

1 **I. Introduction of Witness and Purpose of Testimony**

2 **Q. Please state your name and business address.**

3 A. My name is Jennifer Frederick. My business address is 919 Congress Avenue, Suite
4 1300, Austin, Texas 78701.

5 **Q. Please describe your education and business experience.**

6 I have a Bachelor of Business Administration in Economics from West Texas A&M
7 University and a Master of Business Administration with an emphasis in Economics, also
8 from West Texas A&M University.

9 I have been employed by Direct Energy Services, LLC (“Direct Energy”) since January
10 2008. I began my employment as a Market Advocate and was promoted to Manager of
11 Retail Market Advocacy in October of 2009.

12 Prior to joining Direct Energy I worked for 4 ½ years at the Electric Reliability Council
13 of Texas (“ERCOT”) in both Retail Client Relations and the Program Management
14 Office.

15 Prior to joining ERCOT, I worked for the Public Utility Commission of Texas as a Retail
16 Market Analyst.

17 **Q. Who are you employed by and in what position?**

18 A. I am employed by Direct Energy in the position of Manager of Retail Market Advocacy.

19 **Q. What are your current duties and responsibilities?**

20 A. I am responsible for monitoring and advocating on behalf of Direct Energy in regulatory
21 matters that impact Direct Energy’s ability to provide retail electric service to end use
22 customers. I represent Direct Energy at the Public Utility Commission of Texas
23 (“PUCT”) and in the ERCOT stakeholder process. I am currently a voting member of the
24 ERCOT Retail Market Subcommittee. In addition, I serve as the chair of the Texas

25 Standard Electronic Transactions Working Group and Co-chair of the Advanced
26 Metering Implementation Team Education Task Force.

27 **Q. Have you previously testified before the Illinois Commerce Commission**
28 **(“Commission” or “ICC”)?**

29 A. No, I have not previously testified before the ICC.

30 **Q. On whose behalf are you testifying?**

31 A. I am testifying on behalf of the Illinois Competitive Energy Association (“ICEA”). ICEA
32 is an Illinois not-for-profit corporation established as an Illinois-based trade association
33 to represent the interests of competitive energy suppliers and others interested in
34 preserving and enhancing opportunities for customer choice and competition in the
35 electric and natural gas industries in Illinois. ICEA’s members include some of the
36 largest competitive suppliers in Illinois such as Ameren Energy Marketing/Homefiled
37 Energy; Champion Energy, LLC; Constellation New Energy Inc.; Direct Energy
38 Services, LLC; Exelon Energy Company; Integrys Energy Services, Inc.; MC Squared
39 Energy Services, LLC; FirstEnergy Solutions; Nordic Energy Services, LLC; and
40 Reliant. These companies serve residential, commercial, industrial, and public sector
41 customers such as those involved in the manufacturing industry; retail businesses; the
42 State of Illinois and local units of governments; cultural, sporting and educational
43 institutions; as well as hospitals, hotels, and restaurants. ICEA members also provide
44 service to virtually all of the Municipalities that have enacted Governmental Aggregation
45 programs.

46 **Q. Please describe ICEA’s interests in this proceeding.**

47 A. ICEA’s members are licensed Alternative Retail Electric Suppliers (“ARES”) providing
48 service to retail electric customers in Illinois. ARES provide more than 60% of the
49 electricity consumed in Illinois, as noted by the Office of Retail Market Development’s
50 most recent Retail Competition Report.¹ As such, ICEA has a direct interest in the
51 outcome of the Rider Peak Time Rebate (“Rider PTR” or “PTR”) program as proposed
52 by Commonwealth Edison (“ComEd”).

53 **Q. What is the purpose of your Direct Testimony?**

54 A. My Direct Testimony is limited to three issues:

- 55 1) First, I will comment on ComEd’s approach to the competitive neutrality
56 provision of the PTR statute.
- 57 2) Second, I will comment on the recovery of the PTR program costs as proposed by
58 ComEd.
- 59 3) Third, I will comment on ComEd’s request for a March 2013 Order in this
60 proceeding while announcing a one year delay in the program.

