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BEFORE THE
ILLINOIS COMMERCE COMMISSION

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

Chicago, Illinois
August 27, 2014

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

BEFORE:

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

The following pages of AG Cross Exhibit 1 are amended with the following corrections:

	Change	To
Page 26, line 3	13-05 <u>33</u>	13-05 <u>53</u>
Page 31, line 11	associated <u>added</u> balance	Associated <u>ADIT</u> balance
Page 31, line 14	to reflect the actual cost to ComEd <u>a</u> financing	To reflect the actual cost to ComEd <u>of</u> financing
Page 31, line 17	<u>added</u> to accurately reflect the company's cost?	<u>ADIT</u> to accurately reflect the company's cost?
Page 32, line 9	reflected to calculate the <u>actually</u> reconciliation	reflected to calculate the <u>actual</u> reconciliation
Page 38, line 12	reconciliation-related <u>added</u> balance not be used as	reconciliation-related <u>ADIT</u> balance not be used as
Page 38, line 16	opposed the reduction of the base by an <u>added</u>	opposed the reduction of the base by an <u>ADIT</u>
Page 41, line 17	not have received <u>protective</u> materials?	not have received <u>protected</u> materials?
Page 42, line 2	that the rate is consistent with <u>principals</u> espoused	that the rate is consistent with <u>principles</u> espoused
Page 44, line 1	<u>added</u> balance.	<u>ADIT</u> balance.
Page 46, line 3	that the statute <u>causes</u> the reconciliation amount	that the statute <u>calls</u> the reconciliation amount

1 Does Staff want to be able to see the
2 witness?

3 MS. CARDONI: I think so, I will move over
4 here.

5 JUDGE HAYNES: Good morning, Mr. Warren.

6 THE WITNESS: Good morning.

7 JUDGE HAYNES: Please raise your right hand.

8 (Witness sworn.)

9 JAMES I. WARREN,
10 called as a witness herein, having been first duly
11 sworn, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY

14 MR. RIPPIE:

15 Q Good morning, Mr. Warren.

16 Could you please state and spell your
17 full legal name for the record.

18 A My name is James I. Warren; J-a-m-e-s, I.,
19 W-a-r-r-e-n.

20 Q And, Mr. Warren, have you prepared rebuttal
21 testimony for submission to the Illinois Commerce
22 Commission in this docket?

1 A Yes, I have.

2 Q Is the document designated as Commonwealth
3 Edison Exhibit 23.0 consisting of 15 narrative pages
4 that testimony?

5 A Yes, it is.

6 MR. RIPPIE: For the record, Your Honors, that
7 document was filed on E-docket on 7/23/14, and it was
8 filed as part of the file bearing docket ID
9 No. 216811.

10 BY MR. RIPPIE:

11 Q Mr. Warren, was Commonwealth Edison
12 Exhibit 23 prepared under your direction or by
13 yourself?

14 A Yes, it was.

15 Q Do you have any additions or corrections to
16 make to Commonwealth Edison Exhibit 23.0?

17 A I do not.

18 Q If I were to ask you the same questions as
19 appear on that exhibit, would you give the Commission
20 the same answers today?

21 A I would.

22 Q Mr. Warren, have you also prepared or

1 prepared under your direction and control the
2 surrebuttal testimony for submission to the Illinois
3 Commerce Commission in this docket?

4 A Yes, I have.

5 Q Is that Commonwealth Edison 33 for
6 identification?

7 A Yes, it is.

8 MR. RIPPIE: Your Honors, that document
9 consists of 12 narrative pages. It was filed on
10 E-docket on 8/21/14 as part of filing ID No. 218041.

11 BY MR. RIPPIE:

12 Q Mr. Warren, do you have any additions or
13 corrections to make to ComEd Exhibit 33.0?

14 A No, I don't.

15 Q If I were to ask you the same questions as
16 appear on that document, would you give the
17 Commission the same answers today?

18 A Yes, I would.

19 MR. RIPPIE: Thank you.

20 Your Honors, Mr. Warren is now
21 available for cross-examination, and I would offer
22 Exhibits 23.0 and 33.0 into evidence.

