

**f STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

COMMONWEALTH EDISON COMPANY)
)
) Docket No. 15-0287
Annual Formula Rate Update and Revenue Requirement)
Reconciliation under Section 16-108.5 of the)
Public Utilities Act)

**REBUTTAL TESTIMONY OF MICHAEL L. BROSCHE
ON BEHALF OF THE
PEOPLE OF THE STATE OF ILLINOIS
AND THE CITY OF CHICAGO**

AG/City Exhibit 3.0

AUGUST 12, 2015

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AG/City Exhibit No. 3.1 Excerpts of Michael L. Brosch Rebuttal Testimony in
Docket No. 14-0312

I. INTRODUCTION / SUMMARY

1 **Q. Please state your name and business address.**

2 A. My name is Michael L. Brosch. My business address is PO Box 481934, Kansas
3 City, Missouri 64148-1934.

4
5 **Q. Have you prepared Direct Testimony that was previously filed in this
6 proceeding?**

7 A. Yes. My Direct Testimony and related exhibits were prepared on behalf of the
8 People of the State of Illinois represented by the Office of the Attorney General
9 (“Attorney General” or “AG” or “the People”) and the City of Chicago (the “City”).
10 These documents were identified as AG/City Exhibits 1.0 through 1.5.

11 **Q. What is the purpose of your Rebuttal Testimony in this docket?**

12 A. My testimony responds to the Rebuttal Testimony and exhibits submitted by
13 Commonwealth Edison Company (“ComEd” or “the Company”) witness Christine
14 M. Brinkman regarding the Illinois State Income Tax (“SIT”) rate issue and
15 Accumulated Deferred Income Taxes (“ADIT”) related to Bad Debts within the
16 formula revenue requirement calculations of the Company.

17 Additionally, I am advised by counsel that the AG is considering its legal
18 options with respect to the Appellate Court, First District’s recent decision¹
19 regarding the reconciliation-related ADIT amounts that were addressed in my
20 Direct Testimony. Therefore, I continue to advocate the same recommendation on

¹ *People of the State of Illinois ex rel. Madigan and Citizens Utility Board v. Ill. Commerce Comm’n et al.*, 2015 IL App (1st) 140275, July 29, 2015, available at: <http://www.illinoiscourts.gov/Opinions/AppellateCourt/2015/1stDistrict/1140275.pdf>.

21 that topic that I set forth in my Direct Testimony.² In response to the excerpts of
22 ComEd's testimony in Docket No. 14-0312 on this topic that were attached to Ms.
23 Brinkman's Rebuttal Testimony in this case as ComEd Exhibits 8.04 through 8.07, I
24 am attaching hereto an excerpt of my Rebuttal Testimony on the topic on behalf of
25 the AG from Docket No. 14-0312, captioned here as AG/City Exhibit 3.1. AG/City
26 Exhibit 3.1 also includes an excerpt from a 2014 Hawaii Public Utilities
27 Commission decision that I had attached to my Docket No. 14-0312 Rebuttal
28 Testimony.

29 **Q. Please summarize the recommendations that are set forth in your testimony.**

30 A. My Rebuttal Testimony adopts ComEd's proposed accounting for the SIT rate
31 change issue which I challenged in my Direct Testimony. After careful review of
32 the Company's responses to AG data requests in this area and ComEd's Rebuttal
33 Testimony, I agree that ComEd's accounting for the lower SIT rate effective in
34 2015 is reasonable and more consistent with the treatment of SIT rate changes in
35 prior proceedings. I am withdrawing the AG/City proposed ratemaking adjustment
36 that was presented in AG/City Exhibit 1.3 at page 1, line 6 and on page 3, line 2.
37 The other ratemaking adjustment I sponsored to "Reduce Debit ADIT – Bad Debt
38 Provision" at AG/City Exhibit 1.3, page 1, line 5 and on page 6, remains
39 appropriate, for the reasons explained herein, and should be applied in determining
40 the Company's revenue requirement for both the 2016 Initial Rate Year and the
41 2014 Reconciliation Year.

² AG/City Exhibit 1.0 at 5-8; AG/City Exhibit 1.4.

