

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission	:	
On its Own Motion	:	
	:	
-vs-	:	Docket No. 11-0593
	:	
Commonwealth Edison Company	:	
	:	
Investigation into compliance with the	:	
efficiency standard requirement of Section	:	
8-103 of the Public Utilities Act.	:	

**INITIAL BRIEF OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION**

Matthew L. Harvey
Angelique Palmer
Kelly A. Armstrong

Office of General Counsel
Illinois Commerce Commission

160 North LaSalle Street
Suite C-800
Chicago, Illinois 60601
(312) 793-2877

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*Counsel for the Staff of the
Illinois Commerce Commission*

Table of Contents

I. BACKGROUND	1
II. LEGAL STANDARD	2
III. ARGUMENT	4
1. Section 8-103(b) Statutory Energy Savings Goal	4
A. Achievement of the Statutory Energy Savings Goal	4
B. Banking	4
2. ComEd's Portion of the Section 8-103(b) Savings Goal	6
3. DCEO's Portion of the Section 8-103(b) Savings Goal	7
A. Achievement of DCEO's Portion of the Statutory Savings Goal	7
B. Modified Energy Efficiency Plans Pursuant to Section 8-103(e)	7
4. Section 8-103(c) Demand Response Goal	11
5. Adjustment to the Appliance Recycling Program Savings	12
6. CFL Carryover	15
7. Three-Year Cost-Effectiveness Review	17
IV. CONCLUSION	19

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Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned counsel, pursuant to Section 200.800 of the Illinois Commerce Commission’s (“Commission” or “ICC”) Rules of Practice (83 Ill. Adm. Code 200.800), respectfully submits its Initial Brief in the instant proceeding. Staff proposes recommendations based on Section 8-103(b) of the Illinois Public Utilities Act (“Act”), as modified by subsections (d) and (e) of that Section, so that the Commission can make a determination of whether Commonwealth Edison Company (“ComEd” or “Company”) met its energy efficiency (“EE”) goals for the Plan Year 3 (“PY3”) which commenced June 1, 2010 and was completed May 31, 2011.

I. BACKGROUND

This proceeding was initiated by the Commission to determine whether ComEd has complied with the incremental energy savings mandated by Section 8-103(b) of the

Act, as modified by subsections (d) and (e) of that Section.

On February 6, 2008, the Commission entered an order in Docket No. 07-0540 directing that a savings docket be initiated prior to September 1, 2011 to ensure compliance with the PY3 energy savings goals set forth in the Act and directed Staff to prepare draft orders to that effect. Final Order at 27, *Commonwealth Edison Company: Petition for Approval of the Energy Efficiency and Demand-Response Plan Pursuant to Section 12-103(f) of the Public Utilities Act*, Docket No. 07-0540 (February 6, 2008) (hereinafter "*Plan 1 Order*"). Staff filed a report dated August 19, 2011 requesting that the Commission initiate an investigation into whether ComEd met its energy efficiency goals for PY3, and a draft order consistent with such relief. The Commission entered an order initiating this docket and the investigation on August 23, 2011. ComEd witness Michael S. Brandt, Staff witness Jennifer L. Hinman, Illinois Attorney General's ("AG's") witness Philip H. Mosenthal, and the Illinois Department of Commerce and Economic Opportunity ("DCEO") witness Agnes Mrozowski submitted testimony.

II. LEGAL STANDARD

Section 8-103(b) of the Act mandates incremental annual energy savings for Illinois electric utilities. 220 ILCS 5/8-103(b). The statute provides that the electric utilities shall implement cost-effective EE measures with incremental savings of 0.6% of energy delivered in the year commencing June 1, 2010. *Id.* The statute requires that if, after three years, a large-sized electric utility (which ComEd is under this Section) fails to meet the efficiency standard specified in subsection (b) as modified by subsections (d) and (e), that the large-sized electric utility will make a contribution to the Low-Income Home Energy Assistance Program ("LIHEAP") in the amount of \$665,000. 220 ILCS

5/8-103(i).