1 JUDGE HAYNES: Is there any objection to
2 admitting 23.0?

3 (No response.)

4 And hearing none, those ComEd exhibits
5 are admitted.

6 (Whereupon, ComEd Exhibits 23.0
7 and 33.0 were admitted into
8 evidence.)

9 JUDGE HAYNES: Who is up first?

10 MS. SATTER: I believe I am.

11 JUDGE HAYNES: Okay.

12 CROSS EXAMINATION

13 BY

14 MS. SATTER:

15 Q Good morning, Mr. Warren.

16 My name is Susan Satter. I represent
17 the People of the State of Illinois. I have a few
18 questions for you.

19 First, in your direct testimony --
20 excuse me -- you only have rebuttal testimony and
21 surrebuttal testimony.

22 A Yes.

1 Q In your rebuttal testimony at Page 2, you
2 say you don't believe the issue related to the income
3 tax treatment of the reconciliation needs to be
4 complex or difficult, right?

5 A That's correct.

6 Q So let me ask you this, do you agree that
7 interest is paid to compensate for the time value of
8 money?

9 A Yes, I do.

10 Q And if money is spent in advance before the
11 revenues are received, interest can compensate for
12 the time value of that money, right?

13 A Could you repeat that.

14 Q I said if money is spent, for example,
15 taxes are paid before the revenues for those taxes
16 are received, interest can compensate for the time
17 value of money?

18 A Well, you're talking there about two --
19 three different parties. There is a party in the
20 middle --

21 Q Wait. Hold on. Let me strike the question
22 because I think it's confusing.

1 Let me ask you this: If money is not
2 spent, then there is no time value of money lost
3 because the money hasn't been spent?

4 A No, I wouldn't say that.

5 Q Now, you use two models in what you call a
6 prescribed interest and a cost-based model; is that
7 right?

8 A That's correct.

9 Q Okay. And you were asked in a data
10 request, AG 8.02, to provide citations to sources
11 where these terms were used.

12 Do you recall that?

13 A I do recall that, yes.

14 Q And you responded that the phrases
15 "prescribed interest" and "cost-based interest" are
16 not of Mr. Warren's invention; is that right?

17 Do you recall that?

18 A Yes, I do recall that.

19 Q Okay. And you were asked to provide
20 citations to sources where the theory of "prescribed
21 interest" is addressed.

22 Do you remember that?

1 A I do.

2 Q And you provided a response -- you provided
3 a reference to the ICC Docket No. 13-0533, right?

4 A Hold on. Let me try to get the data
5 request, if I may.

6 Q I can provide it to you.

7 A I've got it. Can you give me the number of
8 the data request please.

9 Q 8.02.

10 A Yes, I do reference that docket, that
11 order.

12 Q And you did not provide any other
13 citations, did you?

14 A I did not.

15 Q And you did not provide any attachments?

16 A No, I did not.

17 Q Now, you say in your response that you
18 chose the terms quote:

19 "Because you independently believe
20 they are appropriate terms."

21 Is that right?

22 A That's correct.

1 Q Does that mean that you believe that the
2 terms described the models you present?

3 A They do.

4 Q And when did you first present those
5 models?

6 A I believe it was in rebuttal testimony.

7 Q And is that when you first presented them
8 to ComEd, as well?

9 A Probably, yes.

10 I'm not absolutely sure whether they
11 were made in a phone conversation prior to that, but
12 it's entirely possible it was first drafted in the
13 rebuttal testimony.

