



**TABLE OF CONTENTS**

**I. INTRODUCTION / REHEARING REQUEST.....2**

**II. THE FINAL ORDER SHOULD BE MODIFIED ON REHEARING TO REQUIRE THAT THE RATE DESIGN MORE ACCURATELY ALLOCATE DISTRIBUTION SYSTEM COSTS .....7**

**III. THE FINAL ORDER SHOULD BE MODIFIED ON REHEARING TO REQUIRE THAT COMED PERFORM A MORE ACCURATE DISTRIBUTION SYSTEM COST ALLOCATION STUDY.....14**

**IV. CONCLUSION .....18**

**BEFORE THE ILLINOIS COMMERCE COMMISSION  
STATE OF ILLINOIS**

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

**VERIFIED APPLICATION FOR REHEARING OF REACT**

The Coalition to Request Equitable Allocation of Costs Together ("REACT"),<sup>1</sup> by and through its attorneys, Quarles & Brady LLP, pursuant to Section 10-113 of the Public Utilities Act (the "Act") (220 ILCS 5/10-113) and Section 200.880 of the Rules of Practice of the Illinois Commerce Commission ("Commission") (83 Ill. Admin. Code 200.880), respectfully submits this Verified Application for Rehearing of the Commission's December 18, 2013 Final Order ("Final Order") in the above-captioned proceeding regarding revenue neutral tariff changes related to the rate design of Commonwealth Edison Company ("ComEd").

Consider how you would react if the cashier at the grocery store took several high priced items from someone else's cart, scanned them and added them to your bill, and then returned them to the other person's cart, acknowledging that the other person would not be charged for

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<sup>1</sup> The REACT members currently include: A. Finkl & Sons, Co.; Aux Sable Liquid Products, LP; Charter Dura-Bar (f/k/a Wells Manufacturing, Inc.); The City of Chicago; Commerce Energy, Inc.; Flint Hills Resources, LP; FutureMark Paper Company; Interstate Gas Supply, Inc.; The Metropolitan Water Reclamation District of Greater Chicago; PDV Midwest Refining, LLC (CITGO); and United Airlines, Inc. The positions stated herein do not necessarily represent the positions of any particular member of REACT. The City of Chicago is not participating in the Customer Care Cost issue in this proceeding and, therefore, as a member of REACT, the City does not join in any discussion of Customer Care Costs contained herein.

those items. Further, consider how you would react if, when you asked the cashier to review the charges, the cashier said that such a review would be overly burdensome. Clearly, such a result would be unfair, inequitable, and likely illegal. Yet, in essence, that is what has happened to ComEd's largest customers.

It is an undisputed fact that the rate design for certain customers groups attribute to them *millions of dollars* of costs associated with identifiable and specific ComEd *distribution facilities which those customers do not use*. The Final Order erroneously declines to modify ComEd's rate design to remedy this problem and declines even to order ComEd to perform a further study of this issue to more accurately allocate these costs. The Final Order's conclusions on these points are arbitrary, capricious, contrary to the evidentiary record, and contrary to Illinois law. Accordingly, REACT respectfully seeks rehearing.

## I.

### INTRODUCTION / REHEARING REQUEST

The relevant facts are undisputed, the law is unambiguous, and the relevant policy is clear. The Final Order accurately includes a factual finding that certain customers groups are *not* using certain specific ComEd distribution facilities to receive their electricity. (*See* Final Order at 51.) The law requires that ComEd's rates be based upon the facilities that customer classes use to receive service. (*See* 220 ILCS 5/16-108(c), 220 ILCS 5/1-102(d)(iii).) The Final Order itself repeatedly endorses the policy of designing rates based upon cost-causation principles. (*See, e.g.* Final Order at 33, 37-38) (requiring ComEd to modify its ECOSS due to facilities which the Railroad Class does not use).) Nevertheless, the Final Order permits ComEd to impose a cost of **\$9 million a year** upon its largest customers for facilities that the Final Order acknowledges they do not use. (*See* Final Order at 51.) In other words, in the face

of hard facts that demonstrate that those customer groups are being significantly overcharged, the Final Order determines that nothing should change, and declines even to have ComEd conduct a statistically valid study to evaluate the extent to which those distribution facilities are used *by all customer classes*, even though ComEd has openly admitted, and the Final Order finds, that such a study is feasible. Such a result is contrary to law and sound public policy.

