

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER AGENCY	:	
	:	
Petition for Approval of the	:	No. 13-0546 (Rehearing)
2014 IPA Procurement Plan pursuant to Section	:	
16-111.5(d)(4) of the Public Utilities Act	:	

REPLY BRIEF ON EXCEPTIONS ON REHEARING
OF COMMONWEALTH EDISON COMPANY

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER AGENCY :
 :
Petition for Approval of the : No. 13-0546 (Rehearing)
2014 IPA Procurement Plan pursuant to Section :
16-111.5(d)(4) of the Public Utilities Act :

REPLY BRIEF ON EXCEPTIONS ON REHEARING
OF COMMONWEALTH EDISON COMPANY

Commonwealth Edison Company (“ComEd”) respectfully submits its Reply Brief on Exceptions on Rehearing in support of the Administrative Law Judge’s (“ALJ”) Proposed Order on Rehearing dated May 12, 2014 (“Proposed Order” or “PO”) with the technical corrections recommended in ComEd’s Brief on Exceptions.

I. RESPONSE TO PARTIES’ BRIEF’S ON EXCEPTIONS

Like ComEd, the Illinois Power Agency (“IPA”), Ameren Illinois Company d/b/a Ameren Illinois (“AIC” or “Ameren”), and Staff of the Illinois Commerce Commission (“Staff”) took no substantive exceptions to the conclusions contained in the Proposed Order. Ameren and Staff offered clarifying and technical exceptions to which ComEd does not object. ComEd wants to be clear, however, that while it does not object to the clarifying language from Ameren with respect to implementation of the Renewable Supplier’s secondary, alternative proposal, ComEd’s continues to propose the recommended changes to that section of the Proposed Order contained in ComEd’s Brief on Exceptions.

The Renewable Suppliers (“RS”) take exception to the Proposed Order’s rejection of their primary proposal in their Brief on Exceptions. RS Brief on Exceptions (“BOE”) at 2-10. In taking this position, the RS continue to make the same arguments that were previously addressed

by ComEd and other parties in earlier briefs. The RS' arguments were properly rejected by the Administrative Law Judge in the Proposed Order for all the reasons indicated in the Proposed Order and the other parties' earlier briefs. The key failure of the RS' position is that it advocates an artificial and legally deficient definition of harm to customers that ignores the terms and conditions of the Long Term Power Purchase Agreements ("LTPPAs") accepted by the RS. There is no question that eligible customers will pay more under the RS' primary proposal, and the LTPPAs clearly define the "Product" to be curtailed to include both the energy and the associated renewable energy credit ("REC") in the event that a curtailment is required.

The RS also present arguments regarding ComEd's position that the RS' primary proposal is contrary to the IPA Act' clear requirement that it is the "renewable energy resources procured pursuant to the procurement plan" that must be curtailed when a curtailment is necessary. RS BOE at 10-12; 20 ILCS 3855/1-75(c)(2) (emphasis added). The RS create a straw man by mischaracterizing and misstating ComEd's argument to be that a renewable energy resource cannot be a REC standing alone, and then pointing to a Commission ruling rejecting that argument in another context. *See* RS BOE at 11. ComEd did not argue that RECs standing alone cannot be a renewable energy resource. To the contrary, ComEd specifically pointed out that the definition of renewable energy resources "includes energy and its associated renewable energy credit or renewable energy credits from [qualifying resources]...." ComEd Reply Brief on Rehearing at 3 (emphasis added). The point of ComEd's argument, which was understood by the Proposed Order, is that the "renewable energy resource procured pursuant to the procurement plan" that resulted in the LTPPAs was both the energy and the associated RECs. The statutory language provides that the renewable energy resource procured is what is to be curtailed, and in this instance that is the energy and its related REC.

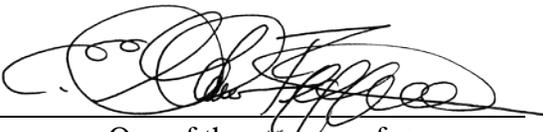
II. CONCLUSION

WHEREFORE, ComEd respectfully requests that the Proposed Order be modified as set forth in ComEd's Brief on Exceptions and that the exceptions taken by the RS be denied.

Dated: June 2, 2014

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

By: 
One of the attorneys for
Commonwealth Edison Company

Thomas S. O'Neill
Senior Vice President, Regulatory and
Energy Policy and General Counsel
COMMONWEALTH EDISON COMPANY
440 South LaSalle Street, Suite 3300
Chicago, Illinois 60603
(312) 394-7205
thomas.oneill@comed.com

Thomas J. Russell
10 S. Dearborn Street
Suite 4900
Chicago, Illinois 60603
(312) 394-5400
thomas.russell@exeloncorp.com

E. Glenn Rippie
Carmen L. Fosco
Conor B. Ward
ROONEY RIPPIE & RATNASWAMY LLP
350 W. Hubbard Street
Suite 600
Chicago, Illinois 60654
(312) 447-2800
glenn.rippie@r3law.com
carmen.fosco@r3law.com
conor.ward@r3law.com

Counsel for Commonwealth Edison Company