14 Q So you developed them for purposes of
15 analyzing the situations presented in this case?

16 A Yes, I did.

17 MR. RIPPPIE: Hold on. I object to the question
18 as ambiguous.

19 By "them," do you mean the models or
20 the names? You asked about both.

21 MS. SATTER: Thank you.

22 The models.

1 THE WITNESS: The models, I don't believe are
2 ambiguous.

3 MS. SATTER: Oh, no, no, no. It wasn't whether
4 the models were ambiguous. He thought my question
5 was ambiguous.

6 THE WITNESS: Sorry. Sorry.

7 MS. SATTER: He was criticizing me, not you.
8 Don't worry.

9 THE WITNESS: That's okay then

10 BY MS. SATTER:

11 Q With that clarification, though, your
12 answer remains the same?

13 A Would you repeat the question. I'm sorry.
14 Or shall the --

15 Q I will repeat it.

16 The question was:

17 Did you develop the models presented
18 in your testimony for purposes of addressing the
19 situation in this case?

20 A Yes.

21 Q Now, I would like to refer to your rebuttal
22 testimony on Pages 7 and 8.

1 Now, here you present an example at
2 Line 135, and following you use an example with the
3 rate base is financed by 100 percent equity, right?

4 A 100 percent? I'm sorry.

5 Page 7 -- yes, I do.

6 Q Okay. And is it your experience that the
7 return on equity is referred to as interest?

8 A Return on equity?

9 Q Yeah.

10 A No, it's not.

11 Q Now, do you agree that interest associated
12 with the debt component of a utility's capital
13 structure is generally not grossed up for taxes in
14 ratemaking?

15 A In determining a pre-tax rate of return,
16 generally, the interest component of a utility
17 capital structure is not grossed up, that's correct.

18 Q And would you also agree that the size of
19 the debt component in a utility's weighted average
20 cost of capital will generally impact the incremental
21 income tax cost incurred as a result of the return,
22 of the overall return?

1 A Can you give me an example of what you mean
2 in terms of the impact that you're trying to
3 validate.

4 Q So, for example, if a capital structure has
5 55 percent debt and 45 percent equity, compared to a
6 capital structure with 60 percent debt and 40 percent
7 equity, is it correct that the incremental income tax
8 associated with those two capital structures will be
9 different?

10 A The incremental income tax is a function of
11 the equity component.

12 Q The size of the equity component?

13 A The size of the equity component and the
14 cost of the equity component.

15 Q Okay. So as the debt component gets
16 larger, obviously, the equity component, you would
17 expect to get smaller; is that right?

18 A It has to equal 100 percent, so if one goes
19 up, one has to go down, but the cost of the equity
20 component might go up.

21 Q Okay.

22 A And so that would offset the impact -- that

1 would increase the tax component.

2 Q Can you refer to Page 8 of your testimony,
3 basically, Lines 161 to 167.

4 A Yes, I am there.

5 Q And I believe it's the sentence beginning
6 at 164. You say the application of this model, being
7 the cost-based model to the reconciliation under
8 collections amount would therefore apply the
9 WACC-derived interest rate; i.e., the grossed-up rate
10 to the reconciliation under collection reduced by the
11 associated added balance?

12 A Yes, that is what it says.

13 Q Do you agree that if the Commission wanted
14 to reflect the actual cost to ComEd a financing
15 reconciliation balance, it would be necessary to
16 reduce the reconciliation balance by the associated
17 added to accurately reflect the company's cost?

18 A I would say that if the Commission
19 determined that the cost-based paradigm with what
20 applied -- first of all, we have the issue about the
21 equity gross up, which is inconsistent with that
22 model, but that aside, if that were consistently

1 handled, then the ADIT balance to the extent that it
2 represented a real cash impact, should be reflected
3 in the calculation of the base to which the interest
4 rate is attached -- applied. I'm sorry.

5 Q Applied.

6 So if the actual impact or the extent
7 of the impact of the income tax on reconciliation
8 balance can be determined, then that should be
9 reflected to calculate the actually reconciliation
10 balance to which interest should applied?

11 A In a cost-based paradigm consistently
12 applied, if you if you recognize the proper interest
13 rate, it should be applied to the proper base, the
14 proper base would consist of the reconciliation
15 balance, modified by an actual cash tax impacts.

16 Q Now, would that in effect mean that
17 ratepayers are not charged interest on taxes that the
18 company had not paid because they had not received
19 the revenues for those taxes?