The undisputed facts were established through comprehensive and unchallenged expert testimony from Harry Terhune -- a former ComEd Transmission and Distribution Planning Manager, with 31 of his 46 years of electric utility engineering experience at ComEd, and upon whose testimony the Commission previously relied. (*See* REACT Ex. 2.0 at 2:26-3:58; ICC Docket No. 10-0467 dated May 24, 2011 at 190-91, 195-96.) REACT's filings in the instant proceeding contain a comprehensive recitation of the evidence demonstrating that the Extra Large Load Delivery Class ("ELL class") and the High Voltage Over 10 MW subclass ("HV Over 10 MW class")<sup>2</sup> are being overcharged. (*See, e.g.*, REACT Ex. 2.0 at 18:434-39:925; REACT Ex. 5.0 6:105-21:436; REACT Br. on Exceptions at 3-19, 21-26, 51-53.) In particular, REACT expert witness Harry Terhune presented an engineering analysis of the ComEd distribution system that included:

- (1) A detailed explanation of how that system works;
- (2) A focused discussion of which customers do and do not use particular distribution facilities;

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<sup>2</sup> In its filings in this case prior to the issuance of the Proposed Order, REACT referred to the Extra Large Load Delivery Class as the "ELLC." However, to conform to the terminology used in the Proposed and Final Orders, REACT now refers to the Extra Large Load Delivery Class as the "ELL."

- (3) A conservative presentation of the appropriate reallocation based on current data; and
- (4) A proposal for a study to further refine the analysis for *all customer classes*.

(See generally REACT Exs. 2.0 & 5.0.) Mr. Terhune's analysis -- which stands as unrebutted evidence in this proceeding -- demonstrates that the rates for ComEd's ELL class and HV Over 10 MW class customers are artificially inflated by **\$9 million** per year because ComEd's ECOSS assumes that they use facilities that, in fact, they do not use. REACT's filings also contain a comprehensive explanation of the evidentiary basis to direct ComEd to undertake a statistically valid comprehensive Shared Distribution Lines Proportional Cost Assignment Study, which ComEd admits is feasible, to further refine the ComEd ECOSS for each *customer class* (rather than each individual customer, as incorrectly indicated in the Final Order). (See REACT Init. Br. at 25-27; REACT Reply Br. at 20-27; REACT Br. on Exceptions at 26-32; see also IIEC Br. on Exceptions at 13-16.) No party's filings raised any argument or points to any evidence that undercuts those conclusions.

The relevant law likewise is undisputed. The Act mandates the application of cost causation principles to rate design. Section 16-108 of the Act states:

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

(220 ILCS 5/16-108(c) (emphasis added).) Section 1-102(d)(iii) of the Act similarly requires the utilities to ensure:

(d) Equity: the fair treatment of consumers and investors in order that

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(iii) **the cost of supplying public utility services is allocated to those who cause the costs to be incurred.**

(220 ILCS 5/1-102(d)(iii) (emphasis added).) No party contested this legal standard, yet the Final Order fails to comply with it with regard to the rate design for ComEd's largest customers.

Finally, the relevant policy is clear. Although the Final Order fails to apply cost causation principles to the ELL class and the HV Over 10 MW class, the Final Order itself applies cost causation principles to justify many of its conclusions:

- "[The] Commission finds that performing a study for the Railroad Delivery Class to analyze whether there are any cost-causation impacts on the ECOSS results due to the Class' limited geographic nature is in accordance with cost-causation principals and Metra's and CTA's recommendation is adopted." (Final Order at 33);
- "Prior to this proceeding, the Commission directed ComEd 'to study, define, and delete from the costs assigned to the Railroad Class the costs that are associated with the 4kV facilities that are not used to serve the Railroad Class.' (2010 Rate Case Order at 191.)...The Commission finds, consistent with its express directive in Docket No. 10-0467, that costs for facilities at or below 4kV should be excluded from the Railroad Class." (*Id.* at 38);
- "The record in this case identifies that there may be customer care costs that are attributable to the supply function and should therefore be allocated to the supply function to adhere to cost causation principles. Therefore, the Commission directs ComEd to provide an updated Customer Cost Allocation Study that allocates customer care costs between supply and delivery service functions in the next formula rate update filing." (*Id.* at 57.)

