STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	
Tariff filing to present the Illinois Commerce Commission with an opportunity to consider revenue neutral tariff changes related to rate design authorized by subsection 16-108.5(e) of the Public Utilities Act.	:	No. 13-0387

REPLY BRIEF OF COMMONWEALTH EDISON COMPANY

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REPLY BRIEF OF COMMONWEALTH EDISON COMPANY

Commonwealth Edison Company ("ComEd"), by its counsel, in accordance with the Rules of Practice of the Illinois Commerce Commission (the "Commission" or "ICC") and the scheduling order of the Administrative Law Judges, submits this Reply Brief.

I. INTRODUCTION / STATEMENT OF THE CASE

The Commission has an extensive evidentiary record upon which it can rely to reasonably allocate ComEd's costs of providing delivery service and establish the revenue responsibilities for each customer class on a revenue requirement neutral basis.[1] While certain parties continue to claim that ComEd did not meet prior Commission directives to present certain information, such claims are unavailing. The evidence shows that ComEd presented substantial information directly responsive to matters for which the Commission sought more data. Indeed, the Commission Staff ("Staff") does not dispute that ComEd met its obligations on this point. *See generally*, Staff Init. Br.

Given that ComEd is neutral on how the Commission resolves many of the topics in dispute, this brief does not address those subjects. However, ComEd's silence on those issues

[1] Pursuant to the schedule established in this docket, any changes to ComEd's current embedded cost of service study ("ECOSS"), allocation of revenue responsibilities among customer classes, or rate design will become effective with the January 2015 monthly billing period.

should not be interpreted as agreement with the assertions of any particular party concerning a specific issue. Rather, this reply brief 1) responds to the claims of certain parties who wrongly ascribe a particular position or intention to ComEd, or 2) presents additional discussion detailing why the Commission should reject certain proposals. On these topics, the law, the facts and/or sound regulatory policy support ComEd's position.

II. COST OF SERVICE AND INTERCLASS ALLOCATION ISSUES

A. Overview

Perhaps in an effort to bolster their own positions, Intervenors have assigned or implied positions to ComEd that ComEd did not take[2], claimed that ComEd has not complied with various Commission directives with which ComEd did comply[3], or claimed that ComEd did not provide data that ComEd did provide[4]. In this proceeding, ComEd provided the Rate Design Investigation ("RDI") ECOSS, ComEd Ex. 3.01, which presents interclass cost allocations based upon current Commission-approved methodologies, as a basis to compare the results of the various Commission directives and Orders that are reflected in the other illustrative ECOSSs. Bjerning Reb., ComEd Ex. 7.0, 20:313-316. With ComEd taking no position, Staff and Intervenors had the opportunity to analyze and compare the differences in the ECOSSs and

[2] For cost allocation issues, see for example: Illinois Industrial Energy Consumers ("IIEC") implies that ComEd has taken a position by not making changes to Rate DSPP (IIEC Init. Br. at 4); the Coalition to Request Equitable Allocation of Costs Together ("REACT") argues that ComEd "continues to rely on a faulty ECOSS" (REACT Init. Br. at 17); Metra's implications regarding ComEd's "stuthious" approach to the public interest considerations for the Railroad Delivery Class (Metra Init. Br. at 13); Metra implies ComEd has taken a position regarding movement toward cost-based rates cautioning the ALJs or Commission not "succumb to the rhetoric of ComEd" (Metra Init. Br. at 19); and IIEC claims ComEd opposes it proposed study (IIEC Init. Br. at 13)

[3] For cost allocation issues, see for example: REACT argues that despite previous Commission Orders, ComEd's filing contains "many of the same cost allocation errors"(REACT Init. Br. at 10, 12, 16-17); The Chicago Transit Authority ("CTA") and Northeast Regional Commuter Railroad Corporation d/b/a Metra ("Metra") continue to argue that ComEd is not compliant with the Commission directive regarding 4 kilovolt ("kV") facilities and the Railroad Delivery Class (Metra Init., Br. at 15; CTA Init., Br. at 7-8); and Metra claims ComEd did not comply with the Commission's directive regarding direct observation and combination poles (Metra Init. Br. at 4)

[4] For cost allocation issues, see for example: REACT appears to imply that ComEd failed to provide necessary information in this proceeding (REACT Init. Br. at 10).

related delivery service charges and delivery class revenue responsibilities under various scenarios. *Id.*, 20:317-320. Staff and Intervenors analyzed the data and made recommendations, including proposals for ComEd to engage in additional studies for the purpose of making further changes to the cost allocations contained in the ECOSS. *See, e.g.*, Stephens Dir., IIEC Ex. 1.0, 11:233-240, Bachman Dir., CTA/Metra Joint Ex. 1.0, 16:363-366, Tehrune Dir., REACT Ex. 2.0, 39:913-916. Generally, ComEd has not taken a position regarding these Staff and Intervenor recommendations. However, ComEd has identified for the Commission's consideration certain concerns regarding the various proposed studies. ComEd Init. Br. pp. 10-15.

The evidence demonstrates that ComEd has complied with all prior Commission directives. Tenorio Dir., ComEd Ex. 2.0, 67:958-75-1006. Staff does not dispute ComEd's position on this point. *See generally*, Staff Init. Br.. Nonetheless, REACT claims otherwise, (REACT Init. Br. at 6) citing to language from the Commission's Order in the last ComEd general rate case, Docket No. 10-0467 ("2010 Rate Case"). The referenced passage simply states "[w]hile the ECOSS approved here still needs further refinement, which shall take place in a future rate case, it is accurate enough to move, gradually, toward cost-based rates for [the Extra Large Load and High Voltage Delivery Classes]." 2010 Rate Case Order at 264. However, that language does not direct ComEd to change a future ECOSS based upon the results of a particular study. To the extent the ECOSS requires further change, ComEd has provided extensive information for Staff and Intervenors to evaluate and to serve as the basis for their proposals in this case.

Ultimately, whether ComEd's distribution system should be further segmented and its ECOSS further refined is a policy decision for the Commission to determine. ComEd recommends that the Commission apply the long-standing principals of cost causation in a reasonable and practical manner that is fair to all customer groups, as well as consider the nature of ComEd's distribution system, in that it is a complex, interconnected network built to serve all customers.

