

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Commonwealth Edison Company)
) **ICC Docket No. 13-0387**
Tariff filing to present the Illinois Commerce)
Commission with an opportunity to consider)
revenue neutral tariff changes related to rate)
design authorized by subsection 16-108.5(e) of)
the Public Utilities Act)

DIRECT TESTIMONY

OF

BRADLEY O. FULTS

ON BEHALF OF THE COALITION TO

REQUEST EQUITABLE ALLOCATION OF COSTS TOGETHER

REACT

COMPRISED OF:

- A. FINKL & SONS, Co.**
- AUX SABLE LIQUID PRODUCTS, LP**
- CHARTER DURA-BAR**
- THE CITY OF CHICAGO**
- COMMERCE ENERGY, INC.**
- FLINT HILLS RESOURCES, LP**
- FUTUREMARK PAPER COMPANY**
- INTEGRYS ENERGY SERVICES, INC.**
- INTERSTATE GAS SUPPLY, INC.**
- THE METROPOLITAN WATER RECLAMATION DISTRICT**
- OF GREATER CHICAGO**
- PDV MIDWEST REFINING, LLC (CITGO)**
- UNITED AIRLINES, INC.**

TABLE OF CONTENTS

- I. INTRODUCTION AND QUALIFICATIONS1**
- II. PURPOSE AND RECOMMENDATIONS5**
- III. THE REACT COALITION AND REACT’S PARTICIPATION IN PRIOR PROCEEDINGS8**
- IV. IMPACT OF ILLUSTRATIVE RATE DESIGN INVESTIGATION RATES UPON CUSTOMERS IN THE OVER-10 MW CUSTOMER18**
- V. THE COMMISSION SHOULD ORDER COMED TO MORE ACCURATELY ASSIGN UNACCOUNTED FOR ENERGY23**
- VI. THE COMMISSION SHOULD ORDER COMED TO RECOVER THE ILLINOIS ELECTRICITY DISTRIBUTION TAX IN THE DELIVERY SERVICE CHARGE29**
- VII. CONCLUSION AND RECOMMENDATIONS31**

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1 DIRECT TESTIMONY OF BRADLEY O. FULTS

2 I.

3 INTRODUCTION AND QUALIFICATIONS

4 Q. Please state your name and business address.

5 A. My name is Bradley O. Fults. My business address is 8908 Prestwick Circle North,
6 Brooklyn Park, MN 55443.

7
8 Q. On whose behalf are you testifying?

9 A. I am testifying on behalf of the coalition to Request Equitable Allocation of Costs
10 Together (collectively, “REACT”).¹ Since 2007, REACT has brought together some of
11 the largest and most well-known industrial, commercial, and governmental energy users
12 in the Northern Illinois area, along with alternative retail electric suppliers that provide
13 service to customers in the Commonwealth Edison Company (“ComEd”) service
14 territory.

¹ The REACT members include: A. Finkl & Sons, Co.; Aux Sable Liquid Products, LP; Charter Dura-Bar (f/k/a Wells Manufacturing, Inc.); The City of Chicago; Commerce Energy, Inc.; Flint Hills Resources, LP; FutureMark Paper Company; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc.; The Metropolitan Water Reclamation District of Greater Chicago; PDV Midwest Refining, LLC (CITGO); and United Airlines, Inc.. The opinions herein do not necessarily represent the positions of any particular member of REACT.

15

16 **Q: What is your occupation?**

17 A: I am the Managing Principal at Progressive Energy Solutions, LLC, an energy consulting
18 firm that specializes in energy planning, energy pricing, contract negotiations, strategic
19 planning, and other energy matters. Progressive Energy Solutions works with large
20 commercial, institutional, and industrial companies, including many customers with
21 facilities served by ComEd. I have worked with REACT since its inception, as it related
22 to the ComEd 2007 Rate Case (ICC Docket No. 07-0566).

23

24 **Q. What are your responsibilities in your present position?**

25 A. I assist large energy users with energy supply procurement and management, utility rate
26 evaluation, energy cost analysis, and education. I regularly assist large commercial,
27 institutional, and industrial customers by evaluating the energy procurement process,
28 commodity pricing options, utility rate structures and costs, rules of service, and on-site
29 generation feasibility for such customers. My evaluation typically involves elements
30 including sources of supply, short-term and long-term commodity costs, transmission and
31 distribution cost analysis, supplier delivery tolerances and penalty avoidance, alternative
32 supply fuels, proper application of utility tariffs, and other energy related issues.

33

34 **Q. Please state your educational qualifications and professional experience.**

35 A. I attended the University of Wisconsin-Eau Claire and in 1982 received a Bachelor of
36 Science Degree in Business Administration with a major in Management Information
37 Systems. Since 1987 I have supported several energy users groups, including most

38 recently the Northern Illinois Energy Users -- a group of very large industrial,
39 governmental, and institutional energy users. That work involves providing energy
40 market, legislative, and regulatory information allowing the members to better manage
41 their energy costs. This work includes preparing assessments of the cost impact of
42 regulatory changes. This professional work requires me to have a understanding of
43 energy commodity markets and corresponding regulatory markets.

44

45 **Q. Please discuss your experience in the Illinois retail electric market.**

46 Since the late 1980s, I have regularly advised customers in the ComEd service territory
47 regarding the procurement of energy supply for electricity and natural gas. For more than
48 25 years, I have provided technical support and utility industry analysis to some of the
49 largest commercial, institutional, and industrial energy customers in the northern Illinois
50 area. I track and analyze regulatory and energy supply issues that affect their energy
51 costs, such as PJM-related costs and ComEd distribution costs. This work includes
52 analyzing changes to tariffs and costs, such as those that have been proposed in past
53 ComEd rate cases and those being proposed in this rate design proceeding.

54

55 **Q. Have you advised clients regarding the on-going restructuring of the Illinois retail**
56 **electric market?**

57 A. Yes. I have been assisting some of the largest customers in ComEd's service territory
58 regarding the impact of legislation, Illinois Commerce Commission ("Commission" or
59 "ICC") Orders, and ComEd's rate proposals since before Illinois' competitive retail
60 electric market was opened. In 1996 and 1997, I provided technical support service to

61 the Illinois Institutional and Industrial Customers for Energy Restructuring (“I³CER”).
62 I³CER was a group of large Illinois energy users formed to help facilitate changes to
63 Illinois electric restructuring proposals, which were being negotiated by many
64 organizations at that time. As part of that work, I evaluated the impact of the 1997
65 amendments to the Public Utilities Act upon on-site generation, recovery of stranded
66 costs, state and municipal tax matters, and other issues affecting the electric rates paid by
67 customers.