20 A Would what mean that?

21 Q The adjustment to the reconciliation
22 balance for before the application of interest?

1 A Okay. Now, I'm sorry. Repeat that one
2 more time for me.

3 Q Okay. Does that adjustment that you just
4 talked about, the cost-based adjustment that we just
5 talked about, would that mean in effect that
6 ratepayers are not charged interest on taxes that the
7 company had not yet paid because the company had not
8 yet received the reconciliation revenues?

9 A In a cost-based model, what you're trying
10 to do is -- what you're attempting to do is
11 compensate to make the company whole for its costs,
12 so you're passing through its costs.

13 To the extent that its costs are
14 impacted by tax consequences, cash tax flows --
15 actual tax cash flows, then those are taken into
16 account.

17 Q Okay.

18 A Does that answer the question?

19 Q Yes, it does actually. Thank you.

20 Now, you state in your rebuttal
21 testimony whichever of the two models one chooses,
22 you cannot argue inconsistently, right?

1 You believe you have to use one model
2 or the other in connection with all reconciliations,
3 right?

4 MR. RIPPIE: Which question are you putting to
5 him? Those are two different questions and one of
6 them is a quote from his testimony, apparently, and
7 the other is a more general question.

8 MS. SATTER: Okay.

9 BY MS. SATTER:

10 Q Is it your belief that whichever of the two
11 models one chooses, one must use them consistently?

12 A If you select one of those two models, they
13 should be applied consistently.

14 Whichever model you choose has two
15 components; the components ought to be consistent.

16 Q And you believe that the Attorney General's
17 witnesses, Mr. Brosch and Mr. Efron do not apply the
18 models consistently; is that correct?

19 A Well, I think they -- my view is they take
20 two different positions with respect to models.

21 Mr. Efron is the one that selects a
22 model and asserts that he's applying it consistently,

1 but I don't believe the model he selects, the
2 cost-based model, is one that the Commission has
3 endorsed. And I don't believe that he has -- he
4 tries to pound a round peg into a square hole, as far
5 as I'm concerned with that line of argument.

6 Q Now, you have not testified for
7 Commonwealth Edison in any of the previous formula
8 rating proceedings, have you?

9 A No, I have not.

10 Q And you have not testified for the Ameren
11 Illinois Companies either, prior to this year?

12 A Prior to this year, that's correct.

13 Q In their formula rate cases?

14 A I'm sorry. You're right.

15 Q Okay. Now in accepting your assignment --

16 A Let me --

17 Q My question is: Whether you represent --
18 whether you testified on behalf of Ameren Illinois in
19 any of its formula rate cases?

20 A Yes, that's what I'm trying to --
21 considering.

22 Not on this issue, for sure.

1 Q Okay.

2 A Is that good enough?

3 Q Yes.

4 A Never addressed this issue before.

5 Q Right.

6 A Okay.

7 Q And when you accepted your contract to do
8 this case, did you become familiar with the
9 reconciliation-related income tax issues from recent
10 ICC, Illinois Commerce Commission, formula rate cases
11 or appeals, did you review what had come before this
12 case?

13 A I reviewed a few documents. I reviewed the
14 order. I don't know if it was a reconciliation case,
15 now. You're getting more technical than I'm capable
16 of.

17 But I have reviewed at least one prior
18 order that addressed this issue for ComEd and a
19 couple of pieces of testimony.

20 Q Did you know that from your work in
21 preparing for this docket, whether your client,
22 Commonwealth Edison, has previously advocated for a

1 cost-based approach by seeking an income tax gross-up
2 or factor for the WACC reconciliation interest rate?

3 MR. RIPPIE: I objection to the
4 characterization inherent in the question, that
5 Commonwealth Edison has done that.

6 That's an unproven fact and, in fact,
7 it's one we would dispute.

8 MS. SATTER: That's why I'm asking the witness
9 the witness has the right to answer "yes" or "no."

10 MR. RIPPIE: No. You asked him if he knew
11 something and then made a statement that's a fact.

12 And I'm making clear, that I'm
13 objecting to the characterization. I'm not objecting
14 to the witness telling you anything about his
15 knowledge.