B. Potentially Uncontested Issues

1. Indirect Uncollectible Costs

C. Potentially Contested Issues

1. Cost Allocation of Primary/Secondary Distribution System

a. Studies and Analysis Performed Regarding Changes to Cost Allocations to Primary Service

(i) Extra Large Load and High Voltage Over 10 MW

REACT claims that no party rebutted or criticized REACT witness Harry L. Terhune's analysis of the use by customers in the Extra Large Load ("ELL") Delivery Class and a subdivision of the High Voltage ("HV") Delivery Class including only customers with loads over 10 megawatts ("HV Over 10 MW customers") of facilities that operate at 4 kV or are in a single-phase or two-phase configuration and how the costs of those facilities should be allocated to such customers. REACT Init. Br. at 23. Similarly, IIEC claims that no party rebutted IIEC witness Robert R. Stephens' analysis and conclusion that the costs of single-phase primary distribution circuits are incurred predominately, if not exclusively, to serve secondary voltage customers. IIEC Init. Br. at 5. ComEd's silence in testimony concerning these REACT and IIEC claims does not mean that ComEd agrees with their conclusions. Rather, ComEd takes no position on these claims. However, as ComEd witness Bradley L. Bjerning testified during evidentiary hearings, the methodology used in Mr. Terhune's engineering analysis "is one type of methodology that could be used. It doesn't necessarily mean that it's the best and most appropriate methodology." Bjerning, 09/24/13, Tr., 253:18-20.

ComEd notes that the Commercial Group ("CG") now supports the original IIEC 10% proposed adjustment (CG Init. Br. at 5), which would shift $27.13 million in costs away from the nonresidential sector. Bjerning Reb., ComEd Ex. 7.0, 5:61. Of that amount, residential customers would absorb a $26.28 million cost increase, with the balance, $0.85 million, reallocated to lighting customers. *Id.* Within the nonresidential sector, the Watt-Hour and Small Load delivery classes would see increases in cost allocations while the other classes would see decreases in cost allocations. CG Init. Br. at 5.

(ii) Single-Phase/Three Phase (Shared) Primary Separation

See Section II.C.1.a.(i) herein.

(iii) Cost Allocation of Combination Poles

In response to a Commission directive arising from the 2010 Rate Case Order, ComEd commissioned Christensen Associates Energy Consulting, LLC ("CA"), to prepare a report, *Meeting Commonwealth Edison's Distribution Allocation Requirements from Illinois Commerce Commission Order 10-0467*, ("CA Distribution Study").[5] CTA and Metra allege that the CA Distribution Study does not comply with the 2010 Rate Case Order directive (at 180-181) concerning direct observation of distribution facilities and, in particular, combination poles. CTA Init. Br. at 5; Metra Init. Br. at 4. IIEC argues that, in that study, CA incorrectly substituted its judgment for that of ComEd's engineers. IIEC Init. Br. at 7. Further, IIEC asserts that the secondary system benefits from the existence of these combination poles and until these poles are properly considered, the current 50/50 allocations of these costs should remain. *Id.* at 8-9. ComEd disagrees with these claims.

[5] ComEd Ex. 3.07.

As part of CA's field review of combination poles, sizes of the poles and equipment on these combination poles were observed and recorded. O'Sheasy Reb., ComEd Ex. 11.0, 4:64-68. As such, the Commission directive that poles be part of the direct observation review was completed. However, CA determined that the allocation of these costs should be based on what caused the poles to be installed, or in other words, what caused the cost to be incurred. *Id.*, 4:71-76. Based on information learned from ComEd distribution engineering personnel as to their construction practices and the experience of the CA project team, CA's recommendation was to allocate 100% of the combination pole costs to shared costs. *Id.,* 5:92-95. Thus, CA's recommendation is based in part on ComEd's construction practices. CA's recommendation recognizes that the secondary system benefits from the combination poles; however, it also recognizes that the poles first exist to attach primary lines. O'Sheasy Reb., ComEd Ex. 11.0, 4:82-85. The Commission may consider this analysis and recommendation in determining the proper allocation of the combination pole costs.

IIEC notes that combination poles represent $252 million in plant costs. IIEC Init. Br. at 6. IIEC computed the $252 million amount by computing the difference in ComEd Ex. 3.01 and ComEd Ex. 3.14 for Plant Account 364 – Distribution Poles and Towers and Plant Account 365 – Distribution Overhead Conductors. However, the portion of the difference attributable to Plant Account 365 is related to the CA Distribution Study findings for weather resistant wire ("WRW") and not the cost allocation of combination poles. Using only pole related cost assignments in Plant Account 364, the plant cost to which IIEC is referring is approximately $152 million.[6] To put this number in perspective, of the approximately $1.3 billion associated

[6] The difference between the direct assignment for Plant Account 364 – Distribution Poles and Towers under the Shared Distribution Lines sub-function in Schedule ("Sch.") 1b, line 34 in ComEd Ex. 3.14 and ComEd Ex. 3.01 is $1,195,715,147 - $1,043,996,340 = $151,718,807.

with Plant Account 364, CA's recommendation affects approximately 11.7% of the plant costs in this account. It should also be noted that this $152 million in plant costs does not equate to a shift of $152 million in revenue requirement cost responsibility. Even if the IIEC were correct, using IIEC's calculated $252 million, which reflects all of the findings by CA for (1) WRW, (2) direct observation results of secondary wire connections to distribution poles, and (3) 100% shared costs cost assignment for combination poles, a comparison of revenue requirement cost responsibility from ComEd Ex. 3.01 to ComEd Ex. 3.14 indicates the greatest increase to a nonresidential delivery class is approximately $4 million and the impact to the Railroad Delivery Class is approximately $0.2 million. The greatest decrease in revenue requirement cost responsibility to a nonresidential delivery class is approximately $1.4 million and the greatest decrease to a residential delivery class is approximately $4.8 million. [7]

(iv) [OTHERS]

b. <u>Studies and Analysis Proposed Regarding Future Changes to Cost Allocations to Primary Service</u>

(i) Shared Distribution Line Proportional Cost Assignment Study

In its Initial Brief, REACT suggests, for the first time, a four-month period to conduct a study concerning shared distribution line cost assignment. REACT Init. Br. at 27. This suggested timeline is based upon a similar schedule that REACT claims was associated with the sampling in ComEd's Secondary and Service Loss Study. *Id.* ComEd takes no position on the need for this new study, but has identified certain concerns. ComEd Init. Br. at 10-15. However,

[7] Using Sch. 3 ComEd Ex. 3.14 which compares the cost assignment results to ComEd Ex. 3.01 – RDI ECOSS, the Very Large Load Delivery Class revenue requirement cost assignment increases by approximately $4 million, the Medium Load Delivery Class cost assignment decreases by approximately $1.4 million and the Single Family Without Electric Space Heat Delivery Class cost assignment decreases by approximately $4.8 million.

if the Commission directs ComEd to conduct this study, REACT's suggested timing should be rejected as the two studies it compares are dissimilar.

