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BEFORE THE
ILLINOIS COMMERCE COMMISSION

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

Chicago, Illinois
August 28, 2014

Met pursuant to notice at 10:00 a.m.

BEFORE:

MS. LESLIE D. HAYNES, Administrative Law Judge
MS. SONYA TEAGUE KINGSLEY, Administrative Law Judge

APPEARANCES:

ROONEY RIPPIE & RATNASWAMY LLP, by
MR. E. GLENN RIPPIE
350 West Hubbard Street, Suite 600
Chicago, Illinois 60654
-and-
MR. RICHARD BERNET and
MR. CLARK STALKER
10 South Dearborn Street, Suite 4900
Chicago, Illinois 60603
Appearing on behalf of Commonwealth Edison
Company;

MS. JULIE SODERNA and
MS. CHRISTIE HICKS
309 West Washington Street, Suite 800
Chicago, Illinois 60606
Appearing on behalf of the Citizens
Utility Board;

1 APPEARANCES: (CONT'D)

2 ILLINOIS ATTORNEY GENERAL'S OFFICE, by
3 MS. SUSAN L. SATTER and
4 MR. SAMEER H. DOSHI
5 100 West Randolph Street, 11th Floor
6 Chicago, Illinois 60601
7 Appearing on behalf of the People of the
8 State of Illinois;

9 LAW OFFICES OF GERARD T. FOX, by
10 MR. GERARD T. FOX
11 Two Prudential Plaza
12 180 North Stetson Street, Suite 3500
13 Chicago, Illinois 60601
14 Appearing on behalf of RESA;

15 LUEDERS, ROBERTSON & KONZEN, by
16 MR. RYAN ROBERTSON
17 1939 Delmar Avenue
18 P.O. Box 735
19 Granite City, Illinois 62040
20 Appearing on behalf of IIEC;

21 SANCHEZ DANIELS & HOFFMAN, LLP, by
22 MR. MANUEL SANCHEZ and
MS. HEATHER ERICKSON
333 West Wacker Drive, Suite 500
Chicago, Illinois 60606
Appearing on behalf of Chicagoland Chamber
of Commerce;

MR. JOHN C. FEELEY
MS. JESSICA CARDONI and
MS. KIMBERLY SWAN
160 North LaSalle Street, Suite C-800
Chicago, Illinois 60601
Appearing on behalf of Commission Staff.

21 SULLIVAN REPORTING COMPANY, by
22 Tracy L. Overocker, CSR

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
Kevin Brookins	306	310	340	351	
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E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
ComEd Nos. 19, 19.01, 32.0, 32.01		310
AG Cross No. 14	317	340
ComEd Redirect No. 2	350	350
RESA Nos. 1.0C, M.W. 1.1, M.W. 1.2, M.W. 1.3, M.W. 1.4, M.W. 1.1-M.W. 1.14, M.W. 2.0, M.W. 2.1, M.W. 2.2, 3.0C		358
CCC Nos. 1.0, 1.01		363
AG Cross No. 15	364	364
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AG Cross No. 18	372	381
CCI Nos. 1.0, 1.1, 1.2, 2.0 and 3.0		382
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E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
	ComEd Exhibit 9.0, Attachments 9.01, 9.02	388-389
	ComEd Exhibit 6.0 Attachments 6.01-6.05	
	ComEd Exhibit 10.0 Attachments 10.01-10.08	
	ComEd Exhibit 22 Attachments 22.01, 22.02	
	ComEd Exhibit 11.0 ComEd Exhibit 24.0	
	ComEd Exhibits 3.0 Attachments 3.01-3.13	
	ComEd Exhibit 13.0 Attachments 13.01-13.12	
	ComEd Exhibits 4.0 Attachments 4.01, 4.02	
	ComEd Exhibit 14 Attachment 14.01	
	Exhibit 27.0 Attachment 27.01	
	Exhibit 15 Attachment 15.01	
	Exhibit 28.0 Attachment 28.01	
	Exhibit 7.0 Attachment 7.01-7.06	
	ComEd Exhibit 16 Attachment 16.01-16.03	
	Exhibit 29.0 Attachment 29.01	
	ComEd Exhibit 8.0 Exhibit 8.01, 8.02	
	Exhibit 17.0 Exhibit 30.0	
	Affidavits 9.03, 6.06, 10.09, 22.03, 24.01, 26.01, 27.02, 28.02, 29.02 and 30.01	

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E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
ComEd CX Nos. 1-3		391
AG Exhibit 1.0C2		393
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Staff Exhibit 1.0,		398
7.0, 7.1, 3.0, 3.1		
AG Cross Exhibit 19	400	400
ComEd Nos. 21.0, 21.01		402

1 JUDGE HAYNES: Pursuant to the direction of the
2 Illinois Commerce Commission, we now call Docket
3 14-0312. This is Commonwealth Edison Company's
4 annual formula rate update and revenue requirement
5 reconciliation under Section 16-108.5 of the Public
6 Utilities Act.

7 May I have the appearance for the
8 record, please.

9 MR. BERNET: On behalf of Commonwealth Edison
10 Company, Richard Bernet and Clark Stalker, 10 South
11 Dearborn, Suite 4900, Chicago, Illinois 60603,
12 (312) 394-3623.

13 MR. RIPPPIE: Good morning, your Honors. Also
14 on behalf of the petitioner, Commonwealth Edison
15 Company, Glenn Rippie. The firm is Rooney, Rippie &
16 Ratnaswamy, LLP, 350 West Hubbard, Suite 600, Chicago
17 60654.

18 MS. SWAN: On behalf of the Staff Witnesses of
19 the Illinois Commerce Commission, Kimberly Swan,
20 Jessica Cardoni and John Feeley, 160 North LaSalle
21 Street, Suite C-800, Chicago, Illinois 60601.

22 MR. DOSHI: And on behalf of the People of the

1 State of Illinois, by and through the Attorney
2 General, Sameer, Doshi, S-a-m-e-e-r, D-o-s-h-i and
3 Susan Satter, S-a-t-t-e-r.

4 MR. FOX: Gerard T. Fox, 203 North LaSalle
5 Street, Suite 2100, Chicago 60601 appearing on behalf
6 of the Retail Energy Supply Association.

7 MS. HICKS: On behalf of the Citizens Utility
8 Board, Christie Hicks and Julie Soderna, 309 West
9 Washington, Suite 800, Chicago, Illinois 60606.

10 MR. ROBERTSON: Ryan Robertson, Lueders,
11 Robertson & Konzen of behalf IIEC.

12 JUDGE HAYNES: Are there any further
13 appearances?

14 (No response.)

15 Let the record reflect that there are
16 none.

17 I understand that this morning we are
18 starting with a ComEd witness.

19 Would you like to begin?

20 MR. BERNET: Yes, your Honors. ComEd calls
21 Kevin Brookins.

22 JUDGE HAYNES: Good morning, Mr. Brookins.

1 THE WITNESS: Good morning.

2 JUDGE HAYNES: Please raise your right hand.

3 (Witness sworn.)

4 KEVIN BROOKINS,

5 called as a witness herein, having been first duly

6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY

9 MR. BERNET:

10 Q Would you please spell -- state your name
11 and spell it for the record?

12 A Kevin Brookins, K-e-v-i-n, B-r-o-o-k-i-n-s.

13 Q And by whom are you employed?

14 A Commonwealth Edison Company or ComEd.

15 Q And what's your position there?

16 A I'm the senior vice president of Strategy
17 Administration.

18 Q How long have you been employed by ComEd?

19 A I've been employed by ComEd for 31 years.

20 Q Have you offered written testimony in this
21 proceeding?

22 A Yes, I have.

1 Q The first piece of testimony I'd like to
2 draw your attention to is marked as ComEd Exhibit 19
3 entitled the Rebuttal Testimony of Kevin B. Brookins
4 which is 14 pages of questions and answers.

5 Do you have that before you?

6 A Yes, I do.

7 Q And was that prepared by you or under your
8 direction?

9 A Yes, it was.

10 Q And are the answers in that testimony true
11 and correct to the best of your knowledge?

12 A Yes, it is.

13 Q Are there any updates to that testimony?

14 A No, there is not.

15 Q Subject to that qualification, if you were
16 asked those questions today, would your answers be
17 the same?

18 A Yes, they would.

19 Q And also attached to that testimony is
20 ComEd Exhibit 19.01 -- 19.01 which is entitled 2013
21 ComEd AIP Funding KPI Performance AIP Final Results.
22 That's an exhibit to your testimony; is that correct?

1 A That is correct.

2 Q Next, I'd like to draw your attention to
3 your surrebuttal testimony which has been previously
4 marked as ComEd Exhibit 32 and it's entitled, The
5 Surrebuttal Testimony of Kevin Brookins and it's four
6 pages of written questions and answers.

7 Do you have that?

8 A Yes, I do.

9 Q Was that prepared by you or under your
10 direction?

11 A Yes, it was.

12 Q And is it true and correct -- are the
13 answers in that testimony true and correct, to the
14 best of your knowledge?

15 A Yes, it is.

16 Q Do you have any updates or modifications to
17 that testimony?

18 A No, I do not.

19 Q So subject to that qualification, if I were
20 to ask you the questions set forth in that testimony
21 today, would your answers be the same?

22 A Yes, they would.

1 MR. BERNET: And, for the record, your Honor,
2 Mr. Brookins' rebuttal testimony was filed on
3 e-Docket on July 23rd, 2014 with e-Docket Serial
4 No. 216811 and Mr. Brookins' surrebuttal testimony
5 was filed on e-Docket August 21st, 2014, with Serial
6 No. 218041.

7 BY MR. BERNET:

8 Q And attached to your surrebuttal testimony,
9 Mr. Brookins, is a document entitled ComEd
10 Performance Summary December of 2013 which consists
11 of 117 pages of various metrics and graphs and data.
12 Was that document also presented with your testimony?

13 A Yes, it was.

14 MS. BERNET: With that, your Honor, I hereby
15 move to admit ComEd Exhibits 19, 19.01, 32.0 and
16 32.01?

17 JUDGE HAYNES: Is there any objection?

18 (No response.)

19 Hearing none, those exhibits are
20 admitted.

21

22

1 (Whereupon, ComEd
2 Exhibit Nos. 19, 19.01, 32.0 and 32.01
3 were admitted into evidence.)

4 MR. BERNET: Mr. Brookins is available for
5 cross-examination.

6 JUDGE HAYNES: Mr. Doshi?

7 MR. DOSHI: Thank you, your Honor.

8 CROSS-EXAMINATION

9 BY

10 MR. DOSHI:

11 Q Mr. Brookins, good morning.

12 A Good morning.

13 Q My name Sameer Doshi. I'm an attorney in
14 the Attorney General's Office and if you don't mind,
15 I have a few questions about your testimony?

16 A Certainly.

17 Q I'd like to begin with your rebuttal
18 testimony, Exhibit 19.0. On Page 2, at Line 31 you
19 state that I am responsible for driving fundamental
20 process changes throughout ComEd.

21 Do you see that?

22 A Yes, I do.

1 Q On line 37 you state, As part of my duties,
2 I'm familiar with the structure administration
3 benefits of ComEd's AIP.

4 Do you see that?

5 A Yes, I do.

6 Q Could you explain for us how your
7 responsibility for driving fundamental process
8 changes brings you to have familiarity with the AIP?

9 A Well, my responsibilities for driving
10 fundamental changes has to do with process
11 improvement opportunities that ComEd looks for,
12 identifies, prioritizes and executes under my
13 direction in an organization that we refer to
14 Operational Strategy and Business Intelligence.
15 Those opportunities are looking to derive improved
16 benefits for our customers and the duties related to
17 the structure administration benefits and -- of
18 ComEd's AIP has to do with the administration of our
19 performance indicators and how we facilitated
20 amongst -- throughout ComEd and provide the very
21 documents that were just spoken about, particularly,
22 the monthly performance summary document which is

1 Exhibit 32.01.

2 Q Okay. Thank you.

3 And were you involved in the
4 development of the KPIs that are part of ComEd's AIP?

5 A I was -- as a senior executive of ComEd, I
6 was involved in the approval of the KPIs and the
7 targets.

8 Q Okay. Thank you. Are you -- are you aware
9 that under the EIMA, Energy Infrastructure
10 Modernization Act, ComEd is required to meet certain
11 operational performance targets?

