



64

SFIO Consulting, Inc. (FEIN REDACTED )

**INVOICE**

Salvatore Fiorella  
 22560 Home Court  
 Frankfort, Illinois 60423-8192  
 815-469-2405 (Office); 312-907-7220 (Cell)

DATE: 07/06/12  
 INVOICE # 69  
 Contract # 01060687

**Bill To:**  
 Exelon Corporation  
 Attn: Accounts Payable  
 10 South Dearborn St.  
 Chicago, IL 60603  
 (e-mail: A/P-Invoices@ExelonCorp.com)

**For:** Salvatore Fiorella

DESCRIPTION	Qty	RATE	AMOUNT
Services provided during the month of June, 2012:			
<u>RE: Docket 12-0321 (May, 2012 Filing, Perf. Rate Rec. filing)</u>			
<b>B. JH -</b>			
Respond to numerous Client e-mails re: updated model and revenue requirement model; summary of pension impact; discovery AG-2.23 and AG-2.25; update CWC model; prepare workpapers for update filing; respond to w/p issue re: FICA and review V-9; Review final version of w/p to be filed;	20	\$250	5,000.00
SUBTOTAL			\$ 5,000.00
OTHER			-
TOTAL			\$ 5,000.00

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RCE 00637  
 CONFIDENTIAL AND PROPRIETARY





64

SFIO Consulting, Inc. (FEIN REDACTED )

# INVOICE

Salvatore Fiorella  
 22560 Home Court  
 Frankfort, Illinois 60423-8192  
 815-469-2405 (Office); 312-907-7220 (Cell)

DATE: 08/01/12  
 INVOICE # 72  
 Contract # 01060687

**Bill To:**  
 Exelon Corporation  
 Attn: Accounts Payable  
 10 South Dearborn St.  
 Chicago, IL 60603  
 (e-mail: A/P-Invoices@ExelonCorp.com)

**For:** Salvatore Fiorella

DESCRIPTION	Qty	RATE	AMOUNT
<b>Services provided during the month of July, 2012:</b>			
<b>RE: Docket 12-0321 (May, 2012 Filing, Perf. Rate Rec. filing)</b>			
<b>A. SF -</b>			
Various calls/discussions with Client and outside Counsel re: Testimony and strategic considerations; Review of direct Testimony of Parties	19	150	2,850.00
<b>B. JH -</b>			
Respond to numerous Client e-mails re: Staff/Int tty and scope of Rebuttal; Review change in City tax ordinance; Update schedule of payments for City taxes and CWC calculations for Rebuttal TTY	12	\$250	3,000.00

SUBTOTAL		\$ 5,850.00
OTHER		-
TOTAL		\$ 5,850.00

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RCE 00644  
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## SFIO CONSULTING TIMESHEET

Name: **John Hengtgen**

Month Ending: **July, 2012**

Date	Hours	Rate	Description
<b>Commonwealth Edison - 11-0721</b>			
			NONE
<b>SUBTOTAL</b>		0.00	\$225 \$0.00
<b>Commonwealth Edison - April 30, 2012 Filing - 12-0321</b>			
7/17/12	0.25		Emails with MF regarding staff/intervenor testimony and scope of rebuttal testimony
7/17/12	2.50		Review of Staff/Intervenor testimony including review and checking of staff exhibits regarding cash working capital
7/17/12	0.75		Review of change in city tax ordinance and emails to FF requesting information
7/18/12	0.50		Emails regarding city tax change date
7/25/12	0.25		Emails with JR regarding rebuttal testimony
7/26/12	0.50		Emails to/from various regarding scope of rebuttal testimony
7/26/12	0.75		Emails to FF and BH requesting updated schedule of payments for city taxes and CWC calculations for use in rebuttal
7/26/12	0.50		Review and respond to various emails with JR, FF, BH, MF, KH regarding scope of rebuttal testimony
7/26/12	1.00		Review email from FF regarding updated city payments and begin update of lead calculation
<b>SUBTOTAL</b>		7.00	\$225 \$1,575.00
KH - Katie Houtsma, ML - Max Leichtman, NC - Nicole Cypranowski, LF - Laura Ficarra, MB - Mike Battaglia, WW - Wendy Willet, JJ - Jay Joyce, MO - Mary Osterman, JR - John Ratnaswamy, MF - Marty Fruehe, RB - Rick Bernet, JJ - James Johnson, FF - Francis Fleming, JG - Julia Good, CE - Courtney Erickson, CD - Chris Dunn, JC - Jie Chu, RBA - Ronit Barrett, BH - Bill Hayden, BP - Brad Perkins, DS - David Stahl, JG - Julia Good			
<b>Total ComEd</b>		7.00	\$225 \$1,575.00 Total For ComEd