Not only are the studies different, REACT's proposal ignores the fact that the Secondary and Service Loss Study was developed over several years, not four months as REACT suggests. ComEd was first directed to perform the Secondary and Service Study in the 2010 Rate Case Order (at p. 291). That study evolved further in the 2011 Formula Rate Proceeding, Docket No. 11-0721 ("2011 FR Case") (2011 FR Case Order at 173) and the 2012 Formula Rate Update Proceeding, Docket 12-0321 ("2012 FRU Case") (2012 FRU Case Order at 82).

Furthermore, the sampling conducted in the Secondary and Service Loss Study is based on a finite number of customer accounts. There, a field survey was conducted based on randomly selected customers from the accounts that are included in ComEd's Load Research data that was submitted in Schedule E-7 in ComEd's traditional and formula rate cases.[8] Born Dir., ComEd Ex. 4.0, 7:137-143. However, as ComEd witness Mr. Bjerning described, if the Commission directed ComEd to undertake REACT's proposed new study, it must be comprehensive as to avoid being one-sided. Bjerning Reb., ComEd Ex. 7.0, 27:449-28:472. Applying the same cost allocation methodology to all customers would require that the study evaluate how each circuit is used by each delivery class and what voltage the circuit is operating at before, at, and after each of the 4.8 million service points in ComEd's service territory. Bjerning Sur., ComEd Ex. 14.0, 23:374-24:395. Time would be required to retain the proper resources, develop the appropriate scope and sample size, and then to actually complete the work and prepare a report.

[8] The most recently filed Schedule E-7 was submitted in the 2013 Formula Rate Update proceeding, Docket No. 13-0318.

If the Commission concludes that REACT's study is appropriate, ComEd requests that an inappropriately short timeline not be imposed but that the Commission allow sufficient time to complete the study in a proper manner.

(ii) Single-Phase/Three Phase (Shared) Primary Separation Investigation/Workshop

IIEC claims that opposition for its study comes primarily from Staff and ComEd. IIEC Init. Br. 13. IIEC is mistaken. ComEd has not opposed or taken any position regarding IIEC's proposed study. Rather, ComEd only raised, for the Commission's consideration, concerns about further segmenting its distribution system. ComEd Init. Br. at 10-15.

(iii) CTA/Metra Geographical Study

CTA and Metra argue that the Commonwealth Edison Geographic Information System ("CEGIS"), which contains maps of most of ComEd's facilities, can be used to facilitate the geographic study that CTA and Metra propose. CTA Init. Br. at 13; Metra Init., Br. at 7-8. As ComEd witness Mr. Bjerning testified, CEGIS "cover the maps of most of the service territory and the distribution facilities … [t]here are some exceptions where if some elements have not been mapped - - for example, underground secondary service outside of Chicago is not contained within the maps." Bjerning, 9/24/13, Tr., 276:4-10. However, the concern is not with the tools ComEd may have to complete such a study, but, as policy matter, whether the Commission should segment further ComEd's distribution system. ComEd's Init. Br. at 10-15.

c. <u>Cost Allocation of Facilities that Operate Below 12 kV – Railroad Delivery Class</u>

CTA and Metra both argue that ComEd did not comply with the Commission directive to develop an ECOSS that excludes costs associated with facilities below 12 kV from the Railroad Delivery Class (2010 Rate Case Order at 191). CTA Init. Br. at 7-8; Metra Init. Br. at 15. In making this claim, CTA and Metra ignore the inconvenient fact that ComEd prepared and offered into evidence an illustrative ECOSS which specifically responds to the Commission's directive.[9] The fact that such an analysis is contained in an illustrative ECOSS rather than the RDI ECOSS is of no consequence. The RDI ECOSS represents cost allocations based upon *current* Commission-approved methodologies, essentially the status quo if no changes were to be ordered by the Commission in the instant proceeding. It is useful as a baseline to compare the various illustrative ECOSSs, which reflect the results of the different Commission directives and Orders. To be clear, the RDI ECOSS does not represent ComEd's "position." ComEd has responded properly to the Commission's directive, and the evidentiary record contains the required information so that the Commission can make a decision. Notably, Staff does not take issue with ComEd's position on this point. For these reasons, CTA's and Metra's claim is without merit.

2. <u>Cost Allocation by Sector versus Delivery Class</u>

3. <u>Other Cost Allocation Issues</u>

a. <u>Railroad Cost Allocation Adjustment (related to ComEd's Use of Railroad Customer Facilities)</u>

b. <u>Residential Cost Allocation Adjustment</u>

City/CUB[10] maintain that the only costs that should be regarded as customer-related are the costs of standard meters and the costs of printing and sending bills. However, City/CUB indicate that this is true only within the residential sector. Moreover, while they never presented a proposed ECOSS in this proceeding, it appears that City/CUB intend for several other costs to

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[9] ComEd also has met the Commission directive regarding the Railroad Delivery Class and facilities below 12 kV. ComEd Init. Br. at pp. 15-17. *See also*, ComEd Exs. 3.10 and 3.12.

[10] City of Chicago ("City") and Citizens Utility Board ("CUB"), together ("City/CUB").

be reallocated between the three customer sectors[11] on the basis of customer-related factors, and that only after the portion of these costs has been so reallocated would the costs then be further reallocated among the four residential delivery classes on the basis of usage. City/CUB Ex. 1.1, City/Cub Init. Br. at 22. The recommendations that the City/CUB make seem to have contradictory features, with costs first allocated using customer-related factors among the sectors but then further allocated among the four residential delivery classes within the residential sector on a different basis. In addition, the City/CUB proposal could be considered incomplete because it is silent with respect to how these other costs should be allocated among the delivery classes within the nonresidential sector and among the delivery classes within the lighting sector. Because City/CUB's proposal explicitly states that the change in allocation is to be just within the residential sector (*Id.*), it appears that City/CUB intend for these other costs to continue to be considered customer-related and the current allocation methodology applied as between the three customer sectors and within the nonresidential and lighting sectors.

