argues that reserve for incentive pay should offset rate base since it is a source of non-investor provided capital. CUB witness Smith recommended restoring the related ADIT in Account 190 for incentive pay, to reduce ComEd's jurisdictional rate base by \$28.714 million. CUB/City notes that this adjustment is related to one discussed in Section III.C.6.b below.

e) FIN 47

CUB/City's Position

CUB/City argues that this adjustment should be treated the same way it was treated in ComEd's last rate case. CUB Ex. 1.0 at 27.

6. Operative Reserves

a) Accrued Vacation Pay

CUB/City's Position

CUB/City argues that the accrued liability for this item should be included in operative reserves since ComEd did not recognize the lag in payment in calculating CWC. CUB Ex. 1.0 at 34-35; CUB Ex. 3.0 at 13-14. CUB/City notes that the payment of vacation pay lags considerably more than payroll reflected in the lead-lag study, such that any accrued liability should be deducted from rate base to appropriately reflect sources of non-investor supplied capital. Although ComEd removed the ADIT debit balance associated with the operative reserve for vacation pay on surrebuttal, this is less preferable than reflecting reserves as a reduction to rate base. CUB/City Init. Br. at 29. Despite ComEd's claims that vacation pay liabilities are short term and limited enough to not supply funds to finance rate base, CUB/City notes that any source of non-investor supplied capital should be removed from rate base.

b) Accrued Incentive Pay

CUB/City's Position

CUB/City notes that ComEd's argument against Mr. Smith's proposal to include the accrued liability for incentive pay in operative reserves is the same as the argument addressed in Section III.C.6.a immediately above.

V. OPERATING EXPENSES

C. Potentially Contested Issues

1. Administrative and General Expenses

b) Restricted Stock

CUB/City's Position

CUB/City notes that restricted stock is a form of incentive compensation for which ComEd can only recover its reasonable costs that tangibly benefit ratepayers. ICC Docket 07-0566, Final Order at 61; ICC Docket 04-0779, Final Order at 44. Because ComEd has not identified any tangible ratepayer benefits from its Key Manager Restricted Stock program, CUB/City argues that the entirety of the \$1.921 million should be disallowed. Although ComEd claims that this program is a form of deferred compensation as opposed to incentive compensation, CUB witness Smith identified the fact that only directors, managers, and select others were paid from this program in share of Exelon stock. CUB Ex. 1.0 at 43-46; CUB Ex. 3.0 at 15-18. ComEd argues that this payment in stock is not based on maximizing shareholder value, yet, the value of Exelon stock is plainly related to Exelon's performance. *Id.* ComEd claims, nonetheless, that this program is in line with industry practices. Given the Commission's previous disallowance of the costs for this specific program – rejecting ComEd's alleged consumer benefit in “incentiviz[ing] management” – CUB/City concludes that the Commission should similarly find that being “designed to retain key managers” is insufficient to carry ComEd's burden to prove a tangible benefit to ratepayers. ICC Docket 10-0467, Final Order at 65; ComEd Corr. Init. Br. at 60.

c) Incentive Compensation

CUB/City's Position

CUB/City recommends disallowing ComEd's recovery of Annual Incentive Program ("AIP") costs above 100% of target goals, the amount of AIP attributable to the CEO discretionary feature, and 75% of the costs related to Exelon Business Services Company ("BSC"). ComEd admits that the Commission has adjusted AIP amounts to 100% of target in previous rate filings. ComEd Ex. 13.0 at 24. ComEd's own practice is to request recovery at the target level. CUB Ex. 1.3. Nevertheless, ComEd claims that AIP above 100% of target is recoverable because of its effect on employee performance. ComEd Corr. Init. Br. at 64. Of course, CUB/City notes that the Commission has considered such effects in allowing recovery of only 100% of target AIP costs in the past. ICC Docket 10-0467, Final Order at 65.

