STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	
Annual formula rate update and revenue	:	No. 15-0287
requirement reconciliation under	:	
Section 16-108.5 of the Public Utilities Act.	:	

INITIAL BRIEF OF COMMONWEALTH EDISON COMPANY

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COMMONWEALTH EDISON COMPANY	:	
	:	
Annual formula rate update and revenue requirement reconciliation under Section 16-108.5 of the Public Utilities Act.	: : :	No. 15-0287

INITIAL BRIEF 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, submits this Initial Brief.

I. INTRODUCTION/STATEMENT OF THE CASE

This is the fifth ComEd annual rate filing under the portion of the Public Utilities Act ("PUA") known as the Energy Infrastructure and Modernization Act ("EIMA").[1] In this formula rate update ("FRU") proceeding, the scope of the parties' disputes is considerably narrowed. This is due, in part, to the fact that ComEd is seeking a $55 million reduction in its revenue requirement and has, in the interest of minimizing litigation, accepted for the purpose of this case several Staff and Intervenor proposals to remove costs from the revenue requirement. Nevertheless, Intervenors and, to a lesser extent, Staff propose to disallow approximately $36 million additional dollars of ComEd's costs that are prudent, reasonable, and recoverable costs of providing delivery service. These proposed disallowances are not only inconsistent with the objective of EIMA ratemaking, they are contrary to the best interests of customers.

The specific issues contested in this case are: 1) calculation of depreciation resulting in accumulated deferred income taxes ("ADIT") related to plant additions; 2) ADIT related to bad

[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 PUA.

debt; 3) ComEd's Materials and Supplies ("M&S") balance; 4) short term incentive compensation program expenses associated with distinguished performance by ComEd employees; 5) ComEd's 401(k) Employee Savings Plan matching program; 6) outside services expenses associated with smart meter customer outreach and education; 7) certain industry association dues; and 8) calculation of interest on ComEd's reconciliation balance. In summary:

1) The Attorney General ("AG") and the City of Chicago ("City"), jointly "AG/City," recommend a change to the calculation of depreciation resulting in ADIT related to plant additions that conflicts with a prior Commission decision. AG/City have not provided any reason for the Commission to change course on this issue.

2) The Citizens Utility Board ("CUB") and the Illinois Industrial Energy Consumers ("IIEC"), jointly "CUB/IIEC," recommend a change to the way ADIT related to bad debt is reflected in the revenue requirement that conflicts with a recent Commission decision and fundamentally misunderstands the role of ADIT in ratemaking.

3) CUB/IIEC propose using a year-over-year average amount for ComEd's M&S inventory balance instead of ComEd's actual Federal Energy Regulatory Commission ("FERC") Form 1 figures. This is contrary to the plain language of EIMA, Commission practice in every ComEd formula rate case, and the Commission's recent decision on this exact issue in Ameren's 2014 formula rate case, Docket No. 14-0317.

4) Staff proposes to disallow a portion of ComEd's Annual Incentive Program ("AIP") expense that is associated with ComEd employees' distinguished level of achievement. It is undisputed, however, that ComEd's AIP is consistent with EIMA and Commission practice, and that customers have benefited from this distinguished level of achievement in excess of the incremental expense associated with this achievement. For the Commission to disallow this prudent and reasonable expense that is undeniably recoverable pursuant to both EIMA and Commission practice would be arbitrary and capricious.

5) Staff seeks to expand the provisions of 220 ILCS 5/16-108.5(c)(4)(A) and the so-called "customer benefit" test beyond the specific and narrow application to incentive compensation expenses to disallow 401(k) Employee Savings Plan expenses. This is contrary to the plain language of EIMA and all known Commission practice.

6) Staff recommends disallowance of outside services expenses associated with ComEd's smart meter customer outreach and education program known as

"#SmartMeetsSweet." Staff's recommendation is based on a misunderstanding of the outreach program and an impermissible hindsight review and the Commission should reject it.

7) Staff seeks to disallow 100% of the industry association dues for the Illinois Environmental Regulatory Group ("IERG") and the Utility Solid Waste Activities Group ("USWAG"). The basis of this proposed disallowance is factually incorrect and the Commission should instead accept ComEd's alternative calculation based on the evidence in the record.

8) The proposed adjustment to reduce the reconciliation balance upon which interest is calculated by the amount of ADIT purportedly related to that balance is the same proposal that has been rejected by this Commission in at least five prior decisions *and has also been recently and definitively rejected by the Illinois Appellate Court*. The advocates of this unlawful adjustment do not present any new arguments here and the Commission should once again reject it.

In this fifth cost-update cycle, ComEd urges the Commission to look beyond continued short-sighted efforts to impair cost recovery and to erode the simplicity, clarity, and transparency intended by formula ratemaking. To do otherwise would ultimately harm customers and the State, who will reap lasting benefits from the investment EIMA is funding.

II. OVERALL REVENUE REQUIREMENT

This FRU proceeding sets ComEd's distribution rates applicable during 2016. Those rates are set in order to recover the balance of ComEd's fully reconciled actual costs for rate year 2014 as well as the initial projection of ComEd's 2016 costs. The 2016 Rate Year Net Revenue Requirement used to set those rates derives from the following figures:

1. The 2014 Reconciliation Adjustment – the difference between ComEd's 2014 Initial Rate Year Revenue Requirement used to set rates in effect in 2014 and the 2014 Reconciliation Revenue Requirement determined based on ComEd's actual 2014 costs as reported in its FERC Form 1 for 2014, corrected for the lost time value of money;

2. The 2016 Initial Rate Year Revenue Requirement – a projection of 2016 costs based on ComEd's actual 2014 operating costs and rate base plus projected 2015 plant additions and the associated adjustments to accumulated depreciation (the associated change in the depreciation reserve), depreciation expense, and, per the Commission's prior Orders, ADIT and;

3. Any "ROE Collar" adjustment relating to 2014 and the "ROE Penalty Calculation" applicable to 2014.

See Brinkman Dir., ComEd Ex. 1.0 CORR., 10:181-18:353. ComEd presented substantial evidence supporting this revenue requirement through the testimony of nine witnesses and the attachments, schedules, and exhibits they sponsored.

A. 2016 Initial Rate Year Revenue Requirement

ComEd's properly calculated 2016 Initial Rate Year revenue requirement as adjusted in its surrebuttal testimony is $2,437,879,000. ComEd Ex. 12.01, Sch FR A-1, line 23.

B. 2014 Reconciliation Adjustment

ComEd's properly calculated 2014 Reconciliation Adjustment (including interest), reflecting the difference between the rates in effect in 2014 and the actual 2014 Reconciliation Revenue Requirement, as adjusted in its surrebuttal testimony is $89,092,000. ComEd Ex. 12.01, Sch FR A-4, line 31.

C. ROE Collar and ROE Penalty Calculation

ComEd's properly calculated ROE Collar adjustment is $0. ComEd Ex. 12.01, Sch FR A-1, line 35. The ROE Penalty Calculation is set forth on workpaper ("WP") 23 and is reflected in ComEd's Cost of Capital Computation on Sch FR D-1. *See* ComEd Ex. 12.01, Sch FR D-1; *see also* ComEd Ex. 2.02, WP 23. ComEd has reflected a penalty of 5 basis points for the

Reconciliation Year on Sch FR D-1, line 9 as a result of failing to meet a service reliability performance metric resulting in a reduction of the allowed ROE to 9.09%. Brinkman Dir., ComEd Ex. 1.0 CORR., 15:293-300; ComEd Ex. 12.01, Sch FR D-1, lines 9, 11.

D. 2016 Rate Year Net Revenue Requirement

Accordingly, ComEd's properly calculated 2016 Rate Year Net Revenue Requirement reflecting the adjustments made in surrebuttal testimony is $2,526,971,000. Newhouse Sur., ComEd Ex. 12.0, 2:30-32; ComEd Ex. 12.01, Sch FR A-1, line 36.

III. SCOPE OF THIS PROCEEDING

A. Changes to the Structure or Protocols of the Performance-Based Formula Rate

ComEd initiated this proceeding pursuant to Section 16-108.5(d) of the PUA. That provision of EIMA defines this proceeding and limits its scope. Its statutory purpose is to evaluate "the prudence and reasonableness of the costs incurred by [ComEd] to be recovered during the applicable [2016] rate year that are reflected in the inputs to the performance-based formula rate derived from the utility's FERC Form 1." 220 ILCS 5/16-108.5(d). The record contains that data, and the evidence supports the reasonableness and prudence of ComEd's costs, as discussed in Sections IV. and V. below.

Unlike the annually updated input data, the formula itself is not annually revised or updated. Rather, ComEd's approved rate formula[2] governs the calculation of ComEd's 2016 Initial Rate Year and 2014 Reconciliation Revenue Requirements, and any adjustment attributable to the ROE Collar. Thus, in contrast to germane questions about the data, the

[2] The Commission approved ComEd's rate formula on June 5, 2013, under 220 ILCS 5/16-108.5(k)(1). *See Commonwealth Edison Co.*, ICC Docket No. 13-0386. In that docket, the Commission held that ComEd's formula "rate sheets, and the revenue requirement calculations filed with and supporting them, are consistent with the provisions of Public Act 98-15 … ." *Commonwealth Edison Co.*, ICC Docket No. 13-0386, Final Order (June 5, 2013) at 3, 4. The Commission ordered into effect ComEd's Filed Rate Schedule Sheets and approved the resulting revenue requirement modifications. *Id.*

specifics of the rate calculation and the identification of the specific inputs used to conduct it are found in the formula rate itself and are not a subject of this proceeding.

ComEd's rate formula is not merely a general outline or description of calculations, but itself "specif[ies] the cost components that form the basis of the rate charged to customers with sufficient specificity to operate in a standardized manner and be updated annually with transparent information that reflects the utility's actual costs to be recovered during the applicable rate year … ." 220 ILCS 5/16-108.5(c). The approved rate formula defines – mathematically and in narrative detail – how the revenue requirements and the ROE Collar adjustment (if any) are calculated and what input data goes into those calculations.[3]

Regarding the definition of formula rate, ComEd is currently appealing the Commission's decision in ICC Docket No. 14-0316 and preserves for appeal the issue of whether the formula rate structure should be defined solely as Sch FR A-1 and Sch FR A-1 - REC or whether, as ComEd contends, in order to provide certainty and transparency, the formula rate structure should include all of the Schedules and Appendices that comprise the Commission-approved formula rate. *Commonwealth Edison Co.*, ICC Docket No. 14-0316, Final Order (Nov. 25, 2014) ("Housekeeping Order") at 3, 17.

B. The Definition of Rate Year and the Reconciliation Cycle

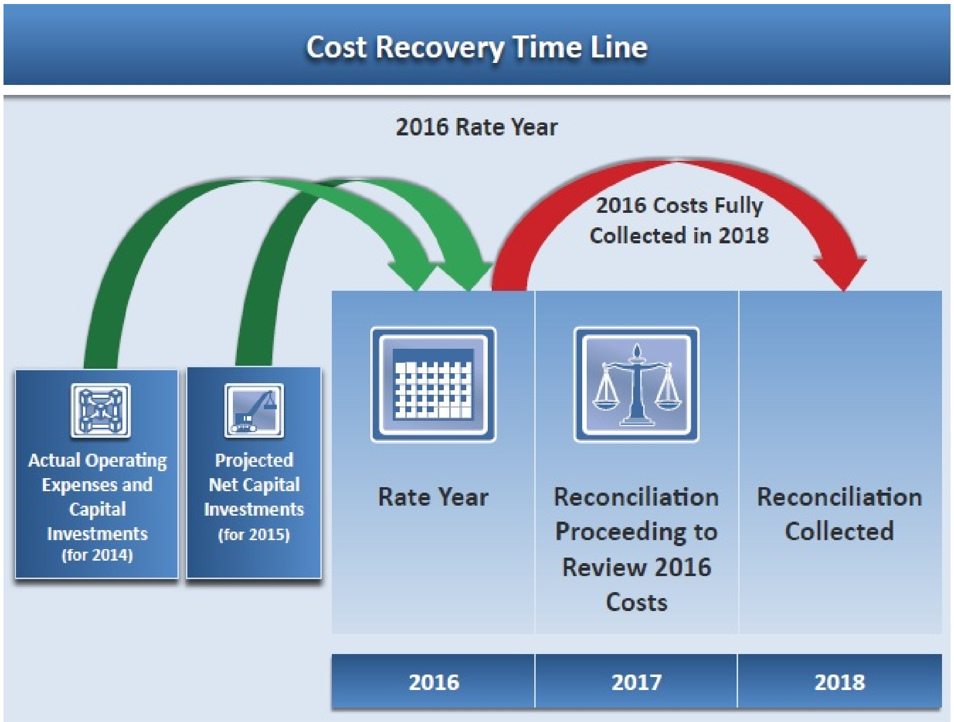
EIMA establishes an annual process by which ComEd's rate year costs and revenue requirements are first estimated, and then finally fixed and reconciled when actual costs are known. The objective is to:

[3] The formula calculates ComEd's 2016 Initial Rate Year Revenue Requirement using 2014 actual data and certain 2015 estimates, and uses the same formula to calculate ComEd's 2014 Reconciliation Revenue Requirement from the actual 2014 costs that are now available. The ROE Collar is also calculated based on actual 2014 data. 220 ILCS 5/16-108.5(d).