42 **Q. Have you updated AG/City Exhibit 1.3, which summarized the adjustments**
43 **sponsored by you and AG witness David Effron in direct testimony, to reflect**
44 **the AG/City Rebuttal positions?**

45 A. No. The only remaining disputed issue on AG/City Exhibit 1.3 appears at line 5. It
46 is my understanding that the three rate base adjustments proposed by Mr. Effron in
47 his direct testimony have been accepted by ComEd and are reflected within
48 ComEd's rebuttal testimony.³

49

50

51 **II. BAD DEBT RELATED DEFERRED TAXES.**

52

53 **Q. Does ComEd witness Brinkman oppose your recommendation to exclude from**
54 **rate base the debit ADIT balances associated with the Company's Accumulated**
55 **Provision for Uncollectible accounts?**

56 A. Yes. According to Ms. Brinkman, my proposed adjustment should be rejected for
57 several reasons, including:

- 58 • Rider UF - Uncollectible Factor only allows for recovery of *expense* related
59 to bad debt within the confines of the rider;

³ In its Rebuttal Testimony, the Company accepted the following adjustments to rate base proposed by AG/City in Mr. Effron's Direct Testimony:

ADIT - Other Current Liabilities: see ComEd Ex. 8.0, pp. 24-25;

Customer Advances: see ComEd Ex. 9.0, pp. 8-11 (alternative that eliminated non-jurisdictional advances from the adjustment amount and revised the method of making the adjustment so that it affects only the reconciliation year; which alternative is acceptable to AG/City);

ADIT – Stock Options: see ComEd Ex. 9.0, p. 11.

- 60 • ComEd is reflecting its ADIT related to bad debt accurately and consistently
61 with the Commission’s Order in Docket No. 11-0721; and
62 • That my argument in this case is inconsistent with prior arguments made by
63 the AG regarding this issue.

64 Ms. Brinkman then offers testimony that explains the origin of ADIT related to bad
65 debt, describes how this issue has been addressed in the past, and refers to prior AG
66 testimony and Commission Orders where bad debt-related issues were previously
67 addressed. In my Rebuttal Testimony, I will respond to each of her claims and
68 explain why full exclusion of ADIT related to bad debts from rate base is
69 appropriate.⁴

70 **Q. Will you be using the terms “bad debt” and “uncollectibles” interchangeably**
71 **throughout your rebuttal testimony?**

72 A. Yes. The FERC Uniform System of Accounts uses the term “Uncollectibles” in
73 defining uncollectible customer accounts receivable, while the more broadly-used
74 term is “Bad Debts” for the same “bad” or uncollectible accounts receivable.

75 **Q. In your Direct Testimony, you explained that ComEd’s recorded Accumulated**
76 **Provision for Uncollectibles (“Bad Debts”) within Account 144 is the balance**
77 **sheet credit balance account that is directly associated with Bad Debt ADIT**
78 **debit balance that ComEd seeks to include in rate base. Has Ms. Brinkman**
79 **demonstrated that ComEd’s Accumulated Provision for Uncollectibles has**
80 **been included anywhere, as a reduction to ComEd’s asserted rate base?**

⁴ Rather than fully excluding the ADIT related to the Company’s accrued “Provision for Bad Debt” (ComEd Ex. 2.02 at 26:8), the Company has allocated 59.29 percent of the total ADIT amount for inclusion in the DST rate base, using a “Revenue Alloc” allocation factor, as shown in columns (E) and (F).

81 A. No. Her Rebuttal Testimony focuses upon the jurisdictional treatment of Bad Debt
82 *expense* and says nothing about the balance sheet accounts, the Accumulated
83 Provision for Uncollectibles and the associated ADIT balances, the accounts that are
84 the primary focus of my Direct Testimony. The fundamental reason I have
85 proposed rate base exclusion of the debit ADIT related to Bad Debts is that the
86 corresponding credit “reserve” for uncollectibles, appearing within Account 144 on
87 the Company’s books, has not been subtracted from ComEd’s rate base. ComEd’s
88 Cash Working Capital (“CWC”) calculations do not account for the Company’s
89 recorded Accumulated Provision for Uncollectible Accounts and this reserve for
90 uncollectibles is not included as a reduction to rate base elsewhere in the
91 Company’s filing. In general, the treatment of ADIT balances that relate to specific
92 asset and liabilities should “follow” the rate base treatment of the corresponding
93 assets and liabilities. For instance, when credit ADIT balances arise from tax
94 depreciation on plant investments that are included in rate base, those ADIT
95 balances should be included in rate base.⁵