**REDACTED**

<b>Monthly Total</b>			<b>\$1,575.00</b> Before Expenses
Expenses incurred			NONE
<b>Monthly Total</b>			<b>\$1,575.00</b>



**SFIO Consulting, Inc. (FEIN REDACTED )**

# INVOICE

**Salvatore Fiorella  
22560 Home Court  
Frankfort, Illinois 60423-8192  
815-469-2405 (Office); 312-907-7220 (Cell)**

DATE: 09/01/12  
INVOICE # 76  
Contract # 01060687

**Bill To:**  
Exelon Corporation  
Attn: Accounts Payable  
10 South Dearborn St.  
Chicago, IL 60603  
(e-mail: A/P-Invoices@ExelonCorp.com)

**For:** Salvatore Fiorella

DESCRIPTION	Qty	RATE	AMOUNT
<b>Services provided during the month of August, 2012:</b>			
<b>RE: Docket 12-0321 (May, 2012 Filing, Perf. Rate Rec. filing)</b>			0
<b>A. SF -</b>			
Various calls/discussions with Client and outside Counsel re: Testimony and strategic considerations; Review and comment on Rebuttal Testimony of all Parties	20	150	3,000.00
<b>B. JH -</b>			0
Respond to numerous Client e-mails re: Staff/Int tly and scope of Rebuttal; Review change in City tax ordinance; Submit numerous draft of Rebuttal TTY; Prepare responses to numerous data requests (primarily, AG-4.05 and AG-7.20)	35	\$250	8,750.00

	SUBTOTAL	\$ 11,750.00
	OTHER	-
	<b>TOTAL</b>	<b>\$ 11,750.00</b>

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**RCE 00645  
CONFIDENTIAL AND PROPRIETARY**

**2013CFRU 0004790  
CONFIDENTIAL**





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SFIO Consulting, Inc. (FEIN REDACTED )

# INVOICE

Salvatore Fiorella  
 22560 Home Court  
 Frankfort, Illinois 60423-8192  
 815-469-2405 (Office); 312-907-7220 (Cell)

DATE: 10/01/12  
 INVOICE # 80  
 Contract # 01060687

**Bill To:**  
 Exelon Corporation  
 Attn: Accounts Payable  
 10 South Dearborn St.  
 Chicago, IL 60603  
 (e-mail: A/P-Invoices@ExelonCorp.com)

**For:** Salvatore Fiorella

DESCRIPTION	Qty	RATE	AMOUNT
<b>Services provided during the month of September, 2012:</b>			
<b>RE: Docket 12-0321 (May, 2012 Filing, Perf. Rate Rec. filing)</b>			
<b>A. SF -</b>			
Various calls/discussions with Client and outside Counsel re: Testimony and strategic considerations; Review and comment on Rebuttal Testimony of all Parties	20	150	3,000.00
<b>B. JH -</b>			
Review of Staff/Intervenor Rebuttal Testimony; Prepare numerous drafts of Surrebuttal Testimony; Review and respond to numerous client e-mails re: surrebuttal TTY; Review and respond to e-mails re: data requests, primarily from AG and CUB; Witness preparation for Cross and Testimony at Evidentiary Hearings	23	\$250	5,750.00

SUBTOTAL	\$	8,750.00
OTHER		-
<b>TOTAL</b>	<b>\$</b>	<b>8,750.00</b>

10.17.12 - SF

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RCE 00648  
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# INVOICE

Salvatore Fiorella  
 22560 Home Court  
 Frankfort, Illinois 60423-8192  
 815-469-2405 (Office); 312-907-7220 (Cell)