> ... ultimately reconcile the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its performance-based formula rate tariff pursuant to subsection (c) of this Section, with what the revenue requirement determined using a year-end rate base for the applicable calendar year would have been had the actual cost information for the applicable calendar year been available at the filing date.

220 ILCS 5/16-108.5(d)(1). To accomplish that, EIMA requires that each FRU involve both a final reconciliation of the revenue requirement "for the prior rate year," for which actual costs will be known by the time of filing, and a provisional projection of the revenue requirement for the following calendar year. That provisional Initial Revenue Requirement will be reconciled two years hence. EIMA requires ComEd to base that projection on "historical data reflected in the utility's most recently filed annual FERC Form 1 plus projected plant additions and correspondingly updated depreciation reserve and expense for the calendar year in which the inputs are filed." 220 ILCS 5/16-108.5(d)(1). EIMA thereby establishes a two-year cycle of before-the-fact estimation based on actual and projected costs for years earlier than the rate year and a subsequent after-the-fact reconciliation of that estimated Initial Rate Year Revenue Requirement with the actual data. Thus, in the end, and after adjustment for interest, the rates for each year should be based purely on actual cost.

ComEd provided a graphic to illustrate how the 2016 Initial Revenue Requirement is calculated in this case and how it relates to the actual 2016 Reconciliation Revenue Requirement that will ultimately be collected.



Brinkman Dir., ComEd Ex. 1.0 CORR., 9:172.

Once again, ComEd is using the reconciliation process specified by EIMA. 220 ILCS 5/16-108.5(d). That process is conducted using the rate formula exactly as approved and found compliant with EIMA in Docket Nos. 11-0721, 13-0386, and 13-0553. Moreover, this structure replicates the structure used in Docket No. 14-0312 (which reconciled rate year 2013 and calculated an initial revenue requirement for rate year 2015 based on 2013 actual costs and 2014 projected plant additions), Docket No. 13-0318 (which reconciled rate year 2012 and calculated an initial revenue requirement for rate year 2014 based on 2012 actual costs and 2013 projected plant additions), Docket No. 12-0321 (which reconciled rate year 2011 and calculated an initial revenue requirement for rate year 2013 based on 2011 actual costs and 2012 projected plant additions), and, insofar as is possible given the special start up rules, also mirrors the process followed in Docket No. 11-0721 (which set the initial revenue requirement for rate year 2012 based on 2010 actual costs and 2011 plant additions).

C. Original Cost Finding

ComEd requests that the Commission, as it has in past FRU Orders,[4] approve ComEd's original cost of plant in service as of the end of the reconciliation rate year which, in this case, is as of December 31, 2014. *See* Menon Dir., ComEd Ex. 2.0, 14:280-15:303.[5] The record shows that the original cost of gross investment in electric utility plant in service in ComEd's rate base as of December 31, 2014 is $17,244,257,000. Menon Dir., ComEd Ex. 2.0, 14:280-284. Subtracting Asset Retirement costs, capitalized incentive compensation, costs recovered in riders, other costs disallowed in prior ICC orders, and such costs capitalized in 2014, from the total of ComEd's Distribution gross plant and Illinois jurisdictional General and Intangible gross plant results in the original cost of plant in service as of December 31, 2014, of $17,202,460,000. ComEd Ex. 12.01, Sch FR B1, line 6. ComEd requests that the Commission approve this amount.

Per the 2014 Rate Case Order, the original cost calculation excludes assets that are recovered through Rider Energy Efficiency and Demand Response Adjustment ("Rider EDA"), Rider Purchased Electricity ("Rider PE"), and Rider Purchase of Receivables with Consolidated Billing ("Rider PORCB"). As stated in the 2014 Rate Case Order, for these assets excluded from original cost, the Commission will make separate original cost findings. Menon Dir., ComEd Ex. 2.0, 15:296-303; 2014 Rate Case Order at 106.

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[4] *Commonwealth Edison Co.*, ICC Docket No. 11-0721, Final Order (May 28, 2012) ("2011 Rate Case Order") at 178; *Commonwealth Edison Co*., ICC Docket No. 12-0321, Final Order (Dec. 19, 2012) ("2012 Rate Case Order") at 106; *Commonwealth Edison Co*., ICC Docket No. 13-0318, Final Order (Dec. 18, 2013) ("2013 Rate Case Order") at 88-89; *Commonwealth Edison Co*., ICC Docket No. 14-0312, Final Order (Dec. 10, 2014) ("2014 Rate Case Order") at 8.

[5] Mr. Newhouse adopted Mr. Menon's direct testimony and provided rebuttal and surrebuttal testimony on the same issues. For purposes of clarity, the testimony will continue to be cited as originally filed.

D. Issues Pending on Appeal

ComEd has preserved several arguments, including the definition of the formula rate "structure," that are pending before the Appellate Court, and ComEd does not waive any of those arguments. Pending their decision, however, ComEd's filing presents revenue requirements calculated in accordance with EIMA as it has been interpreted and applied by the Commission in prior ComEd FRU and related proceedings. Brinkman Dir., ComEd Ex. 1.0 CORR., 38:778-782. ComEd does not intend to relitigate those legal issues on appeal in this proceeding as they are already before the courts and will be decided there. *Id.*, 38:784-39:785.

IV. RATE BASE

A. Overview

ComEd fully supported its 2014 Reconciliation Year rate base and its 2016 Initial Rate Year rate base through the testimony of multiple witnesses.[6] ComEd's figures should be approved. There are only three potentially contested rate base issues, two relate to ADIT and one relates to Materials and Supplies, and for each of them ComEd has supplied the correct calculation, as discussed below. The prudence and reasonableness of ComEd's rate base was supported by detailed testimony and documentation which, with limited exceptions addressed herein, was uncontested.

1. 2014 Reconciliation Rate Base

ComEd's properly calculated 2014 Reconciliation Year rate base as adjusted in its surrebuttal testimony is $7,081,566,000. ComEd Ex. 12.01, Sch FR B-1, line 28.

[6] Primarily ComEd witnesses Brinkman, Moy, Fitterer, and Newhouse.

2. 2016 Initial Rate Year Rate Base

ComEd's properly calculated 2016 Initial Rate Year rate base as adjusted in its surrebuttal testimony is $8,277,117,000. ComEd Ex. 12.01, Sch FR B-1, line 36.

B. Potentially Uncontested Issues

1. Plant in Service

a. Distribution Plant

ComEd's Distribution Plant in rate base for the 2014 Reconciliation Revenue Requirement and the 2016 Initial Rate Year Revenue Requirement is uncontested and should be approved. ComEd's Distribution Plant in service as of December 31, 2014 includes the Southwest Suburban Capacity Expansion Project (ITN 20702). ComEd Ex. 6.01, Sch F-4, line 1; Moy Dir., ComEd Ex. 6.0, 29:597-33:668. ComEd's 2015 projected plant additions consist of $1,393,932,000 of Distribution Plant additions expected to be in service as of December 31, 2015. Newhouse Reb., ComEd Ex. 9.0, 10:216-219; ComEd Ex. 9.01, Sch FR B-1, line 29. These additions were described in accordance with 83 Ill. Admin. Code § 285.6100.

ComEd demonstrated that its Distribution Plant for the 2014 Reconciliation Revenue Requirement was prudently acquired at a reasonable cost and was used and useful when placed into service. ComEd further demonstrated that its Distribution Plant for the 2016 Initial Rate Year Revenue Requirement is prudent and reasonable and the underlying assets are used and useful in providing delivery service. Moy Dir., ComEd Ex. 6.0, 23:469-25:502. These facts are uncontested.

b. General and Intangible Plant

ComEd's General and Intangible ("G&I") Plant in rate base for the 2014 Reconciliation Revenue Requirement and 2016 Initial Rate Year Revenue Requirement is uncontested and should be approved. ComEd's 2015 projected plant additions include $248,215,000 of G&I

Plant additions. Menon Dir., ComEd Ex. 2.0, 25:510-511; ComEd Ex. 2.01, Sch FR B-1, line 31. ComEd demonstrated that its G&I Plant for the 2014 Reconciliation Revenue Requirement was prudently acquired at a reasonable cost and was used and useful when placed into service. ComEd further demonstrated that its G&I Plant for the 2016 Initial Rate Year Revenue Requirement is prudent and reasonable and the underlying assets are used and useful. Moy Dir., ComEd Ex. 6.0, 23:469-25:502.

2. Regulatory Assets and Liabilities

ComEd included in its 2014 Reconciliation Revenue Requirement rate base and its 2016 Initial Rate Year Revenue Requirement rate base Regulatory Assets amounting to $98,816,000. ComEd Ex. 2.01, Sch FR B-1, line 19. These Regulatory Assets are comprised of: (1) a regulatory asset representing the unamortized balance (as of year-end 2014) of capitalized incentive compensation costs, (2) the unrecovered costs related to ComEd's Advanced Metering Infrastructure ("AMI") pilot, and (3) the unrecovered balance of the accelerated depreciation associated with ComEd's AMI investment (apart from the AMI pilot). Menon Dir., ComEd Ex. 2.0, 21:418-22:429; ComEd Ex. 2.01, App 5, line 4. ComEd's Regulatory Assets are uncontested and reasonable and should be approved.

3. Deferred Debits

ComEd included in its 2014 Reconciliation Revenue Requirement rate base and its 2016 Initial Rate Year Revenue Requirement rate base Deferred Debits amounting to $33,496,000. Menon Dir., ComEd Ex. 2.0, 22:430-432; ComEd Ex. 2.01, Sch FR B-1, line 20. The Deferred Debits included in the rate base are comprised of: (1) Cook County Forest Preserve Fees related to licensing fees for distribution lines; (2) a Long Term Receivable from the Mutual Beneficial Association ("MBA") Plan related to ComEd's payments to the trust on behalf of union employees for short term disability and for which it is awaiting reimbursement; (3) a deferred debit associated with ComEd's capitalized vacation pay not included in plant-in-service; (4) expected recoveries from insurance on claims made by the public against ComEd; and (5) payment to the Commission for fees related to future long-term debt issuances. Menon Dir., ComEd Ex. 2.0, 22:432-441; ComEd Ex. 2.01, App 5, lines 5-9. These Deferred Debits are uncontested and reasonable and should be approved.

4. Other Deferred Charges

ComEd included in its 2014 Reconciliation Revenue Requirement rate base and its 2016 Initial Rate Year Revenue Requirement rate base Other Deferred Charges relating to incremental distribution storm costs greater than $10 million. Menon Dir., ComEd Ex. 2.0, 22:442-446. These costs include certain storm expenses, which ComEd is amortizing over five years pursuant to Section 16-108.5(c)(4)(F). In addition, ComEd removed certain merger expenses related to the Exelon/Constellation Energy Group ("CEG") merger from its operating expenses, and is amortizing them over a five-year period. *Id.* No party contested these issues.

ComEd is amortizing over five years the expenses of three 2011 storms, two 2012 storms, two 2013 storms, and two 2014 storms, each of which incurred costs in excess of $10 million. In 2011, 2012, 2013, and 2014, these storm costs totaled $68,201,000, $21,271,000, $21,987,000, and $38,139,000, respectively. Menon Dir., ComEd Ex. 2.0, 22:448-23:450. The unamortized balances of the 2011, 2012, 2013, and 2014 storm expenses, $13,594,000, $8,499,000, $13,192,000, and $30,511,000, respectively, are included in rate base. *Id.*, 23:450-452; ComEd Ex. 2.02, WP 8, lines 10-13. Additionally, ComEd initially recorded CEG merger expenses of $31,912,000, and $11,432,000 in 2012 and 2013, respectively, and unamortized merger expense balances for 2012 and 2013 of $12,582,000 and $6,850,000, respectively. Menon Dir., ComEd Ex. 2.0, 23:452-455. The total unamortized balance related to all of these merger and storm-related expenses is $85,228,000. ComEd Ex. 2.01, Sch FR B-1, line 24.

ComEd's Other Deferred Charges, including the unamortized storm expenses and merger expenses and other liabilities, after adjustments, are uncontested and reasonable and should be approved.

5. Accumulated Provisions for Depreciation and Amortization

The total Accumulated Depreciation related to ComEd's rate base, as of December 31, 2014, is $6,537,168,000. This total was comprised of $5,721,892,000 related to Distribution Plant and $815,276,000 related to G&I Plant. ComEd Ex. 12.01, Sch FR B-1, lines 7-12. This figure is uncontested and should be approved.

6. Accumulated Miscellaneous Operating Provisions

ComEd has also included other liabilities in its rate base. These liabilities, after adjustments, are Operating Reserves of $319,522,000, Asset Retirement Obligations of $19,057,000, and Deferred Credits of $104,720,000. ComEd Ex. 2.02, WP 5, pages 3-4. ComEd's Operating Reserves and Deferred Liabilities for the 2014 reconciliation year and 2015 filing year are uncontested and should be approved. ComEd Ex. 2.01, Sch FR B-1, lines 21 through 23; Menon Dir., ComEd Ex. 2.0, 23:459-465.