To clarify, in the event that the Commission were to adopt City/CUB's cost allocation proposal, ComEd will follow the cost allocation methodology provided in City/CUB Ex. 1.1 and take the following actions:

1. Allocate the subject costs *on the basis of customer-related allocation factors* in the ECOSS to determine the portions of the costs to be allocated to the residential sector, the nonresidential sector, and the lighting sector (City/Cub Ex. 1.1 at 3);

[11] The three customer sectors are the residential sector, the nonresidential sector, and the lighting sector.

2. Take the amount allocated to the residential sector as determined in the previous first action and begin to allocate it among the four residential delivery classes *on the basis of usage (kWh)* (City/CUB Ex. 1.1 at 4);
3. Take the amount allocated to the nonresidential sector as determined in the previous first action and continue to allocate it among the eight nonresidential delivery classes *on the bases of the currently used customer-related allocation factors* (City/CUB Init. Br. at 22); and
4. Take the amount allocated to the lighting sector as determined in the previous first action and continue to allocate it among the three lighting delivery classes *on the bases of the currently used customer-related allocation factors* (*Id.*).

D. **Overall ECOSS Recommendation**

III. **CUSTOMER CARE COSTS**

REACT continues to argue that the Commission order ComEd to assess the level of customer care costs incurred in providing supply services and order ComEd to remove these costs from its delivery service revenue requirement and recover them instead in its supply rates. REACT Init. Br. at 29-42. Staff has also reviewed REACT's arguments in this regard and recommends the Commission reject REACT's proposal. Staff Init. Br. at 24-28. The Commission itself has previously considered and rejected the same argument three times.[12]

[12] *See*, Donovan Reb., ComEd Ex. 9.0, 12:247-13:265; Docket No. 07-0566 Order, dated 9/10/08, at 207-208, Docket No. 08-0532, dated 4/21/10, Order at 62, and ComEd 2010 Rate Case Order at 201-211.

REACT here has articulated no change in circumstances that would warrant the Commission's revisiting this subject, let alone require a different outcome. ComEd Init. Br. at 21-23.

The Commission should again reject REACT's attempts to arbitrarily shift customer service costs to ComEd's supply customers as there is no evidence to establish that any of these costs are attributable to supply. REACT does not and cannot refute the two central facts here, (1) that of ComEd's 3.8 million customers, only 1.2 million customers still receive supply from ComEd and (2) that despite this migration to RES supply, ComEd's customer service costs have not declined, they have increased. ComEd Init. Br. at 23. The implication of these facts is clear. These are costs that ComEd incurs in providing delivery services to all of its customers, not just those that take supply from ComEd. Arbitrarily shifting them to just customers that take supply from ComEd is unfair, not just for ComEd but also for those customers that take supply from ComEd. REACT's proposal should be summarily rejected.

IV. <u>RATE DESIGN</u>

A. <u>Overview</u>

As indicated earlier, despite certain claims of Intervenors to the contrary, ComEd has met all the directives set forth in previous Commission Orders. Generally, ComEd has not taken a position on the various rate design proposals. However, based on the evidence presented, ComEd recommends that the Commission retain the Commission-approved SFV rate design for residential customers and nonresidential customers in the Watt-Hour Delivery Class. ComEd also requests that the Illinois Electricity Distribution Tax Charge ("IEDT") continue to be applied based on a $/kilowatt-hour ("$/kWh") charge for all customers.

B. <u>Potentially Uncontested Issues</u>

C. Potentially Contested Issues

1. Residential

a. Straight-Fixed-Variable (SFV)

City/CUB's and the AG's[13] Initial Briefs each present tens of pages of argument essentially urging the Commission to reverse its May 2011 decision to adopt a modified SFV rate design for ComEd's residential customers. City/CUB Init. Br. at 23-53; AG Init. Br. Corr. at 8-30. Despite the length of their arguments on this topic, City/CUB and the AG fail to address a critical point that undermines their claims: nothing has changed in the past 28 months to warrant the Commission abandoning its decision to adopt a modified SFV rate design for residential customers. This question was litigated fully in ComEd's 2010 Rate Case and the positions of City/CUB and the AG were rejected then and, while repackaged here, should be rejected again.

Staff disagrees with City/CUB's and the AG's positions and recommends that the Commission retain its current SFV rate design for residential customers. Staff Init. Br. at 34. Moreover, Staff correctly notes that in its 2010 Rate Case Order the Commission never contemplated that the SFV rate design would be completely eliminated in the next rate design docket. *Id*. at 33. Meanwhile, ComEd's Initial Brief addressed and refuted key elements of the City/CUB and AG claims and that discussion will not be repeated here. ComEd Init. Br. at 26-30. However, certain City/CUB and AG claims require a further response, as detailed herein.

(i) The Commission Did Not Direct ComEd to Create A Low-Use Residential Customer Sub-Class

When approving a modified SFV rate design for ComEd's residential customers in May 2011, the Commission expressed interest in how such a design may impact low-use customers. 2010 Rate Case Order at 232. Specifically, the Commission stated:

[13] The Illinois Attorney General ("AG").

> The Commission finds the record lacks enough evidence to support AG/CUB's claim that ComEd incurs a lesser cost in providing delivery service to its Watt-Hour Residential Delivery Class' low-use customers versus higher-use customers. However, the Commission takes particular note of arguments regarding the possible disparate impact of a SFV design on low-use customers, especially in the Chicago region. Therefore, in its next rate proceeding, ComEd must provide evidence that demonstrates *whether the impacts* on the low-use sub-group in the residential customer class *are such that it would be appropriate to have a new class cost of service and rate design* for that identifiable group. The Commission also *encourages ComEd to explore how it defines the low-use customer sub-class*. Finally, the Commission does not find that a SFV proposal is attempting to recover short term marginal costs. Instead, the SFV proposal is intended to recover additional fixed delivery costs through higher fixed delivery charges.