Section 8-103(i) also requires that the responsibility for implementing EE measures shall be transferred to the Illinois Power Agency ("IPA") if, after three years or in any other three year period, the utility fails to meet the efficiency standard specified in subsection (b) as modified by subsections (d) and (e) of Section 8-103. *Id.* Section 8-103(i) of the Act states that: "for purposes of this Section, (i) a 'large electric utility' is an electric utility that, on December 31, 2005, served more than 2,000,000 electric customers in Illinois." *Id.*

Subsection (e) of Section 8-103 of the Act requires that the "portfolio of measures, administered by both the utilities and [DCEO], shall, in combination, be designed to achieve the annual savings targets described in subsections (b) and (c) of this Section, as modified by subsection (d) of this Section." 220 ILCS 5/8-103(e). The *Plan 1 Order* states that "the utilities and DCEO further agreed that the DCEO share of the annual kilowatt savings targets would be less than 25% with the relevant utility making up the difference." *Plan 1 Order* at 19. Further, the *Plan 1 Order* states, "As between ComEd and DCEO, DCEO's programs will account for approximately 21% (ranging from 18.6%- 21.5%) of the total kilowatt savings during the first three planning years...." *Plan 1 Order* at 19; Staff Ex. 1.0 at 7. However, the statute provides that "No electric utility shall be deemed to have failed to meet the energy efficiency standards to the extent any such failure is due to a failure of [DCEO] or the [IPA]." 220 ILCS 5/8-103(k). The Commission's May 16, 2012 Final Order in Docket No. 10-0520 states, "Pursuant to subsection (e), ComEd is required to file a revised plan if DCEO fails to meet its goal...Subsection (j) provides that if, after three years, DCEO fails to implement

its share of the energy efficiency measures, then the IPA may assume responsibility of DCEO's share." Final Order at 5, *Commonwealth Edison Company: Investigation into compliance with the efficiency standard requirement of Section 8-103 of the Public Utilities Act*, Docket No. 10-0520 (May 16, 2012) (hereafter "*PY2 Savings Order*").

III. ARGUMENT

1. Section 8-103(b) Statutory Energy Savings Goal

The statutory energy savings goal approved by the Commission for the ComEd service territory for PY3 is 584,077 megawatt-hours ("MWh"), which is 0.6% of the projected energy delivered in the ComEd service territory. Staff Ex. 1.0 at 7-8; *Plan 1 Order* at 10-11.

A. Achievement of the Statutory Energy Savings Goal

It is Staff's position that ComEd and DCEO achieved 701,144 MWh of net energy savings during PY3, based on the best estimates of energy savings available. Staff Ex. 1.0 at 19. In Ms. Hinman's opinion, using the deemed savings values for light bulbs, ComEd and DCEO achieved 659,549 MWh of net energy savings during PY3. *Id.*

B. Banking

All parties which have addressed the issues in testimony agree that ComEd should be permitted to bank the maximum amount of energy savings permissible by law. Staff Ex. 1.0 at 19-21; ComEd Ex. 1.0C at 7; AG Ex. 1.0 at 8-9. The Commission ruled in the *PY2 Savings Order* that the deemed values for light bulbs should be used in calculating the amount of savings that may be banked during Plan 1. *PY2 Savings Order* at 6. No party disputes that this is what the Commission ruled.

The banking approach the Commission adopted in the *Plan 1 Order* and reaffirmed in the *PY2 Savings Order* is beneficial in that it gives ComEd an incentive to fill shortfalls by DCEO, thereby helping to ensure that the goals set forth in Section 8-103(b) of the Act are achieved. Staff Ex. 2.0 at 8; *PY2 Savings Order* at 5; *Plan 1 Order* at 40-41. As Mr. Mosenthal observed: "ComEd has more than made up for these DCEO shortfalls and ratepayers have still captured savings and net benefits commensurate with legislative intent." AG Ex. 1.0 at 16. Applying the Commission's methodology as set forth in the *PY2 Savings Order*, it is Staff's position that the statutory energy savings goal of 584,077 MWhs was exceeded by 75,472 MWh in PY3, resulting in a total of 97,777 cumulative banked MWhs. Staff Ex. 1.0 at 19-20.

