

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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

BRIEF ON EXCEPTIONS OF
COMMONWEALTH EDISON COMPANY

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BRIEF ON EXCEPTIONS OF COMMONWEALTH EDISON COMPANY

Commonwealth Edison Company (“ComEd”), by its counsel, in accordance with the Rules of Practice of the Illinois Commerce Commission (the “Commission” or “ICC”) and the scheduling order of the Administrative Law Judges (“ALJs”), submits this Brief on Exceptions (“BOE”) to the ALJs’ Proposed Order (“Proposed Order” or “PO”). ComEd’s proposed Exceptions language is set forth in its separate simultaneously filed Exceptions to the Proposed Order.

I. INTRODUCTION

This is the fourth ComEd formula rate filing under the Energy Infrastructure Modernization Act (“EIMA”)¹. Reduction in contested issues and increased regulatory predictability are two of the major benefits for utilities and customers alike of the formula rates authorized by EIMA. Indeed, at this point a number of potential issues have been resolved by consensus or to reduce or simplify the issues.

Certain Intervenor proposals in this case, however, detracted from that statutory goal of predictability. One critical issue in this case was the Attorney General’s (“AG”) targeted effort to disallow the entirety of ComEd’s Annual Incentive Program (“AIP”) expense. The Proposed

¹ “EIMA” refers to the Energy Infrastructure Modernization Act, Public Act (“PA”) 97-0616, as amended by PA 97-0646 and PA 98-0015, and the changes and additions it made to the Illinois Public Utilities Act (“PUA”).

Order correctly rejects that proposal, and the Proposed Order reaches a just and reasonable conclusion in allowing recovery of a portion of ComEd's AIP expense. The Proposed Order's supporting language, however, requires clarification. Similarly, ComEd has provided exceptions to the Commission Analysis and Conclusion regarding ComEd's Long Term Performance Share Awards Program ("LTPSAP"). Although this issue is correctly decided, the Proposed Order nonetheless requires slight clarification.

The remaining issues that ComEd disputes are limited. These issues include: pass-through tax revenue lags and intercompany billing expense leads used in ComEd's cash working capital ("CWC") calculation; tariff changes regarding collection agency costs; certain language regarding formula changes in the billing determinants Analysis and Conclusion; the need for providing a revised General Services Agreement ("GSA"); selection of an accurate customer care study; and certain technical exceptions to correct mistakes in the Finding and Ordering paragraphs. ComEd has submitted Exceptions on these topics.

II. OVERALL REVENUE REQUIREMENT

- A. 2015 Initial Rate Year Revenue Requirement**
- B. 2013 Reconciliation Adjustment**
- C. ROE Collar and ROE Penalty Calculation**
- D. 2015 Rate Year Net Revenue Requirement**

III. SCOPE OF THIS PROCEEDING

- A. Changes to the Structure or Protocols of the Performance-Based Formula Rate**
- B. The Definition of Rate Year and the Reconciliation Cycle**
- C. Original Cost Finding**
- D. Issues Pending on Appeal**

IV. RATE BASE

A. Overview

1. 2013 Reconciliation Rate Base
2. 2015 Initial Rate Year Rate Base

B. Potentially Uncontested Issues

1. Plant in Service
2. Materials & Supplies
3. Accumulated Deferred Income Taxes on Merger Cost Regulatory Asset
4. Construction Work in Progress
5. Regulatory Assets and Liabilities
6. Deferred Debits
7. Other Deferred Charges
8. Accumulated Provisions for Depreciation and Amortization
9. Accumulated Miscellaneous Operating Provisions
10. Asset Retirement Obligation
11. Customer Advances
12. Customer Deposits
13. Cash Working Capital (issues not identified in IV.C.)
 - a. Overview of CWC and ComEd's Lead/Lag Study
 - b. Payroll and withholding expense lead days and derivative changes to FICA tax and employee benefits – other Expense Leads
 - c. Final CWC calculation should reflect applicable adjustments to inputs
14. Other (including derivative adjustments)

C. Potentially Contested Issues

1. Cash Working Capital

Exception No. 1

As a preliminary matter, CWC Exceptions include typographical corrections capitalizing headings to subsections in the CWC section.

a. Pension and OPEB Expense Leads

b. Pass-through Taxes Revenue Lags for the IEET and CIMF

Exception No. 2

The Proposed Order recommends that the Commission remove the 15.21 day service lag component from ComEd's Illinois Electricity Excise Taxes ("IEET") and City of Chicago Infrastructure Maintenance Fees ("CIMF") pass-through tax revenue lag calculation. *See* PO at 17. This recommendation is incorrect for several reasons.

