STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission, On Its Own Motion vs. Commonwealth Edison Company Investigation into compliance with the efficiency standard requirement of Section 8-103 of the Public Utilities Act.	)))))))))	Docket No. 13-0078

DRAFT PROPOSED ORDER SUBMITTED BY COMMONWEALTH EDISON COMPANY

Dated: December 9, 2015

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PROPOSED ORDER

By the Commission:

I. PROCEDURAL HISTORY

On December 21, 2010, the Illinois Commerce Commission ("Commission" or "ICC") issued its Order approving, with modification, Commonwealth Edison Company's ("ComEd") 2011-2013 Energy Efficiency and Demand Response Plan ("2011-2013 Plan") pursuant to the requirements imposed by Section 8-103 of the Public Utilities Act ("Act"). For Plan Year 4 ("PY4"), ComEd was required to achieve an annual energy savings goal of 0.8% of energy delivered during the period June 1, 2011 through May 31, 2012 (220 ILCS 5/8-103(b)), and to reduce peak demand by 0.1% over the prior year for eligible retail customers. 220 ILCS 5/8-103(c). On January 24, 2013, pursuant to the schedule established by the Commission in ICC Docket No. 10-0570, the Commission entered its Order initiating this proceeding to investigate whether ComEd met its PY4 energy savings goal and is therefore in compliance with the requirements of Section 8-103.

On April 21, 2014, ComEd filed the independent evaluator's Evaluation Report on Commonwealth Edison Company's Energy Efficiency/Demand Response Measures for the 2011-2012 Plan Year. ("ComEd Evaluation Report"). Direct Testimony relating to the ComEd Evaluation Report was filed by ComEd on May 22, 2014.

On August 28, 2014, the Illinois Department of Commerce & Economic Opportunity ("DCEO") submitted its evaluation reports ("DCEO Evaluation Report"). On October 2, 2014, DCEO filed Direct Testimony relating to its Evaluation Report.

On June 19, 2015, the Commission's Staff ("Staff") filed Direct Testimony. In response, on July 29, 2015, ComEd filed Rebuttal Testimony, and on June 30, 2015, DCEO filed Rebuttal testimony.

After the filing of ComEd's and DCEO's rebuttal testimony, Staff, the Illinois Office of the Attorney General ("AG"), the City of Chicago ("City"), DCEO, and ComEd entered into a Stipulation resolving the contested issues in this docket.

Pursuant to notice given as required by law and by the rules and regulations of the Commission, the evidentiary hearing in this proceeding convened at the Commission office in Chicago, Illinois on November 17, 2015, before a duly authorized Administrative Law Judge ("ALJ"). Appearances were entered by counsel on behalf of ComEd, Staff, DCEO, the AG, and the City. ComEd presented the affidavit and testimony with an attachment of Michael Brandt, ComEd's Manager – Energy Efficiency Planning & Measurement, as well as the ComEd Evaluation Report. Staff presented the affidavit and testimony with attachments of Jennifer Morris, an economic analyst in Staff's Policy Division. DCEO presented the affidavit and testimony of David Baker, DCEO's Manager of the Energy Division, and the affidavit and testimony of Deidre Coughlin, DCEO's Acting Energy Division Manager for the Illinois Office of Energy & Recycling, as well as the DCEO Evaluation Report. ComEd also presented the Stipulation. At the conclusion of the hearing the record was marked heard and taken.

II. BACKGROUND

Section 8-103 of the Act sets forth requirements for large electric utilities to develop and execute plans and programs to promote cost-effective energy efficiency and demand-response measures. 220 ILCS 5/8-103. Energy efficiency plans prepared by ComEd and DCEO for the initial three year period were considered by the Commission in ICC Docket No. 07-0540. On February 6, 2008, the energy efficiency plans were approved by the Commission subject to the conditions, modifications, and requirements stated in the Commission's Final Order. *See Commonwealth Edison Co.,* ICC Docket No. 07-0540, Final Order (Feb. 6, 2008) ("*2008-2010 Plan Order*"). Energy efficiency plans prepared by ComEd and DCEO for the next three year period were then considered by the Commission in ICC Docket No. 10-0570. On December 21, 2010, the energy efficiency plans were approved by the Commission subject to the conditions, modifications, and requirements stated in the Commission's Final Order. *See Commonwealth Edison Co.,* ICC Docket No. 10-0570, Final Order (Dec. 21, 2010) ("*2011-2013 Plan Order*").