While Mr. Mosenthal does not dispute that the *PY2 Savings Order* clarified the method for calculation of banking, he nonetheless recommends that an alternative banking calculation be utilized by the Commission. Specifically, Mr. Mosenthal recommends that ComEd only be allowed to bank 10% in excess of its portion of the statutory savings goal. AG Ex. 1.0 at 10. In calculating the amount of banked savings in direct testimony, Mr. Mosenthal obtained ComEd's portion of the PY3 savings goal from ComEd's direct testimony and applied the 10% banking calculation based on this value to arrive at an incremental banked savings from PY3 for ComEd of 45,892 MWh. *Id.* at 6. In Staff's opinion, the banking approach adopted by the Commission in the *Plan 1 Order* and *PY2 Savings Order* is most beneficial. Staff Ex. 2.0 at 8-9. However, if the Commission chooses not to adopt Staff's calculation of ComEd's cumulative banked savings in this docket, and to adopt Mr. Mosenthal's banking proposal, Staff recommends that the Commission revise the amount of banked savings allowed from

the value presented in Mr. Mosenthal's testimony to be consistent with Staff's calculation of ComEd's portion of the savings goal. *Id.* ComEd agreed to use 458,656 MWh as its portion of the PY3 statutory goal as recommended by Staff in an effort to narrow the issues in this docket. ComEd Ex. 2.0 at 2-3. Under Mr. Mosenthal's proposal, the corrected amount of incremental banked savings allowed from PY3 for ComEd to carry forward would be 45,865.6 MWh and the total cumulative amount of banked savings at the end of PY3 would be 85,234.6 MWh. Staff Ex. 2.0 at 9. This is in comparison to ComEd and Staff's calculated cumulative banking of 97,777 MWh, a difference of 12,542 MWh. *Id.*

For the reasons stated, Staff recommends that the Commission approve the maximum 10% "banking" allowed, 58,408 MWh from PY3, for a cumulative total of 97,777 MWh of net energy savings "banked" at the end of PY3 in the ComEd service territory. Staff Ex. 1.0 at 20.

2. ComEd's Portion of the Section 8-103(b) Savings Goal

For PY3, ComEd's portion of the statutory energy savings goal approved by the Commission is 458,656 MWh, or 78.5% of statutory goal. Staff Ex. 1.0 at 10-11. ComEd agreed in its rebuttal testimony to accept Staff's proposal. ComEd Ex. 2.0 at 2-3.

All parties offering testimony on the question agree that ComEd has achieved and in fact exceeded its PY3 energy savings goal. Staff Ex. 1.0 at 10, 15; ComEd Ex. 1.0C at 5; AG Ex. 1.0 at 6. Based on Ms. Hinman's review of the evaluations and taking into consideration the deemed savings values for light bulbs, Staff recommends that the

Commission accept that ComEd achieved 605,419 MWh of net energy savings during PY3, and further recommends the Commission find that ComEd met its portion of the energy savings goal for PY3. Staff Ex. 1.0 at 13. ComEd's achievement of 605,419 MWh during PY3 is approximately 132% of the Commission-approved goal for ComEd or over 145,000 MWh in excess of ComEd's portion of the goal. As a result of ComEd's having achieved its portion of the statutory savings goal, ComEd should not be required to make a contribution to LIHEAP or required to transfer responsibility for implementing the EE programs to the IPA pursuant to 220 ILCS 5/8-103(i). Staff Ex. 1.0 at 13.

3. DCEO's Portion of the Section 8-103(b) Savings Goal

For PY3, DCEO's portion of the statutory energy savings goal in the ComEd service territory that was approved by the Commission is 125,421 MWh (21.5% of statutory goal). Staff Ex. 1.0 at 10-11.

A. Achievement of DCEO's Portion of the Statutory Savings Goal

For PY3, DCEO achieved 54,130 MWh of energy savings in the ComEd service territory, which is approximately 43% of the Commission-approved goal for DCEO. Staff Cross Ex. 2 at 71; Staff Ex. 2.0 at 16; Staff Ex. 1.1 at row (c); Evaluator's Summary Report at 6.

