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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
COMMONWEALTH EDISON COMPANY) No. 13-0318
)
Annual formula rate update and)
revenue requirement)
reconciliation under Section)
16-108.5 of the Public)
Utilities Act)

Chicago, Illinois
October 1, 2013

Met, pursuant to notice at 10:00 a.m.

BEFORE:

MR. GLENNON DOLAN, Administrative Law Judge
MR. DOUGLAS KIMBREL, Administrative Law Judge

APPEARANCES:

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CITIZENS UTILITY BOARD I.D. ADMITTED

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1 JUDGE KIMBREL: Pursuant to the authority of the
2 Illinois Commerce Commission, I now call Docket 13-0318,
3 Commonwealth Edison Company. This is an annual formula
4 rate update and revenue requirement reconciliation under
5 Section 16-108.5 of the Public Utilities Act.

6 Will the parties please identify themselves
7 for the record.

8 MR. BERNET: On behalf of Commonwealth Edison
9 Company, Richard Bernet, 10 South Dearborn, Suite 4900,
10 Chicago 60603; (312) 394-3623.

11 MS. BARRETT: Also on behalf of Commonwealth Edison
12 Company, Ronit Barrett of Eimer Stahl, LLP, 224 South
13 Michigan Avenue, Suite 1100, Chicago 60604.

14 MR. RIPPIE: And finally, again, on behalf of
15 Commonwealth Edison Company, Glenn Rippie -- Rooney,
16 Rippie & Ratnaswamy, LLP, 350 West Hubbard, Suite 600,
17 Chicago 60654.

18 MR. FEELEY: Representing the Staff at the Illinois
19 Commerce Commission John Feeley, Kelly Turner, and
20 Jessica Cardoni, the Office of General Counsel,
21 160 North LaSalle Street, Suite C-800, Chicago, Illinois
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23 MR. O'BRIEN: On behalf of the People of the State
24 of Illinois, Karen Lusson, L U S S O N, Timothy O'Brien,
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2 MS. SODERNA: On behalf of the Citizens Utility
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4 Washington, Chicago, Illinois 60606.

5 MR. GHOSHAL: On behalf of the City of Chicago,
6 Orijit Ghoshal, G H O S H A L, 30 North LaSalle Street,
7 Suite 1400, Chicago, Illinois 60602.

8 JUDGE KIMBREL: Okay. Staff ...

9 MR. FEELEY: At this time, Staff would call its
10 first witness, William R. Johnson.

11 JUDGE KIMBREL: Okay. Mr. Johnson, we're going to
12 swear you in.

13 (Witness sworn.)

14 JUDGE KIMBREL: Okay. Thank you.

15 WHEREUPON:

16 WILLIAM JOHNSON,
17 called as a witness herein, having been first duly
18 sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. FEELEY:

21 Q. Could you please state your name for the
22 record and spell it?

23 A. William R. Johnson, J O H N S O N.

24 Q. And, Mr. Johnson, by whom are you employed?

25 A. The Illinois Commerce Commission.

1 Q. Mr. Johnson, do you have in front of you a
2 document that's been marked for identification as Staff
3 Exhibit 5.0 with attachment 5.1 entitled, The Direct
4 Testimony of William R. Johnson?

5 A. Yes, I do.

6 Q. Was ICC Staff Exhibit 5.0 and attachment
7 5.1 prepared by your or under your direct supervision
8 and control?

9 A. Yes.

10 Q. Do you have any additions, deletions, or
11 modifications to make to Staff Exhibit 5.0 and its
12 attachment?

13 A. I do not.

14 Q. If I were to ask you today the same series of
15 questions set forth in that document, would your answers
16 be the same?

17 A. They would.

18 Q. Okay. Mr. Johnson, do you have another
19 document that's been marked for identification as Staff
20 Exhibit 11.0, the Rebuttal Testimony of William R.
21 Johnson?

22 A. Yes.

23 Q. Was that prepared by you or under your
24 direction, supervision, and control?

25 A. Yes.

1 Q. Do you have any additions, deletions, or
2 modifications to make to that document?

3 A. I do not.

4 Q. If I were to ask you today the same series of
5 questions set forth therein, would your answers be the
6 same?

7 A. Yes, they would.

8 Q. All right.

9 MR. FEELEY: Your Honor, I would note that those
10 documents were filed on e-docket -- direct on July 19th,
11 2013, and the rebuttal on September 13th, 2013.

12 At this time, Staff would move to admit into
13 evidence ICC Staff Exhibit 5.0 with attachment 5.1, the
14 direct testimony of William R. Johnson; and the Staff
15 Exhibit 11.0, the rebuttal testimony of William R.
16 Johnson.

17 JUDGE KIMBREL: Okay. Is there any objection to
18 the admission of Staff Exhibit 5.0, 5.1, and 11.0 into
19 the record?

20 MR. RIPPIE: There is none, your Honor.

21 JUDGE KIMBREL: With that being the case, those
22 exhibits are admitted into the record without objection.

23 MR. FEELEY: Mr. Johnson is available for
24 cross-examination.

25 JUDGE KIMBREL: Okay. Mr. Rippie ...

1 MR. RIPPPIE: Thank you, your Honor.

2 CROSS-EXAMINATION

3 BY MR. RIPPPIE:

4 Q. Good morning, Mr. Johnson. My name is Glenn
5 Rippie. I'm one of the attorneys for Commonwealth
6 Edison Company. I believe we met many, many years ago
7 back before -- your time in water.

8 A. Well good morning, Mr. Rippie.

9 Q. Good morning. If I, at any point in my
10 questions use an acronym or a term that you don't
11 understand, please do call me out on it and we'll be
12 clear. Is that okay?

13 A. That sounds great.

14 Q. Okay. Now, because a major focus of your
15 testimony relates to rate making issues, can I conclude
16 that you are familiar with the basic processes of rate
17 making under what I'll call EIMA, E I M A?

18 A. I guess as a general statement, yes. I don't
19 know if you want to spell those out or -- but as a
20 general statement, yes.

21 Q. Fair enough. If I, in asking you questions,
22 stray outside of your understanding, please let me know.
23 So -- But you do have an understanding, for example, of
24 mathematically how the revenue requirements under EIMA
25 are determined?

1 A. Generally, yes.

2 Q. Okay. Would you agree that the final revenue
3 requirement for a given rate year is determined during
4 the reconciliation process for that year?

5 A. Yes.

6 Q. So in this case, namely this Docket 13-0318,
7 we're dealing with the final determination of the
8 revenue requirement for rate year 2012; is that right?

9 A. Yes.

10 Q. And there's also an initial revenue
11 requirement which we're looking at in this case, and
12 that would be for rate year 2014; is that correct?

13 A. That's correct.

14 Q. And the final revenue requirement for
15 2014 will be determined in the case that occurs in
16 2015, and the adjustment, if any, resulting from that
17 will apply during 2016. Do I have it right?

18 A. I believe you do.

19 Q. Good enough. Now, the initial revenue
20 requirement for any rate year may affect the amount of
21 the reconciliation adjustment for that rate year; is
22 that correct?

23 A. Repeat that again for me, please.

24 Q. Sure. The initial revenue requirement for any
25 given rate year may affect the amount of the

1 reconciliation adjustment ultimately required for that
2 rate year?

3 A. Yes, I could agree with that.

4 Q. But the initial revenue requirement will not
5 affect the amount of the final reconciliation revenue
6 requirement, will it?

7 A. Again, I would like you to repeat that again,
8 please.

9 Q. Sure. The amount of the initial revenue
10 requirement will not affect the amount of the final
11 reconciliation revenue requirement, will it?

12 A. That's correct.

13 Q. So whether the initial revenue requirement is
14 \$1 or \$2 billion, the revenue requirement -- I'm
15 sorry -- the reconciliation adjustment will offset any
16 difference between that and the final reconciliation
17 revenue requirement, whatever that final reconciliation
18 revenue requirement may be?

19 A. Correct.

20 Q. Okay. Would you also agree with me that the
21 intent of the EIMA reconciliation process is to
22 ultimately reconcile the revenue requirement reflected
23 in rates for each calendar year with what the revenue
24 requirement would have been had the actual cost
25 information for the applicable calendar year been

1 available at the time that the initial revenue
2 requirement was determined?

3 A. Yes.

4 Q. Now, in plain language, would you agree that
5 the reconciliation process occurs at the revenue
6 requirement level, that is, it compares revenue
7 requirements?

8 A. Yes.

9 Q. It does not compare revenues, am I correct?

10 A. That's correct.

11 Q. So if the initial revenue requirement for a
12 rate year happened to perfectly project or predict the
13 final reconciliation revenue requirement, there would be
14 a zero reconciliation adjustment, right?

15 A. If they equal, that would be, correct.

16 Q. And that would be the case regardless of
17 whether the utility actually recovered its revenue
18 requirement or not, right?

19 A. Repeat that again.

20 Q. Sure. The revenue require- -- The revenue --
21 Sorry. I'll try to make it a little clearer.

22 The reconciliation adjustment would remain
23 zero in that case regardless of whether or not the
24 utility actually recovered its revenue requirement?

25 A. I believe that's true.

1 Q. Now, when the Commission approves a revenue
2 requirement, in your experience, it finds that revenue
3 requirement to be just and reasonable, does it not?

4 A. Yes. At that point in time, yes.

5 Q. Do you have an understanding of whether that
6 just and reasonable finding means the Commission has
7 concluded that it is just and reasonable for the utility
8 as well as for customers?

9 A. I would agree that when we make a
10 determination, it would be just and reasonable for --
11 that the utility would be -- would be able to collect
12 that revenue requirement.

13 Q. Fair enough. And is that, in your mind, how
14 the Commission responds to the EIMA obligation, that the
15 utility recover the expenditures made under the
16 infrastructure investment program through the
17 rate-making process by setting it --

18 A. I guess I'm not sure.

19 Q. Okay. Well in your mind, would a just and
20 reasonable revenue requirement cover the utility's
21 reasonable and prudent costs of the expenditures and
22 investments it made in providing service to its
23 customers?

24 A. I would agree with that.

25 Q. Now, in your testimony -- in your direct

1 testimony, you discuss the basis of the billing
2 determinants adjustment for a number of Qs and As,
3 beginning on page 4 and extending through page 8 of your
4 direct, but I want you to particularly focus, if you
5 could please, on the question and answer beginning on
6 page 7, line 139. And I want to make sure I understand
7 the gist of what you're saying in that section.

8 Am I correct that it is your understanding of
9 the Commission's decisions -- now I'm going to quote
10 your testimony --

11 A. Excuse me. Before we go any further, what
12 page and line numbers?

13 Q. Sure. Sorry. Page 7, right at the bottom of
14 page 7, I believe it's line 139 --

15 MR. FEELEY: We have that -- I have that as page 6.
16 I'm not sure what --

17 MR. RIPPIE: Well, let's -- let me look at my --
18 That very well might be the case.

19 BY MR. RIPPIE:

20 Q. I apologize, Mr. Johnson. It is page 6, line
21 139. It turns out to be page 7 of the PDF because of
22 the cover page. It's page 6 of line 139 extending to
23 page 7, line 142.

24 A. Okay. I see that.

25 Q. So is it fair to say that it's your

1 understanding of the Commission's decisions in
2 11-0721 and 12-0321 that an adjustment to billing
3 determinants should be made for customer growth
4 associated with projected plant additions for new
5 business included in rate base?

6 A. Correct.

7 Q. Okay. Now, by adjustment, what we're
8 referring to here is using nonhistorical customer counts
9 in lieu of the historical weather-normalized customer
10 count, right?

11 A. You mean, in coming up with the -- in
12 determining the adjustment?

13 Q. Correct. For new business?

14 A. Correct. It's my understanding that they used
15 historical data plus some future data that was projected
16 (phonetic) for 2013.

17 Q. Correct. So just we're perfectly clear, so
18 for the number of kilowatts and the number of kilowatt
19 hours, you were advocating the use of purely historical
20 data. And for the customer count, you were advocating
21 using a customer count that extends through the
22 projected end off the current year; is that correct?

23 A. For the kilowatt hours, I am just recommending
24 that -- just used what was in place.

25 Q. Right. The historical data?

1 A. Yes.

2 Q. And the rate base that we're talking about in
3 that quote is the rate base that has the projected plant
4 addition added to it, are we not?

5 A. The projected new business plant, yes.

6 Q. Okay. And the only -- Is it true that the
7 only rate base that has projected new business plant
8 added to it is the rate base used for the initial
9 2014 revenue requirement?

10 A. Correct.

11 Q. To be clear, there is no projected plant
12 addition of any kind in the reconciliation rate base,
13 correct?

14 A. I'm not -- I'm not positive about that. I
15 just know about the adjustment for the 2013's new
16 business.

17 Q. Are you aware of any projected plant
18 whatsoever being included in the reconciliation rate
19 base?

20 A. I'm not familiar with it, no.

21 Q. Do you have any basis for disputing Company
22 testimony that states there is no such projected plant
23 additions in the reconciliation rate base?