Id. (emphasis added). Nothing in the Commission's Order directed ComEd to create a low-use sub-class, contrary to the claims of City/CUB and the AG. City/CUB Init. Br. at 25-27; AG Init. Br. Corr. 30-35. ComEd conducted an extensive assessment of the impact of the SFV rate design on residential customers and found that of approximately 2.7 million residential customers analyzed[14], about 3% of these customers[15] experienced an increase in total electric service bills of 10% or more due to the implementation of SFV delivery service charges. ComEd Ex. 2.33 Tables 9-12 at 27-30; Tenorio Sur. ComEd Ex. 13.0, 25:491-27:508. Further study of customers with the lowest usage level in each of the classes showed that, in many cases, (a) the premises are not occupied for long periods of time (ComEd Ex. 2.33 at 16) or (b) the account is not for residential day-to-day living purposes, but rather for a specific overall residential building purpose, such as an alarm or fire pump (ComEd Ex. 2.33 at 23). Moreover, the low use

[14] Not all residential customers were included in the analysis. A customer was excluded from the analysis if it (a) was not in the ComEd billing system for the twelve monthly billing periods of 2010 or (b) exhibited zero usage for 24 consecutive monthly billing periods (ComEd Ex. 2.33 at 9).

[15] This consisted of approximately 78,000 low usage customers out of about 1,947,800 customers studied in the Single Family Without Electric Heat ("SFNH") Delivery Class, zero customers out of about 715,700 customers studied in the Multi Family Without Electric Heat ("MFNH") Delivery Class, 3,000 low usage customers out of about 30.150 customers studied in the Single Family With Electric Heat ("SFH") Delivery Class, and 2,250 low usage customers out of about 112,150 customers studied in the Multi Family With Electric Heat ("MFH") Delivery Class.

customers that experienced the greatest increases due to the implementation of the SFV rate design were single family residences with electric heat in the two lowest usage percentiles. Of the 604 total residences in those two percentiles, aerial photography indicated that 155 appear to be vacation residences. ComEd Ex. 2.33 at 16; Tenorio Sur. ComEd Ex. 13.0, 27:504-505.

ComEd's study also considered that the nature of residential customers is not static and unchanging. In its analysis of those 2.7 million residential customers, ComEd analyzed the usage of the customers by percentile within each of the four residential delivery classes[16]. From the total of 400 percentiles, all 100 of the SFNH percentiles had customers with some zero monthly usages, all 100 of the MFNH percentiles had customers with some zero monthly usages, 73 of the SFH percentiles had customers with some zero monthly usages, and 97 of the MFH percentiles had customers with some zero monthly usages. Overall, 92.5% of the percentiles had at least one customer that had at least one month with a zero electricity usage. ComEd Ex. 2.33 at 10. In many cases, usage fluctuated from near zero to several hundred kWh from one month to the next in many situations. *Id.* at 11. Significant numbers of customers in the lowest usage percentiles used at least twice as much electricity as their percentile's monthly average usage in at least one month of the year. Tenorio Sur. ComEd Ex. 13.0, 17:359-20:378. Low average usage does not necessarily indicate steady low usage. *Id.*, 17:346-348. Moreover, a customer who is among the lowest use customers may experience a life event such as a change in work schedule, marital status, or the birth of a child that would cause the customer to change his or her electricity usage so that the customer would move to a higher percentile. ComEd Ex. 2.33 at 17.

[16] That is, for each residential delivery class, SFNH, MFNH, SFH, and MFH, the customers were segmented by percentile on the basis of annual electricity usage. Percentile 1 included customers with the least annual electricity usage in the class, while Percentile 100 included customers with the most annual usage in the class. Within a given delivery class, each percentile has approximately the same number of customers. For example, for the SFH Delivery Class there were 301 customers in Percentile 1, 303 customers in Percentile 2, 304 customers in Percentile 51, with numbers ranging from 300 to 304 for each of the other percentiles.

Equally importantly, the Company must plan and build its distribution facilities to provide electric delivery service based upon expected maximum demands at a premises, regardless of the electricity usage of the current occupant of the premises or that occupant's current lifestyle. The Company does not remove and install distribution facilities as people move out and in of individual premises. It is not the monthly electricity usage, even if that usage is low for several months out of a year, or even if it is consistently low for the current resident, that determines the delivery service facilities the Company must have in place to provide electric service to its customers. *Id.*

Furthermore, ComEd disagrees with the City/CUB contention that ComEd inappropriately focused attention on geography in its study of the usage of residential customers. CUB/City Init. Br. at 24-25. The Commission noted a concern about "low-use customers, especially in the Chicago region." 2010 Rate Case Order at 232. By analyzing customer usage inside and outside the City of Chicago by zip code, ComEd was able to provide data to address the Commission's concern pertaining to customers located in the "Chicago region" as well as the remaining customers located throughout its service territory. ComEd Ex. 2.33 pp. 17-22, Appendix A, Appendix B; Tenorio Reb. ComEd Ex. 6.0, 21:361-22:370.

In summary, the observations and evidence in ComEd's analysis demonstrate that there is no cost basis for creating additional residential delivery classes within the Company's rate structure, nor is there a pervasive inequity that might warrant a restructuring of charges for delivery service within the existing residential delivery classes. In particular, the following observations and evidence are especially significant:

- The Company must plan its distribution system and incur costs to put facilities in place in that system on the basis of customers' maximum demands for electricity (kW) and not simply on electricity usage (kWh).
- Electricity usage at any given residential premises may change from low levels to high levels for a number of reasons.
- Customers with low levels of electricity usage are located in the same zip codes, even within the same block or building, as customers with high levels of electricity usage.
- Most customers did not see a dramatic increase in their bills for electric service due to the institution of the SFV rate design.
- Many accounts with low electricity usage have designations that indicate the electricity usage, or lack thereof, is for an overall building purpose, such as an alarm or fire pump that is rarely, if ever used, and are not for premises that are used for general day-to-day residential living purposes.

ComEd Ex. 2.33 at 31, Tenorio Reb. ComEd Ex. 6.0, 23:371-391. Accordingly, ComEd determined there is no unchanging, identifiable low-use group. Thus, ComEd did not propose to create such a sub-class.