7. Asset Retirement Obligation

ComEd's Asset Retirement Obligation represents asset removal costs recovered through depreciation accounts. The Asset Retirement Obligation consists of $19,057,000 and is recorded in Account 230, as noted in the testimony of Mr. Menon. The Asset Retirement Obligation costs were previously recorded in Account 108 – Accumulated Depreciation and were reclassified in 2005 in accordance with the Uniform System of Accounts ("USOA"). ComEd Ex. 2.01, Sch FR B-1, line 22; Menon Dir., ComEd Ex. 2.0, 24:476-482. ComEd's Asset Retirement Obligation is uncontested and should be approved.

8. Customer Advances

Under the terms of Rider DE – Distribution System Extensions, ComEd receives refundable distribution system extension deposits from customers as customer advances to begin construction. ComEd has reduced its 2014 Reconciliation Revenue Requirement rate base and its 2016 Initial Rate Year Revenue Requirement rate base to reflect the customer deposits and advances that are related to projects that were included in the rate base as of December 31, 2014. ComEd also reduced its rate base for those deposits and advances related to projects included in its 2015 projected plant additions.

ComEd initially reduced rate base for these deposits and advances related to projects included in rate base as of December 31, 2014 or in its 2015 projected plant additions by $85,985,000. Menon Dir., ComEd Ex. 2.0, 25:500-506; ComEd Ex. 2.01, Sch FR B-1, line 26 and App 1, lines 23 through 30. AG/City witness Mr. Effron, however, proposed further adjustments in the amount of $5,178,000 to customer advances, which included non-jurisdictional projects and projects not included in the reconciliation year rate base. Effron Dir., AG/City Ex. 2.0, 3:57-5:101; Newhouse Reb., ComEd Ex. 9.0, 9:174-176. Although ComEd does not agree with AG/City's proposal, in order to limit the issues in this case and without waiving its right to contest other proposed disallowances based on similar arguments in this case, or disallowances based on this or similar arguments in any other proceeding, ComEd agreed to remove the jurisdictional amount of customer advances, approximately $4.6 million from rate base. Newhouse Reb., ComEd Ex. 9.0, 10:212-219.

This reduced rate base for both the reconciliation period and the initial rate year. ComEd also increased the projected plant additions for this same amount in order to ensure that the duplication of the reduction in rate base for the initial year did not impact the revenue requirement. By making this adjustment, ComEd reduced the revenue requirement by $527,000 in the reconciliation year. *Id.*, 10:212-11:228; ComEd Ex. 9.01, App 1, line 25; ComEd Ex. 9.02, WP 19, line 8a. Accordingly, ComEd believes that its Customer Advances are uncontested and should be approved.

9. Customer Deposits

ComEd receives refundable deposits from certain new customers as a condition of initiating electric service. ComEd applied its year-end balance of those refundable customer deposits to its 2014 Reconciliation Revenue Requirement rate base and its 2016 Initial Rate Year Revenue Requirement rate base, which resulted in a reduction to the rate base of $127,836,000. Menon Dir., ComEd Ex. 2.0, 25:493-498; ComEd Ex. 2.01, Sch FR B-1, line 25, and App 2 "Customer Deposits Information." ComEd's quantification and treatment of deposits are uncontested and should be approved.

10. Cash Working Capital

The Cash Working Capital ("CWC") reflected in ComEd's rate base is the amount of cash that ComEd maintains in order to meet its expenses and other cash outflow obligations. ComEd determines the amount of CWC based on its lead/lag study, which is a specific analysis of the timing of applicable cash inflows to and cash outflows from a utility. Menon Dir., ComEd Ex. 2.0, 19:364-368.

ComEd's rate base includes a deduction as adjusted in its surrebuttal testimony of $47,098,000 for CWC, impacting both the 2014 Reconciliation Revenue Requirement and the 2016 Initial Rate Year Revenue Requirement. ComEd Ex. 12.01, Sch FR B-1, line 16. In accordance with the final Order in Docket No. 13-0318 (2013 Rate Case Order at 18), ComEd has adjusted the formula rate App 3 to include a calculation of CWC specifically for the 2016 Initial Rate Year Revenue Requirement. Menon Dir., ComEd Ex. 2.0, 19:372-377. This 2016 Initial Rate Year Revenue Requirement adjustment was a deduction of $2,639,000 as shown on

ComEd Ex. 12.01, Sch FR B-1, line 34a. The leads and lags used to determine CWC were approved in ICC Docket No. 14-0312. *Id.*, 19:379-383. ComEd's CWC is uncontested and should be approved.

11. Construction Work in Progress

ComEd's Construction Work in Progress ("CWIP") for the 2014 Reconciliation Revenue Requirement rate base is uncontested. CWIP related costs can be recovered in one of two ways: for projects in excess of $25,000 and with construction periods greater than 30 days, an Allowance for Funds Used During Construction ("AFUDC") is accrued and added to the total cost of such projects in order to capture the associated financing costs. Alternatively, for projects that do not meet the above standards, ComEd may recover its CWIP costs through its reconciliation rate base. Moy Dir., ComEd Ex. 6.0, 19:387-20:398; Menon Dir., ComEd Ex. 2.0, 18:344-356. ComEd has included $20,166,000 of CWIP for projects that do not accrue AFUDC in its rate base for the 2014 Reconciliation Rate Year. Menon Dir., ComEd Ex. 2.0, 18:356-358; ComEd Ex. 2.01, Sch FR B-1, line 14. ComEd demonstrated that its CWIP for the 2014 Reconciliation Revenue Requirement is prudent and reasonable. Moy Dir., ComEd Ex. 6.0, 20:404-413. Thus, ComEd's CWIP should be approved.

C. Potentially Contested Issues

1. Accumulated Deferred Income Taxes

Generally speaking, ADIT reflects the temporary difference between when an expense (or revenue) is recognized in a company's financial and accounting records, commonly referred to as a company's "books," versus when the company recognizes that expense (or revenue) on its tax return. 2013 Rate Case Order at 10; *see also* ComEd Ex. 8.04, 6:556-560; Brosch Dir., AG/City Ex. 1.0, 20:483-21:491. As explained further in section IV.C.1.b, below, deferred income taxes relate to future tax effects and can be classified as either deferred income tax liabilities or deferred income tax assets. Brosch Dir., AG/City Ex. 1.0, 13:308-311.

ADIT arises in several different manners, and the appropriate ratemaking treatment is not a function of a "blanket rule" but must correspond with how the ADIT is created and how it affects ComEd's costs. Tr. at 49:11-16, 52:9-22 (Brinkman, Aug. 27, 2015); ComEd Ex. 8.04, 7:572-586. In this proceeding, ComEd has treated each type of ADIT both in accordance with prior Commission decisions, and appropriately given the nature of the ADIT and how it affects ComEd's actual costs. 2011 Rate Case Order at 59-60, 62; Housekeeping Order at 26-27; Brinkman Reb., ComEd Ex. 8.0R, 22:472-23:493, 25:530-27:563. There is no basis, in law or in the record in this proceeding, to overturn that practice or artificially reduce ComEd's recoverable costs.

a. ADIT Related to Plant Additions

CUB/IIEC witness Mr. Gorman proposes an $8 million rate base disallowance associated with ComEd's deferred tax liability related to projected plant additions, which would reduce ComEd's revenue requirement by $0.8 million. Gorman Dir., CUB/IIEC Ex. 1.0C, 13:250-255. Although this adjustment falls under the heading of ADIT, it is not a controversy about how this type of ADIT should be reflected in rates. Instead, it is driven by the calculation of depreciation on projected plant additions, which then impacts the amount of ComEd's associated ADIT balance. In calculating that ADIT balance, Mr. Gorman claims that the Commission should take into consideration only "half of a year of book depreciation on 2015 plant additions" instead of "a full year of book depreciation expense" in this calculation. *Id.*, 12:240-249. The Commission should reject this proposed disallowance.

The Commission clearly addressed how ComEd should calculate depreciation related to projected plant additions in its recent Final Order in ComEd's Petition to Make Housekeeping

Revisions and a Compliance Change to filed Rate Formula, Docket No. 14-0316, a determination which no party appealed. Brinkman Reb., ComEd Ex. 8.0R, 25:537-540. In response to a Staff proposal concerning the calculation of that depreciation, the Commission stated:

> Based on the evidence presented in this proceeding, the Commission finds that Staff's adjustment to reflect the impact of applying depreciation rates from ComEd's updated depreciation rate study, which was effective January 2014, to calculate depreciation expense as well as ADIT for the filing year is appropriate, and it is approved. Staff's adjustment provides the best projection of the depreciation expense for the filing year. The Commission agrees with Staff that this adjustment will limit the reconciliation adjustment that will be required in the formula rate proceeding for 2014, and it will minimize any interest that would impact customer rates subsequent to the reconciliation.

Housekeeping Order at 26.

The CUB/IIEC proposal is at odds with that finding. And, as Staff witness Mr. Kahle testified in this case: "No argument has been offered that any circumstance has changed to warrant adopting a different method for determining the amount of depreciation on projected plant additions to include in the calculation of ADIT." Kahle Reb., Staff Ex. 5.0, 7:150-153. Moreover, continually changing the formula erodes the simplicity and clarity intended by formula ratemaking. Brinkman Reb., ComEd Ex. 8.0R, 26:561-27:563; Brinkman Sur., ComEd Ex. 11.0R, 10:196-199. The Commission should reject this adjustment.

b. ADIT Related to Bad Debt

AG/City witness Mr. Brosch proposes an $18.5 million rate base disallowance of ComEd's deferred tax asset related to bad debt, which would reduce ComEd's revenue requirement by approximately $4 million. Brosch Dir., AG/City Ex. 1.0, 20:472-479; Brinkman Reb., ComEd Ex. 8.0R, 21:437-440. ADIT reflecting a deferred tax *asset* like this arises when ComEd will receive a tax benefit in a period *after* it recognizes the item on its book income statement. 2013 Rate Case Order at 11.[7] When this happens, ComEd appropriately reflects the ADIT in rate base because its investors have lost the benefit and use of those additional funds until receipt of the tax benefit, and like any asset funded by investors, it is entitled to rate base treatment. *Id*. Otherwise, the calculated rate base will not be accurate, and ComEd will not recover its costs.

Mr. Brosch's bad debt ADIT disallowance errs first by ignoring the fact that ComEd has effectively pre-paid the taxes on collections and that ComEd will not receive the corresponding tax benefit until later. Brinkman Sur., ComEd Ex. 11.0, 9:173-181; Tr. at 52:16-22 (Brinkman, Aug. 27, 2015). This is unwarranted and inaccurate. Tr. at 51:4-52:1 (Brinkman, Aug. 27, 2015). ComEd's "bad debt" balances reflect ComEd's best estimate of the amount that customers ultimately will not pay. Brinkman Sur., ComEd Ex. 11.0R, 9:174-10:176. Under generally accepted accounting principles ("GAAP"), ComEd records its best estimate of bad debt in the current period for financial statement purposes, but ComEd cannot take a tax deduction related to that bad debt until a specific customer account is identified as worthless and written off, which does not happen until a future period. *Id.*, 9:171-10:189. In other words, there is a timing difference between when ComEd records the bad debt expense for book purposes and when ComEd is allowed to take a deduction on its tax return for this item. Brinkman Reb., ComEd Ex. 8.0R, 22:472-475. The delay in the tax deduction causes ComEd to incur a greater tax liability in the current period than it actually will have in the future, and the related ADIT is

[7] Although not at issue here, a tax asset ADIT balance can also arise when ComEd incurs a tax liability before ComEd recognizes the item on its books. 2013 Rate Case Order at 11. Conversely, a deferred tax *liability*, *i.e.*, a future tax liability, occurs when ComEd receives the tax benefit before it recognizes the item on its book income statement, or when ComEd incurs a tax liability based on a specific tax method of accounting after it recognizes an item on its book income statement. 2013 Rate Case Order at 10; *see also* ComEd Ex. 8.04, 6:572-586; Brosch Dir., AG/City Ex. 1.0, 13:313-315. No such deferred tax liability is at issue here either.

therefore a deferred tax asset or a "pre-paid" tax using shareholder supplied funds. Brinkman Sur., ComEd Ex.11.0R, 9:174-10:189.

Moreover, while ComEd is entitled to recover its delivery services costs, including bad debt costs, the customer account balances that are written off are only themselves ultimately socialized to all customers and recovered through ComEd's Rider UF – Uncollectible Factor ("Rider UF"). Brinkman Reb., ComEd Ex. 8.0R, 21:442-444. But Rider UF does not include a mechanism to account for the deferred tax asset related to that bad debt. *Id*. If this ADIT is artificially removed from rate base, ComEd will not recover its legitimate delivery services costs.

The treatment of ADIT related to bad debt has also been addressed by the Commission in a prior docket and, unlike Mr. Brosch's proposal, ComEd's inclusion of this ADIT in rate base is consistent with that decision. Brinkman Reb., ComEd Ex. 8.0R, 23:476-486. In ComEd's initial 2011 formula rate case, the Commission directed ComEd to include the jurisdictional portion of that deferred tax asset in ComEd's rate base. 2011 Rate Case Order at 62. Indeed, this is the treatment the AG requested in ComEd's 2011 formula rate case. *Id.*; Brinkman Reb., ComEd Ex. 8.0R, 23:476-486.