The Final Order's selective reliance on cost causation principles for the approval of some adjustments and studies while simultaneously disapproving substantively similar adjustments and studies -- where clear record evidence exists to support the latter adjustments and studies -- legally amounts to arbitrary and capricious, improper discrimination. (*See, e.g., Apple Canyon Lake Prop. Owners' Ass'n v. Illinois Commerce Comm'n*, 2013 IL App (3d) 100832, ¶ 44; *Illinois Power Co. v. Illinois Commerce Comm'n*, 339 Ill. App. 3d 425, 440 (5th Dist. 2003); *see also* 220 ILCS 5/8-101 ("A public utility shall, upon reasonable notice, furnish to all persons who may apply therefor and be reasonably entitled thereto, suitable facilities and service, without discrimination and without delay."); 220 ILCS 5/9-241 ("No public utility shall establish or maintain any unreasonable difference as to rates or other charges, services, facilities, or in any other respect, either as between localities or as between classes of service."))

The Commission consistently has endorsed the application of cost causation principles to rate design issues. In the 2010 ComEd Rate Case, the Commission explained basis for its long-standing commitment to cost causation:

The Commission concludes that it is when customers respond to rates that do not accurately reflect cost causation, that inefficiency results and society suffers.

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The Commission also believes it is important to design rates that reflect cost causation.

(ICC Docket No. 10-0467, May 24, 2011 Final Order at 231-32; *see also id.* at 38, 203, 285; ICC Docket No. 07-0566, Sept. 10, 2008 Final Order at 205 ("Cost-causation principles seek to ensure that all customers are paying their fair share for distribution service."))

Given the clear provisions in the Act and the long-standing Commission policy in support of cost causation principles, it is unsurprising that the parties in this proceeding unanimously agreed that cost causation principles should apply to ComEd's cost of service

studies and resulting rate design. (See REACT Br. on Exceptions at 4, citing Attachment B, Admissions Regarding Cost Causation Principles; see also Tr. 44:15-45:2, 58:22-59:1, 62:4-12, 64:16-65:11, 68:6-10, 69:23-70:2 (ComEd witness Ms. Brinkman); 242:11-244:2 (ComEd witness Mr. Bjerning); 326:16-18 (ComEd witness Mr. O'Sheasy); 402:20-403:22 (ComEd witness Mr. Tenorio); 110:17-19,111:6-112:2 (Staff witness Mr. Rockrohr); 120:7-121:4, 122:21:123:13 (Staff witness Mr. Johnson); 291:8-12 (Kroger Co. witness Mr. Townsend); 301:8:24 (Commercial Group witness Mr. Chriss).) Indeed, ComEd went so far as to indicate that application of cost causation principles was the *only* guiding point that it felt must be used and that otherwise ComEd is "neutral" on the outcome of this proceeding. (See REACT Br. on Exceptions at 5, citing Tr. at 70:13-71:3.)

Accordingly, REACT respectfully requests that the Commission grant rehearing and, consistent with the Act and long-standing Commission policy, enter an Order on Rehearing that directs ComEd to (1) revise its ECOSS to reflect the fact the ELL and HV Over-10 MW customer classes do not use the facilities identified by Mr. Terhune; and (2) further study this issue, so that in ComEd's next rate design proceeding, the costs can be charged more accurately to the cost causers.