16 If he has knowledge or doesn't have
17 knowledge about ComEd's position, he will tell you.

18 I'm objecting to the characterization
19 of the question.

20 MS. SATTER: The question is whether he knows.

21 JUDGE HAYNES: Can I have the question read
22 back.

1 (Whereupon, the record was read
2 as requested.)

3 JUDGE HAYNES: You can answer whether you know
4 or not.

5 THE WITNESS: It's my understanding that the
6 company had endorsed or supported an income gross up
7 in the computation of the applicable rate

8 BY MS. SATTER:

9 Q And do you know whether in the same case
10 ComEd advocated -- excuse me -- do you know whether
11 ComEd has previously argued that the
12 reconciliation-related added balance not be used as
13 an offset to the reconciliation balance as proposed
14 by Mr. Effron in this case?

15 A It is my understanding that they did
16 opposed the reduction of the base by an added
17 balance.

18 Q Okay. So there was an inconsistency there;
19 is that correct?

20 A Not necessarily.

21 Q Oh, so it's not inconsistent for ComEd to
22 argue for the gross up of the interest rate, while at

1 the same time, opposing the adjustment of the
2 reconciliation balance for income taxes?

3 A No, it depends on the basis for objecting
4 to the recognition of the ADIT balance.

5 If the basis for opposing it is that
6 there was no cash benefited produced, no cash
7 benefit, for instance -- for example, if the deferral
8 of the -- receipt of the reconciliation balance and
9 the tax imposed on the -- in its receipt, didn't
10 reduce the company's tax liability, for instance,
11 because it had an operating loss anyway, there was no
12 cash benefit associated with the deferral and,
13 therefore, they -- the pay shouldn't be reduced or
14 you couldn't know it.

15 The point is, the consistency is that
16 you can consider tax and should consider tax
17 consequences in a cost-based model.

18 Now, what those tax consequences are
19 is an entirely different question.

20 There could be tax consequences equal
21 to the balance or there could you be no tax
22 consequences at all, in which case there wouldn't be

1 an offset, but that's a fact determination, not a
2 model determination.

3 Q So there are some circumstances where you
4 would make the adjustments you recommend in your
5 testimony on the cost-based model but then there
6 could be circumstances that would modify that?

7 A Not the gross-up piece. The rate wouldn't
8 matter. It would be the deferred tax piece because
9 that's supposed to capture cash -- you know, cash
10 consequences.

11 Q So you would sever the two?

12 A Yes --

13 Q It's possible to sever the two?

14 A Well, they're not severed, they're related
15 in terms of consistent treatment.

16 You could consider one, if it exists;
17 and should consider it, if it exists.

18 Q I believe this is in your surrebuttal
19 testimony. Let me double-check before I direct you
20 there.

21 Okay. In your surrebuttal testimony,
22 beginning on Page 5, you talk about you respond to

1 Mr. Brosch's citation to an Hawaii case; is that
2 right?

3 A Yes, I do.

4 Q Okay. Now, you were not personally
5 involved in the Hawaii docket that Mr. Brosch
6 discussed, were you?

7 A Unfortunately, I've never been to Hawaii.

8 Q Okay. Have you represented any Hawaii
9 utility in connection with decoupling or revenue
10 reconciliation?

11 A No.

12 Q So you offered no testimony or exhibits in
13 the Hawaii case?

14 A I did not.

15 Q And you were not subject to the
16 confidentiality agreement in that case, so you would
17 not have received protective materials?

18 A No. I didn't know there was a protective
19 agreement.

20 Q Now, at Page 6, Line 115 -- I'm sorry --
21 112. I'm starting at 112, you say that the PUCH,
22 which is the Public Utility Commission of Hawaii

1 ordered the use of the short-term debt rate finding
2 that the rate is consistent with principals espoused
3 by the parties that support the use of a short-term
4 debt rate, correct?