12 A Yes, I am.

13 Q And in the development of the KPIs under
14 the ComEd AIP were the KPIs -- were the AIP KPIs
15 deliberately aligned with the statutory performance
16 targets?

17 A Yes, they were. We developed those KPIs
18 with -- certainly with the EIMA KPIs in mind.

19 Q And are you aware that as Ms. Brinkman
20 discussed in her direct testimony, ComEd failed to
21 meet one of the statutory performance -- operational
22 performance targets for 2013?

1 A I am aware that related to the EIMA targets
2 there was a statutory performance target that ComEd
3 did not meet.

4 Q How do you explain ComEd's failure to meet
5 that statutory performance target yet the fact that
6 it met all KPIs under the -- all KPIs but one, I
7 believe, which related to capital expenditure under
8 the ComEd AIP?

9 A I would not agree with that premise.
10 Included in ComEd's KPIs -- I'll now go to Exhibit --
11 ComEd Exhibit 19.01, one of the KPIs is the EIMA
12 reliability metrics index which is inclusive of all
13 of the EIMA KPIs including the one that we did not
14 meet and, in fact, we did not -- as you can see in
15 that document, part of the reasons why we did not
16 achieve that -- I'm sorry, distinguished in that
17 metric is because we did not meet that particular
18 metric. So there was an impact to that particular
19 AIP measure or metric related to the same EIMA metric
20 that we failed to achieve.

21 Q Okay. Thank you.

22 I'd like to turn to Page 3 of your

1 rebuttal testimony and at Line 65 you state, ComEd's
2 AIP expense is based on operational and cost control
3 metrics that benefit ComEd's customers.

4 Do you see that?

5 A I do.

6 Q Would you agree that in order to calculate
7 the ultimate actual amount of ComEd AIP payout,
8 Exelon and/or ComEd necessarily makes reference each
9 year to the shareholder protection feature?

10 A The ComEd AIP payout is first determined
11 and earned by the operational and cost control
12 metrics and then to determine the final payout, there
13 is a -- a certain protection feature can potentially
14 may or may not limit the amount of pay that is
15 earned.

16 Q Would you agree that each year, the level
17 of Exelon Corporation EPS must be assessed and
18 compared to certain threshold and target levels in
19 the shareholder protection feature?

20 MR. BERNET: Do you mean each year since 2011?

21 MR. DOSHI: Yes.

22 MR. BERNET: Thank you.

1 THE WITNESS: The shareholder protection
2 feature is designed to limit the payout on -- to
3 ComEd employees based on earnings per share. The
4 limit is based upon earnings per share of Exelon.

5 BY MR. DOSHI:

6 Q So would you agree that each year when the
7 ultimate actual ComEd AIP payout is determined,
8 necessarily, the level of non-gap Exelon EPS must be
9 measured and compared to certain preset targets?

10 MR. BERNET: Asked and answered.

11 MR. DOSHI: Your Honor, I don't believe he
12 directly answered the question before.

13 JUDGE HAYNES: Overruled.

14 THE WITNESS: The SPF whether or not there is a
15 limit that is applied is due -- is the measure that
16 it is based on is the Exelon earnings per share and
17 so the earnings per share to determine whether or not
18 there is a limit to be applied is a subsequent
19 measure related to the shareholder protection
20 feature.

21 BY MR. DOSHI:

22 Q Okay. Thank you.

1 So each year -- would you agree that
2 each year in the algorithm process by which actual
3 ComEd AIP is -- AIP payout is determined, the
4 question is asked, Should the SPF shareholder
5 protection feature limiter apply or not?

6 A Well, first, it's determined whether or not
7 there is any AIP payout that has been earned to apply
8 an SPF to; and then later, actually, after the year
9 February of the next year is determined whether or
10 not the shareholder protection feature may be applied
11 to what was earned out of those operational and cost
12 control metrics.

13 MR. DOSHI: Okay. Thank you. I'd like to
14 introduce a cross exhibit now which consists of
15 several data request responses that Mr. Brookins
16 previously provided to us. We're going to label this
17 as AG Cross Exhibit 14.

18 MR. BERNET: What are the numbers?

19 MR. DOSHI: The data requests are numbered
20 AG 15.01, AG 15.02, AG 15.03 and AG 9.11.

21 MR. RIPPPIE: Your Honors, if I could interrupt
22 just for a moment. Two people have e-mailed me to

1 tell me that there are problems with the audio and
2 it's just producing static. I don't know if you --
3 if the IS folks want to look at that.

4 JUDGE HAYNES: You mean people in Springfield?

5 MR. RIPPIE: I think they're both trying to
6 listen over the Internet.

7 JUDGE HAYNES: It was not my understanding that
8 the Internet was on.

9 MR. DOSHI: Your Honor, we were also told
10 yesterday that the Web site live audio feed is not
11 working.

12 JUDGE HAYNES: It's not supposed to be working.

13 MR. RIPPIE: Okay. I apologize for the
14 interruption.

15 JUDGE HAYNES: No problem.

16 (Whereupon, AG Cross
17 Exhibit No. 14 was
18 marked for identification.)

19 BY MR. DOSHI:

20 Q Mr. Brookins, I'd like to refer you to your
21 response to data request AG 9.11 C. That's on the
22 last page of the cross exhibit. The question there

1 was relating to certain lines from your rebuttal
2 testimony, we asked: Are ComEd employees also
3 focused on influencing and achieving targeted levels
4 of Exelon EPS through their awareness of the
5 shareholder protection feature? And your answer is,
6 No.

7 Do you see that?

8 A Yes, I do.

9 Q Are Exelon employees aware of the
10 operational and other KPIs that are part of the
11 Company performance multiplier under the ComEd AIP?

12 A The ComEd employees are very aware of the
13 AIP metrics. Each individual employee has their own
14 individual performance goals that support those AIP
15 metrics.

16 I'm sorry, could you repeat the
17 question one more time?

18 Q My question related to just the KPIs that
19 entered into the performance multiplier.

20 A Right.

21 Q Are ComEd employees aware of the KPIs?

22 A The Company multiplier?

1 Q Yes.

2 A Yes. The ComEd employees are very focused
3 on the AIP metrics that relate to the Company
4 multiplier.

5 Q Okay. Thank you.

6 And would you agree that the way a
7 portion of their pay is tied to achievement of those
8 KPIs under the Company performance multiplier
9 motivates them to work towards achievement of those
10 KPIs?

11 A I agree that the ComEd employees are very
12 motivated by achieving the AIP metrics and the
13 multiplier that goes along with it.

14 Q Would you agree that their personal
15 financial gain for earning and receiving more
16 incentive pay entered into their motivation?

17 A That can certainly contribute to their
18 motivation, yes.

19 Q Are ComEd employees aware of the
20 shareholder protection feature as it applies to the
21 ComEd AIP and how it operates -- how it might
22 operate?

1 A I can't speak for every one of the 6,000
2 employees and how aware they may be of the
3 shareholder protection feature, but we do communicate
4 to them as a part of the plan that there is a
5 shareholder protection feature, whether or not they
6 read it or understand it, I cannot speak for the
7 6,000 employees.

8 Q Okay. Thank you.

9 Assuming a ComEd employee read the
10 literature you distributed that describes the
11 shareholder protection feature and understood it,
12 would the hypothetical employee then have an
13 understanding that his or her incentive pay could
14 potentially be reduced if Exelon EPS failed to meet
15 certain levels?

16 A Our communication of the shareholder
17 protection feature is designed to inform our
18 employees that the amount of AIP earned could be
19 limited by the shareholder protection feature.

20 Q So if a ComEd employee read the
21 communication and understood the operation of the
22 shareholder protection feature, would he or she have

1 an understanding his pay -- his incentive pay -- his
2 or her incentive pay could potentially be reduced
3 depending on the realized value of Exelon EPS?

4 A I believe so, yes.

5 Q Okay. Thank you.

6 So if ComEd employees are, perhaps,
7 partially motivated by personal -- by the prospect of
8 personal financial gain to work towards achievement
9 of the KPIs that enter into the company performance
10 multiplier, would they also be, in your opinion,
11 motivated partially by the prospect of personal
12 financial gain to work towards achieving increased
13 Exelon EPS?

14 And I should say -- I guess this
15 question assumes that I'm talking about an employee
16 who has read and understood the literature regarding
17 the shareholder protection feature.

18 A That's a difficult to question to answer
19 because I'm not sure how the employees would be able
20 to -- to have an impact on the Exelon earnings per
21 share feature. In fact, very few of them would be
22 able to have an impact on the Exelon's earnings per

1 share.

2 Q Would you agree that some of them might be
3 able, through their job duties, to have some impacts
4 on Exelon EPS?

5 A Generally speaking, the vast majority of
6 ComEd employees would not have an impact or the
7 ability to influence the Exelon earning per share.

8 Q Would you agree that some minority could
9 have that ability?

10 A The only way -- and the reason why I ask
11 that -- or respond this way is because the --
12 operationally, the only way that Exelon employees
13 could have an impact on Exelon earnings per share is
14 if they increase the capital spent on Exelon
15 earnings -- Exelon's capital spent and, therefore,
16 once those expenditures are placed in service, they
17 would, through the form of a -- they would receive
18 a -- we would receive a return on that -- on those --
19 that increased expenditure. And the only group of
20 employees that I can think of that would be able to
21 make that kind of decision would be the -- you know,
22 would be the senior officers of ComEd. So of the

1 6,000 employees, it would be a very minority of
2 population of people that could do that.

3 Q Okay. Thank you.

4 Just as a technical note, I guess, at
5 the beginning of that last long sentence you said --
6 I think what you said was the only way Exelon
7 employees could have an influence on Exelon earnings
8 per share. And did you mean to say the only way
9 ComEd employees could have an influence?

10 A Thank you. Correction. It would be ComEd
11 employees, yes.

12 Q Okay. Thank you.

13 Would you agree that some minority of
14 ComEd employees could influence ComEd's capital
15 investment in the way you described in your last
16 response?

17 A Yes. But they certainly would not be --
18 there wouldn't be -- it wouldn't make any sense to do
19 so. There certainly isn't any incentive to do that
20 even in that case.

21 Q Would you agree that it is in the personal
22 financial interest of ComEd employees when Exelon EPS

1 is at or above the target set in the shareholder
2 protection feature rather than below?

3 A I would agree that it is in the personal
4 interest of each of ComEd's employees for the
5 shareholder protection feature not to be applied and
6 limit the payout to ComEd employees.

7 Q Okay. Thank you. Do you have a belief as
8 to if the Commission, hypothetically, disallowed
9 ComEd's recovery of 2013 AIP expense due to the
10 rationale offered by AG Witness Mr. Brosch, would any
11 of the following be a likely result -- I'm going to
12 list three possibilities: One is ComEd or Exelon
13 would choose to end the AIP altogether --

14 MR. BERNET: Can we take these one at a time?

15 MR. DOSHI: Sure.

16 BY MR. DOSHI:

17 Q So would that be a likely possibility?

18 A I'm sorry, can you repeat that question
19 again?

20 Q Sure. Hypothetically, if the Commission
21 disallowed ComEd's recovery of 2013 AIP expense,
22 based on the arguments or rationale offered by AG

1 Witness Brosch, which, if I might summarize, is that
2 the AIP was, based on an affiliates earnings per
3 share -- and you certainly don't have to embrace that
4 argument in your response, but hypothetically, if the
5 Commission accepted that argument, would it be likely
6 that ComEd would end the AIP altogether?

7 A Well, first of all, ComEd could not make
8 such a decision in and of itself, but let me make
9 sure I can clarify --

10 Q Sure. I mean, the questions take -- would
11 Exelon or ComEd end the AIP altogether?

12 A Let me just make sure I'm clear about what
13 you're asking in this hypothetical situation. I
14 think what you're asking is if the AIP expense were
15 disallowed, for whatever reason, would ComEd consider
16 no longer offering an incentive -- an Annual
17 Incentive Plan and, therefore, payouts to employees
18 for achieving certain metrics?

19 Q If it were disallowed for the reason I
20 mentioned, because of Mr. Brosch's arguments about
21 how -- as he alleges -- the program is linked to or
22 is based on earnings per share of an affiliate?