68
69 Over the past decade, I have assisted a wide array of commercial and industrial customers
70 in reviewing and analyzing their competitive supply options. This work includes
71 evaluating numerous supply service proposals from various Retail Electric Suppliers
72 (“RESs”). I also have worked closely with a number of customers to evaluate ComEd’s
73 increases in delivery services rates under ComEd’s prior Power Purchase Option, and
74 other costs related to the competitive transition process.

75

76 **Q. Do you have national experience regarding energy issues?**

77 A. Yes. I have worked throughout the United States evaluating energy procurement options,
78 rate design issues, and alternative supply opportunities such as customer-owned electric
79 generation. Many of my clients own and operate multiple facilities, and I am often
80 retained to evaluate supply options across more than one jurisdiction. I have evaluated
81 supply procurement options for electricity and natural gas in Illinois and other states such
82 as New Jersey, California, Minnesota, New York, Pennsylvania, Texas, and Washington,
83 as well as Canada.

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Q. Have you previously testified before the Illinois Commerce Commission?

A. Yes. I presented testimony to the Commission in ICC Docket No. 07-0566 (the "2007 ComEd Rate Case"); ICC Docket No. 08-0532 (the "2008 Special Investigation Proceeding"); and ICC Docket No. 10-0467 (the "2010 ComEd Rate Case). My testimony submitted in those proceedings was relevant to the issues being investigated in this proceeding. Accordingly, my Direct, Corrected Supplemental Direct, and Rebuttal Testimony from the 2007 ComEd Rate Case; my Direct and Corrected Rebuttal Testimony from the 2008 Special Investigation Proceeding; and my Corrected Direct and Rebuttal Testimony from the 2010 ComEd Rate Case are incorporated by reference herein as if they were attached hereto in REACT Exs. 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7, respectively. Also, my resume is attached hereto as REACT Ex. 1.8, and includes a list of proceedings in which I have provided expert testimony.

II.

PURPOSE AND RECOMMENDATIONS

Q. What is the purpose of your testimony in this proceeding?

- A. My testimony:
- Introduces the members of the REACT coalition and its expert witnesses in this proceeding;
 - Provides important context for ComEd's proposed reliance upon what the Commission has referred to as a "problematic" Embedded Cost of Service Study ("ECOSS") that has "substantial deficiencies";
 - Summarizes the massive and disproportionate increases ComEd has sought to impose upon its largest customers since 2007;

109 • Explains how the cost of ComEd’s distribution losses have increased for large
110 customers as a result of Unaccounted for Energy assigned to their suppliers;

111 • Explains that ComEd’s method for recovering its Illinois Electricity Distribution
112 Tax on a per kWh method continues to unfairly burden large customers with
113 unnecessary costs.

114

115 **Q. Please summarize your recommendations.**

116 **A. The Commission should:**

117

118 • **Reject any implementation of ComEd’s illustrative rates based on either a "Next**
119 **Step" ECOSS rate increase or a "100%" ECOSS rate increase, as applied to the**
120 **"Extra Large Load Delivery Class" (referred to herein as the "ELLC" class)**
121 **and "over 10 MW High Voltage Delivery Class" (referred to herein as the "HV**
122 **Over 10 MW" class).**

123

124 • **Accept recommendations and cost allocations as supported by the testimony of**
125 **REACT witness Harry Terhune, which analyzes and identifies specific instances**
126 **where ComEd's allocation of costs is plainly contrary to the facts about usage of**
127 **ComEd facilities, demonstrating that ComEd's rate design for the ELLC and**
128 **HV Over 10 MW classes fails to conform with cost causation principles.**

129

130 • **Order ComEd to prepare a study that more closely aligns Unaccounted for**
131 **Energy (“UFE”) to the appropriate customer classes.**

132

133 • **Order ComEd to revise its method for allocating the Illinois Electricity**
 134 **Distribution Tax and recover those costs through its Delivery Services Charges.**

135
 136 • **Direct ComEd to properly allocate its Customer Care Costs, as set forth in the**
 137 **Direct Testimony of REACT witness Jeffery Merola.**

138
 139 **Q. Is REACT presenting other direct testimony?**

140 A. Yes. In addition to my own testimony, REACT is presenting the Direct Testimony of
 141 Harry L. Terhune and the Direct Testimony of Jeffery Merola.

142 Mr. Terhune has nearly 40 years of senior-level transmission and distribution engineering
 143 experience, working at ComEd, MAIN, and a neighboring transmission company. He
 144 testified in the 2010 ComEd Rate Case on issues relating to ComEd’s improper allocation
 145 of costs to the ELLC and HV Over 10 MW classes. Based upon additional information
 146 that has been provided by ComEd since the 2010 ComEd Rate Case, Mr. Terhune has
 147 refined and expanded his analysis and provides relevant, straightforward examples of the
 148 manner in which ComEd's rate design fails to accurately allocate cost of service based
 149 upon delivery system facilities used by the largest energy users in the State, and therefore
 150 overcharges those customers.

151 Mr. Merola has over 20 years of experience in assisting with the evaluation and
 152 development of competitive retail electric markets. He testified in 2007 ComEd Rate
 153 Case; the 2008 Special Investigation Proceeding, and the 2010 ComEd Rate Case
 154 regarding ComEd's inappropriate treatment of Customer Care Costs. Mr. Merola
 155 provides expert analysis of the flaws in ComEd's analysis of Customer Care Costs and

156 the impacts caused by that flawed analysis, which results in an artificial, anti-competitive
 157 cross-subsidy of ComEd's price-to-compare.

158

159

III.

160

161

162

**THE REACT COALITION AND
REACT'S PARTICIPATION IN PRIOR PROCEEDINGS**

163

164 **Q. What is the unifying philosophy of REACT?**

165 A. REACT is committed to ensuring that ComEd's rates are designed in a manner that
 166 accurately reflects the costs imposed by the various customer classes. Unfortunately,
 167 despite the substantial evidence that has been presented in the numerous proceedings
 168 since 2007, and despite ComEd being chastised repeatedly by the Commission for failing
 169 to provide necessary information that would justify such an increase, ComEd's current
 170 filing contains many of the same errors that formed the basis for ComEd's original flawed
 171 filing back in 2007.