B. Modified Energy Efficiency Plans Pursuant to Section 8-103(e)

As set forth above, subsection (e) of Section 8-103 of the Act requires that the "portfolio of measures, administered by both the utilities and [DCEO], shall, in combination, be designed to achieve the annual savings targets described in subsections (b) and (c) of this Section, as modified by subsection (d) of this Section."

220 ILCS 5/8-103(e). The *Plan 1 Order* states that “the utilities and DCEO further agreed that the DCEO share of the annual kilowatt savings targets would be less than 25% with the relevant utility making up the difference.” *Plan 1 Order* at 19. Further, the *Plan 1 Order* states, “As between ComEd and DCEO, DCEO’s programs will account for approximately 21% (ranging from 18.6%- 21.5%) of the total kilowatt savings during the first three planning years...” *Plan 1 Order* at 19; Staff Ex. 1.0 at 7. However, the statute further provides that “No electric utility shall be deemed to have failed to meet the energy efficiency standards to the extent any such failure is due to a failure of [DCEO] or the [IPA].” 220 ILCS 5/8-103(k). The Commission concluded in the *PY2 Savings Order* that “Pursuant to subsection (e), ComEd is required to file a revised plan if DCEO fails to meet its goal...Subsection (j) provides that if, after three years, DCEO fails to implement its share of the energy efficiency measures, then the IPA may assume responsibility of DCEO’s share.” *PY2 Savings Order* at 5. It is Staff’s position that the DCEO has not met this statutory requirement and is required, along with ComEd, under the *PY2 Savings Order* and Section 8-103(e) to submit a modified EE plan. Staff Ex. 1.0 at 24.

Section 8-103(e) provides, in pertinent part:

If the [DCEO] is unable to meet incremental annual performance goals for the portion of the portfolio implemented by the [DCEO], then the utility and the [DCEO] shall jointly submit a modified filing to the Commission explaining the performance shortfall and recommending an appropriate course going forward, including any program modifications that may be appropriate in light of the evaluations conducted under item (7) of subsection (f) of this Section. In this case, the utility obligation to collect the [DCEO]’s costs and turn over those funds to the [DCEO] under this subsection (e) shall continue only if the Commission approves the modifications to the plan proposed by the [DCEO].

220 ILCS 5/8-103(e).

Mr. Brandt and Ms. Mrozowski testified that ComEd and DCEO have filed a *new* EE plan that directly addressed and took into account DCEO's failure to achieve its energy savings goals for PY1 and PY2. ComEd Ex. 2.0 at 8; DCEO Ex. 1.0 at 5. Specifically, ComEd and DCEO refer to ComEd's 2011-2013 Energy Efficiency and Demand Response Plan ("Plan 2") that was filed on October 1, 2010 in Docket No. 10-0570, and reflects lower DCEO goals. *Id.* Under the Plan 2 approved by the Commission, ComEd's percentage of the statutory goal increased from 79% to 85% and DCEO's percentage decreased from 21% to 15% in comparison to Plan 1. ComEd Ex. 2.0 at 9. Mr. Brandt and Ms. Mrozowski contend that there are practical timing issues regarding the filing of a *modified* EE plan pursuant to Section 8-103(e), and these timing issues prohibit ComEd from filing the modified plan requested by Staff and the AG in this docket. In order for ComEd to work with DCEO on a modified plan, ComEd states it must first know that DCEO did not achieve its annual goal, and those results are not official until the Commission rules that the savings goals have been missed. ComEd Ex. 3.0 at 9. Neither the independent evaluator nor the Commission has yet determined whether DCEO achieved its reduced energy savings goal under Plan 2. *Id.* at 10; DCEO Ex. 1.0 at 10. As such, ComEd asserts that there is no basis at this time for filing a modified EE plan with the Commission when performance under the Plan 2 is yet to be evaluated.