DATE: 11/01/12  
 INVOICE # 84  
 Contract # 01060687

**Bill To:**  
 Exelon Corporation  
 Attn: Accounts Payable  
 10 South Dearborn St.  
 Chicago, IL 60603  
 (e-mail: A/P-Invoices@ExelonCorp.com)

**For:** Salvatore Fiorella

DESCRIPTION	Qty	RATE	AMOUNT
<b>Services provided during the month of October, 2012:</b>			
<b>RE: Docket 12-0321 (May, 2012 Filing, Perf. Rate Rec. filing)</b>			
<b>A. SF -</b>			
Various calls/discussions with Client and outside Counsel re: strategic considerations; Review Initial Briefs and Replies thereto as well as draft Orders of all Parties	17	150	2,550.00
<b>B. JH -</b>			
Respond to calls and Client e-mails re: Model and impact of Pension Cost Funding issue; Review CWC Section of Brief and comment thereon; Research re: BCJ-6.01 and BCJ-6.02	6	250	1,500.00

SUBTOTAL	\$	4,050.00
OTHER		-
<b>TOTAL</b>	<b>\$</b>	<b>4,050.00</b>

11.2.12-AL

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RCE 00651  
 CONFIDENTIAL AND PROPRIETARY

2013CFRU 0004796  
 CONFIDENTIAL

## SFIO CONSULTING TIMESHEET

Name: John Hengtgen

Month Ending: October, 2012

Date	Hours	Rate	Description
<b>Commonwealth Edison - 11-0721</b>			
10/4/12	0.75		Review order on rehearing, specifically CWC calculation and handling of pension asset funding issue.
<del>10/4/12</del>	<del>0.75</del>		<del>Phone calls and emails with BH and MF regarding handling of pension cost funding issue in order on rehearing.</del>
9/6/12	0.50		Phone call with MF regarding BR model and changes in the rehearing ALPO.
<b>SUBTOTAL</b>	<b>2.00</b>	<b>\$225</b>	<b>\$450.00</b>
<b>Commonwealth Edison - 12-0321</b>			
10/3-4/12	1.25		Phone calls and emails with BH regarding model and impact of pension cost funding issue.
10/3-4/12	1.25		Review CWC section of brief and provide comments.
10/16-17/12	1.25		Review emails, research on issue and respond via email regarding BCJ 6.01 and 6.02.
<b>SUBTOTAL</b>	<b>3.75</b>	<b>\$225</b>	<b>\$843.75</b>

**REDACTED**

<b>SUBTOTAL</b>	<b>2.75</b>	<b>\$225</b>	<b>\$618.75</b>
KH - Katie Houtsma, ML - Max Leichtman, NC - Nicole Cypranowski, LF - Laura Ficarra, MB - Mike Battaglia, WW - Wendy Willet, JJ - Jay Joyce, MO - Mary Osterman, JR - John Ratnaswamy, MF - Marty Fruehe, RB - Rick Bernet, JJ - James Johnson, FF - Francis Fleming, JG - Julia Good, CE - Courtney Erickson, CD - Chris Dunn, JC - Jie Chu, RBA - Ronit Barrett, BH - Bill Hayden, BP - Brad Perkins, DS - David Stahl, JG - Julia Good, CS - Carla Scarsella			
<b>Total ComEd</b>	<b>8.50</b>	<b>\$225</b>	<b>\$1,912.50 Total For ComEd</b>

**REDACTED**

<b>Monthly Total</b>	<b>8.50</b>		<b>\$1,912.50</b> Before Expenses
Expenses incurred			NONE
<b>Monthly Total</b>			<b>\$1,912.50</b>



**ICC Docket No. 13-0318**

**Commonwealth Edison Company's Response to  
Illinois Commerce Commission ("STAFF") Data Requests  
RWB 20.01 – 20.04**

**Date Received: September 6, 2013**

**Date Served: September 20, 2013**

**REQUEST NO. RWB 20.02:**

Referring to ComEd's response to RWB 20.01 above, please provide a detailed explanation of why the specific services provided by SFIO are not duplicative of services provided by ComEd's employees and/or the employees of ComEd's affiliates. Please provide specific examples and documentation which support the requested explanation.