61 **Q. What are your conclusions?**

62 A. As explained further below, ICEA recommends that the proposed Rider PTR be rejected
63 until ComEd demonstrates clearly and sufficiently in further detail during this proceeding
64 that its PTR program is consistent with the cost recovery provision of the statute
65 governing PTR, that ComEd will implement PTR, at an operational level, in a
66 competitively neutral manner, as required by statute, and that Commission approval of its
67 PTR program tariff is required in March 2013 when ComEd’s PTR program revised
68 implementation date will be two (or three years) in the future.

¹ Annual Report to the General Assembly, the Governor, and the Illinois Commerce Commission, Office of Retail Market Development, Illinois Commerce Commission, 2012 Annual Report, Submitted Pursuant to Section 20-110 of the Illinois Public Utilities Act, published June 30, 2012.

69 **II. Statutory Requirements Related to Designing the PTR Program in a Competitively**
70 **Neutral Manner**

71 **Q. What are ComEd’s statutory obligations with respect to designing the PTR**
72 **program?**

73 A. The enabling statute is found in subsection 16-108.6(g) of the Public Utilities Act
74 (“PUA”) [220 ILCS 5/16] which states that:

75 “[W]ithin 60 days after the Commission approves a participating utility’s AMI
76 Plan pursuant to subsection (c) of this Section, the participating utility, after
77 consultation with the Smart Grid Advisory Council, shall file a proposed tariff
78 with the Commission that offers an opt-in market-based peak time rebate
79 program to all residential customers with smart meters that is designed to
80 provide, *in a competitively neutral manner*, rebates to those residential retail
81 customers that curtail their use of electricity during specific periods that are
82 identified as peak usage periods. “ (Emphasis added).

83 **Q. In your opinion, has ComEd designed its PTR program in a “competitively neutral**
84 **manner”?**

85 A. Due to the lack of details in its filing, it is unclear to ICEA whether ComEd’s PTR
86 program is designed in a competitively neutral manner as prescribed by law.

87 **Q. Please explain.**

88 A. In Ex. 1.0, ComEd defines “competitively neutral manner” as applying to “all customers,
89 regardless of their electric supplier.” (ComEd Ex. 1.0, lines 224-231).

90 ComEd has not demonstrated sufficiently that its PTR program filing complies with the
91 statutory requirement to design a PTR program that is provided “in a competitively
92 neutral manner.” ComEd’s Petition, draft tariffs and testimony do not provide sufficient

93 details that describe how its PTR program will operate with customers of ARES. ~~In~~
94 ~~ICEA's opinion, ComEd must demonstrate, at an operational level, that its PTR program~~
95 ~~is competitively neutral between its customers and ARES customers.~~ [^]

96 **Q. Could you please provide some examples describing these operational issues?**

97 A. Yes. Outlined below are six examples.

98 1) **Bill Presentation:**

99 In response to discovery, ComEd states that it, “[h]as not analyzed or designed the
100 billing aspects of PTR yet. Nevertheless, ComEd hopes to include PTR credits as
101 a separate line item for each event in either the ‘delivery services’ or ‘taxes and
102 others’ section for both ComEd supplied customers and ARES supplied
103 customers.” (ICEA DR No. 1.02). As an initial matter, ComEd’s assertion that it
104 “hopes” to include PTR credits as a separate line item is insufficient to clearly
105 demonstrate that its PTR program is provided in a competitively neutral manner.
106 On a more practical level, ICEA is very concerned with how ComEd intends to
107 present PTR information on a customer’s bill, especially if that information
108 requires an additional bill page and/or increases the cost of processing and
109 sending out bills. This concern is compounded by the fact that most ARES use
110 ComEd’s Rider PORCB for billing. It is unclear, at this time, how PTR will
111 operate under Rider PORCB.

112 ICEA believes that ComEd has a statutory obligation to demonstrate how PTR
113 (both usage reductions and bill credits) will appear on customer bills, and how
114 PTR will operate under Rider PORCB.

115 Finally, to the extent that Load Control Devices (“LDCs”) are included in
116 ComEd’s PTR program, ComEd must explain in detail how these devices will be
117 billed to ARES customers when Rider PORCB is used.