Mr. Mosenthal maintains that if DCEO fails to meet its annual savings goals, *revised annual plans* are necessary within the three-year plan cycle. AG Ex. 1.0 at 17-18. In particular, he states that "a revision would necessarily be to adjust the future

remaining years of *that plan*.” *Id.* (*Emphasis added*). In response, Ms. Hinman testified that the modification contemplated under Section 8-103(e) is not strictly limited to the remaining years of *that plan*; it is reasonable for the Commission to approve program modifications that would adjust future plan years, regardless of whether that future plan year is part of the same EE plan as the plan year in which the savings goal was not achieved. Staff Ex. 2.0 at 14-15. For example, failure to achieve goals in PY3 of Plan 1 still allows the Commission to approve program modifications to PY6 of Plan 2. *Id.* To think otherwise would render the statutory language meaningless, “If the [DCEO] is unable to meet incremental *annual* performance goals for the portion of the portfolio implemented by the [DCEO], then the utility and the [DCEO] shall jointly submit a *modified* filing to the Commission explaining the performance shortfall and recommending *an appropriate course going forward, including any program modifications* that may be appropriate in light of the evaluations conducted under item (7) of subsection (f) of this Section.” 220 ILCS 5/8-103(e)(*Emphases added*).

Accordingly, Staff recommends that the Commission direct the Company to file modified EE plans if it finds that DCEO failed to meet its portion of the goal as the law requires. 220 ILCS 5/8-103(e); Staff Ex. 1.0 at 25. This is in line with the Commission’s ruling in the *PY2 Savings Order*, which states that ComEd should file a modified plan in the event that DCEO does not meet its portion of the statutory savings goal. Staff Ex. 1.0 at 24-25; *PY2 Savings Order* at 5.

Additionally, in the event that DCEO believes it has not met its portion of the statutory savings goal approved by the Commission, the most efficient method would be for DCEO to provide modified plans pursuant to Section 8-103(e) in its direct testimony

in future savings dockets as opposed to having an entirely separate EE plan modification docket. Staff Ex. 2.0 at 16.

Staff notes that DCEO would not be in a situation where it had to file modified EE plans with the Commission *every year* if realistic savings goals are approved for DCEO's portion of the statutory goal, as Staff recommends the Commission approve in this proceeding. Staff Ex. 2.0 at 15-16.

Pursuant to Section 8-103(e), Staff recommends the Commission approve modified portions of the savings goals for DCEO in this proceeding for the ComEd service territory as follows: 56,812 MWh (PY4), 57,317 MWh (PY5), and 57,629 MWh (PY6). Staff Ex. 2.0 at 18; Staff Ex. 2.1.

4. Section 8-103(c) Demand Response Goal

ComEd's statutory demand-response goal approved by the Commission is 10 megawatts ("MW") for PY3. Staff Ex. 1.0 at 7-8; ComEd Ex. 1.0 at 8; AG Ex. 1.0 at 7.

ComEd implemented the Central Air Conditioning ("CAC") Cycling Program element to achieve its demand-response goal of 10 MW for PY3. Staff Ex. 1.0 at 8-9. The evaluator reports 14.7 MW of demand-response capability achieved through 10,180 new participants joining ComEd's CAC Cycling Program during PY3. *Id.* at 8. In Staff's view, the evaluator's conclusion that ComEd exceeded the 10 MW demand response goal through the addition of 10,180 new participants joining ComEd's CAC Cycling Program appears reasonable. *Id.* at 8-9. All parties filing testimony on the point agree that ComEd achieved its demand-response goal. Staff Ex. 1.0 at 8-9; ComEd Ex. 1.0 at 8; AG Ex. 1.0 at 7.

Accordingly, Staff recommends that the Commission find that ComEd met its statutory demand-response goal for PY3. Staff Ex. 1.0 at 9.