1 A I don't agree with that premise.

2 Q I understand. But, hypothetically, if the
3 Commission accepted that premise --

4 A And so what you're getting to is, if they
5 were disallowed, would ComEd consider not pursuing an
6 Annual Incentive Plan that is based on operational
7 and cost control metrics that benefit our customers?
8 That would be difficult for me to say. If it's
9 something that -- would be something that we would
10 consider along with Exelon and the Board of Directors
11 ultimately of Exelon would have to make final
12 approval of any changes to the Annual Incentive Plan.

13 Q Do you have an opinion of whether ending
14 the AIP altogether under that hypothetical scenario
15 would be a likely outcome?

16 MR. BERNET: Asked and answered.

17 MR. DOSHI: Your Honor. I think he said the
18 Board of Directors would consider possible courses of
19 action.

20 MR. BERNET: Right.

21 JUDGE HAYNES: Sustained.

22

1 BY MR. DOSHI:

2 Q Okay. Thank you.

3 Do you have an opinion about whether
4 its likely that ComEd or Exelon would simply continue
5 the AIP the way it is now under my hypothetical
6 scenario?

7 A Every year, ComEd and Exelon considers
8 adjustments it may want to make to our Annual
9 Incentive Plan in the best interests of operating the
10 business. And so from that standpoint, that -- the
11 circumstances that you're hypothesizing and any other
12 circumstances would be something that -- that would
13 be considered.

14 Q Okay. Thank you.

15 Instead of asking you about a third
16 possible outcome under my hypothetical, I want to --
17 I'll just ask a different question. So let's get out
18 of that hypothetical scenario.

19 Is it possible under the bylaws or
20 other internal corporate rules of Exelon or ComEd to
21 remove the shareholder protection feature from the
22 ComEd AIP?

1 A I'm not -- I'm not aware of -- I'm not
2 aware of anything that restricts ComEd or requires
3 ComEd to always offer an AIP payout to its employees.
4 You asked if it was possible, so I'm not aware of
5 anything that would prohibit ComEd from -- and Exelon
6 from not offering an Annual Incentive Plan.

7 Q Could Exelon or ComEd retain the ComEd AIP
8 but remove the shareholder protection feature from
9 the ComEd AIP?

10 MR. BERNET: You're asking if that's something
11 that he knows about in the bylaws of the -- of Exelon
12 and ComEd? If the bylaws allow that?

13 MR. DOSHI: If he has knowledge of whether
14 bylaws or other corporate rules allow that.

15 THE WITNESS: I have no knowledge of that and
16 I'm not in the -- that part of our company that makes
17 those kind of decisions, so I don't know.

18 BY MR. DOSHI:

19 Q Okay. Thank you.

20 Would it be fair to say that there is
21 a risk each year that Exelon EPS could ultimately be
22 realized at a level that is below the target set in

1 the shareholder protection feature?

2 A Exelon's earnings per share, there is a
3 risk that it could earn above or below -- or achieve
4 above or below the target that is set in the
5 shareholder protection feature.

6 Q Okay. Thank you.

7 Does the shareholder protection
8 feature then increase the uncertainty -- and I'm
9 comparing it to a hypothetical scenario with no
10 shareholder protection feature inherent in the final
11 actual amount of ComEd AIP payout?

12 A Yes.

13 Q Okay. Thank you.

14 In your surrebuttal testimony,
15 Exhibit 32.0 at Page 3, Line 46 you state, ComEd
16 employees do not have monthly line of sight to
17 Exelon's EPS performance.

18 Do you see that?

19 A Yes, I do.

20 Q Would you agree that Exelon's EPS is
21 publically reported in financial media?

22 A Yes, I do.

1 Q Does the Exelon Corporation Web site show
2 Exelon Corporation's EPS?

3 A I don't know the answer to that.

4 Q Okay. Thank you.

5 And I'm sorry, could you turn back to
6 your rebuttal, Exhibit 19.0, Page 6. At the top of
7 Page 6 in the table, Table 1 you've listed the
8 various KPIs that enter into the ComEd AIP Company
9 performance multiplier; is that correct?

10 A Some of the metrics that enter into that
11 multiplier, yes. Not all of them, but some of them.

12 Q Okay. Actually, I thought there was eight
13 KPIs -- it appears there's listed here. Are there
14 other KPIs that are not listed here?

15 A I'm sorry, are you on Page 7 or...

16 Q 6.

17 A 6, I'm sorry. I was looking at Page 7.

18 You are correct, that's all eight of
19 them.

20 Q Okay. Thank you.

21 Would you agree that the targets for
22 the eight KPIs have been carefully analyzed and

1 calibrated so that the resulting AIP payments are not
2 excessive and not inadequate? In other words,
3 they're just right relative to the value of
4 performance for each KPI?

5 MR. BERNET: I'm going to object. No
6 foundation. He hasn't established the foundation
7 that this witness is knowledgeable as to how those
8 metrics are calculated.

9 MR. DOSHI: I believe the witness stated
10 earlier that -- in his role where he's responsible
11 for driving fundamental process changes, he had some
12 responsibility for approving the KPIs.

13 MR. BERNET: He didn't testify that he had
14 responsibility for deriving the specific metrics.
15 It's different.

16 JUDGE HAYNES: Sustained.

17 See if you can lay the foundation.

18 MR. DOSHI: Okay. Thank you.

19 BY MR. DOSHI:

20 Q Mr. Brookins, in your rebuttal testimony,
21 Exhibit 19.0 from Page 7, Line 117 to -- to Page 14,
22 Line 257, would you agree that your testimony

1 explains how each operational and cost control metric
2 relates to ComEd's AIP?

3 MR. BERNET: I'm going to object. You're
4 asking him to characterize seven pages of written
5 testimony?

6 MR. DOSHI: I'm actually quoting from the
7 initial question of that whole passage at Page 7,
8 Line 118.

9 MR. BERNET: All right. That's one question
10 and answer.

11 MR. DOSHI: It appears to me that that question
12 establishes the theme for what's to follow, but Mr.
13 Brookins can disagree if he disagrees.

14 THE WITNESS: As it shows in my response --
15 included in my response on Page 7, Lines 121 through
16 123, I explain how each of the eight metrics relate
17 to ComEd's AIP and I provide details regarding the
18 historical trending as well as a comparison of
19 ComEd's performance with our peer panel and the
20 resulting customer benefits. All of that is included
21 in subsequent questions -- questions and answers.

22 Q Okay. Thank you.

1 In light of historical trends and your
2 role driving fundamental process changes, would you
3 agree that the KPI targets for the Company
4 performance multiplier are correctly calibrated?

5 MR. BERNET: You are asking him about all eight
6 metrics and in what particular year?

7 MR. DOSHI: For 2013. If you like, I could ask
8 one by one for all eight metrics.

9 MR. BERNET: Yeah, I don't know how I he can
10 answer a question like that. Objection. It's vague.

11 MR. DOSHI: If Mr. Brookins believes that all
12 eight metrics are correctly calibrated, he can say so
13 and save some time or we can go through all eight.

14 MR. BERNET: Again, I think there has been no
15 foundation for this line of cross. The metrics that
16 he talks about on Page 7 and below that are how the
17 Company has performed with respect to those metrics.

18 It isn't how the Company calculated
19 those metrics.

20 MR. DOSHI: My question is not so much about
21 the decision process that entered into the
22 determination of the metrics; but simply based on the

1 metrics that have been established, are they
2 correctly calibrated.

3 JUDGE HAYNES: I guess I'm not even
4 understanding correctly calibrated. Correctly
5 calibrated to do what?

6 MR. DOSHI: To achieve desired efficiencies for
7 customers.

8 MR. BERNET: Same objection. Your Honor, I
9 guess I'd also ask what Counsel means by -- I think
10 it's vague -- what Counsel means by desired
11 efficiencies.

12 MR. DOSHI: To Mr. Bernet's last question, at
13 Page 8, Line 134, Mr. Brookins says that reducing the
14 employee exposure to a potential injury is -- seems
15 to be an efficiency goal -- that's my interpretation,
16 he can disagree if he likes. At Line 138, he
17 indicates that minimizing public safety risks appears
18 to be an efficiency goal.

19 JUDGE HAYNES: I guess my problem is, are you
20 asking about how these goals were made? I thought at
21 the beginning of the whole cross he wasn't involved
22 in developing the goals, but these seem to be

1 questions about how the goals were developed.

2 MR. DOSHI: My question is not so much how they
3 were developed, but the numerical goals that have
4 been established, are they -- are they correct?

5 MR. BERNET: Are they correct compared to what?
6 I just -- vague.

7 JUDGE HAYNES: Vague. Sustained.

8 BY MR. DOSHI:

9 Q Are the goals -- are the KPIs goals -- are
10 the KPI numerical goals that have been established
11 correct compared to ComEd's efficiency or safety
12 goals for each one of those KPI categories?

13 MR. BERNET: Objection. Multiple questions.
14 There's eight metrics. He's asking about --
15 apparently asking about safety only. I think that
16 objection has been abstained -- sustained as well.

17 MR. DOSHI: We can go through each of the eight
18 goals if that would --

19 JUDGE HAYNES: Do you mean compared to the EIMA
20 goals?

21 MR. DOSHI: No, not compared to EIMA goals,
22 compared to the efficiency or safety goals that

1 underlies each of those KPIs. And if it would be
2 easier, we could go through each of the eight.

3 JUDGE HAYNES: So ask the question with respect
4 to a specific goal.

5 MR. DOSHI: Okay.

6 BY MR. DOSHI:

7 Q Looking at your table on Page 6 of your
8 rebuttal testimony -- I think, actually, your table
9 indicates the performance rather than the target; is
10 that correct?

11 A That is correct.

12 Q Looking at the OSHA recordable rate KPI
13 indicated on Table 1 on Page 6 of your rebuttal, was
14 the target set -- was the KPI target for OSHA
15 recordable rates set in the 2013 ComEd AIP effective
16 in reaching ComEd's workplace safety goals?

17 MR. BERNET: You're asking -- I mean, what the
18 witness testified to is that in Table 1 is the result
19 of the performance in 2013.

20 MR. DOSHI: Yes.

21 MR. BERNET: I'm not sure I understand. You're
22 asking whether that result was consistent with the

1 target that was set in 2013?

2 MR. DOSHI: My question is, was the target that
3 was set under the 2013 AIP effective in achieving
4 workplace safety goals for ComEd.

5 MR. BERNET: Again, I'm going to object.
6 The -- Counsel hasn't laid a foundation that this
7 witness was involved in setting any particular target
8 for OSHA recordables in 2013.

9 MR. DOSHI: My question is not so much about
10 the process by which the targets were decided, but
11 simply whether the number that was set as the target
12 was effective in reaching ComEd's workplace safety
13 goals.

14 JUDGE HAYNES: Do you know what ComEd's
15 workplace safety goals are?

16 THE WITNESS: I know what the -- I know what
17 the goals are and I know what the -- and I have to
18 look to see if I have them in front of me, but I'm
19 somewhat familiar with what the targets -- where they
20 were set.

21 JUDGE HAYNES: Is that different than the
22 targets set in the AIP Plan?

1 THE WITNESS: No, the -- the targets I was
2 referring to is what was established in the AIP Plan.

3 JUDGE HAYNES: I'm not understanding your
4 question. So vague.

5 THE WITNESS: I'm not understanding it either.

6 MR. DOSHI: I'll ask a different question. I
7 hope it will be clearer.

8 BY MR. DOSHI:

9 Q Are the KPI targets under the ComEd AIP set
10 so that resulting incentive awards give ComEd
11 employees the proper incentive to work towards the
12 KPI targets?

13 MR. BERNET: Again, I'm going to object. I
14 he's asking the same question over and over. Are the
15 targets set at the right level? I mean, asked and
16 answered.

17 JUDGE HAYNES: Overruled.

18 THE WITNESS: The -- we set targets or the
19 targets are set based upon what we see --
20 benchmarking against pure utility companies and our
21 desire to see improved performance relative to those
22 other companies and if you're asking, are the targets

1 reachable, achievable, yes, we don't set targets that
2 are impossible for employees to achieve.

3 BY MR. DOSHI:

4 Q Okay. Thank you.

5 Earlier you stated that the
6 shareholder protection feature increases the
7 uncertainty of ultimate actual ComEd AIP payouts.
8 Would you agree that that additional uncertainty
9 that's created by the shareholder protection feature
10 reduces an employee's incentive to work towards
11 achievement of the Company performance multiplier
12 KPIs under the ComEd AIP?