172

173 **Q. Please explain the history of REACT's involvement in Illinois Commerce
 174 Commission proceedings.**

175 A. REACT was formed in direct response to ComEd's proposed rate increase in 2007. It is
 176 important to recall that in the 2007 ComEd Rate Case, ComEd's CEO testified that the
 177 rates that were then in effect (those that the Commission approved in ICC Docket No. 05-
 178 0067) represented a "fair allocation amongst our customers, our classes of customers."
 179 (ICC Docket No. 07-0566, Tr. at 108:3-9.) ComEd's CEO also testified that in the
 180 Company's view those rates "avoided cross-subsidies." (*Id.*) Nevertheless, in its 2007

181 rate case, ComEd proposed massive rate increases to the over 10-MW size customers that
 182 would have dramatically increased delivery services costs for many of those over 10-MW
 183 size customers. Indeed, ComEd's proposal would have more than doubled the rates to its
 184 largest customers, resulting in an **129.4% increase** for the HV Over 10 MW class and an
 185 overall **140.4% increase** for the ELLC class. (See ICC Docket No. 07-0566, REACT
 186 Ex. 1.0, Direct Testimony of Bradley O. Fults at 10.) At the same time, ComEd failed to
 187 allocate any Customer Care Costs to the supply side of its business. (See ICC Docket No.
 188 07-0566, REACT Ex. 2.0, Direct Testimony of Jeffrey Merola.) The diverse members
 189 of REACT recognized that their interests aligned in addressing ComEd’s proposed
 190 inequitable and unjustified cost allocations and joined together to Request Equitable
 191 Allocation of Costs Together, or “REACT.”

192 Thus, accurate cost allocation is the cornerstone of REACT's approach. I understand that
 193 rate setting based upon cost causation is a fundamental principle that has been repeatedly
 194 endorsed by the Commission and is reiterated by the Public Utilities Act:

195 It is further declared that **the goals and objections of such regulation**
 196 **shall be to ensure**

197 ***

198 Equity: the fair treatment of consumers and investors in order that ... (iii)
 199 **the cost of supplying public utility services is allocated to those who**
 200 **cause the costs to be incurred;**

201
 202 (220 ILCS 5/1-102(d)(iii) (emphasis added).)

203 **Charges for delivery services shall be cost based**, and shall allow the
 204 electric utility to recover the costs of providing delivery services through
 205 its charges to its delivery service customers that use the facilities and
 206 services associated with such charges.

207
 208 (220 ILCS 5/16-108(c) (emphasis added).)

209

210 **Q. Is ComEd's approach in this proceeding consistent with cost causation principles?**

211 A. No. Unfortunately, at base, ComEd again has used the same ECOSS methodology that
212 the Commission found to be “problematic” and containing “substantial deficiencies”.
213 (*See* ICC Docket No. 07-0566, Final Order dated September 10, 2008, at 213; ICC
214 Docket No. 08-0532, Final Order dated April 21, 2010, at 67.) Having said that,
215 ComEd's current filing, its apparent willingness to engage in reasoned dialogue, and its
216 responses to certain data requests, evidence that ComEd has been more transparent in this
217 proceeding than in prior proceedings. As a result, in this proceeding, the Commission
218 has a much more solid basis to reject any proposed rate increase to ComEd's largest
219 customers.

220

221 **Q. What specifically was the Commission's finding regarding ComEd's ECOSS in**
222 **ComEd's 2007 Rate Case?**

223 A. In ComEd's 2007 Rate Case, the Commission noted that ComEd's ECOSS contained
224 substantial deficiencies that rendered it problematic for purposes of setting rates. (*See*
225 ICC Docket No. 07-0566, Final Order dated September 9, 2008, at 213). The
226 Commission further determined that proper assignment of primary and secondary costs
227 likely would reduce the total cost allocation to customers in the ELLC and HV Over 10
228 MW classes. (*Id.* at 206-07.) To mitigate the large proposed increases of 129% for HV
229 Over 10 MW class and 140.4% for ELLC class (*See* ICC Docket No. 07-0566, ComEd
230 Ex. 12.0, Direct Panel Testimony of Lawrence S. Alongi and Chantal K. Jones, PhD, at
231 11), the Commission authorized ComEd to only move rates 25% towards rates based

232 upon ComEd's substantially deficient ECOSS. (See ICC Docket No. 07-0566, Final
233 Order dated September 10, 2008, at 213.)

234

235 **Q. Is there further evidence that the Commission found ComEd's 2007 ECOSS to be**
236 **deficient?**

237 A. Yes. Contemporaneous with the Commission entering its Final Order in ComEd's 2007
238 rate case, the Commission ordered an investigation into ComEd's rate design and opened
239 the 2008 Special Investigation Proceeding. This investigation required ComEd to
240 provide updated reports and studies on the actual costs that various types of customers
241 caused compared to the assumptions ComEd used in developing its ECOSS. (ICC
242 Docket No. 08-0532, Initiating Order dated September 10, 2008 at 2-3.)

243

244 **Q. Please summarize the 2008 Special Investigation Proceeding.**

245 A. ComEd filed a revised ECOSS that addressed the issues directed by the Commission in the
246 2007 Rate Case Final Order, including an ECOSS that separated ComEd's primary and
247 secondary delivery service costs. (See ICC Docket No. 07-0566, Final Order dated
248 September 10, 2008, at 207.) REACT participated in that proceeding, providing testimony
249 that the ECOSS was still problematic and did not thing to resolve the massive increases being
250 proposed by ComEd for over-10 MW customers. Problems identified by REACT and other
251 intervenors in the primary/secondary analysis included:

- 252 • Use of small sampling sizes to make cost allocations;
- 253 • Classification of line transformers as primary;
- 254 • Use of engineering estimates and assumptions;

- 255 • Failure to perform any studies to determine what facilities are actually installed to
256 serve over-10 MW customers; and
- 257 • Allocation of Customer Care Costs.

