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**ILLINOIS COMMERCE COMMISSION**

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**ILLINOIS COMMERCE COMMISSION**

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION: 2012 APR 23 A 11: 06

**Shauna Breckenridge**

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CHIEF CLERK'S OFFICE

-vs-

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11-0787

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**Commonwealth Edison Company**

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**Complaint as to low hanging wires and  
replacement of utility pole in Streator,  
Illinois.**

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**RESPONDENT'S REPLY TO COMPLAINANT'S RESPONSE**  
**TO RESPONDENT'S MOTION TO REOPEN FOR THE TAKING**  
**OF ADDITIONAL EVIDENCE**

Now comes the Respondent, Commonwealth Edison Company ("Respondent" or "ComEd"), by and through its attorney, Mark L. Goldstein, and files the Respondent's Reply to Complainant's Response to Respondent's Motion to Reopen for the Taking of Additional Evidence the Complainant, Shauna Breckenridge ("Complainant's Response").

Complainant's Response contends: 1) there is an adequate record that the pole needs replacement (Pages 1-5); and 2) the record need not be reopened because Respondent should have raised arguments at the evidentiary hearing regarding the need for pole replacement.

Both contentions outlined above are without merit and indicate a basic confusion as to which pole ComEd would be required to replace. It is not the first pole on the Breckenridge property. While that first pole on the property may need replacement, the Administrative Law Judge's Proposed Order ("ALJPO") makes it abundantly clear that it is the Complainant who has the obligation of maintaining the poles on her property

(Finding 5, page 5 of ALJPO). The ALJPO also is clear that pursuant to Tariff No. 159, ComEd should install an additional pole in the **road right-of-way to maintain proper clearance over the road**. (Finding 7, page 5 of ALJPO, emphasis supplied).

Throughout the pleadings filed by ComEd subsequent to the evidentiary hearing, ComEd has set forth several bases for reopening the record. First, there is no evidence that the ComEd pole and the span(s) to the first pole on the Breckenridge property needs replacement. There is simply no evidence that the spans are not within the proper height over the road. Second, placing a new pole in the right-of-way does not solve the problem of sagging lines on the Breckenridge property. Third, ComEd might be required to obtain necessary county and village permits to place the pole in the right-of-way. Fourth, an additional pole in the right-of-way may be a useless act because it does not, in any way, elevate the sagging lines on the Breckenridge property.

At issue in the evidentiary hearing was who was responsible for the lines and poles on the Breckenridge property, not whether an additional pole was needed to serve the property. This is precisely the issue that must be determined by evidence and the reason this record should be reopened.

Finally, Complainant' s Response cites to 83 Ill. Adm. Code 200.25 and discusses the issues of fairness and convenience therein. Complainant's Response fails to note that under Section 200.25 a) there must be a "complete factual record to serve as basis for a correct and legally sustainable decision." A full and complete record on the issue of whether an additional pole in the right-of-way is what ComEd is requesting.

For all the reasons set forth above, Commonwealth Edison Company respectfully requests that the record be re-opened for the limited purposes of providing a

report/testimony on the actual condition of the pole that gives clearance over the right-of-way

Respectfully submitted,  
Commonwealth Edison Company

By:   
Mark L. Goldstein, Its Attorney

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 20, 2012, I served the foregoing Respondent's Reply by United States Mail, first class postage prepaid, on the Chief Clerk of the Commission, Elizabeth A. Rolando, the Complainant, Shauna Breckenridge, and to Administrative Law Judge Leslie D. Haynes.

  
Mark L. Goldstein