

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>Illinois Commerce Commission</b>	)	
<b>On Its Own Motion</b>	)	
vs.	)	
	)	
<b>Commonwealth Edison Company</b>	)	<b>Docket No. 13-0589</b>
	)	
<b>Investigation into customer refunds for payments made under invalidated riders.</b>	)	
	)	

**AGREED STIPULATION  
AMONG COMMONWEALTH EDISON COMPANY,  
THE PEOPLE OF THE STATE OF ILLINOIS,  
THE CITIZENS UTILITY BOARD AND THE COMMISSION STAFF**

Commonwealth Edison Company (“ComEd”), the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois (the “People”); and the Citizens Utility Board (“CUB”) (collectively “the Parties”) hereby submit to the Illinois Commerce Commission (“the Commission”) the attached Memorandum of Agreement (“MOA” or “Agreement”).

This Stipulation and the attached MOA reflects the efforts of the Parties and Staff to resolve all matters at issue in the above-captioned docket. The MOA incorporates language that has been agreed to among the Parties. Staff is not a Party to the Agreement, but does not have any objection to, and will not oppose, the resolution of all issues in ICC Docket Nos. 13-0589 (and 11-0459, 12-0371, and 13-0377) and 07-0566 (on Remand), as set forth in Section III of the attached Agreement.

By signing this Stipulation, the Parties agree that all issues raised in this proceeding have been resolved pursuant to the terms and provisions of the Agreement. The Parties will seek to enter this Stipulation and the attached MOA into the evidentiary record at the hearing scheduled for August 14, 2014. ComEd and CUB have authorized counsel for the AG to file this Stipulation on eDocket on behalf of all signatories of this Stipulation.

Dated: August 19, 2014

Respectfully submitted,

THE PEOPLE OF THE STATE OF  
ILLINOIS

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THE CITIZENS UTILITY BOARD

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Dated: August 14, 2014

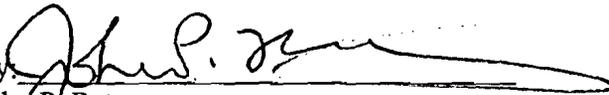
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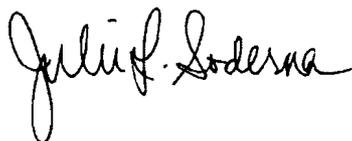
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## MEMORANDUM OF AGREEMENT

Dated August 19, 2014

### **I. Introduction, Parties, and Purpose of Agreement**

This Memorandum of Agreement (the “Agreement” or “MOA”) is entered into on August 19, 2014. The parties to the Agreement (collectively, the “Parties”) are Commonwealth Edison Company (“ComEd”) and the following participants in ICC Docket No. 13-0589: the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois (the “People”); and the Citizens Utility Board (“CUB”) (collectively “Intervenors”). There are no other intervenors in ICC Docket No. 13-0589. The Staff of the Illinois Commerce Commission (“Staff”) is not a Party to the Agreement, but does not have any objection to and will not oppose the resolution of all issues in ICC Docket Nos. 13-0589 (and 11-0459, 12-0371, and 13-0377) and 07-0566 (on Remand), as set forth in Section III of this Agreement.

ICC Docket No. 13-0589 was initiated by the Illinois Commerce Commission (“Commission” or “ICC”) on October 23, 2013, pursuant to Section 9-250 of the Public Utilities Act (“PUA”). The purpose of that proceeding is to “to determine whether, and to what extent, customers of Commonwealth Edison Company are entitled to refunds for payments made pursuant to Riders AMP and AMP-CA, the extent and amount of any refund, and the mechanism for awarding any refund.” Order Commencing Investigation of October 23, 2013, at 2.

On November 9, 2012, following the Supreme Court’s denial of Petitions for Leave to Appeal, the Appellate Court issued the Mandate to the Commission in *People ex. rel Madigan v. Illinois Commerce Comm’n*, 2012 IL App (2d) 100024 (March 19, 2012) (“*Madigan*”), *appeal denied* (Ill. Sept. 26, 2012). Following the issuance of the Appellate Court’s Mandate, certain parties to the proceedings in ICC Docket No. 09-0263 filed motions to “Initiate Remand Proceedings” and to consolidate the matter with the two then-pending reconciliation proceedings related to Rider AMP (ICC Docket Nos. 11-0459 and 12-0371). A third Rider AMP reconciliation later was opened, ICC Docket No. 13-0377. All three reconciliations (the “Rider AMP Reconciliations”) remain pending.