ComEd leadership recommended that the net income limiter on the AIP plan be adjusted to increase the payout in 2010 to 112.1% of target. This increase in AIP costs should be borne solely by shareholders, CUB/City argues. Allowing the CEO discretionary feature to increase the limitation defeats the ratepayer protection that the net income limiter is designed to provide.

CUB/City argues that expenses charge to ComEd by BSC that are tied to earning-per-share ("EPS") goals should be excluded. ComEd admits that 75% of the BSC AIP expenses were tied to the EPS goal. CUB Ex. 1.3. CUB/City notes that the Act denies recovery for incentive compensation "that is based on net income or an affiliate's earning per share." 220 ILCS 5/16-108.5(c)(4)(A). ComEd claims that the scrutiny provided to affiliate transactions under Section 7-101 of the Act protects ratepayers sufficiently. ComEd Corr. Init. Br. at 62. However, CUB/City argues, ComEd's allusion to Section 7-101 ignores the differing standards and goals at issue in approving transactions and contracts under Section 7-101 of the Act and prudence and reasonableness review under Section 16-108.5 of the Act. CUB/City notes that incentive compensation based on affiliate earnings induces managers to build earnings beyond the authorized level, leading to a conflict with ComEd's obligation to serve ratepayers at lowest feasible cost.

d) Perquisites and Awards

i. Retention Awards

CUB/City's Position

CUB/City proposes that the 2010 allowance for retention bonuses should be limited to a four-year average normalized amount. CUB witness Smith notes that the \$4.28 million expense in 2010 significantly exceeds the combined total of the previous three years – amounting to only \$2.621 million. Given the severe recession and high unemployment rate, Mr. Smith testified that normal compensation is adequate to retain qualified personnel. ComEd claims that customers benefit from a higher level of service, yet, as CUB/City notes, ComEd provides no explanation of why the 2010 costs in particular are a prudent or reasonable amount.

ii. Other Perquisites and Awards

CUB/City's Position

CUB/City proposes allowing only 50% of the amount incurred for Exelon's "Reward and Recognition Policy" – which rewards employee contributions to Exelon's success. CUB/City notes that the prudence and reasonableness of customers sharing any more of that expense is unadvisable given that the policy may be modified at any time, for any reason, at management's sole discretion.

f) Charitable Contributions

CUB/City's Position

CUB/City agrees with Staff witness Tolsdorf's recommendation to allow recovery for contributions that meet a strict interpretation of the statutorily allowed recovery and that are made to organizations within ComEd's service territory (amounting to \$2.916 million). CUB witness Smith noted that these contributions are unnecessary to provide safe and adequate utility service and that the goals of some organizations that ComEd chooses to donate to may conflict with the wishes of ratepayers. Despite ComEd's protestations that organizations it chooses are worthwhile and will suffer if ComEd's contributions are disallowed, CUB/City points out that a ComEd affiliate in another jurisdiction recovers no donations from ratepayers yet makes contributions in amount similar to ComEd. CUB/City notes that in ComEd's last rate case, the Commission disallowed contributions made to organizations outside the Company's territory because there was no evidence of tangible benefit to ComEd ratepayers. ICC Docket 10-0467, Final Order at 108.

3. Taxes Other Than Income, Including Property Taxes

CUB/City's Position

CUB/City proposes using the same method of tax allocation as was used in ComEd's last rate case. CUB Ex. 1.0 at 57-58; CUB Ex. 3.0 at 39-40. ComEd proposes a change to align its allocation of taxes with the way they are allocated at FERC. ComEd Corr. Init. Br. at 76. CUB/City argues that ComEd has failed to carry its burden to prove that consistency with FERC methodology for tax allocation is sufficient to justify departure from past Commission practice.

4. Regulatory Asses Amortization: IEDT

CUB/City's Position

CUB/City proposes amortizing ComEd's Illinois Electric Distribution Tax Credits ("IEDT") over three years instead of ComEd's proposal to normalize the expenses over five years. CUB Ex. 1.0 at 49-51; CUB Ex. 3.0 at 27-30. Section 16-108.5(c)(4)(f) of the Act, CUB/City notes, provides for five year amortization of a specific list of five categories of expenses (workforce reduction program severance, changes in accounting rules, changes in law, compliance with Commission audits, or single storms or similar expenses). Because the IEDT

credits do not fall under any of these five categories, CUB/City concludes that they should be amortized for the same period over which they were accumulated –three years.