118 2) **Enrollment Channels:** According to ComEd, customers will be able to enroll in
119 the PTR program using an “online channel.” For those customers without internet
120 access, ComEd proposes, “a phone channel via both live agent and voice response
121 unit (“VRU”) system.” ComEd also states that it will consider other enrollment
122 channels such as a mobile application or text messages. (ComEd Ex. 2.0, lines
123 101-106). While ICEA does not object to these forms of enrollment, ICEA does
124 not believe that ComEd has complied with the “competitively neutral manner”
125 provision of the statute since ComEd has made no showing as to how ARES
126 customers will enroll in PTR. First, it is unclear whether an ARES customer
127 enrolls directly with ComEd or will go through an ARES. Second, ComEd has
128 not demonstrated that it has developed the necessary methods and procedures to
129 enroll ARES customers using either internet access or a VRU system.
130 Presumably, enrolling customers will be required to use their account number.
131 ComEd needs to demonstrate that an ARES customer will not be rejected from
132 enrolling in the PTR program when the internet or VRU system discovers that the
133 customer is not on ComEd’s supply service. Finally, since these are not ComEd’s
134 supply customers, the ARES community, or in the alternative the Commission’s
135 ORMD, needs to review the script to be used by live agents to enroll ARES
136 customers in order to ensure that live agents treat ARES customers in a
137 competitively neutral manner.

184 satisfies these requirements, ComEd itself has not made a sufficient showing as to their
185 ability to comply with this statutory requirement when it brings the PTR program “in-
186 house,” which ComEd asserts will begin in 2016-2017.

187 **III. Statutory Requirements Pertaining to Cost Recovery**

188 **Q. What are the statutory requirements governing ComEd’s ability to recover the costs**
189 **of the PTR program?**

190 A. The enabling statute allowing ComEd to recover its PTR costs is also found in subsection
191 16-108.6(g). This subsection provides, in pertinent part, that:

192 “Within 60 days after the Commission approves a participating utility’s AMI
193 Plan pursuant to subsection (c) of this Section, the participating utility, after
194 consultation with the Smart Grid Advisory Council, shall file a proposed tariff
195 with the Commission that offers an opt-in market-based peak time rebate
196 program to all residential retail customers with smart meters that is designed to
197 provide, in a competitively neutral manner, rebates to those residential retail
198 customers that curtail their use of electricity during specific periods that are
199 identified as peak usage periods. The total amount of rebates shall be the
200 amount of compensation the utility obtains through markets or programs at the
201 applicable regional transmission organization. The utility shall make all
202 reasonable attempts to secure funding for the peak time rebate program
203 through markets or programs at the applicable regional transmission
204 organization.”

205 Subsection 16-108.6(g) contains two provisions related to cost recovery: -One is to
206 recover the cost of the rebates, and the other is to recover the cost associated with funding
207 the program. ~~For both categories, the statute provides clear and unambiguous direction~~ 

208 ~~regarding recovery of all PTR costs from the “applicable regional transmission~~
209 ~~organization.”~~ [^]

210 **Q. In your opinion, does ComEd’s PTR filing comply with the statutory requirement**
211 **for recovering the cost of the rebates?**

212 A. While I am not an attorney, I believe that ComEd has complied with the cost recovery
213 requirement for rebates.

214 The statute states that, “[T]he total amount of rebates shall be the amount of
215 compensation the utility obtains through markets or programs at the applicable regional
216 transmission organization.” According to ComEd, it will bid its PTR program into the
217 PJM Interconnection LLC (“PJM”) Demand Response markets and use those revenues to
218 fund customer rebates. (See ComEd Ex 1.0, lines 139-142 and 268-277 and Ex. 2.0, lines
219 55-57). Based on these statements, it appears that ComEd’s proposal complies with this
220 portion of the statute. On the other hand, ComEd fails to demonstrate sufficiently
221 whether the statutory directive to recover the cost for funding the PTR program from
222 PJM is met.