5. Adjustment to the Appliance Recycling Program Savings

Staff recommends that the Commission accept Staff's adjustments to ComEd's proposed savings values for the Appliance Recycling Program ("ARP"). The Staff-proposed adjustments (Staff Ex. 1.2) are based upon the ComEd Appliance Recycling Program *in situ* metering study described in Staff Ex. 1.3. Staff Ex. 1.0 at 16. The ARP *in situ* metering study shows the best estimates of actual energy savings achieved in the ComEd service territory and results in more reasonable estimates of energy savings (23,555 MWh for PY3) than those proposed by ComEd (44,851 MWh for PY3). Staff Ex. 1.0 at 16-17; Staff Exs. 1.2, 1.3; Staff Ex. 2.0 at 3-8. *In situ* (meaning "in its original place") metering is preferred to lab-based metering, in part due to the fact that lab-based metering protocols involve the metering of units to be conducted with a constant 90°F ambient temperature which is an unrealistic temperature in comparison to the temperatures the units would actually be operating in the ComEd service territory. Staff Ex. 2.0 at 7; Staff Ex. 1.3 at 5. Temperature influences the energy use of the appliance.

In contrast, ComEd recommends that the Commission adopt the higher savings estimates provided in ComEd Ex. 2.1. ComEd Ex. 2.0 at 3-4. However, as summarized in the Commission's *Plan 1 Order*, Staff recognized that the independent evaluation required under Section 8-103(f)(7) of the Act is only *one* component of the Commission's determination concerning achievement of energy savings goals, and that other information should be considered as well. *Plan 1 Order* at 26-27; Staff Ex. 2.0 at

3-4. In fact, the Commission specifically noted Staff's concerns that "there should be no presumption that a utility's evaluator will be the only entity that is competent to provide evidence about whether a utility has met the efficiency standard" and stated that the "Commission reviews of ComEd's plan to determine compliance with the energy efficiency goals is separate and apart from the independent evaluation required by Section 103(f)(7) of the statute." *Id.*

Staff's approach in this instance is consistent with that set forth by the Commission in the *Plan 1 Order*. *Id.* Staff determined that the savings estimates relied upon by ComEd are based on a regression equation derived from a California study which was a predominately lab-based metering (not *in situ* metering which is preferred by the evaluation community) of older refrigerators and freezers recycled primarily in 1993/1994 (17 years before PY3) in California (not in Illinois). Staff Ex. 1.0 at 16; Staff Ex. 2.0 at 6-7. In contrast, the more recently completed (within one year of PY3) ComEd *in situ* metering study, which was funded by ratepayers, focused on the refrigerators and freezers that were actually recycled through the ComEd program. In sharp contrast to the California lab-based metering study, the ComEd *in situ* metering study took into consideration how ComEd customers actually use their appliances in Illinois. The ComEd *in situ* metering study is a much more recent study in comparison to the almost two decade old inapposite study that ComEd wishes to rely upon. As a result, the estimates based on the California study do not take into consideration data regarding actual energy savings results specific to the ComEd service territory at issue in this docket. Further, the ComEd ARP *in situ* metering study memorandum states that "the evaluation team believes that the preferred algorithm from this *in situ* metering

study will provide more accurate estimates of savings in ComEd territory compared with estimates from the previous [California] algorithm.” Staff Ex. 1.3 at 4.

With regard to ComEd's assertions in rebuttal testimony that the sample size of the ComEd ARP *in situ* metering study is insufficient, this study was primarily completed to satisfy PJM requirements, including PJM sampling and statistical precision requirements, and the preference to conduct studies in the ComEd service territory, the area in which the savings are expected to occur. Staff Ex. 2.0 at 5-6; Staff Ex. 1.3 at 6, 9, 12, 21. It should be noted that there are two equations derived through the ComEd ARP *in situ* metering study: one that estimates the kilowatt-hour energy savings, and the other that estimates the summer kilowatt peak demand savings. ComEd Ex. 3.0 at 6. In short, ComEd argues against use of the ComEd ARP *in situ* metering study before the Commission on the basis of the study's sample size, while endorsing its use before PJM. Staff Ex. 2.0 at 5-6; ComEd Ex. 2.0 at 4.