## II.

### **THE FINAL ORDER SHOULD BE MODIFIED ON REHEARING TO REQUIRE THAT COMED'S RATE DESIGN MORE ACCURATELY ALLOCATE DISTRIBUTION SYSTEM COSTS**

On its face, the Final Order admits that it is inaccurately allocating millions of dollars of costs to ComEd's largest customers. (See Final Order at 13-14; 49-51.) REACT respectfully requests that the Commission grant rehearing to enter an Order that remedies this situation.

REACT expert witness Mr. Terhune analyzed system data provided by ComEd; presented a detailed engineering analysis that identified with specificity which facilities are used and are *not* used by ELL and HV Over 10 MW class customers; and offered substantial recommended refinements to ComEd's embedded cost of service studies ("ECOSSs"). (*See* REACT Ex. 2.0 at 18:434-39:925; REACT Ex. 5.0 6:105-21:436.) No party contested the accuracy of Mr. Terhune's analysis.<sup>3</sup> (*See generally* Attachment C to REACT Br. on Exceptions, Admissions Regarding The Accuracy And Credibility Of REACT Witness Mr. Terhune's Analysis.)

The Final Order recognizes that Mr. Terhune's analysis demonstrates that the ELL and Over 10 MW classes are being overcharged approximately \$9 million a year for distribution facilities that they do not use or use in only *de minimis* fashion: "**...it is apparent in the evidence presented in this case that certain groups of facilities are not used by larger load customers...**" (Final Order at 51 (emphasis added).) However, despite the Final Order's clear finding that the largest customers are being overcharged, the Final Order declines to direct ComEd to do anything to rectify this situation:

The Commission agrees [with ComEd and Staff] that REACT's proposal is too narrowly focused on a subset of customers and leans toward what parties have termed "allocation by exclusion". The Commission applies cost causation principles to rate design issues. Nevertheless, the distribution system is large and highly complex. As Staff notes, it is not feasible to have a distribution system that maps the use of each customers' facilities so that each customer is only allocated costs for the facilities, or portions thereof, that the customer uses.

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<sup>3</sup> While certain parties expressed a conclusory disagreement with some of REACT's recommendations, no party actually provided a credible critique of the REACT analysis. On the contrary, as demonstrated in Attachment C to REACT's Brief on Exceptions, there were multiple unqualified admissions from other parties' witnesses confirming the accuracy and credibility of Mr. Terhune's analysis.

Furthermore, as ComEd states, REACT does not suggest which delivery classes should be responsible for absorbing the approximately \$9 million reduction to the ELL and HV Over 10 MW customers, nor does REACT discuss cost allocation adjustments for any *de minimis* use of facilities that operate at 4 kV or are in a single-phase or two-phase configuration. Accordingly, the Commission rejects REACT's proposal.

(Final Order at 13-14.)

The Final Order appears to rely heavily upon Staff's opposition to more accurate rate design and the misperception that REACT is suggesting a customer-by-customer analysis, which it is not. (*See id.* *But see* REACT Br. on Exceptions at 15.) Respectfully, that reliance on Staff's position is misplaced, and the implication that a customer-by-customer analysis is suggested by REACT or required for more accurate cost allocation is inaccurate. (*See id.*) REACT's approach to cost allocation is completely consistent with the requirements of the Act, prior Commission decisions, and the policies that are endorsed in the Final Order.

**REACT's Approach Conforms To The Requirements Of The Act  
As Well As Well-Established Commission Policy, Practice, And Direction**

The Final Order improperly criticizes REACT for focusing solely on a "subset of customers" and performing "allocation by exclusion." (Final Order at 13.) Such a criticism is misplaced, since REACT's analysis appropriately conforms to the requirements of the Act, as well as Commission policy, practice and prior direction.

The pejorative use of the phrase "allocation by exclusion" in this section of the Final Order is confusing. (Final Order at 13.) It appears that the Final Order embraces the position of Staff, which referred -- without specifics -- to "repercussions of selectively eliminating some costs for one class." (Staff Init. Br. at 7.) However, the Act specifically requires that costs for customer classes be assigned to "**customers that use the facilities and services associated with such costs.**" (220 ILCS 5/16-108(c) (emphasis added).) The only way to make such an

assignment is to include certain costs and exclude others, which is what REACT witness Mr. Terhune did. (*See* REACT Ex. 5.0 at 18:383-88.) Indeed, the Final Order embraces this methodology in reducing the costs that are assigned to other subsets of customers. (*See, e.g.,* Final Order at 38 (excluding the costs associated with facilities at or below 4kV from the Railroad Class).)