258 These issues were hotly contested, but, after more than seventeen months of litigation, the
259 Administrative Law Judges concluded that ComEd still had failed to provide necessary
260 information. The ALJs strongly criticized ComEd's failure to provide information and
261 recommended a six month workshop process to remedy the information gap, after which
262 additional proceedings would be held. (*See* ICC Docket No. 08-0532, Feb. 1, 2010 Proposed
263 Interim Order at 38-40, 67-69.) On April 21, 2010, the Commission issued its Order in that
264 case. The Order, similar to the Order in the 2007 ComEd Rate Case, raised serious questions
265 about the manner in which ComEd dealt with the Primary/Secondary Split and Customer
266 Care Cost issues. (*See* ICC Docket No. 08-0532, Apr. 21, 2010 Order at 38-40, 67-69.)
267 Instead of calling for a workshop, the Commission's Order simply directed ComEd to provide
268 specific information its next rate case filing. (*See id.* at 40, 68-69, 85.)

269

270 **Q. What specifically did the Commission order in the Special Investigation Proceeding**
271 **regarding the primary/secondary split analysis?**

272 A. The Commission ordered ComEd to provide in its next rate proceeding a primary/secondary
273 cost analysis that included:

- 274 • Direct observation or sampling and estimation techniques of ComEd's system to
275 develop more accurate and transparent differentiation of primary and secondary
276 costs;
- 277 • Function based definitions of service voltages for facilities other than the line
278 transformers already addressed;

- 279 • An analysis of which customer groups are served by which system service
280 components; and
- 281 • Consideration of redefining rate classes on the basis of voltage or equipment
282 usage to better reflect cost of service.

283

284 **Q. Did ComEd comply with these requirements?**

285 A. ComEd's compliance was incomplete at best, and was plainly untimely. ComEd did not
286 address all of these items in its filing to initiate its 2010 Rate Case. Instead, ComEd sought,
287 and was eventually granted, permission to file supplemental testimony. There was motion
288 practice initiated by REACT and supported by several other parties to have the proceeding
289 dismissed because of ComEd's non-compliance. In considering whether to dismiss the
290 proceeding, three of the five Commissioners strongly criticized ComEd for failing to abide by
291 the Commission's Special Investigation Order. (*See e.g.*, ICC Docket No. 10-0467, Tr. of
292 Nov. 4, 2010 ICC Bench Session at 13-16.) One Commissioner pointed out that the
293 requirements from the prior Commission Order "were pretty straightforward" and that
294 ComEd's non-compliance was a "major flaw in the case." (*Id.* at 13-14.)

295 The Commission, notwithstanding its skepticism of ComEd's approach, allowed the case to
296 continue. After the case concluded, REACT and several other parties filed appeals to
297 challenge the Commission's failure to dismiss the case, as well as other specific items. That
298 appeal was not decided on the merits. Instead, the Appellate Court dismissed the appeal in
299 response to a Commission Motion to Dismiss the appeal as moot. The Appellate Court did
300 not provide any substantive explanation for its decision and certainly never made any finding
301 that ComEd had in fact complied with prior Commission Orders

302

303 **Q. What did the Commission order in the 2010 Rate Case?**

304 A. The Commission approved new rates in the 2010 Rate Case that included a split between
305 primary and secondary delivery services costs. Subsequently, ComEd filed “Exemplar”
306 rates showing the rate designs with primary and secondary Distribution Facilities Charge
307 for non-residential customers having a \$ per kW charge. (*See* ICC Docket No. 10-0467,
308 ComEd Ex. 21.0R at 8; ComEd Ex. 21.1.)

309

310 In approving those rates, the Commission also approved what ComEd has improperly
311 characterized as an additional 25% movement "toward cost of service." (*See* ICC Docket
312 No. 10-0467 Final Order dated May 24, 2011 at 264.) Indeed, the Commission itself
313 acknowledged that this movement "toward" ComEd's ECOSS-based rates was, in fact,
314 based upon "less than perfect" ECOSS studies, which "needed further refinement." (*Id.*)

315

316 **Q. Has ComEd appropriately allocated its costs in this proceeding?**

317 A. No. ComEd’s proposed rate design alternatives in this proceeding suffer from the
318 continued inequitable and unjustified allocations of the costs that formed the basis for its
319 original request in the 2007 Rate Case. ComEd’s improper allocations would impact
320 REACT members by unfairly saddling the ELLC and HV Over 10 MW customer classes
321 with artificially inflated rates that are not based upon the costs caused by customers
322 within those classes, and would artificially inflate delivery services rates (while
323 suppressing ComEd's price-to-compare supply rate) by failing to properly allocate its
324 Customer Care Costs.

325 **First**, ComEd’s proposal continues to unjustifiably allocate a disproportionate
326 amount of its costs to its largest customers. As a result of this improper
327 allocation, ComEd is moving towards increasing rates for some its largest

328 customers by more than 134% over rates approved in ICC Docket No. 05-0597.
 329 Throughout prior proceedings ComEd has never explained what the ELLC and
 330 HV Over 10 MW customers have done to deserve the proposed disproportionate,
 331 massive rate increase.

332 **Second**, as explained in Mr. Terhune's testimony, ComEd has continued to use a
 333 cost allocation approach that literally disregards the facts on the ground, by
 334 assigning substantial costs for use of facilities to ELLC and HV Over 10 MW
 335 Customers, where those customers do not use those facilities or, at most, use them
 336 in a clearly de minimis fashion.

337 **Third**, ComEd continues to update its Distribution Loss Factors. However,
 338 through its Unaccounted for Energy accessed to Load Serving Entities REACT
 339 members are receiving substantial increases in distribution loss-related costs.

340 **Forth**, ComEd's continued cost recovery for its obligation to pay the Illinois
 341 Electric Distribution Tax unfairly penalizes large customers who efficiently
 342 utilize ComEd's distribution system.

343 **Fifth**, ComEd again has failed to properly allocate its Customer Care Costs. Mr.
 344 Merola's testimony discusses the concept of Customer Care Costs and explains
 345 how ComEd's inaccurate allocation of those costs results in cross-subsidies that
 346 are contrary to cost causation principles.

347

348 **Q. How does ComEd's proposed rate design affect the members of REACT?**

349 A. REACT's members include some of the largest and most well-known industrial,
 350 commercial and governmental entities in Northern Illinois. REACT's members also
 351 include some of the most prominent alternative retail electric suppliers ("ARES") that
 352 serve customers in the ComEd service territory. Although ComEd's proposals in this
 353 proceeding relate solely to the design of its rates, the way in which those rates are
 354 designed could result in the imposition of massive, unjustified rate increases for the
 355 largest energy users in Northern Illinois, and could result in inaccurate, anti-competitive
 356 allocation of ComEd's Customer Care Costs.