13 A No, I would not agree with that.

14 MR. DOSHI: That's all my questions, your
15 Honor.

16 JUDGE HAYNES: Thank you.

17 Redirect?

18 MR. BERNET: Yes. May we have a moment?

19 JUDGE HAYNES: Mm-hmm.

20 MR. DOSHI: Your Honor, before the redirect,
21 I'd like to move for admission of AG Cross
22 Exhibit 14.

1 JUDGE HAYNES: They are otherwise occupied.

2 MR. DOSHI: Sure.

3 MR. BERNET: You moved for admission of that?

4 MR. DOSHI: (Nonverbal response.)

5 MR. BERNET: No objection.

6 JUDGE HAYNES: AG Cross Exhibit 14 is admitted.

7 (Whereupon, AG Cross

8 Exhibit No. 14, was

9 admitted into evidence.)

10 Did you have redirect for your

11 witness?

12 MR. BERNET: I'm sorry?

13 JUDGE HAYNES: Do you have redirect for your

14 witness?

15 MR. BERNET: I do.

16 REDIRECT EXAMINATION

17 BY

18 MR. BERNET:

19 Q Okay. Mr. Brookins, do you recall that

20 Counsel asked you questions about ComEd's performance

21 in terms of its reliability metrics -- strike that.

22 Counsel asked you questions about

1 ComEd's AIP payout compared to its EIMA reliability
2 performance that resulted in ComEd paying an ROE
3 penalty.

4 Do you recall that testimony.

5 A I do agree. I remember that.

6 JUDGE HAYNES: Is your mic off?

7 THE WITNESS: No.

8 JUDGE HAYNES: I didn't hear your response.

9 THE WITNESS: Yes, I do recall that.

10 BY MR. BERNET:

11 Q And let me direct your attention to one of
12 your work papers in this case and specifically it's
13 related to ComEd Exhibit 19.0 which is your -- which
14 is your rebuttal testimony and specifically work
15 paper 2.

16 MR. BERNET: Can I hand this out?

17 JUDGE HAYNES: Yes, you can.

18 BY MR. BERNET:

19 Q Can you tell me what that document is?

20 A This is a calculation of the EIMA
21 reliability metrics index and how it computes to
22 determine the -- that portion of the payout of the

1 overall AIP -- in the AIP Incentive Plan.

2 Q And directing your attention specifically
3 to the table and the column that says, Customers
4 exceeding service reliability targets.

5 Do you see that?

6 A I do.

7 Q Can you tell us what that -- what that
8 means?

9 A Well, including both in the EIMA metrics as
10 well as in the ComEd Annual Incentive Plan, we have
11 two measures of system safety, which is the Average
12 Frequency Index, meaning, that the average amount of
13 outages is experienced by our 3.8 million customers
14 and the system CAIDI Index, which is the average
15 duration experienced by those customers experienced
16 outages, recognizing that both in the EIMA or --
17 recognizing the EIMA that these two are averages
18 among 3.8 million customers, that means that some
19 customers experiencing -- experience fewer
20 interruptions than average; some experience more and
21 those customers experiencing the interruptions, some
22 of -- some of those experienced durations of the

1 interruptions less and -- sometimes more than -- some
2 more than average. So this metric customer exceeding
3 service reliability target was designed to take into
4 account that there are some customers who may be
5 experiencing frequency of interruptions far more than
6 the average or experiencing durations of interruption
7 for more than the average and it is -- the numbers
8 that you see there for threshold target and
9 distinguished are the numbers of customers would be
10 experiencing something far worse than the average.

11 Q Okay. And so just for purposes of
12 illustration, so in the threshold -- so in order for
13 ComEd to have met the threshold level in its AIP, it
14 would have had to have had 37- -- only 376 customers
15 exceeding those reliability targets; is that right?

16 A That's correct. 376 customers out of the
17 3.8 million customers that ComEd serves.

18 Q And the distinguished level would have been
19 if they only had -- if ComEd only had 345 customers
20 that exceeded those limits; right?

21 A That is correct.

22 Q And the result was that ComEd had 4,262

1 customers out of the 3.8 million that exceeded those
2 targets; right?

3 A That is correct.

4 Q And so directing your attention to
5 column -- the orange column that says, Zero percent,
6 what does that mean?

7 A That means that ComEd did not achieve the
8 threshold number of 376. In other words 4,262 was
9 well above 376 and, therefore, there is no payout
10 relative to that particular metric.

11 Q And that's the metric that caused ComEd to
12 have the -- that's the metric that caused ComEd to
13 have the ROE penalty under the statute; is that your
14 understanding?

15 A That is correct.

16 Q And so the fact that ComEd had that --
17 failure to achieve that particular metric was
18 reflected in the calculation of ComEd's annual
19 incentive compensation; is that right?

20 A That is correct.

21 Q Now, Counsel asked you a number of
22 questions about the ability of ComEd employees to

1 influence Exelon earnings per share.

2 Do you remember that -- that line of
3 questioning?

4 A I do.

5 Q Given that ComEd has formula distribution
6 and transmission rates, how can ComEd increase
7 Exelon's earnings per share?

8 A Well, Exelon has almost 90 million shares
9 outstanding. So, in order to increase Exelon's
10 earnings per share, you would have to increase its
11 earnings -- or ComEd's income would have to increase
12 by about \$9 million, roughly. 9 million over the
13 900 million shareholders. And -- so in order to
14 increase those earnings or income by \$9 million, the
15 only way that that could occur under the formula rate
16 is if ComEd increased its return on -- increased its
17 returns on its plant assets and the only way that
18 could happen is if it increased its capital
19 expenditures. So in order to increase it by a penny
20 a share, that means -- given a -- that half of those
21 investments would be -- would -- I'm sorry, half of
22 those capital expenditures would be financed by

1 equity and that if the allowed return on equity was
2 10 percent, that would mean that it would have to
3 increase expenditures by about \$180 million.

4 Q Would it be fair to say that ComEd would
5 have to increase its capital spending by \$180 million
6 in order to increase Exelon's earnings per share by
7 1 cent?

8 A That is correct.

9 Q Can you tell me, Mr. Brookins, are ComEd
10 employees incentivized to increase capital spending?

11 A No. ComEd's employees are incented to
12 decrease capital expenditures and I'll take you again
13 to Exhibit 19.01 where you say that those -- the
14 threshold for capital expenditures is \$824 million
15 versus distinguished, which is \$706 million, so the
16 incentive is to decrease it.

17 Q So, in other words, if ComEd -- if ComEd
18 spent \$824 million in 2013 on capital, that would
19 have been threshold performance and there would have
20 been an incentive compensation; and if ComEd spent
21 less at 706 million, that would be distinguished
22 performance meaning that employees would be -- would

1 have earned higher incentive compensation?

2 A Yes. And to go further, if ComEd's capital
3 expenditure is exceeded by \$824 million, they would
4 not receive a payout in that metric.

5 Q And that particular metric on the far right
6 is weighted at 25 percent, so that means employees
7 incentive compensation -- 25 percent of employees
8 incentive compensation is dictated by the capital
9 expenditures metric?

10 A That is correct.

11 Q Does increase in operating expenses have
12 the same impact on earnings per share?

13 A I am not an accountant, but it's my
14 understanding that an increase in O & M would flow
15 directly to customers or decrease in O & M
16 expenditures would also flow directly to the
17 customers that would receive the benefit of that
18 decrease.

19 Q So changes in operating expenses wouldn't
20 affect earnings per share one way or the other?

21 A That is my understanding.

22 Q I'd like to direct your attention to

1 Exhibit 3- -- ComEd Exhibit 32.01 which is entitled,
2 ComEd Monthly Performance Summary.

3 A Okay.

4 Q So that document is dated December 2013 and
5 it's 117 pages of various graphs and charts.

6 Is that a document that is prepared on
7 a monthly basis during the calendar year?

8 A Yes, it is.

9 Q And what's the purpose of that document?

10 A The purpose of the document is to report to
11 our -- keep our employees informed on the performance
12 of each of the different performance indicators
13 relative to the targets that are established and
14 where the performance is something detrimental to
15 that target, it gives employees an opportunity to
16 identify what is causing it and take the appropriate
17 corrective actions to improve the performance within
18 the calendar year.

19 Q And are the eight operational and cost
20 control metrics that form the basis of earned
21 incentive compensation contained within this
22 document?

1 A Yes, they are.

2 Q Do you know, Mr. Brookins, when Exelon's
3 earnings per share for the calendar year 2013 were
4 ultimately disclosed?

5 A For the full calendar year of 2013, I
6 believe the earnings per share results were provided
7 in early February of 2014.

8 Q So employees wouldn't have known what
9 earnings per share was at any particular point in
10 time during the year?

11 A On a quarterly basis, ComEd reports to --
12 to make public its -- each quarterly earnings and,
13 therefore -- year to date as each -- as you go
14 through each quarter and they also provide a guidance
15 range; outside of that, employees would not have any
16 knowledge of what the end result would be until the
17 next year after the AIP earned metrics are
18 understood.

19 Q And -- but the total earnings per share
20 aren't known until the following year; right?

21 A Not until the following year.

22 Q And with respect to the monthly report

1 that's prepared, that report doesn't contain anything
2 about Exelon earnings per share, does it?

3 A It does not.

4 MR. BERNET: That's all I have.

5 JUDGE HAYNES: Thank you. Recross?

6 MR. DOSHI: Thank you, your Honor.

7 MR. BERNET: Your Honor, I would like to move
8 for admission as ComEd Redirect Exhibit 1, the --

9 JUDGE HAYNES: 2 I think.

10 MR. BERNET: Oh, 2, EMI Reliability Metrics
11 Index.

12 MR. DOSHI: No objection, your Honor.

13 JUDGE HAYNES: ComEd Redirect Exhibit 2 is
14 admitted.

15 Have you provided three copies to the
16 court reporter?

17 MR. BERNET: I have not, but I will right now.

18 (Whereupon, ComEd
19 Redirect Exhibit No. 2 was
20 marked for identification and
21 admitted into evidence.)

22 MR. DOSHI: Your Honor, may I ask a few

1 questions to Mr. Brookins?

2 JUDGE HAYNES: A few.

3 MR. DOSHI: Thank you.

4 RECROSS-EXAMINATION

5 BY

6 MR. DOSHI:

7 Q Mr. Brookins, could you walk me through one
8 more time -- I probably just missed the math -- why
9 it's the case that had ComEd needs to increase cap ex
10 by an incremental with \$180 million in order to
11 increase earnings by \$9 million?

12 A I'll reverse it. So with a \$180 million
13 increase of capital expenditures that goes in
14 service, if half of it is financed through equity --
15 that would be the presumption -- that's \$90 million
16 and if the return on equity of that \$90 million is --
17 10 percent just for -- keeping it simple math --
18 10 percent of 90 million is 9 million.

19 Q Okay. Thank you.

20 Counsel asked you about Quarterly
21 Guidance Report that ComEd gives employees; is that
22 correct?

1 A That's correct.

2 Q And you mentioned that earnings guidance is
3 included in the quarterly reports; is that correct?

4 A That is correct.

5 Q Is that Exelon earnings guidance or ComEd?

6 A ComEd does not have earnings guidance, just
7 Exelon.

8 Q Okay. Thank you.

9 So is the earnings guidance only with
10 respect to that one quarter?

11 A Each quarter -- Exelon makes public
12 earnings for that particular quarter and what the
13 earnings are year to date through that quarter. So,
14 for example, in the second quarter, it would provide
15 earnings for the second quarter and then the year to
16 date earnings that is inclusive of first and second
17 quarter.

18 Q Okay. Thank you.

19 Would it be accurate to say that the
20 third quarter earnings guidance is released around
21 September 30th?

22 A I believe the earnings guidance for the

1 third quarter is probably not released until
2 November -- the early part of November.

3 Q Okay. Thank you.

4 Do you agree that it's possible that
5 Exelon EPS could -- could be -- the realized value of
6 Exelon EPS for a year could be below the threshold
7 level established in the shareholder protection plan?

8 MR. BERNET: I think that was asked and
9 answered already.

10 JUDGE HAYNES: Sustained.

11 BY MR. DOSHI:

12 Q If, hypothetically, the third quarter
13 earnings guidance released around early November
14 indicated that Exelon's EPS for the whole year was on
15 track or projected to be below the threshold level
16 set in the shareholder protection plan, how might
17 that information, in your opinion, affect ComEd
18 employees' motivation to work towards the Company
19 performance multiplier KPIs during the rest of
20 November and December?