At a regular open meeting held on February 14, 2013, the Commission denied the motions but adopted the ALJs’ suggestion that the Commission enter an order to initiate a proceeding under Section 9-250 of the PUA.

ComEd, the People, CUB, and Staff are active participants in ICC Docket No. 13-0589. All Parties executing this agreement and Staff have filed Direct and Rebuttal testimony addressing the issues raised in the Commission’s initiating order. In exchange for ComEd’s commitments described in Section II of this Agreement, Intervenors agree to resolve the issues surrounding whether a refund is owed, the amount, if any, and how and when it should be distributed to ComEd customers. The Parties, having negotiated in good faith, desire to resolve all issues in ICC Docket No. 13-0589 and in the Rider AMP Reconciliations, and

07-0566 (on Remand) on the terms set forth in Section II of this Agreement. Staff's participation in this Agreement is addressed in Section III of this Agreement.

The Parties agree that this Agreement resolves all issues in ICC Docket No. 13-0589, and that, absent this Agreement, such issues may be pursued through further testimony, an evidentiary hearing, post-hearing briefing, an ALJ's Proposed Order, Exceptions briefing and replies, possible oral argument before the Commission, applications for rehearing, a possible rehearing, and possible appeals and remands, all of which would result in uncertainties, costs and burdens of litigation, and additional time to resolve the subject matter. The Agreement also resolves all issues in the Rider AMP Reconciliations and in ICC Docket No. 07-0566 (on Remand), as indicated in Section II. The Parties stipulate that resolution of the issues in ICC Docket Nos. 13-0589 and 07-0566 (on Remand) and the conclusion of the Rider AMP Reconciliations on the terms and conditions specified herein would result in just and reasonable rates for ComEd customers. This Agreement may be executed in counterparts.

## **II. Agreement on Resolution of Issues in ICC Docket Nos. 13-0589, 11-0459, 12-0371, 13-0377, and 07-0566 (on Remand)**

The points listed in this Section II will constitute complete resolution of all issues in ICC Docket Nos. 13-0589 and 07-0566 (on Remand) and the Rider AMP Reconciliations. The points are as follows:

1. ComEd will refund to its customers the amount of \$9.5 million (plus interest calculated consistent with the methodology presented in Staff's rebuttal testimony, ICC Staff Exhibit 3.0 in Docket No. 13-0589, provided that for that calculation, all billed revenues in Staff's rebuttal workpaper will be pro-rated by 65.32%) to resolve all issues in ICC Docket No. 13-0589. This refund obligation is conditional on Commission action, as stated in numbered paragraph 3 below.

2. ComEd agrees to distribute the \$9.5 million (plus interest) simultaneously with the \$36.7 million (plus interest) refund ordered by the ICC on February 23, 2012, in the remand of *Commonwealth Edison Co.*, ICC Docket No. 07-0566 (on Remand). The \$9.5 million refund, plus interest, will be distributed to all customer classes (that were subject to Rider AMP adjustments) on a per customer basis. The \$36.7 million refund, plus interest (calculated in accordance with the Order on Remand in ICC Docket No. 07-0566, as such order may be amended by the Commission pursuant to the proposed resolution of the issues set forth in this Agreement), will be distributed to all customer classes on a kWh usage basis. Both refunds, totaling \$46.2 million, plus interest, will be distributed to customers through bill credits in a single month, subject to a reconciliation discussed in numbered paragraph 4 of this Agreement, provided that ComEd will hold back a portion of the refund, in the aggregate amount of \$2 million, for purposes of that reconciliation, the refund to former customers addressed in numbered paragraph 4, and the deduction addressed in numbered paragraph 5. Of the \$2 million holdback, \$0.1 million will be held back from the \$9.5 million, plus interest, refund related to Rider AMP, and \$1.9 million will be held back from the \$36.7 million, plus interest, refund

related to the Order on Remand in Docket No. 07-0566. However, notwithstanding the preceding sentence, following the March 2015 reconciliation described in numbered paragraph 4 below, all funds remaining in the Residual Holdback (as defined in numbered paragraph 5 below) will be available to cover any Over-Refund (as defined in numbered paragraph 9(A) below) without any restriction. The sum of the \$9.5 million refund, plus interest, plus the \$36.7 million refund, plus interest, minus the \$2 million holdback will be referred to as the "Expected November Refund". ComEd agrees to distribute a refund to current customers, in an intended amount equal to the Expected November Refund, through bills during the November 2014 billing period pursuant to the procedures described in this paragraph 2.