Section 8-103 of the Act sets forth the energy efficiency standards. Specifically, Section 8-103(b) requires that "[e]lectric utilities [] implement cost-effective energy efficiency measures to meet the following incremental annual energy savings goals: … 0.8% of energy delivered in the year commencing June 1, 2011" (220 ILCS 5/8-103(b)) and "to reduce peak demand by 0.1% over the prior year for eligible retail customers" (220 ILCS 5/8-103(c)). Section 8-103(e) of the Act further provides that ComEd must share the implementation of the energy efficiency measures with DCEO. It states that "[e]lectric utilities shall implement 75% of the energy efficiency measures approved by the Commission …. The remaining 25% of those energy efficiency measures approved by the Commission shall be implemented by [DCEO], and must be designed in conjunction with the utility and the filing process." 220 ILCS 5/8-103(e).

The Commission has also addressed and approved the "banking" methodology to be used. Banked savings are megawatt hour ("MWh") savings in excess of the statutory energy savings goal that ComEd can save for use in future years. ComEd Ex. 1.0 at 7-8. In ICC Docket No. 07-0540, the Commission approved the banking of 10% of excess savings above goals to be applied to future year savings achievements. *See 2008-2010 Plan Order* at 41. And, in ICC Docket No. 10-0520, the Commission approved the methodology to be used in calculating banked savings. *See Commonwealth Edison Co.,* ICC Docket No. 10-0520, Final Order (May 16, 2012) ("*PY2 Goals Order*"). The Commission adopted Staff's proposal and ruled that "banking" could only be achieved after the overall energy savings goal applicable to ComEd and DCEO was achieved. In other words, if DCEO fails to achieve its annual energy savings goal, ComEd's performance must cover that shortfall sufficient to exceed the combined ComEd and DCEO energy savings goal for a given Plan year before banking is permitted. *See PY2 Goals Order* at 5. In ICC Docket No. 10-0570, the Commission further approved the following banking provisions:

- ComEd's request to accumulate and apply "banked" kWh savings across years – specifically from PY1 through PY4 for application in PY5 – is approved.

- Consistent with the above, applying any banked savings or CFL carryover from PY1 through PY5 to PY6 is also approved.

- The above banking provisions are subject to the following restrictions:

    - In any given Plan year, no more than 15% of that year's compliance obligation should be met with banked savings from previous Plan years.

    - Except that, in any Plan year for which the statutory target has been adjusted downward to accommodate the rate impact screen, if the availability of banked savings, including banked savings in excess of 15% of the current year's target, plus planned program savings, would allow ComEd to come closer to reaching the statutory target, the target shall be readjusted upward accordingly.

2011-2013 Plan Order at 53-54; *see also* ICC Docket No. 11-0593, Final Order (March 5, 2014) ("*PY3 Goals Order*") at 16-18 (affirming the Plan Order).

III. COMED'S POSITION

A. Achievement of PY4 Energy Savings Goals

Mr. Brandt testified that pursuant to the *2011-2013 Plan Order*, for PY4, ComEd calculated a portfolio energy efficiency savings goal of 610,804 MWhs and a demand response savings goal of 10.5 megawatts ("MW") (1 MW = 1,000 kilowatts ("kW")). ComEd Ex. 1.0 at 3. Mr. Brandt explained that ComEd and DCEO calculated the split required by Section 8-103(e) of the Act by considering the nature of the programs and allocating the amount under the statutory spending screen to correspond with the statutory percentage. ComEd Ex. 1.0 at 4. As a result, of the 720,002 MWh energy efficiency saving goal set forth in the *2011-2013 Plan Order*, Mr. Brandt testified that ComEd was responsible for 610,804 MWhs and DCEO was responsible for 109,198 MWhs. ComEd Ex. 1.0 at 4. In the *2011-2013 Plan Order*, the Commission approved the calculations of the energy efficiency savings goals and the split with DCEO. ComEd Ex. 1.0 at 4.

Mr. Brandt testified that, as reflected in the reports filed previously in this docket on April 21, 2014, the independent evaluator's analysis concluded that ComEd achieved 944,142 MWhs of savings, which is 155% of the goal. ComEd Ex. 1.0 at 5. Mr. Brandt explained that this result reflected combined savings achieved in ComEd's residential sector (573,470 MWhs) and in its commercial and industrial sector (370,672 MWhs). ComEd Ex. 1.0 at 5-7.

Mr. Brandt further explained that ComEd is banking 330,615 MWhs for PY4. ComEd Ex. 1.0 at 8. Mr. Brandt explained that because DCEO reported results below its goal, (*see* ICC Docket No. 10-0570, ComEd's Corrected Annual Report for Plan Year 4 (filed on May 14, 2014) at 52), ComEd first made up for DCEO's shortfall to ensure the overall PY4 statutory goal of 720,002 MWhs was achieved. ComEd Ex. 1.0 at 8. Mr. Brandt testified that because the total combined savings for PY4 is 1,050,617 MWhs, ComEd is permitted to bank 330,615 (*i.e.*, 1,050,617 – 720,002). ComEd Ex. 1.0 at 8.