**RESPONSE:**

As discussed in Ms. Polek-O'Brien's testimony, the work is not duplicative because no one else does it when Mr. Fiorella does. If he has been asked, for example, to take a look at issue "x", no one else is asked to do the same work. There is no documentation of not asking others to do the work. *See* also the rebuttal testimony of Ms. Polek-O'Brien, ComEd Ex. 15.0, 12:306-13:318, excerpted below:

**Q. Were the services performed by Mr. Fiorella duplicative of services performed by ComEd personnel or outside attorneys?**

A. No. And I note that Mr. Bridal does not claim that the services were actually duplicative, merely that they could have been "duplicative of services that are reasonably expected to be performed by attorneys or ComEd personnel." Bridal Dir., Staff Ex. 1.0, 13:280-281. It is reasonable and important that ComEd know and understand the positions of other parties in other proceedings that involve issues similar to those faced by ComEd. Mr. Fiorella keeps track of that. While others are capable of doing this, we do not generally ask others to do so. The charges for Mr. Fiorella's services are very reasonable and his role allows ComEd to receive important and beneficial services on an "as needed" basis without having to bear the fixed costs of directly hiring additional internal personnel to provide those services. Given these facts, it was an effective use of resources to utilize Mr. Fiorella instead of the other options available to ComEd.

**ICC Docket No. 13-0318**

**Commonwealth Edison Company's Response to  
Illinois Commerce Commission ("STAFF") Data Requests  
RWB 20.01 – 20.04**

**Date Received: September 6, 2013**

**Date Served: September 20, 2013**

**REQUEST NO. RWB 20.03:**

Referring to ComEd's response to RWB 20.01 above, please identify the ICC Docket Number and related ComEd Exhibit Number that relate to the services rendered and expenses incurred in connection with the SFIO invoices set forth within ComEd Ex. 8.06, RCE 01664 – 01683 (Rate Case Expense).

**RESPONSE:**

The services rendered and expenses incurred in connection with the SFIO invoices referred to in Staff Data Request RWB 20.01 (ComEd Ex. 8.05, RCE 01664-01683) relate to ICC Docket No. 12-0321. The invoices reflect work done by SFIO in the preparation of the following ComEd exhibits:

- Direct Testimony of John Hengtgen (ComEd Ex. 5.0, 5.1, 5.2, 5.3)
- Rebuttal Testimony of John Hengtgen (ComEd Ex. 16.0, 16.1, 16.2, 16.3, 16.4, 16.5)
- Surrebuttal Testimony of John Hengtgen (ComEd Ex. 21.0)

**ICC Docket No. 13-0318**

**Commonwealth Edison Company's Response to  
Illinois Commerce Commission ("STAFF") Data Requests  
RWB 20.01 – 20.04**

**Date Received: September 6, 2013**

**Date Served: September 20, 2013**

**REQUEST NO. RWB 20.04:**

Referring to ComEds response to RWB 7.02 (served on July 1, 2013), please provide specific examples of “the research and type of testimony review, advice, and consulting that Mr. Fiorella performs for ComEd with respect to the present rate cases.” Please also submit documentation which supports the examples of research, testimony review, advice, and consulting provided by Mr. Fiorella.

**RESPONSE:**

ComEd objects to this request to the extent that it seeks information that is protected by the attorney client and work product privileges by inquiring into the mental impressions and work product of ComEd's attorneys as well as work performed by a consulting expert at the direction of ComEd's attorneys, and ComEd objects to providing the requested documentation on these grounds. Subject to these objections and ComEd's General Objections, ComEd believes that it has answered this question in its Response to Staff Data Request RWB 7.02, in the paragraph preceding the quoted text and reiterated below:

Salvatore Fiorella provided services including strategic consulting and advice on the development and presentation of particular rate case issues based on his history and experience in and knowledge of the Illinois utility industry in general and ComEd in particular. Mr. Fiorella was a long-time employee of a utility and has provided ongoing consulting services to utilities since his departure, making Mr. Fiorella intimately familiar with relevant regulatory issues, with particular emphasis and knowledge of matters related to rate bases, capital expenditures, revenue requirement and capital structures. Mr. Fiorella further conducts regulatory research as to the status and issues pending in other Illinois utilities' proceedings that are or recently have been pending before the Illinois Commerce Commission and provides consultation and advice as to the potential impact of those matters on ComEd and its customers. With respect to pre-filed testimony, Mr. Fiorella reviews and comments on such testimony so as to provide advice with regard to the state industry-wide regulatory issues on which he provides research and consultation, as well as to ensure a consistency between capital and operational witnesses. Mr. Fiorella's services are not duplicative because the employees of ComEd, its affiliates and/or other consultants do not perform the research and type of testimony review, advice and consulting that Mr. Fiorella performs for ComEd with respect to the present rate cases.