For these reasons, Staff recommends that the Commission reject ComEd's proposal to ignore the ComEd *in situ* metering study results in this proceeding, as ComEd's assertion to ignore the best available information is clearly inconsistent with the Commission's position set forth in the *Plan 1 Order*. ComEd Ex. 2.0 at 3-4; *Plan 1 Order* at 26-27. Accordingly, Staff recommends that the Commission adopt its proposed adjustments and that ComEd be credited 23,555 MWh of net energy savings from ARP in PY3. ComEd has assumed 44,851 MWh from the ARP in PY3. ComEd Ex. 1.0C at 5; Staff Ex. 1.2 at 1. The difference between these two estimates, 21,296 MWh $[(44,851 - 23,555)]$ is equal to the difference between ComEd and Staff's portfolio savings estimates 21,296 MWh $[(626,715 - 604,419)]$. Staff Ex. 1.0 at 16-17;

Staff Exs. 1.2, 1.3; Staff Ex. 2.0 at 3-8. Staff Ex. 1.2 provides a summary of the adjustments to ComEd's savings estimates that Staff recommends the Commission adopt for this program. Staff Ex. 1.3 contains the ComEd ARP *in situ* metering study evaluation results related to the derivation of the kilowatt-hour energy savings equation, which provides adequate evidence to adopt Staff's adjustments in this proceeding.

6. CFL Carryover

Staff recommends the Commission conclude that compact fluorescent lamp ("CFL") carryover savings should be measured based on the savings values (e.g., based on the baseline) determined for the installation year. Staff Ex. 1.0 at 31.

The Commission has decided ComEd can allow savings for bulbs based on their anticipated future use. Final Order at 53, *Commonwealth Edison Company: Approval of the Energy Efficiency and Demand Response Plan Pursuant to Section 8-103(f) of the Public Utilities Act*, Docket No. 10-0570 (December 21, 2010) (hereafter "*Plan 2 Order*"). However, the Commission did not specify exactly how the CFL carryover calculations are to be performed. This issue is important to clarify in this docket because savings from CFLs sold through ComEd's Residential Lighting Program element represent around half of the energy savings from ComEd's portfolio; although, ComEd witness Mr. Brandt and AG witness Mr. Mosenthal argue that this issue is not related to this docket. ComEd Ex. 2.0 at 7-8; ComEd Ex. 3.0 at 6-7; AG Ex. 2.0 at 15.

The key issue associated with this question involves whether the savings should be based on the savings assumptions in effect during the year of *purchase*, versus the year the bulb is *installed*. Staff Ex. 1.0 at 27. Paradoxically, ComEd proposes to use

the year of purchase for determining savings for these future year CFL installs. *Id.* at 31. In essence, the Company proposes to use the savings calculated from the baseline in effect during the plan year in which the bulbs were purchased (PY3), rather than from the baseline determined during the plan year in which the bulbs were installed. *Id.* at 29.

The intent behind the CFL carryover approach was to more accurately measure the energy savings from CFLs by counting the savings in the year the savings are expected to actually occur (*i.e.*, the year the bulbs are installed). *Id.* at 31. Consistent with this philosophy, it is proper to measure savings based on the savings values (*e.g.*, based on the baseline) determined for the installation year. This approach is also consistent with that contained in the IL-TRM for PY5 that was approved by the Commission in Docket No. 12-0528. Staff Ex. 1.0 at 28. In using the carryover, the savings that accrue obviously depend on the year in which the bulbs are installed, not the year the bulbs were resting in their boxes. Staff Ex. 1.0 at 30. Because the savings that will be credited depend on the year of installation, it is appropriate to use the savings based on the year of installation. *Id.* Mr. Mosenthal concurs with Staff's assessment. AG Ex. 2.0 at 15. Staff recommends that the Commission adopt this approach.

However, if the Commission accepts ComEd's recommendation to measure savings from PY3 purchased CFLs based on the year of purchase rather than installation, Staff recommends that the Commission base the savings on the "deemed" values in effect during PY3, the year of purchase, so as to be consistent with how the PY3 purchased and installed bulbs are treated. Staff Ex. 1.0 at 32.

To reduce uncertainty in future proceedings, Staff requests that the Commission make a determination in this proceeding regarding how the CFL carryover calculations should be performed from PY3 purchased CFLs. *Id.* at 27.

