

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

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<b>Commonwealth Edison Company</b>	:	
	:	<b>Docket No. 11-0459</b>
<b>Petition for Reconciliation Under Rider AMP</b>	:	

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**STAFF OF THE ILLINOIS COMMERCE COMMISSION**  
**REPLY TO COMMONWEALTH EDISON COMPANY’S RESPONSE TO THE STATE**  
**OF ILLINOIS’ AND THE CITIZENS UTILITY BOARD’S MOTION TO CONSOLIDATE**

The Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned attorneys and pursuant to Sections 200.190 of the Commission’s Rules of Practice, 83 Ill. Adm. Code 200.190, hereby replies to Commonwealth Edison Company’s (“ComEd” or the “Company”) Response (“ComEd Response”) to the People of the State of Illinois’ (“AG”) and Citizens Utility Board’s (“CUB”) Motion to Consolidate (“Motion”) in accordance with the schedule set by the Administrative Law Judge. (*Tr.*, January 8, 2013, p. 12) In support of this Reply, Staff states as follows:

1. On January 11, 2013, the AG and CUB filed this Motion to Consolidate Docket Nos. 09-0263, 11-0459 and 12-0371 (Docket Nos. 11-0459 and 12-0371 hereafter referred to as “Reconciliation Proceedings”). A final order was issued in Docket 09-0263 with the Commission approving ComEd’s Rider AMP. (Order, Docket No. 09-0263, October 14, 2009) On March 19, 2012, the Appellate Court, Second District reversed the Commission’s approval of Rider AMP. (*People of the State of Illinois, ex.*

*rel. v. Illinois Comm. Comm'n*, 2012 IL App (2d) 100024) On January 25, 2013, Staff and ComEd filed Responses to the AG/CUB Motion.

2. The AG/CUB also filed a Motion to Initiate a Remand Proceeding on January 15, 2013, asking the Commission to remand Docket No. 09-0263 for the purpose of refunding the monies collected from ratepayers under Rider AMP. Staff filed a Response to the Motion to Initiate a Remand on January 22, 2013, stating that the Second District only *reversed* the Commission's Order in Docket No. 09-0263; it did not *remand* the proceeding. (Staff Response to AG/CUB Motion to Initiate Remand Proceeding, Docket No. 09-0623, ¶9) Staff also noted in its Response that the two Reconciliation Proceedings are pending before the Commission and the issue of whether a refund is appropriate will be addressed in those proceedings.<sup>1</sup> (*Id.*, ¶10)

3. Staff continues to recommend consolidation of the two Reconciliation Proceedings, and Staff believes the consolidated reconciliation docket is the appropriate place to consider refunds, if any, because a reconciliation proceeding will examine both the expenses of the utility and the amounts collected from ratepayers. (Staff Response, ¶4)

4. In ComEd's Response, ComEd states that "[n]either reconciliation Petition addressed the amount collected in 2012, although Docket 12-0371 included the amount that the reconciliation of 2011 indicated should be collected as reconciliation adjustments in 2012."<sup>2</sup> (ComEd Response, p. 4) ComEd also asserts that "the subject of whether to order refunds and, if so, in what amounts, is not at issue here..." (*Id.*, p. 4,

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<sup>1</sup> Staff notes that ComEd filed a Motion to Dismiss both Reconciliation Proceedings on January 15, 2013. Staff's Response, which recommends the Commission deny ComEd's Motion, was filed on January 25, 2013.

<sup>2</sup> ComEd further notes that it "fully reserves and does not waive any contentions, rights, and defenses on that subject." (ComEd Response, p. 4, fn 3)

fn 3) Staff disagrees. A reconciliation proceeding is the appropriate forum to address refunds because it looks at the expenses incurred by the utility and the costs recovered from ratepayers. (ILL. C. C. No. 10, Original Sheet No. 236.4) As ComEd points out, the Company collected amounts in 2011 based on the reconciliation of 2010, and amounts collected in 2012 based on the reconciliation of 2011. (*Id.*, fn 4)

5. While Staff's position is that a reconciliation docket can appropriately address refunds, Staff recommends that the Commission provide ComEd with clear notice that refunds, if any, are appropriate and will be addressed in the Reconciliation Proceedings. Staff recommends that the ALJs provide such notice when ruling on these Motions.

WHEREFORE, for the foregoing reasons, Staff respectfully requests that the Commission grant in part as with respect to Docket Nos. 11-0459 and 12-0371 and deny in part as to Docket No. 09-0263 AG/CUB's Motion for the reasons described in its Response, and direct the ALJs to issue a Ruling as described above.

Respectfully submitted,

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