357

358 **Q. Do the effects of the proposed rate design have any other impacts upon members of**
359 **REACT?**

360 A. Yes. REACT's ELLC and HV Over 10 MW members employ thousands of Illinois
361 citizens, pay millions of dollars in state and local taxes, and are important members of the
362 Northern Illinois community that represents part of the economic engine that drives the
363 larger Illinois economy. Most of these companies' Illinois-based facilities are in direct
364 competition with similar facilities outside of Illinois. According to the Bureau of Labor
365 Statistics, the State of Illinois has the second highest unemployment rate in the United
366 States. (*See* <http://www.bls.gov/news.release/laus.nr0.htm>.) Illinois' unemployment rate
367 of 9.2% is nearly two percentage points higher than the national average. (*See id.*)
368 While jobless rates decline in the majority of Illinois metropolitan areas, they continue to
369 rise in the ComEd service territory. (*See*
370 <http://www.saukvalley.com/2013/06/28/unemployment-rises-in-chicago/a8alxu1/>.) In
371 June, the Bureau of Labor Statistics reported that the unemployment rate in the Chicago-
372 Joliet-Naperville area rose to 9.3% in May 2013, from 8.8% in May 2012. (*See id.*)
373 Meanwhile, the unemployment rate fell from 7.2% to 6.9% in Champaign-Urbana, 6.3%
374 to 6.1% in Bloomington-Normal, and 8.5% to 7.5% in the Metro East. (*See id.*) The
375 Illinois Department of Unemployment Security recently reported that Chicago area
376 unemployment had increased to 10.3%, compared to 9.6% from one year ago. (*See*
377 [http://www.chicagobusiness.com/article/20130726/EMPLOYMENT/
378 130729834?template=mobile](http://www.chicagobusiness.com/article/20130726/EMPLOYMENT/130729834?template=mobile).) ComEd's inaccurate allocation and rate design unfairly
379 saddles REACT's members with costs they do not cause. The money that those
380 customers, and the other large users like them in northern Illinois, pay to ComEd, could

381 be used to invest in plant upgrades and expansions in Illinois that would create jobs and
382 provide direct economic benefits to the region.

383

384 **Q. Can you provide any additional detail on the potential impact that ComEd's**
385 **proposed delivery services rate design would have upon the members of REACT?**

386 A. Yes. REACT's customer members all have ComEd accounts that are considered “Extra
387 Large” Load class customers, meaning they each have a peak demand in excess of 10,000
388 kilowatts (10 megawatts, or “10 MW”) of electricity. Some of the members are “Extra
389 Large High Voltage” class customers. ComEd’s potential Rate Design Investigation
390 (“RDI”) increases for over 10 MW size customers would significantly impact REACT
391 members.

392

393 As discussed in detail below, the impact of ComEd’s RDI proposal would result in a **rate**
394 **increase of more than a 55% for all HV Over 10 MW customers**, and a **rate increase**
395 **of more than 134% for all the Extra Large over-10 MW customers**, compared to the
396 rates approved by the Commission in ICC Docket No. 05-0597.

397

398 **Q. What message would REACT like to convey to the Commission?**

399 A. REACT’s message is that ComEd has failed to justify the large and massive rate
400 increases for the over-10 MW size customers. This message has been consistent since
401 the 2007 ComEd Rate Case.

402

403

IV.

404

**IMPACT OF ILLUSTRATIVE RATE DESIGN INVESTIGATION RATES
UPON CUSTOMERS IN THE OVER-10 MW CUSTOMER CLASSES**

405

406

407 **Q. Have you reviewed ComEd's illustrative Rate Design Investigation ("RDI") Rates**
408 **presented in ComEd's Direct Testimony in this proceeding?**

409 **A.** Yes. ComEd developed rate designs based on illustrative Embedded Cost of Service
410 Studies ("ECOSSs"). These RDI rates are shown in ComEd Ex. 2.04, and Exs.2.06
411 through 2.19.

412

413 ComEd Ex. 2.04 is the illustrative RDI rates based on ComEd's 2013 Formula Rate
414 Update ("FRU"). ComEd explained that the differences between 2013 FRU rates shown
415 in ComEd Ex. 2.03 and illustrative RDI rates in ComEd Ex. 2.04 are less than one-half of
416 one percent. (*See* ComEd Ex. 2.0 at 27.) Therefore, according to ComEd, there is
417 minimal change between its RDI and FRU rates.

418

419 **Q. What other illustrative RDI rates has ComEd presented?**

420 **A.** ComEd Exs. 2.07 and 2.06, respectively, show illustrative RDI rates assuming "Next
421 Level" and "100%" movement towards what ComEd inappropriately refers to as "revenue
422 responsibility." These exhibits are based on ComEd's 2013 RDI rates and corresponding
423 ECOSS. ComEd Exs. 2.08 through 2.19 are illustrative rates at ComEd's 2013 RDI and
424 100% "revenue responsibility" levels, assuming various ECOSS adjustments. These
425 adjustments to the ECOSS are discussed by ComEd witness Mr. Bjerning. (*See* ComEd
426 Ex. 3.0 at page 4).

427

428 **Q. Please put ComEd's "Next Level" and "100%" movement towards "revenue**
429 **responsibility" illustrative rates in context.**

430 A. The "Next Level" and "100%" movement towards what ComEd improperly refers to as
431 "revenue responsibility" illustrative rates presented in this proceeding relate back to the
432 2007 ComEd Rate Case. In its 2007 Rate Case, ComEd had proposed increasing rates
433 that would have resulted in an overall **129.4% increase** for the HV Over 10 MW class
434 and an overall **140.4% increase** for the the ELLC class. (ICC Docket No. 07-0566,
435 REACT Ex. 1.0 at 10, Direct Testimony of Bradley O. Fults).