In each of the last three relevant cases -- the 2007 ComEd Rate Case (ICC Docket No. 07-0566); the 2008 Special Investigation Proceeding (ICC Docket No. 08-0532); and the 2010 ComEd Rate Case (ICC Docket No. 10-0467) -- the Commission indicated a need for greater detail and more in-depth analysis of data related to the facilities used by ComEd's largest customers, to determine whether ComEd's rate design and cost allocation is appropriate. (*See* REACT Init. Br. at 12-16, *citing* ICC Docket No. 07-0566, Final Order dated Sept. 9, 2008 at 213; ICC Docket No. 08-0532, Final Order dated April 21, 2010 at 38-40, 67-69; ICC Docket No. 10-0467, Final Order dated May 24, 2011 at 176.) REACT took the Commission's direction seriously, and (1) obtained detailed data from ComEd that informs the cost allocation issues, and (2) analyzed that data careful and rigorously to determine if ComEd's cost allocation is accurate. (*See* REACT Ex. 2.0 at 18:434-39:925; REACT Ex. 5.0 6:105-21:436.) As a result, as the Final Order appears to recognize, there is now clear proof that the rates for ComEd's largest customers are not being designed consistent with cost causation principles. (*See* Final Order at 51 ("it is apparent in the evidence presented in this case that certain groups of facilities are not used by larger load customers... .")) Yet, the Final Order results in a course reversal and abandonment of the pursuit of more accurate cost allocation for ComEd's largest customers. Such a result is contrary to both the Act's requirements and past Commission practice.

### **REACT Does Not Advocate Customer-Specific Analysis**

The Final Order improperly accepts Staff's mischaracterization of REACT's position:

[The] distribution system is large and complex. As Staff notes, it is not feasible to have a distribution system that maps the use of each customers' facilities so that *each customer* is only allocated costs for the facilities, or portions thereof, that the customer uses.

(Final Order at 13 (emphasis added).) Staff had referred to the difficulty of identifying "the exact components of that system that serves each customer and allocate those costs precisely such that only cost causers shoulder all their respective costs." (Staff Ex. 4.0 at 17:396-398.) However, REACT did not request some sort of "exact" allocation for every single customer. (See REACT Br. on Exceptions at 15.) Nor has REACT advocated any future customer-by-customer study of the facilities used to provide service. Any suggestion otherwise is directly contrary to the record.

Mr. Terhune's analysis was *not* about customer-specific cost allocation, and he *never* made any suggestion that he or REACT studied or sought a study of customer specific cost allocation. (See REACT Br. on Exceptions at 17.) On the contrary, he recognized the complexity of the distribution system and repeatedly emphasized that his analysis and REACT's recommendations focused on customer classes and subclasses. (See *id.*, citing REACT Ex. 2.0 at 20:475-36:859; Tr. at 371:9-379:9; REACT Ex. 5.0 at 9:178-182 ("If there are meaningful differences in the cost of ComEd's delivery services facilities used to provide delivery services to each customer **class and subclass**, those differences in cost causation should properly be reflected in ComEd's ECOSS and ultimately via rate design, in differences in delivery rates to the **customer classes and subclasses.**") (Emphasis added.)) Indeed, although the system is complex, rates are set by class and subclass, so REACT's proposal to modify the rate design to reflect the facilities that the ELL and Over 10 MW classes use is entirely consistent with the

way in which ComEd's rates are designed. Staff's inaccurate portrayal of REACT's position potentially confused the issue in the Final Order.