First, the Proposed Order errs in concluding that "the pass-through tax revenue lag for these taxes was ... calculated in the same manner in Docket No. 10-0467." Treatment of pass-through tax expense as recommended by the Proposed Order is not consistent with Docket No. 10-0467. PO at 17. In fact, the Docket No. 10-0467 Order eliminated both the service lag and the service lead for IEET and CIMF, consistent with midpoint methodology. *See* Hengtgen Reb., ComEd Ex. 14.0, 6:113-120; Hengtgen Sur., ComEd Ex. 27.0, 4:82-5:100; ComEd Ex. 27.01. In contrast, the Proposed Order eliminates only the service lag. PO at 17. As an alternative to including the service lag (and consistent with Docket No. 10-0467), ComEd offered to eliminate both the service lag and the service lead in this proceeding but the Proposed Order declined to adopt that proposal. PO at 17.

Second, the service lag should be included in the pass-through tax revenue lag calculation because it is part of the bill customers receive for utility service – it is the provision of electric delivery service to customers that triggers the collection of pass-through taxes. Third, removing

the service lag for IEET and CIMF without removing the corresponding service lead is inappropriate under the midpoint methodology upon which ComEd's service lag and service lead are based. Under this midpoint methodology, the 15.21 service lag days must be included in the overall lag calculation in order to properly capture the inflow of funds as well as the fact that customers are delivered service over an entire month. *See* Hengtgen Reb., ComEd Ex. 14.0, 5:91-103; *see also* Hengtgen Dir., ComEd Ex. 4.0, 9:175-181; Hengtgen Sur., ComEd Ex. 27.0, 4:82-5:100. While the Proposed Order's observation that expense leads and expense lags are calculated independently is factually accurate (PO at 17), it is also irrelevant in this situation because the two independent calculations are nonetheless based on the same methodology and that methodology should be applied consistently. *See* Hengtgen Reb., ComEd Ex. 14.0, 5:94-95.

Fourth, the Proposed Order's recommendation is inconsistent with the Commission's recent decision in Docket Nos. 12-0511/12-0512 (cons), where the Commission entered an order that included both a service lag and a service lead for a pass-through tax. *See* Hengtgen Reb., ComEd Ex. 14.0, 5:104-108. For all of the above reasons, Alternative A of Exception No. 2 – including the service lag in the pass-through tax revenue lag calculation – should be adopted. If Alternative A is not adopted, and if the Commission wishes to be consistent with Docket No. 10-0467, ComEd recommends that Alternative B of Exception No. 2 – removing both service lag and service lead – be adopted.

c. **Pass-through Taxes Expense Leads**

d. **Intercompany Billings Expense Lead**

Exception No. 3

The Proposed Order errs by adopting Staff's adjustment that the Commission increase the payment lead component of ComEd's intercompany billing expense lead to 30 days, resulting in a total intercompany billing expense lead of 45.21 days. PO at 24. The Proposed Order's

recommendation stems from the mistaken belief that “allowing ComEd to charge ratepayers a higher CWC requirement in order to pay the Company’s affiliate earlier than non-affiliated vendors are paid is a form of cross-subsidization.” *Id.* The Proposed Order also states its position is consistent with the Commission’s decision on this issue in Docket Nos. 10-0467 and 11-0721. *Id.*