ComEd's Response to Staff Data Request RWB 7.02. *See also* ComEd's Response to Staff Data Request RWB 7.01, RWB 20.01 and RWB 20.02, which provide further detail regarding the tasks that Mr. Fiorella performed for ComEd. In addition, Mr. Fiorella provides both written (often via email) and oral summaries of developments in Commission cases, involving ComEd and otherwise, that involve issues of interest to ComEd. *See, e.g.*, the attachment labeled as RWB 20.04\_Attach 1.

**From:** Sammy Fiorella [<mailto:s.fiorella@comcast.net>]  
**Sent:** Wednesday, September 12, 2012 11:33 AM  
**To:** Hemphill, Ross ; Harris, Louis ; Leslie Koczur  
**Cc:** Fiorella, Sam  
**Subject:** Docket 12-0001, AIC Formula Rate Case - Oral Argument on 09.11.2012

**The following is a summary of the oral argument in Docket 12-0001, Ameren's formula rate case. Chairman Scott and all four Commissioners were present in Springfield. The oral argument was divided into two parts: the first part considered use of average vs. year end rate base, the appropriate rate of interest for reconciliation adjustments and the use of an actual vs a hypothetical or average capital structure. Ameren, Staff, CUB, the Illinois Industrial Energy Consumers ("IIEC"), and the AG/AARP presented oral arguments in the first part. The second part considered the appropriate ratemaking treatments of accrued vacation pay and late payment charge revenue. IIEC did not participate in the second part.**

### **Oral Argument Part One**

#### **Ameren**

Mr. Chris Flynn argued on behalf of Ameren. On the subject of rate base, he said there should be no debate. The Commission should implement formula rates in the manner dictated by the General Assembly. To the extent there was any doubt of its intent, that was cleared up by the House of Representatives' resolution issued after the Commission's ComEd decision. He noted that the ALJ had granted IIEC's motion to strike the Resolution from Ameren's brief on exceptions and that Ameren had filed a petition for interlocutory review. He stated that IIEC is effectively saying not to listen to the General Assembly as to what it intended, listen to IIEC because it knows better. He stated that while the Commission may disagree with the General Assembly, that is not the Commission's role here. The General Assembly did not give the Commission a blank slate, it gave details. In some instances the General Assembly gave the Commission some flexibility, in other cases, it was very specific.

Chairman Scott asked, from a legal standpoint, what authority should be given to the Resolution of one house of a bicameral body. Mr. Flynn responded that its legal position is laid out in its petition for interlocutory review. It is appropriate for the Commission or courts to rely on the statement of one chamber. This is consistent with what courts do to determine legislative intent. Ameren thinks the Commission's decision on this issue in the ComEd case is wrong and understands that the Commission is currently reconsidering it.

At this point one of the Commissioners whose microphone was not on made a statement and Mr. Flynn agreed with the statement that one only looks at legislative history if there is an ambiguity. He thinks the statute is clear--use final data on Form 1 and the final data is the year end data. The legislation calls for year end data.

Commissioner Colgan asked if there was any precedent for a court using an after the fact resolution by one body to determine legislative intent. Mr. Flynn replied no.

On the subject of actual vs. imputed capital structure, Mr. Flynn stated that credit ratings are an assessment of the likelihood of default. There is investment grade and, below that, junk. There are various notches and all three rating agencies use 10 notches in the investment grade zone. A few years ago, Ameren was one notch above junk mainly due to concerns about regulation. Now Ameren is two notches above junk for two reasons. Ameren raised its common equity ratio and the General Assembly adopted formula rates. There are many notches higher than where Ameren is now and no one is arguing that Ameren's credit rating is too high. Rather, parties are arguing that Ameren could retain its current credit rating with less common equity. He said that that is just speculation. The General Assembly said use actual, no one is arguing imprudence, the Commission should use actual capital structure.