24 A. No.

25 Q. Okay. Now, why is there new business in the

1 initial 2014 revenue requirement rate base?

2 A. Well, I guess that's something you would have
3 to ask the Company. I'm --

4 Q. Okay.

5 A. It's not my proposal. It's theirs.

6 Q. Well, is it the Company's proposal or is it
7 what EIMA calls for?

8 A. I'm not sure. I know that the Company has
9 shown that there's new business plant for 2013.

10 Q. Do you know how much new business plant there
11 is in the initial rate base for 2013?

12 A. \$149.3 million.

13 Q. And roughly, what percentage of the plant in
14 that rate base is that new business plant; do you know?

15 A. Well, I know I actually had that calculated
16 out. I don't have it in front of me, but I think
17 it's -- out of the total plant, I think it was around
18 16 percent.

19 Q. To calculate the exact number, though, it
20 would be simply a matter of dividing that 100-and -- I
21 believe you said -- -49 -- help me out with the number.

22 A. 149.3 million.

23 Q. (Continuing.) -- 149.3 into the total plant in
24 the initial 2014 rate base?

25 A. That's correct. And maybe you have a better

1 number there.

2 Q. Well, actually, I'm more interested in the
3 formula than in the exact number.

4 Now, in reaching your recommendation, did you
5 review the terms of EIMA to see whether it discussed the
6 question of billing determinants?

7 A. I did review EIMA.

8 Q. Now, I'm not going to ask you for any legal
9 opinions. I'm simply going to ask you whether EIMA
10 mentions any particular kind of billing determinant or
11 specifies any particular kind of billing determinant
12 anywhere in the statute.

13 A. Will you give me a second to get that out?

14 Q. Absolutely.

15 A. Section C-4-H states historical
16 weather-normalized billing determinants.

17 Q. And is it also true that that is the only kind
18 of billing determinants mentioned at any point in EIMA?

19 A. I don't know that I can go through this whole
20 thing and pull out whether it says billing determinants
21 anywhere else.

22 Q. Okay. Fair enough. It's the only one you're
23 aware of; is that true?

24 A. It's the only one I see right here.

25 Q. Good enough. And that quotation is from the

1 same section of the Act that calls for ComEd to put
2 projected plant additions in the initial rate year
3 revenue requirement rate base, isn't it?

4 A. Yes.

5 Q. Would you agree that the Commission's
6 determination of whether a rate and a revenue
7 requirement is just and reasonable overall is not just a
8 legal determination but it is a factual determination as
9 well?

10 A. I'm not sure what you mean by that.

11 Q. I'll try it more easily. In your experience,
12 the Commission, when considering whether a revenue
13 requirement and rates are just and reasonable, they do
14 more than just read the statute. They listen and
15 consider the testimony of witnesses like yourself and
16 other Staff witnesses and Company witnesses?

17 A. I agree with that.

18 Q. Does Staff have a position on whether ComEd's
19 and Ameren's rate-making processes and structures under
20 EIMA must be the same?

21 MR. FEELEY: Objection. You can cross-examine
22 Mr. Johnson on his testimony, but he's a witness
23 speaking for himself. He's not -- You're not cross- --
24 He's presenting his expert on this filing here.

25 MR. RIPPIE: Well, he's a witness on behalf of

1 Staff. And my first question was just whether he was
2 aware that -- whether Staff had a position.

3 MR. FEELEY: And it -- You know, he's going beyond
4 the scope of this witness's testimony. He has testified
5 about billing determinants. He's given his opinion on
6 it. And now you're asking about Staff as a whole and he
7 hasn't testified about Staff as a whole.

8 MR. RIPPIE: So your objection is that I could ask
9 whether he had view on that, but I can't ask him whether
10 Staff has a view on that?

11 MR. FEELEY: Yeah.

12 MR. RIPPIE: Okay. I simply disagree with that.
13 This witness is being sponsored as a Staff witness. The
14 front cover page says he's William R. Johnson of the
15 rate department and the financial analysis division of
16 the Illinois Commerce Commission Staff. He identifies
17 himself as being an employee of the Commission Staff.
18 He's being sponsored here. I mean, if he was testifying
19 on behalf of himself, he would have to intervene in the
20 case and he hasn't intervened in the case. The entity
21 who is participant in the case is Staff.

22 MR. FEELEY: And it's Mr. Johnson's opinion that's
23 being presented here.

24 JUDGE KIMBREL: The objection is overruled. He can
25 answer it to the extent that he knows.

1 BY THE WITNESS:

2 A. Unfortunately, I will need the question read
3 back again.

4 Q. Sure, sir. Sorry. Do you know whether Staff
5 has a position on whether ComEd's and Ameren's
6 rate-making processes and structures under EIMA should
7 be the same?

8 MR. FEELEY: Further objection. He's asking about
9 Ameren. We're only here today about ComEd.

10 MR. RIPPIE: Well, the witnesses have commented on
11 consistency between the two utilities, including Staff
12 witnesses in their testimony. And I'm entitled to ask
13 him about the consistency of the treatment of billing
14 determinants. This is the foundational question for
15 that.

16 JUDGE KIMBREL: Again, he can answer the question
17 to the extent that he's aware.

18 BY THE WITNESS:

19 A. To me, that question is more what the --
20 whether the Commission believes that they're the same.

21 Q. Okay. Well -- But you don't know that and I
22 wouldn't ask you that question.

23 Do you personally have an opinion on that
24 subject?

25 A. I do not.

1 Q. So as you sit here today, you see no reason
2 why the treatment of billing determinants in Ameren's
3 rates and the treatment of billing determinants in
4 ComEd's rates should be the same even though they're
5 both participating utilities under EIMA governed by the
6 same statute; is that correct?

7 A. Well, you would think the Act should be
8 applicable to both companies, but then the Commission
9 decides how that Act is applicable to the companies.

10 Q. All right. Well, is it your opinion that the
11 Act should be applicable to the two companies in the
12 same way or not?

13 A. I guess it's -- as much as they can.

14 Q. Okay. Do you know whether Ameren has ever had
15 their billing determinants adjusted to anything other
16 than historical weather-normalized billing determinants?

17 A. I'm not aware.

18 Q. Do you know of any reason why, in your view,
19 you would reach a different conclusion on behalf of
20 Staff for ComEd than you would for Ameren on the subject
21 of billing determinants?

22 A. It would depend on the case and the
23 information that's provided for each case.

24 Q. Ah-ha. So the question of what billing
25 determinant adjustment should be made is not simply a

1 legal one or a question of doing what the law says, but
2 you would want to look at the evidence in the individual
3 case?

4 A. I would think you would have to take both into
5 consideration.

6 Q. But as you sit here now, you are not aware of
7 any reason why you would treat ComEd differently than
8 Ameren, are you?

9 A. No.

10 MR. RIPPIE: Thank you.

11 That's all I have.

12 MR. FEELEY: Can we take a short break?

13 JUDGE KIMBREL: Sure.

14 (A break was had.)

15 JUDGE KIMBREL: Okay. Staff ...

16 MR. FEELEY: We have no redirect.

17 JUDGE KIMBREL: Okay. Thank you, Mr. Johnson.

18 MR. RIPPIE: Thank you again.

19 JUDGE KIMBREL: Thank you, Mr. Johnson. You're all
20 set.

21 THE WITNESS: Okay. Thank you.

22 JUDGE KIMBREL: You're welcome.

23 THE WITNESS: Nice to meet you again, Mr. Rippie.

24 MR. RIPPIE: Thank you. And we're glad we could do
25 this way and save you all a trip.

1 THE WITNESS: Yes, thanks.

2 (Witness excused.)

3 JUDGE KIMBREL: Okay.

4 MS. TURNER: Staff calls Daniel Kahle.

5 JUDGE KIMBREL: Mr. Kahle --

6 Good morning, Mr. Kahle.

7 THE WITNESS: Good morning.

8 JUDGE KIMBREL: Can you raise your right hand for
9 me?

10 (Witness sworn.)

11 JUDGE KIMBREL: Okay. Thank you.

12 WHEREUPON:

13 DANIEL KAHLE,

14 called as a witness herein, having been first duly
15 sworn, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. TURNER:

18 Q. Mr. Kahle, can you please state your name and
19 spell it for the record?

20 A. Daniel Kahle; Kahle is spelled K A H L E.

21 Q. And by whom are you employed?

22 A. The Illinois Commerce Commission.

23 Q. Mr. Kahle, do you have in front of you what
24 has been previously filed on e-docket as ICC Staff
25 Exhibit 2.0C, the corrected direct testimony of Daniel

1 Kahle dated July 19th, 2013 consisting of a cover page,
2 a table of contents, ten pages of narrative testimony,
3 and Schedules 2.01FY and 2.01RY?

4 A. Yes.

5 Q. Was ICC Staff Exhibit 2.0C prepared by you or
6 under your direct -- direction, supervision, and
7 control?

8 A. Yes.

9 Q. Do you have any additions, deletions, or
10 modifications to make to ICC Staff Exhibit 2.0C?

11 A. No.

12 Q. Do you have any additions, deletions, or
13 modifications to make to your narrative testimony?

14 A. No.

15 Q. If I were to ask you the same series of
16 questions set forth in those documents, would your
17 answers be the same?

18 A. Yes.

19 Q. Do you also have in front of you what has been
20 previously filed as on e-docket as ICC Staff Exhibit
21 8.0, the rebuttal testimony of Daniel Kahle dated
22 September 13th, 2013, consisting of a cover page, table
23 of contents, 11 pages of narrative testimony, Schedules
24 8.01RY and 8.01FY and attachment A?

25 A. Yes.

1 Q. Was ICC Staff Exhibit 8.0 prepared by you or
2 under your direction, supervision, and control?

3 A. Yes.

4 Q. Do you have any additions, deletions, or
5 modifications to make to ICC Staff Exhibit 8.0?

6 A. No.

7 Q. If I were to ask you today the same series of
8 questions set forth in those documents, would your
9 answers be the same?

10 A. Yes.

11 MS. TURNER: Your Honor, at this time, Staff moves
12 to admit into evidence the corrected direct testimony of
13 Daniel Kahle, ICC Staff Exhibit 2.0 along with Schedules
14 2.01FY and 2.01RY; and the rebuttal testimony of
15 Mr. Kahle, Staff Exhibit 8.0, Schedules 8.01FY and
16 8.01RY and attachment A.

17 JUDGE KIMBREL: Is there any objection to the
18 admission of Staff Exhibit 2.0 Corrected along with
19 Schedules 2.01FY and RY as well as Staff Exhibit 8.0,
20 along with Schedules 8.01FY and RY and attachment A?

21 MR. RIPPIE: No, your Honor.

22 JUDGE KIMBREL: Okay. That being the case, those
23 exhibits are entered into the record without objection.

24 MS. TURNER: And then at this time, Staff would
25 tender Mr. Kahle for cross.

1 CROSS-EXAMINATION

2 BY MR. O'BRIEN:

3 Q. Good morning, Mr. Kahle.

4 A. Good morning.

5 Q. My name is Tim O'Brien and I'm with the
6 Attorney General's Office. Can you see me okay on the
7 screen?

8 A. Yes.

9 Q. Okay. Good. I would like to start by
10 directing you to page 9 of your rebuttal, specifically
11 lines 172 through 178. And if you want to take a quick
12 moment to read those to yourself and just let me know
13 when you're ready to proceed.

14 A. I'm ready.

15 Q. Okay. Based on this section, it's fair to say
16 that you do not agree with Mr. Brosch's alternative
17 proposal to include accumulated deferred income taxes
18 related to the reconciliation balance and rate base,
19 correct?

20 A. That's correct.

21 Q. And if I just refer to accumulated deferred
22 income taxes as ADIT from now on, you will understand
23 what I'm talking about, correct?

24 A. Yes.

25 Q. Okay. In preparing your testimony, you've

1 reviewed Mr. Brosch's direct and rebuttal testimony,
2 correct?

3 A. Correct.

4 Q. And do you have a copy of Mr. Brosch's direct
5 testimony with you today?

6 A. Yes, I do.

7 Q. I would like to direct you to page 26, if I
8 could, of Mr. Brosch's direct which should be AG
9 Exhibit 1.0.

10 A. What page was it?

11 Q. Page 26, specifically lines 578 through 587.

12 A. Okay. I'm there.

13 Q. Okay. Did you have a brief chance to review
14 those lines?

15 A. Yes.

16 Q. Okay. Would you agree, based on this
17 testimony, that the gist of Mr. Brosch's alternative
18 recommendation is that the recorded \$44.3 million of
19 credit ADIT balances associated with the reconciliation
20 regulatory asset be treated as 100 percent DS
21 jurisdictional and added to the ADIT balance that is
22 used to reduce common rate base?

23 A. Yes, I get that.

24 Q. Okay. Would you agree that the recorded
25 \$44.3 million of credit ADIT balances that Mr. Brosch

1 references is a fixed amount appearing on the Company's
2 books?