Importantly, Staff did not take issue with ComEd's interpretation of the Commission's 2010 Rate Case Order, or with the results in ComEd Ex. 2.33, ComEd's *Residential Electricity Usage and Bill Impacts of The Straight Fixed Variable Rate Design*. Staff Init. Br., pp. 34-35.

(ii) The AG's Claims About Low-Use Customers are Misplaced.

The AG seeks to paint the SFV rate design issue as one about a customer's income and fairness, claiming that a customer living in a studio apartment without air conditioning is subsidizing a penthouse condominium owner with the highest energy usage. AG Init. Br. at 5, 8.

This claim should be rejected for several reasons. First, the AG's claim is not based on fact. Indeed, the AG's brief offers no citation to support the claim. Instead, what the facts show is that there is no correlation between low income and low-use customers. Hanser Reb., ComEd Ex. 10.0, 23:436-24:460. Second, the AG's focus on usage also misses the point. ComEd deploys facilities based on anticipated maximum demand on those facilities. ComEd Ex. 2.33 at 6-7. Whether a customer in a particular unit uses 100 kWh in a month or 1,000 kWh does not change the facilities installed to serve him or the costs that ComEd incurs. ComEd Ex. 2.33 at 8-9. ComEd must size and install facilities to meet anticipated demand. Those costs are fixed and do not fluctuate based on the level of customer usage. Finally, the AG's claim overlooks the fact that ComEd plans and installs facilities to serve residential customers based on the premises.

An example using the construction of a multi family complex in Chicago illustrates this point. Long before customers take up residence in the complex, the developer of the complex and ComEd work together to determine the electrical requirements for the complex, which is based upon the developer's computations for connected load per unit in the building. The developer provides ComEd with that kW/unit information, as well as the number of units in the complex, in order for ComEd to determine the distribution facilities, and their associated costs, needed to serve the units in the multi family complex. ComEd then upgrades existing distribution facilities or installs new distribution facilities to meet the potential electrical needs for every unit in the complex. This all happens before the first customer takes up residence in the complex. It also happens regardless of the occupancy rate or if tenants end up being high kWh or low kWh use customers. Tenorio Sur. ComEd Ex. 13.0, 12:250-263. When the AG's hypothetical low-using studio apartment tenant moves out and is replaced with a higher usage tenant, there is no change to ComEd's facilities that serve that premises. The AG's claims on this point should be rejected.

(iii) An SFV Rate Design Does Not Prevent A Customer From Decreasing Electricity Usage Or Impede Energy Efficiency

The AG claims that an SFV rate design diminishes the ability of customers to control and decrease their electricity usage, and contradicts the Public Utilities Act's ("PUA") energy efficiency goals. AG Init. Br. Corr. at 9, 25-28. Such claims are baseless. First, the Commission considered and expressly rejected a similar claim in its 2010 Rate Case Order. 2010 Rate Case Order at 231-32 ("The Commission is not convinced that an SFV rate design reduces the incentive to conserve electricity."). Indeed, *nothing* associated with an SFV rate design prevents a customer from using less energy – the decision on how much electricity a customer uses lies solely with the customer. As the Commission stated:

> The actual commodity costs associated with the electric power and energy, which is the majority of the total electric bill in addition to the delivery costs and vary directly with usage. Customers under ComEd's proposal would have an incentive to conserve because they can avoid commodity costs associated through conservation.

Id. at 231. The AG did not, and cannot, prove otherwise. In fact, an SFV rate design simply is a mechanism, consistent with sound regulatory policy, that accurately signals to customers the impact of their decisions by providing for the recovery of fixed costs through a fixed charge. Hanser Reb., ComEd Ex. 10.0, 1:23-2:25.

Similarly, an SFV rate design does not impede energy efficiency efforts or contradict the PUA. To the contrary, an SFV tariff incentivizes a utility to support energy efficiency efforts. Hanser Reb., ComEd Ex. 10.0, 9:175-10:199. An SFV rate allows a utility to recover its fixed cost of service even where the utility may be delivering less electricity due to energy efficiency efforts. *Id.*

Meanwhile, ComEd witness Hanser explained that a delivery charge with a high, non-cost-based volumetric charge will encourage customers to invest in facilities that may not be cost-effective and will lead to substantial cross-subsidies between customer segments. *Id*., 27:534-37. The goal of energy efficiency is most effectively advanced through ratepayer-funded demand-side management programs, not inefficient rate design. *Id*., 27:537-28:541.

Accordingly, the Commission's adoption of an SFV rate design does not conflict with the PUA's energy efficiency goals. Indeed, the AG's reference to Section 8-103 of the PUA is misplaced. AG Init. Br. Corr. pp. 25-26. Section 8-103 has nothing to do with establishing delivery service rates. Rather, that Section speaks to the energy efficiency and demand-response measures a utility is required to support. ComEd, of course, has such programs in place, though that is not the subject of this proceeding.

For all of the reasons discussed above, the AG's claims about an SFV rate design's purported impact on energy efficiency are without merit.

(iv) EIMA Does Not Guarantee 100% Recovery of Commission-Approved Revenue Requirement.

Both City/CUB and the AG each assert that ComEd no longer needs SFV rates because it is virtually guaranteed recovery of all of its costs under EIMA. City/CUB Init. Br. at 28-29; AG Init. Br. Corr. at 5, 12. This claim is false. As the Commission is well aware, EIMA does no such thing. EIMA reconciles actual costs to projected costs: it does not reconcile the Commission-approved revenue requirement for a particular year to the actual revenues collected during that year. Brinkman Reb., ComEd Ex. 5.0 Corr., 8:164-9:181; Brinkman Sur., ComEd Ex. 12.0, 4:68-5:90. Simply put, the establishment of ComEd's revenue requirement under the provisions of EIMA offers no basis for the Commission to reverse its decision to approve the use of an SFV rate design for residential customers.

b. Consideration of low-use sub class

See Section IV. C. 1. a. i. infra.