223 **Q. Before you talk about recovering the costs to fund the PTR program, can you please**
224 **provide a sense of the amount of costs ComEd may seek to recover?**

225 A. No, because it’s not entirely clear what the level of costs will be.
226 In its filing, ComEd failed to provide any information regarding the cost to
227 implement its PTR program. However, in response to one of Staff’s Data
228 Requests, ComEd admits that it has estimated the costs of the PTR program, but
229 only at a “high level.” (Staff DR No. DAB 1.01). In response to another Staff’s
230 Data Request, ComEd provides annual cost estimates beginning in 2012 through

231 2032. These costs include Administration and Promotion, one-time IT capital
232 costs, one-time IT O&M costs, and ongoing IT O&M costs. Based on this table,
233 ComEd estimated that its PTR program will cost \$2,284,779 in 2012, \$441,743 in
234 2013 and \$1,972,680 in 2014. (Staff DR, No. AAA 1.02 Supp.).

235 On April 23, 2012, ComEd submitted annual PTR cost estimates in Docket No. 12-0298
236 showing 2012 costs to be \$11,619,350, 2013 costs to be \$7,736,820 and \$4,830,440 in
237 2014.

238 Based on this information, it appears that ComEd's estimated PTR implementation costs
239 fell from \$24,186,610 to \$4,699,202 in just over five months. ICEA is skeptical that
240 ComEd's estimated PTR implementation costs are accurate due to the wide variance
241 during this five month period.

242 This skepticism is compounded by the fact that ComEd proposed to delay PTR
243 implementation for one year or until June 1, 2015. Using the April 2012 cost estimates,
244 the total implementation costs from 2012 through 2015 is estimated to be \$29,205,437
245 while the October 2012 cost estimates for the same time frame is \$6,757,092. Given
246 these fluctuations in cost estimates, ICEA is uncertain what ComEd's PTR costs will be
247 by June 1, 2015. Under the best of circumstances, the costs will continue to trend
248 downward. On the other hand, they could also go back to the April 2012 levels, at which
249 point, ComEd will be attempting to recover over \$29 million in PTR related costs in the
250 first year of the program. If the Commission were to adopt ComEd's cost recovery
251 proposal, ARES customers will be responsible for a large portion of these costs.
252 Therefore, ICEA requests that the Commission withhold approving Rider PTR until

253 ComEd provides reliable cost estimates are available for review by all parties in this
254 proceeding.

255 **Q. Putting aside the question about accurate PTR cost estimates, in your opinion, does**
256 **ComEd's cost recovery approach comply with the requirements of the statute with**
257 **respect to funding the PTR program?**

258 A. Again, while I am not an attorney, I do not believe ComEd has demonstrated sufficiently
259 that it has complied with the statutory requirements.

260 **Q. Please explain.**

261 A. ~~Similar to recovering the cost of the rebates, the enabling statute states that, "[T]he utility~~
262 ~~shall make all reasonable attempts to secure funding for the peak time rebate program~~
263 ~~through markets or programs at the applicable regional transmission organization."~~

264 ~~ComEd ignores this statutory directive and instead "proposes to recover the costs of~~
265 ~~implementing the PTR program, including start up and administrative costs and the cost~~
266 ~~of preparing the evaluation reports to the Commission, from all residential customers~~
267 ~~through their delivery service charges." (ComEd, Ex. 1.0, Lines 322-334 and Petition at~~
268 ~~4, emphasis added) Stated differently, ComEd seeks to recover its PTR costs from~~
269 ~~residential customers even though the statute directs ComEd to recover its cost from~~
270 ~~PJM.~~

271 ~~ComEd cites subsection 16-108.5(e) in support of its position to recover these costs from~~
272 ~~all residential ratepayers. However, ICEA takes issue with ComEd's position.~~

273 ~~First, this proceeding is limited to ComEd's statutory requirement to file a tariff to~~
274 ~~implement and to administer an opt-in market-based demand response, a program~~
275 ~~designed to encourage residential retail customers to curtail their usage during specified~~