The AG now requests instead that the Commission exclude this deferred tax asset from rate base. Brosch Dir., AG/City Ex. 1.0, 20:472-479. Mr. Brosch claims that ComEd cannot include this pre-paid tax in rate base without also *reducing* rate base with the underlying Account 144 – Allowance for Uncollectible Accounts balance sheet credit. *Id.*, 21:492-22:515; Brosch Reb., AG/City Ex. 3.0, 4:75-5:95. Aside from having the improper effect of eliminating this shareholder-funded asset from rate base, Mr. Brosch's argument conflates the treatment of the underlying balance sheet debits and credits with the treatment of the deferred tax assets and liabilities. *Id.* The fact that a particular form of ADIT is included in rate base does not – and should not – imply that underlying balance sheet entries are offsetting deductions. Tr. at 44:7-45:3; 48:7-49:22; 49:13-16 (Brinkman, Aug. 27, 2015). Every ADIT asset or liability and its corresponding relationship to its underlying balance sheet debits and credits is different. *Id.* Here, ComEd essentially pre-paid the taxes with shareholder supplied funds, thus this ADIT asset should be included in rate base. Brinkman Sur., ComEd Ex. 11.0R, 9:184-10:187. The Commission has never previously directed that Account 144 be treated as a simple offset or deduction to ComEd's rate base. Tr. at 51:15-52:1 (Brinkman, Aug. 27, 2015).

Mr. Brosch also claims that a better way to account for the underlying balance sheet credit would have been to adjust the revenue collection lag in ComEd's cash working capital calculation. Brosch Reb., AG/City Ex. 3.0, 8:147-9:170; Tr. at 42:21-43:3 (Brinkman, Aug. 27, 2015). There are several problems with Mr. Brosch's argument. First, the Commission rejected this exact proposal in ComEd's 2011 formula rate case, Docket No. 11-0721. Brosch Reb., AG/City Ex. 3.0, 8:157-9:166; Brinkman Sur., ComEd Ex. 11.0R, 8:149-151. There is no basis for relitigating that issue, or for reaching a different conclusion now. The time to raise this issue again – if revisiting it was indeed warranted, and ComEd does not agree with this premise – was in ComEd's 2014 FRU, Docket No. 14-0312, when the parties analyzed and updated ComEd's leads and lags consistent with the Commission's directive that the parties revisit ComEd's cash working capital study every three years. Brinkman Sur., ComEd Ex. 11.0R, 9:168-170; 2011 Rate Case Order at 56.

Second, Mr. Brosch's theory that this would lead to a *decrease* in the collections lag is based on the false assumption that there is no revenue collections lag with uncollectibles. Brinkman Sur., ComEd Ex. 11.0R, 8:151-9:167. There is no basis for this assumption. To the contrary, ComEd has shown that even if uncollectibles were considered in the cash working capital or rate base calculations, they cannot be presumed to shorten the lag. Since ComEd recovers its uncollectibles via Rider UF, "'[i]f anything, the lag associated with uncollectible accounts is longer than regular accounts, rather than non-existent.'" *Id.*, 8:163-99:165, quoting ICC Docket No. 11-0721, Hengtgen Reb., ComEd Ex. 16.0, 6:120-121. In other words, ComEd must wait longer to find out which accounts will not be paid – it does not know this when it issues the bills. This could actually *increase* the collections lag. *Id.*, 8:158-9:167.

In sum, no one can dispute that this deferred tax asset exists. It is an asset funded by shareholders. It should be included in ComEd's rate base. The Commission should reject this proposed disallowance.

2. Materials & Supplies

Mr. Gorman proposes a $20.7 million rate base disallowance to ComEd's Materials & Supplies ("M&S") inventory balance, which would reduce ComEd's revenue requirement by approximately $4.3 million. Gorman Dir., CUB/IIEC Ex. 1.0C, 11:215-225. ComEd's M&S balance is "an inventory of distribution equipment to support its capital projects and to replace necessary equipment, including an emergency reserve." Moy Dir., ComEd Ex. 6.0, 18:366-367. ComEd's M&S balance of $52.7 million represents its inventory at year-end 2014 as reflected in its FERC Form 1. *Id.*, 18:367-370.

Mr. Gorman argues that the actual final historical year-end balance of $52.7 million is too large because the percentage increase in ComEd's level of M&S balance since 2010 is too "significant." Gorman Dir., CUB/IIEC Ex. 1.0C, 10:201-204. He therefore substitutes a hypothetical balance of $31.977 million based on an average (or normalized) rate of increase in distribution plant and distribution maintenance expense, year over year from to 2010 to 2014, of 10%. *Id.*, 10:205-11:225. This proposed disallowance is unlawful and the Commission should reject it.

As a "participating utility" under EIMA, ComEd has elected to recover costs through a performance-based formula rate "which shall specify the cost components that form the basis of the rate charged to customers with sufficient specificity to operate in a standardized manner and be updated annually with transparent information that reflects the utility's *actual costs* to be recovered during the applicable rate year … ." 220 ILCS 5/16-108.5(c) (emphasis added). EIMA therefore requires that ComEd use actual cost information, more specifically: "final historical data reflected in the utility's most recently filed annual FERC Form 1 … ." 220 ILCS 5/16-108.5(d)(1).

EIMA further states that the formula rate shall:

> Provide for the recovery of the utility's actual costs of delivery services that are prudently incurred and reasonable in amount consistent with Commission practice and law. *The sole fact that a cost differs from that incurred in a prior calendar year or that an investment is different from that made in a prior calendar year shall not imply the imprudence or unreasonableness of that cost or investment.*"

220 ILCS 5/16-108.5(c)(1) (emphasis added). EIMA goes on to specifically state: "Normalization adjustments shall not be required." 220 ILCS 5/16-108.5(d)(3).

ComEd used its actual costs: the final historical data reflected in its FERC form 1. Moy Dir., ComEd Ex. 6.0, 18:367-370. ComEd submitted ample evidence of the prudence and reasonableness of these costs. ComEd witness Mr. Moy testified that ComEd considers both "historical usage" and "current demand" in setting inventory levels. Moy Dir., ComEd Ex. 6.0, 19:375-377. Mr. Moy further testified that:

> Inventory levels are set, reviewed, and adjusted on a regular schedule. Inventories managed under this process have consistently met our operational needs without requiring us to carry excessive levels of inventory or to purchase equipment in real-time at prices that are not optimal. In addition, a quarterly review is used to identify and document slow moving, surplus, or obsolete items. We then determine the most appropriate method for their disposition.

Id., 19:377-382.

Moreover, ComEd is careful to avoid delays in completing work due to difficulty in obtaining supplies. Moy Sur., ComEd Ex. 13.0, 5:78-6:89. In maintaining an appropriate M&S balance, ComEd must therefore consider that certain items such as transformers and cable can require up to 16 weeks lead time. *Id.*, 6:85-87. Indeed, Mr. Gorman admits that he does not dispute the prudence and reasonableness of any specific transactions by which ComEd acquired assets which increased the materials and supplies balance – he looked only at the levels of growth. *See* ComEd Cross Ex. 3.

Mr. Moy provided additional evidence that the levels of growth in distribution plant and maintenance on the one hand, and M&S inventory on the other hand, are not generally comparable. To be sure, while "increases in distribution plant and maintenance are factors that can lead to increases in M&S levels, they are by no means the only factors." Moy Reb., ComEd Ex. 10.0R, 3:53-55. Specifically, since 2010 other factors that have increased ComEd's M&S inventory include the sheer volume of work to implement EIMA infrastructure and reliability investments, as well as the installation of new equipment not previously installed on ComEd's system. *Id*., 4:75-80. These factors require ComEd to stock increased volumes of items historically used as well as items not in use prior to 2010, such as AMI meters and their accompanying Network Interface Cards ("NIC"), resilient overhead wire and cable, and distribution automation switches. *Id*., 4:81-5:108. These three inventory groupings account for $30.5 million of the $40.5 million increase in ComEd's M&S inventory since 2010. *Id*., 5:89-91; Gorman Reb., CUB/IIEC Ex. 2.0, 5:81-90, 7:119-129. ComEd also provided further detail for the items comprising the remaining $10 million increase in its M&S inventory balance. Moy Sur., ComEd Ex. 13.0, 5:73 (Table 1).

In addition, Mr. Gorman's averaging or normalization methodology is a sharp departure from Commission practice in ComEd's prior formula rate cases. In every one of those cases, the Commission used ComEd's actual year-end M&S balances. *See* Brinkman Reb., ComEd Ex. 8.0R, 28:599-30:646; Brinkman Sur., ComEd Ex. 11.0R, 10:204-11:227. Mr. Gorman's methodology here impliedly rejects those findings and substitutes the normalized amounts in his calculation for the actual yearly figures that the Commission used. Brinkman Reb., ComEd Ex. 8.0R, 28: 599-30:646; Brinkman Sur., ComEd Ex. 11.0R, 10:204-11:227. Moreover, the Commission rejected a similar CUB/IIEC proposal in Ameren's 2014 FRU. *Ameren Illinois*, ICC Docket No. 14-0317, Final Order (Dec. 10, 2014) at 34. In doing so, the Commission stated: "The Commission comes to this conclusion because CUB and IIEC have not convinced it that such an adjustment is permissible under the EIMA. The averaging of past years' M&S balances would seem to conflict with the bar against normalization of expenses and investments in the EIMA." *Id.*

In summary, ComEd has shown that the actual final historical cost data from ComEd's FERC Form 1 reflecting its M&S balance is $52.7 million. Moy Dir., ComEd Ex. 6.0, 18:367-370; ComEd Ex. 2.01, Sch FR B-1. ComEd has also shown that the M&S making up this $52.7 million "are both used and useful in meeting ComEd's obligation to offer and provide delivery services and were prudently acquired at a reasonable cost." Moy Dir., ComEd Ex. 6.0, 19:373-375. Nonetheless, Mr. Gorman substitutes an unsupported hypothetical average (or normalized) $31.977 million for the actual final historical year-end balance of $52.7 million. Gorman Dir., CUB/IIEC Ex. 1.0C, 10:205-11:225. This is patently contrary to the plain language of EIMA, the evidence offered in this case, and Commission practice since the inception of formula rates. The Commission should reject this proposed disallowance.

V. OPERATING EXPENSES

A. Overview

ComEd's properly calculated actual 2014 total operating expenses, adjusted to reflect the depreciation expense associated with the projected 2015 plant additions, as presented in its surrebuttal testimony are $1,759,897,000. ComEd Ex. 12.01, Sch FR A-1, line 11. The prudence and reasonableness of those expenses were supported by detailed testimony[8] and documentation which, with limited exceptions addressed herein, was uncontested. *See generally* Moy Dir. ComEd Ex. 6.0, 65:1268-66:1281.

B. Potentially Uncontested Issues

1. Distribution O&M Expenses

ComEd Distribution Operating and Maintenance ("O&M") expenses were $466,699,000 for 2014. After reflecting adjustments, a revised total of $461,417,000 in distribution O&M expenses recorded in FERC Accounts 580-598 is included in the revenue requirement. Menon Dir., ComEd Ex. 2.0, 28:556-563; ComEd Ex. 12.01, Sch FR A-1, line 1; Sch FR C-1, lines 1 and 11. No parties contest the amount of distribution O&M expenses.

2. Customer-Related O&M Expenses

Customer-related expenses are expenses recorded in FERC Accounts 901-910, which include the costs of maintaining and servicing customer accounts, *e.g.*, meter reading, customer service, and billing and credit activities. Menon Dir., ComEd Ex. 2.0, 28:565-569. In determining the revenue requirement, ComEd has adjusted the $496,534,000 of customer related expense for the following:

(1) $214,606,000 reduction to remove the costs associated with ComEd's energy efficiency and demand response program recovered under Rider EDA;

[8] Primarily ComEd witnesses Brinkman, Moy, Farkas, Fitterer, Born and Newhouse.

(2) $45,131,000 reduction to reflect the total amount of uncollectible accounts expense recorded in FERC Account 904, costs recovered through Rider UF;

(3) $12,239,000 reduction to remove customer care costs related to supply.

(4) $584,000 reduction to remove the non-jurisdictional amount of Outside Agency Collection Fees related to uncollectibles;

(5) $171,000 increase to include interest on customer deposits in operating expenses;

(6) $1,760,000 reduction to remove costs recovered under Rider PORCB;

(7) $936,000 reduction to remove customer assistance costs incurred as part of the $10,000,000 EIMA customer assistance program;

(8) $875,000 reduction to remove certain customer communications costs recorded in FERC Account 908;

(9) $199,000 reduction for company credit card costs;

(9) $15,000 increase related to Rider MSS;

(10) $2,658,000 increase for a donation to the Illinois Science and Technology Foundation; and

(11) $27,000 reduction for residential real-time pricing.

Menon Dir., ComEd Ex. 2.0, 28:570-29:594; *see also* ComEd Ex. 12.02, WP 7, line 38f. After these adjustments, $223,021,000 of FERC Accounts 901-910 directly relate to and support the delivery service function and are included in the revenue requirement. Menon Dir., ComEd Ex. 2.0, 29:596-30:600; ComEd Ex. 12.01, Sch FR A-1, lines 2 and 3 and Sch FR A-1 - REC, line 2 and 3. No party has objected to the amount of customer-related O&M expenses and these amounts should be approved.

3. Uncollectibles Expense

ComEd has removed $45.1 million from FERC Account 904 related to uncollectible expense and therefore has included no uncollectible customer balance in its delivery service revenue requirement. ComEd has included in the delivery service revenue requirement the costs associated with ComEd's activities to collect past due accounts. Fitterer Dir. ComEd Ex. 4.0, 11:217-223; Menon Dir., ComEd Ex. 2.0, 29:577-578. These amounts should be approved.

