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ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS
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COMMISSION

2013 AUG 12 A 11:10

Mike Kunowski

-vs-

Commonwealth Edison Company

Complaint as to service in Carol Stream,
Illinois.

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11-0786 CHIEF CLERK'S OFFICE

RESPONDENT'S MOTION TO STAY

Now come the Respondent, Commonwealth Edison Company ("Respondent" or "ComEd"), by its attorney, Mark L. Goldstein, and moves the Administrative Law Judge ("ALJ") and the Illinois Commerce Commission ("Commission") to stay these proceedings pursuant to 83 Ill. Adm. Code Sections 200.190 and 411.220(c), and in support thereof, states:

1. On December 19, 2011, Mike Kunowski ("Complainant") filed a Complaint with the Commission seeking damages for electric outages occurring July 11-13 and July 28, 2011. Complainant seeks to recover damages principally pursuant to Section 16-125(e) of the Public Utilities Act (the "Act") for loss of food from his refrigerator. Status hearings have been continued from time to time pending the outcome of ICC Docket 11-0588, and a status hearing is set for August 8, 2013.

2. Sections 16-125(e) is a unique provision of the Act, which permits certain customers to file claims for damages when more than 30,000 customers of an electric utility are subjected to continuous power interruption of four hours or more, unless the interruption was caused by damage due to one of four causes, such as "unpreventable weather conditions." On July 11, 2011, one of the dates that the Complainant claims damage for loss of food, a severe weather event known as a derecho swept across large

portions of ComEd's service territory, causing significant destruction and numerous power interruptions. (See: Docket 11-0588, June 5, 2013 Order at 30, 32).

3. On August 18, 2011, ComEd filed a Petition with the Commission, docketed as 11-0588, seeking a determination that it is not liable under Section 16-125(e) for damages resulting in service interruptions due to damages from six summer 2011 storms, including the July 11, 2011 derecho.

4. On June 5, 2013, the Commission issued its Final Order which held that approximately 35,000 customers "experienced a simultaneous four-hour interruption of service during the July 11, 2011 storm system" and that only those customers were eligible to seek compensation under Section 16-125(e). ComEd has appealed this Commission Order to the Appellate Court, First Judicial District, Docket No. 1-13-2011, and that appeal is currently pending.

5. The Commission's Rules require a stay of this proceeding pursuant to Section 411.220(c) which states, in pertinent part:

Informal and formal complaints pursuant to the Commission's Rules of Practice (83 Ill. Adm. Code 200) brought by affected customers and units local government **shall be stayed** pending disposition of this proceeding **and appeals thereof**. (Emphasis added)

6. Complainant asserts that he is entitled to alleged damages incurred on or about July 11, 2011 under Section 16-125(e). However, in light of the pending appeal of Docket 11-0588, it has yet to be finally determined whether Section 16-125(e) applied to Complainant's claims, and thus, whether he is eligible to recover damages pursuant to that provision of the Act. Accordingly, this Complaint should be stayed pending final resolution of the appeal.

7. In addition, staying claims such as this will conserve administrative and party resources and minimize unreasonable expenses. Granting a stay at this stage will not unduly delay, hinder or prejudice the Complainant. Moreover, the request is just and reasonable and furthers the interest of justice.

WHEREFORE, the Respondent, Commonwealth Edison Company, respectfully requests the Administrative Law Judge and the Illinois Commerce Commission grant its Motion to Stay as set forth herein, and for any other relief the Commission deems just and reasonable.

Respectfully submitted,
Commonwealth Edison Company

By: 
Mark L. Goldstein, Its Attorney

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CERTIFICATE OF SERVICE

I certify that on August 7, 2013, I served the foregoing Respondent's Motion to Stay by causing a copy of same to be placed in the U.S. Mail, first class postage affixed, addressed to each of the parties indicated below:

Ms. Elizabeth A. Rolando
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
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Mr. Jason Kunowski
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Mr. Terrance Hilliard
Administrative Law Judge
Illinois Commerce Commission
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Mark L. Goldstein