276 ~~peak usage periods in exchange for bill credits. This statutory requirement also directs~~
277 ~~ComEd to participate in the PJM markets to recover its cost in order to fund the program.~~
278 ~~In addition, Subsection 16 108.5(c) outlines a new ratemaking framework that allows~~
279 ~~participating utilities to recover delivery costs through a performance based formula rate~~
280 ~~approved by the ICC. Specifically, this section requires ComEd to invest capital to~~
281 ~~upgrade and modernize its distribution infrastructure as well as invest in a Smart Grid~~
282 ~~electric system. While ICEA agrees that this Subsection authorizes ComEd to upgrade its~~
283 ~~infrastructure with additional smart meters, it says nothing about PTR.²~~
284 ~~Second, the ICEA believes that the intent of the General Assembly is clear. All statutory~~
285 ~~provisions related to PTR, including cost recovery, is restricted to Subsection 16-~~
286 ~~108.5(g). In contrast, Subsection 16 108.5(c) does not contain any provisions regarding~~
287 ~~PTR, let alone recovery of costs. Even if an argument could be constructed to support its~~
288 ~~position, ComEd fails to articulate any reason why this Subsection would trump the~~
289 ~~specific cost recovery language in Subsection 16 108.5(g). If ComEd is correct, there~~
290 ~~would be no reason for the General Assembly to include these specific cost recovery~~
291 ~~provisions in Subsection 116 108.5(g).~~
292 ~~Finally, ComEd cost recovery position lacks statutory support. Mr. Garcia uses~~
293 ~~Subsection 116 108.5(g) to detail his understanding of the statutory requirements of the~~
294 ~~PTR program. Mr. Garcia outlines every statutory requirement, **except** the provision~~
295 ~~governing cost recovering to fund the program. (ComEd Ex. 1, lines 135-147). Notably,~~
296 ~~Mr. Garcia omits any discussion of this provision until much later in his testimony at~~
297 ~~which point he acknowledges that ComEd is relying on a different subsection.~~ [^]

² In addition, the question of whether ComEd may operate under a performance-based formula rate is currently being litigated in Docket No. 11-0721.

298 ~~The fundamental question before the Commission is whether to adopt ComEd's~~
299 ~~proposition that all residential customers pay for ComEd's PTR implementation costs or~~
300 ~~follow the direct and unambiguous language in Subsection 16-108.6(g) and have ComEd~~
301 ~~seek recovery from PJM.~~^

302 **Q. Besides violating the cost recovery provisions of subsection 16-108.6(g), are there**
303 **other problems with ComEd's approach to recovering the costs to fund the PTR**
304 **program?**

305 A. Yes. ComEd's proposal virtually ensures that ARES will not be able to compete in this
306 market. Assuming that an ARES develops a demand response program, it will be
307 required to recover these costs from those residential customers that purchase this
308 product. At the same time, if ComEd's proposal is accepted, all residential customers
309 will pay for PTR, including ARES's customers. As a result, ARES customers will be
310 forced to pay twice for demand response – once for the RES's product and once for
311 ComEd's PTR. To compound this competitive disadvantage to ARES and their
312 customers, only those customers with a smart meter are eligible to receive bill credits as a
313 result of reducing their usage during peak usage periods according to ComEd. (ComEd
314 Ex. 1.0, line 184) Therefore, any ARES customer without a smart meter will not receive
315 any bill credits. As a result, in addition to paying twice for demand response, ARES
316 customers will not receive any PTR benefits. If ComEd's proposal is adopted, ARES's
317 will be unable to compete with ComEd and would not, therefore, choose to deploy a
318 demand response product.

319 **Q. Do you have any other concerns with respect to ComEd's cost recovery proposal?**

320 A. Yes. ICEA understands that ComEd is required to bid its PTR resources into PJM's
321 capacity auction based on the forecasted amount of load response. ICEA also
322 understands that if ComEd's actual load response is below its forecast, PJM will impose a
323 penalty equal to 20% of the payment for each kW of shortfall. At the same time, if
324 ComEd's actual load response is above its forecast, PJM will not pay for the additional
325 load response. (June 19, 2012 Stakeholder Presentation, ComEd Ex. 1.0, line 272-274
326 and Staff DR No. JZ 2.02).

