ComEd Ex. 31.0

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	No. 14-0312
Annual formula rate update and revenue requirement reconciliation under Section 16-108.5 of the Public Utilities Act	: : :	

Surrebuttal Testimony of

GARY PRESCOTT

Vice President
Corporate Compensation

on behalf of

Commonwealth Edison Company

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I. INTRODUCTION

A. Witness Identification

Q. What is your name and prior participation in this docket?

A. My name is Gary Prescott. I am employed by Exelon Business Services Company ("Exelon BSC") in the position of Vice President, Corporate Compensation. I previously submitted pre-filed rebuttal testimony in this docket. My background, professional qualifications, duties, and responsibilities are unchanged.

B. Summary of Surrebuttal Testimony

Q. What issues do you address in this testimony?

A. I respond to the proposals and arguments made by: (1) Illinois Commerce Commission Staff ("Staff") witness Mr. Richard Bridal and the Illinois Attorney General's Office ("AG") witness Mr. Michael Brosch concerning ComEd's Annual Incentive Program ("AIP"); (2) Mr. Bridal concerning ComEd's Long Term Performance Share Awards Program ("LTPSAP"); and (3) Mr. Bridal and City of Chicago, Citizens Utility Board, and Illinois Industrial Energy Consumers ("CCI") witness Mr. Michael Gorman concerning ComEd's Long Term Performance Plan ("LTPP").

II. COMED'S INCENTIVE COMPENSATION PLANS

A. AIP

Q. Do you maintain your original position that ComEd's AIP expense is solely based on operational and cost control metrics?

A. Yes. There is a fundamental difference between the factors that determine whether an AIP award is *earned* – the operational and cost control metrics – and the factors that determine whether that award is *paid out* – Exelon Corporation's ("Exelon") Earnings Per Share ("EPS"). ComEd's position is that the AIP award is based on the factors that are required to earn the award.

Q. **Does Mr. Brosch appear to understand this critical distinction?**

A. No. Mr. Brosch often refers to the "payout" or "payment," which undeniably is affected or impacted or determined – or whatever verb the AG prefers to use – in part by Exelon's EPS.

Q. **Are you familiar with the portion of the Public Utilities Act ("Act") known as the Energy Infrastructure and Modernization Act ("EIMA") that discusses recoverable and unrecoverable incentive compensation?**

A. Yes. Although I am not a lawyer and I will leave statutory interpretation to the lawyers in this case, I am very familiar with that portion of EIMA. In fact, ComEd specifically designed its AIP with the intent of complying with the two sentences set forth below:

> recovery of incentive compensation expense that is based on the achievement of operational metrics, including metrics related to budget controls, outage duration and frequency, safety, customer service, efficiency, and productivity, and environmental compliance. Incentive compensation expense that is based on net income or an affiliate's earnings per share shall not be recoverable under the performance-based formula rate.

220 ILCS 5/16-108.5(c)(4)(A).

Q. **In 2013, what was the AIP award earned by reference solely to the first sentence quoted above?**

A. 140.4% of target. Brinkman Dir., ComEd Ex. 2.0, 20:423-21:446. This is the award that was earned and it is undisputed that it is based only on the permissible metrics.

Q. **And what was the actual AIP award that was paid out for 2013?**

A. 124.4% of target. Brinkman Dir., ComEd Ex. 2.0, 23:470-475. This is the amount of that earned award that was actually paid out and it is impacted by Exelon's EPS.

Q. **What is the significance of this?**

A. This shows that the award created under the first sentence of the statute – calculated only by applying the permissible metrics – is greater than the award arguably calculated under the second sentence. Unless the award actually paid under the second sentence were greater than the award earned under the first sentence, it is logically impossible for the award to have been in any way based on Exelon's EPS.

Q. **Does Mr. Brosch fundamentally misunderstand any other aspects of ComEd's AIP?**

A. Yes. He describes incentive compensation as "additional compensation." Brosch Reb., AG Ex. 3.0, 25:568. ComEd has provided an overwhelming amount of evidence that incentive compensation programs are not additional compensation – they represent the portion of a market-based total compensation package that constitutes pay at risk. If employees do not achieve target levels of performance, they will not receive their market-based compensation. Staff understands this and agrees with ComEd on this point. *See, e.g.,* Bridal Reb., Staff Ex. 8.0, 16:378-17:385. To be sure, if ComEd employees perform above target, they stand to receive above market compensation for their above market performance. That does not convert incentive compensation into "additional compensation."