3 A. Yes.

4 Q. And as such, would that fixed amount not
5 require any further recalculation or revision?

6 A. My understanding is that amount is calculated
7 based on the reconciliation balance. So if you were to
8 change -- (inaudible) applied the ADIT to rate base, you
9 would then change the reconciliation balance at least
10 for rate-making purposes.

11 Q. Okay. Was it your view or understanding then
12 that Mr. Brosch was recommending some form of revision
13 or adjustment to ComEd's recorded 44.3-dollar million
14 ADIT amount?

15 A. Are you referring to what they had with their
16 books?

17 Q. Correct.

18 A. No.

19 Q. Okay. Let's say for a moment that
20 Mr. Brosch's alternative proposal to include a fixed
21 amount of ADIT in rate base was adopted, there would be
22 no further calculations, correct?

23 A. Well, for the -- for the revenue requirements,
24 if you're going -- if you change rate base, you would
25 then end up with a different reconciliation balance. I

1 would think that you want to know what the ADIT was on
2 the new balance.

3 Q. Mr. Kahle, were you completed with your last
4 response?

5 A. Yes.

6 Q. Okay. Thank you. At this time, I would like
7 to ask Mr. Nepler to hand you the three documents that I
8 sent to him in advance, which should be data request
9 responses marked Staff 1.1, 1.2, and 1.3.

10 A. Okay. I have them.

11 Q. And I'm just going to hand those to Counsel
12 and the Judge here.

13 (Documents tendered.)

14 BY MR. O'BRIEN:

15 Q. Okay. Thank you for your patience, Mr. Kahle.
16 Have you seen these data requests responses before,
17 Mr. Kahle?

18 A. Yes.

19 Q. And did you prepare these responses?

20 A. Yes, I did.

21 Q. And if you were asked the same questions
22 today, would your responses be the same?

23 A. Yes.

24 MR. O'BRIEN: At this point, the People would like
25 to move into the record what we will mark as AG Cross

1 Exhibit 2, which will be the response to Staff 1.1; AG
2 Cross Exhibit 3, which will AG Staff 1.2; and Cross
3 Exhibit 4 which will be the response to AG Staff 1.3.

4 JUDGE KIMBREL: Is there any objection to AG Cross
5 Exhibit 2, 3, 4?

6 MR. O'BRIEN: Just one quick moment. I want to
7 make sure that we didn't already use 2. Just to make
8 sure the record is as clear as possible, I believe we
9 had an AG Cross Exhibit 2 that was not -- it was marked
10 but not entered. So I leave it to you to tell us what
11 would be most convenient for the record.

12 JUDGE KIMBREL: That's correct, Cross Exhibit
13 2 wasn't entered. Do you want to start at 3 then?

14 MR. O'BRIEN: I have no objection to going 3, 4,
15 5 with these.

16 JUDGE KIMBREL: I don't -- Whatever you want to do.

17 MR. O'BRIEN: Yeah. Just keep the record as clear
18 as possible.

19 JUDGE KIMBREL: Okay.

20 MR. O'BRIEN: So AG Cross Exhibit 3 will be AG
21 Staff 1.1, AG Cross Exhibit 4 will be AG Staff 1.2, and
22 AG Cross Exhibit 5 will be AG Staff 1.3.

23 JUDGE KIMBREL: Okay. Is there any objection to AG
24 Cross Exhibit 3, 4, and 5?

25 MS. TURNER: No, your Honor.

1 JUDGE KIMBREL: Okay. That being the case, AG
2 Cross Exhibits 3, 4, and 5 are entered into the record
3 without objection.

4 MR. O'BRIEN: Thank you.

5 BY MR. O'BRIEN:

6 Q. Mr. Kahle, I just want to move on to another
7 section of ADIT here. And at page 10, of your rebuttal
8 testimony --

9 A. Okay. I'm there.

10 Q. -- at lines 189 through 203, here you assert
11 that Mr. Brosch's alternate proposal would be contrary
12 to the treatment of certain other ADIT amounts recorded
13 by the Company but that are not reflected in rate base.
14 Is that essentially the point of this Q and A?

15 A. Yes, it is.

16 Q. Okay. Specifically, I would like to direct
17 you to line 195. Would it be fair for me to
18 characterize your testimony here as, following the
19 general principle that the rate base inclusion of ADIT
20 should follow the jurisdictional treatment of the
21 related assets or liabilities and related transactions?

22 A. Yes, that's correct.

23 Q. Okay. And is the point of your testimony at
24 line 197 essentially that the 132-million-dollar
25 reconciliation balance that is not included in the

1 revenue require- -- I'm sorry. Let me back up.

2 Is the point of your testimony at line 197,
3 essentially that the 132-million-dollar reconciliation
4 balance is not included in the revenue requirement, so
5 therefore, the associated ADIT should also not be
6 included?

7 A. That's correct.

8 Q. Okay. Would you agree with me that the
9 Company is allowed to earn a return on the
10 reconciliation balance?

11 A. They earn interest.

12 Q. I'm sorry?

13 A. They earn interest on the balance.

14 Q. Okay. You answered my next quasi question. I
15 think I was trying to break things up a little bit too
16 much for myself. That return would take the form of
17 interest that is added to the reconciliation amount
18 prior to it being either recovered from or returned to
19 rate payers, correct?

20 A. Correct.

21 Q. Okay. Would an alternative to adding interest
22 to the reconciliation balance be to simply include that
23 balance and rate base?

24 A. I think in the function of reconciliation --
25 revenue requirement adding -- changing rate base with

1 more implications, understanding of the working of the
2 revenue requirement, you might then be having more -- a
3 greater amount expense allowed, greater net income. I
4 think it would substantially the revenue requirement.

5 Q. Okay. Hypothetically speaking, if we put
6 ComEd's reconciliation balance and rate base to allow
7 the Company to earn a return, instead of applying
8 interest as provided for in the Act, would you agree
9 that the revenue requirement would be larger and would
10 include a return on this investment?

11 A. Yes.

12 Q. Okay. I would like to move on to accrued
13 vacation pay, if I could, which I believe you address at
14 page 10 of your rebuttal.

15 A. Page 11.

16 Q. Page 11? Thank you. Right at lines 205 to
17 206, you have a Q and A that relates to a purported
18 proposal made by Mr. Efron to reduce rate base for an
19 imputed deferred tax liability related to vacation pay;
20 is that correct?

21 A. Yes.

22 Q. Do you have Mr. Efron's rebuttal testimony
23 with you today, sir?

24 A. Yes, I do.

25 Q. Okay. I would like to direct you to -- One

1 moment. I have to direct myself to the spot I'm looking
2 for -- page 2 of Mr. Efron's rebuttal testimony, which
3 is AG Exhibit 4.0 --

4 A. I'm there.

5 Q. -- specifically lines 39 to 40.

6 A. Okay. I'm there.

7 Q. Now, looking at lines 39 to 40 of Mr. Efron's
8 rebuttal testimony, is it true that Mr. Efron is stating
9 that he was not imputing a deferred tax liability
10 related to accrued vacation pay?

11 MS. TURNER: I just have a clarifying question.
12 Are you talking about in his direct testimony or in
13 Docket No. 12-0321?

14 MR. O'BRIEN: In his direct testimony.

15 BY THE WITNESS:

16 A. I'm going to need the question again. I'm
17 sorry.

18 Q. Okay. Is it true that Mr. Efron, at lines
19 39 to 40, is stating that he was not imputing a deferred
20 tax liability related to accrued vacation pay?

21 A. No, that's not exactly what he says. He said
22 he's not suggesting there was a deferred tax liability
23 associated with the capitalized portion of accrued
24 vacation pay.

25 Q. And, Mr. Kahle, is it your testimony that it

1 would be improper to create a deferred tax liability
2 where none exists?

3 A. Yes, that's correct.

4 Q. And in Mr. Efron's proposal, is there a
5 deferred tax liability related to the capitalized
6 portion of vacation pay?

7 A. From my understanding of his exhibit, showing
8 this adjustment, that's what it looks like to me.

9 Q. Okay. And there would not be a deferred tax
10 liability where the capitalized portion would be treated
11 the same for book and tax purposes -- I'm sorry. Let me
12 strike that that question and reword that.

13 There would not be a differed tax liability
14 because the capitalized portion is treated the same for
15 book and tax purposes; is that correct?

16 A. My understanding is that the deferred asset is
17 included in the Company's taxable income for tax
18 purposes.

19 Q. Okay. Just one just moment please, Mr. Kahle.

20 (Brief pause.)

21 BY MR. O'BRIEN:

22 Q. Mr. Kahle, do you have ComEd's testimony and
23 exhibits with you today?

24 A. Yes, I do.

25 Q. Okay. I am going to try and direct you to a

1 needle in a haystack, and I apologize because I thought
2 I had sent a copy of this down to Mr. Nepler; but I am
3 looking at ComEd Exhibit 3.18, which is a rather lengthy
4 document. Specifically, I'm looking at WP5 REV.

5 A. I'm sorry. Whose testimony is that attached
6 to?

7 Q. I believe that is attached to Mr. Fruehe's
8 testimony.

9 MR. RIPPIE: 3.18 is -- It should be -- yes,
10 Mr. Fruehe.

11 BY THE WITNESS:

12 A. His direct testimony?

13 Q. That's correct.

14 A. I don't have that.

15 (Brief pause.)

16 MR. BERNET: Judge, if we could go off the record
17 for just a quick second.

18 JUDGE KIMBREL: Sure, no problem.

19 (Discussion off the record.)

20 JUDGE KIMBREL: Proceed, Mr. O'Brien.

21 BY MR. O'BRIEN:

22 Q. Okay. Mr. Kahle, it's my understanding that
23 you now have a copy of ComEd Exhibit 3.18 WP5 Revised,
24 page 6 in front of you?

25 MS. TURNER: I think he has 14.- --

1 BY THE WITNESS:

2 A. I have WP5. It's not -- At the top, it says
3 it's 14.02.

4 MS. TURNER: I believe Mr. Rippie has confirmed
5 that work paper 5 revised is the same in 3.18 as well as
6 in 14.02.

7 MR. RIPPIE: Slight amendment. I confirmed that
8 page 6 of work paper five is the same in those two
9 places.

10 MS. TURNER: And I believe that that is the page
11 that Mr. Kahle has.

12 MR. RIPPIE: Yes.

13 MR. O'BRIEN: Okay. Very good.

14 BY MR. O'BRIEN:

15 Q. And, Mr. Kahle, I apologize to you and I
16 apologize to the Court for not having that to you in
17 advance. I thought that I had sent that down, but I, in
18 fact, did not. So looking at this WP5 Revised page 6,
19 this chart shows the total accrued liability for
20 vacation pay, correct?

21 A. Yes, it does.

22 Q. And the total jurisdictional amount is
23 49,203,000, correct?

24 A. Yes.

25 Q. And that jurisdictional amount would represent

1 the amount charged to expense plus the amount that is
2 capitalized, correct?

3 A. Yes.

4 Q. And looking at this chart, of that amount,
5 \$21,724,000 is capitalized, correct?

6 A. Yes, that's deferred debit.

7 Q. Okay. Subject to check, would you agree that
8 the remainder between these two would be 27,479,000?

9 A. Yes.

10 Q. And that remainder would represent the accrued
11 vacation pay that is charged to expense, correct?

12 A. Yes.

13 Q. Is it correct that Mr. Efron calculated the
14 related deferred taxes based on the \$27,479,000 of
15 accrued vacation pay representing the amount charged to
16 expense?

17 (Witness viewing document.)

18 BY THE WITNESS:

19 A. I believe that's correct.

20 Q. Okay. And is it also correct that ComEd, on
21 the other hand, calculated the related deferred taxes
22 based on the entire \$49,203,000 of accrued vacation pay?

23 A. That's correct.

24 Q. So just so I understand, if there are no
25 deferred taxes related to the accrued vacation pay that

1 is capitalized, but ComEd recognizes deferred taxes on
2 that portion of the accrued vacation pay, is it then
3 Mr. Efron or is it ComEd who is imputing deferred taxes
4 where none exist?

5 A. Well, my understanding is in the -- in ComEd's
6 tax return that the deferred debit is included in
7 taxable income and creates A D I T.

8 Q. I'm sorry. Mr. Kahle, could you repeat your
9 answer for me?

10 A. My understanding is that the deferred debit is
11 included in ComEd's taxable income and that creates
12 A D I T.

13 Q. Okay. But based on what we had just talked
14 about, about the calculation that Mr. Efron performed
15 versus calculation that ComEd just performed, and noting
16 that there are no deferred taxes related to the accrued
17 vacation pay that are capitalized, is it either ComEd or
18 Mr. Efron who are imputing deferred taxes where none
19 exist?

20 A. I believe it's Mr. Efron because I believe --
21 my understanding is that there are deferred taxes
22 related to deferred debit.

23 Q. Okay.

24 MR. O'BRIEN: Can I just have one more moment, your
25 Honor.

1 (Brief pause.)