327 ICEA is unclear from ComEd's filing how ComEd proposes to recover these PJM
328 imposed penalties resulting from forecasting errors. If ComEd's position is that all
329 residential customers pay for PJM penalties, then ICEA strongly objects. There is no
330 plausible reason for any residential customer to compensate ComEd for its own
331 forecasting errors.

332 **IV. ComEd's Proposed Timeline**

333 **Q. What is your understanding of ComEd's proposed timeline for the PTR program?**

334 A. Initially, ComEd proposed a timeline that would allow it to participate in the 2014/2015
335 PJM planning year. (ComEd Ex. 2.0, lines 64-71) In its Supplemental Direct Testimony,
336 ComEd proposed to postpone the PTR program for one year and stated that, "[t]he initial
337 enrollment period would begin October 1, 2014 and end on April 30, 2015, with the first
338 Curtailment Periods being called during the 2015/2016 PJM Planning Year, which begins
339 on June 1, 2015." (ComEd Ex. 3.0, lines 24-26)

340 While ComEd has proposed to delay the implementation date for its PTR program,
341 ComEd continues to request a Commission order by March 1, 2013.

342 **Q. What is the significance with a Commission Order by March 1, 2013?**

343 A. According to ComEd, a March 1, 2013 Order approving the PTR program is necessary,
344 “[s]o that ComEd has sufficient time to prepare for the May 2013 auction.” (Id, lines 86-
345 87).

346 **Q. Do you agree with ComEd’s assessment?**

347 A. No. Beyond its unsupported assertion that it requires sufficient time to prepare for the
348 auction, ComEd has not described in sufficient detail why a Commission decision is
349 needed two (or three) years prior to implementation. ICEA believes that ComEd should
350 provide facts and a detailed analysis to support its position because there is no evidence
351 or enlightening discussion from ComEd as to why the Commission should approve these
352 tariffs by March 2013.

353 ~~In addition, while I am not a PJM expert, I believe that ComEd is free to “prepare” for~~
354 ~~PJM auctions irrespective of a Commission PTR Order.~~ According to its response to
355 CUB’s discovery, ComEd has participated in and has received revenue from various PJM
356 demand response programs including: the Reliability Pricing Model (RPM) capacity
357 auctions and the Interruptible Load for Reliability Program (ILR); different various Base
358 Residual Auctions and Incremental Auctions; and has bid capacity from its AC Cycling
359 program and Rider CLR into PJM capacity markets. (CUB DR No. 3.01) ComEd needs
360 to demonstrate in sufficient detail why it needs a Commission order by March 2013 to
361 “prepare” for the PJM auction given its undisputed history bidding resources into various
362 PJM’s demand response programs.

363 Moreover, ComEd is still in the process of analyzing various methodologies for
364 determining a Customer Baseline Load (CBL) Profile. (ComEd Ex. 2.0, lines 206-221)
365 According to ComEd, the CBL is an estimate of the hourly loads of the customer during

366 any curtailment period absent any curtailment response and accurately estimating the
367 baseline “is critical to the success of the program.” (Id.) ICEA is puzzled that ComEd
368 does not require a March 2013 Commission order approving its tariffs as a prerequisite
369 for beginning the preparation for this critical component of the PTR program.

370 Finally, it appears that ComEd is prevented from bidding its PTR resources into PJM’s
371 Demand Resources programs until its CBL is developed and approved by both PJM and
372 the Commission. ComEd states that its CBL methodology must be approved by PJM.
373 ComEd also states that its CBL methodology must be filed and approved by the
374 Commission. (ComEd, Ex. 3.1, 2nd Revised Sheet No. 351) Finally, ComEd states that it
375 will file a petition with the Commission for approval of its CBL methodology in February
376 2014. (ComEd Ex. 1.0, line 315) Based on this information, ICEA believes that the
377 status of the PTR tariff is irrelevant. Until ComEd has filed its CBL methodology and
378 obtained approval from both the Commission and PJM, ComEd is prohibited from
379 implementing its PTR program.

380 **V. Conclusion**

381 **Q. Does this conclude your testimony?**

382 **A. Yes.**