These claims, however, fail to consider new evidence that ComEd introduced in this proceeding that proves the assertion that ComEd customers are subsidizing Exelon Business Service Company (“BSC”) is incorrect. Specifically, ComEd presented evidence that BSC generally performs tasks that ComEd employees would otherwise perform; BSC does not perform tasks that outside vendors would perform. *See Hengtgen Reb., ComEd Ex. 14.0, 15:323-16:339.* In short, non-affiliate vendors differ from BSC both in terms of the services they provide and in their billing practices. *Id., 15:321-329.* ComEd also provided evidence that the 31.54 day intercompany billing expense lead ComEd proposes is approximately 15 days longer than the Payroll and Withholdings lead that would be included in the CWC calculation if ComEd employees performed the labor instead of BSC. *Id., 15:330-16:337.* This proves that ComEd’s proposed expense lead, far from subsidizing BSC, in fact results in BSC arguably subsidizing customers. *See Id., 16:338-339.*

The Proposed Order ignores this new evidence. Instead, the Proposed Order adopts Staff’s claim of cross-subsidization – a claim that is void of legal and factual support. Indeed, the Proposed Order’s conclusion of cross-subsidization is based on nothing other than the time difference between outside vendor and BSC billing expense leads, but it does not address the reasons for that difference, and thus it is not supported by the record and is incorrect. Exception No. 3 should be adopted.

2. **Other**

V. **OPERATING EXPENSES**

A. **Overview**

B. **Potentially Uncontested Issues**

1. **Distribution O&M Expenses (issues not identified in V.C)**

2. **Customer-Related O&M Expenses (issues not identified in V.C.)**

Exception No.4

At Exception No. 4, ComEd has added a line to the Proposed Order's itemized listing of reductions to ComEd's customer-related expense that reflects the removal of \$45,000 associated with ComEd's PCard. *See* ComEd's Response to Staff Data Requests RWB 1.01_Attach 2, col. (c); RWB 1.02_Attach 2, col. (c); RWB 6.01_Attach 2, col. (d); RWB 6.02_Attach 2, col. (d); RWB 10.01_Attach 2, col. (d); and RWB 10.02_Attach 2, col. (d). The total adjustment referenced in the Proposed Order already includes this \$45,000 in the \$218,224,000 figure therefore no further adjustment is necessary for this amount.

ComEd has also added alternative language in the event the Commission adopts the Proposed Order's recommendation to adopt the Alternative Analysis of ComEd's customer care costs (PO at 102), which allocates approximately \$11 million of ComEd's call center costs to the supply function. In that event, the total adjustment of ComEd's customer-related expense must be reduced by \$11 million to reflect this allocation. Exception No. 4 should be adopted.

3. **Administrative and General Expenses (issues not identified in V.C.)**

4. **Charitable Contributions**

5. **2013 Merger Expense**

6. **Sales and Marketing Expenses**

7. **Depreciation and Amortization Expense (issues not identified in V.C.)**

8. **Regulatory Asset Amortization**
9. **Operating Cost Management Efforts**
10. **Lobbying Expense**
11. **Rate Case Expenses**
12. **Corporate Credit Cards**

Exception No. 5

At Exception No. 5, ComEd corrects the Proposed Order to reflect that ComEd voluntarily excluded approximately \$441,000 in credit card charges. *See* ComEd’s Response to Staff Data Requests RWB 1.01-1.02, RWB 6.01-6.02 and RWB 10.01-10.02.

13. **Gross Revenue Conversion Factor**

C. Potentially Contested Issues

1. **Depreciation for the Filing Year Revenue Requirement**
2. **Incentive Compensation Program Expenses**
 - a. **Annual Incentive Program (“AIP”)**

Exception No. 6

The evidentiary record supports recovery of the entirety of ComEd’s AIP expense, and ComEd preserves and does not waive its arguments supporting recovery of the entire amount at issue. ComEd reserves its right to raise this issue in an application for rehearing and on appeal.

Nonetheless, the Proposed Order arrives at a reasonable, proportionate, and legally sound conclusion in allowing recovery of a portion of ComEd’s AIP expense. The 102.9% limiter that the Proposed Order applies in lieu of the earnings per share (“EPS”) limiter to which certain parties objected is a just and reasonable result given the facts of this case. ComEd recommends removal of certain language in the Commission Analysis and Conclusion section that is arguably inconsistent with, and not necessary to support, that ultimate finding.