96 **Q. Does Ms. Brinkman acknowledge that there is a large credit balance on**
97 **ComEd’s books because of the Company’s Accumulated Provision for**
98 **Uncollectibles that is recorded in advance of the actual write-off of**
99 **uncollectible accounts?**

100 A. She does not. Her explanation of why ComEd has ADIT related to bad debts states
101 only that, “[c]onsistent with GAAP, ComEd has recorded a deferred tax related to

⁵ See ComEd Ex. 2.02 at 27:50, where ADIT for “Total Account 282-Liberalized Depreciation” of \$3.212 billion is reflected as a credit, reducing rate base after applying a “Net Plant” allocation factor of 76.03 percent.

102 bad debt as there is a timing difference between when ComEd records the bad debt
103 expense for book purposes and when ComEd is allowed to take a deduction on its
104 tax return for this item.”⁶ She does not explain why there is a “timing difference”,
105 what happens when bad debts expense is recorded on the books, or what particular
106 balance sheet accounts that are involved. The key missing information in her
107 testimony is the fact that, when ComEd records bad debt expense for book purposes,
108 the accrued expense amounts serve to build up a liability reserve for bad debts
109 within Account 144 Accumulated provision for uncollectible accounts—credit.
110 Then, when specific customer accounts prove to be uncollectible and are later
111 written off, the write-off is charged to the same Account 144 reserve,⁷ The
112 worthless account balances become tax deductible only at that time. Notably,
113 Account 144 is not included as a reduction to ComEd’s proposed rate base, so the
114 debit ADIT amounts associated with Account 144 also should be excluded from rate
115 base.

116 **Q. Ms. Brinkman refers to an AG adjustment that was proposed in Docket No. 11-**
117 **0721 by Mr. Effron and that was accepted by the Commission in a Final Order**
118 **finding, “...that the amount of ADIT related to bad debt be reduced in rate**
119 **base to correspond with the amount of bad debt expense allocated to delivery**

⁶ ComEd Ex. 8.0 at 22:472-475.

⁷ The related credit entry reduces Account 142 Customer accounts receivable.

See 18 C.F.R. Part 101 – Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act; which defines Account 144 as: A. This account shall be credited with amounts provided for losses on accounts receivable which may become uncollectible, and also with collections on accounts previously charged hereto. Concurrent charges shall be made to account 904, Uncollectible Accounts, for amounts applicable to utility operations, and to corresponding accounts for other operations. Records shall be maintained so as to show the write-offs of account receivable for each utility department.

120 **services.” Have you reviewed Mr. Effron’s testimony and the Final Order that**
121 **is referenced by Ms. Brinkman?**

122 A. Yes. I reviewed Mr. Effron’s Direct and Rebuttal Testimony and the Final Order in
123 Docket No. 11-0721, and then discussed this matter with Mr. Effron.

124 **Q. Was there any consideration of the Account 144 Accumulated Provision for**
125 **Uncollectibles balance and whether it was included in rate base in Mr. Effron’s**
126 **testimony in Docket No. 11-0721?**

127 A. No. There was no discussion of the balance sheet accounts surrounding the
128 Company’s bad debt accounting. In Docket No. 11-0721, ComEd was proposing
129 rate base inclusion of 100% of its ADIT related to bad debts in rate base and Mr.
130 Effron testified that, “[t]hese ADIT are directly related to bad debt expenses. The
131 ADIT should follow the allocation of bad debt expenses. Less than 100% of bad
132 debt expense is allocated to the jurisdictional revenue requirement, and less than
133 100% of the ADIT on the Accumulated Provision for bad debt should be allocated
134 to the jurisdictional rate base.”⁸

135 **Q. Was Mr. Effron incorrect in his recommendation that ADIT amounts related**
136 **to bad debts be jurisdictionally allocated based upon bad debt expense?**

137 A. In Docket No. 11-0721, Mr. Effron was not assigned responsibility for review of
138 ComEd’s Cash Working Capital lead-lag study and he was not familiar with
139 whether ComEd’s Accounts Receivables or the corresponding offset for
140 Accumulated Provision for Uncollectibles were included in rate base. The
141 responsibility for review of ComEd’s Cash Working Capital in Docket No. 11-0721

⁸ AG/AARP Exhibit 2.0 (Revised) at 4:86-90, Docket No. 11-0721, available at:
<http://www.icc.illinois.gov/downloads/public/edocket/310394.pdf>.