4. Administrative and General Expenses

ComEd included Administrative and General ("A&G") expenses of $345,033,000, as adjusted on surrebuttal, in the revenue requirement for 2014. A&G costs are recorded in FERC Accounts 920-935 and include corporate support and overhead costs that benefit or derive from more than one business function, costs of employee pension benefits, regulatory expenses, and certain other non-operational costs. Menon Dir., ComEd Ex. 2.0, 30:617-31:626; ComEd Ex. 12.01, Sch FR A-1, line 4; *see also* Farkas Dir., ComEd Ex. 3.0, 10:208-13:263; Fitterer Dir., ComEd Ex. 4.0, 9:186-10:216; Moy Dir., ComEd Ex. 6.0, 52:984-53:1016. No party has objected to the amount of A&G expenses. ComEd's A&G costs were prudently incurred and are reasonable in amount and should be approved.

5. Charitable Contributions

In response to Staff's inquiry regarding the classification of certain charitable contributions through rate base instead of through Rider EDA, ComEd adjusted its operating expenses relating to charitable contributions. *See* Staff Ex. 2.0R, Attachment A (ComEd's Response to Staff Data Request BCJ 2.03). As adjusted on rebuttal, ComEd has included in its operating expenses a jurisdictional amount based on the W&S allocator of $6,456,000. Menon Dir., ComEd Ex. 2.0, 43:877-886; ComEd Ex. 9.01, App 7, line 5; *see also* ComEd Ex. 9.07, line 5. ComEd provided a description of each charitable organization, the purpose of each donation, and how the donation meets the requirements set by Section 9-227 of the PUA. ComEd Ex. 2.02, WP 7, page 4, subpages 1-29. No party has objected to the adjusted amount of charitable contribution expenses.

6. Merger Expense

On April 14, 2014, Exelon and Pepco Holdings, Inc. ("PHI") signed an agreement and plan of merger to combine the two companies. For the year 2014, ComEd incurred a total of approximately $4.4 million in merger related costs to achieve ("CTA"). The Illinois jurisdictional amount is approximately $3.8 million, and is included in ComEd's total A&G. Menon Dir. ComEd Ex. 2.0, 34:699-35:705; ComEd Ex. 12.01, Sch FR A-1, line 4 and FR A-1 REC, line 4. ComEd offered undisputed evidence that the CTA were prudently incurred and reasonable in amount. Moy Dir. ComEd Ex. 6.0, 65:1268-66:1281.

The merger was expected to close in the third quarter of 2015. Tr. at 22:19-23:10 (Brinkman, Aug. 27, 2015); ComEd Ex. 15.0. The District of Columbia Public Service Commission ("DC Commission"), however, ruled against the proposed merger on August 25, 2015. AG/City Ex. 4.2. Subsequent to the DC Commission ruling, on August 26, 2015, the AG/City witness Mr. Brosch filed supplemental direct testimony proposing to remove CTA incurred in 2014 related to the Exelon/PHI merger. *See generally* Brosch Supp. Dir., AG/City Ex. 4.0. Although ComEd does not agree with the AG/City proposal and Exelon is still exploring its options regarding the potential merger, in order to limit the issues in this case and without waiving its right to contest other proposed disallowances based on similar arguments in this case, or disallowances based on this or similar arguments in any other proceeding, ComEd agrees that if the Exelon/PHI merger has not closed by December 1, 2015 ComEd will voluntarily withdraw its request to recover 2014 Exelon / PHI merger related costs. Tr. at 24:18-25:4 and 27:14-28:7 (Brinkman, Aug. 27, 2015).

7. Charges for Services Provided by BSC

BSC is the service company within the Exelon family of affiliated companies that provides services such as information technology, supply, finance, and human relations to

ComEd and Exelon's other business units. Farkas Dir., ComEd Ex. 3.0, 6:111-114. In 2014, ComEd incurred $243,506,627 in costs for services provided by BSC. Farkas Dir., ComEd Ex. 3.0, 6:120-122; ComEd Ex. 2.10, page 4, column (b). The BSC charges for the services provided to ComEd are uncontested and should be approved.

8. Regulatory Commission Expense (Rock Island Clean Line)

Staff witness Ms. Jones proposed an adjustment to disallow recovery of expenses associated with ICC Docket No. 12-0560 related to Rock Island Clean Line LLC. ComEd has accepted Ms. Jones' proposal and, as adjusted on rebuttal, has removed $320,000 of expense associated with Rock Island Clean Line LLC resulting in a decrease to the revenue requirement of $688,000. Newhouse Reb., ComEd Ex. 9.0, 22:453-461; ComEd Ex. 9.02, WP 7, page 8, line 18; ComEd Ex. 9.07, line 3; Jones Dir., Staff Ex. 2.0R, 7:117-127. ComEd's regulatory commission expense as adjusted is uncontested and should be approved.

9. Depreciation and Amortization Expense

As adjusted on surrebuttal, ComEd's revenue requirement includes $522,902,000 of depreciation and amortization expense. ComEd Ex. 12.01, Sch FR C-2, line 10. The level of 2014 depreciation and amortization expense included in the revenue requirement is $473,085,000, comprised of $373,571,000 related to Distribution Plant and $99,514,000 related to G&I Plant. Menon Dir., ComEd Ex. 2.0, 36:736-741. Additionally, the 2016 Initial Rate Year Revenue Requirement and 2016 Rate Year Net Revenue Requirement include $49,817,000 of depreciation expense associated with the 2015 projected plant additions. ComEd Ex. 9.01, Sch FR C-2. No party has objected to the amount of depreciation and amortization expense. Menon Dir., ComEd Ex. 2.0, 36:742-744; ComEd Ex. 12.01, Sch FR C-2.

10. Taxes

The amount of taxes other than income included in the revenue requirement is $142,766,000. These taxes include real estate taxes, the Illinois Electricity Distribution Tax ("IEDT"), payroll taxes, and several other taxes. Menon Dir., ComEd Ex. 2.0, 37:750-757; ComEd Ex. 2.01, App 7, page 2, lines 41 through 62; ComEd Ex. 2.01, Sch FR C-1, line 10.

Regarding IEDT, ComEd recorded an accrual in 2014 for an estimated IEDT credit of $14,076,000 related to its actual 2014 IEDT of $117,299,000, and a credit adjustment of $1,340,000 to the estimated IEDT credits for the year 2013, reflecting the net amount of $101,883,000 in operating expense. *Id.*, 37:764-38:769. Also, in compliance with the Commission's final Order in ICC Docket No. 13-0318, ComEd has excluded $634,000 of payroll taxes related to previously disallowed incentive compensation. *Id.*, 37:758-763; S*ee* ComEd Ex. 2.02, WP 7, page 2, lines 41 and 42.

The amount of income taxes included in the 2014 Reconciliation Revenue Requirement is $188,559,000. ComEd Ex. 12.01, Sch FR A-1- REC, lines 15, 18 and 19. The amount of income taxes included in the 2016 Initial Rate Year Revenue Requirement, which includes the impact of the projected 2015 plant additions, is $225,444,000. ComEd Ex. 12.01, Sch FR A-1, lines 15, 18, and 19. Income taxes have been calculated based on the expenses and miscellaneous revenues assigned or allocated to the delivery service function. ComEd has also analyzed differences in book and tax treatment of 2014 revenues and expenses and assigned or allocated those differences to the delivery service function as described in ComEd Ex. 12.01, Sch FR C-4 "Taxes Computation" and App 9 "Permanent Tax Impacts Information." Menon Dir., ComEd Ex. 2.0, 38:771-781.

Although AG/City and CUB/IIEC initially proposed a disallowance related to State Income Taxes, they are no longer pursuing that disallowance. Brinkman Sur., ComEd Ex.

11.0R, 2:27-29; Brosch Reb., AG/City Ex. 3.0, 2:30-36; Gorman Reb., CUB/IIEC Ex. 2.0, 12:207-214. ComEd's prudent and reasonable income tax expense is uncontested and should be approved.

11. Lobbying Expense

No lobbying expenses are included in ComEd's revenue requirement. ComEd Ex. 2.05, Sch C-5 FY, page 2, line 7.

12. Rate Case Expenses

In this proceeding, ComEd seeks to recover rate case expenses totaling $2.3 million, comprised of the following:

(1) ComEd's rate case expenses of $8,310 incurred in 2014 for ICC Docket No. 07-0566;

(2) ComEd's rate case expenses of $186 incurred in 2014, offset by the return of an overpayment of $652 recorded in 2014, for ICC Docket No. 10-0467;

(3) Amortization of $694,219 of allowed expenses incurred in 2012 for ICC Docket No. 11-0721 and approved in ICC Docket No. 13-0318;

(4) Amortization of $65,995 of allowed expenses incurred in 2013 for ICC Docket No. 11-0721 and approved in ICC Docket No. 14-0312;

(5) Amortization of $23,758 of expenses incurred in 2014 for ICC Docket No. 11-0721;

(6) ComEd's rate case expenses of $9,757 incurred in 2014 for ICC Docket No. 12-0321;

(7) ComEd's rate case expenses of $162,351 incurred in 2014 for ICC Docket No. 13-0318; and

(8) ComEd's rate case expenses of $1,324,585 incurred in 2014 for ICC Docket No. 14-0312.

ComEd supported these expenses with an affidavit (ComEd Ex. 1.03) and supporting invoices. Brinkman Dir., ComEd Ex. 1.0 CORR., 34:686-767; ComEd Ex. 9.02, WP 7, page 8, lines 19, 22; Brinkman Reb., ComEd Ex. 8.0R, 31:663-32:668.

This evidence allows the Commission to make a finding pursuant to Section 9-229 of the PUA that the expenses incurred were just and reasonable. The attachments to the affidavit provide the evidentiary support for each ICC proceeding for which ComEd seeks recovery. *See* ComEd Ex. 1.03 APO-04 REV. (ICC Docket No. 07-0566), Ex. 1.03 APO-05 REV. (ICC Docket No. 10-0467), Ex. 1.03 APO-06 REV. (ICC Docket No. 11-0721), Ex. 1.03 APO-07 REV. (ICC Docket No. 12-0321), Ex. 1.03 APO-08 REV. (ICC Docket No. 13-0318), Ex. 1.03 APO-09 REV. (ICC Docket 14-0312). The affidavit also describes the services provided in connection with the fees for which recovery is sought, identifies the individuals working on the matters and their qualifications, and discusses the market rates charged by regulatory lawyers in Chicago to support the reasonableness of the fees charged. ComEd Ex. 1.03 APO-01 (identifying individuals and qualifications).

In order to limit the issues in this case, and without waiving its right to contest other proposed disallowances based on similar arguments in this case, or disallowances based on this or similar arguments in any other proceeding, ComEd has agreed not to contest Staff witness Ms. Jones' proposed adjustment to disallow $24,529 of rate case expense related to the testimony submitted by ComEd Witness Mr. Warren in ICC Docket No. 14-0312. Brinkman Reb. ComEd Ex. 8.0R, 31:648-32:667; Jones Dir., Staff Ex. 2.0R, 11:196-14:252. ComEd made an adjustment to rate case expense in the amount of $24,529 reducing ComEd's 2016 Rate Year Net Revenue requirement by $46,000. Brinkman Reb. ComEd Ex. 8.0R, 31:667-32:669; Staff Ex. 2.0R, Sched. 2.06, page 2. On surrebuttal, ComEd corrected an error in its revenue requirement to reflect Staff's adjustment, further reducing ComEd's 2016 Rate Year Net Revenue requirement by $6,000. Newhouse Sur., ComEd Ex. 12.0, 9:185-10:190; ComEd Ex. 12.03.

13. Corporate Credit Cards (Employee Recognition)

Ms. Jones proposes an adjustment to disallow credit card expenditures related to employee recognition. Jones Dir., Staff Ex. 2.0R, 7:130-9:164; Jones Reb., Staff Ex. 6.0R, 6:98-8:132. Although ComEd does not agree with Staff's proposal, in order to limit the issues in this case and without waiving its right to contest other proposed disallowances based on similar arguments in this case, or disallowances based on this or similar arguments in any other proceeding, ComEd accepts Ms. Jones' proposal to remove these specific credit card expenditures resulting in the removal of $1,194,000 from the revenue requirement. Newhouse Sur., ComEd Ex. 12.0, 9:175-183; ComEd Ex. 12.03, line 15.