### **Commission Staff**

Mr. James Olivero argued on behalf of the Commission Staff. He stated that the Resolution is not part of the record and that the Commission must base its decision on the record. The House is only one chamber, its Resolution is not admissible as proof of legislative intent. Moreover, there is no reason to look at the Resolution if the language is clear.

Commissioner O'Connell-Diaz asked if it's also not correct to add language to the statute. He replied that is correct, but the General Assembly could have amended the statute. She replied that that's not necessary if the wording is clear.

Mr. Olivero stated that the use of average rate base is the position of the Staff and Intervenors. It was used in the Commission order and in the Proposed Order on Rehearing. The statute does not say year-end, only that actual must be used. Ameren's argument that use of average rate base means that it will only recover half of its investment is wrong because this would assume that its plant was in service all year. Average rate base smoothes out investments and reflects Ameren's actual expenditures over the year. Therefore, it more accurately matches actual costs.

On the subject of the interest rate for reconciliation adjustments, Mr. Olivero stated that the Proposed Order uses the same approach as the ComEd case. There is no factual or legal reason that the approach should be different for Ameren. (He noted that the Commission is reconsidering the ComEd case.)

On the subject of capital structure, Mr. Olivero stated that the Staff is not proposing a hypothetical capital structure, it is the actual capital structure as calculated by Staff. He said that Ameren's calculation is a hybrid using a 12 month average for short term debt and end of year for long term debt and common equity. Staff calculated all components using the average, consistent with 83 Ill. Admin. Code Part 285. Ameren's approach is no more actual than that of Staff. Staff's method is preferable and the Commission found in favor of using average in the ComEd case.

### **CUB**

Ms. Julie Soderna argued on behalf of CUB. The Proposed Order is correct on the use of average rate base instead of year end. This is consistent with the statute and the ComEd decision. The General Assembly did not specify year end. The Ameren proposal overstates revenue requirements by treating all investments as if they had been made on January 1 of the year. She stated that use of average rate base does not deny Ameren recovery of costs nor does it increase regulatory lag.

Commissioner O'Connell-Diaz asked for statutory authority for her position. She replied that if the General Assembly intended end of year, it would have said so. Commissioner O'Connell-Diaz replied so that should give us comfort from deviating from the statute. Ms. Soderna replied that she does not see this as a deviation from the statute.

On the subject of the appropriate interest rate for reconciliation adjustments, Ms. Soderna stated that Ameren's proposal to use the weighted average cost of capital is not appropriate. It is contrary to the plain language of the statute which uses the term interest rate. The weighted average cost of capital, which includes the cost of common equity, is not an interest rate. She noted that reconciliation adjustments are not long term balances, they could reasonably be financed with debt.

Commissioner O'Connell-Diaz asked what source. Ms. Soderna replied short term debt. The Commissioner responded that the period involved is longer than that of short term debt. Ms. Soderna replied that the hybrid approach in the Proposed Order---use of short term and long term debt---is acceptable.

Ms. Soderna noted that if Ameren correctly calculates its costs, there should be no over or under recovery. However, if it overrecovers its costs, then the reconciliation amount--an amount owed to

customers--should be the weighted average cost of capital. This would be a deterrent to Ameren not to manipulate its capital structure.

Commissioner O'Connell-Diaz asked if a penalty like this is normal in a reconciliation case. Ms. Soderna replied that she does not see this as a penalty.

### **IIEC**

Mr. Conrad Reddick argued on behalf of IIEC. On the subject of rate base, he stated that the statute requires rate base to be based on actual costs. The Proposed Order correctly finds that use of a year end rate base would not represent actual costs. It would overstate the smaller amounts on the books before the end of the year. It would also violate Section 9-211 of the Public Utilities Act.

On the subject of the interest rate on reconciliation adjustments, Mr. Reddick stated that the question is not how Ameren would fund any reconciliation balance, but what is a reasonable carrying cost. A reconciliation adjustment arises after an ICC order. Ameren's proposal to use a weighted average cost of capital is not appropriate.