Specifically, the Proposed Order correctly reflects that ComEd's AIP includes both Key Performance Indicators ("KPIs") and an EPS limiter. The Proposed Order correctly finds that ComEd's AIP "KPI metrics are consistent with the operational metrics specified in this section of EIMA. The record is clear that these metrics incent ComEd employees to meet these goals which are beneficial to ratepayers." PO at 48. The Proposed Order subsequently finds, however, that ComEd's AIP limiter is inconsistent with EIMA. *Id.* at 49. The Proposed Order therefore removes the offending limiter and replaces it with a different limiter that it finds is consistent with EIMA, in that it does not utilize net income or EPS. PO at 49-50. The substitute limiter is also supported by the facts in evidence in this case, in that it relies on the undisputed evidence that an AIP payout at 100% results in market-based salaries and 102.9% therefore allows for a small increase above market rates in recognition of above target (and exceptional) achievement on the customer focused KPI metrics. PO at 49-50; Staff Init. Brief at 26-27; Staff Reply Brief at 10; Prescott Reb., ComEd Ex. 18.0 REV., 4:77-80; Prescott Sur. ComEd Ex. 31.0 at 3:57-4:67; Bridal Reb., Staff Ex. 8.0, 16:378-17:385. ComEd has also added these evidentiary cites to the Proposed Order.

Clearly then, the Proposed Order does not conclude that the entirety of ComEd's AIP is based on EPS and therefore contrary to EIMA; it is only the EPS limiter (which *reduces* the amount of incentive compensation otherwise payable) that the Proposed Order concludes is flawed. PO at 49-51. ComEd's Exception No. 6 is narrowly tailored to remove only the portion of the Commission Analysis and Conclusion that is inconsistent with that ultimate conclusion on this issue. Specifically, ComEd's Exception No. 6 removes one paragraph of the Commission Analysis and Conclusion that could arguably be interpreted to find that the entirety of ComEd's

AIP expense is based on EPS, despite the Proposed Order’s sound reasoning and clear finding that only the limiter is based on EPS.

- b. **Key Manager Long Term Performance Plan (“LTPP”)**
- c. **Long-Term Performance Share Awards Program (“LTPSAP”)**

Exception No. 7

ComEd fully supports the Commission Analysis and Conclusion regarding ComEd’s LTPSAP. ComEd takes exception to only a small portion of the supporting language contained in that Commission Analysis and Conclusion – the discussion of the total shareholder return (“TSR”) modifier – because it is factually and legally inaccurate. First, as a factual matter, it is undisputed that TSR is not the same thing as net income or EPS. ComEd Init. Brief at 53; Prescott Sur., ComEd Ex. 31.0, 5:97-99; Bridal Reb., Staff Ex. 8.0, 34:809-35:816. As Staff witness Bridal testified,

TSR “is a standard measure of the performance of a company’s stock over time.” It represents a composite of share price appreciation and dividends paid, expressed as an annualized percentage. The TSR is compared to the average TSR performance of an Exelon peer group, and the variance of Exelon’s TSR from the average TSR determines the LTPSAP TSR modifier. The TSR modifier acts to adjust the LTPSAP award by up to plus or minus 25%.

Bridal Reb., Staff Ex. 8.0, 34:810-35:816 (citations omitted.)

It is also undisputed that ComEd did not invoke the TSR modifier in 2013 and specifically that the TSR modifier did not impact 2013 LTPSAP. Bridal Reb., Staff Ex. 8.0, 35:815-16; AG Ex. 1.8, pp. 4-5.

Second, as a legal matter, the basic canon of statutory interpretation known as *expressio unius est exclusio alterius* means that “when one or more things of a class are expressly mentioned others of the same class are excluded.” See <http://www.merriam-webster.com/dictionary/> “*expressio unius est exclusio alterius*.” “This rule of statutory

construction ... is based on logic and common sense. ... The maxim is closely related to the plain language rule in that it emphasizes the statutory language as it is written.” *Bridgestone/Firestone, Inc. v. Aldridge*, 179 Ill.2d 141, 151-152, 688 N.E.2d 90, 95 (1997). The Illinois Supreme Court has interpreted this to mean that Courts “may not annex new provisions or substitute different ones, or read into the statute exceptions, limitations, or conditions which the legislature did not express.” *Hines v. Department of Public Aid*, 221 Ill.2d 222, 230; 850 N.E.2d 148, 153 (2006). The *Hines* court further stated that “it is a basic principle of statutory construction that ‘the enumeration of exceptions in a statute is construed as an exclusion of all other exceptions.’” *Id.* (citations omitted).