In its Order in ICC Docket No. 10-0520, the Commission approved a total of 39,369 MWhs of banked savings for Plan Years 1 and 2. *PY2 Goals Order* at 8. Then, in its Order in ICC Docket No. 11-0593, the Commission approved a total of 58,408 MWhs of banked savings from Plan Year 3 for a cumulative three-year total of 97,777 MWhs. *PY3 Goals Order* at 18, 27; ICC Docket No. 11-0593, Amendatory Order (April 29, 2014) at 2. Thus, Mr. Brandt explained, after PY4 ComEd now has 428,392 (i.e., 97,777 + 330,615) MWhs banked that can be used through Plan Year 6 of the portfolio to achieve the energy efficiency goals, if needed. ComEd Ex. 1.0 at 8-9.

Mr. Brandt testified that ComEd also achieved its kW demand response savings goal through the implementation of its residential energy efficiency programs. ComEd Ex. 1.0 at 9. He explained that the independent evaluator reported kW savings of 53.7 MWs, which well exceeds the 10.5 MW goal. ComEd Ex. 1.0 at 9.

B. Rebuttal Testimony Concerning ComEd's Achieved Energy Savings

1. Statutory Savings Goal v. Modified Savings Goal

In rebuttal testimony, Mr. Brandt explained that he disagrees with Ms. Morris's testimony that characterizes ComEd's PY4 energy savings goal as a "modified" savings goal. ComEd Ex. 2.0 at 4. Mr. Brandt testified that Ms. Morris appears to have confused two very different concepts. ComEd Ex. 2.0 at 4. Mr. Brandt testified that based on his understanding and experience implementing ComEd's energy efficiency portfolio since inception, the term "modified" is used to refer only to those instances where a statutory energy savings goal under Section 8-103 of the Act must be adjusted downward because the statutory spending screen set by Section 8-103(d) did not provide funding sufficient to achieve the statutory goal. ComEd Ex. 2.0 at 4, citing 220 ILCS 5/8-103(b), (d). The first Plan Year for which the Commission approved a modified energy savings goal was Plan Year 6. *2011-2013 Plan Order* at 18-36. For all prior Plan Years, including Plan Year 4, the Commission only approved statutory goals. *Id*.; *2008-2010 Plan Order* at 7, 10-11, 15, 18. Staff does not dispute this fact. ComEd Ex. 2.0 at 4-5. Mr. Brandt testified that Ms. Morris's confusion appears to stem from the Commission-required update to the energy savings goal and spending screen prior to the start of the Plan Year. ComEd Ex. 2.0 at 5. Under ComEd's 2011-2013 Energy Efficiency and Demand Response Plan ("Plan 2"), the Commission approved a proposal whereby ComEd would refresh the energy savings goal and spending screen values prior to the start of the Plan Year using updated estimates for the amount of energy projected to be delivered in the upcoming Plan Year. *2011-2013 Plan Order* at 39-40. Mr. Brandt explained that the updated energy savings goal remains the statutory energy savings goal of 0.8% – the projected energy input to the calculation of the statutory goal is merely revised to reflect more current projections. ComEd Ex. 2.0 at 5, citing *2011-2013 Plan Order* at 2. Mr. Brandt testified that this Commission-required update does not in any sense result in a "modified" energy savings goal (*i.e.*, one that is being adjusted downward due to insufficient funding under the spending screen). ComEd Ex. 2.0 at 5. Indeed, the Commission did not approve a modified goal for Plan Year 4, only a *statutory* energy savings goal, which is 0.8%. *2011-2013 Plan Order* at 2, 18-36.

2. Staff's Proposed Adjustments to ComEd's Achieved Energy Savings Attributable to Two Energy Efficiency Programs

In rebuttal testimony, Mr. Brandt explained that Staff has proposed adjustments to the independent evaluator's calculation of ComEd's PY4 energy savings values attributed to two ComEd energy efficiency programs. ComEd Ex. 2.0 at 6. Mr. Brandt testified that Staff has proposed a slight increase to the savings associated with the Business Prescriptive Program (507 MWhs), and recommended a slight decrease to the savings associated with the Small Business Energy Savings Program (569 MWhs). ComEd Ex. 2.0 at 6. Mr. Brandt explained that these changes result in a net downward adjustment of *just 62 MWhs, or 0.0066%,* a figure entirely lost in any rounding. Mr. Brandt testified that while this "adjustment" hardly warrants ComEd's or the Commission's time and resources, Staff has nevertheless featured these adjustments in its testimony, and ComEd thus must address and oppose the adjustments because they are clearly contrary to the PY3 evaluation order's rejection of retroactive adjustments and lack support. Lastly, Mr. Brandt recommended that the Commission should closely examine the serious policy issues associated with Staff identifying evaluation issues in testimony long after the evaluation has been completed and at a time when the evaluator can no longer explain and defend its methodologies. ComEd Ex. 2.0 at 6.