436

437 The Commission recognized the significant concern of REACT and other intervenors in
438 ComEd's 2007 Rate Case regarding ComEd's basis for that proposed rate increase, and
439 found that ComEd's ECOSS was "problematic" and substantially deficient". As a result,
440 it is improper for ComEd to suggest that the Commission endorsed that ECOSS to assign
441 "revenue responsibility." Indeed, the Commission went so far as to direct ComEd, in a
442 separate proceeding to provide information regarding the actual costs it incurred to provide
443 service to various customer classes. Nevertheless, in the 2007 ComEd Rate Case, the
444 Commission authorized a 25% movement towards ComEd's flawed ECOSS-based rates for
445 the ELLC and HV Over 10 MW delivery services classes. In the 2010 ComEd Rate Case,
446 while the Commission again criticized ComEd for failing to provide the data regarding
447 the actual costs it incurred to provide service to its largest customers, the Commission
448 approved rates for the ELLC and HV Over 10 MW customers were moved another 25%
449 towards ComEd's flawed 2007 ECOSS-based rates. That is, the current rates being paid by
450 ComEd's largest customers already have been moved 50% toward ComEd's flawed 2007

451 ECOSS-based rates (25% as a result of ComEd's 2007 rate case, and another 25% as a
452 result of ComEd's 2010 rate case).

453
454 The "Next Level" illustrative rates shown in ComEd Ex. 2.07 would move the rates for
455 ComEd's largest customers yet another 25% towards the flawed ECOSS ComEd
456 presented in the 2007 ComEd Rate Case. The "100%" illustrative rates shown in ComEd
457 Ex. 2.06 would move the rates for ComEd's largest customers to 100% of the level of
458 rates reflected in ComEd's flawed ECOSS.

459

460 **Q. Should the Commission endorse either the "Next Level" or "100%" illustrative**
461 **rates?**

462 A. No. The basis for the "Next Level" and the "100%" illustrative rates is the flawed 2007
463 ECOSS that has been updated for purposes of this proceeding. Although ComEd did not
464 present the information regarding the actual costs to serve the ELLC and HV Over 10
465 MW classes, ComEd has provided much of that information in response to REACT's data
466 requests. As set forth in REACT witness Mr. Terhune's Direct Testimony, it is now clear
467 that ComEd's ECOSS contains fundamentally incorrect assumptions regarding the actual
468 cost to provide service to the ELLC and HV Over 10 MW classes. The impact of that
469 over allocation is substantial and highly problematic.

470

471 **Q. Has ComEd presented any analysis of the dollar impact of ComEd's proposed rate**
472 **design for ELLC customers or HV Over 10 MW customers using any of the**
473 **illustrative rates ComEd presented in this proceeding?**

474 A. No.

475

476 **Q. Have you calculated the magnitude of the rate increases for the ELLC class under**
477 **the various rate designs set forth by ComEd?**

478 A. Yes. The following Table 1 compares the annual distribution costs for various size
479 customers in the ELLC class. The comparison shows annual costs using distribution
480 rates approved in ICC Docket Nos. 05-0597, 07-0566, 10-0467, 12-0321, and ComEd
481 Exs. 2.04, 2.06, and 2.07 presented in this case. Although ComEd Exs. 2.08 through 2.19
482 include other illustrative changes to the ECOSS, the rate impact of those changes are just
483 "minor tweaks" to dramatic rate impacts reflected by Exs. 2.04, 2.06, and 2.07.

484

485 The results show that the *annual* cost impact of ComEd's illustrative Exs. 2.06 RDI rates
486 over rates approved in ICC Docket No. 05-0597 would range from \$407,944 (for
487 customers with a demand of 10 MW) to \$3,198,563 (for customers with a demand of 75
488 MW). On a percentage increase basis, it would be **more than 134% rate increase for**
489 **all ELLC customers** when compared with rates authorized in ComEd's 2005 Rate Case,
490 ICC Docket No. 05-0597.

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Table 1.
Annual Cost Impact of ComEd Illustrative Distribution Charges for
ELLC Class Customers

	Final Orders				Ex. 2.04	Ex. 2.07	Ex. 2.06	Proposed Increase	
	05-0597	07-0566	10-0467	12-0321	ECOSS @ 50%	ECOSS Next	ECOSS	Ex. 2.06 vs	% Change
					Jan. 1, 2014	Step @ 75%	@ 100%	05-0597	
10 MW	\$304,221	\$403,477	\$479,003	\$492,550	\$540,565	\$605,365	\$712,165	\$407,944	134%
20 MW	\$599,421	\$797,077	\$968,788	\$992,758	\$1,088,020	\$1,217,620	\$1,431,219	\$831,798	139%
35 MW	\$1,042,221	\$1,387,477	\$1,706,137	\$1,745,698	\$1,911,742	\$2,138,542	\$2,512,341	\$1,470,120	141%
50 MW	\$1,485,021	\$1,977,877	\$2,459,516	\$2,514,406	\$2,750,706	\$3,074,706	\$3,608,706	\$2,123,685	143%
75 MW	\$2,223,021	\$2,961,877	\$3,700,009	\$3,780,694	\$4,134,585	\$4,620,585	\$5,421,584	\$3,198,563	144%

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Annual costs calculated by multiplying customer and metering charges x 12, plus monthly kW x 12 months x \$/kW distribution facilities charge, plus IL Electricity Distribution tax per kWh by annual kWh.

502

Q. Have you calculated the magnitude of ComEd’s proposed distribution rate increases for HV Over 10 MW customers?

503

504

A. Yes. The following Table 2 compares the annual distribution costs annual distribution charges for various size customers in the HV Over 10 MW class. The results show that the *annual* cost impact of ComEd’s illustrative Ex. 2.06 RDI rates over rates approved in ICC Docket No. 05-0597 would range from \$74,295 (for customers with a demand of 10 MW) to \$719,914 (for customers with a demand of 75 MW). On a percentage increase basis, it would be **more than a 55% rate increase for all HV Over 10 MW customers.** For the largest of the HV Over 10 MW customers the percentage increases would exceed 73%.