If the Commission does not address the appropriate approach for CFL carryover or the amount of savings allowed for CFL carryover from PY3 purchased CFLs until a future savings docket, Staff recommends that the Commission explicitly state in its final order in this PY3 savings docket that the CFL carryover savings included in the PY3 evaluation reports from PY3 purchased CFLs are not approved. Staff Ex. 2.0 at 11-13.

7. Three-Year Cost-Effectiveness Review

Section 8-103 of the Act is the subject of this proceeding, and requires that goals be met with cost-effective measures. In Staff's opinion, it is appropriate to provide the Commission an opportunity to evaluate and determine whether the programs were cost-effective concurrently with measuring the savings achieved. This docket is the appropriate place to review the cost-effectiveness of the programs in the ComEd portfolio for the three-year period that encompasses ComEd's Plan 1. Furthermore, the Commission has not made a finding regarding cost-effectiveness of ComEd's and DCEO's energy efficiency programs for any of the past three plan years of Plan 1. Staff Ex. 2.0 at 10. In addition to annual cost-effectiveness analyses, a three-year cost-effectiveness analysis would be especially useful to the Commission in its review of energy efficiency programs, because it analyzes the programs over a longer period of time and mitigates the effects of startup costs and other special circumstances that may affect a single year cost-effectiveness analysis. *Id.* Moreover, as Mr. Mosenthal

observes, the Commission has a role to “ensure ratepayers capture the net benefits they are paying for”. *Id.*; AG Ex. 1.0 at 15.

In response to Staff's recommendation, Mr. Brandt testified that the independent evaluator is currently in the process of developing a report that reviews the cost-effectiveness of the first three plan years, but this report has not been completed. ComEd Ex. 2.0 at 6; Staff Ex. 2.0 at 9. Despite Staff's recommendation, the Company has not produced the three-year cost-effectiveness analysis of the EE programs in this docket. *Id.* Neither did ComEd respond to Staff's recommendation and clarify where it believes the Commission would review this information and make a determination if not in this docket. Staff Ex. 2.0 at 9-10. Mr. Brandt later testified that the three-year cost-effectiveness evaluation report has been completed. *Tr.* at 41.

Since the initiating order did not explicitly require ComEd to provide the three-year cost-effectiveness analysis of its portfolio in this docket, Staff proposed that an efficient approach to facilitate this review, required under the law, would be for the Commission to open a docket to conduct the three-year cost-effectiveness review upon receipt of the three-year cost-effectiveness evaluation report that is referenced in Mr. Brandt's rebuttal testimony. Staff Ex. 2.0 at 10; ComEd Ex. 2.0 at 6.

Accordingly, Staff recommends that the Commission order ComEd and DCEO to file the evaluations containing the three-year cost-effectiveness analysis and annual cost-effectiveness analyses of their EE programs implemented during Plan 1 in the Plan 1 Docket (Docket No. 07-0540) within 90 days of the date the Commission enters a final order in this docket. Staff Ex. 2.0 at 10. Staff further recommends that the Commission direct Staff to submit a Staff Report to the Commission to initiate a proceeding to review

the cost-effectiveness of the EE programs over Plan 1 within 120 days of the date the Commission enters a final order in this docket. *Id.* at 9-11.

IV. CONCLUSION

For the reasons set forth above Staff respectfully requests that the Commission's Final Order in the instant proceeding reflect Staff's recommendations consistent with this Initial Brief.

Respectfully submitted,

MATTHEW L. HARVEY
ANGELIQUE PALMER
KELLY A. ARMSTRONG

Counsel for the Staff of the Illinois
Commerce Commission

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MATTHEW L. HARVEY
ANGELIQUE PALMER
KELLY A. ARMSTRONG

Office of General Counsel
Illinois Commerce Commission
160 N. LaSalle, Ste. C-800
Chicago, IL 60601
Phone: (312) 793-2877
Fax: (312) 793-1556
E-mail: mlharvey@icc.illinois.gov
apalmer@icc.illinois.gov
karmstrong@icc.illinois.gov