a. Business Prescriptive Program

Mr. Brandt testified that Staff's position regarding the energy savings attributed to the Business Prescriptive Program is that the Net-to-Gross ("NTG") value should not be applied at the program level, but rather at the end-use measure level, if available for this program. Specifically, Staff proposes separating the lighting end-use measures from the remaining measures, and then using an NTG value for lighting of 0.75 versus 0.74 for the rest of the measures. ComEd Ex. 2.0 at 7, citing Staff Ex. 1.0 at 13-14. Mr. Brandt testified that this change actually *increases* the overall kWh savings attributable to the Business Prescriptive program by 507 MWh. ComEd Ex. 2.0 at 7. While this minor adjustment might be advantageous to ComEd's performance, Mr. Brandt testified that this adjustment nevertheless should be rejected because the premise upon which it is based is clearly wrong. ComEd Ex. 2.0 at 7.

As Mr. Brandt explained, Staff's proposed change contradicts the NTG framework approved by the Commission for Plan Years 4 through 6. ComEd Ex. 2.0 at 7. Under this framework, the NTG values are generally established prior to the start of the Plan Year and applied prospectively throughout the Year. *2011-2013 Plan Order* at 47. In this way, all stakeholders (including the utilities and Staff) know with certainty the NTG values that will be used throughout the Plan Year, which empowers program administrators to better manage risk during the Plan Year. *Id*. ("The Commission credits Mr. Brandt's testimony that 'the risk associated with the NTG values is unmanageable because ComEd does not find out how the calculated NTG values impact the program elements until the evaluation report is received three to four months after the Plan year has ended'"). Yet, four years after the start of Plan Year 4, Staff has proposed to retroactively change the NTG framework and values as they apply to one particular program – the Business Prescriptive Program. ComEd Ex. 2.0 at 7-8.

As Mr. Brandt further explained, Staff's adjustment to the Business Prescriptive Program relies on two retroactive modifications that contradict the prospective NTG framework and therefore must be rejected. ComEd Ex. 2.0 at 8. First, Staff has proposed to assign NTG values at the measure level rather than program level. ComEd Ex. 2.0 at 8. Regardless of whether this approach has merit, the NTG framework in effect for this program during PY4 did not break out NTG values by end-use measures, and only assigned NTG values at the program level. ComEd Ex. 2.0 at 8. If a party believed that a given energy efficiency program should break out the NTG value by end-use measures instead of at the program level, this concept would need to be introduced, vetted and established *prior to* the start of the Plan Year to ensure compliance with the prospective NTG framework. ComEd Ex. 2.0 at 8. The NTG framework prohibits Staff from changing the rules of the game four years after Plan Year 4 commenced. ComEd Ex. 2.0 at 8.

Mr. Brandt testified that the second retroactive feature of Staff's proposal is perhaps the most obvious – proposing a new NTG value in June 2015 that had to be established by May 2011. ComEd Ex. 2.0 at 8. Echoing the prior confusion over the difference between a "modified" and updated statutory energy savings goal, Staff appears to be confused by the terms "retroactive" and "prospective." ComEd Ex. 2.0 at 8. According to Ms. Morris's testimony, she believes her adjustment is permissible and "prospective" because she is choosing to apply a Plan Year 2 value to the Plan Year 4 evaluation. ComEd Ex. 2.0 at 8, citing Staff Ex. 1.0 at 22-23. In her view, this is "prospective" because Plan Year 2 came before Plan Year 4. ComEd Ex. 2.0 at 8. According to Mr. Brandt, Staff's position thus completely misunderstands the purpose and application of a prospective NTG framework, which is designed to set the NTG values *prior to* the beginning of the Plan Year in order to eliminate the risk of changing NTG values during or after the close of the Plan Year. ComEd Ex. 2.0 at 8-9. As a result, the fact that Staff's preferred NTG value may come from PY2 is beside the point – regardless of what value is used, it had to be established *prior to* the start of Plan Year 4 (*i.e.*, prior to June 1, 2011). ComEd Ex. 2.0 at 9. Mr. Brandt further noted that the Commission ruled in Docket No. 11-0593 that this sort of hindsight review and retroactive application is impermissible. *PY3 Goals Order* at 22.