5 A Yes.

6 Q Okay. And they -- the Hawaii PUC, applied
7 this short-term debt rate to a revenue decoupling
8 mechanism, correct?

9 A It applied it to a balance.

10 Q Okay.

11 A And I understand that balance to be a
12 function of a revenue decoupling mechanism, yes.

13 Q So a reconciliation balance of some sort?

14 A Some sort.

15 Q Okay. And then you conclude that this is a
16 cost-based approach, right?

17 A Yes.

18 Q Okay. So is it your understanding that in
19 the Hawaii situation, the Commission concluded that
20 the short-term interest cost was the actual cost to
21 the utility for the lag in receiving the
22 reconciliation revenue at issue in that docket?

1 A All I have done is read the order and that
2 seemed, to me, where they came out; although, they
3 didn't have a statute that designated a particular
4 rate.

5 Q That's right.

6 So their cost-based rate, was a
7 short-term interest rate; is that correct?

8 A That was my understanding.

9 Q And do you agree that the short-term
10 interest rates currently are less than 1 percent?

11 A I have no idea.

12 Q You don't know what the short-term interest
13 rates are?

14 A I know what I'm getting on my bank
15 accounts, and it's a lot less than 1 percent,
16 so --

17 Q Okay.

18 A But I don't know what corporations'
19 short-term debt rates are.

20 Q Okay. Now, at Lines 119 and later, you
21 indicate that the Hawaii PUC did not order that the
22 reconciliation amount be reduced by the utility's

1 added balance.

2 Is that your understanding of the
3 order?

4 A From my reading of the order, there was no
5 such requirement imposed.

6 Q So do you understand that the utility
7 removed that tax effect voluntarily?

8 A There was no -- again, in the context of
9 the case, the peculiar context of that case, there
10 was no difference, as there is here between -- the
11 company reported the deferred income as taxable
12 currently, which is not what ComEd does.

13 So there was no difference between the
14 book reporting and the tax reporting as there is
15 here. So it was a different situation.

16 It was only once the company changed
17 its method of accounting for tax purposes that that
18 difference was created and that was after the order
19 was issued.

20 Q And so going forward, did the order address
21 that situation, that difference where there was a
22 book-tax difference?

1 A Well, I think what the order did was -- or
2 the order strongly suggested, shall we say, that the
3 company do something about its tax reporting
4 practice. The company then went ahead and did
5 something about it, and then submitted a letter to
6 the Commission saying, we changed our method, and we
7 are reducing the base by the tax effect of our
8 change, but the Commission never said they had to do
9 that.

10 Q But the company filed a letter indicating
11 that they would do it?

12 A That they do it.

13 Q That they did it?

14 A They did do it.

15 Q Whether the Commission ordered it or not,
16 in fact, the company did treat the reconciliation
17 balance the way Mr. Brosch described it?

18 A They treated it consistently with a
19 cost-based approach.

20 Q Okay. On Page 11 of your surrebuttal
21 testimony, you testified that the fact that I'm
22 inserting the statute denomination interest is

1 completely irrelevant.

2 Is that your position that the fact
3 that the statute causes the reconciliation amount
4 interest is irrelevant?

5 MR. RIPPIE: May have a citation, Susan, other
6 than the page number --

7 MS. SATTER: I think I said Page 11, Line 225.

8 THE WITNESS: The fact that the statute
9 dominates the interest is irrelevant for determining
10 the applicable model.

11 It is interest, as far as customers
12 are concerned, or maybe it's just the price of
13 electricity, as far as customers are concerned. That
14 is irrelevant to the model that's applicable.

15 BY MS. SATTER:

16 Q So you didn't take that into consideration
17 in developing your models?

18 MR. RIPPIE: I object to the question as
19 ambiguous. Take what into consideration?

20 MS. SATTER: The language of the statute.

21 THE WITNESS: No, I wouldn't say that. I think
22 elsewhere in my testimony, I state that the statute

1 refers to the imposition -- okay. Let me rethink
2 this for a second.

3 Give me the question one more time. I
4 think I may have an answer for you, but I need to
5 hear it one more time.

6 BY MS. SATTER:

7 Q My question was whether the language of the
8 statute affected the models you presented.

9 A It didn't impact the development of the
10 models, the identification, the description of the
11 models.

12 The fact that the statute calls this
13 "interest" is consistent with the prescribed interest
14 rate model; that it doesn't look to the costs that
15 were incurred or are incurred by ComEd.