On the subject of capital structure, Mr. Reddick stated that Staff and IIEC proposed different solutions to avoid manipulation of capital structure to increase earnings. IIEC proposed a 50% cap on common equity. The Proposed Order uses average year end capital structure but did not accept IIEC's proposed cap. IIEC's approach should be adopted.

Commissioner McCabe asked if use of year end capital structure would decrease regulatory lag. Mr. Reddick replied not necessarily.

### **AG/AARP**

Ms. Karen Lusson argued for the Attorney General and AARP. On the subject of rate base, she argued that average rate base should be used. Formula rates are substantially different from the way rates were set previously. The statute calls requires actual costs. The key is to reconcile costs for an entire year, not at a single point in time. Otherwise, consumers would be paying for end of year rate base as if it were in service for the entire year. She referred to an oral argument exhibit which showed that rate base is lower in January than December.

On the subject of the interest rate on reconciliation adjustments, Ms. Lusson stated that the statute uses the term interest, which is a term used through the Public Utilities Act to mean interest and not a weighted cost of capital.

Commissioner O'Connell-Diaz asked what interest rate she was proposing. Ms. Lusson replied that AG/AARP witness Brosch recommended the customer deposit rate. The Commissioner asked what that was. Ms. Lusson replied that currently it is 0%. The Commissioner asked how she reconciles that with the time value of money. Ms. Lusson replied that Mr. Brosch stated that the short term debt rate would be acceptable as well. If the General Assembly had intended the rate to be the weighted cost of capital, it would have said so. The Commissioner pointed out that the statute does not say that it is to be the customer deposit rate, nor the short term debt rate either. Ms. Lusson replied that the Commission has discretion here and it has never used the weighted average cost of capital for an interest rate.

### **Ameren-Rebuttal**

In rebuttal, on the subject of the interest rate, Mr. Flynn stated that only the weighted cost of capital would compensate the company for balances that won't be recovered for two years. He noted that the Company's proposal works both ways--the reconciliation amount could be an amount recoverable from customers or an amount to be refunded to customers. If you use a short term debt rate, the Commission is effectively telling Ameren to borrow to finance recoveries. This is not appropriate.

### **AG/AARP-Rebuttal**

On rebuttal, Ms. Lusson stated that there is no evidence in the proceeding that shows that weighted cost of capital is the only way that Ameren can recover its costs.

Commissioner O'Connell-Diaz asked how would short term debt cover this since the period is longer than a year. Ms. Lusson replied that Ameren's short term debt rate of 2.3% is generous.

### **Ameren-Surrebuttal**

On surrebuttal, Mr. Flynn stated that there is no relationship between a rate reduction and a new formula rate filing on the cost of carrying a shortfall.

Chairman Scott asked Mr. Flynn if he could help him get over the hump that since Ameren does not make all of its investments on the first day of the year, use of end of year rate base would overcompensate. Mr. Flynn replied that this is not what the General Assembly had in mind. If we had a rate case every day, then we would have a different revenue requirement and it would be lower. Chairman Scott said that there obviously a disagreement over what the statute says.

### **Oral Argument Part Two**

#### **Ameren**

Mr. Whitt argued on behalf of Ameren with respect to the accrual of vacation pay and the treatment of late payment charge revenues. On the subject of vacation pay, he stated that accruals and reserves are different. Accrued vacation pay simply represents an amount required by FASB 43. A reserve represents actual dollars collected from ratepayers. That is why reserves are deducted from rate base, for example, the depreciation reserve. This is a form of prepayment--the company is collecting money today to pay in the future. In contrast, the accrual for vacation pay does not represent funds collected from ratepayers to pay in the future. An accrual is not a source of cash. He used the example of Disneyworld. If you wanted to go to Disneyworld, you might write down the amount that you expect it would cost you to go there. This does not give you to cash to go there.

The Wages and Salaries account shows what is paid for employees and includes what is paid for employees' vacation pay.

Commissioner O'Connell-Diaz asked if vacation time is accrued one year and not paid until the next year. Mr. Whitt said that was correct.

Commissioner Colgan asked how much time can an employee accrue and how much time do they have to take it and can they cash it in. Mr. Whitt, after checking, said they can bank two to six weeks, but could not cash it in until retirement.