Mr. Brandt also observed that no one has questioned whether the independent evaluator correctly implemented the NTG framework and values applicable to PY4. ComEd Ex. 2.0 at 9. Mr. Brandt testified that as the independent evaluator correctly followed the Commission-approved NTG framework, its final evaluation results therefore should be approved for the Business Prescriptive program. ComEd Ex. 2.0 at 9. As Mr. Brandt concluded, that Staff decided in June of 2015 to retroactively tweak the NTG framework that was established four years earlier is of no consequence. ComEd Ex. 2.0 at 9.

b. Small Business Energy Savings Program

Mr. Brandt testified that for the Small Business Energy Savings Program, Staff has proposed changing the methodology used by the independent evaluator to determine the NTG value for this program. ComEd Ex. 2.0 at 9. Putting aside the fact that Staff has introduced its own methodology entirely outside of the evaluation process and without participation or review of the independent evaluator, Mr. Brandt explained that ComEd's objection to Staff's position focuses on the lack of support for this proposal, which would reduce the savings for the program by 569 MWhs. ComEd Ex. 2.0 at 9.

As Mr. Brandt testified, Staff has decided that it does not agree with the results from the independent evaluator's analysis and believes other data collected by the independent evaluator should be added to the analysis. ComEd Ex. 2.0 at 10. Staff's solution is to propose a "blended" result that it claims is better. ComEd Ex. 2.0 at 10, citing Staff Ex. 1.0 at 14-16. As Mr. Brandt noted, however, Staff's responses to ComEd's data requests do not reveal any principled basis for Staff's challenge to the evaluator's methodology or for its alternative, blended approach. ComEd Ex. 2.0 at 10, citing ComEd Ex. 2.1. And, as Mr. Brandt testified, with the PY4 evaluation budget exhausted, it is unlikely that the independent evaluator will be participating in this docket to respond to Staff's claims and new methodology. ComEd Ex. 2.0 at 10. Mr. Brandt noted that the absence of the independent evaluator is very unfortunate because it is critical to understand the independent evaluator's original logic and response to any proposed changes, as it may be that the independent evaluator considered, and ultimately rejected, a methodology similar to Staff's for very valid reasons. ComEd Ex. 2.0 at 10.

Mr. Brandt further testified that notwithstanding the absence of the evaluator, it nevertheless is clear that Staff's proposed change is not sufficiently supported to be capable of adoption. ComEd Ex. 2.0 at 10. For example, Staff has not provided any evidence that blending the NTG values is methodologically sound. ComEd Ex. 2.0 at 10. In response to ComEd's data requests, Staff was unable to identify any study, analysis, or best practice relied upon by Ms. Morris to support her adjustment. ComEd Ex. 2.0 at 10, citing ComEd Ex. 2.1. As Mr. Brandt testified, "we cannot have any confidence that Ms. Morris's simple averaging improves the data validity; nor do we know whether a weighting of 60/40 or 80/20 might make more sense." ComEd Ex. 2.0 at 10. Further, Mr. Brandt explained, the fact that Staff first questions the integrity of the evaluator's values but then goes on to use the evaluator's values in Staff's blended approach demonstrates the inherent validity of the evaluator's values. ComEd Ex. 2.0 at 10. In ComEd's view, it is unwise to override the independent evaluator's expertise for an unsupported Staff position that, to ComEd's knowledge, was never reviewed by the evaluator. ComEd Ex. 2.0 at 10-11.

In addition, Mr. Brandt testified, the various unsubstantiated claims made by Staff in the course of presenting its new methodology should not be given any weight. ComEd Ex. 2.0 at 11. While Staff alleges, *inter alia*, that "trade allies have a vested interest in exaggerating the impact of the SBES program" and that the evaluator's methodology is "inappropriate" and "does not provide for a balanced NTG assessment" (Morris Dir., Staff Ex. 1.0 at 17), Staff's data request responses revealed no bases for these claims. ComEd Ex. 2.0 at 11. Conjecture regarding persons' motives and unfounded opinion on what may or may not be "inappropriate" should not be given credence or viewed as a serious challenge to the findings of the independent evaluator who is an expert in the field of evaluation and is well aware of potential bias across all program actors. ComEd Ex. 2.0 at 11. Indeed, Mr. Brandt noted, it is the evaluator's job to manage these biases within its analysis and determine the true impacts of the program. ComEd Ex. 2.0 at 11. Staff offers no evidence of a failure in this regard. ComEd Ex. 2.0 at 11. In fact, no party, including Staff, has brought up this issue for any other program evaluation, leading ComEd to believe that the independent evaluator has successfully managed this issue across the entire portfolio. ComEd Ex. 2.0 at 11. Staff similarly questions the validity of the sample size, free rider value, and spillover value selected by the independent evaluator, but again offers no substantial evidence that contradicts these values or suggests that it would be unwise to defer to the expertise of the independent evaluator. ComEd Ex. 2.0 at 11, fn. 1. Mr. Brandt thus concluded that ComEd has no reason to believe that the values used by the independent evaluator are not the best values available for the analysis, and believes they should continue to be used. ComEd Ex. 2.0 at 11, fn. 1.