16 It's a prescribed interest rate that
17 is applied to a balance, so I would not say that the
18 statute was completely irrelevant in the application
19 in determining which of the two models is applicable,
20 but it was irrelevant in determining -- in describing
21 the models to begin with.

22 Q Did you consider any other language of the

1 statute in developing your models?

2 A The statute was not instrumental in
3 developing the models. It was -- I looked at the
4 statute to see whether there was an indication as to
5 which model was applied and I looked to the
6 Commission's prior order to see how the Commission
7 had interpreted the statute and concluded that the
8 statute could be interpreted as imposing a prescribed
9 interest regime and that the Commission' prior
10 interpretation was consistent with that.

11 Q Did you consider any other section of the
12 statute other than that language about applying
13 interest to the reconciliation balance?

14 A No.

15 Q When I say "the statute" I mean 16-108.5.

16 A Right.

17 No, the only section to the statute
18 that I looked at were the ones that were relevant to
19 the interest computation.

20 Q Now, you were hired by ComEd for this case?

21 A Technically, by the law firm.

22 Q Okay. And you're being paid an hourly rate

1 for this case?

2 A I am.

3 Q What is your hourly rate?

4 A \$815.

5 Q Is there a flat fee or are you charging the
6 customer or your client strictly hourly?

7 A Hourly.

8 Q Is there a cap?

9 A There is not.

10 MS. SATTER: I have no further questions.

11 Thank you.

12 MR. RIPPIE: May we have about 2 minutes, Your
13 Honors.

14 JUDGE HAYNES: Yes.

15 REDIRECT EXAMINATION

16 BY

17 MR. RIPPIE:

18 Q Mr. Warren, if you recall, Ms. Satter asked
19 you about your surrebuttal testimony, Commonwealth
20 Edison Exhibit 33, and in particular a portion
21 thereof that contained a phrase that said "interest
22 was irrelevant." I believe that was on Page 11 of

1 your surrebuttal testimony beginning at Line 225.

2 Do you see that?

3 A Yes, I do.

4 Q Now, Ms. Satter asked you a series of
5 questions about whether the denomination of interest
6 was irrelevant in the context of the statute.

7 Was that the context in which your
8 testimony -- that sentence of your testimony was
9 describing the relevancy of interest?

10 A No, it was not.

11 Q Can you read the full sentence into the
12 record, just so it's clear -- after the siren.

13 A Let me read the sentence before so it's in
14 context:

15 "Focusing on the payments made
16 between ComEd and its customers does not
17 further the analysis of the nature or
18 amount of ComEd's cost to finance or
19 benefit from holding the reconciliation
20 balance.

21 "The fact that the charge or credit
22 vis-a-vis its customers is denominated

1 interest is completely irrelevant.

2 "ComEd is required to charge or
3 credit that interest in precisely the same
4 amount whether ComEd's actual source of
5 financing, its reconciliation balance is
6 its WACC, all equity, all short-term debt
7 or even the proceeds of a winning
8 lottery ticket."

9 Q Can the word "interest" be used to refer to
10 both revenues or costs?

11 A Yes. It will be used, you know, in both.
12 There is an interest cost imposed on the customer and
13 then ComEd's creditors impose an interest cost on
14 ComEd and they are separate and distinct.

15 Q When you refer to an interest cost being
16 imposed on the customers, does that refer to --
17 intend to refer to -- well, I won't lead you.

18 To what do you intend to refer? What
19 payment do you refer to?

20 A Well, the interest calculated under the
21 statute on the reconciliation balance.

22 Q And when you refer to interest that's paid

1 by ComEd, what are you referring to?

2 A ComEd's relationship with its providers of
3 capital. In this case, debt providers.

4 Q And does the fact that ComEd collects
5 revenue that is denominated as interest tell you
6 anything at all about the nature or the share of the
7 costs that would correspond to that revenue in a
8 cost-based model?