2 MR. O'BRIEN: Mr. Kahle, thank you very much for
3 your time today.

4 I have no further questions.

5 JUDGE KIMBREL: Staff, do you need a moment?

6 MS. TURNER: Yes, please.

7 JUDGE KIMBREL: Okay.

8 MR. RIPPPIE: I have my four questions.

9 JUDGE KIMBREL: Sorry. Excuse me, Mr. Rippie.

10 CROSS-EXAMINATION

11 BY MR. RIPPPIE:

12 Q. Good morning, Mr. Kahle. My name is Glenn
13 Rippie. I'm one of the attorneys for Commonwealth
14 Edison and --

15 A. Good morning.

16 Q. -- even after all that, I have four very
17 anticlimactic questions.

18 Could you please turn to page 7 beginning at
19 line 101 of your direct testimony, please. Is it fair
20 to say that at that point -- Sorry. I'll let you find
21 it.

22 A. 101, you said?

23 Q. Yes, sir.

24 A. Okay. I'm there.

25 Q. Is it fair to say at that section you were

1 making a recommendation to the Commission concerning an
2 original cost finding?

3 A. Yes, it is.

4 Q. And that original cost finding would be for
5 the end of the 2012 rate year; is that correct?

6 A. That's correct.

7 Q. Is the finding you're recommending a finding
8 based on the actual year end 2012 data like that used to
9 calculate the reconciliation revenue requirement?

10 A. Yes, it is.

11 Q. Are there any projected plant additions
12 included in that data?

13 A. Not that I'm aware of.

14 MR. RIPPIE: Thank you. That was my four
15 questions.

16 JUDGE KIMBREL: Okay. My apologizes, Mr. Rippie.

17 Staff, do you need a moment?

18 MS. TURNER: Yes, just a moment, please. Thank
19 you.

20 (A short break was had.)

21 REDIRECT EXAMINATION

22 BY MS. TURNER:

23 Q. Mr. Kahle, do you have in front of you what's
24 already been marked as AG Cross Exhibits 3, 4, and 5?

25 A. Yes, I do.

1 Q. And at the top of the page, the header says
2 that they are related to Docket No. 13-0192. Do you see
3 that?

4 A. Yes. Now for the first time, yes.

5 Q. But these were actually issued and responded
6 to in 13-0318, the current docket, correct?

7 A. That's correct.

8 MS. TURNER: Okay. And Staff has nothing further.

9 JUDGE KIMBREL: Okay. Thank you, Mr. Kahle.

10 THE WITNESS: Thank you.

11 (Witness excused.)

12 MS. CARDONI: Judge, can we go off the record to
13 make sure that we have all of the appropriate exhibits
14 before we start?

15 JUDGE KIMBREL: Yeah, no problem.

16 Off the record.

17 (A short break was had.)

18 JUDGE KIMBREL: Staff ...

19 MS. CARDONI: At this time, Staff calls Staff
20 witness Richard W. Bridal, II.

21 JUDGE KIMBREL: Good afternoon, Mr. Bridal. Please
22 raise your right hand for me.

23 (Witness sworn.)

24 JUDGE KIMBREL: Okay. Thank you.

25 Staff ...

1 WHEREUPON:

2 RICHARD W. BRIDAL, II,
3 called as a witness herein, having been first duly
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. CARDONI:

7 Q. Please state your full name for the record and
8 spell your last name.

9 A. My name is Richard W. Bridal, II, spelled
10 B R I D A L.

11 Q. Who is your employer and what is your business
12 address?

13 A. I'm employed by the Illinois Commerce
14 Commission at 527 East Capitol Avenue, Springfield,
15 Illinois 62701.

16 Q. What is your position at the Illinois Commerce
17 Commission?

18 A. I'm an accountant in the accounting department
19 of the financial analysis division.

20 Q. Did you prepare written exhibits for submittal
21 in this proceeding?

22 A. I did.

23 Q. Do you have before you a document which has
24 been marked for identification as ICC Staff Exhibit 1.0,
25 consisting of a cover page, table of contents, 31 pages

1 of narrative testimony, Schedules 1.01FY through 1.09FY,
2 1.01RY through 1.07RY, and 1.10 through 1.17, as well as
3 attachments A, B, C -- which has both public and
4 confidential versions -- D, E, F, G -- which has both
5 public and confidential versions -- H and I, and it's
6 entitled The Direct Testimony of Richard W. Bridal, II?

7 A. I do.

8 Q. Did you prepare that document for presentation
9 in this matter?

10 A. I did.

11 Q. Do you also have before you a document which
12 has been marked for identification as ICC Staff Exhibit
13 7.0 -- public and confidential -- which consists of a
14 cover page, table of contents, 42 pages narrative
15 testimony, Schedule 7.01FY through 7.09FY, 7.01RY
16 through 7.07RY, and 7.10 through 7.13 as well as
17 attachments A, B -- public and confidential -- C, D, E,
18 F, G, H, and I -- public and confidential -- and is
19 entitled the Rebuttal Testimony of Richard W. Bridal,
20 II?

21 A. I do.

22 Q. Did you prepare that document for presentation
23 in this matter?

24 A. I did.

25 Q. Do you have any corrections to make to Staff

1 Exhibits 1.0 or 7.0?

2 A. No.

3 Q. Is the information contained in ICC Staff
4 Exhibits 1.0 and 7.0 true, correct, and to the best of
5 your knowledge?

6 A. Yes.

7 Q. If I were to ask you the same questions set
8 forth in Exhibits 1.0 and 7.0, would your responses be
9 the same today?

10 A. Yes.

11 MS. CARDONI: Your Honor, I am not going to move
12 for admission into evidence of these exhibits because
13 based on the ruling on the protective order, Staff would
14 seek leave to refile both exhibits in confidential and
15 public versions tomorrow.

16 MS. BARRETT: I don't have an objection to filing
17 it later; however, we do have an objection to the
18 admissibility of a certain portion of it regarding rate
19 case expense and I would make that objection subject to
20 cross, and then I think that we could talk about it
21 after that.

22 JUDGE KIMBREL: Okay.

23 MS. CARDONI: Mr. Bridal is now available for
24 cross.

25

1 CROSS-EXAMINATION

2 BY MR. O'BRIEN:

3 Q. Good afternoon, Mr. Bridal.

4 A. Hello.

5 Q. My name is Tim O'Brien and I'm with the
6 Attorney General's Office. How are you today?

7 A. Just fine. Thank you.

8 Q. Excellent. I would like to start off on
9 page 37 of your rebuttal testimony.

10 A. Okay. I'm there.

11 Q. Okay. Of particular interest to me is the
12 section captioned Responses to Interveners. And first
13 and foremost, you address two topics here, ComEd's
14 Employee Stock Purchase Plan or ESPP on pages 37 and 38,
15 and the reconciliation interest rate on pages 38 to 41;
16 is that correct?

17 A. Yes.

18 Q. With regard first to the reconciliation
19 interest rate, you have agreed with AG witness,
20 Mr. Brosch, and intervener witness, Mr. Gorman, that
21 ComEd's factoring up of this interest rate for income
22 taxes is not necessary, correct?

23 A. I believe it's my testimony that I don't think
24 it's appropriate to gross-up the weighted average cost
25 of capital for purposes of calculating interest on the

1 reconciliation amount.

2 Q. Okay. And is that Staff's position?

3 A. That's my testimony.

4 Q. Okay. Fair enough. I would like to shift
5 back to the Employee Stock Purchase Plan, which I'm
6 going to refer to from now as ESPP. So you understand
7 what I'm talking about?

8 A. Yes.

9 Q. Okay. I just want to see if I can get a
10 better understanding on the basis for your position on
11 the ESPP. Is it Staff's position that any and all
12 employee benefits offered by utilities are inherently
13 prudent and reasonable and should be recoverable as long
14 as they are not an incentive compensation plan?

15 A. My testimony was that I believe the ESPP
16 related expenses were recoverable.

17 Q. Okay. So there's not a blanket position that
18 any and all employee benefits should be recoverable as
19 long as they're not incentive compensation plans?

20 A. I don't know.

21 Q. Okay. Fair enough. Mr. Bridal, do you have
22 before you a data request response labeled AG Staff 1.4?

23 A. I do.

24 Q. Okay.

25 MR. O'BRIEN: We are going to mark this as AG Cross

1 Exhibit 6.

2 BY MR. O'BRIEN:

3 Q. Mr. Bridal, have you seen this response
4 before?

5 A. Yes, I have.

6 Q. And was this prepared under your direction or
7 control?

8 A. Yes.

9 Q. And if you were asked the same questions
10 today, would your responses be the same?

11 A. They would.

12 MR. O'BRIEN: At this time, the People would move
13 for admission of AG Cross Exhibit 6.

14 JUDGE KIMBREL: Is there any objection to the
15 admission of AG Cross Exhibit 6?

16 MS. CARDONI: No.

17 JUDGE KIMBREL: That being the case, this exhibit
18 is entered into the record without objection.

19 BY MR. O'BRIEN:

20 Q. Mr. Bridal, first I would like to direct you
21 to your response to Part A where you were asked about
22 Part A of AG Staff 1.4, where you were asked about what
23 information you relied upon to formulate your position
24 on Mr. Brosch's adjustment.

25 A. Okay. I've read that response.

1 Q. Okay. There, you list various testimonies,
2 responses to AG discovery, and personal experience, and
3 then indicate that there are no additional analyses,
4 work papers, or other information on which you relied,
5 correct?

6 A. That is the response.

7 Q. Okay. Now, I would like to direct you to Part
8 F of this data request, your response where -- and I'll
9 give you a chance to review your response.

10 (Witness viewing document.)

11 BY THE WITNESS:

12 A. Okay. I've reviewed that response.

13 Q. Okay. Would it be fair for me to say that in
14 your response you are discussing income tax benefits
15 arising from Internal Revenue Code Section 401(k)
16 regarding deductions allowed for dividends paid on
17 employer securities held in employee stock ownership
18 accounts?

19 A. Yes, I believe so.

20 Q. Okay. Mr. Bridal, do you have any knowledge
21 of how Internal Revenue Code Section 404(k) income tax
22 deductions work?

23 A. Can you give me a brief summary of that? It
24 does sound familiar, but as I sit here right now, I do
25 not recall exactly.

1 Q. Okay. Me being a nonaccountant, I'll try and
2 give you the best snapshot of what Section 404(k) is.
3 It's essentially the code provision that governs
4 corporate programs sponsoring and encouraging purchase
5 of corporate stock for employees.

6 A. I am familiar with it. I have not performed a
7 detailed research or review of that Section, but I am
8 familiar with it.

9 Q. Okay. In formulating your position on ComEd's
10 ESPP, did you consider any form of income tax deductions
11 that could be taken by Exelon for dividends paid on
12 Exelon stock held in accounts for the benefit of ComEd
13 employees?

14 A. I understood in the last paragraph of my
15 response here to address that question. I believe about
16 the middle of the final paragraph there it says,
17 "Mr. Bridal also understands that generally dividends a
18 company pays on company common stock held within an
19 employee's 401(k) may be deducted by a company in
20 determining its income taxes."

21 Q. Okay. And when you're referring to a
22 "company" in that response, would you be referring to
23 Exelon or to ComEd?

24 A. No. In this response, it's a general
25 statement.

1 Q. Okay. Now, I would like to direct you to
2 second paragraph of response F where you state,
3 "Mr. Bridal also understands that the company's formula
4 revenue requirement calculates taxes on a single entity
5 basis rather than a consolidated group consistent with
6 ICC practice." Did I read that fairly?

7 A. Yes.

8 Q. Okay. In your view, does this mean that
9 Exelon should be, in its discretion, free to elect when
10 and whether to charge costs for Exelon stock purchase
11 plan sponsorship to ComEd books?

12 A. This section of my test- -- the data request
13 response is attempting to communicate that the revenue
14 requirement calculation calculates income taxes based
15 solely on, in this case, the entity Commonwealth Edison.

16 Q. Okay. Finally, I note that back in the
17 response to Section A there were references to several
18 AG data request responses that you relied upon. Did
19 Staff also conduct any discovery to evaluate the ESPP
20 issue?

21 A. No.

22 Q. Okay.

23 MR. O'BRIEN: Thank you very much, Mr. Bridal. I
24 have no further questions.

25

1 CROSS-EXAMINATION

2 BY MS. BARRETT:

3 Q. Good afternoon, Mr. Bridal. My name is Ronit
4 Barrett and I'll be cross-examining you on behalf of
5 Commonwealth Edison Company.

6 A. Hello.

7 Q. First, I would like to talk a little bit about
8 your experience and expertise, and I would like
9 Mr. Nepler to hand you what we've marked as -- I think
10 PDF A, which is ComEd Staff data request 3.01. It is
11 one of your responses.

12 MS. BARRETT: And we'll mark this as ComEd Cross
13 Exhibit 27.

14 BY MS. BARRETT:

15 Q. Can you please read that request and response
16 out loud?

17 A. The request states, "What is the basis of
18 Mr. Bridal's expertise regarding the reasonableness of
19 rate case expense?"