6. Income Taxes: Interest Synchronization

CUB/City's Position

CUB/City proposes to synchronize the rate base and cost of capital with the tax calculation. CUB witness Smith calculates this adjustment by applying the weighted cost of debt (3.54%) to the adjusted jurisdictional rate base to obtain a synchronized interest deduction for use in calculating test year income tax expense. ComEd agreed that, to the extent the Commission approves any contested rate base adjustments, the interest synchronization figure will need to be recalculated. ComEd Pre-Trial Memo. at 49.

VII. COST OF SERVICE AND RATE DESIGN

B. Rate Design, Including Upcoming Docket

CUB/City's Position

CUB/City agrees with Staff witness Lazare that the Commission, in ComEd's last rate case, intended that 50% of ComEd's fixed costs be recovered through the fixed charge component. Staff Init. Br. at 92. Thus, CUB/City believes that the Commission should adopt Staff's proposed charges for the residential and watt hour classes.

VIII. ADDITIONAL FORMULA/TARIFF ISSUES

C. Reconciliation

1. Average Rate Base Proposals

CUB/City's Position

CUB/City, Staff, AG/AARP and IIEC all argue that the rate base calculation in reconciliations should be based on an average rate base for the calendar year being reconciled. ComEd argues that year-end rate base should be used instead because of the timing of reconciliations. ComEd Corr. Init. Br. at 115-16. CUB/City claims that ComEd is wrong because its proposed rate base is not reflective of the plant actually in service for the entire year being reconciled. ComEd's argument that FERC Form 1 data should be relied upon misses the point that the FERC data is not representative of plant that was actually in service during the entire year, CUB/City claims. Tr. at 944. ComEd's claim that formula rate making is akin to using a historical test year ignores its own witnesses conclusion that "test year rules have little or no remaining application in the annual formula ratemaking world." ComEd Ex. 11.0 at 6.

The Company's argument regarding regulatory lag ignores the General Assembly's mandate for predictable, stable, and transparent ratemaking – ends that CUB/City notes are

served by use of the average year rate base. Public Act 97-0616 § 108.5(a). Finally, ComEd claims that the process will prevent ComEd from over-earning on return on equity. However, CUB/City notes that given the statutory formula for determining ComEd's cost of equity, if the Company's rate base is over-recovered, its rate of return will be as well. 220 ILCS 5/16-108.5(c)(3).

2. Interest Rate Proposals

CUB/City's Position

CUB/City proposes that carrying costs on over-collections by ComEd should be computed at the larger of (1) ComEd's overall cost of capital; or (2) ComEd's short term debt cost. CUB witness Smith explained that this proposal is based on protecting ratepayer from utility over-projections of plant growth and omission of offsetting factors. CUB Ex. 3.0 at 33-34. CUB/City notes that by requiring a higher interest rate for over-collections, ComEd will be deterred from making over-projections of plant additions. Moreover, CUB/City points out that allowing interest on under-collections encourages the Company to make accurate projections of plant additions since its earnings would be at the lower of the two identified rates. CUB/City believes that Staff witness Ebrey's alternative approach to use the customer deposit interest rate is also reasonable.

X. CONCLUSION

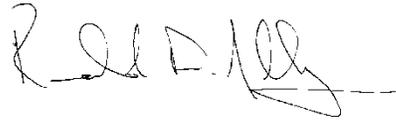
For the reasons stated herein, CUB/City respectfully requests the Commission adopt the positions taken and recommendations made by CUB/City herein.

DATED this 11th day of April, 2012

Respectfully submitted,



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A handwritten signature in black ink, appearing to read "R. D. Jolly", with a horizontal line extending from the end of the signature.

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