c. Policy issues raised by Staff's proposed adjustments

Mr. Brandt testified that serious policy issues have arisen with Staff's proposed adjustments. ComEd Ex. 2.0 at 12. Mr. Brandt explained that ComEd is troubled that Staff's adjustments are, to its knowledge, being proposed for the first time in testimony and were never raised during the evaluation process. ComEd Ex. 2.0 at 12. Indeed, not only has the evaluation process been circumvented, but Staff appears entirely uninterested in the opinions of the evaluator or how the evaluator might respond to Staff's proposals. ComEd Ex. 2.0 at 12. As Mr. Brandt noted, it is therefore unfortunate that the evaluator cannot be brought in at this time to submit rebuttal testimony in response to Staff's adjustments, which is due to the fact that the PY4 evaluation budget has long been exhausted and funds do not exist to reimburse the evaluator for participation in this docket. ComEd Ex. 2.0 at 12. ComEd believes that it is unwise to decide evaluation issues in the absence of the statutorily-mandated independent evaluator. ComEd Ex. 2.0 at 12.

Mr. Brandt testified that ComEd is equally concerned by Staff's assumption that it is worth the parties' and Commission's time and expense to litigate evaluation issues for virtually no reason – a net decrease in PY4 savings of 0.0066%. ComEd Ex. 2.0 at 12. Indeed, Mr. Brandt noted, in the PY3 evaluation docket, the Commission rejected a Staff proposal to engage in unnecessary litigation, and ComEd urges the same conclusion here. ComEd Ex. 2.0 at 12, citing *PY3 Goals Order* at 24.

By way of background, Mr. Brandt explained that Section 8-103 of the Act requires an annual independent evaluation of the electric utilities' and DCEO's energy efficiency portfolios. ComEd Ex. 2.0 at 13, citing 220 ILCS 5/8-103(f)(7). To accomplish this task, the utilities' and DCEO's energy efficiency portfolios are reviewed by third party evaluators that are beholden to no one involved in the portfolio, including the utility, stakeholders, and Staff. ComEd Ex. 2.0 at 13. While the evaluators are retained and under contract by the utilities and DCEO, this arrangement arose out of administrative necessity and convenience to avoid complicated and time consuming procurement requirements that would apply if the State were to retain the evaluators. ComEd Ex. 2.0 at 13, citing *Commonwealth Edison Co*., ICC Docket No. 07-0540, Order on Rehearing (March 26, 2008) at 3. To ensure this arrangement maintains the required independence, Mr. Brandt explained that the Commission requires that the independent evaluator contract contain a clause that allows the Commission to "approve or reject the contract; direct [ComEd] to terminate the evaluator, if the Commission determines that the evaluator is unable or unwilling to provide an independent evaluation; and approve any action by the utility that would result in termination of the evaluator during the term of the contract." *Id*. at 2-3. To ComEd's knowledge, Mr. Brandt testified, no party has questioned the effectiveness or independence of Navigant Consulting, the independent evaluator charged with evaluating ComEd's portfolio. ComEd Ex. 2.0 at 13.

Mr. Brandt further explained that once retained, the evaluator typically commences its evaluation activities several months prior to the close of a given Plan Year, and its evaluation activities may continue for a year or more depending on the input received on its draft evaluation reports. ComEd Ex. 2.0 at 13-14. Staff, in particular, has requested and obtained full access to the evaluation process. ComEd Ex. 2.0 at 14. As a result, Staff is invited to all meetings and discussions that ComEd has with the independent evaluator, and often attends. ComEd Ex. 2.0 at 14. Staff is also copied on all correspondence with the evaluator. ComEd Ex. 2.0 at 14. All documents ComEd receives from the independent evaluator are simultaneously shared with Staff, which includes all draft evaluation plans, final evaluation plans, draft evaluation reports, and final evaluation reports. ComEd Ex. 2.0 at 14. At each stage, Staff is allowed to submit comments to the independent evaluator, along with ComEd's comments. ComEd Ex. 2.0 at 14. In summary, Mr. Brandt testified, in all stages of the evaluation process, Staff has the ability to actively participate in the evaluation, and routinely does so. ComEd Ex. 2.0 at 14. Accordingly, there are many opportunities for Staff to comment on the work or methodology of the independent evaluator throughout the evaluation of a Plan Year. ComEd Ex. 2.0 at 14.