14. Long-Term Incentive Compensation Program Expenses

a. Key Manager Long-Term Performance Plan ("LTPP")

In 2013, ComEd established the Key Manager LTPP to replace the restricted Stock Award Program. Brinkman Dir., ComEd Ex. 1.0 CORR., 29:578-579. LTTP grants a cash award that vests over three years. *Id*., 29:585. LTPP goals relate to capital and O&M expenses, frequency and duration of outages, safety, customer satisfaction, and EIMA Reliability metrics. *Id*., 29:592-594. In 2014, the program was extended to ComEd executives below Senior Vice President to replace approximately 50% of the incentive compensation that was provided within the long term incentive programs previously offered to executives below Senior Vice President. *Id*., 29:577-585; *See* ComEd Ex. 1.01. Awards are determined by taking a simple average of performance on unweighted ComEd goals to determine whether there will be a payout – performance at or above target will cause awards to be payable; no awards are payable if performance is below target. *Id.*, 30:597-602. The inclusion of the costs associated with LTTP is uncontested and should be approved in this docket.

b. Long-Term Performance Cash Awards Program ("LTPCAP")

In 2014, ComEd established the LTPCAP to replace approximately 50% of the incentive compensation previously provided within the executive long term incentive programs offered to executives below Senior Vice President (the other 50% of the incentive compensation was replaced by adding executives to the LTPP). Brinkman Dir., ComEd Ex. 1.0 CORR., 31:615-618. The LTPCAP grants a cash award that vests at the end of a three year performance cycle. *Id.*, 31:622-624. Like the LTPP, the goals of LTPCAP relate to capital and O&M expenses, frequency and duration of outages, safety, customer satisfaction, and EIMA Reliability metrics. *Id.*, 31:628-631. Awards under this program are determined by taking the average performance on ComEd's goals in each year over a three year performance cycle. At the end of the three-year performance cycle, a payout percentage is determined based on an average of the annual performance results. The annual performance percentage used in this three year average uses the weighted performance for each metric on the LTPCAP performance scale. *Id.*, 31:634-32:641; ComEd Ex. 1.01, Appendix. A. The inclusion of the costs associated with LTPCAP is uncontested and should be approved in this docket.

15. Gross Revenue Conversion Factor

ComEd's Gross Revenue Conversion Factor ("GRCF") is 1.700. No party has objected to the GRCF. Menon Dir., ComEd Ex. 2.0, 44:904-906; ComEd Ex. 2.01, Sch FR C-4, line 13.

C. Potentially Contested Issues

1. Short-Term Incentive Compensation Program Expenses

a. Annual Incentive Program ("AIP")

Mr. Bridal proposes a $10 million disallowance of ComEd's AIP expense related to ComEd employees' distinguished level performance in 2014. Bridal Dir., Staff Ex. 4.0, 3:50-57. Mr. Bridal's rationale is that these AIP awards are, by definition, above market levels and are therefore imprudent and unreasonable under any circumstance. *Id*., 3:58-4:87. ComEd disagrees, and has provided evidence that its employees' total compensation is at market levels *and* that any AIP awards earned through distinguished level performance are commensurate with increased customer benefits. In fact, as described below, customers enjoyed greater savings than they would have had ComEd employees not performed so well, net of the cost of the payouts. The incentives worked as they were designed. Indeed, Mr. Bridal does not dispute any of this. The Commission should therefore reject Mr. Bridal's proposed disallowance in its entirety.

The fundamental concept of incentive compensation is "pay at risk." Brinkman Dir., ComEd Ex. 1.0 CORR., 20:400-401. Instead of paying the entire amount of an employee's compensation through base salaries, ComEd makes a portion of each employee's pay subject to the achievement of operational metrics specified in the incentive compensation plans. *Id.*, 20:406-408. ComEd's AIP is part of the incentive compensation portion of the total compensation package. *Id.*, 20:403-404. It is undisputed that ComEd sets total compensation, including base salaries, benefits, and incentive compensation, at levels necessary to remain competitive with comparable companies, also referred to as market levels. *Id.,* 20:401-406; Bridal Reb., Staff Ex. 7.0, 4:84-5:94.

ComEd's 2014 AIP had eight operational metrics, also referred to as goals or Key Performance Indicators ("KPIs"). Brinkman Dir., ComEd Ex. 1.0 CORR., 22:440-441. The AIP, as to each of its metrics, includes three levels: (1) a threshold level that must be met in order for any payment to be made under the metric, and which, if met, results in 50% payment of the target payment level for the metric; (2) a target level, which, if met, results in 100% payment of the target level for the metric; and (3) a more rigorous distinguished level, which, if met, could result in up to 200% payment of the target level for the metric. *Id*., 24:474-480.

Mr. Bridal notes that in 2014, ComEd employees achieved distinguished level performance on four metrics: Occupational Safety and Health ("OSHA") Index (200%), Customer Average Interruption Duration ("CAIDI") Index (150%), Customer Operations Index (145%), and EIMA Performance Metrics Index (167%). Bridal Dir., Staff Ex. 4.0, 4:74-78. Mr. Bridal does not mention that ComEd employees also achieved distinguished level performance on the Total O&M Expenses metric, reducing costs by $24 million. Brinkman Dir., ComEd Ex. 1.0 CORR., 26:515. This distinguished performance, combined with ComEd employees' performance on the remaining KPIs, resulted in an AIP payout of 126.1%. Brinkman Reb., ComEd Ex. 8.0R, 8:151-155. This operational excellence should be commended. Instead, Mr. Bridal takes the position that ComEd should not be able to recover the entire cost of this AIP expense and should instead be limited to a 150% payout level for each metric, regardless of the performance level actually achieved. Bridal Dir., Staff Ex. 4.0, 3:50-57; Bridal Reb., Staff Ex. 7.0, 2:35-42.

To be clear: it is undisputed that ComEd's AIP metrics are consistent with EIMA ratemaking and provide benefits to customers. Brinkman Dir., ComEd Ex. 1.0 CORR., 19:373-27:545; Brinkman Reb., ComEd Ex. 8.0R, 6:102-7:141; Bridal Reb., Staff Ex. 7.0, 2:43-3:57. It is also undisputed that distinguished achievement of incentive compensation goals that are properly considered in the revenue requirement provide benefits to ComEd's Customers in excess of achievement of those incentive compensation goals at the target level. ComEd Cross Ex. 2 (Staff's Response to ComEd's Data Request ComEd→Staff 1.11).

For example, to meet the 2014 target performance level for the O&M expense metric, ComEd must spend no more than $947.8 million. Brinkman Sur., ComEd Ex. 11.0R, 3:48-54; ComEd Ex. 11.01. To meet the distinguished performance level for the O&M expense metric, ComEd would reduce that O&M expense by another $95 million (distinguished level O&M = $853). Brinkman Sur., ComEd Ex. 11.0R, 3:54-56; ComEd Ex. 11.01. The incremental AIP expense associated with this distinguished level performance is $15 million. Brinkman Sur., ComEd Ex. 11.0R, 3:61-63; ComEd Ex. 11.01. The savings to customers associated with that distinguished level performance, through lower O&M expenses, exceeds the resulting incremental AIP expense, generating a total of approximately $80 million of net benefits to customers ($95 million in O&M savings less $15 million in additional incentive compensation expense). Brinkman Sur., ComEd Ex. 11.0R, 3:56-60; ComEd Ex. 11.01. This results in a net jurisdictional savings of approximately $76 million. Brinkman Sur., ComEd Ex. 11.0R, 3:60-61; ComEd Ex. 11.01.

Similarly, to meet the 2014 target performance level for the capital metric, ComEd must spend no more than $1,565.2 million. Brinkman Sur., ComEd Ex. 11.0R, 4:64-65. To meet the distinguished performance level for the capital metric, ComEd would reduce capital expenditures by another $157 million (distinguished level capital = $1,408.7 million), resulting in a jurisdictional reduction to the revenue requirement of approximately $12 million in the current year, which also provides savings in rate base for future years. *Id.*, 4:65-69. The resulting incremental AIP expense of approximately $15 million drives a jurisdictional increase to the revenue requirement of approximately $7 million. *Id.*, 4:69-71. This generates approximately $5 million of net benefits to customers ($12 million in jurisdictional capital savings less $7 million in additional jurisdictional incentive compensation expense). *Id.*, 4:71-73.[9]

[9] Using ComEd's actual 2014 payout, net O&M savings to customers on a jurisdictional basis was approximately $19 million ($21 million in O&M savings less $2 million in additional incentive compensation expense). As ComEd did not meet the target performance level for capital expenditures, there are no incremental savings or incremental AIP expense related to capital expenditures. Brinkman Sur., ComEd Ex. 11.0R, 4:73-76, fn. 2. ComEd

Mr. Bridal would disallow these costs even though they generate a net benefit to customers. That is not only arbitrary and capricious, it also creates a perverse incentive for ComEd and its employees. It sends a message that they should try to be good but not great; and they should try to benefit customers some but not too much, otherwise the Commission will penalize ComEd financially. This position is indefensible.

Mr. Bridal's recommendation also evidences a fundamental misunderstanding of the pay at risk and market level compensation concepts. Market level performance and compensation are not static. As Ms. Brinkman testified, if ComEd employees perform exceptionally, their compensation increases. Brinkman Dir., ComEd Ex. 1.0 CORR., 24:474-480. But that does not mean their total compensation is above market, it simply means their compensation matches their performance. Total compensation – considering performance levels – is still a balanced scorecard at market level. *Id.*, 20:401-409.

Alternatively, even if the Commission adopts Mr. Bridal's proposal to reduce the AIP distinguished level payout to 150%, it should not adopt his calculation of the disallowance. Correctly applying his suggested 150% maximum payout would change ComEd's recoverable AIP expense to a 118.7% payout, not 111.7%. Brinkman Reb., ComEd Ex. 8.0R, 9:172-174; Bridal Reb., Staff Ex. 7.0, 10:191-192, and Attachment D. This is because the performance and payout scales for each ComEd incentive compensation plan are designed in an integrated and coordinated fashion. It is incorrect to change either the performance or payout scale independently. Brinkman Sur., ComEd Ex. 11.0R, 7:124-135. And that is what Mr. Bridal has done – he has changed only the payout scale and not the performance scale. Bridal Reb., Staff Ex. 7.0, 10:193-11:215.

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also provided testimony about the tangible benefits of achieving distinguished level performance on other AIP metrics. Maletich Sur., ComEd Ex. 14.0, 6:114-9:171.

Mr. Bridal proposes reducing the distinguished payment level to 150% in part because 150% is the maximum payout under the LTPCAP for distinguished performance. Bridal Dir., Staff Ex. 4.0, 3:50-5:94. In applying this proposal, however, Mr. Bridal fails to take into account that the performance level that is needed to achieve distinguished performance under the 2014 LTPCAP was designed with the 150% scale in mind. Brinkman Reb., ComEd Ex. 8.0R, 8:156-164. It is not the same performance level needed under the 2014 AIP to achieve distinguished performance under the 200% scale. *Id.* While both the 2014 LTPCAP and AIP programs are composed of the same metrics, the results that are needed to achieve distinguished performance are proportionately higher for each KPI under the AIP (due to the higher maximum payout) than what is needed to achieve distinguished performance under LTPCAP (due to the lower maximum payout). *Id*. In other words, Mr. Bridal has not only reduced the recoverable level of pay ComEd employees would receive (his intended consequence); he has made it harder to earn that pay (an unintended consequence).

More importantly, these are two different plans: ComEd's AIP is a short term plan available to all employees and the LTPCAP is a long term plan available to executives. See Brinkman Dir., ComEd Ex. 1.0 CORR., 22:427-428, 30:614-31:618. No one is suggesting that the Commission completely align the AIP and LTPCAP. Brinkman Sur., ComEd Ex. 11.0R, 7:124-137. ComEd's point is simply that it is inappropriate to change only the payout scale and not the performance scale for the AIP. The converse is also true and shows the issue in sharper relief – ComEd would not decrease the AIP performance scale to 150% while leaving the payout scale at 200%, as this would make it easier to earn more compensation. Adjusting both the maximum payout and the equivalent performance level to 150%, ComEd's AIP would be recovered at a level of 118.7%, not the 111.7% calculated by Mr. Bridal. Brinkman Reb., ComEd Ex. 8.0R, 9:172-174. This reduces only the amount of recoverable compensation that can be earned and does not change the difficulty level of achieving that compensation.

Mr. Bridal disagrees, stating that "changing the already narrow performance improvement required to earn distinguished level payout" would not be reasonable. Bridal Reb., Staff Ex. 7.0, 7:129-130. He observes that this would lead to "only slight incremental improvement from the target levels." *Id.*, 8:151-152. Mr. Bridal is a CPA, not an Electrical Engineer. Bridal Dir., Staff Ex. 4.0, 1:9-13. He has no expertise or education on which to base this short-sighted opinion. *Id.*

For many of the operational metrics, the threshold performance level is set at first quartile performance under the Edison Electric Institute ("EEI") peer panel with consideration of ComEd's historical performance. Brinkman Sur., ComEd Ex. 11.0R, 6:107-109. Target is set between first quartile and Best in Class, and the distinguished performance level is set at Best in Class. *Id.*, 6:109-110. In order to receive a 100% payout on these metrics, and receive this portion of at-risk pay, ComEd employees must meet first quartile or better performance. *Id.*, 6:110-112.

While Mr. Bridal describes the movement between target and distinguished as a "slight incremental improvement from the target performance levels" (Bridal Reb., Staff Ex. 7.0, 8:151-152), when viewed through an operational lens, even slight movement at this level of performance is exceptionally difficult to achieve. Brinkman Sur., ComEd Ex. 11.0R, 6:112-116. As ComEd witness and Electrical Engineer Ms. Maletich testified: "Mr. Bridal fails to recognize how hard it is to move [the System Average Interruption Frequency Index, or] SAIFI and CAIDI reliability performance in an upward fashion while already performing at first quartile. Maletich Sur., ComEd Ex. 14.0, 5:88-89. And "as performance on SAIFI and CAIDI improve, further improved performance becomes more difficult to achieve." *Id.*, 5:90-92. ComEd provided detailed operational testimony on these issues, but in short, as ComEd addresses "the 'low hanging fruit' it becomes harder to maintain the same high amount of SAIFI improvements per dollar invested." *Id.*, 6:123-124.