It is undisputed that EIMA expressly provides for the recovery of incentive compensation based on the achievement of operational metrics. *See* 220 ILCS 5/16-108.5(c)(4)(A). It is also undisputed that EIMA expressly lists two exceptions to this recoverability: incentive compensation based on net income and incentive compensation based on an affiliate’s EPS. *Id.* EIMA does not enumerate a similar exception for other financial measures such as TSR. *Id.* Thus, as a matter of statutory construction, a TSR modifier is not prohibited by EIMA. The portion of the Proposed Order that reads this exception into EIMA is therefore in error. However, this does not impact the ultimate Commission conclusion on this issue; accordingly, ComEd’s Exception No. 7 is narrowly tailored to revise only that portion of the supporting language that states that a TSR modifier – like net income and EPS – is prohibited by EIMA.

3. Collection Agency Costs

Exception No. 8

ComEd does not dispute the Proposed Order’s finding that ComEd recover collection agency costs associated with Rider PORCB and Rider PE through those riders. ComEd does, however, urge the Commission to include language directing ComEd to include in its compliance

filing corresponding revisions to its Rider PORCB, Rate BESH, and Rider PE, as applicable, to provide for the recovery of collection agency costs excluded from the delivery service revenue requirement in this proceeding. Alternatively, the Commission should make clear in its order that it expects that ComEd will file, as soon as practical, revisions to Rider PORCB, Rate BESH, and Rider PE, as applicable, such that those revisions may concurrently be effective with the change in delivery service recovery of those costs, specifically in customer bills issued for the January 2015 billing period. ComEd's Exception No. 8 adds this language.

VI. RATE OF RETURN

- A. **Overview**
- B. **Capital Structure**
- C. **Cost of Capital Components**
 - 1. **Rate of Return on Common Equity**
 - 2. **Cost of Long-Term Debt**
 - 3. **Cost of Short-Term Debt**
 - 4. **Overall Weighted Cost of Capital**

VII. RECONCILIATION

- A. **Overview**
- B. **Potentially Contested Issues**

VIII. REVENUES

- A. **Overview**
- B. **Potentially Contested Issues**
 - 1. **Billing Determinants**

Exception No. 9

ComEd disagrees with the Proposed Order’s Analysis and Conclusion on this topic but in the interest of narrowing the issues in dispute, ComEd does not offer substantive exceptions for the Commission’s consideration in this docket. ComEd, however, preserves and does not waive its arguments made in this docket or its right to dispute this issue and to offer evidence – including but not limited to evidence quantifying its permanent revenue losses due to the Commission’s continued failure to apply historical weather normalized billing determinants, as called for by EIMA – in future proceedings. ComEd’s Exception No. 9 simply deletes the last two sentences of this Analysis and Conclusion because they could be read to imply that changes regarding billing determinants are rate design changes that cannot be made in annual formula rate update proceedings. No party has taken this position and it is both unnecessary and incorrect.

IX. COST OF SERVICE AND RATE DESIGN

A. Overview

B. Potentially Uncontested Issues

1. **Embedded Cost of Service Study**
2. **Distribution System Loss Factor Study**
3. **Secondary and Service Loss Study**
4. **Other**

X. OTHER

A. Overview

B. Potentially Uncontested Issues

1. **Intercompany Receivables and Payables Management Model Document**
2. **Wages and Salaries Allocator Utilized in Rider PE and Rate BESH**

3. Reporting Requirements

C. Potentially Contested Issues

1. Update of Exelon Business Services Company General Services Agreement

Exception No. 10

The Proposed Order adopts Staff’s proposal that ComEd be required to update the BSC General Services Agreement (“GSA”) and to provide the updated GSA for Commission approval within 90 days of the date of the Commission’s Order in this docket. PO at 90. ComEd believes the Proposed Order’s recommendation to be in error for the reasons provided in the evidentiary record and in its briefing. *See* Brinkman Reb., ComEd Ex. 12.0 REV., 18:365-19:387; Brinkman Sur., ComEd Ex. 25.0, 12:240-15:296; ComEd Init. Br. at 72-73. In addition, it is unlikely that ComEd would be able to complete the GSA revision process and obtain approval from other governing regulatory bodies within 90 days. Therefore, Alternative A of Exception No. 10 – concluding that a revision to the GSA is unnecessary– should be adopted.