9 A No, they are --

10 MS. SATTER: Objection. I don't understand the
11 question. I think there is some ambiguity in it.

12 MR. RIPPIE: I will rephrase it. The last
13 thing I want is an ambiguous question.

14 MS. SATTER: Okay.

15 BY MR. RIPPIE:

16 Q Does the fact that revenue is denominated
17 as interest, tell you anything at all about the
18 nature of the costs that that revenue would be
19 related to in a cost-based model?

20 A My testimony on Lines 223 to 226 says --
21 addresses precisely that and indicates there is no
22 impact whatsoever.

1 Q My last question, Mr. Warren:

2 Does the question of whether or not a
3 Hawaii utility concludes that it will experience a
4 cash benefit from a tax deferral related to the
5 reconciliation of a decoupling account tell you
6 anything about whether ComEd will experience any cash
7 benefit as a result of the aided deferral related to
8 the reconciliation balance in this case?

9 A No, it has no implications whatsoever.

10 MR. RIPPIE: Thank you. That's all I have.

11 MS. SATTER: I do have a follow-up question.

12 JUDGE HAYNES: Go ahead.

13 RECROSS EXAMINATION

14 BY

15 MS. SATTER:

16 Q Mr. Warren, you just said that if revenue
17 received by the company is labeled or denominated
18 interest, that has no impact whatsoever. Okay. So I
19 have a couple of questions.

20 When you say "no impact whatsoever,"
21 no impact on what?

22 A Okay. If I loan you \$1,000 and charge you

1 interest on it, that will be interest that you will
2 be paying me.

3 Q Auh-huh.

4 A Now, the source of that \$1,000 from my
5 perspective could be that I had \$1,000 and lent it to
6 you, in which case I have no corresponding interest
7 expense, it's like equity.

8 Or I could have gone out and borrowed
9 \$1,000 to lend it to you, in which case I will be
10 paying interest to my lender.

11 But the fact that you're paying me
12 interest doesn't tell me anything about the cost of
13 the source of that money relating to the source of
14 that money.

15 Q Okay. So if you go out and borrow money,
16 so that you're paying a lender interest --

17 A Yes.

18 Q -- you are for tax purposes, you treat that
19 interest as a deductible expense, correct?

20 A Well, assuming it's deductible interest.
21 Not all interest is deductible, but generally.

22 Q Well, in a business setting.

1 A Regardless what I use -- if I'm borrowing
2 money and using it to finance whatever, any
3 operations, generally a company would deduct that
4 interest.

5 Q And then when you get paid back an amount
6 with interest, that interest is just part of your
7 income, is that what you're saying? That it's not
8 separated out as a deductible expense or for special
9 tax treatment like it is when it's a cost?

10 A Remember, the statute calls this
11 "interest," the reconciliation interest calculation,
12 it calls it "interest."

13 When a customer gets their bill,
14 they're going to pay -- they're going to write you a
15 check, and it's not going to say, there is this much
16 interest on it, it's just going to be the price of
17 electricity. All of those revenues are going to be
18 taxable.

19 Q So the revenues are taxable on the same
20 basis, regardless of whether it's as a result of an
21 interest charge or cost-of-service charge, right?

22 A Right.

1 Q On the other side, if the company had an
2 interest expense, that is treated differently?

3 A Treated differently than what?

4 Q Than the revenues in that the interest
5 expense is tax deductible?

6 A All of ComEd's expenses used in providing
7 service are deductible. Interest is just one of and
8 probably not the largest of many, many expenses that
9 they incur that are deductible, but they're two
10 separate worlds.

11 Q But it is tax deductible; so that is how
12 that cost is treated, the interest cost?

13 MR. RIPPIE: I object to the question. There
14 is two pronouns in there that I don't know what they
15 refer to.

16 JUDGE HAYNES: Can you rephrase the question.

17 MS. SATTER: I will withdraw the question.

18 JUDGE HAYNES: Okay.

19 MS. SATTER: Thank you.

20 MR. RIPPIE: Nothing further.

21 JUDGE HAYNES: Thank you, Mr. Warren.

22 THE WITNESS: Thank you, your Honor.