In summary, the Commission should deny this proposed disallowance and allow full recovery of ComEd's AIP expense associated with ComEd employees' distinguished performance. This is the only outcome that is fair and equitable and provides the proper incentive to achieve future customer benefits.

b. Derivative Adjustments

Because the Commission should deny Mr. Bridal's proposed AIP disallowance, there is no need to make any derivative adjustments to payroll tax, pension cost, depreciation expense, accumulated depreciation, or ADIT. If, however, the Commission does make a disallowance, ComEd will include the requisite derivative adjustments in its compliance filing.

2. Employee Savings Plan

Mr. Bridal proposes a disallowance of $1,755,000 ($990,000 expense plus $756,000 capitalized) to remove costs associated with the profit sharing match contributed to the Employee Savings Plan ("ESP") in 2014. Bridal Dir., Staff Ex. 4.0, 7:148-8:171. Mr. Bridal has not asserted that these costs are unreasonable or imprudent. Mr. Bridal argues that these costs should be categorically disallowed because: "The Commission has long held that the cost of *compensation* associated with the achievement of earnings per share or other financial metrics is not recoverable from rate payers and should be the responsibility of shareholders." *Id.*, 8:174-176 (emphasis added). Mr. Bridal's recommendation is incorrect, and contrary to the plain language of EIMA and long-standing Commission practice. The Commission should reject his proposed disallowance.

By way of factual background, it is undisputed that ComEd's ESP is not incentive compensation. Mr. Bridal himself states that "[t]he ESP is a qualified retirement plan under Sections 401(a) and 401(k) of the Internal Revenue Code." *Id*., 8:155-156. He is "fully aware that the ESP is not an incentive compensation program as that term has been used in this proceeding." Bridal Reb., Staff Ex. 7.0, 14:288-289; *see also* ComEd Cross Ex. 2. ComEd also provided evidence that "[r]etirement plans like ComEd's ESP are not incentive compensation. Indeed, they are more akin to health and welfare benefits than traditional salaried compensation, let alone incentive compensation." Newhouse Reb., ComEd Ex. 9.0, 12:259-261.

ComEd is unaware of any instance where the Commission has disallowed employee savings plan costs in a ComEd rate case, even before EIMA. The Commission has often found that the cost of *incentive compensation* based on the achievement of earnings per share is not recoverable from customers. The cases Mr. Bridal cites stand for only this narrow proposition. *See Commonwealth Edison Co.*, ICC Docket No. 07-0566, Final Order (Sept. 10, 2008) at 61 (deciding whether to allow ComEd to recover the cost of its incentive compensation program); *Peoples Gas and Light Co.*, ICC Docket No. 09-0166/0167 Cons., Final Order (Jan. 21, 2010) at 58-59 (addressing recovery of costs for incentive compensation). EIMA codified this Commission practice by providing for the recovery of *incentive compensation* based on the achievement of operational metrics but prohibiting *incentive compensation* based on earnings per share. 220 ILCS 5/16-108.5(c)(4)(A). EIMA clearly and unequivocally states: "*Incentive compensation* expense that is based on net income or an affiliate's earnings per share shall not be recoverable under the performance-based formula rate." *Id.* (emphasis added).

A fundamental rule of statutory construction is that in interpreting a statute, the Commission "cannot find an additional statutory exclusion where one was not provided for by the legislature." *State ex rel. Beeler Schad and Diamond, P.C. v. Ritz Camera Ctrs., Inc.*, 377 Ill. App. 3d 990, 1168 (1st Dist. 2007). As explained above, neither EIMA nor Commission practice and precedent prohibit recovery of *all* compensation based on earnings per share. Indeed, Mr. Bridal admits "that the Commission precedent and case law address only specifically *incentive compensation* based on earnings per share." Bridal Reb., Staff Ex. 7.0, 15:300-302. Yet Mr. Bridal seeks to apply this admittedly narrow prohibition beyond *incentive compensation* specifically to an employee benefit plan. This proposal is unlawful.

Mr. Bridal then states without any factual basis that these costs are not just and reasonable, simply because they are tied to earnings per share. He states that he is "not aware of any prior instance where the Commission determined it is appropriate for a utility to recover through rates the costs of *any* type of compensation that is based on the achievement of a defined amount of earnings per share." Bridal Reb., Staff Ex. 7.0, 16:317-320. Mr. Bridal is wrong legally and factually. First, whether the Commission has specifically approved a type of expense before is not the standard of recovery. Prudence and reasonableness is the legal standard. *See, e.g.*, 220 ILCS 5/16-108.5(c)(1). Second, whether a particular item has *not* been previously approved is not a relevant inquiry. And in any event, ComEd's employee savings plan has had this feature since 2010, and thus these costs have been included in the Commission-approved revenue requirement multiple times without dispute. Newhouse Reb., ComEd Ex. 9.0, 13:263-266.

Moreover, ComEd showed that the profit sharing match is a prudent and reasonable method of cost control. Starting in 2010, ComEd moved from a fixed match of 5% to a 3% fixed match combined with a 3% profit-sharing match. *Id.* Since moving to a combined fixed/profit-sharing match, "ComEd has incurred lower benefit plan costs attributed to the ESP." *Id.*, 13:266-268. Specifically, since 2010, the average ESP expense has been 4.2%. *Id.*, 13:268-269. This is a 0.8% reduction in overall ESP expense. *Id.*, 13:269-270. "In 2014 in particular, only 0.5% was attributed to the profit-sharing match, providing customers with a 1.5% savings from the fixed match ESP." *Id.*, 13:270-272. The following table shows the variance between ComEd's profit-sharing match contributions and what they would have been with a fixed match:

Management Employees Historical Employee Savings Plan Profit Sharing Payouts							
	Post 2010 ESP Match				Pre-2010 ESP Match		Variance
Plan Year	Fixed Match	Profit Sharing Match	Total Post-2010 Match		Fixed Match		
2010	3.00%	3.00%	6.00%		5.00%		1.00%
2011	3.00%	2.20%	5.20%		5.00%		0.20%
2012	3.00%	0.00%	3.00%		5.00%		(2.00%)
2013	3.00%	0.33%	3.33%		5.00%		(1.67%)
2014	3.00%	0.50%	3.50%		5.00%		(1.50%)

Id., 13:273-274.

The evidence and the law show that ComEd's ESP expense is a prudent and reasonable cost of delivery service that is not prohibited by Commission practice or EIMA. The Commission should reject Mr. Bridal's proposed disallowance and permit recovery of this expense in its entirety.

3. Outside Services

Ms. Jones proposes a disallowance of $518,000 associated with #SmartMeetsSweet, a program used for distributing information and educating customers on automated metering infrastructure ("AMI") meters. Jones Dir., Staff Ex. 2.0R, 9:166-10:182; Newhouse Reb., ComEd Ex. 9.0, 14:277-283, 16:333-338. Ms. Jones views this program as a giveaway of ice cream cones and cookies and therefore as unrecoverable goodwill or institutional advertising. Jones Dir., Staff Ex. 2.0R, 9:172-10:182. To the contrary, the #SmartMeetsSweet program was an innovative and successful approach to customer outreach and education and these expenses should be recoverable in full.

First, as Mr. Newhouse testified:

> One of ComEd's goals in association with the deployment of AMI meters is to provide customers with information to build awareness and education around energy management, smart meters and associated smart meter benefits. Channels for such information and education include attending or creating community events in order to abide by the AMI outreach guiding principle of "Meet People Where They Are." This principle focuses on taking AMI deployment information directly to customers in order to facilitate engagement and advocacy. ComEd's AMI community event and outreach program takes a three-pronged approach: … Community Events … Street Teams … [and to] provide outreach in deployment areas where community events were not typically scheduled in correlation with the timing of AMI deployment, ComEd created and launched the #SmartMeetsSweet truck to provide customers with an engaging way to learn about smart meter installations and their associated benefits.

Newhouse Reb., ComEd Ex. 9.0, 14:292-15:313.

Second, while Ms. Jones' premise for the disallowance is that ComEd provided ice cream and cookies to customers at these events, "the vast majority of the costs are not related to these treats. Rather, approximately $478,000 of the $518,000 (jurisdictional) that Ms. Jones recommends for disallowance relates to the event planning, staffing, transportation and educational material costs." Newhouse Reb., ComEd Ex. 9.0, 16:321-325. ComEd provided evidentiary examples of materials provided during the #SmartMeetsSweet customer engagement and pictures of customers interacting with the team. *Id.*, 16:325-327; ComEd Ex. 9.08.

Third, Ms. Jones also disagrees with the amount spent on written materials versus the "event" concept. Jones Reb., Staff Ex. 6.0R, 9:154-10:173. While Ms. Jones may have pursued a different method of customer education and outreach, that does not make ComEd's choice imprudent. Indeed, "the prudence standard recognizes that reasonable persons can have honest differences of opinion without one or the other necessarily being 'imprudent.'" *Illinois Power Co. v. Illinois Commerce Comm'n*, 339 Ill. App. 3d 425, 435 (5th Dist. 2003) (citation omitted).

ComEd would have incurred customer education and outreach expense no matter which method it chose to disseminate this valuable and important information. Expenses of the "event" concept of the #SmartMeetsSweet truck – and the use of cookies and ice cream, friendly staff, and a wrapped vehicle – were prudently incurred and reasonable in amount to engage customers. Newhouse Reb., ComEd Ex. 9.0, 16:327-332. This is part of the premier customer experience that ComEd strives to provide and is a method that brings education directly to customers. There is no evidence that other ways to reach out to customers that may have focused more on print material and less on staffing or mobility would have been less expensive or targeted a broader audience. Newhouse Sur., ComEd Ex. 12.0, 5:101-102. And there is certainly no evidence that those methods would have been more effective in communicating the AMI message to customers. *Id*., 5:102-6:109.

Fourth, Ms. Jones argues that because this initiative only reached 6.66% of customers who had smart meters installed in 2014, the expenses related to the program are not prudent and reasonable. Jones Reb., Staff Ex. 6.0R, 9:150-152, 10:166-173. The Commission is not permitted to engage in this type of hindsight review. *Illinois Power Co. v. Illinois Commerce Comm'n*, 339 Ill. App. 3d 425, 428 (5th Dist. 2003). "When a court considers whether a judgment was prudently made, only those facts available at the time judgment was exercised can be considered. Hindsight review is impermissible." *Id.* The number of customers that would actually be reached is not a fact that was available to ComEd at the time it made the decision to engage in the #SmartMeetsSweet program. Moreover, Ms. Jones does not indicate what percentage of customers reached would have been acceptable.

In any case, the 6.66% figure obscures the fact that ComEd directly contacted over 36,000 customers as a result of this initiative. Newhouse Reb., ComEd Ex. 9.0, 16:329-330.

And the prudence of actions regarding education and outreach efforts cannot be assessed by quantitative factors alone, but necessarily includes consideration of qualitative factors too – such as direct personal interactions resulting in an improved customer learning experience. Without the #SmartMeetsSweet truck to initially engage customers, many of those direct customer interactions would not have otherwise happened. *Id.*, 16:330-332. And these assets are now in place to continue providing ongoing benefits and customer outreach throughout the AMI deployment. This is a success, not a failure.

The #SmartMeetsSweet concept combines transportation, communication, and educational materials into one mobile package to maximize exposure to customers in order to draw them in for engagement and educate them on the unique features of AMI meters. The expenses associated with this program were prudently incurred and reasonable in amount and should be allowed in full.

4. Industry Association Dues

Ms. Jones proposes an adjustment to disallow certain industry association dues. Jones Dir., Staff Ex. 2.0R, 3:56-4:66. Although ComEd does not agree with Staff's proposal in its entirety, in order to limit the issues in this case and without waiving its right to contest other proposed disallowances based on similar arguments in this case, or disallowances based on this or similar arguments in any other proceeding, ComEd accepts Ms. Jones' proposal to remove the specific industry association dues listed on her Schedule 2.01 as well as the dues for the Executives' Club of Chicago and 10% of the dues for the Will County Center for Economic Development. These adjustments total approximately $14,000.

Ms. Jones proposes a further disallowance of 100% of the dues for both the IERG, in the amount of $16,000, and the USWAG, in the amount of $33,000. Jones Dir., Staff Ex. 2.0R, 4:76-6:107; Staff Ex. 2.0R, Sched. 2.01, lines 12 and 13. This proposed disallowance is grounded on her belief that "the purpose of each organization is regulatory advocacy." *Id*., 4:78-79. More specifically, she states: "Regulatory advocacy is not an ancillary function for these two organizations as it is for organizations such as the Edison Electric Institute or the Illinois Chamber of Commerce, which identify the percent of their dues attributable to influencing legislation." Jones Reb., Staff Ex. 6.0R, 3:56-4:59. Ms. Jones' understanding of the situation is factually incorrect and the Commission should reject this proposed 100% disallowance.