Q. **Why does ComEd's AIP contain a limiter related to Exelon's EPS?**

A. ComEd is part of the Exelon family. No one disputes that ComEd and its customers receive certain benefits and economies of scale as a result of this relationship. And Exelon administers its policies, including its incentive compensation plans, consistently to the extent possible. This helps Exelon achieve best practices across its corporate family. It also avoids the potential for dissention between employees of different operating companies, who might perceive that there are unfair incentive outcomes across the organization.

Q. **Mr. Brosch and Mr. Bridal focus on the threshold element of the limiter. Is it likely that this feature would reduce ComEd's AIP award to zero in any given year?**

A. No. The threshold element is a safety measure that would only come into play as a result of an extraordinary financial event. As such, this feature – and Mr. Brosch and Mr. Bridal's arguments related to it – are theoretical in nature.

Q. **What are ComEd's future plans for its AIP?**

A. As I have explained at length, expenses related to ComEd's 2013 AIP are prudent and reasonable and should be recoverable. ComEd also understands, however, that utilizing Exelon's EPS as a limiter has caused conflict in this docket. ComEd intends to amend the plan. ComEd also does not wish to continue chasing regulatory interpretations that are acceptable in one year, *e.g.*, 2012, and unacceptable the next year, *e.g.*, 2013. This creates regulatory uncertainty that has serious financial consequences for ComEd and its customers, and that I believe EIMA was intended to alleviate. ComEd is therefore committed to explore this issue with Staff and other parties outside of this proceeding in an effort to understand their concerns and with the goal of presenting an amended plan in ComEd's next formula rate update proceeding.

B. <u>LTPSAP</u>

Q. **Mr. Bridal testifies that the Commission could disallow all of ComEd's LTPSAP expense because it is "dependent, in part, on financial measures of the type that the commission has disallowed in previous proceedings." Do you agree with this assessment?**

A. No. The LTPSAP payouts are subject to an overall Total Shareholder Return ("TSR") modifier. As Mr. Bridal understands, TSR is not the same thing as net income or EPS. His description of TSR in his rebuttal testimony is accurate. *See* Bridal Reb., Staff Ex. 8.0, 34:809-35:816. His characterization of TSR as "financial measures of the type that the Commission has disallowed in previous proceedings" is, however, inaccurate. *Id.*, 35:831-832.

Q. **What types of financial measures has the Commission disallowed in previous proceedings?**

A. As explained in Ms. Brinkman's surrebuttal testimony, the Commission has disallowed ComEd's incentive compensation when the amount earned was based on Exelon's EPS or ComEd's net income. I am not aware that the Commission has made a disallowance in past ComEd proceedings regarding total shareholder return. Moreover, neither the

Commission nor EIMA have prohibited all incentive compensation that is in any way related to other financial measures.

Q. **Is linking incentive compensation payouts to financial measures part of good incentive plan design?**

A. Absolutely. Linking incentive compensation payouts to various financial measures is fiscally responsible because it aligns incentive compensation received with overall financial health of the company. A "balanced scorecard" approach, which typically ensures balanced focus on operational, customer, and financial goals, is the ideal incentive design approach.

C. <u>LTPP</u>

Q. **Do you agree with Mr. Bridal's analysis of ComEd's LTPP?**

A. Yes. Mr. Bridal accurately assesses the nature of the LTPP and clearly identifies the flaws in Mr. Gorman's arguments. Moreover, he astutely observes that using "similar operational metrics places even more emphasis on the achievement of metrics that provide ratepayer benefits." Bridal Reb., Staff Ex. 8.0, 38:883-885.

Q. **Does Mr. Gorman provide any additional insight into his analysis of ComEd's LTPP?**

A. Yes. He is under the mistaken impression that "[l]ongevity with the utility" is an LTPP metric. ComEd has provided clear evidence showing that the LTPP metrics are the operational and cost control metrics set forth in EIMA. Mr. Gorman is confusing the long term vesting period of the LTPP award with the metrics by which employees earn the award.

Q. **Does the LTPP increase eligible employees' total compensation package?**

A. No. If ComEd did not have the LTPP as part of its market competitive pay mix, employees who are eligible to receive awards under the LTPP would simply be eligible for larger AIP awards or increased base salaries. The total compensation of these employees is not increased by their participation in the LTPP – a portion of their total compensation has simply been designated as long term incentive compensation as opposed to base salary or short term incentive compensation. Stated another way, the total size of their compensation pie is still the same, but the incentive compensation piece has been cut into two slices.

III. <u>CONCLUSION</u>

Q. **Does this conclude your surrebuttal testimony?**

A. Yes.