20 Response, "The basis for Mr. Bridal's
21 expertise is set forth on page 1 of his direct
22 testimony, Staff Exhibit 1.0. Further, Mr. Bridal's
23 response to ComEd DR, ComEd all 1.04 identified the rate
24 cases in which Mr. Bridal has provided testimony
25 including ICC Docket Nos. 09-0306, et al, consolidated;

1 11-0059, et al, consolidated; and 12-0603, et al,
2 consolidated, in which Mr. Bridal testified regarding
3 rate case expense."

4 Q. Okay. And if we could look at page 1 of your
5 direct testimony which this data request response
6 references, I think it's referring -- it doesn't give
7 line numbers, but I think it's referring to lines
8 9 through 15 where you discuss your professional
9 backgrounds and your previous testimony; is that
10 correct?

11 A. One moment, please. On page 1?

12 Q. That's correct.

13 A. Yes.

14 Q. Okay. So is it fair to say that the basis for
15 your expertise regarding rate case expense is the fact
16 that you're a CPA and that you've testified before the
17 Commission on rate case expense issues three other
18 times?

19 A. That, and my other experience here at the
20 Commission and my time here.

21 Q. You're other time there as a finance witness?

22 A. I have never testified as a finance witness.

23 Q. So what other time at the Commission are you
24 referring to?

25 A. Your question asked if I was referring to my

1 time at the Commission and just when I testified on rate
2 case expense.

3 Q. So you're saying that you -- all of your
4 testimony at the Commission goes towards your experience
5 with rate case expense, not just the three dockets that
6 were listed in the data request response?

7 A. Yes.

8 Q. Your testimony on issues other than rate case
9 expense makes you an expert in rate case expense?

10 A. Rate case expense encompasses the costs of
11 external subject matter experts as well as legal costs.
12 The subject matter experts could also be referred to as
13 consultants, and there are cases where the cost of
14 consultants are also reviewed outside of rate case
15 expense. So to be all inclusive and answer the request
16 fully, I have to say yes, my expertise does go outside
17 of just the testimony on rate case expense. It
18 encompasses my entire experience here at the Commission.

19 Q. Okay. But you're not a lawyer, correct?

20 A. Correct.

21 Q. And you've never worked at a law firm,
22 correct?

23 A. Correct.

24 Q. And you have no personal experience regarding
25 how many hours lawyers at law firms work in a day,

1 correct?

2 A. I have never worked at a law firm, correct.

3 Q. Okay. And you have no personal experience
4 regarding how many hours lawyers at law firms bill in a
5 day, correct?

6 A. Again, I have never worked at a law firm.

7 Q. And you have no personal experience regarding
8 how lawyers at law firms conduct electronic research,
9 correct?

10 A. I do have knowledge of how electronic research
11 is conducted.

12 Q. Meaning you know that people use Westlaw and
13 Lexis, is that what you're saying?

14 A. Yes --

15 Q. Okay.

16 A. -- and I've used both.

17 Q. But you don't have any knowledge about how
18 lawyers at law firms, whether they need approval before
19 they can do that?

20 A. I'm aware that the Exelon billing guidelines
21 state that the cost for electronic research are not
22 going to be paid unless specifically authorized.

23 Q. But you have no personal experience about how
24 lawyers at law firms receive assignment from their
25 clients, correct?

1 A. I have never worked at a law firm.

2 Q. And you have no personal experience about how
3 lawyers at law firms write legal documents, correct?

4 A. I have never worked at a law firm; however, I
5 have assisted in the preparation of legal briefs during
6 my time here at the Commission.

7 Q. But you would agree that the Commission is a
8 public body and that's different than a law firm,
9 correct?

10 A. I agree that the Commission is a public
11 agency; however, the Commission does have its legal team
12 that does function, I would assume, similarly to a law
13 firm, but I --

14 Q. So that's --

15 A. -- have no direct knowledge of --

16 Q. Right.

17 A. -- working at a law firm.

18 Q. So that's based on an assumption?

19 A. Excuse me? I didn't hear you.

20 Q. You just said your answer was based on an
21 assumption, correct?

22 A. My answer is based on working with the
23 attorneys at the Commission.

24 Q. Okay. And you have no expertise concerning
25 the Appellate Court system, do you?

1 A. Please define expertise regarding the
2 Appellate Court system.

3 Q. Have you ever filed an appeal yourself?

4 A. No, I have not.

5 Q. Let's move to your proposed disallowance of
6 expenses related to SFIO. And SFIO is a consulting
7 organization. And in your rebuttal testimony, at
8 line -- at page 25, lines 529 to -33 --

9 A. Just one moment, please. Page 25, which
10 lines, please?

11 Q. 529 to -33.

12 A. Okay.

13 Q. So in that testimony, you state -- and this is
14 just summarizing it -- you state as a basis for your
15 proposed disallowance that you have not seen any --
16 reports from Mr. Fiorella of SFIO, correct? I'm not
17 stating that's your entire testimony. I'm just asking
18 if that accurately represents those lines as one of --

19 A. No.

20 Q. -- the bases for your proposed disallowance?

21 A. Here, I'm testifying that I have seen no
22 evidence of any type of reporting or any information
23 that comes from Mr. Fiorella to the Company.

24 Q. Okay. And since you filed this testimony, has
25 ComEd provided with you any reports from Mr. Fiorella?

1 A. Towards the bottom of page 25, I discuss
2 outstanding data requests RWB 20.01 through 20.03 and
3 RWB 20.04 which requested additional support regarding
4 the specific research, testimony, review, advice, and
5 consulting that Mr. Fiorella performs for ComEd. At the
6 time I that wrote this testimony that DR was
7 outstanding, I do believe that has been provided.

8 Q. Okay. And if Mr. Nepler could give you what I
9 believe is marked as PDF B, this is ComEd's response to
10 your data request RWB 20.04 and its attachment 1.

11 MS. BARRETT: And I'll mark this as ComEd Cross
12 Exhibit 28.

13 BY MS. BARRETT:

14 Q. And would you agree, it's a two-page narrative
15 response, and about six pages after that, the
16 attachment, that is a report from Mr. Fiorella tracking
17 the positions of other parties in another case, correct?

18 A. This is a two-page response with attachments
19 identified as RWB 20.04 underscore attached one, which
20 appears to be a printout of an e-mail from Mr. Fiorella
21 to ComEd witness, Mr. Hemphill, and a couple other
22 people with the subject line, Docket 12-001, AIC Formula
23 Rate Case -- Oral Argument on 09.11.2012.

24 Q. So do you agree that that is a report tracking
25 the positions of other parties?

1 A. I agree this is an e-mail that appears to
2 summarize the oral argument that occurred on
3 September 11th, 2012 in the Ameren formula rate case.

4 Q. Okay. Let's talk about appeals for a little
5 bit. You have no objection to ComEd recovering costs
6 for responding to appeals by other parties, correct?

7 A. Can you point to me where in my testimony I
8 spoke about that?

9 Q. I'm not sure if you did speak about it in your
10 testimony or in data request responses. I just
11 understood that as your position.

12 A. Could you repeat the question, please.

13 Q. Sure. Is it -- It's my understanding that you
14 have no objection to ComEd recovering costs for
15 responding to appeals by other parties?

16 A. Generally, I believe it's appropriate for a
17 utility to incur costs and its defense of appeals filed
18 by other parties.

19 Q. Okay. And it's my understanding that it's
20 also your position that you have no objection to ComEd
21 recovering costs for remand proceedings; is that
22 correct?

23 A. Could you please define "remand proceedings"?

24 Q. After an appeal happens, it's usually remanded
25 to the Commission for further proceedings -- not always

1 but sometimes. Those are often referred to as remand
2 proceedings.

3 A. Correct. I just wanted to make sure I
4 understood your definition for the purpose of the
5 question.

6 To the extent that the costs are for a remand
7 at the Commission, for remand only, not for rehearing on
8 remand necessarily, but for the remand at the
9 proceeding, yes, that is my position.

10 Q. Okay. And ComEd recently issued two data
11 request responses that provided you with more
12 information on this topic, correct -- appeal and remand
13 proceedings at issue in this case?

14 A. Can you identify which DR responses those are?

15 Q. Yes. If Mr. Nepler can give you what was
16 labeled as PDF C, these are the responses to RWB
17 13.02 sup-corrected and RWB 13.04 sup 2?

18 MS. BARRETT: And I'll mark this as -- collectively
19 as one exhibit, ComEd Cross Exhibit 29.

20 BY MS. BARRETT:

21 Q. So if you look at RWB 13.02 --

22 A. Just one moment, please. I'm still reviewing
23 the document.

24 Q. Okay.

25 (Witness viewing document.)

1 BY THE WITNESS:

2 A. Okay. Thank you.

3 Q. Okay. So looking at RWB 13.02, if you turn to
4 the second page of this packet, the third paragraph from
5 the top lists some fees. And it's my understanding that
6 you are no longer recommending a disallowance of \$2,633,
7 which is the amount related to the remand; is that
8 correct?

9 A. I have not provided testimony to that fact.
10 However, from reading this DR response, I do believe it
11 would be consistent with my previously-filed testimony
12 that the \$2,633 incurred for the court-ordered remand
13 would be allowable. I would point out that this
14 supplemental corrected response was served on Friday
15 evening, September 27th, just four days ago. And I had
16 not performed any additional discovery to verify that
17 amount, but taking it at its face, yes, the \$2,633 would
18 be -- the recovery of that amount would be consistent
19 with my testimony.

20 Q. Okay. And are you -- I'm unclear what your
21 position is on the \$7,500 for the application for
22 rehearing. And I don't need a long answer. I would
23 just like to know, are you contesting it still?

24 A. Yes. The \$7500 for preparation of the
25 application for rehearing, I interpret that as the

1 Company's dissatisfaction with the Commission's final
2 order and the first step in an offensive appeal.

3 Q. And let's turn a couple pages in, to 13.04.

4 A. Okay.

5 Q. The second page of that response, the first
6 full paragraph explains that of the \$133,542 at issue,
7 only 16,000 were related to what we could call an
8 affirmative appeal and that 117,000 were related to
9 defensive appeals. And it's my understanding that
10 you're no longer contesting or recommending -- you're no
11 longer recommending a disallowance of that \$117,000; is
12 that correct?

13 A. This response also came in Friday evening,
14 September 27th.

15 Q. I'm sorry. Mr. Bridal, if you could just
16 answer the question that I asked, and your counsel will
17 have a chance to do redirect, but I would like just
18 answers to the questions that I ask so we can move
19 along.

20 MS. CARDONI: Judge, my witness just received this
21 response and he should be allowed to discuss it as he
22 sees fit. It's not his response. He's just looking at
23 the information provided to him, so he should be able to
24 discuss what he sees in this response that he did not
25 sponsor.

1 MS. BARRETT: He received this Friday night. He
2 knew it was coming and he knew I was going to ask him
3 about it today.

4 MS. CARDONI: And he should be able to --

5 MS. BARRETT: It's direct examination. I think I'm
6 entitled to just answers to the questions that I ask.

7 JUDGE KIMBREL: I'm going to overrule --

8 MS. BARRETT: I'm sorry. It's cross.

9 JUDGE KIMBREL: I'm going to overrule it and allow
10 him to answer the question.

11 BY THE WITNESS:

12 A. Could you repeat the question, please.

13 Q. Are you -- Are you no longer -- Are you still
14 recommending a disallowance of \$117,000?

15 A. I haven't provided any testimony about this
16 data request response; however, this disallowance of
17 only the \$16,000 would be consistent with my previous
18 testimony.

19 Q. Okay. Thank you. I would like to move on to
20 your proposed disallowance regarding attorney billing
21 over ten hours per day. You have proposed a 5 percent
22 disallowance of all legal fees as an approximation of
23 legal fees in excess of ten hours per day per
24 timekeeper, correct?

25 A. Yes.

1 Q. And initially, you calculated a 14.4 percent
2 disallowance, correct?

3 A. Just to speed things up, can you point to me
4 where I set that number forth in my testimony?

5 Q. Sure. If you look at your rebuttal testimony,
6 Exhibit 7.0, page 28, line 612, you're quoting one of
7 your own data request responses.

8 A. Could you repeat your question, please.

9 Q. Initially, you calculated a 14.4 percent
10 disallowance; is that correct?

11 A. Yes.

12 Q. Okay. But in acknowledgement of the fact that
13 billing in excess of ten hours per day may not always be
14 unreasonable, you reduced your calculated disallowance
15 to 5 percent, correct?

16 A. I did.

17 Q. And going from 14.4 percent to 5 percent,
18 that's a 65.3 percent reduction, correct?

19 A. I can accept that subject to check.

20 Q. Okay. But then subsequently, you realized
21 that there was an error in your 14.4 percent
22 calculation; is that right?

23 A. I believe that Ms. O'Brien pointed out a --
24 what she perceived to be a problem with my calculation,
25 and in rebuttal, I did agree with her, that my initial

1 calculation was not entirely correct.

