

ILLINOIS COMMERCE COMMISSION

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CHIEF CLERK'S OFFICE.

COMMONWEALTH EDISON COMPANY	:	
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Application of COMMONWEALTH EDISON	:	No. 01-0276
COMPANY, for a Certificate of Public	:	
Convenience and Necessity, pursuant to Section	:	
8-406 of the Illinois Public Utilities Act, and for an	:	
Order, under Section 8-503 of the Illinois Public	:	
Utilities Act, authorizing and directing ComEd to	:	
operate and maintain a substation in Cook County,	:	
Illinois.	:	

**RESPONSE OF COMMONWEALTH EDISON COMPANY  
TO PETITION OF AGNES BESS AND GRACE ERIKSON TO INTERVENE**

Petitioner Commonwealth Edison Company ("ComEd"), by its attorneys, Foley & Lardner, respond to the Petition to Intervene of Agnes Bess and Grace Erickson (collectively "Intervenors") as follows:

**Agnes Bess**

It is not clear, based on the Petition to Intervene and the attached documents, that Agnes Bess is a proper party. Exhibit F to the Petition to Intervene contains a fragment of a trust document. Arthur Bess is described in the Petition to Intervene as "trustee." While it is not clear from the partial trust document or the Petition to Intervene, it appears that perhaps the Agnes Bess Trust, not Agnes Bess personally, is an owner of the parcel of property involved in this docket. If so, the Agnes Bess Trust would be the proper party (not Agnes Bess), and the trust would properly appear through its trustee, Mr. Bess. If Agnes Bess herself is the owner, Mr. Bess, a non-attorney, would not be able to represent her.

### **Grace Erikson**

Barbara Watt purports to appear in this docket on behalf of Intervenor Grace Erikson based on a power of attorney document. ComEd has no reason to doubt the authenticity of the power of attorney, and notes that it contemplates Ms. Watt handling “claims and litigation.” ComEd has no objection to Ms. Erikson’s intervention, or to Ms. Watt directing that intervention as attorney-in-fact. However, a power of attorney does not give Ms. Watt the right to appear in a representative capacity as if she were Ms. Erikson herself, or as an attorney at law. 705 ILCS 205/11; see, e.g., Blue v. People, 223 Ill. App. 3d 594, 596 (2d Dist. 1992) (non-attorney parent cannot represent son as “next friend”), appeal denied, 145 Ill. 2d 637 (1992), cert. denied, 506 U.S. 1058 (1993); Robb v. Smith, 4 Ill. 46 (1841)(non-attorney cannot represent another person as his “agent”). While natural persons may appear on their own behalf in Commission proceedings, “only persons admitted to practice as attorneys and counselors at law shall represent others in proceedings before this Commission in any matter involving the exercise of legal skill or knowledge.” 83 Ill. Admin. Code 200.90; see also 705 ILCS 205/1 (forbidding unauthorized practice of law). ComEd notes that the power of attorney also gives Ms. Watt authority to “employ attorneys.” She should do so.

### **Response to Statement of Historical Facts**

ComEd admits that it entered into the lease agreement attached as Exhibit A to the Petition to Intervene. The lease agreement speaks for itself.

ComEd made payments in accordance with the provisions of the lease. ComEd cannot comment on what the Intervenors consider a “fair return” on the property.

ComEd admits that it failed to give notice of its intention to extend the lease by March 2, 2000. ComEd is unaware that it failed to issue rent payment to the Sam Lay Living Trust on April 1, 2000, and accordingly denies this allegation.

ComEd's failure to renew the lease was due to a computer error, and the oversight of one of its employees, who is no longer with the company. It had nothing to do with the age or trust status of the property owners.

ComEd admits that it did not initially send rent checks on May 1 or June 1, 2000. The rent checks are computer-generated, and were not automatically generated for those months.

ComEd admits that, as part of its effort to renew or extend the lease, it issued checks for rental payments on or about June 21, 2000, and that the checks were returned to ComEd.

ComEd admits that it has continued to operate components of the Skokie transmission substation since the lease expired. ComEd admits that Exhibit B to the Petition to Intervene is an accurate copy of a letter agreement between ComEd and Anders Erikson, which agreement speaks for itself. The letter agreement is not, however, the lease itself. ComEd has never seen the ALTA survey to which the Intervenors refer, and accordingly cannot admit or deny that allegation.

ComEd admits that Exhibit C to the Petition to Intervene is an accurate copy of an order entered by the Circuit Court of Cook County in Docket No. 00 M1 729575, which order speaks for itself.

ComEd admits that on November 30, 2000, it was granted leave to file an amended Motion to Vacate the Order of Possession.

ComEd admits that on December 15, 2000, it filed an Amended Motion to Vacate the Order of Possession.

ComEd admits that on January 3, 2001, it offered to purchase the parcel of property for \$82,300.

ComEd admits that Exhibit E to the Petition to Intervene is an accurate copy of an order entered by the Circuit Court of Cook County in Docket No. 00 M1 729575, which order speaks for itself.