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**Table 2.
Annual Cost Summary of ComEd Distribution Charges for
High Voltage Over 10 MW Customers**

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	Final Orders				Ex. 2.04	Ex. 2.07	Ex. 2.06	Proposed Increase	
	<u>05-0597</u>	<u>07-0566</u>	<u>10-0467</u>	<u>12-0321</u>	ECOSS @ 50%	ECOSS Next	ECOSS	Ex. 2.06 vs	
					<u>Jan. 1, 2014</u>	<u>Step @ 75%</u>	<u>@ 100%</u>	<u>05-0597</u>	<u>% Change</u>
10 MW	\$135,440	\$165,125	\$175,248	\$159,798	\$171,456	\$184,657	\$209,735	\$74,295	55%
20 MW	\$266,240	\$324,725	\$366,233	\$334,806	\$357,711	\$384,112	\$434,389	\$168,149	63%
35 MW	\$462,440	\$564,125	\$655,382	\$599,946	\$639,633	\$685,834	\$773,911	\$311,471	67%
50 MW	\$658,640	\$803,525	\$960,562	\$880,854	\$936,797	\$1,002,798	\$1,128,676	\$470,035	71%
75 MW	\$985,640	\$1,202,525	\$1,454,055	\$1,334,142	\$1,417,675	\$1,516,677	\$1,705,554	\$719,914	73%

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Annual costs calculated by multiplying customer and metering charges x 12, plus monthly kW x 12 months x \$/kW distribution facilities charge, plus IL Electricity Distribution tax per kWh by annual kWh.

523

Q. What do you conclude from the results shown in Tables 1 and 2?

524

A. That the illustrative RDI rates presented by ComEd in this proceeding would basically implement the massive and unsupported rate increases originally proposed by ComEd in 2007. This is particularly concerning and unfair since, as Mr. Terhune and Mr. Merola's testimony demonstrates, there are substantial deficiencies in the way that ComEd's ECOSS fails to accurately allocate costs.

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**THE COMMISSION SHOULD ORDER COMED TO
MORE ACCURATELY ASSIGN UNACCOUNTED FOR ENERGY**

534

Q. Please explain what is meant by distribution losses.

535

A. Distribution loss refers to the difference between electricity delivered *into a system generally* and the *actual amount of electricity delivered to customers*. Loss can occur on the transmission system (“transmission loss”) or on the distribution system (“distribution

537

538 loss"). In this proceeding, ComEd is only proposing changes to the distribution loss
539 factor.

540

541 **Q. What changes has ComEd proposed to its distribution loss factors?**

542 A. ComEd proposes to update its distribution loss factors based on a 2012 Distribution
543 System Loss Study prepared by ComEd. (*See* ComEd Ex. 4.01 and 4.02).

544

545 **Q. Why are distribution loss factors important to REACT members?**

546 A. Under the current recovery methodology, a RES generally shows losses as line item on
547 customer invoices. This line item cost is the distribution loss factor (a percentage) times
548 the metered kWh times the customer's commodity cost. For example, if a customer's
549 distribution loss factor is 5.0% and their monthly usage is 5 million kWh, the kWh loss
550 would be 250,000 kWh. Assuming their commodity cost is \$0.04 per kWh, the cost of
551 losses would be \$10,000 ($\$0.04 \times 250,000 = \$10,000$). At the volume of electricity that
552 ELLC and HV Over 10 MW customers purchase, distribution losses translate into
553 significant costs. In most cases, the cost for the distribution loss portion alone can exceed
554 \$100,000 annually for a 10 MW customer. For customers larger than 10 MW, the costs
555 are even higher.

556

557 **Q. How is ComEd proposing to change its distribution loss factors?**

558 A. The following Table 3 summarizes ComEd distribution loss factors since June 1, 2011.
559 Results show that that intra-class changes have varied widely within classes each time
560 ComEd updates its distribution loss study.

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Table 3.
Historical ComEd Distribution Factors for Non-Residential Customers

<u>Delivery Class</u>	<u>Effective</u>		<u>Proposed</u>	<u>Percent Change</u>	
	<u>June 1, 2011</u>	<u>Jan. 1, 2013</u>	<u>Jan. 1, 2014</u>	<u>vs. 6/1/11</u>	<u>vs. 1/1/12</u>
Small	7.61%	6.82%	6.90%	-9.33%	1.17%
Medium	7.38%	6.19%	7.14%	-3.25%	15.35%
Large	6.87%	5.46%	6.40%	-6.84%	17.22%
Very Large	5.87%	5.10%	6.15%	4.77%	20.59%
Extra Large	5.36%	4.70%	5.53%	3.17%	17.66%
High Voltage					
138 kV or higher	0.62%	0.52%	0.43%	-30.65%	-17.31%
Over 10 MW	0.90%	0.86%	1.01%	12.22%	17.44%
Less than 10 MW	0.97%	0.87%	1.02%	5.15%	17.24%
Railroad	3.69%	2.52%	3.18%	-13.82%	26.19%

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566

567 **Q. What concerns should the Commission have about ComEd's distribution losses?**

568 A. The Commission should be somewhat skeptical of the need to generally increase
569 distribution loss percentages for the ELLC customers and some of the HV Over 10 MW
570 customers. ComEd has not offered any explanation for this increase. However, more
571 importantly, the Commission should further investigate the related concept of
572 Unaccounted for Energy ("UFE").

573

574 **Q. Please explain your understanding of how ComEd is treating UFE.**

575 A. Costs for UFE are being assessed indirectly by ComEd (i.e., as an after-the-fact
576 "reconciliation" cost) and are being treated as yet another category of "losses" for which
577 customers must pay. That is, ComEd assesses UFE costs to customers separate and apart
578 from distribution losses.

579

580 **Q. Please explain how UFE charges impact customers' bills.**

581 A. ComEd essentially increases a supplier's load delivered from PJM by the applicable UFE
582 percentage. These costs are then billed by PJM to the suppliers, who in turn pass on the
583 costs to their customers.

584 This is an-after-the-fact billing process through PJM's reconciliation process. PJM issues
585 a 60-day invoice true-up to suppliers that typically includes imbalance energy and costs.
586 For example, if a supplier schedules deliveries with PJM during January, the imbalance
587 of actual usage by its customers and scheduled deliveries is trued up 60 days later. If a
588 supplier under delivers in January the shortage is billed 60 days later by PJM at real-time
589 prices plus ancillary related costs. UFE charges would show up on a supplier's invoice as
590 imbalance energy. This billing process is problematic and can cause significant price risk
591 to suppliers and customers since the UFE percent is not known until after the actual
592 delivery period.