142 was mine. Accordingly, Mr. Effron was not aware that ComEd was proposing no
143 accounting for the Accumulated Provision for Uncollectibles in rate base. In fact, if
144 the Attorney General's position that I sponsored in that docket had been adopted,
145 some accounting for ComEd's Accumulated Provision for Uncollectibles would
146 have been included in rate base.

147 **Q. Did ComEd's lead-lag study in Docket No. 11-0721 include any accounting for**
148 **the Accumulated Provision for Uncollectibles as a reduction to the Company's**
149 **rate base?**

150 A. No, but it should have, because failure to account for uncollectibles in determining
151 the revenue collection lag caused Cash Working Capital to be overstated within
152 ComEd's rate base. I recommended several adjustments to ComEd's lead-lag study
153 in Docket No. 11-0721, including, "[r]evision of ComEd's estimated revenue
154 collection lag to account for the uncollectible accounts portion of Accounts
155 Receivables used in ComEd's calculation, which are receivables that will not be
156 collected at all, and therefore cannot impact the timing of ComEd's cash flows."⁹
157 However, the Commission's Final Order did not approve any changes to ComEd's
158 lead-lag study, concluding:

159 The Commission finds that the Company's method of calculating
160 payment lag is consistent with Commission practice. ComEd used
161 a midpoints methodology that is reasonable and that this
162 Commission approved in Docket 10-0467, among other dockets.
163 If the Commission is to deviate from previously adopted
164 methodology, it needs a compelling reason to do so. The record in

⁹ AG/AARP Exhibit 1.0, at 26:548-551, Docket No. 11-0721, available at: <http://www.icc.illinois.gov/downloads/public/edocket/310268.pdf>. If my adjustment to cash working capital had been accepted, the Cash Working Capital included in ComEd's rate base would be lower and the rate base inclusion of a DST share of ADIT related to bad debts would have been reasonable.

165 this docket does not support deviating from previous decisions on
166 this issue.¹⁰
167

168 As a result there was no rate base recognition of ComEd's Accumulated Provision
169 for Uncollectibles in Docket No. 11-0721 or in subsequent formula rate update
170 dockets, including the instant Docket No. 15-0287.

171 **Q. According to Ms. Brinkman, ComEd has included the ADIT related to bad**
172 **debt in rate base, "consistent with the Commission's Order in Docket No. 11-**
173 **0721."¹¹ Did the Commission's Order in that case tie together the ordered**
174 **rejection of your lead-lag study issue with Mr. Effron's proposed allocation of**
175 **ADIT related to Bad Debts?**

176 **A.** No. The record in Docket No. 11-0721 did not link or condition Mr. Effron's
177 testimony regarding the rate base treatment of ADIT related to bad debts to my lead-
178 lag study recommendation that the a provision for uncollectibles be considered to
179 reduce cash working capital in rate base. That being said, Mr. Effron's testimony in
180 Docket No. 11-0721, which allowed a portion of the ADIT related to uncollectibles
181 in rate base, was consistent with my testimony that the uncollectibles reserve should
182 be taken into account in the calculation of the revenue lag. It follows, then, if the
183 uncollectibles reserve is not taken into account in the calculation of the revenue lag,
184 then the related ADIT should be removed from rate base. To date, this has not been
185 done. However, the Commission has an opportunity at this time to correct this
186 oversight. The adjustment I propose seeks to exclude from rate base all ADIT

¹⁰ Final Order, May 29, 2012, Docket No. 11-0721, at 41.

¹¹ ComEd Ex. 8.0 at 31:641-643.