21 A It wouldn't. ComEd employees are
22 incentivized, again, to reduce capital expenditures

1 and O & M expenditures, for that matter in the AIP
2 Plan and the performance metrics that we track
3 monthly. Not only are they evaluated on it from the
4 standpoint of how it contributes to the AIP, but also
5 many of those employees receive performance reviews
6 on their contributions towards achieving those goals
7 and it impacts, ultimately, their individual
8 multiplier in the AIP and it also impacts their
9 salary administration -- individual salary
10 administration and it impacts how we assessed them in
11 terms of future opportunities within the Company.

12 Q Okay. Okay. Thank you.

13 I have one final question. Under my
14 hypothetical where the third quarter earnings
15 guidance released in early November showed that
16 Exelon EPS for the year was projected or on track to
17 be below the threshold level in the shareholder
18 protection feature, for a hypothetical employee who
19 understands the workings of the shareholder
20 protection plan, would that information in the third
21 quarter guidance, in my hypothetical, cause the
22 employee to understand there is a good chance that

1 AIP paid for the year would be reduced to zero?

2 MR. BERNET: Objection. Asked and answered.

3 JUDGE HAYNES: It's slightly different.

4 Overruled.

5 THE WITNESS: Can you repeat your question,
6 please.

7 BY MR. DOSHI:

8 A In a hypothetical scenario where the third
9 quarter earnings guidance released to employees in
10 early November indicated that Exelon EPS for the year
11 was projected or on track to be below the threshold
12 level for Exelon EPS established in the shareholder
13 protection feature, would an employee who understands
14 the shareholder protection feature, as a result, have
15 an understanding that there is a significant chance
16 that his or her AIP pay for the year would be reduced
17 to zero?

18 MR. BERNET: I'm going to object to the
19 question it's an improper hypothetical. It assumes
20 that Exelon projects a particular earnings per share
21 when, in fact, the Company does not project a
22 particular earnings per share. It only projects

1 ranges.

2 JUDGE HAYNES: Can you restate the question to
3 not make that assumption?

4 MR. DOSHI: Okay.

5 BY MR. DOSHI:

6 Q Hypothetically, if the third quarter
7 earnings guidance released in early November of a
8 given year showed that the projected range of Exelon
9 EPS for the whole year was entirely below the
10 threshold Exelon EPS level set in the shareholder
11 protection feature, then for a hypothetical employee
12 who fully understands the shareholder protection
13 plan, would he or she then understand that there is a
14 significant chance that his or her AIP pay for the
15 year could be reduced to zero?

16 A I believe that employee would recognize
17 that there is a risk of that occurring.

18 JUDGE HAYNES: Okay. Great. You said that was
19 your last question?

20 MR. DOSHI: Yes. Thank you, your Honor.

21 JUDGE HAYNES: Nothing?

22 MR. BERNET: (Nonverbal response.)

1 JUDGE HAYNES: Okay. Thank you, Mr. Brookins.

2 MR. FOX: Judge, would now be an opportunity
3 move for admission?

4 JUDGE HAYNES: We can do that right now.

5 MR. FOX: The parties having waived
6 cross-examination of RESA Witness Matthew White. I
7 would like to move for the admission of his testimony
8 exhibits which were supported by affidavit which we
9 filed yesterday. To that end, I'd like to move for
10 admission of RESA Exhibit M.W. 1.0C, the corrected
11 direct testimony of Matthew White which was filed on
12 e-Docket yesterday, August 27th, 2014 and the related
13 exhibits referenced in that direct testimony, RESA
14 Exhibits M.W. 1.1, M.W. 1.2, M.W. 1.3, M.W. 1.4,
15 those exhibits -- M.W. 1.1 through M.W. 1.14 were
16 filed on e-Docket on July 1, 2014 and I'd also like
17 to move for RESA Exhibit M.W. 2.0 which is rebuttal
18 testimony of Mr. Matthew White along with the
19 exhibits referenced in that rebuttal testimony,
20 M.W. 2.1 and M.W. 2.2 which were filed on e-Docket on
21 August 13th, 2014; and, finally, I'd like to move for
22 admission of RESA Exhibit 3.0C which is the affidavit

1 of Matthew White.

2 JUDGE HAYNES: And it's a corrected affidavit?

3 MR. FOX: Yes. We corrected it because we
4 filed 1.0 C to make a two-word change in his direct
5 testimony.

6 JUDGE HAYNES: Okay. And that was filed on
7 e-Docket on August 27th?

8 MR. FOX: Yes.

9 JUDGE HAYNES: Is there any objection to
10 admitting these exhibits as previously filed on
11 e-Docket?

12 MR. RIPPIE: No, your Honor.

13 JUDGE HAYNES: Hearing none, they're admitted.

14 (Whereupon, RESA
15 Exhibit Nos. 1.0C, M.W. 1.1,
16 M.W. 1.2, M.W. 1.3, M.W. 1.4,
17 M.W. 1.1 through M.W. 1.14,
18 M.W. 2.0, M.W. 2.1, M.W. 2.2 and
19 3.0C were admitted into evidence.)

20 JUDGE HAYNES: Thank you.

21 MR. FOX: Thank you.

22 MR. RIPPIE: We have a number of documents to

1 admit and it will take way longer and there are
2 witnesses present.

3 JUDGE HAYNES: Okay. So next up is
4 Mr. Carpenter. We're going to take a quick break.

5 (Recess taken.)

6 JUDGE HAYNES: Okay. Let's go back on the
7 record.

8 MR. SANCHEZ: Your Honor, good morning. My
9 name is Manny Sanchez of Sanchez, Daniels & Hoffman
10 representing the Chicagoland Chamber of Commerce. We
11 have filed an appearance this matter -- my partner,
12 Heather Erickson, we're prepared to proceed if your
13 Honor is.

14 JUDGE HAYNES: Thank you. Please call your
15 witness.

16 MR. SANCHEZ: Okay. Very good.

17 Mr. Carpenter, would you please state
18 and spell your full name for the record.

19 MR. JOHN CARPENTER: John carpenter, J-o-h-n,
20 C-a-r-p-e-n-t-e-r.

21 MR. SANCHEZ: And by whom are you employed?

22 MR. JOHN CARPENTER: Chicagoland Chamber of

1 Commerce.

2 JUDGE HAYNES: Before you go any further, let
3 me swear your witness in.

4 Please raise your right hand.

5 (Witness sworn.)

6 JOHN CARPENTER,
7 called as a witness herein, having been first duly
8 sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY

11 MR. SANCHEZ:

12 Q Were those two first two questions answered
13 honestly and correctly and accurately?

14 And what is your position there, sir?

15 A I'm senior vice president of External
16 Affairs.

17 Q Okay. Have you offered written testimony
18 in this proceeding?

19 A Yes.

20 Q Okay. The piece of testimony I'd like to
21 draw your attention to is marked Chicagoland Chamber
22 of Commerce 1.0 and is entitled, quote, the Rebuttal

1 Testimony of John Carpenter, senior vice president
2 External Affairs, Chicagoland Chamber of Commerce and
3 it consists, does it not, of nine pages of questions
4 and answers and was filed with the Commission on
5 August 13, 2004 with e-Docket Serial No. 217642?

6 A Yes.

7 Q Are there any direction corrections to this
8 testimony, Mr. Carpenter?

9 A No.

10 Q Okay. Is it true and correct that the
11 amended 1.0 is accurate and true to the best of your
12 knowledge?

13 A Yes.

14 Q Okay. If I were to ask you the same
15 questions today, would your answers be the same as
16 the corrected Exhibit 1.02?

17 A Yes. Yes.

18 MR. SANCHEZ: Okay. Your Honor, this testimony
19 was filed with the Commission and I believe it's
20 already of record. I hereby move to -- Chicagoland
21 Chamber of Commerce Exhibit 1.0 as corrected that
22 I've described into the record and I tender

1 Mr. Carpenter for cross-examination.

2 JUDGE HAYNES: Thank you. I'm sorry. I'm not
3 seeing -- is it -- just one of the exhibits was
4 corrected or was the whole testimony corrected?

5 MR. SANCHEZ: It was 1.01, the testimony had, I
6 believe, three errata changes. If I could, your
7 Honor, on Page 3, Lines 47 and 48 -- okay. I
8 mistakenly mentioned 1.02, I meant to say 1.01. Just
9 so the record is correct, okay, it's up in the
10 right-hand corner and -- Exhibit 1.0 and there were
11 minor changes made, your Honor, okay, on Page 3,
12 Lines 47 and 48, the corrected sentence should read:
13 I am responsible for all of the Chamber's public
14 policy and lobbying initiatives, period.

15 On Page 4, Line 74, "Commission"
16 should be "Commission's," with an apostrophe "s."

17 And on Page 8, Line 168, "customer"
18 should be "customers", plural.

19 On Page 8, Line 161, the corrected
20 sentence should read as follows: Mr. Brosch's
21 proposal could, not would, could have the odd result
22 of deleting the limiter and thus passing along to

1 customers the full amount of annual incentive
2 compensation calculated under ComEd's AIP.

3 Those were the only changes.

4 JUDGE HAYNES: Okay. Thank you.

5 Is there any objection to admitting
6 that testimony?

7 (No response.)

8 Hearing none, it's admitted into
9 record.

10 (Whereupon, CCC

11 Exhibit Nos. 1.0 and 1.01 were
12 admitted into evidence.)

13 JUDGE HAYNES: Who has cross-examination for
14 this witness?

15 MR. DOSHI: Your Honor, I have some
16 cross-examination questions for Mr. Carpenter.

17 JUDGE HAYNES: Okay. Go ahead.

18 MR. DOSHI: As a preliminary matter, I'd like
19 to introduce three data request responses that we
20 will label AG Cross Exhibit 15 and the responses are
21 to the requests numbered AG-CCR 1.01, 1.2 and 1.03.

22 JUDGE HAYNES: Did you give three copies to the

1 court reporter?

2 MR. DOSHI: I believe I did, your Honor.

3 (Whereupon, AG Cross

4 Exhibit No. 15 was

5 marked for identification.)

6 JUDGE HAYNES: Okay. Great.

7 MR. DOSHI: I will most likely not be asking
8 further questions about the responses shown in Cross
9 Exhibit 15, but I wanted to introduce that -- those
10 responses into the record.

11 JUDGE HAYNES: You are moving to admit AG --

12 MR. DOSHI: Yes.

13 JUDGE HAYNES: -- Cross Exhibit 15?

14 MR. DOSHI: Yes. At this time, I'd like to
15 move to admit AG Cross Exhibit 15.

16 JUDGE HAYNES: Is there any objection?

17 MR. SANCHEZ: No.

18 JUDGE HAYNES: AG Cross Exhibit 15 is admitted.

19 (Whereupon, AG Cross

20 Exhibit No. 15 was

21 admitted into evidence.)

22 MR. DOSHI: Thank you, your Honor.

1 CROSS-EXAMINATION

2 BY

3 MR. DOSHI:

4 Q Good morning, Mr. Carpenter.

5 A Good morning.

6 Q I'd like to ask you a few questions about
7 your rebuttal testimony.

8 Could you turn to Page 3, Line 47 --
9 in the corrected version now says, I am responsible
10 for all of the Chamber's public policy and lobbying
11 initiatives?

12 Do you see that?

13 A Yes.

14 Q Would you describe your testimony in this
15 proceeding as a public policy initiative?

16 A My testimony is based on the fact that the
17 Chamber strongly supported the legislation as
18 introduced and enacted by the legislature and signed
19 by the Governor and this is a provision of that
20 legislation which we supported back in 2011.

21 Q Okay. Thank you.

22 Has Exelon Corporation or ComEd asked

1 you or the Chicagoland Chamber in the past to do
2 lobbying on their behalf?

3 A Yes.

4 Q Can you tell us when that happened?

5 A We have a legislative agenda every year
6 which is rather extensive. There are provisions
7 sometimes supported by ComEd or Exelon, specific
8 legislation that doesn't come to mind, but they have
9 a legislative agenda each year like we do and to the
10 extent that their agenda agrees with ours, we are
11 supportive of it.

12 Q Okay. Thank you.

13 I see at Line 53 on Page 3 that you
14 have not filed Illinois Commerce Commission testimony
15 before; is that correct?