593

594 **Q. Are ComEd's UFE charges significant?**

595 A. Yes. The price risk for UFE can be very significant, especially for large customers. The
596 UFE percentages for the 11-month period June 2012 to April 2013 are shown in the
597 following Table 4:

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Table 4.
ComEd Unaccounted for Energy

Month	Year	UFE%
June	2012	0.5%
July	2012	0.7%
August	2012	0.9%
September	2012	0.3%
October	2012	0.3%
November	2012	1.7%
December	2012	1.6%
January	2013	2.2%
February	2013	2.3%
March	2013	1.9%
April	2013	1.4%

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Source: ComEd website. <https://www.comed.com/customer-service/rates-pricing/retail-electricity-metering/Pages/res-resources.aspx>

606

Q. Why should the Commission be concerned about ComEd's UFE charges?

607

A. The UFE charges can be significant; as shown in Table 4 indicate that imbalance cost can exceed 2% per month. The Commission should have two basic concerns regarding such a significant charge: (1) most importantly, the Commission should determine whether UFE costs are properly being assigned to the appropriate customer classes; and (2) the Commission should determine why UFE charges are not addressed in ComEd's distribution loss factor mechanism.

613

614

615 **Q. Did REACT attempt to get better understanding of the UFE charges from ComEd**
616 **through discovery in this proceeding?**

617 A. Yes. In REACT Data Request No. 1.28, REACT inquired into the details of the UFE and
618 the potential cost impact upon customers. ComEd response was not productive; indeed,
619 for several of the sub-parts of the question, ComEd simply refused to provide responsive
620 information, suggesting that even inquiring into UFE is beyond the Commission's
621 jurisdiction. (*See* ComEd Response to REACT Data Request 1.28(d), (e), and (f),
622 attached hereto as REACT Ex. 1.9.) If ComEd provides additional responsive
623 information, I reserve the right to supplement this testimony.

624

625 **Q. What is your recommendation regarding the way in which ComEd's UFE charges**
626 **should be addressed in this proceeding?**

627 A. As an initial matter, ComEd should address this issue, either as a supplemental response
628 to REACT Data Request 1.28 or in its rebuttal testimony. If ComEd fails to justify this
629 charge, ComEd should be ordered to perform a study regarding the causes of UFE and
630 should be required to provide additional information that would enable the Commission
631 to be able to determine whether UFE is properly being allocated among customer classes.

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VI.

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THE COMMISSION SHOULD ORDER COMED TO RECOVER THE ILLINOIS ELECTRICITY DISTRIBUTION TAX IN ITS DELIVERY SERVICES CHARGES

639 **Q. What is the Illinois Electricity Distribution Tax ("IEDT")?**

640 A. The IEDT is a tax imposed by the State of Illinois on Illinois electric distribution
641 companies under the Public Utilities Act. This tax originally was based upon a
642 percentage of a utilities invested capital. In the 1997 restructuring law, the tax formula
643 was changed, but the underlying theory of the tax being based upon the distribution
644 companies' invested capital did not change. From 1999 (when the first ComEd delivery
645 services rates became effective), until the conclusion of ComEd's 2010, ComEd
646 recovered the IEDT as part of its Distribution Facilities Charge ("DFC").

647

648 **Q. What change did ComEd make to the IEDT in the 2010 ComEd Rate Case?**

649 A. ComEd removed the IEDT costs from its DFC and began assessing it as a separate per
650 kWh charge. Under the DFC method, for customers such as ELLC and HV Over 10 MW
651 customers, the tax was included in the \$ per kW DFC charge applied to each customer's
652 Maximum Kilowatts Delivered ("MKD"); for residential, watt-meter, and lighting
653 customers the tax was included in the \$ per kWh DFC.

654

655 **Q. Did you provide testimony in the 2010 ComEd Rate Case?**

656 A. Yes. In the 2010 ComEd Rate Case, I provided written testimony that this change would
657 only provide more confusion and another complexity for customers in understanding
658 their monthly ComEd bill. (*see* ICC Docket No. 10-0467, REACT Ex. 1.0 at 28, Direct

659 Testimony of Bradley O. Fults). ComEd monthly invoices already have a state excise tax
660 and many have municipal taxes.

661

662 **Q. What did you conclude in the 2010 ComEd Rate Case?**

663 A. That the changes proposed by ComEd to include an IEDT were not necessary.

664

665 **Q. What has been the impact of this change for large customers?**

666 A. Large customers who operate 24 hours per day and use the same amount of electricity
667 each hour now pay a disproportionately large portion of the tax. The IEDT charges no
668 longer have any relationship to ComEd's invested capital, but rather are just tied to the
669 amount of kilowatts delivered to each customer.

670

671 **Q. What impact would there be upon ComEd to reverting to the DFC method of**
672 **collecting the IEDT?**

673 A. There would be no impact. ComEd would continue to collect the same revenue from
674 each customer class regardless of whether the IEDT is recovered in the DFC or on a per
675 kWh basis.

676

677 **Q. What is your recommendation regarding how the Commission should address the**
678 **IEDT in this proceeding?**

679 A. The Commission should direct ComEd to recover the IEDT in its DFC, just as it had
680 prior to the 2010 ComEd Rate Case.

681

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VII.

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CONCLUSION AND RECOMMENDATIONS

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Q. Please summarize your overall conclusions and recommendations.

685

A. My conclusions and recommendations can be summarized as follows:

686

- ComEd's ECOSS suffers the same deficiencies identified in the 2007 ComEd Rate Case, 2008 Special Investigation Proceeding, and the 2010 ComEd Rate Case. ComEd's ECOSS cannot be used to justify exorbitant rate increases for customers with demands exceeding 10 MWs. Allowing ComEd to move another rate increase "step" or more of their claimed ECOSS onto ELLC and HV Over 10 MW customers is not supported by the facts.

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- ComEd's proposed increase in its delivery services rates improperly allocate costs to the ELLC and HV Over 10 MW customer classes by charging them for facilities that they do not use at all or only use in a de-minimis manner.

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- ComEd's distribution loss factors should better reflect and include Unaccounted For Energy. Much uncertainty exists regarding UFE costs and whether ComEd's recovery method through PJM adequately assigns UFE to the appropriate customer classes.

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- ComEd should not be allowed to recover the Illinois Electricity Distribution Tax as a per kWh fee. This cost should correctly be recovered in ComEd's Distribution Facilities Charge as a delivery services-related charge.

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Q. Does this conclude your direct testimony?

703

A. Yes. I note, however, that because discovery in this proceeding is ongoing, I reserve the

704

right to update my analysis and supplement information to the extent that additional

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information provided by ComEd makes that appropriate.