187 related to bad debts. My adjustment corrects the failure to treat Account 144, the
188 Accumulated Provision for Uncollectibles balance and its related ADIT balance
189 consistently, and also is consistent with the Commission’s Final Order in Docket
190 No. 11-0721 that did not adopt the adjustment I proposed in that case which would
191 have reduced cash working capital and included in rate base an accounting for the
192 Company’s Accumulated Provision for Uncollectibles.

193 **Q. In her rebuttal, Ms. Brinkman discusses ComEd’s recovery of bad debt**
194 **expenses through Rider UF, noting that, “...Rider UF - Uncollectible Factor**
195 **only allows for recovery of *expense* related to bad debt within the confines of**
196 **the rider.” After discussing the history if Rider UF, she claims, “None of these**
197 **Orders directed that ADIT related to the bad debt expense also be included in**
198 **the Rider and the tariff itself, as approved by the Commission, does not so**
199 **provide.”¹² Does this discussion tell us anything about whether ADIT related**
200 **to bad debts should be in rate base?**

201 A. No. There is no need for Rider UF to include any return on ADIT related to the bad
202 debt expenses recovered therein, because Rider UF is not accounting for ComEd’s
203 Accumulated Provision for Uncollectibles, which is a credit balance that would
204 more than offset the related ADIT balance if recognized. Ms. Brinkman does not
205 assert that there was any discussion of ADIT matters in connection with the
206 implementation of Rider UF that would cause the referenced Orders to “direct”
207 anything with respect to ADIT.

¹² *Id.* at 21:443-22:471.

208 My Direct Testimony also noted that ComEd’s uncollectible expenses are
209 fully recoverable through its Rider UF. Consistency in accounting treatment
210 requires that ADIT related to Bad Debts/Uncollectibles should be removed from
211 rate base, to recognize that the Company’s Accumulated Provision for
212 Uncollectibles balance is not in rate base and that test year Uncollectible expense
213 (which is recovered separately through Rider UF) is not included in test year
214 expense. ComEd has failed to demonstrate that its Accumulated Provision for
215 Uncollectibles, which should reduce its rate base, has been recognized anywhere in
216 its rate base calculation, either within Rider UF or its asserted delivery services
217 tariff (“DST”) revenue requirement. This fact is dispositive, and the associated
218 ADIT related to bad debts balance should also be excluded from rate base.

219 **Q. Ms. Brinkman acknowledges that “Ameren removes the ADIT related to bad**
220 **debt from rate base in their delivery service formula” and she claims they**
221 **“consider it in the overall cash working capital calculation.” Is this true?**

222 **A.** It is true that Ameren Illinois Company (“Ameren”) does not include ADIT related
223 to bad debts in developing the DST rate base they propose. However, there is no
224 consideration by Ameren of ADIT related to bad debts within Ameren’s cash
225 working capital calculation.¹³

226 **Q. After conceding that Ameren’s accounting for ADIT related to bad debts is the**
227 **same as you are proposing for ComEd, Ms. Brinkman claims that, “...for**

¹³ Ameren has submitted a new lead-lag study in Docket No. 15-0305. That study recognizes that a portion of recorded Accounts Receivable will ultimately be uncollectible within the calculation of the revenue collection lag. (See Docket No. 15-0305, Ameren Exhibit 8.0 at 9:172-185, available at: <http://www.icc.illinois.gov/downloads/public/edocket/404242.pdf>).

228 **ComEd, changing the approach would needlessly add complexity and cost to**
229 **this proceeding and future working capital calculations.”¹⁴ Do you agree?**

230 A. No. To mirror Ameren’s approach to the ADIT related to bad debts, the
231 Commission need only adopt the rate base adjustment I propose here. In Docket
232 No. 11-0721, the Commission ruled against my proposed adjustment seeking to
233 reduce ComEd’s cash working cash working capital to recognize the Company’s
234 Accumulated Provision for Uncollectibles as an offset to Accounts Receivable.
235 After declining to recognize ComEd’s Accumulated Provision for Uncollectibles in
236 rate base, it is essential that the corresponding ADIT balance not be allowed to
237 increase rate base.

238 **Q. Does this conclude your testimony at this time?**

239 A. Yes.

¹⁴ *Id.* at 24:498-501.