3. ComEd's refund obligations in numbered paragraphs 1 and 2, above, are conditional on adoption by the Commission of final orders approving, based on the applicable records, the resolution consistent herewith of all issues in ICC Docket Nos. 13-0589 and 07-0566 and the Rider AMP Reconciliations. These obligations are further conditioned on the Parties' agreement not to appeal these five dockets, and no timely applications for rehearing being filed by any party in any of the five dockets. The Parties will enter into evidentiary stipulations and make or join such other filings as are needed to effectuate the entry of such orders.

4. ComEd agrees to apply a small portion of the \$2 million holdback discussed in numbered paragraph 2 for former customers, pursuant to Section 9-253 of the PUA, and as directed by the Commission in ICC Docket No. 07-0566 (on Remand), Order on Remand of February 23, 2012 (as such order may be amended by the Commission pursuant to the proposed resolution of the issues set forth in this MOA). The refunds to former customers will be paid on a rolling basis ending March 15, 2015, based on claims filed during a 120 day period beginning no later than November 1, 2014. In March 2015, ComEd will submit to the Commission a reconciliation of the refund.

5. ComEd may deduct from the refund the reasonable incremental costs of administering (calculating and distributing) the refund to former customers. The deducted administration costs shall not exceed \$100,000 and ComEd shall submit documentation of the deducted administration costs to the other Parties and Staff. The remaining amount of the \$2 million holdback, if any, after deducting refunds for former customers (as described in numbered paragraph 4) and the reasonable administrative costs thereof (as described in this paragraph 5), shall be referred to as the "Residual Holdback".

6. ComEd agrees that it will not seek to recover these refund amounts from customers (or to recover any incremental costs associated with calculating and distributing the refund to customers that were deducted under numbered paragraph 5 above) in a subsequent formula rate case filed pursuant to Section 16-108.5 of the PUA or in any other proceeding. This Agreement makes no conclusion or resolution of whether ComEd shall be permitted to recover any incremental costs associated with the distribution of the refund to current customers in future rate proceedings.

7. ComEd will print a message on each customer bill on which the refund appears. ComEd will work with the Office of the Attorney General on the wording of the message. ComEd and the Office of the Attorney General further agree to discuss in advance any affirmative outreach related to the refund.

8. ComEd shall seek, and the other Parties and Staff will not oppose, dismissal of the Rider AMP Reconciliations. The Parties and Staff agree that the payment under numbered paragraph 1 above includes any true-ups for the reconciliation periods in those reconciliations.

9. The Parties to this Agreement agree, and Staff concurs, that at the conclusion of the March 2015 reconciliation:

- (A) If it is determined that the actual amount refunded to current customers during the November 2014 monthly billing period exceeded the Expected November Refund (such difference to be called the "Over-Refund"), then ComEd shall deduct and keep the Over-Refund amount from the Residual Holdback. The remaining portion, if any, of the Residual Holdback shall be referred to as the "April Refund Or EA Amount" and shall be paid during the April 2015 monthly billing period, as described below. If the Over-Refund exceeded the Residual Holdback, ComEd agrees that it will not seek any further recovery from customers.
- (B) If it is determined that the actual amount refunded to current customers during the November 2014 monthly billing period was less than or equal to the Expected November Refund (such difference to be called the "Under-Refund"), then the Residual Holdback plus the Under-Refund shall be referred to as the "April Refund Or EA Amount" and shall be paid during the April 2015 monthly billing period, as described below.

For illustrative purposes, the spreadsheet attached as Exhibit A to this Memorandum of Agreement shows the calculation of the April Refund Or EA Amount in various hypothetical scenarios.

The payment of the April Refund Or EA Amount, if any, shall be allocated as follows:

- If the April Refund Or EA Amount is less than \$1 million, then it shall all be paid to ComEd's Residential Special Hardship program, which is an energy assistance (EA) program, in April 2015 (such payment, the "EA Amount").
- If the April Refund Or EA Amount is at least \$1 million, then it shall all be refunded to all current customers on a kWh usage basis during the April 2015 monthly billing period (based on the kWh applicable to bills in that month) (such refund, the "April Refund"). The April Refund, if any, is applicable to all current customers as of the April 2015 monthly billing period, regardless of whether that refund amount includes any funds that could be attributed to an under-payment relating to the Rider AMP-related refund.