2 Q. Okay. So you redid your calculation and you
3 came up with 4.3 percent as a calculated figure,
4 correct?

5 A. That sounds correct.

6 Q. Okay. But you did not revise your 5 percent
7 proposed disallowance; is that right?

8 A. Correct.

9 Q. Okay. And 5 percent is higher than
10 4.3 percent, we agree on that, right?

11 A. It is.

12 Q. And you also did not apply your 65.3 percent
13 reduction to the 4.3 calculation, correct?

14 A. That is correct; however, just to qualify, I
15 did not apply a 65 percent reduction earlier. I merely
16 reduced down to 5 percent. There was no specific
17 calculation as to the 5 percent from the 14.4 percent.

18 Q. It was arbitrary?

19 A. It was not arbitrary because it considered --
20 I believe I discussed it here in the DR response. It
21 acknowledged that billing in excess of ten hours per day
22 may not always be unreasonable.

23 Q. And that's the reason that you reduced it,
24 correct, because billing in excess of ten hours per day
25 isn't always unreasonable?

1 A. Yes, that's my testimony here.

2 Q. And that still applies, whether your
3 calculated figure is 14.4 percent or 4.3 percent,
4 billing in excess of ten hours per day is still
5 sometimes reasonable, correct?

6 A. I'm afraid you lost me there. Can you repeat
7 that?

8 Q. Sure. You initially calculated
9 14.4 percent --

10 A. Correct.

11 Q. -- as the hours in excess in ten per day per
12 timekeeper, but you reduced it because to disallow that
13 entire amount would be unreasonable because sometimes
14 billing in excess of ten hours per day is reasonable?

15 A. Yes, that's my understanding, having never
16 worked at a law firm.

17 Q. But then when your calculated -- you
18 recalculated it because your 14.4 percent figure was an
19 error and you came up with a 4.3 percent figure. And
20 even though billing in excess of ten hours per day is
21 still sometimes reasonable, you did not reduce that
22 figure in the same way that you reduced your
23 14.4 percent figure?

24 A. I didn't see the difference between a
25 4.3 percent and the 5 percent to be a significant

1 difference.

2 Q. Well, I'm not asking the difference between
3 4.3 and 5. I'm talking about the difference you went
4 from 14.4 to 5. And I did the math; that's
5 65.3 percent. So when you come up with 4.3 as the
6 calculated figure, it seems that you should reduce that
7 by 65.3 percent; and if you do that, you would arrive at
8 1.49 percent --

9 MS. CARDONI: I'm going to object because I don't
10 think that was a question.

11 MS. BARNETT: I was just going to say --

12 BY MS. BARRETT:

13 Q. -- correct?

14 A. I was --

15 Q. Would you agree that if you apply the same
16 percentage reduction that you applied to your
17 14.4 percent calculation, that brought you to 5 percent,
18 if you apply that same percentage to your 4.3 percent
19 calculation, that you would end up with 1.49 percent?

20 A. I'll accept that subject to check.

21 Q. And the same logic still exists, whatever your
22 calculated figure is, correct, that billing in excess of
23 ten hours per day is sometimes reasonable?

24 A. Yes, that's my accounting opinion.

25 Q. Okay. And even though ComEd doesn't agree

1 with this disallowance, ComEd provided an alternative
2 calculation; is that correct?

3 A. I recall seeing an alternative calculation.
4 Can you point to me where that is in the ComEd
5 testimony?

6 Q. Sure. It's in Ms. O'Brien's rebuttal
7 testimony, ComEd Exhibit 15 at page 18, line 445. Line
8 445 contains the table. There's a paragraph Q and A
9 above that that explains that, beginning at line 449.

10 A. Page 18?

11 Q. Line 445 has the results of the calculation
12 followed by the table.

13 A. Yes.

14 Q. And so you see that -- Would you agree that
15 ComEd's calculation resulted in an estimate that
16 1.17 percent of hours billed were over ten hours per day
17 per timekeeper?

18 A. Yes, I see that.

19 Q. And would you agree that if you applied that
20 same 65.3 percent reduction to that figure you would end
21 up with a .41 percent proposed disallowance?

22 A. Yes, I can agree with that. I think that this
23 exercise is missing the point of my testimony. You're
24 getting stuck in the details of the percentage
25 calculation. Where the point of my testimony is that

1 it's not reasonable for -- given the 25 or more
2 attorneys, the multiple law firms that are working for
3 the Company in the formula rate cases, it's just not
4 reasonable, in my opinion, that rate payers should also
5 be paying and raised for even more hours per day. I
6 think that working in excess of ten hours a day is
7 unreasonable given the number of attorneys and the
8 number of law firms working for the Company in the
9 formula rates.

10 Q. And so you believe that your proposed
11 disallowance, based on that, should bear no relationship
12 to the actual amount of hours billed in excess of ten
13 hours per day per timekeeper, is that what you're
14 saying?

15 A. I'm saying that an adjustment should be
16 calculated. I calculated my adjustment based on the
17 information, as I understood it, as it was given to me.

18 Q. Okay. I just -- We just talked a little bit
19 about ComEd's alternative calculation. Let's talk about
20 what ComEd calculated versus what you calculated.

21 A. Okay.

22 Q. Both you and ComEd calculated percentages; is
23 that correct?

24 A. We did.

25 Q. But you and ComEd calculated percentages of

1 different things; is that right?

2 A. Yes. We had different information to
3 calculate those percentages with.

4 Q. And would you agree that a percentage can
5 sometimes be expressed as a fraction?

6 A. Yes.

7 Q. With a numerator on top and a denominator on
8 the bottom?

9 A. Yes.

10 Q. And the denominator on the bottom, that's what
11 you're calculating a percentage of, correct?

12 A. Yes.

13 Q. So by way of just a simple example, if I want
14 to know what percentage of watermelons grown in the
15 world are grown in Chicago, I put the number of
16 watermelons grown in Chicago on the top as the
17 numerator, and the number of watermelons grown in the
18 world on the bottom as the denominator and then divide;
19 is that right?

20 A. Sure.

21 Q. Okay. And that you would give me the
22 percentage of watermelons in the world?

23 A. I could probably save us a little bit of time
24 with this exercise. I don't dispute the calculation
25 that's presented in the table on page 18. What is in --

1 I think the disagreement that we're talking about here
2 is the denominator; and in this table, the denominator
3 would be the 1,233.70 hours that are identified here.
4 And that was a number that I did not have access to when
5 I calculated my number. Again, I think we're losing
6 sight for the reason for --

7 Q. Well -- I'm sorry.

8 A. -- the adjustment --

9 Q. I think --

10 A. 00 and we are concentrating on the numbers
11 here rather than the purpose for the adjustment.

12 Q. But the numbers are important to determine the
13 correct adjustment, wouldn't you agree?

14 A. I agree, and I do not contest the 1.17 percent
15 that's calculated on page 18.

16 Q. So are you withdrawing your 5 percent proposed
17 disallowance?

18 A. No. I still believe that my 5 percent
19 disallowance is accurate. I do not contest the
20 calculation of the 1.17 percent here.

21 Q. Okay. So I'm not sure that saved us any time
22 then, but thank you for trying.

23 A. I'm -- Okay.

24 Q. Let's talk about the number that you put on
25 the bottom of your fraction.

1 A. Okay.

2 Q. Your denominator has the total hours billed in
3 eight days; is that correct?

4 A. I believe so. I would have to find that
5 adjustment.

6 Q. I think -- Let's see. I think it's in your
7 work papers 7.13B?

8 A. Thank you. I've located work paper 7.13A. In
9 the shuffle here, I appear to have misplaced 7.13B.

10 Q. I can tell you that you calculated -- you used
11 the dates May 29th through June 5th.

12 A. I believe those numbers were based on a data
13 request response that I received from the Company.

14 Q. Really, all I'm asking is, did you use eight
15 days -- only eight days -- May 29th --

16 A. That sounds correct.

17 Q. -- through June 5th?

18 A. I used the information that was in the data
19 request response I received and I believe that did say
20 eight days.

21 Q. Okay. And that eight-day span encompassed, by
22 definition, the eight days that attorneys billed over
23 ten hours per day in an invoice period; is that right?

24 A. I believe it included some of those days. I
25 don't recall if it included all of those days of the

1 invoice period.

2 Q. Well, I can tell you that the invoice period
3 was May 29th to June 30th. So you didn't use the whole
4 invoice period, correct? You just used eight days?

5 A. I -- The answer is yes; however, those were
6 the eight days, that was the information, that was the
7 extent of the data request response that I was using.

8 Q. Okay. You so you calculated the percentage of
9 hours over ten per timekeeper on those eight days; is
10 that right?

11 A. Yes.

12 Q. Okay. And ComEd's denominator is the total
13 hours billed in the 33-day invoice period from May 29th
14 to June 30th; is that correct?

15 A. I believe that that's what it purported to be.

16 Q. Okay. So ComEd calculated the percentage of
17 hours billed over ten per day in the invoice period,
18 correct?

19 A. (No verbal response.)

20 Q. Are you looking for the chart in Stacy's
21 testimony?

22 A. Yes, that's where I'm at. On page 18, yes.

23 Q. Okay. And that was a yes to my previous
24 question, right, not that you were looking for Stacy's
25 chart?

1 A. Yes. The information in her chart says that
2 the Company calculated the percentage based on the
3 period May 29th, 2012 through June 30th, 2012.

4 Q. And the eight days that you used as your
5 denominator were particularly busy days for ComEd and
6 its attorney, would you agree with that?

7 A. I don't have any basis for comparison as I sit
8 here, but that sounds -- that sounds correct.

9 Q. Well, you've reviewed the narrative time
10 entries before you recommended the disallowance, right?

11 A. Correct.

12 Q. And in those eight days, are you aware that
13 two formula rate cases were simultaneously pending?

14 A. I don't recall as I sit here.

15 Q. And are you aware that the Commission had just
16 issued an order in Docket 11-0721, the first formula
17 rate case?

18 A. The timing sounds right, yes.

19 Q. And ComEd was preparing a petition for hearing
20 and rehearing in those eight days, would you agree?

21 A. I believe that's what the narrative
22 explanations in the time records showed.

23 Q. Okay. And are you also aware that one of
24 ComEd's attorneys was on leave and so the other
25 attorneys at Eimer Stahl had to work to make up the

1 slack?

2 MS. CARDONI: Object. I don't believe --

3 BY THE WITNESS:

4 A. I believe Ms. O'Brien filed testimony to that
5 effect, but I don't recall where exactly in her
6 testimony that is.

7 Q. Okay. So your eight-day sample is not really
8 representative of the tempo of all work done in 2012 in
9 Dockets 11-0271 and 12-0321, correct?

10 A. I don't know that I can agree with that. I
11 did not see all of the time records for the entire year.
12 I requested the time records. The Company objected and
13 I was provided one snapshot. I'm not sure I can agree
14 with your statement.

15 Q. Mr. Bridal, are you saying -- Are you
16 contending that ComEd did not produce all of the time
17 records in this case for Docket 11-0721 and 12-0321?

18 A. I was referring to a data request response
19 that was used in developing my calculation.

20 Q. And that's not what I'm referring to. I'm
21 referring to the approximately 1300 pages of evidence
22 attached to Ms. O'Brien's testimony that contained all
23 of the narrative time entries for 2012, for Docket
24 No. 11-0721 and 12-0321?

25 A. And I lost your in there.

1 Q. My question is, do you agree that your
2 eight-day sample that you chose is not representative of
3 the tempo of all of the work done in 2012 on 11-0721 and
4 12-0321?

5 A. I don't have any reason to disagree with that.

6 Q. Now, I would like to talk to you just a little
7 bit about sample size and extrapolation.

8 A. Okay.

9 Q. Is it accurate to say that all else being
10 equal, a larger sample size will provide a more accurate
11 result?

12 A. Yes.

13 Q. And in your sample size is eight days,
14 correct? I think you've said that. I'll object to my
15 own question.

16 A. I think we've made that clear, yes.

17 Q. And you're extrapolating your result from
18 those eight days and applying it to an entire year's
19 worth of billing, so that's 365 days, correct?

20 A. That's correct.

21 Q. Okay. And ComEd's sample size is 33 days,
22 correct?

23 A. Yeah, I'll accept that subject to check.

24 Q. Okay. So ComEd used a bigger subset of the
25 total time at issue, would you agree?

1 A. Yes.

2 Q. So all else be being equal, ComEd's
3 calculation is more representative, correct?

4 A. It is more representative of -- You lost me
5 again.

6 Q. The total time at issue in this case, the
7 amount of hours billed over ten per day per timekeeper
8 in 2012?

9 A. Yes.

10 Q. I would like to talk to you now a little bit
11 about the long-term performance share awards program --

12 A. Okay.

13 Q. -- or LTPSAP. And I would like to discuss the
14 total shareholder return feature, which is also
15 sometimes called TSR. You state in your rebuttal
16 testimony, which is Staff Exhibit 7.0, at page 16, lines
17 339 to 340 -- I'll let you get there.

18 A. Okay. I'm there.

19 Q. You state that the TSR could have a positive
20 or negative impact on the overall LTPSAP payout
21 decision, correct?