16 A Yes.

17 Q Were you aware of this ICC proceeding
18 before July 2014?

19 A I don't know the specific date I became
20 aware of it over the summer.

21 Q Were you aware of the proceeding when it
22 was initiated in April?

1 A During the end of the legislative session,
2 I was somewhat preoccupied. I think probably after
3 the legislature adjourned I became aware of it, that
4 would have been the end of May.

5 Q Okay. Thank you.

6 When did you first become aware of the
7 proposal made by the Attorney General Witness
8 Mr. Brosch regarding incentive compensation in this
9 case?

10 A I'd be guessing, but my best recollection
11 is some time early to mid-August, this month.

12 Q Okay. How did you become aware of it?

13 A I had a conversation with one of our
14 members, ComEd.

15 Q Okay. Did they request or encourage you to
16 submit testimony in this proceeding?

17 A Yes.

18 Q Okay. Thank you.

19 I'm now going to distribute a data
20 request response that we will label as AG Cross
21 Exhibit 16. It's Mr. Carpenter -- or the Chamber's
22 response to the request numbered AG-CCC 2.02.

1 (Whereupon, AG Cross
2 Exhibit No. 16 was
3 marked for identification.)

4 BY MR. DOSHI:

5 Q Mr. Carpenter, in your response to our
6 request AG-CCC 2.02, you state that the Chicagoland
7 Chamber's officers -- I'm sorry, I'm referring to
8 Part C -- the officers and the Public Policy
9 Committee approved submission of the testimony in
10 this docket.

11 Is that still your response today?

12 A Yes.

13 Q Thank you.

14 Did you consult any members of the
15 Chicagoland Chamber?

16 A Those officers are members.

17 Q Are they members as -- in their capacity as
18 individual persons or as representatives of certain
19 companies?

20 A They're corporations or business entities
21 are members and they are representatives of those
22 entities.

1 Q Okay. Thank you.

2 So if I could restate what you're
3 saying and you can tell me if this is correct, each
4 officer of the Chicagoland Chamber is a
5 representative of a member company of the Chamber; is
6 that correct?

7 A Yes.

8 Q Okay. Thank you.

9 Do you consult any other member
10 companies besides those represented by the officers?

11 A In what -- in what instance?

12 Q In your decision to file -- to submit
13 testimony in this proceeding?

14 A No.

15 Q Okay. Thank you.

16 May I ask whether any of the following
17 companies are members of the Chicagoland Chamber of
18 Commerce, if you know. I'm going to list nine
19 companies: Caterpillar, Inc.?

20 A No.

21 Q Abbott Labs?

22 A No.

1 Q AB-V, Inc. (phonetic)?
2 A No.
3 Q Chrysler Corporation?
4 A No.
5 Q Exxon Mobile Power and Gas Services?
6 A No.
7 Q General Iron Industries?
8 A I don't know. I don't think so.
9 Q Ford Motor Company?
10 A Yes.
11 Q Sterling Steel Company?
12 A I don't know.
13 Q Thermal Chicago Corporation?
14 A No, I don't think so.
15 Q Okay. Thank you.

16 Next, I'm going to introduce a data
17 request response to request AG-CCC 1.11 and we will
18 label this AG Cross Exhibit 17.

19 (Whereupon, AG Cross
20 Exhibit No. 17 was
21 marked for identification.)

22

1 BY MR. DOSHI:

2 Q Mr. Carpenter, this response indicates the
3 financial contributions and donations that ComEd and
4 Exelon Corporation has given to the Chicagoland
5 Chamber since 2010; is that correct?

6 A Yes.

7 Q It appears that in 2010, over \$100,000 was
8 given; is that correct?

9 A I assume your addition is correct, yeah.

10 Q Okay. Thank you.

11 In 2011, it appears \$61,000 was given;
12 is that correct?

13 A I'll take your word for it.

14 Q Okay. Thank you.

15 It appears in 2012 -- this is a very
16 rough estimate -- around \$140,000 was given; is that
17 roughly correct?

18 A Okay.

19 Q And it appears in 2013, again, around
20 \$140,000 was given?

21 A Mm-hmm.

22 Q Is that correct?

1 A Yes.

2 Q How many companies each year give at least
3 \$140,000 to the Chicagoland Chamber?

4 A I'm not on the financial and membership
5 side of the organization. I know there are more than
6 several. I'm sure there are companies that give at
7 this level. I couldn't name them specifically but we
8 have several large companies that are big supporters
9 of the Chamber. I'm assume that they view this as
10 evidence of good corporate citizenship.

11 Q Do you know if it's more than 10?

12 A Maybe. It could be. I don't know for
13 sure.

14 Q Okay. Thank you.

15 Next I'm going to introduce a data
16 request response that we will call AG Cross Exhibit
17 18 and it's the response to the request No.
18 AG-CCC 1.06.

19 (Whereupon, AG Cross
20 Exhibit No. 18 was
21 marked for identification.)

22

1 BY MR. DOSHI:

2 Q Mr. Carpenter, in Part E of --

3 A I'm sorry, which part?

4 Q Part E --

5 A E?

6 Q -- of your response to 1.06, we asked you
7 to compare a line from your testimony on Page 8 at
8 Line 16 -- starting at Line 161. I think in the
9 revised version now it starts at Line 160 and the
10 quote was, Mr. Borsch's proposal could have the odd
11 result of deleting the limiter and thus passing along
12 to customers the full amount of annual incentive
13 compensation calculated under ComEd's AIP.

14 Do you see that line in your
15 testimony?

16 A Yes.

17 Q And we asked you in the data request Part E
18 to compare that to your statement at Line -- I guess
19 formerly it was 156 I think in the revised version,
20 now it's 155 you state that Mr. Brosch's proposal,
21 quote, would likely undo pay at risk compensation
22 altogether.

1 Do you see that?

2 A Yes.

3 Q And in the question -- in data request
4 1.06E, we asked you to reconcile those two quotes
5 because the first one sounds like you believe if the
6 Commission adopted Mr. Brosch's proposal to disallow
7 recovery of ComEd AIP expense, the result would be
8 that the shareholder protection feature limiter would
9 be, as you put it, deleted or removed; and in -- the
10 second quote suggests that you believe that if the
11 Commission adopted Mr. Brosch's proposal, ComEd or
12 Exelon would entirely end the AIP Program?

13 A I think so I said could, not would.

14 Q Okay. I think --

15 A He just said would, though.

16 Q I think in the revised version in the
17 second quote it still says, Would likely undo pay at
18 risk compensation altogether and in the first quote
19 in the revised version, I think -- now it says could
20 have the odd result of deleting the limiter and thus
21 passing along to customers the full amount of the
22 annual incentive compensation.

1 Is that all that correct?

2 A Could is the current version.

3 Q For the quote that's now at Line 160?

4 A The testimony reads could now, doesn't it?

5 Q I'm sorry?

6 A The testimony currently reads could rather
7 than would.

8 Q For the quote at Line 160 and the quote at
9 Line 155 says, Would likely --

10 A Right.

11 Q -- undo pay at risk --

12 A Correct.

13 Q -- compensation altogether?

14 A Right. Right.

15 Q So my question is, of the two possibilities
16 suggested by those two statements, which do you
17 believe is more likely?

18 A I'm in no position to guess what ComEd or
19 Exelon would do. They're merely two alternatives
20 that are possible results.

21 Q Okay. So would you agree that at Line 155
22 of the revised version of your testimony, a fair

1 reflection of your position would be to say, Could
2 likely undo pay at risk compensation altogether?

3 A That's fine.

4 Q Okay. Thank you.

5 So you don't have any opinion as to
6 the relative probabilities of those two possible
7 outcomes?

8 A No I don't.

9 Q Okay. Thank you.

10 MR. SANCHEZ: That is correct.

11 THE WITNESS: Correct. I have no...

12 BY MR. DOSHI:

13 Q Okay. Thank you.

14 Do you or the Chicagoland Chamber
15 believe that the shareholder protection feature in
16 ComEd's AIP is not based on Exelon Corporation
17 earnings per share?

18 A Do we believe that? Is that --

19 Q Yes. That's my question.

20 A We do not. We do believe that it is not
21 based on that.

22 Q You believe that the shareholder protection

1 feature is not based on Exelon Corporation earnings
2 per share?

3 A Oh, the shareholder protection, yes, I
4 guess I do believe that.

5 Q You believe it is based on -- you believe
6 the shareholder protection feature is based on Exelon
7 Corporation earnings per share; is that correct?

8 A I don't believe it's based on it. No, I
9 don't.

10 Q Can you explain the basis for that belief?

11 A My view is that the shareholder protection
12 feature is included in the ComEd AIP.

13 Q Okay. Can you explain your understanding
14 of how the shareholder protection feature works?

15 A I don't have a working knowledge of the
16 proceed- -- of the provision itself. I do know that
17 I could only cause the ComEd AIP to be lesser than it
18 would be otherwise. It's a limiter on the ComEd AIP.

19 Q Okay. Thank you.

20 Do you have any understanding of what
21 would cause that limiter to be invoked?

22 A No.

1 MR. DOSHI: Okay. Thank you.

2 That's all my questions.

3 JUDGE HAYNES: Redirect?

4 MR. SANCHEZ: I just have one, your Honor.

5 JUDGE HAYNES: Okay.

6 REDIRECT EXAMINATION

7 BY

8 MR. SANCHEZ:

9 Q Directing your attention to AG Cross
10 Exhibit No. 17, you were asked about the response to
11 1.11 and you were asked questions about the annual --
12 and I believe the math was pretty close -- the annual
13 contributions.

14 First of all, what were those annual
15 contributions? Were they outright donations? Were
16 they dues? What were -- were they PAC (phonetic),
17 what?

18 A Well, I think this fairly accurately lays
19 out what the contributions were for. Some of them
20 were dues, some of them were supportive of the
21 Chamber's Political Action Committee, some of them
22 were sponsorships to various fundraising events that

1 we have and annual events that we have and some of
2 them were support of initiatives that we operate for
3 the State of Illinois, we no longer do that. For
4 example, Disability Works is a State of Illinois,
5 Department of Commerce and Economic Opportunity
6 effort that we had a grant to opt -- to run; another
7 is the Chamber Leadership Academy which is an effort
8 that we undertake at the behest of the City of
9 Chicago to educate and inform local neighborhood
10 chambers of commerce in best practices. I might add
11 that many of these -- in my previous career with
12 American Airlines, as you've seen the testimony, I
13 was -- most of these kinds of contributions came from
14 my budget at American. I was responsible for state
15 and local and civic relationships for 50 states and
16 Puerto Rico and these kinds of contributions are not
17 unusual. I wrote plenty of checks of this size.

18 Q Okay. And you were asked the names of
19 certain specific -- we'll call them big corporations
20 or big companies -- are there big companies or big
21 corporations who are members of the Chicagoland
22 Chamber of Commerce that were not articulated on

1 cross-exam by Counsel?

2 A We have many large members, none of which
3 were named in that by the -- in the question that was
4 presented to me.

5 Q And I asked that because --

6 A Except for a couple.

7 Q -- I believe you testified that there are
8 other companies who have similarly made substantial
9 contributions to support the mission of Chicagoland
10 Chamber of Commerce?

11 A It's an ongoing effort to raise this kind
12 of money and it's not simple. It's a job I'm glad I
13 don't have.

14 MR. SANCHEZ: Thank you. I have nothing
15 further, your Honor.

16 MR. DOSHI: Your Honor, I have no questions,
17 but I'd like to move for the admission of AG Cross
18 Exhibits 16, 17 and 18.

19 JUDGE HAYNES: Any objection?

20 MR. SANCHEZ: No objection.

21 JUDGE HAYNES: None? Okay. AG Cross Exhibit
22 16, 17 and 18 are admitted.

1 (Whereupon, AG Cross
2 Exhibit Nos. 16, 17 and 18 were
3 admitted into evidence.)

4 Thank you, Mr. Carpenter.

5 JUDGE HAYNES: I believe the what remains is to
6 admit the exhibits that are going in by affidavit.

7 MR. RIPPIE: Indeed it does.

8 JUDGE HAYNES: Okay.

9 MR. RIPPIE: If your Honor will just give me a
10 moment.

11 MS. HICKS: Your Honor, CCI has exhibits to
12 admit by affidavit as well.

13 JUDGE HAYNES: Okay. If you're ready, go
14 ahead.

15 MS. HICKS: Certainly. On behalf of the
16 Citizens Utility Board, the City of Chicago and the
17 Illinois Industrial Energy Consumers, collectively
18 known as CCI, I move to admit the direct testimony of
19 Michael Gorman marked as CCI 1.0 filed on e-Docket on
20 July 1st, 2014 along with attachment CCI Exhibits 1.1
21 and 1.2 filed that same day, July 1st, 2014.