2. Non-Residential

a. Preliminary Issues

b. Movement Toward ECOSS-Based Rates

REACT asserts that since the delivery service charges established in Docket No. 05-0597, ComEd's 2005 general rate case proceeding, that became effective in 2007, the ELL Delivery Class and HV Over 10 MW customers have experienced "enormous cost impacts." REACT Init. Br. at 44. REACT maintains that the Commission should not take the next step in the movement to cost-based rates. *Id.* On the other hand, in arguing that the ELL and HV Delivery Classes should be moved halfway to cost based rates and that the Railroad Delivery Class should be moved a third of the way to ECOSS-based rates, CG argues that the formula ComEd uses to calculate the next step should be revised. CG Init. Br. at 15.

With respect to REACT's claim that the ELL Delivery Class and HV Over 10 MW customers "would face enormous rate increases" (REACT Init. Br. at 47)[17], ComEd showed that the expected increases for the ELL Delivery Class and HV Over 10 MW customers from the 2005 Rate Case Order, under which delivery service charges became effective in 2007, and the 2013 RDI are 50.45% and 29.32% based upon the RDI rate design, respectively. Tenorio Reb., ComEd Ex. 6.0, 27:470-28:483. To provide context, ComEd noted its total company increase in revenue requirement over the same period was 42.53% and compared that to increases in costs

[17] REACT witness Bradley O. Fults calculated there would be "massive, unjustified rate increase" of more than 134% for the ELL Delivery Class and more than 55% for the HV Over 10 MW customers. His analysis is based upon moving all delivery classes to 100% revenue responsibility levels. Fults Dir., REACT Ex. 1.0, 17:393-396.

for other items, such as home heating oil (64%), unleaded gasoline (70%), hospital services (53%), college tuition (43%), bread (34%), and prescription drugs (22%). *Id.*

Further, ComEd Ex. 6.12 provides information on a dollar basis as well as a cents per kilowatt hour ("¢/kWh") basis in order to provide a unitized basis to make comparisons for all customer classes. Tenorio Reb., ComEd Ex. 6.0, 28:494-29:499. Based on this analysis, the Watt-Hour (62.48% increase), Multi Family Without Electric Heat (61.71% increase), and Single Family Without Electric Heat (58.35% increase) classes experienced the greatest changes. *Id.* Overall the Residential Sector changed by 57.33% and the Nonresidential Sector increased by 28.36%. *Id.* ComEd notes that these values do not reflect the impacts of the changes in cost allocation that would result from the adjustments proposed by IIEC and REACT or any impacts from the studies proposed by REACT, IIEC and CTA/Metra.

REACT also argues that even though ComEd witness Charles S. Tenorio disagreed with the percentage increases calculated by REACT, on cross examination, Mr. Tenorio demonstrated the cost implications of movement toward cost-based rates for ELL Delivery Class and HV Over 10 MW customers would be "enormous." REACT Init. Br. at 11, 47. Mr. Tenorio did confirm that the math calculations for the differences in costs computed by counsel for REACT for various customers was correct; however, he stated that he could draw no conclusion as to whether such impacts were significant or not for those customers. Tenorio, 9/25/2013, Tr., 428:22-429:4.

Finally, CG recommends that the formula ComEd uses to calculate the next step in the movement toward cost-based rates be revised so as to move the ELL and HV Delivery Classes halfway to cost and move the Railroad Delivery Class one-third of the way to cost. CG Init. Br. at 15. CG also suggests a formula to be used to make such calculations to implement its proposal. *Id.* As indicated in its Initial Brief, ComEd takes no position regarding the next step towards cost-based rates. ComEd Init. Br. at 31-32. With respect to CG's proposed formula in footnote 5 on page 15 of its Initial Brief, if ComEd understands this equation correctly, the results would be the same as ComEd's formula for calculating the next step to cost-based rates. A way in which to adopt the CG recommendation to move the ELL and HV Delivery Classes halfway to cost would be for the Commission to adopt the 85.95% and 92.65% revenue responsibilities for the ELL and HV Delivery Classes that are listed on page 14 of the CG Initial Brief. Correspondingly, a way in which to adopt the CG recommendation to move the RR Delivery Class one third of the way to cost would be for the Commission to adopt a 90.07% revenue responsibility for the RR Delivery Class based upon the current 85.1% revenue responsibility for that class[18]. CG Init. Brief at 14. The Commission could then instruct ComEd to determine applicable delivery service charges based upon those revenue responsibilities.

c. **<u>Straight Fixed Variable for Watt-Hour Delivery Class</u>**

3. **<u>Street Lighting</u>**

City/CUB argue that ComEd has used the same calculation for dusk to dawn lighting customers that it did prior to the 2010 Rate Case Order, which directed ComEd to use the Chicago Method. City/CUB Init. Br. at 55. For all the reasons stated in its Initial Brief (at 33-34), ComEd properly implemented the Commission's 2010 Rate Case Order using the Chicago Method for every subsequent ECOSS. However, if it is determined in this proceeding that the delivery service charges for the City of Chicago dusk to dawn lighting customer should be less than those applicable to other municipal dusk to dawn lighting customers, the Commission would need to instruct ComEd on how to allocate the revenue shortfall that ComEd would no

[18] 100%-85.1% = 14.9%. One third of 14.9% equals 4.97%. 85.1% + 4.97% = 90.07%

longer be recovering from the City of Chicago's dusk to dawn lighting customer. Tenorio Sur., ComEd Ex. 13.0, 37:721-723. For example, the Commission could direct ComEd to correspondingly increase the delivery service charges for other municipal customers within the Dusk to Dawn Lighting Delivery Class, who may or may not be participating in this proceeding. *Id.*, 37:723-726.

Further, ComEd notes that there have been five compliance filings since the 2010 Rate Case.[19] City-CUB did not address the delivery service charges for the City of Chicago dusk to dawn lighting customer following those filings or even in their direct testimony in this proceeding. Interestingly, City/CUB states in their Initial Brief (at pp. 2-3) "… no party in either the past or present docket has proposed geographic [residential] rates, **and no other ComEd rate class contains a geographic component**." (emphasis added) However, this is precisely what their proposal concerning the City of Chicago dusk to dawn lighting service seeks.