Mr. Brandt testified that in PY4, the final evaluation reports were not filed until April 2014. ComEd Ex. 2.0 at 14, citing ComEd Evaluation Reports. These reports concluded that ComEd had achieved a total of 994,142 MWhs of energy savings during PY4, which is a summation of the findings from the individual program evaluations conducted by the independent evaluator. ComEd Ex. 2.0 at 14, citing ComEd Summary Evaluation Report at 1. Mr. Brandt testified that ComEd has found no compelling reason to dispute the analyses conducted by the independent evaluator and believes these are the best values available related to its performance in PY4. ComEd Ex. 2.0 at 14.

Mr. Brandt testified that ComEd first learned of Staff's proposed adjustments through Ms. Morris's testimony. ComEd Ex. 2.0 at 15. Mr. Brandt explained that given Staff's involvement in the evaluation process, it is frustrating that these adjustments were apparently only proposed some four years after the start of Plan Year 4. ComEd Ex. 2.0 at 15. Indeed, Mr. Brandt testified, the time for proposing Ms. Morris's retroactive adjustment to the NTG framework was well before June 1, 2011. ComEd Ex. 2.0 at 15. While ComEd does not believe that the independent evaluator's conclusions are sacrosanct, after years of review and opportunity to work directly with the evaluator regarding its methodology and assumptions it is very unfortunate that these adjustments have been newly proposed here after the PY4 evaluation budget has been exhausted. ComEd Ex. 2.0 at 15. Rather, Mr. Brandt testified, the multi-year evaluation process conducted by the evaluator is the best opportunity for utilities, Staff, and stakeholders to discuss and question evaluation methodology or evaluation results. ComEd Ex. 2.0 at 15.

In sum, Mr. Brandt explained, after this lengthy and rigorous evaluation process, the final results of the independent evaluator should stand unless there are strong, compelling reasons to alter the evaluator's results, such as errors in the data or computations. ComEd Ex. 2.0 at 15. Mr. Brandt testified that ComEd does not believe that the extraordinary length of time that has elapsed since this docket was opened should have been used to essentially extend the evaluation process in the absence of the evaluator. ComEd Ex. 2.0 at 15. Adjustments that could have been proposed and addressed during the evaluation process led by the evaluator should not be proposed here in litigation for the first time when the evaluator can no longer respond. ComEd Ex. 2.0 at 15.

Mr. Brandt testified that, historically, the evaluator has not participated in the utilities' or DCEO's evaluation dockets because the funds available for a given Plan Year's evaluation activities are typically depleted by the time the final evaluation reports are filed. ComEd Ex. 2.0 at 16. Under Section 8-103, evaluation expenses are limited to no more than 3% of the overall energy efficiency portfolio budget for any one Plan Year.

220 ILCS 5/8-103(f)(7). Mr. Brandt explained that given the number of programs ComEd conducts and stakeholders' desire to conduct as comprehensive of an evaluation across all programs as possible, the 3% funding has been essentially exhausted each year by the time the final evaluation reports are produced. ComEd Ex. 2.0 at 16. The only way to have the independent evaluator participate in these docketed proceedings would be to hold budget dollars in reserve from the appropriate Plan Year for this purpose, which would reduce the amount of money available for the actual evaluation activities. ComEd Ex. 2.0 at 16.

Mr. Brandt further testified that following the lengthy and litigious Plan Year 3 evaluation docket in which the Commission rejected Staff's proposed retroactive and other adjustments, ComEd had hoped that the evaluation dockets would become more streamlined and efficient, and thus the need for participation and testimony by the evaluator in future dockets would be avoided. ComEd Ex. 2.0 at 16. Mr. Brandt explained that in light of Staff's testimony in this docket, however, it is clear that – unless the Commission rejects these tactics in this docket – the evaluator will need to testify in future Plan Year evaluation dockets to address new Staff adjustments not previously disclosed. ComEd Ex. 2.0 at 16. To address this new development, ComEd would have to work with stakeholders to determine what percentage of the limited evaluation budget (which is set and capped by statute) would need to be set aside to pay for litigation costs, including the hiring of counsel, preparation of testimony, participation at the evidentiary hearing, preparation of briefs, and presentation of oral argument (if necessary). ComEd Ex. 2.0 at 16-17. As Mr. Brandt noted, these issues would be quite complicated and time consuming. ComEd Ex. 2.0 at 17. For example, it would be difficult to determine at the beginning of a given Plan Year how much money should be set aside for potential litigation, if any, that could arise years later during the evaluation docket. ComEd Ex. 2.0 at 17. And, if the amount of reserved funds turns out to be more or less than needed, further decisions would have to be made regarding those contingencies. ComEd Ex. 2.0 at 17. In the case of a shortfall, the evaluator may be forced to abruptly withdraw from the litigation. ComEd Ex. 2.0 at 17. In the event of a surplus of funds, on the other hand, the evaluation process will have long since concluded, which means that the funds cannot be used for evaluation and would presumably be returned to customers. ComEd Ex. 2.0 at 17. This would mean that less than the full statutorily-set budget would have been used for evaluation activities in that Plan Year. ComEd Ex. 2.0 at 17.