22 I also move for the admission of CCI

1 Exhibit 2.0, the rebuttal testimony of Michael Gorman
2 filed on e-Docket on August 13th, 2014.

3 And, finally, the affidavit of Mr.
4 Gorman, CCI Exhibit 3.0 which was filed on e-Docket
5 yesterday, August 27th, 2014.

6 JUDGE HAYNES: Any objection?

7 (No response.)

8 Hearing none, CCI exhibits are
9 admitted.

10 (Whereupon, CCI
11 Exhibit Nos. 1.0, 1.1, 1.2
12 2.0 and 3.0 were
13 admitted into evidence.)

14 MS. HICKS: I have a few agreed upon cross
15 exhibits if I may take just a moment to do that as
16 well.

17 JUDGE HAYNES: Yes. Are those filed on
18 e-Docket or are you handing hard copies to the court
19 reporter?

20 MS. HICKS: I have hard copies.

21 JUDGE HAYNES: Okay.

22 MS. HICKS: I'll go ahead and those to the

1 court reporter.

2 (Whereupon, CCI Cross
3 Exhibit Nos. 1, 2 and 3 were
4 marked for identification.)

5 MS. HICKS: We've had previous discussions with
6 ComEd Counsel and in lieu of cross-examination of
7 Mr. Hengtgen, I would move for the admission -- oh,
8 I'm sorry, your Honors.

9 Now that your Honors have copies, I
10 move for the admission of CCI Cross Exhibit 1 which
11 is a data request marked CCI -- I'm sorry IIEC 4.03,
12 CCI Cross Exhibit 2 which is marked IIEC 4.04 and CCI
13 Cross Exhibit 3 which is IIEC 4.05.

14 JUDGE HAYNES: Any objection?

15 MR. RIPPIE: None.

16 JUDGE HAYNES: CCI Cross Exhibits 1, 2 and 3
17 are admitted.

18 (Whereupon, CCI Cross
19 Exhibit Nos. 1 through 3 were
20 admitted into evidence.)

21 MS. HICKS: Thank you.

22 JUDGE HAYNES: Thank you.

1 Mr. Rippie?

2 MR. RIPPIE: Yes, your Honor, Commonwealth
3 Edison's filed on e-Docket a number of pieces of
4 testimony for which there was no cross-examination.

5 I can go through them collectively or
6 one witness at a time, which would you prefer?

7 JUDGE HAYNES: You mean to move them one at a
8 time?

9 MR. RIPPIE: To move them into evidence, yes.

10 JUDGE HAYNES: List them all and then move
11 them.

12 MR. RIPPIE: Very well. Commonwealth Edison
13 has filed on e-Docket the direct testimony of
14 Mr. Michael Born as designated ComEd Exhibit 9.0.
15 It's accompanied by Attachments 9.01 and 9.02. It
16 was filed on 4/16/14, e-Docket Serial No. 213003.

17 Mr. Michael Moy filed direct testimony
18 with the same date and e-Docket serial number, same
19 filing session. It was ComEd Exhibit 6.0 with
20 Attachment 6.01 through 6.05.

21 Also on the same date and with the
22 same e-Docket filing serial number, Mr. John Leick

1 filed ComEd Exhibit 10.0, together with Attachments
2 10.01 through 10.08.

3 Rebuttal testimony was filed by
4 Mr. Christ, C-h-r-i-s-t, T. Siambekos,
5 S-i-a-m-b-e-k-o-s. That was ComEd Exhibit 22
6 together with Attachments 22.01 and 22.02 filed on
7 7/23 of 14, section serial number was 216810.

8 Under that same e-Docket serial
9 number, Mr. Ross Hemphill filed rebuttal testimony
10 which was Exhibit 11.0 and on the same date,
11 Mr. Hemphill -- I should say Dr. Hemphill, actually,
12 also filed surrebuttal testimony which was
13 Exhibit 24.0 filed on 8/21/14. That was filing
14 Serial No. 218041. Dr. Hemphill also adopted the
15 testimony that was originally filed -- Melissa
16 Sherrod's testimony which was 1.0 and that was under
17 the 213003 e-Docket filing on April 16th of '14.

18 Mr. Sandeep S. Menon filed direct
19 testimony, Exhibits 3.0 together with Attachments
20 3.01 through 3.13 on the 16th of April. Because
21 there were a large number and large volume of
22 exhibits, they spanned three e-Docket filing sessions

1 213001 through 213003.

2 Mr. Menon's rebuttal testimony is
3 Exhibit 13.0, together with Attachments 13.01 through
4 13.12 filed on 7/23 of '14 under Serial No. 216810
5 and his surrebuttal Exhibit 26.0 was filed on August
6 the 21st under -- 218041 is the serial number.

7 Mr. John Hengtgen who was just
8 referred to in CCI's Exhibits filed direct testimony
9 ComEd Exhibits 4.0 accompanied by Attachments 4.01
10 and 4.02 on the 16th of April, Serial No. 213003. He
11 rebuttal testimony, ComEd Exhibit 14 had a single
12 attachment Exhibit 14.01 was filed on the 23rd of
13 July and that had Serial No. 216810. His surrebuttal
14 testimony, Exhibit 27.0 also had a single exhibit,
15 27.01. It was filed on 8/21/14, e-Docket No. 218041.

16 Miss Kathryn Houtsma filed rebuttal
17 testimony, Exhibit 15, with one attachment, 15.01 on
18 July 23rd under Serial No. 216810. She also filed
19 surrebuttal, Exhibit 28.0 with a single attachment,
20 28.01 on July the -- I'm sorry, on August 21st,
21 Serial No. 218041.

22 Mr. Ronald E. Donovan filed direct

1 testimony, Exhibit 7.0 along with Attachments --
2 attached Exhibits 7.01 through 7.06 on the 16th of
3 April, Serial No. 213003.

4 Mr. Donovan also filed rebuttal
5 testimony ComEd Exhibit 16 with attached Exhibits
6 16.01 through 16.03 on the 23rd of July under Serial
7 No. 216810.

8 He filed surrebuttal Exhibit 29.0 with
9 a single attachment, 29.01, on the 21st of August
10 under Serial No. 218041.

11 Lastly, Russell A. Feingold filed
12 direct testimony, ComEd Exhibit 8.0 accompanied
13 Exhibit 8.01 and 8.02 on the 16th of April, the
14 Serial No. Is 213003.

15 Mr. Feingold filed rebuttal testimony
16 Exhibit 17.0. There were no attachments thereto. He
17 filed that testimony on the 23rd of July under 216810
18 and he filed surrebuttal, Exhibit 30.0, also with no
19 attached exhibits on the 21st of this month under
20 Serial No. 218041.

21 A series of affidavits were filed in a
22 single filing this morning under Serial No. 218263.

1 Those affidavits include Mr. Born, Mr. Moy,
2 Mr. Leick, Mr. Siambekos, Dr. Hemphill, Mr. Menon,
3 Mr. Hengtgen, Ms. Houtsma, Mr. Donovan, Mr. Feingold.
4 The numbers on them respectively are 9.03, 6.06,
5 10.09, 22.03, 24.01, 26.01, 27.02, 28.02, 29.02 and
6 30.01.

7 No party has designated
8 cross-examination for any of those witnesses or with
9 respect to any of those pieces of testimony.
10 Therefore, the Company would move them into evidence
11 at this time.

12 JUDGE HAYNES: Any objection?

13 (No response.)

14 Hearing none, those ComEd exhibits are
15 admitted into the record.

16 (Whereupon, ComEd Exhibit 9.0,
17 Attachments 9.01, 9.02,
18 Exhibit 6.0, Attachments 6.01-6.05,
19 Exhibit 10.0, Attachments 10.01-10.08,
20 Exhibit 22, Attachments 22.01, 22.02,
21 Exhibit 11.0, Exhibit 24.0,
22 Exhibit 3.0, Attachments 3.01-3.13,

1 Exhibit 13.0, Attachments 13.01-13.12,
2 Exhibit 4.0, Attachments 4.01, 4.02,
3 Exhibit 14, Attachment Exhibit 14.01,
4 Exhibit 27.0, Attachment Exhibit 27.01
5 Exhibit 15, Attachment 15.01,
6 Exhibit 28.0, Attachment 28.01,
7 Exhibit 7.0, Attachments 7.01-7.06,
8 Exhibit 16, Attachments 16.01-16.03,
9 Exhibit 29.0, Attachment 29.01,
10 Exhibit 8.0, Exhibit 8.01, 8.02,
11 Exhibit 17.0, Exhibit 30.0,
12 Affidavits 9.03, 6.06, 10.09,
13 22.03, 24.01, 26.01, 27.02,
14 28.02, 29.02 and 30.01 were
15 admitted into evidence.)

16 MR. RIPPIE: In addition, your Honor, there
17 were three ComEd Cross-Examination exhibits which
18 were collections of data request responses that were
19 agreed to by the parties sponsoring various witnesses
20 to be admitted either in lieu of or in addition to
21 cross-examination. They are -- were also filed on
22 e-Docket this morning. They are designated

1 Commonwealth Edison Cross Exhibits No. 1 through 3.
2 If you'd like, I can read all the individual data
3 requests that are included but I don't that's
4 necessary unless your Honors care for me to do that.

5 ComEd Exhibit No. 1 relates to
6 Ms. Ebrey whose cross-examination was waived; ComEd
7 Exhibit 2 relates to Mr. Bridal whose
8 cross-examination was waived; and ComEd Exhibit 3
9 relate to the cross-examinations of AG Witnesses
10 Efron and Brosch.

11 JUDGE HAYNES: And you said they were filed
12 this morning?

13 MR. RIPPIE: They were filed this morning.
14 Sadly, the one thing I can't tell you is what the
15 serial number was.

16 JUDGE HAYNES: That's okay. Any objection to
17 ComEd Cross Exhibits 1, 2 or 3?

18 (No response.)

19 Hearing none, they are admitted as
20 previously filed on e-Docket.

21

22

1 (Whereupon, ComEd
2 Cross Exhibit Nos. 1 through 3
3 admitted into evidence.)

4 MR. RIPPIE: Thank you very much, your Honors.

5 JUDGE HAYNES: Is that it?

6 MR. RIPPIE: That's it.

7 JUDGE HAYNES: Okay. Who is next? AG?

8 MR. DOSHI: I would be happy to move for
9 admission of the AG testimony, your Honor. Thank
10 you.

11 Okay. At this time I'd like to move
12 for the admission of the direct testimony of Michael
13 L. Brosch which is spelled B-r-o-s-c-h, on behalf of
14 the People of the State of Illinois, the second
15 corrected version, AG Exhibit 1.0C2 was filed
16 August 20, 2014 on July 1st, 2014, AG Exhibit 1.1,
17 AG Exhibit 1.2, AG Exhibit 1.4, AG Exhibit 1.5,
18 AG Exhibit 1.6, AG Exhibit, 1.7, AG Exhibit 1.8 and
19 AG Exhibit 1.9 were all filed on e-Docket. On
20 July 2nd -- July 2, 2014, a corrected version of
21 AG Exhibit 1.3 was filed on e-Docket.

22 The direct testimony of David J.

1 Effron which is spelled E-f-f-r-o-n on behalf of the
2 People of the State of Illinois. AG Exhibit 2.0 was
3 filed July 1, 2014 together with AG Exhibit 2.1, also
4 filed July 1, 2014.

5 The corrected rebuttal testimony of
6 Michael L. Brosch, B-r-o-s-c-h, was filed August 25,
7 2014 and on August 13, 2014, the following were filed
8 on e-Docket --

9 JUDGE HAYNES: Wait. Wait. What was the last
10 one you just did it?

11 MR. DOSHI: The rebuttal testimony of Michael
12 L. Brosch, AG Exhibit 3.0C, which was filed as
13 corrected August 25, 2014 on e-Docket and on
14 August 13, 2014, the following were filed on
15 e-Docket: AG Exhibit 3.1, AG Exhibit 3.2, AG Exhibit
16 3.3, AG Exhibit 3.4, AG Exhibit 3.5, AG Exhibit 3.6
17 and AG Exhibit 3.7.