If Alternative A is not adopted, ComEd instead requests, as reflected in Alternative B of Exception No. 10, that the Commission order ComEd to work with Staff to identify any material changes to the agreement that should be undertaken. This is important in light of the fact that any changes to the GSA will have to be filed with and potentially approved by numerous other regulatory bodies in an effort that will cost time and money. In no event, however, should the Commission require ComEd to file a revised GSA in 90 days.

2. Customer Care Costs

Exception No. 11

The Proposed Order recommends allocation of a portion of ComEd’s customer care costs to ComEd’s supply customers. Accordingly, the Proposed Order rejects ComEd’s Updated

Switching Study and assigns customer care costs (“CCCosts”) in accordance with ComEd’s Updated Alternative Analysis (“Alternative Analysis”). PO at 101-102. ComEd takes exception to this conclusion that rests on illogical and flawed reasoning and misapplies the principle of cost causation. The record contains substantial and compelling evidence explaining why the Updated Switching Study (“Switching Study”) is the best tool to assess responsibility for ComEd’s CCCosts.

The Proposed Order reasons that ComEd’s CCCosts “have remained on pace with inflation” and that “this correlation does not support the use of the Switching Study.” PO at 101. As shown by Staff witness Rukosuev, ComEd’s customer care costs have increased as customers have switched away to RES-provided supply. Rukosuev Dir., Staff Ex. 4.0, 12:270-274. Since 2008, ComEd’s CCCosts increased by \$64,825,187. *Id.* The Proposed Order agrees with RESA’s observation, that these costs have “remained on pace with inflation.” PO at 101. Although true, this analysis overlooks the critical fact that between 2008 and 2013, two-thirds of ComEd’s delivery service customers switched from ComEd supply to RES-provided supply. In other words, ComEd’s CCCosts continued to increase while more than two-thirds of its supply customers left in favor of RES-provided supply services. ComEd’s CCCosts did not decline significantly, despite the fact that, at present, “approximately 70% of its customers receive electric supply service from RESs.” Staff Init. Br. 77. *See also* Rukosuev Dir., Staff Ex. 4.0, 13:311:313. Delivery service customers however have remained relatively stable between 2008 and 2013. This shows that ComEd’s CCCosts are not driven by the number of ComEd’s supply customers. That, then, is the crucial flaw in the reasoning of the Proposed Order. The Proposed Order improperly correlates CCCosts with supply customers where the logical and reasonable correlation lies with delivery service customers.

The result of this error is that the Proposed Order improperly allocates costs that are attributable to delivery service customers to supply customers and thereby turns the cost causation principle on its head. ComEd's Updated Switching Study confirms that ComEd's CCCosts are properly attributable to the delivery services function as ComEd "does not incur significant differences in customer care costs [CCCosts] for supply and delivery service customers." Staff Init. Br. 75. ComEd witness Feingold explained that the Switching Study is "a direct means of determining whether customer service costs [CCCosts] are inherently related to delivery service, or to supply service." Feingold Dir., ComEd Ex. 8.0, 23:457-458. Mr. Feingold further testified that the Switching Study's use of avoided cost concepts "serve[s] to establish the important one-to-one relationships between the cost incurred and the levels of service that help define which specific activities are necessary to support each utility function." *Id.*, 24:464-467. After analysis of the Switching Study, Staff agreed that ComEd has realized no reduction in its customer care costs even though approximately 70% of ComEd's customers receive electric supply from RESs. Staff Init. Br. 77.