This proposal as it relates to energy assistance is consistent with the proposal ComEd made and the Commission approved in ICC Docket No 07-0566 (On Remand).

10. ComEd will file on or before June 1, 2015, on eDocket and submit to the ICC Manager of Accounting a final report reconciling the ordered refunds with the actual refunds.

All other proposals made in the instant case (ICC Docket No. 13-0589) by Intervenors and Staff are resolved by the commitments made herein. The Parties will jointly submit draft proposed orders in ICC Docket No. 13-0589 and ICC Docket No. 07-0566 (on Remand) for Commission approval that are acceptable to or not opposed by Staff, incorporating the agreements and commitments contained herein.

If the Commission does not enter final orders consistent with this MOA, including but not limited to the specified Refund amounts, then the Parties and Staff will be free to resume or commence (as applicable) litigation of their respective positions in ICC Docket Nos. 13-0589 (and the Rider AMP Reconciliations) and 07-0566 (on Remand).

### **III. Staff's Participation in This Agreement**

Staff has reviewed Section II of this Agreement and finds that it resolves all issues in ICC Docket Nos. 13-0589 (and 11-0459, 12-0371, and 13-0377) and 07-0566 (on Remand) in a manner that is acceptable to or not opposed by Staff. Staff does not and will not oppose the resolution of the contested issues in ICC Docket No. 13-0589 and those four other Dockets as set forth in Section II of this Agreement.

Dated: August 19, 2014

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Dated: August 19, 2014

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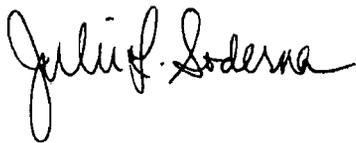
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2007 Refund/Rider AMP Hold Back  
 in millions

	Scenario A	Scenario B	Scenario C
Total refund (Principal + int) expected to be ordered	\$46.9	\$46.9	\$46.9
Expected November Refund (Principal + int)	\$44.9 (a)	\$44.9 (a)	\$44.9 (a)
Hypothetical amount (Principal + int) refunded in November	\$46.0 (b)	\$47.5 (b)	\$44.5 (b)
<b>(Over)/Under-Refund in November</b>	<u>(\$1.1) (c) = (a) - (b)</u>	<u>(\$2.6) (c) = (a) - (b)</u>	<u>\$0.4 (c) = (a) - (b)</u>
Holdback	\$2.0 (d)	\$2.0 (d)	\$2.0 (d)
Estimated former customer admin cost (not to exceed \$0.1 M)	\$0.1 (e)	\$0.1 (e)	\$0.1 (e)
Estimated former customer refunds	\$0.1 (f)	\$0.1 (f)	\$0.1 (f)
<b>Residual Holdback to cover risk of Over-Refund</b>	<u>\$1.8 (g) = (d) - (e) - (f)</u>	<u>\$1.8 (g) = (d) - (e) - (f)</u>	<u>\$1.8 (g) = (d) - (e) - (f)</u>
Residual Holdback to cover risk of Over-Refund (Over)/Under-Refund in November	\$1.8 (g) (\$1.1) (c)	\$1.8 (g) (\$2.6) (c)	\$1.8 (g) \$0.4 (c)
<b>Net amount remaining (April Refund Or EA Amount, if positive)</b>	<u>\$0.7 (h) = (g) + (c)</u>	<u>(\$0.8) (h) = (g) + (c)</u>	<u>\$2.2 (h) = (g) + (c)</u>
	↑	↑	↑
	ComEd will use \$1.1M of the Residual Holdback to cover the Over-Refund and will donate \$0.7M to the Residential Special Hardship Program, because the amount is under \$1M.	ComEd will use the full \$1.8M Residual Holdback to partially cover the Over-Refund and will not seek recovery of the \$0.8M. No donation to the energy assistance program and no further refund will be made.	ComEd will refund the \$1.8M Residual Holdback plus the \$0.4M Under-Refund, a total of \$2.2M, to current customers on a kWh basis in April, 2015.
<b>ComEd total amount refunded + Former customer admin costs</b>	<b>\$46.9 (i) = (b) + (e) + (f) + (h)</b>	<b>\$47.7 (i) = (b) + (e) + (f)</b>	<b>\$46.9 (i) = (b) + (e) + (f) + (h)</b>