

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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| Commonwealth Edison Company |) | |
| |) | |
| Reconciliation of revenues collected under Rider |) | Docket No. 10-0537 |
| EDA with actual costs associated with energy |) | |
| efficiency and demand response programs. |) | |

**REPLY BRIEF ON EXCEPTIONS OF
COMMONWEALTH EDISON COMPANY**

Commonwealth Edison Company (“ComEd”) hereby files this Reply Brief on Exceptions (“BOE”) pursuant to Section 200.830 of the Rules of Practice of the Illinois Commerce Commission (“Commission”), 83 Ill. Admin. Code § 200.830. As explained further below, ComEd continues to oppose the Staff of the Illinois Commerce Commission’s (“Staff”) proposal to disallow the recovery of incentive compensation costs during Plan Year 2, as well as Staff’s inappropriate expansion of the agreement previously reached between Staff and ComEd regarding annual reporting. These two issues are addressed in Section I below, and uncontested issues are identified in Section II below.

I. CONTESTED ISSUES

A. Staff’s Modification to the First Ordering Paragraph and Appendix A.

As fully explained in ComEd’s Initial Brief, Reply Brief, and Brief on Exceptions (“BOE”), ComEd opposes Staff’s proposal to attach its Appendix A to the final order in this proceeding. ComEd has demonstrated that the Plan Year 2 incentive compensation expense resulted in quantifiable and Commission-confirmed customer benefits. ComEd Init. Br. at 9-14; ComEd Reply Br. at 4-6; ComEd BOE at 5-8. Moreover, even if the Commission were to accept Staff’s disallowance of incentive compensation costs (and it should not), the adjustment set forth in Appendix A should be limited to the amount of incentive compensation expense actually

charged through Rider EDA – Energy Efficiency and Demand Response Adjustment (“Rider EDA”) during Plan Year 2, which is \$96,148. It is uncontested that only this amount was charged through Rider EDA. ComEd Init. Br. at 1; ComEd Reply Br. at 1; ComEd BOE at 12-15; Staff Cross Ex. 3; ComEd Cross Ex. 1; Tr. at 56:8-11.

B. Annual Reporting of Budget to Actual Comparison.

In its Brief on Exceptions, Staff claims that the Commission’s Findings and Orderings paragraphs should be significantly expanded to include lengthy directives that merely repeat evidentiary standards that already exist. Staff BOE at 5. As explained in ComEd’s Reply Brief and Brief on Exceptions, ComEd and Staff reached agreement regarding the annual provision of a comparison of budget to actual expenditures. ComEd Reply 3-4; ComEd BOE 16-17. However, in Staff’s Initial Brief, Staff expanded this agreement to include three other directives to which ComEd had not agreed. Indeed, at the conclusion of Ms. Hinman’s rebuttal testimony, she made only the following two recommendations:

Q: Please summarize your recommendations.

A: I recommend that the Commission include language in its final order in this proceeding consistent with the recommendations below.

(1) I recommend the Commission direct the Company to include in Rider EDA Annual Reports a comparison of the EE Plan Year budgets versus actual EE expenditures by program-level and portfolio-level cost categories consistent with those articulated in the Company’s EE Plan approved by the Commission, as described in Staff Ex. 2.0 at pages 6-14. The Company’s direct testimony in reconciliation proceedings should justify significant shifts in expenditures in comparison to those forecasted in its approved EE Plan.

(2) I recommend the Commission direct the Company to file the independent evaluation reports, completed pursuant to 220 ILCS 5/8-103(f)(7), in the annual Rider EDA reconciliation proceedings.

Hinman Reb., Staff Ex. 4.0, 6:89-103 (citations and footnote omitted).

Put simply, Ms. Hinman made only two recommendations. The first is the annual budget vs. actual comparison that ComEd has agreed to provide, and the second regards the filing of the

annual evaluation reports, which is not disputed. Staff, however, seeks to turn the first recommendation into four recommendations. As the text plainly indicates, the first recommendation is not comprised of four subparts.

Rather, Ms. Hinman recommended *that the Commission direct* ComEd to include in Rider EDA Annual Reports a comparison of the EE Plan Year budgets versus actual expenditures. Staff's and ComEd's Briefs on Exceptions make clear that the parties agree that ComEd will provide in its Annual Rider EDA Report a comparison of its EE Plan Year budgets versus actual EE expenditures by program-level and portfolio-level cost categories consistent with that presented in its EE Plan approved by the Commission "in a form that is substantially similar to what Staff requests so that ComEd has the flexibility 'to identify the most appropriate individual cost category or categories for the various expenses, especially in cases where an expense cannot be clearly define[d] by one cost category, but rather goes across two or more categories.'" Staff BOE at 4. For this reason, the proposed modification to the Proposed Order set forth in ComEd's Exception 2 in its BOE is consistent with Staff's view and should be adopted.

The second sentence of Ms. Hinman's first recommendation is quite different from the first sentence. The second sentence does not request that the Commission direct ComEd to do anything; rather, it is a recommendation *to ComEd* as to what its direct testimony should include in the event of significant shifts in expenditures. Indeed, Rider EDA itself already provides for what ComEd must file annually. Rider EDA, ILL. C. C. No. 10, Original Sheet No. 248.1 (requiring ComEd to provide specific work papers and describing the direct testimony). And finally, Ms. Hinman's first recommendation makes absolutely no mention of what Staff now claims to be two additional subparts of her "first" recommendation. ComEd urges the

Commission to honor ComEd's and Staff's original agreement and reject Staff's unsupported attempt to expand it.

II. UNCONTESTED ISSUES

Filing of Annual Evaluation Reports. While ComEd did not interpret the Proposed Order to be commenting on the relevance of the annual evaluation reports in the reconciliation dockets, ComEd has no objection to Staff's proposed modification if the Commission believes that clarifying language is required. Staff BOE at 6.

Removal of Travel Expense Item. ComEd does not take issue with Staff's proposed modification to the language in the Proposed Order relating to the travel expense. Staff BOE at 6-7.

Technical Corrections. ComEd takes no issue with the technical corrections proposed by Staff and agrees that the Commission should adopt these corrections as well as those proposed by ComEd's Brief on Exceptions. Staff BOE at 7; ComEd BOE at 17; Appendix to ComEd BOE at 13-15.

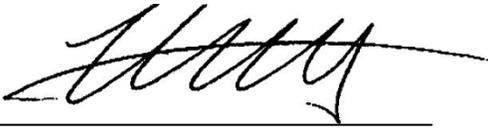
III. CONCLUSION

For the reasons stated herein and in ComEd's Initial Filing, Testimony, Initial Brief and Reply, and Brief on Exceptions, ComEd respectfully requests that the Commission modify the Proposed Order as provided in ComEd's Brief on Exceptions.

Dated: July 31, 2012

Respectfully submitted,

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