This result is entirely consistent with ComEd's obligation as provider of last resort ("POLR"). As the POLR, ComEd must ensure that it has the applicable systems, procedures and operations in place to be ready to serve all customers. Hemphill Sur., ComEd Ex. 24.0, 3:49-60. As the Proposed Order put it, ComEd must offer services even if it does not make economic sense. PO at 102. No matter how many customers obtain electric supply services from RESs, because of its statutory role as the POLR, ComEd simply cannot avoid CCCosts. Hemphill Reb., ComEd Ex. 11, 6:110-112. As Staff put it, "ComEd simply cannot avoid costs which support its supply function because it cannot eliminate its role as the POLR. Staff Init. Br 77. Thus the Switching Study confirms that, at least for now, all ComEd's CCCosts are properly attributable

to the delivery service function. The Switching Study presented in this case thus reflects the current realities of ComEd's customer care operations. The recommendation of the Proposed Order to adopt the Alternative Analysis and allocate approximately \$11 million of CCCosts attributable to ComEd's call center operations to the supply function overlooks that all customers cause these costs to be incurred and all customers benefit from them. Fairness requires that all bear a fair share of the costs so that customers who are on ComEd supply, possibly because they do not have a municipal aggregation option, do not have to pay for costs incurred by those who do have other options.

If the Commission were to remove approximately \$11 million in CCCosts attributable to ComEd's call center operations from the delivery service revenue requirement, however, two issues must be addressed. First, the recommendation of the ALJs is only reflected in the CCCosts adjustment in the initial rate year revenue requirement (see Appendix A, Schedules 1 FY and 2 FY). Under ComEd's formula rate, this adjustment must also be reflected in the reconciliation year revenue requirement calculations, Appendix B, Schedules 1 RY and 2 RY. Second, equity would point to recovering a substantial portion of those costs from RES supplied customers. The Proposed Order, however, rejects allocation of a portion of ComEd's CCCosts to its RES-supplied customers. PO at 101. Clearly and indisputably, many of the calls to ComEd's call center pertain at least partially to supply services provided to RES-supplied customers. An example of this would be ComEd's costs for handling customer calls pertaining to RES price increases. ComEd Init. Br. 82. Shifting the responsibility for call center costs to ComEd's supply service customers as the ALJs recommend improperly relieves RES supplied customers from responsibility for those costs. Brinkman Reb. ComEd Exhibit 12.0, 38:812-817.

Accordingly, if the Commission were to adopt the Alternative Analysis and shift approximately \$11 million in CCCosts attributable to ComEd's call center operations out of the delivery service revenue requirement, the Commission should apply the adjustment to both the initial rate year and the reconciliation year revenue requirements and direct ComEd to include in its compliance filing tariff revisions to its Rider PE and Rate BESH, as applicable, to provide for the recovery in supply charges of these costs. Appropriate language to that end is found in Alternative B of Exception 11. ComEd reserves its ability to raise in the future the need to apportion to RES-supplied customers their share of the costs removed from the delivery service revenue requirement. This need will become more acute if the number of customers receiving supply service from ComEd dwindles even further or the amount of RES supply costs they are required to pay for increases.

For all of the above reasons, Alternative A of Exception No. 11 – approving the Switching Study as the proper way to allocate CCCosts – should be adopted. If Alternative A is not adopted, ComEd recommends that Alternative B of Exception No. 11 – directing ComEd to include in its compliance filing tariff revisions to Rider PE and BESH, as applicable – should be adopted.

XI. FINDINGS AND ORDERING PARAGRAPHS AND APPENDICES

Exception No. 12

In the Findings and Ordering Paragraphs on pages 103-106 of the Proposed Order, certain figures should be revised to correct technical and mathematical errors and to coincide with the Commission Analysis and Conclusion sections in the Proposed Order, *i.e.*, Findings (7), (8), and (10) should be revised. Replacement language is found in Exception No. 12.

XII. CONCLUSION

Based on the record and the arguments made herein, the Commission should issue a final Order consistent with ComEd's Brief on Exceptions and its separate Exceptions to the Proposed Order, approve ComEd's proposed 2015 Rate Year Net Revenue Requirement, and authorize and direct ComEd to make a compliance filing implementing the resulting rates and charges.

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Respectfully submitted,

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