22 A. Yes, that's what I state.

23 Q. Okay. Is it also true that the TRS could have
24 no impact on the overall LTPSAP payout decision?

25 A. I suppose that's possible.

1 Q. And so the compensation committee, the
2 committee that determines the LTPSAP payouts can
3 disregard the TSR performance, correct?

4 A. I believe that would be within their
5 discretion.

6 Q. Okay. Let's talk a little bit about the
7 LTPSAP Metrics. Would you agree with me that the LTPSAP
8 has Metrics that are related to recoverable expenses,
9 operational Metrics such as CAIDI and SAIFI?

10 A. Yes.

11 Q. And the LTPSAP also has Metrics that are
12 related to expenses that are not recoverable, right,
13 like net income and EPS --

14 A. Yes.

15 Q. -- EPS meaning earnings per share?

16 And is it accurate to say that ComEd met or
17 exceeded the goals related to permissible Metrics in
18 2012?

19 A. Yes.

20 Q. And I would like you to look at a document
21 that discusses this. It's part of AG Exhibit
22 3.3 Confidential.

23 MS. BARRETT: And so I believe at this we have to
24 take certain measures in the hearing room.

25 JUDGE KIMBREL: Yes, that's correct.

1 Staff, do you reach out to the individual at
2 the clerk's office? I believe that's what I was told.

3 THE WITNESS: We have flipped the switch here in
4 Springfield and we are now off the intranet.

5 JUDGE KIMBREL: Thank you, Mr. Bridal.

6 BY MS. BARRETT:

7 Q. You are ahead of us.

8 MS. BARRETT: I'll mark this as ComEd Cross
9 Exhibit 30.

10 BY THE WITNESS:

11 A. Which document are you referring?

12 Q. Sorry. For Mr. Nepler, it's PDF D, I believe.

13 A. Thank you.

14 MS. BARRETT: Do we have to wait for something to
15 happen or are we okay?

16 JUDGE KIMBREL: I believe that Mr. Bridal already
17 informed us that the

18 MS. BARRETT: I thought we had to do something,
19 too. Okay. Sorry.

20 BY MS. BARRETT:

21 Q. So, Mr. Bridal, are you aware that this is a
22 document that the compensation committee utilized in
23 determining the LTPSAP awards in 2012?

24 A. Yes, that's what the DR response identifies it
25 as.

1 Q. Okay. And first, I would like to draw your
2 attention to page 9 of 24 on the attachment. If it's
3 easier, the Bates number is 2013 CFRU4700?

4 A. Okay. I'm there.

5 Q. And do you see there on the top that ComEd
6 exceeded the operational excellence goals?

7 A. Yes, I see that.

8 Q. And those are things like CAIDI and SAIFI,
9 correct?

10 A. They are. I would also point out that they're
11 not only for ComEd, but for other utilities including
12 PECO and BGE.

13 Q. Okay. And let's look a couple pages further,
14 to page 11 of 24. It bears the Bates number 4702. And
15 the table at the bottom, do you see there that the
16 operational excellence goal, which is what we were just
17 looking at a couple of pages ago, received a score of
18 120, an importance rank of 1.2, and a weighted score of
19 144; is that right?

20 A. Yeah, I see that those are -- There's a
21 heading there that says they are the suggested scoring
22 guidelines --

23 Q. Correct.

24 A. -- but --

25 Q. And the importance ranking is the second

1 highest importance ranking. Would you agree with that?
2 There's one other for 1.3 and then 1.2 is the second
3 highest?

4 A. Yes, it is the second highest of the three.

5 Q. Okay. And the weighted score, is the second
6 highest weighted score. There's only one score higher
7 than that, do you agree?

8 A. Yes.

9 Q. But you recommend a 100 percent disallowance
10 of LTPSAP; is that correct?

11 A. Yes. In my rebuttal testimony, I recommend
12 100 percent disallowance. The reasoning for my
13 disallowance, I think, I also explained in rebuttal
14 testimony, but it appears that these weightings are
15 subjective.

16 Q. Okay.

17 MS. BARRETT: Thank you, Mr. Bridal. I have no
18 further questions at this time.

19 And we can end the confidential portion.

20 JUDGE KIMBREL: Staff, do you want to take a
21 moment?

22 MS. CARDONI: She's only done with the confidential
23 portion.

24 MS. BARRETT: I am done completely.

25 MS. CARDONI: Oh, okay.

1 MS. LUSSON: Your Honor, could I just note for the
2 record that based on the questioning that just occurred,
3 I'm not sure that needed to be in camera. There wasn't
4 any specific discussion of any figures, any performance
5 of any particular company. It was just references to
6 performance criteria, and that's already been, as I
7 recall, published in the public testimony in the
8 witness's discussion of this adjustment, but I mean,
9 perhaps the Company wants to think about that and see if
10 they disagree with that.

11 MS. BARRETT: For the designation of the record
12 afterwards?

13 MS. LUSSON: Yeah.

14 MS. BARRETT: Okay. We can look into that.

15 MS. LUSSON: About it being in camera, that's all.

16 MS. BARRETT: Well, since we're done anyway, we can
17 look into it for the transcript.

18 THE WITNESS: Your Honor, for the record, I would
19 point out that we are back on the intranet now.

20 JUDGE KIMBREL: Thank you, Mr. Bridal.

21 Let's go off the record.

22 (A short break was had.)

23 JUDGE KIMBREL: We're back on the record.

24 Staff ...

25 MS. CARDONI: We don't have any redirect, your

1 Honor.

2 JUDGE KIMBREL: Okay.

3 MS. BARRETT: So I guess at this time, I'll move
4 for -- We can do it in whatever order you prefer. We
5 can move for admission of my exhibits first -- ComEd
6 Cross Exhibits 27, 28, 29, and 30.

7 JUDGE KIMBREL: Is there any objection to ComEd
8 Cross Exhibits 27, 28, 29, and 30?

9 MS. CARDONI: Yes, Judge. Staff does not object to
10 Exhibit 27. We do not object to Exhibit 29. And I
11 believe Exhibit 30 is already in the record; is that
12 correct?

13 MS. BARRETT: It is AG Exhibit 3.3. It is not
14 officially in the record yet but it will be.

15 MS. CARDONI: Okay. So we don't object to Exhibit
16 30, but we do object to ComEd Cross Exhibit 28. That is
17 a data request asked by Mr. Bridal and responded to by
18 Commonwealth Edison and there's no way that Mr. Bridal
19 can attest to the information in the response as true
20 and correct, to his knowledge and belief. So we object
21 to this exhibit coming in through Mr. Bridal.

22 MS. BARRETT: And just to be clear, I'm not
23 offering this to show that what is written in is here
24 true and correct -- that Mr. Fiorella's report is true
25 and correct. That's not the purpose of it. This is

1 just to respond to a question asked by Mr. Bridal about
2 whether there were sample reports, and we provided a
3 sample report. It's just to show that there was work
4 done and to respond to his particular question.

5 MS. CARDONI: Well, in that case, then it's going
6 for the truth of the matter asserted and it's hearsay.
7 So I'm going to renew our objection on that basis as
8 well.

9 MS. BARRETT: Sorry. I thought I just explained
10 that it wasn't being admitted for the truth of the
11 matter asserted. It's not being admitted for whether
12 what Mr. Fiorella said was accurate. It's being offered
13 to show that, in response to Mr. Bridal's concern,
14 whether there was reports prepared, there were reports
15 prepared.

16 MS. CARDONI: Mr. Bridal can't attest to the fact
17 that what is said in here is true and he should not be
18 the one sponsoring this exhibit so we object to it
19 coming in.

20 MS. BARRETT: I believe soon we're going to be
21 offering a bunch of exhibits that we -- if that's your
22 issue, we could always just add it to that. We're going
23 to be offering joint exhibits.

24 MS. CARDONI: Well, if those are the exhibits that
25 Staff and Commonwealth Edison agree to. This is an

1 exhibit that we do not agree.

2 JUDGE KIMBREL: ComEd Cross Exhibits 27, 28, 29,
3 and 30 I'll -- are admitted into the record. And
4 Staff's objection is duly noted as to ComEd Cross
5 Exhibit 28.

6 MS. BARRETT: Thank you, your Honor. And I guess
7 now I would renew my objection to the admission of
8 Mr. Bridal's testimony regarding rate case expense.
9 It's ComEd's position that he is not an expert on this
10 topic. He's not a lawyer, he has no legal experience,
11 he has no law firm experience. In Docket 10-0467, the
12 Commission stated that accountants don't really know
13 what lawyers or law firms do, and that statement at that
14 time was geared towards ComEd's financial witnesses who
15 have more experience working with lawyers and law firms
16 than Mr. Bridal. Mr. Fruehe, for example, who it was
17 directed at, works with ComEd outside counsel on a daily
18 basis. And the Commission observed that even that
19 wasn't really enough. So they've -- The Commission has
20 been clear that being a CPA and reviewing bills and
21 testifying about rate case expense does not make someone
22 an expert. They've got to be a lawyer, and it would be
23 arbitrary and capricious to say to ComEd that you must
24 put forth a lawyer not a financial witness to support
25 rate case expense, but then let other parties attack

1 those expenses by simply putting forth financial
2 witnesses. And while ComEd disagreed with the
3 Commission when they applied that decision to
4 Mr. Fruehe, I have to say that I see the logic of it
5 here when applied to Mr. Bridal because him not being a
6 lawyer and not having law firm experience, he is coming
7 up with disallowances that are really unreasonable and
8 that are causing the parties -- putting an unreasonable
9 burden on the parties to litigate them; and I'm thinking
10 specifically of his blanket objection to working over
11 ten hours per day, to recovering costs for that, and to
12 recovering costs for appeals. Those just evidence
13 fundamental lack of knowledge of the legal system and
14 the realities of law firms, and I think it shows that
15 he's not qualified to offer an expert opinion on this
16 subject.

17 MS. CARDONI: And my response to that would be
18 threefold. First of all, Mr. Bridal is an accountant
19 testifying as to the justness and reasonableness of rate
20 case expense. It's been Commission practice since the
21 dawn of time for accountants by all parties to testify
22 as to rate case expense including Commonwealth Edison,
23 who, in their last rate case, had an accountant
24 testifying as to that issue.

25 The Docket 10-0467 that Ms. Barrett is

1 referring to, that order came out over two years ago and
2 there have been two such rate cases since then in which
3 Commonwealth Edison has proffered an accountant witness
4 as an expert. And finally, and most importantly, if
5 Commonwealth Edison Company had a problem or an
6 objection to Mr. Bridal's testimony, there was a date
7 set for objections to direct and rebuttal testimony.
8 ComEd waived those date, waived those objections, and
9 cannot now move to strike his testimony on this subject
10 matter.

11 MS. BARRETT: So if I may, I have a response to
12 that. First of all, in the 11-case, there was no rate
13 case expense; so there were not two cases since then
14 that have had a financial witness. And in the 12-case,
15 ComEd was not allowed to recover its rate case expense
16 so I'm not sure if that's an example that supports
17 Staff's position.

18 Finally, the issue of waiver, there is no
19 waiver. There was a date set to file a motion to
20 strike. We talked about this yesterday. There is no
21 obligation to file a motion to strike.

22 Every time someone seeks to admit evidence
23 here, your Honor, you ask, "are there any objections."
24 That is a time when parties are allowed to put forth an
25 objection otherwise there would be no point to saying

1 that. You don't have to object on the date for a motion
2 to strike. There are other avenues.

3 MS. CARDONI: And if I may, I believe that
4 regardless of the fact that there was no specific
5 evidence proffered in 11-0721 on rate case expense, it
6 was an issue and an accountant did testify as to the
7 subject matter of rate case expense. The Commission
8 denied rate case expense in 12-0321 because the evidence
9 wasn't complete. It had nothing to do with who was
10 sponsoring the testimony. And I certainly believe that
11 if we had not filed a motion to strike when the date was
12 due on surrebuttal testimony, ComEd would be objecting
13 to that today.

14 JUDGE KIMBREL: Okay. Your objection is overruled.
15 It's noted for the record and Mr. Bridal's testimony
16 will be given the proper weight.

17 MS. BARRETT: Thank you, your Honor.

18 MS. CARDONI: Thank you.

19 JUDGE KIMBREL: Ms. Barrett, do you have anything
20 further before we take care of the exhibits?

21 MS. BARRETT: I think now it's just ministerial
22 matters.

23 JUDGE KIMBREL: Thank you, Mr. Bridal.

24 THE WITNESS: Thank you, your Honor.

25 (Witness excused.)

