

ATTACHMENT A - ComEd's Response - ICC Docket 12-0324

- In Section 200.335 (c) the rule discusses in detail the manner of serving for “data requests” and “responses” thereto. This is the most common method of discovery in Commission proceedings.
- Section 200.340 is titled “Policy on Discovery” and, among other things, it encourages a voluntary exchange by the parties of all relevant and material facts to a proceeding. It further discourages formal discovery by means such as “depositions and subpoenas” unless less formal procedures have proven unsuccessful.
- Section 200.345 is titled “Discovery by Staff Witnesses” and it allows Staff to pursue “formal discovery” upon a proper motion.
- Section 200.350 is titled “Reasonable Attempts to Resolve Differences Required” and it essentially requires a party to “meet and confer” on discovery disputes and include a statement to that effect in any motion to compel discovery or to invoke the provisions of Section 200.370.
- Section 200.360 is titled “Depositions and Other Discovery Procedures” and it authorizes the deposition of witnesses along with the payments of fees related thereto.

In addition to depositions, and “subject to the provisions of this part,” subsection (c) states that:

any party may utilize written interrogatories to other parties, requests for discovery or inspection of documents or property and other discovery tools commonly utilized in civil actions in the Circuit Courts of the State of Illinois in the manner contemplated by the Code of Civil Procedure [735 ILCS 5] and the Rules of the Supreme Court of Illinois [S. Ct. Rules].

- Section 200.370 is titled “Supervision of Discovery” and it gives the ALJ oversight authority on discovery matters and the authority to make such rulings “as justice requires.”
- Section 200.380 is titled “Subpoenas” and it describes the process for pursuing this discovery method..
- Section 200.390 is titled “Motion to Quash Subpoena” and it outlines the showing required for such relief.
- Section 200.400 is titled “Service and Fees Payable” and its provisions relate to subpoenas.

- Section 200.410 is titled “Time Limits on Discovery” and in subsection (a), the rule sets out that requests for information or discovery and responses thereto shall be made in a timely fashion and in accordance with any time schedule set by the ALJ. Further, subsection (b) states that all responses to data requests shall be served within 28 days after service of the request, unless the period is shortened or lengthened by the ALJ or by agreement of the parties. Finally, subsection (c) provides that:

Requests for admissions shall be deemed admitted if not responded to within 28 days after service, unless the period is shortened or lengthened by the Hearing Examiner [ALJ] or by agreement of the parties.

- Section 200.420 is titled “Failure to Comply With a Discovery Order or a Subpoena” (no mention of admissions of fact)
- Section 200.430 is titled “Protective Orders.” (no mention of admissions of fact)