Staff's own witness Mr. Johnson, upon whom Staff relied to criticize REACT, openly admitted on cross-examination that he did not perform any engineering study as Mr. Terhune did, did not present any evidence to contest Mr. Terhune's analytical findings, and did not present any evidence to contest Mr. Terhune's recommended allocation modification. (*See* Tr. at 126:20-128:6.) Indeed, **Mr. Johnson admitted that his criticisms did not apply to the study that Mr. Terhune described:**

Q. Would you agree, Mr. Johnson, that the type of study that Mr. Terhune describes in his rebuttal testimony is not the same type of testimony that -- the same type of study that's described in your rebuttal testimony.

A. That's correct.

(Tr. at 131:10-15.)

Again, to be clear, the expert analysis that REACT presented was not directed at making customer-specific rate design adjustments, but rather making rate design adjustments associated with customer classes and sub-classes. This is precisely the type of analysis required by the Act, and repeatedly endorsed by the Commission -- including in other portions of the Final Order. (*See* 220 ILCS 5/16-108(c); ICC Docket No. 07-0566, Final Order dated Sept. 9, 2008 at 213; ICC Docket No. 08-0532, Final Order dated April 21, 2010 at 38-40, 67-69; ICC Docket No. 10-0467, Final Order dated May 24, 2011 at 176; Final Order at 33, 37-38, 57.)

**The Final Order Improperly Accepts ComEd's Mischaracterization Of REACT's Reallocation Proposal**

The Final Order also credits an argument raised by ComEd suggesting that REACT did not identify which delivery classes should be responsible for absorbing the approximately \$9 million reduction to the ELL and HV Over 10 MW customers. (*See* Final Order at 13-14.) This criticism is simply inconsistent with the evidentiary record. REACT proposed that the \$9 million adjustment be spread among all rate classes, including the ELL and HV Over 10 MW classes. (*See* REACT Ex. 5.0 at 12:250-58.)

ComEd admitted that the result of Mr. Terhune's proposed reallocation adjustment would be a cost shift in the range of \$9 million, which in the context of ComEd's approximately \$2.3 *billion* overall revenue requirement is less than one half of a percent (0.5%) modification to all of the rates. (*See* Tr. at 254:12-255:3 (ComEd witness Mr. Bjerning); *see also* REACT Ex. 5.0 at 12:250-58.) Thus, ComEd's rate design witness confirmed that the impact on the average residential customer of REACT's proposed allocation modification would amount to rate increase of less than a penny a day, and no more than \$2.58 *annually*. (*See* Tr. at 429:10-431:13 (ComEd witness Mr. Tenorio).)

No party contests that the minimal impact on ComEd's other customer classes associated with REACT's proposed adjustment stands in stark contrast to the impact that the ELL and HV Over 10 MW class customers would experience under continued application of ComEd's flawed ECOSS. (*See* REACT Br. on Exceptions at 19.) ComEd's largest customers have faced increases of many millions of dollars since 2007 under the flawed ECOSS that ComEd continues to advance. (*See id.*, *citing* Tr. at 419:21-429:4 (ComEd witness Mr. Tenorio).)

For these reasons, REACT respectfully requests that the Commission grant rehearing regarding REACT's recommended modifications to ComEd's ECOSS, which are based on

REACT witness Mr. Terhune's engineering analysis of ComEd-provided system data demonstrating that certain distribution facilities are not used or are used only to a *de minimis* level by members of the ELL and HV Over 10 MW classes.

### III.

#### **THE FINAL ORDER SHOULD BE MODIFIED ON REHEARING TO REQUIRE THAT COMED PERFORM A MORE ACCURATE DISTRIBUTION SYSTEM COST ALLOCATION STUDY**

In addition to requesting that ComEd's current rates more accurately reflect the costs of the facilities used to serve ComEd's largest customers, REACT requested that ComEd be required to further study this issue, to develop information that would allow for further refinements in future rate design proceedings. The Final Order accurately recognizes that: (1) the ELL and HV Over 10 MW classes are paying for facilities that they do not use; and (2) the study that REACT expert witness Mr. Terhune proposes to obtain more information about which customer classes do use those facilities is feasible. (*See* Final Order at 13-14, 50-51.) Nevertheless, the Final Order finds that ComEd should not be required to develop the information that would allow for more accurate cost allocation:

Both REACT and IIEC recommend conducting further studies related to how primary or secondary voltage customers use primary distribution facilities in 4 kV single-phase or three-phase configuration. According to ComEd, such studies would require a highly complex study of the almost 4.8 million meter points connected to almost 6,400 circuits. Then, a further study would be required to precisely determine which costs are related to single-phase, two-phase, three-phase, 34 kV, 12 kV or 4 kV configurations. Additionally, ComEd asserts that such studies would require numerous assumptions to assign such costs. **While we note that ComEd has the capability to perform such studies**, the Commission agrees that such studies are highly complex. Moreover, the Commission finds that allocation by "path of service" is not the industry norm and can easily become an unsustainable process because the distribution system is constantly changing. As such, the Commission rejects both REACT's and IIEC's proposed future studies.

While **it is apparent in the evidence presented in this case that certain groups of facilities are not used by larger load customers**, segmenting the cost allocation by phase of service does not appear to be practicable. There is also some question as to whether any attempt to segment according to phase of service would be equitable or accurate. hus, tTheThe [sic] Commission rejects the changes to cost allocations to primary service as proposed by REACT and IIEC as discussed in Section II.C.1.a.

(See Final Order at 50-51 (emphasis added).)

This result is contrary to the record evidence establishing that the suggested study is feasible, that ComEd possesses the relevant information and technical knowledge, and that increased accuracy in cost assignment would result from such a study. (See Attachment E to REACT Br. on Exceptions, Admissions Regarding The Feasibility Of REACT Witness Mr. Terhune's Proposed Cost Allocation Study; see also Attachment C to REACT Br. on Exceptions, Admissions Regarding The Accuracy And Credibility Of REACT Witness Mr. Terhune's Analysis; REACT Ex. 5.0 at 15:305-19:409.) The objections of ComEd and Staff to the proposed study mischaracterize what REACT advocated; indeed, ComEd openly admitted that it can perform the study that REACT requested. (See Tr. at 257:1-9 (ComEd witness Mr. Bjerning); see also Tr. at 129:2-131:15 (Staff witness Mr. Johnson); see also Attachment E, Admissions Regarding The Feasibility Of REACT Witness Mr. Terhune's Proposed Cost Allocation Study.) The Final Order confirms that fact. (See Final Order at 48.) REACT's recommended study is supported by unrebutted, credible, and compelling evidence, and should be performed in order to further refine ComEd's ECOSS methodology, consistent with prior Commission Orders and the straightforward requirements of the Act.

The Final Order's suggestion that the study would be "highly complex" is not accurate, and in any event is not a legitimate basis to refuse to require further investigation. Any cost allocation methodology is necessarily complex, requiring various assumptions regarding the

ever-changing system, but Mr. Terhune (ComEd's former Transmission and Distribution Planning Manager) explained that the study that REACT requested is both realistic and feasible. (See REACT Ex. 5.0 at 10:196-205.) ComEd confirmed Mr. Terhune's position. (See Tr. at 257:1-9 (ComEd witness Mr. Bjerning).) Mr. Terhune explicitly stated that his recommended study:

- Would not require analysis of 4.8 million customer meter points;
- Would not require existing Shared Distribution Lines plant accounts to be reclassified by number of phases of primary voltage;
- Would not require physical field inspections, but could instead be performed based on existing ComEd internal records;
- Would not attempt to define any level of service by customer and by number of primary phases connected to serve that customer;
- Is not an "allocation by exclusion" study;
- Would not require a determination of costs for each specific customer; and
- Would not require numerous, repetitive allocation studies for each rate, rate design, or formula rate case.

(See REACT Br. on Exceptions at 27-28, *citing* REACT Ex. 5.0 at 6:107-19:409; *see also* IIEC Ex. 3.0 at 14:11-20:20) (IIEC witness Mr. Stephens) (rebutting suggestions by ComEd witness Mr. O'Sheasy that studies to refine cost of service determinations are neither feasible nor desirable); IIEC Init. Br. at 15-16.)