On the subject of late charge revenues, Mr. Whitt said that if 100% were allocated to distribution customers, nothing would go to power supply. He stated that the Company's preference to deal with this would be to revise Rider PER.

#### **Commission Staff**

Ms. Nicole Luckey argued on behalf of the Commission Staff on the accrued vacation pay issue only. She stated that Staff supports the Proposed Order's treatment. She said it is a source of ratepayer supplied capital. She said it is similar to ADIT. She noted that while it is short term in nature, balances remain high from year to year. Staff's position is that it is important that Ameren be treated consistently with ComEd. There is nothing to distinguish between Ameren and ComEd that should result in a different treatment of accrued vacation pay here.

Chairman Scott said that the numbers can change from year to year. Ms. Luckey said not necessarily.

Commissioner McCabe noted that there was no deduction to rate base in Ameren's last rate case. Ms. Luckey responded that the ComEd formula rate case was the first case in which this was raised and the adjustment was accepted.

Commissioner O'Connell-Diaz asked if there were any analysis of ComEd's vacation policy and if it's consistent with Ameren. Ms. Luckey said Staff did not address, but neither did Ameren. The Commissioner stated but you are suggesting the same treatment. Ms. Luckey replied that there are no facts in the record to indicate there should be a different treatment.

### **CUB**

Mr. Goshal argued on behalf of CUB. He agreed that there was no facts to differentiate the accrued vacation pay issue from ComEd. This results in a \$11.7 million deduction from rate base. He said that Staff and Intervenors demonstrated that there is an ongoing balance here. While there is some fluctuation, it is within a consistent band. This is not the Disneyworld example.

Commissioner O'Connell-Diaz asked how one squares this with prior Commission cases. He responded that this has not been proposed in those other cases. It was first proposed in the ComEd formula rate case and was accepted there. The Commissioner stated that she thought Commissioner McCabe had referred to two Ameren gas and electric cases. He replied that this proposal had not been made there.

On the subject of late charge revenues, Mr. Goshal said that the late payment charge is attributable to the entire bill and to not credit late charge revenues to ratepayers would provide a windfall to shareholders. Ameren is proposing to deal with this issue in another proceeding. CUB has no problem with that proposal, but in the meantime, 100% of late charge revenues should be credited to ratepayers. This treatment would be consistent with the Commission's decisions in ComEd's most recent rate case and its formula rate case. He stated that ComEd had proposed an allocation of the revenues, but the Commission rejected this.

### **AG/AARP**

Ms. Lusson, on behalf of the AG/AARP, stated that they agree with the ALJPO that 100% of late payment charge revenues should be credited to ratepayers. Ameren's proposal to treat 58% as non-jurisdictional would result in its shareholders receiving that 58%. She stated that Ameren does not allocate any late payment charge revenues in its cases at the FERC. The Commission adopted the 100% to ratepayers approach in ComEd's last rate case, Docket 10-0467. To be consistent, the Commission should order the same treatment here.

On the subject of accrued vacation pay, Ms. Lusson said that it is a source of non-investor supplied funds and it should be deducted from rate base. Ameren has produced no evidence that it should have a different treatment than ComEd. She stated that accrued vacation pay is not accounted for in the cash working capital allowance.

### **Ameren-Rebuttal**

On rebuttal, Mr. Whitt stated that the formula rate statute states that the Commission is to be consistent with prior law. Neither the accrued vacation pay adjustment nor the adjustment for late charge been applied to Ameren in past cases. ComEd is a different company and may take a different approach. He stated that accrued vacation pay is not a source of funds. It is different from ADIT and the depreciation reserve--there money has been paid by ratepayers for items that have not been paid yet. FAS 43 is there to smooth out spikes in the accrued vacation pay liability. Writing the amount of accrued vacation pay down does not give you cash.

### **Commission Staff-Rebuttal**

On rebuttal, Ms. Luckey stated that the Company has not identified any case in which the Commission has rejected a proposal to deducted accrued vacation pay from rate base.

**CUB-Rebuttal**

On rebuttal, Ms. Lusson cited the Hartigan case and stated that Ameren has the burden of proof of supporting its ratemaking proposals. The record evidence supports the adjustments.

**Thanks,  
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