4. Illinois Electricity Distribution Tax

Though the Commission rejected similar claims in its 2010 Rate Case Order (2010 Rate Case Order at 285), REACT again argues that ComEd should not recover costs associated with the Illinois Electricity Distribution Tax through application of the current $/kWh IEDT for certain nonresidential customers. REACT Init. Br. at 50. IIEC now joins REACT and argues that ComEd did not demonstrate any legitimate reason for separating the IEDT from other distribution facilities charges ("DFCs"). IIEC Init. Br. at 22-23. The REACT and IIEC arguments are contrary to cost causation principles[20] and the facts regarding IEDT. Unlike other

[19] Compliance filings pursuant to the 2010 Rate Case Order, 2011 Formula Rate Case Order, 2011 Formula Rate Case Order on Rehearing, Docket No. 12-0321 ("2012 FRU Case") Order, and the legislation enacted May 22, 2013 (Public Act 98-0015). Tenorio Sur., ComEd Ex. 13.0, 34:663-35:667.

[20] REACT and IIEC both support the application of cost causation principles. REACT Init. Br. at 17-20; IIEC Init. Br. at 10-11, 14, 23.

costs recovered in DFCs, ComEd incurs costs associated with this tax based on usage. Thus, as the Commission correctly concluded, the IEDT should be a per-kWh charge as opposed to the DFC which is a $/kW charge. 2010 Rate Case Order at 285. Neither REACT nor IIEC have set forth any evidence as to why the Commission should reverse its decision made in the 2010 Rate Case Order.

5. Other Issues

D. Overall Recommended Rate Design

V. OTHER MISCELLANEOUS CHARGES AND FEES AND CORRESPONDING TARIFF REVISIONS

A. Potentially Uncontested Issues

1. Metering Facilities Lease Charges and Standard Meter Allowances

2. Light Emitting Diode Lighting Units

3. Other Miscellaneous Charges and Fees except for Invalid Payment Fee and Reconnection Fee

4. Corresponding Tariff Revisions

B. Potentially Contested Issues

1. Invalid Payment Fee

ComEd proposes to increase its invalid payment fee from $21.00 to $34.10 to align it with current costs, costs that have significantly increased recently. ComEd Init. Br. at 38-39. The AG continues to argue that the Commission should not adopt ComEd's proposal in this proceeding as the evidence does not support an increase. AG Init. Br. Corr. at 37-39. Contrary to the AG's assertions, the record evidence clearly supports an increase in the fee. Donovan Reb., ComEd Ex. 9:0, 6:109-8:151; Donovan Sur., ComEd Ex. 15.0, 2:40-3:48. The AG has not, and cannot, dispute that ComEd's costs have increased due to the financial institution fee increase from $1.60 to $7.00 and an increase in the number of customer calls received and manual processing time. ComEd Init. Br. at 38. Staff supports ComEd's proposal and does not dispute that the methodology ComEd used to compute the fee was approved in the 2010 Rate Case and the assumptions, inputs and calculations appear reasonable. Staff Init. Br. at 43. Based on the foregoing, the Commission should adopt ComEd's Invalid Payment Fee proposal.

2. **Reconnection Fee**

ComEd continues to recommend the Commission adopt ComEd's proposal to increase the Reconnection Fee from $56.50, as approved in the 2010 Rate Case Order, to $63.43. The Reconnection Fee would apply to both standard meters and smart meters (i.e., Advanced Metering Infrastructure ("AMI") meters) because there is no substantial difference in the costs of reconnecting customers with standard meters and those with smart meters. ComEd Init. Br. at 39-40. Staff continues to support a two-tiered Reconnection Fee proposal: a fee of $63.43 for customers with standard meters and another fee of $9.56 for customers with smart meters. Staff Init. Br. at 44-45. Staff does not dispute that for the foreseeable future, the costs ComEd will incur to reconnect meters are the same for AMI and non-AMI customers. Neither does Staff dispute that AMI costs are socialized across all customers. Accordingly, there is an inconsistency and even an element of unfairness attendant to providing a reduced reconnection charge solely to AMI customers. The record evidence and long standing application of cost causation principles support the adoption of ComEd's Reconnection Fee proposal.

VI. OTHER

A. Distribution System Losses

See Section VI.B. herein.

1. Distribution System Loss Study

2. Secondary and Service Loss Study

B. Unaccounted For Energy

In an effort to salvage its Unaccounted For Energy ("UFE") argument, REACT argues that UFE is part of the Distribution Loss Factors ("DLFs") that are computed based upon the Distribution System Loss Study. REACT Init. Br. at 51-52. This argument fails. As ComEd witness Michael F. Born testified:

> Generally, distribution losses represent the difference between energy that is *delivered to the distribution system* and the energy that actually reaches customers. *Distribution system losses* are an inevitable consequence of electricity flowing through the electric distribution system and, in some cases, simply from elements of that system being connected, or "energized," regardless of whether electricity is flowing through them. They are the result of the physics of electrical power systems, because no system element can be 100% efficient

Born Dir., ComEd Ex. 4.0, 5:87-93. (emphasis added). *Distribution losses* are then used to determine the coincident and non-coincident peak demands by delivery class that are used to allocate the cost of distribution facilities that provide service among delivery classes. Id., 5:95-99. UFE does not concern ComEd's distribution system but is a wholesale electricity issue exclusively in the jurisdiction of the Federal Energy Regulatory Commission. *See* 16 USC 824(b).

Furthermore, instead of asking questions of Mr. Born, who sponsored the Distribution System Loss Study, REACT conducted cross examination on Mr. Tenorio, ComEd's rate design witness, who clearly indicated he was not the witness to address UFE. Tenorio, 9/25/13, Tr., 409:8-15. Accordingly, that examination yielded nothing useful with regard to this subject. What is important is that there is no UFE charge in ComEd's Schedule of Rates. Tenorio Reb., ComEd Ex. 6.0, 38:692-694. Because this proceeding was initiated to investigate ComEd's *retail delivery service* cost allocation and rate design in a revenue requirement neutral manner under Section 16-108.5(e) of the PUA, UFE at the very least is outside the scope of this proceeding.

Therefore, for all the reasons stated above and in ComEd's Initial Brief (at p. 43), the Commission should reject REACT's proposal regarding UFE.

C. Railroad Customers - Utilization of Railroad Customers' Facilities Report

D. Rate BES Electric Supply Charges

VII. CONCLUSION

The Commission should approve a cost of service study and delivery service charges based on traditional cost-causation principles to ensure all customers are paying their fair share, with appropriate consideration for the concerns raised by ComEd above and in its Initial Brief in this proceeding.

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Respectfully submitted,

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