ComEd agrees that these entities do engage in regulatory activity or lobbying. Newhouse Reb., ComEd Ex. 9.0, 19:399-402. That is not, however, these organizations' sole purpose, and a complete disallowance is therefore not warranted. *Id*. In response to Ms. Jones' claim that IERG and USWAG do not "identify the percent of their dues attributable to legislation," (Jones Reb., Staff Ex. 6.0R, 4:58-59), ComEd requested and both organizations provided the specific portion of their dues that are attributable to regulatory activity. For IERG, less than 1% of dues are related to lobbying activities. Newhouse Sur., ComEd Ex. 12.0, 7:142-147; ComEd Ex. 12.04 (IERG Lobbying Statement reporting less than 1% of IERG dues). This amounts to less than $1,000 for ComEd in 2014, so this does not impact ComEd's revenue requirement. Newhouse Sur., ComEd Ex. 12.0, 7:146-147. For USWAG, 6.2% of dues are related to lobbying activities. Newhouse Sur., ComEd Ex. 12.0, 7:133-139; ComEd Ex. 12.04 (Edison Electric Institute letter reporting 6.2% of USWAG dues). This amounts to a $4,000 reduction to ComEd's revenue requirement. Newhouse Sur., ComEd Ex. 12.0, 7:139-141.

This is the same approach Ms. Jones used to calculate her proposed disallowances for ComEd's other industry dues. Newhouse Sur., ComEd Ex. 12.0, 8:152-155. This is also the type of evidence that companies routinely rely on in preparing their books and tax filings. *Id.*, 8:150-152. The inquiry should end here. Ms. Jones, however, continues to advocate for a 100%

disallowance. ComEd therefore notes that it provided the following evidence of the services these organizations provide to ComEd beyond regulatory advocacy:

> The IERG provides extensive information to its members regarding developing and recent environmental regulations and legislation, apart from any advocacy function. IERG offers written explanations and summaries, holds meetings and provides seminars to help educate its members on such environmental requirements. ComEd gains an improved understanding of the environmental regulations and legislation applicable to ComEd's operations, which contributes toward ComEd's efforts to assure and maintain compliance and to establish and implement best practices. By providing early information on upcoming requirements, ComEd is better able to understand and plan for their timely implementation. ComEd's membership in IERG is a prudently incurred operating expense, and the costs of that membership are reasonably incurred, for reasons entirely apart from lobbying or policy advocacy.
>
> USWAG focuses on solid and hazardous waste issues of importance to the utility industry. USWAG helps educate its members on upcoming and recent regulatory and legislative developments including by providing an updated library of related materials available for review by all members and through conferences and webinars including, at times, USWAG representatives regarding company-specific issues. With the information and services provided by USWAG, ComEd is able to better understand, plan for and implement upcoming requirements as well as benchmark with other utilities. This serves to improve ComEd's timely and thorough compliance with such requirements. ComEd's membership in USWAG is a prudently incurred operating expense, and the cost of that membership is reasonably incurred, for reasons having nothing to do with lobbying or policy advocacy.

Newhouse Reb., ComEd Ex. 9.0, 19:403-20:424.

A 100% disallowance does not recognize those functions or benefits. The Commission should therefore reject Ms. Jones' proposed 100% disallowance and instead adopt ComEd's proposed $4,000 disallowance as reflected in ComEd Ex. 12.03.

VI. RATE OF RETURN

A. Overview

The rates of return (weighted average costs of capital) to be applied in the instant Docket, *i.e.*, 7.02% for the 2014 Reconciliation Year and 7.05% for the 2016 Initial Rate Year, are not contested. Phipps Dir., Staff Ex. 3.0, 2:21-30; Menon Dir., ComEd Ex. 2.0, 44:908-910; ComEd Ex. 2.01, Sch FR D-1, line 21.

B. Capital Structure

Staff witness Ms. Phipps and ComEd witness Mr. Menon concur with ComEd's capital structure and cost for purposes of determining both the 2014 Reconciliation Year and the 2016 Initial Rate Year. Phipps Dir., Staff Ex. 3.0, 3:31; Menon Dir., ComEd Ex. 2.0, 45:914; ComEd Ex. 2.01, Sch FR D-1, line 21; ComEd Ex. 2.01, Sch FR D-2. ComEd's capital structure is illustrated in the table below.

<u>2014 Reconciliation Year</u>

Capital Structure Component	*Weighting*	*Cost*	*Weighted Cost*
Common Equity	46.25%	9.09%[(1)]	4.20%
Long Term Debt	53.18%	5.24%	2.79%
Short Term Debt	0.57%	0.33%	0.00%
Credit Facility Cost			0.03%
Total Weighted Average	100.00%		7.02%

<u>2016 Initial Filing Year</u>

Capital Structure Component	*Weighting*	*Cost*	*Weighted Cost*
Common Equity	46.25%	9.14%	4.23%
Long Term Debt	53.18%	5.24%	2.79%
Short Term Debt	0.57%	0.33%	0.00%
Credit Facility Cost			0.03%
Total Weighted Average	100.00%		7.05%

(1) Incorporates 5 basis points penalty for missing EIMA reliability metric in 2014

Menon Dir., ComEd Ex. 2.0 45:914.

C. Cost of Capital Components

1. Rate of Return on Common Equity

See Section VI.B., *supra*.

2. Cost of Long-Term Debt

See Section VI.B., *supra*.

3. Cost of Short-Term Debt

See Section VI.B., *supra*.

4. Overall Weighted Cost of Capital

See Section VI.B., *supra*.

VII. RECONCILIATION

A. Overview

The reconciliation process establishes the final revenue requirement, based entirely on actual cost data, for each rate year. The reconciliation adjustment offsets, on a dollar for dollar basis and corrected through interest for the time value of money, any difference between this actual cost revenue requirement and the previously-projected revenue requirement for that year. The rate year being reconciled in this case is 2014.

B. Potentially Contested Issues

1. Calculation of Interest on Reconciliation Balance (ADIT Related to Reconciliation)

In their direct testimony, AG/City and CUB/IIEC restated the majority of their arguments from previous dockets that the reconciliation balance upon which interest is calculated should be reduced by the amount of ADIT said to be related to that balance. Brosch Dir., AG/City Ex. 1.0, 5:100-8:198; Gorman Dir., CUB/IIEC Ex. 1.0C, 2:27-9:177; Effron Dir., AG/City Ex. 2.0, 7:147-9:200. That proposal has been rejected in at least five prior ComEd cases. 2011 Rate Case Order at 161-166; 2012 Rate Case Order at 84-86; 2013 Rate Case Order at 62-63; 2014

Rate Case Order at 64-77; *Commonwealth Edison Co.*, ICC Docket No. 13-0553, Final Order (Nov. 26, 2013) at 30-42. AG/City and CUB/IIEC do not advance any new arguments in support of their proposal here.

Moreover, their proposal is contrary to law. If that were not clear from the Commission decision, prior to AG/City and CUB/IIEC filing their rebuttal testimony, the Appellate Court of Illinois, First District affirmed the Commission's existing methodology for calculation of interest on the reconciliation balance. *See generally People v. Ill. Commerce Comm'n*, 2015 IL App (1st) 140275. The Court expressly found that the Commission and ComEd had correctly addressed the ADIT related to reconciliation, and rejected the same arguments that AG/City and CUB/IIEC repeat here. *Id*. at ¶¶ 39, 45-49. The methodology that the Commission and the Court have approved is exactly the methodology ComEd has used in this case. Brinkman Dir., ComEd Ex. 1.0 CORR., 15:308-16:320; *see also* ComEd Ex. 2.01, Sch FR A-4.

As ComEd understands it, in light of the First District Appellate Court opinion, the parties ceased to actively re-litigate this issue. Brosch Reb., AG/City Ex. 3.0, 1:17-20; Gorman Reb., CUB/IIEC Ex. 2.0, 9:153-156. Subject to this understanding, ComEd will not reiterate its legal and factual positions at length here. Instead, ComEd preserves and does not waive its arguments on this issue and maintains that the Commission should once again reject the AG/City and CUB/IIEC proposal to reduce the reconciliation balance by the related ADIT. Brinkman Dir., ComEd Ex. 1.0 CORR., 12:232-16:330; Brinkman Reb., ComEd Ex. 8.0R, 27:564-28:598. ComEd also attaches hereto and incorporates herein by reference its prior briefing on this topic. *See* ICC Docket No. 14-0312, ComEd Init. Br. at 56-61, ComEd Reply Br. at 31-36, ComEd RBOE at 14-18, attached to this Initial Brief as Appendix A.

VIII. REVENUES

ComEd deducted a total of $130,999,000, after adjustments, of miscellaneous revenues from its revenue requirement. Menon Dir., ComEd Ex. 2.0, 40:820-823. None of the individual revenue amounts reflected in this total have been contested.

IX. COST OF SERVICE AND RATE DESIGN

This docket is intended to evaluate the prudence and reasonableness of the costs incurred by ComEd to be recovered during the 2016 Rate Year. Basic rate design issues are not at issue in this formula rate update case – instead, they were addressed in the rate design tariff filing that was filed on April 30, 2013 in Docket No. 13-0387, the 2013 Rate Design Investigation ("2013 RDI"). The Commission entered a final Order in that docket on December 18, 2013 and the Order was affirmed by the Appellate Court of Illinois for the Second District on March 6, 2015. *See Coalition to Request Equitable Allocation of Costs Together (REACT) v. Illinois Commerce Comm'n*, 2015 IL App (2d) 140202 (Ill. App. Ct. March 6, 2015). The cost of service and rate design issues are uncontested and should be approved.

X. OTHER

A. Wages and Salaries Allocator Utilized in Rider PE and Rate BESH

In her direct testimony, Staff witness Ms. Jones affirmed that ComEd provided the information necessary for Staff to make a recommendation regarding the value of the W&S allocator to be used in the determination of rates under Rider PE. Jones. Dir., Staff Ex. 2.0R 14:255-15: 279. ComEd provided this data in ComEd Ex. 2.04, and Ms. Jones agreed that the W&S allocator applicable to supply is 0.43% and had no objection to ComEd's calculation of the allocator. ComEd Ex. 2.04, WPA-5, page 1, line 1; Jones. Dir., Staff Ex. 2.0R, 15:281-294. ComEd agrees with the language proposed by Ms. Jones (Staff Ex. 2.0R, 15:285-294), and no other party has contested the calculation or objected to the proposed language.

B. Reporting Requirements

1. EIMA Investments

In its final Order in ICC Docket No. 12-0321, the Commission stated that Section 16-108.5 of the PUA requires ComEd to provide specific evidence in its case-in-chief as to what it intends to spend its EIMA funds on and further requires ComEd to distinguish between projected plant additions and reconciliation of previous years' expenditures. 2012 Rate Case Order at 98; Farkas Dir., ComEd Ex. 3.0, 15:301-314. Furthermore, in ICC Docket No. 13-0318, the Commission noted that ComEd had agreed to Staff's recommendation that it identify by category cumulative actual EIMA investments in addition to annual actual investments for each year. 2013 Rate Case Order at 85; Farkas Dir., ComEd Ex. 3.0, 15:321-331. To these ends, and in compliance with these orders, ComEd provided this information as ComEd Ex. 3.01. Farkas Dir., ComEd Ex. 3.0, 16:333-335; ComEd Ex. 3.01. No party contests that ComEd has satisfied its obligation to provide the required information.

2. Reconciliation Year Plant Additions

In the Commission's final Order in Docket No. 13-0318, Findings paragraph 13 set forth a table with details for the plant additions placed in service in 2012. 2013 Rate Case Order at 90-91. In this proceeding, ComEd provided a similar summary of the $463,229,227 investment amount by category placed in service in 2014 by ComEd under Section 16-108.5(b) of the Public Utilities Act. Farkas Dir., ComEd Ex. 3.0, 17:370-18:374. ComEd also provided a similar table for the $654,813,654 of plant additions projected to be placed in service in 2015. *Id.*, 18:375-19:378. No party contests that ComEd has satisfied its obligation to provide the required information.

3. Contributions to Low-Income Assistance and Support Programs

EIMA requires ComEd to make certain contributions to low-income and other energy assistance programs. *See* 220 ILCS 5/16-108.5(b-10). These contributions include $10 million per year, over five years, in customer assistance costs that are not recoverable and that ComEd has removed in full from the determination of its revenue requirement. ComEd presented evidence demonstrating that these EIMA commitments have been met through the sponsorship of various initiatives under ComEd's CARE programs; through these programs, ComEd assists customers that face financial hardships and have difficulty paying their electric utility bills by helping them to avoid disconnection. Fitterer Dir., ComEd Ex. 4.0, 27:574-579. Moreover, on February 20, 2015, ComEd filed its Annual Customer Assistance Report for 2014 with the Commission. This Report specifies the programs that were funded and reports the amount of money each program received, further demonstrating ComEd's compliance with its obligation to fund EIMA customer assistance programs. Fitterer Dir., ComEd Ex. 4.0, 29:615-621; ComEd Ex. 4.01. No party contests that ComEd has met its obligations to low-income and other energy assistance programs as required by EIMA.

XI. CONCLUSION

Based on the record and the arguments made herein, the Commission should approve ComEd's proposed 2016 Rate Year Net Revenue Requirement as presented in ComEd's surrebuttal testimony (including ComEd's acceptances of proposals of others, whether to narrow the issues or otherwise), approve the original costs of ComEd's electric plant in service as of December 31, 2014, make the required factual findings in support thereof, and authorize and direct ComEd to make a compliance filing implementing the resulting rates and charges.

Dated: September 9, 2015

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

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