ComEd denies that on February 5, 2001, it suggested a purchase price of \$60,000. Rather, on February 9, 2001, ComEd's counsel sent a letter to the property owners' counsel enclosing the valuation page of a February 5, 2001 appraisal of the property. ComEd denies that it requested the appraiser to ignore any aspects of the property. ComEd believes the phrase in the letter to which Intervenors refer means that for purposes of valuation, the appraisal quite properly assumed that ComEd's equipment (i.e. ComEd's "improvements") was no longer on the property.

ComEd admits that Margaret Brennan and Nicholas Schilling, for ComEd, met with Arthur Bess and Barbara Watt in an attempt to negotiate a resolution of the property, and that both sale and lease terms were discussed. ComEd denies that it has allowed Skokie Marine to store boats on the property leased from the Intervenors. Skokie Marine leases a different parcel of property from ComEd.

**Response to "Current Market Value of Property"**

ComEd does not agree with the Intervenors' calculation of the value of the property or the Intervenors' suggested lease price. ComEd further points out that neither of the Intervenors has set forth any credentials or expertise at the valuation of real property. Moreover, the actual value of the property is not directly an issue in this docket – the fair market value of the property

would be for the jury to decide in a subsequent condemnation action, should the Commission grant the relief ComEd requests here.

**Replies to “Response”**

1. ComEd admits that it entered into the lease agreement attached as Exhibit A to the Petition to Intervene. The lease agreement speaks for itself.

2. ComEd admits that it entered into the lease agreement attached as Exhibit A to the Petition to Intervene. The lease agreement speaks for itself.

3. ComEd admits the allegations of paragraph 3.

4. ComEd admits the allegations of paragraph 4. (However, the reference should be to Exhibit B to the Petition to Intervene.)

5. ComEd does not have knowledge sufficient to admit or deny the allegations of paragraph 5, but demands proof thereof.

6. ComEd admits that it failed to exercise timely its second 10-year extension, and that the Circuit Court of Cook County entered the order attached as Exhibit E to the Petition to Intervene.

7. ComEd denies the allegations of paragraph 7.

8. ComEd admits the allegations of paragraph 8.

9. Paragraph 9 does not state facts, and ComEd does not admit or deny it. ComEd states that it has attempted to and will continue to negotiate with the property owners.

10. ComEd denies the allegations of paragraph 10.

11. ComEd denies the allegations of paragraph 11.

12. ComEd denies the allegations of paragraph 12.

13. ComEd denies the allegations of paragraph 13.

14. ComEd admits that the property has value.

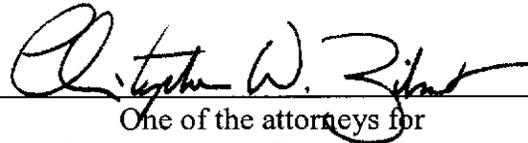
15. Paragraph 15 primarily consists of arguments and legal conclusions, not facts. To the extent that paragraph 15 contains statements of fact, ComEd denies same.

Dated: June 14, 2001

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

By: \_\_\_\_\_



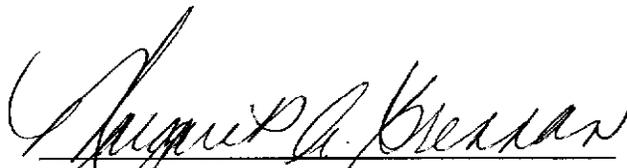
One of the attorneys for  
Commonwealth Edison Company

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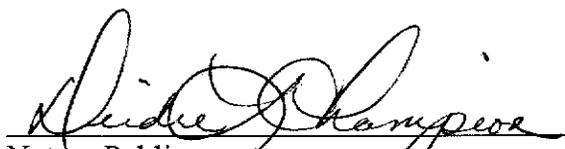
STATE OF ILLINOIS     )  
                                  ) SS.  
COUNTY OF COOK     )

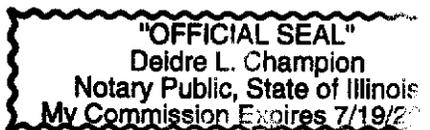
**VERIFICATION**

I, Margaret A. Brennan, being first duly sworn, state that I hold the position of Assistant General Counsel of Exelon Business Services Company, that I am authorized to sign this verification on behalf of Commonwealth Edison Company, that I have read the foregoing Response to Petition of Agnes Bess and Grace Erikson to Intervene, that I am knowledgeable of the facts stated therein, and that the same are true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
Margaret A. Brennan

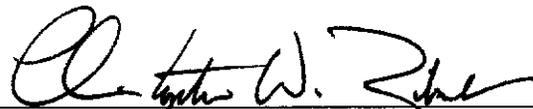
Subscribed and sworn to before  
me this 13<sup>th</sup> day of June, 2001.

  
\_\_\_\_\_  
Notary Public



**CERTIFICATE OF SERVICE**

I, Christopher W. Zibart, do hereby certify that a copy of the foregoing Response of Commonwealth Edison Company to Petition of Agnes Bess and Grace Erikson to Intervene was served upon all parties on the attached Service List by the method so indicated this 14th day of June, 2001.

  
\_\_\_\_\_  
Christopher W. Zibart

**SERVICE LIST**

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