Mr. Terhune further highlighted ComEd's recent successful experience working with outside consultants to prepare complex rate design-related studies that met the Commission's requirements. (See REACT Br. on Exceptions at 28, *citing* REACT Ex. 5.0 at 10:200-01; IIEC

Init. Br. at 16.) Mr. Terhune noted that although ComEd has complained before about the potential unfeasibility of Commission-ordered studies, ComEd has been able to complete those studies as ordered. (See REACT Br. on Exceptions at 28, *citing* REACT Ex. 5.0 at 10:194-200.) This was confirmed at the Evidentiary Hearing, where ComEd acknowledged that, although ComEd previously has suggested a parade of horrors that would prevent certain studies, at the end of the day, working with qualified consultants, ComEd has in fact completed the Commission-ordered studies. (See REACT Br. on Exceptions at 28, *citing* Tr. at 260:23-261:24 (ComEd witness Mr. Bjerning).)

Eliminating any doubt, **ComEd explicitly confirmed at the Evidentiary Hearing that it could perform the study REACT seeks:**

Q. So, if the Commission orders the study that REACT recommends, ComEd is capable of undertaking that study, correct?

A. ComEd will comply with what the Commission directs us to do.

Q. And you're capable of doing what REACT has asked that you do?

A. Yes, we're capable of performing the study.

(Tr. at 257:1-9 (ComEd witness Mr. Bjerning).) Thus, ComEd has explained that it has the data and technical ability to perform the study that Mr. Terhune recommends. That data would result in the ability to more accurately and more fairly design ComEd's rates, based upon identifying the customer groups that "use the facilities and services associated with such costs." (220 ILCS 5/16-108(c).)

Accordingly, REACT respectfully requests that the Commission grant rehearing regarding REACT witness Mr. Terhune's recommendation that ComEd conduct a study to determine which customers classes are using the various facilities that comprise ComEd's primary distribution system.

IV.

**CONCLUSION**

For the reasons stated herein, REACT respectfully requests rehearing regarding the allocation of primary distribution costs to the ELL and HV Over 10 MW class customers, and, specifically, the following REACT recommendations that were not embraced in the Commission's Final Order:

1. Order a modification to ComEd's ECOSS now, based on REACT expert witness Mr. Terhune's analysis of certain electric distribution facilities that are not used or are used only a *de minimis* amount by members of the ELL and HV Over 10 MW classes;
2. Order ComEd to undertake a Shared Distribution Lines Proportional Cost Assignment Study, which ComEd admits is feasible and which would build on previous cost allocation studies ordered by the Commission, to further refine the ECOSS's approach to cost allocation; and
3. Maintain the *status quo* regarding any alleged "movement toward cost" based on ComEd's problematic cost of service study until the completion of the Shared Distribution Lines Proportional Cost Assignment Study.

Respectfully submitted,

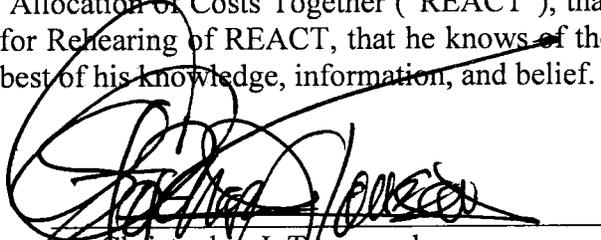
**THE COALITION TO REQUEST EQUITABLE  
ALLOCATION OF COSTS TOGETHER**

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VERIFICATION

Christopher J. Townsend, being first duly sworn, on oath deposes and says that he is one of the attorneys for the Coalition to Request Equitable Allocation of Costs Together ("REACT"), that he has read the foregoing Verified Application for Rehearing of REACT, that he knows of the contents thereof, and that the same is true to the best of his knowledge, information, and belief.

  
Christopher J. Townsend

Subscribed and sworn to me  
this 21<sup>st</sup> day of January 2014.