1 MR. RIPPIE: Your Honor, on behalf of the Company,
2 we filed on e-docket this morning a document marked
3 ComEd Exhibit No. 20. It is a composite document. It
4 consists of verifications of the testimonies and
5 exhibits submitted by those witnesses who did not appear
6 live. And in particular, on the basis of the
7 verifications included in ComEd Exhibit 20, we would
8 move into evidence those testimonies and exhibits. They
9 are, in particular, Hemphill Revised Direct, which is
10 ComEd Exhibit 1.0 Revised; the others were Exhibits
11 1.01 and 1.02 Trpik Direct Revised, Exhibit 4.05 Revised
12 together with Exhibit 4.01 which exists in both
13 confidential and public forms; Blaise Exhibit
14 5.0 Corrected which includes Exhibit 5.01 Corrected,
15 5.02 Corrected -- in both confidential and public
16 forms -- and 5.03 in confidential and public forms;
17 Donovan Direct, ComEd Exhibit 6 -- I'm sorry -- Donovan
18 Direct Corrected ComEd Exhibit 6.0 Corrected, together
19 with attachments 6.01 and 6.02 Corrected; Jirovec Direct
20 Exhibit 7.0, together with attachments Exhibits
21 7.01 through 7.04; Born Direct Exhibit 9.0; and
22 Bjerning, B J E R N I N G, Direct Revised ComEd
23 Exhibit 10.0 Revised, together with Exhibits 10.01,
24 10.02, 10.04, 10.05, and 10.06 all revised and 10.03,
25 10.07, and 10.08; Siambekos, S I A M B E K O S, Direct

1 Corrected -- that's ComEd Exhibit 11 Corrected, together
2 with the attachment thereto 11.01 Corrected; Hemphill
3 Corrected Rebuttal, that is ComEd Exhibit 12.0 Corrected
4 together with attachment Exhibit 12.01, and Hemphill
5 Surrebuttal ComEd Exhibit 16.0 together with the
6 attachment thereto Exhibit 16.01.

7 At this time, we would offer those
8 testimonies -- those narrative testimonies and their
9 attached exhibits into evidence.

10 JUDGE KIMBREL: Is there any -- Is there any
11 objection to ComEd's exhibits being entered into the
12 record?

13 MS. CARDONI: (Shaking head.)

14 JUDGE KIMBREL: That being the case, ComEd's
15 exhibits are entered into the record without objection.

16 MR. RIPPIE: In addition, your Honor, we have
17 tendered to the parties a document marked ComEd Exhibit
18 No. 26. The document consists of several data request
19 responses that ComEd -- that come from either witnesses
20 for ComEd or for Staff, and then ComEd and Staff have
21 jointly agreed should be admitted into the record in
22 lieu of cross-examination of those witnesses. Those
23 data requests are, in particular, the response by
24 Mr. McNally to ComEd staff data request 3.02, the
25 response to ComEd staff data request 8.01, 8.02, and

1 8.03, the response to ComEd staff data request 7.01 and
2 the response of Staff to ComEd data requests
3 RWB 21.01 plus its attachment in 21.02.

4 JUDGE KIMBREL: Okay. Is there any objection to
5 ComEd Exhibit 26 being entered into the record?

6 That being the case, ComEd Exhibit 26 is
7 entered into the record without objection.

8 MR. RIPPIE: And finally, your Honor, I would note
9 for the record that we today circulated and provided, I
10 believe, copies to the court reporter, a physical CD
11 which disc contains the working functional electronic
12 copies of the Excel spreadsheets that have been
13 designated as Exhibits 14.01 and 14.07. If the clerk's
14 office needs those in any other form, we would be happy
15 to provide them as long as they let us know.

16 JUDGE KIMBREL: Okay. I'm investigating that now,
17 but okay.

18 Is there any objection to ComEd Exhibit
19 14.01 and 14.07 being enter into the record?

20 No objection? That being the case, ComEd
21 Exhibit 14.01 and 14.07 are entered into the record
22 without objection.

23 MR. RIPPIE: And finally, your Honor, just a
24 question, in some dockets such as this, it has been
25 helpful in the past for parties who have had cross and

1 redirect exhibits to assemble electronic copies of those
2 exhibits with a cover page and to place them on file on
3 e-docket. I ask whether that is something that your
4 Honor would like us to do? If you would, we'd obviously
5 be happy to do it. It can -- It can, particularly in
6 cases where there is a rapid briefing schedule, it can
7 help the parties in making sure that there's a uniform
8 identification of what documents have what numbers.

9 JUDGE KIMBREL: I'm certainly not opposed to that.
10 Okay.

11 MR. RIPPIE: So if we can have leave to file that,
12 we will do so shortly. I did -- I said finally. There
13 was one more matter. If anyone that has comments on the
14 form outline, could provide them by tomorrow, that is
15 Wednesday, I believe we could have the final outline to
16 your Honors by Friday.

17 JUDGE KIMBREL: Okay. Great. Thank you. Leave is
18 granted.

19 Off the record real quick.

20 (Discussion off the record.)

21 MS. BARRETT: Okay. So just to clarify the record,
22 the O'Brien -- all of the O'Brien exhibits that were
23 admitted into the record yesterday will be late filed
24 tomorrow and they will bear the designation, Corrected.

25 JUDGE KIMBREL: Okay. Thank you, Ms. Barrett.

1 Staff, would you like to proceed?

2 MS. CARDONI: At this time, Staff would move for
3 the admission into evidence of what has been marked as
4 Staff Exhibit 4.0, which is the direct testimony of
5 Diana Hawthorne (phonetic) and attachments A and B as
6 well as the rebuttal testimony of Diana Hawthorne, ICC
7 Staff Exhibit 10.0. We would like to admit these via
8 affidavit and that has been marked as Staff Exhibit
9 10.1, the affidavit of Diana Hawthorne and that was
10 filed on e-docket September 30th, 2013.

11 JUDGE KIMBREL: Is there any objection to Staff
12 Exhibit 4.0 with attachments A and B, 10.0 and 10.1?

13 That being the case, Staff Exhibit 4.0 with
14 attachments A and B, 10.0 and 10.1 are admitted into
15 evidence without objection.

16 MR. FEELEY: At this time, Staff would move to
17 admit the revised direct testimony of Michael McNally.
18 It's marked for identification as Staff Exhibit
19 6.0 Revised and we would like to have this admitted by
20 affidavit. Mr. McNally's revised affidavit is marked
21 for identification as Staff Exhibit 6.1. These were
22 filed on e-docket today and the revision is just due to
23 removing things that previously were marked confidential
24 that are no longer confidential and any related
25 confidential designations.

1 JUDGE KIMBREL: Okay. Is there any objection to
2 the admission of Staff Exhibit 6.0 Revised and
3 6.1 Revised?

4 That being the case, Staff Exhibit 6.0 Revised
5 and 6.1 Revised are admitted into the record without
6 objection.

7 MS. TURNER: Staff also moves for the admission of
8 Staff Exhibit 3.0 which includes Schedules 3.01 through
9 3.08 and attachments A through D; the direct testimony
10 of Scott Tolsdorf, T O L S D O R F, as well as the
11 rebuttal testimony of Mr. Tolsdorf ICC Staff Exhibit
12 9.0, which includes Schedule 9.01. These were
13 previously filed on e-docket and supported by an
14 affidavit marked as Staff Exhibit 9.1, which was filed
15 on e-docket yesterday.

16 JUDGE KIMBREL: Okay. Is there any objection to
17 Staff Exhibit 3.0 along with its schedules and
18 attachments as well as Staff Exhibit 9.0 along with its
19 schedules, and Staff Exhibit 9.1?

20 MS. TURNER: Your Honor, just for clarification --
21 I'm sorry to interrupt -- there is a confidential
22 version of Staff Exhibit 3.0 and a public version. The
23 confidential material is not related to the ruling that
24 came out on Friday so there are no revisions to
25 Mr. Tolsdorf's confidential testimony.

1 JUDGE KIMBREL: Thank you.

2 Is there any objection to the admission of
3 Staff's Exhibits?

4 Okay. That being the case, Staff Exhibit 3.0,
5 9.0, and 9.1 along with schedules and attachments are
6 admitted into the record without objection.

7 Staff, that's everything?

8 MR. FEELEY: That's all our evidence, yes.

9 JUDGE KIMBREL: Okay. Mr. O'Brien ...

10 MR. O'BRIEN: Thank you, Judge.

11 At this time, the People move for admission of
12 the following exhibits -- AG 1.0, the direct testimony
13 of Michael L. Brosch; AG Exhibit 1.1, 1.2, 1.3, 1.4,
14 1.5, 1.6, 1.7, 1.8, and 1.9, attachments and exhibits of
15 Michael L. Brosch, all of those filed on e-docket on
16 July 19th, 2013; along with AG Exhibit 2.0, direct
17 testimony of David J. Efron; and 2.1 attachment and
18 exhibit of David J. Efron, also filed on e-docket on
19 July 19th, 2013. People also move for admission of
20 Exhibit -- AG Exhibit 3.0R Revised Rebuttal Testimony of
21 Michael Brosch filed on e-docket September 24th, 2013,
22 along with attachments 3.- -- AG Exhibit 3.1, 3.2, and
23 3.3, attachments and exhibits of Michael L. Brosch.
24 Those attachments were refiled on e-docket on
25 September 13th, 2013. I'll note for the record that

1 there's a confidential and public version of AG
2 Exhibit 3.3. People also move for the admission of AG
3 Exhibit 3.4, filed on e-docket on September 24th, 2013,
4 additional -- sorry -- revised attachment of Michael L.
5 Brosch; along with the AG Exhibit 4.0 rebuttal testimony
6 of David J. Efron and AG Exhibit 4.1, attachment and
7 exhibit of David J. Efron filed on e-docket
8 September 13th, 2013; also, the affidavits of Mr. Brosch
9 and Mr. Efron which I believe will be filed on e-docket
10 today, and will be designated respectively AG Exhibit
11 5.0 and 6.0.

12 JUDGE KIMBREL: I just want to go off the record
13 for a second.

14 (Discussion off the record.)

15 JUDGE KIMBREL: Okay. Mr. O'Brien is moving for
16 the admission of AG Exhibit 1.9 Corrected as well.

17 Is there any objection to AG Exhibit 1.0,
18 1.1 through 1.9, 1.9 Corrected, 3.0 Revised, 3.1, 3.2,
19 3.3 confidential and privileged versions -- I'm sorry --
20 public versions, 3.4, and AG Exhibit 2.0, 2.1, 4.0, and
21 4.1, as well as the exhibits which AG will file later
22 on -- 5.0 and 6.0, is there any objection to those
23 exhibits being entered into the record?

24 That being the case, those exhibits are
25 admitted into the record without objection.

1 MR. O'BRIEN: Thank you, Judge.

2 JUDGE KIMBREL: You're welcome.

3 MS. HICKS: Your Honor, this is Christie Hicks on
4 behalf of the Citizens Utility Board. I would move for
5 the admission of the prefiled testimony of Michael P.
6 Gorman filed on behalf of the Illinois Industrial Energy
7 Consumers, the City of Chicago, and the Citizens Utility
8 Board that's specifically labeled IIEC City/CUB Exhibit
9 1.0, the direct testimony of Michael Gorman filed on
10 e-docket on July 19th, 2013; IIEC City/CUB Exhibit 2.0,
11 the rebuttal testimony of Michael Gorman filed on
12 e-docket on September 13th, 2013; and IIEC City/CUB
13 Exhibit 3.0, the affidavit of Michael Gorman filed on
14 e-docket on September 30th, 2013.

15 JUDGE KIMBREL: Okay. Is there any objection to
16 IIEC City/CUB Exhibits 1.0, 2.0, and 3.0?

17 No? That being the case, IIEC City/CUB
18 Exhibits 1.0, 2.0, and 3.0 are entered into the record
19 without objection.

20 MS. HICKS: Thank you.

21 JUDGE KIMBREL: You're welcome, Ms. Hicks.

22 Is there anything further?

23 MS. BARRETT: One thing that I forgot to mention
24 earlier is that, while it was appropriate to close the
25 hearing to the public when we were cross-examining

1 Mr. Bridal on the confidential document because we
2 didn't know what might be said, it turns out that there
3 was nothing confidential said and for the record, it is
4 appropriate now to designate the entire transcript as
5 not confidential for that cross-examination.

6 JUDGE KIMBREL: Okay. Thank you for that.

7 MS. BARRETT: You're welcome.

8 JUDGE KIMBREL: Anything further?

9 Okay. I'll just continue the matter generally
10 and then later on we'll close it after everything comes
11 back.

12 Thank you. Thank you, everyone.

13 (Which were all the proceedings
14 had at this time in the
15 above-entitled cause.)

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1 STATE OF ILLINOIS)
2 COUNTY OF COOK) SS.

3

4 Kim A. Kocimski, being first duly sworn, on
5 oath says that she is a Certified Shorthand Reporter
6 doing business in the City of Chicago, County of Cook
7 and the State of Illinois;

8 That she reported in shorthand the proceedings
9 had at the foregoing hearing;

10 And that the foregoing is a true and correct
11 transcript of her shorthand notes so taken as aforesaid
12 and contains all the proceedings had at the said
13 hearing.

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KIM A. KOCIMSKI, CSR

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CSR No. 084-004610

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19 SUBSCRIBED AND SWORN TO
20 before me this 6th day of
October, A.D., 2013.

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NOTARY PUBLIC

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