18 JUDGE HAYNES: And those were all corrected?

19 MR. DOSHI: No. The only the testimony itself
20 was corrected.

21 JUDGE HAYNES: Okay. What day -- I'm sorry,
22 what day were the exhibits filed on?

1 MR. DOSHI: On the original filing date of
2 August 13th, 2014.

3 JUDGE HAYNES: Okay.

4 MR. DOSHI: And the rebuttal testimony of David
5 J. Efron, E-f-f-r-o-n, behalf of the People of the
6 State of Illinois, AG Exhibit, 4.0, was filed
7 August 13, 2014 and there were no exhibits to that.

8 Additionally, the affidavits of
9 Michael L. Brosch which was AG Exhibit 5.0 and the
10 affidavit of David J. Efron which was AG Exhibit 6.0
11 were both filed on e-Docket August 27, 2014.

12 At this time I'd like to move for the
13 admission of all of the aforementioned exhibits.

14 JUDGE HAYNES: Any objection?

15 MR. RIPPIE: No.

16 JUDGE HAYNES: Hearing none, those exhibits as
17 previously filed on e-Docket are admitted.

18 (Whereupon, AG Exhibit 1.0C2, 1.1-1.9,
19 2.0, 2.1, 3.0C, 3.1-3.7, 4.0-6.0
20 were admitted into evidence.)

21 JUDGE HAYNES: Staff?

22 MR. FEELEY: I'm going to move to admit the

1 testimony for two of the staff witnesses and
2 Miss Swan will do the other ones in a cross exhibit.

3 The first witness is Phil Rukosuev.
4 It's spelled -- the last name is spelled
5 R-u-k-o-s-u-e-v. Phil R. Filed direct testimony,
6 it's marked for identification as Staff Exhibit 4.0
7 and it has Attachments A through E. It was filed on
8 e-Docket on July 1st. Mr. Rukosuev filed rebuttal
9 testimony on August 14th, 2014. It's marked for
10 identification as Staff Exhibit 9.0 and it has
11 Attachments A through J.

12 Mr. Rukosuev filed an affidavit -- an
13 affidavit was filed for him on August 26th. It's
14 marked for identification as Staff Exhibit 9.1.

15 The other witness that I'm doing is
16 Mr. Rockrohr, Greg Rockrohr. Mr. Rockrohr had direct
17 testimony filed for him on July 1st, 2014. It's
18 marked for identification as Staff Exhibit 5.0 and
19 that was his direct testimony. Affidavit for
20 Mr. Rockrohr was filed on August 26th and it's marked
21 for identification as Staff Exhibit 5.1.

22 At this time, I'd move to admit the

1 direct rebuttal affidavit for Mr. Rukosuev and the
2 direct and affidavit for Mr. Rockrohr.

3 JUDGE HAYNES: Any objection?

4 (No response.)

5 Hearing none, Staff Exhibits are
6 admitted.

7 (Whereupon, Staff Exhibit 4.0,
8 Attachments A-E; Exhibit 9.0,
9 Attachments A-J; Exhibit 9.1;
10 Staff Exhibit 5.0; Staff Exhibit
11 were admitted into evidence.)

12 MS. SWAN: On July 1st, 2014, Staff filed on
13 e-Docket the direct testimony of Theresa Ebrey which
14 is marked as ICC Staff 1.0 and includes Attachments A
15 through I and Schedules 1.1 FY and RY, 1.2 FY and RY,
16 1.3 FY and RY, 1.4 FY and RY, 1.5 FY and RY, 1.6 FY
17 and RY, 1.7 FY and RY, 1.8 FY, 1.9 FY, 1.10 FY and
18 RY, 1.11 FY, 1.12 FY and RY, 1.13 FY and RY and 1.14
19 FY and RY.

20 On August 13th, 2014, Staff filed on
21 e-Docket the rebuttal testimony of Theresa Ebrey
22 marked as ICC staff Exhibit 7.0 which includes

1 Attachments A and Schedules F -- excuse me, 7.1 FY
2 and RY, 7.2 FY and RY, 7.3 FY and RY, 7.4 FY and RY,
3 7.5 FY and RY, 7.6 FY and RY, 7 FY and RY, 7.8 FY,
4 7.9 FY, 7.10 FY and RY, 7.11 FY and 7.12 FY.

5 JUDGE HAYNES: I'm sorry, I missed the date
6 that was filed.

7 MS. SWAN: Those are filed on August 14th.

8 JUDGE HAYNES: Thank you.

9 MS. SWAN: On August 26th, 2014, Staff filed on
10 e-Docket an errata correcting the titles of ICC Staff
11 1.0, Schedule 1.15 FY and ICC Staff Exhibit 7.0,
12 Schedule 7.12 FY. The corrected schedules were
13 attached to the errata and filed on e-Docket labeled
14 as ICC Staff Exhibit 1.0, Schedule 1.15 FY corrected
15 and ICC Staff Exhibit 7.0, Schedule 7.12 FY
16 corrected, respectively.

17 (Discussion off the record.)

18 MS. SWAN: On August 26th, 2014 and in support
19 of these exhibits, Staff filed on e-Docket the
20 affidavit of Theresa Ebrey which was marked as
21 Exhibit -- ICC Staff Exhibit 7.1.

22 On July 1st, 2014, Staff filed on

1 e-Docket the direct testimony of Phil A. Hardas,
2 H-a-r-d-a-s, which was marked as ICC Staff Exhibit
3 3.0 and includes Attachments A and B.

4 On August 26th, 2014 in support of
5 that exhibit, Staff filed on e-Docket the affidavit
6 of Phil A. Hardas which is marked as ICC Staff
7 Exhibit 3.0.

8 JUDGE HAYNES: 3.1?

9 MS. SWAN: Yes. I'm sorry. 3.1.

10 And, finally, in agreement with the
11 company, Staff and ComEd agreed to file, in lieu of
12 cross, Staff Cross Exhibit 1 which my co-counsel will
13 be handing out and will be providing three copies to
14 the reporter today. It is a data request response
15 from ComEd for Staff data request RWB 15.01. Staff
16 would like to move for the admission of ICC Staff
17 Exhibit 1.0, 7.0, 7.1, 3.0, 3.1 and Staff Cross
18 Exhibit 1.

19 JUDGE HAYNES: So 7.1 I didn't have. So that's
20 the affidavit of Ebrey?

21 MS. SWAN: Yes.

22 JUDGE HAYNES: Any objections?

1 MR. RIPPPIE: No.

2 JUDGE HAYNES: Those Staff exhibits are
3 admitted into the record.

4 (Whereupon, Staff Cross
5 Exhibit No. 1 was
6 marked and admitted into evidence.)
7 (Whereupon, Staff Exhibit
8 Nos. 1.0, 7.0, 7.1, 3.0, 3.1 were
9 admitted into evidence.)

10 MS. SWAN: Thank you. And Staff Exhibit 1 is
11 not on e-Docket, it's hard copies; right?

12 MS. CARDONI: Hard copies.

13 JUDGE HAYNES: Okay. Great.

14 Any other exhibits?

15 (No response.)

16 Anything else that we need to talk
17 about?

18 MR. RIPPPIE: There is one remaining ComEd
19 witness who is Mr. Apple, as you know has the
20 personal issue that prevents his appearance here.

21 JUDGE HAYNES: Okay. So we're doing that on
22 September 3rd?

1 MR. BERNET: No. Your Honor, I think we've
2 reached an agreement with the AG to put in some
3 responses to data requests regarding Mr. Apple's
4 testimony in exchange -- in lieu of his
5 cross-examination. So I think counsel for the AG
6 will put those in now.

7 JUDGE HAYNES: Okay.

8 MR. RIPPIE: And then we'll need leave, your
9 Honors, to file as a late-filed exhibit Mr. Apple's
10 affidavit and then we'd, of course, ask to admit his
11 testimony. The easiest -- is it easiest just to file
12 a short written motion then or would you like me to
13 do it orally?

14 JUDGE HAYNES: If there is an agreement, you
15 can just do it on the record today.

16 MR. RIPPIE: Okay.

17 MR. DOSHI: At this time I'm going to introduce
18 what we're labeling AG Cross Exhibit 19. It's a set
19 of data request responses from the company. The
20 requests were numbered 1 AG 14.01, 14.02, 14.03,
21 14.04 and 14.05 and the response to 14.03 has an
22 attachment.

1 JUDGE HAYNES: And you are providing hard
2 copies to the court reporter?

3 MR. DOSHI: Yes. I'll provide three hard
4 copies.

5 JUDGE HAYNES: Okay.

6 (Whereupon, AG Cross
7 Exhibit No. 19 was
8 marked for identification.)

9 Is there an objection to admitting AG
10 Cross Exhibit 19?

11 MR. BERNET: No.

12 JUDGE HAYNES: Hearing none, it is admitted.

13 (Whereupon, AG Cross
14 Exhibit No. 19 was
15 admitted into evidence.)

16 MR. RIPPIE: Give me just a moment and I'll be
17 able to tell you what the serial number is.

18 JUDGE HAYNES: You've been so diligent with
19 your serial numbers that I'm afraid to tell you that
20 the Clerk's Office has told me they don't need them.

21 MR. BERNET: Now, you tell us.

22 MR. RIPPIE: Well, in that case, I won't look

1 it up.

2 JUDGE HAYNES: I think there's -- as long as
3 you give me date is what they tell me.

4 MR. RIPPIE: Your Honor, Mr. Apple filed
5 rebuttal testimony in this docket. It was submitted
6 on e-Docket on the -- on 7/23 and it is -- it has no
7 attachments and I believe is Exhibit 21.0.

8 Mr. Apple is currently, as your Honors
9 have been previously informed, out of the state on
10 unavoidable emergency and we ask leave to file as a
11 late-filed exhibit, which will be designated Exhibit
12 21.01. Mr. Apple's affidavit affirming the truth of
13 the answers contained in Exhibit 21.0 and would ask
14 for admission of 21.0 and 21 point -- and the
15 late-filed 21.1 on that basis.

16 JUDGE HAYNES: And when do you think you will
17 be able to file the affidavit?

18 MR. RIPPIE: He is -- we understand he will be
19 back on the 3rd, which was when we had scheduled his
20 appearance in the event that we did not reach this
21 accommodation with the Attorney General's Office. I
22 would expect -- why don't you -- if you don't mind,

1 your Honor, if we could have another 24 hours
2 thereafter, so we'll have it on file by September 4.

3 JUDGE HAYNES: Is there any objection to
4 admitting ComEd Exhibit 21.0 or 21.01?

5 (No response.)

6 Hearing none, they are admitted into
7 the record.

8 (Whereupon, ComEd
9 Exhibit Nos. 21.0 and 21.01 were
10 admitted into evidence.)

11 JUDGE HAYNES: Is there any -- does anybody
12 know about ICEA?

13 MR. RIPPIE: Mr. Wright's testimony hasn't been
14 moved in.

15 JUDGE HAYNES: Who is their attorney?

16 MS. SWAN: Mr. Strong.

17 MR. RIPPIE: Mr. Strong.

18 MR. BERNET: He was here yesterday.

19 MS. DALE: He was here yesterday.

20 JUDGE HAYNES: Was he?

21 MS. DALE: Yes.

22 MR. DOSHI: I know he filed the affidavit.

1 MR. RIPPPIE: Yeah, he did submit --

2 JUDGE HAYNES: Well, you know, I just won't
3 mark the record closed and we'll leave it open and if
4 I get a motion to admit the testimony, then I assume
5 there is no objections to Mr. Wright's testimony but
6 without request to admit in the record, just filing
7 it on e-Docket doesn't make it part of the record.

8 So because we're waiting for the Apple
9 affidavit and possibly ICEA's testimony, we'll leave
10 the record open and so we don't need the hearing on
11 September 3rd. And what day -- would someone just
12 like to fresh my memory -- are the briefs due?

13 MS. SWAN: We have the initial brief due
14 September 10th and the reply brief due
15 September 17th.

16 JUDGE HAYNES: Okay. Anything else we need to
17 talk about?

18 (No response.)

19 No? Okay.

20 MR. FEELEY: Are we going to do a common
21 outline?

22 MR. BERNET: What do you prefer? We've had

1 common outlines recently and we had some issues. We
2 can go off the record, I think.

3 JUDGE HAYNES: Okay. This matter is continued
4 generally.

5 (Continued sine die.)

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