3. Staff's Proposed Adjustment to DCEO's Achieved Energy Savings

Mr. Brandt testified that while ComEd has not delved into the details of DCEO's individual programs, in general ComEd has the same overarching concerns discussed earlier in his testimony regarding Staff's adjustments. ComEd Ex. 2.0 at 18. For example, Staff is attempting to apply a retroactive adjustment to PY4 using a 2014 Commission order that only applies prospectively beginning with Plan Year 7. ComEd Ex. 2.0 at 18, citing Staff Ex. 1.0 at 22. Mr. Brandt reiterated that Staff's continued efforts to retroactively change the rules of evaluation should be rejected, as the Commission did in the PY3 evaluation docket. ComEd Ex. 2.0 at 18.

4. Banking of Energy Efficiency Savings That Exceed the PY4 Goal

In rebuttal testimony, Mr. Brandt explained that based on Staff's mischaracterization of the PY4 energy savings goal as a "modified" savings goal (*see* discussion in Section III.B.1., *supra*), Staff wrongly concludes that the PY4 banking calculation cannot use the updated PY4 statutory energy savings goal that was calculated in accordance with the Commission's *2011-2013 Plan Order*. ComEd Ex. 2.0 at 18. Rather, Staff has proposed that the banking calculation must use the initial PY4 energy savings goal proposed at the outset of the Plan 2 docket, which the Commission directed be updated prior to the start of Plan Year 4. ComEd Ex. 2.0 at 18.

Mr. Brandt testified that Staff has attempted to support this adjustment by referencing language in a Commission order that approves an entirely different energy efficiency plan (*i.e.*, ComEd's 2014-2016 Energy Efficiency and Demand Response Plan ("Plan 3")). ComEd Ex. 2.0 at 19. There, the Commission concluded that banking should be discontinued for Plan Years 7 through 9 because each of the savings goals for those Years must be "modified" (*i.e.*, adjusted downward) due to the statutory spending limitations. *Commonwealth Edison Co*., ICC Docket No. 13-0495, Final Order (Jan. 28, 2014) ("*2014-2016 Plan Order*") at 49. Based on Staff's incorrect characterization of the PY4 savings goal as "modified", Staff has wrongly reasoned that the banking calculation can only use the initial PY4 saving goals first identified in the Plan 2 docket. ComEd Ex. 2.0 at 19.

Mr. Brandt testified that, as explained in Section III.B.1., *supra*, however, the PY4 energy savings goal *is the statutory energy savings goal*. ComEd Ex. 2.0 at 19. The mere fact that it was refreshed using updated estimates of projected energy prior to the start of the Plan Year does not suddenly turn the goal into a "modified" goal being reduced due to spending limitations. ComEd Ex. 2.0 at 19. To the contrary, Mr. Brandt explained, the Commission only approved a statutory goal for PY4 and directed ComEd to update the statutory goal before PY4 commenced. ComEd Ex. 2.0 at 19. Moreover, Mr. Brandt noted, the language cited from the *2014-2016 Plan Order* plainly does not address Plan Years 4 through 6, and is solely applicable to Plan Years 7 through 9. Of course, even if it were to apply retroactively (and it does not), Mr. Brandt explained that it would have no effect because Plan Year 4's updated goal is a statutory goal. ComEd Ex. 2.0 at 19; Section III.B.1., *supra.*

Mr. Brandt further testified, however, that because ComEd has agreed to use the DCEO PY4 goal of 113,624 MWhs, ComEd proposes a slight adjustment to the banking value presented in Mr. Brandt's direct testimony. ComEd Ex. 2.0 at 20. In brief, Mr. Brandt explained, the difference between the DCEO goals is 4,426 MWhs (=113,624 – 109,198). ComEd Ex. 2.0 at 20. Because DCEO did not achieve either of the conflicting DCEO PY4 goals, ComEd must make up DCEO's shortfall (now 4,426 MWhs, greater) before it can count banked savings. ComEd Ex. 2.0 at 20. In Mr. Brandt's direct testimony, he had proposed banked savings of 330,615 MWhs. ComEd Ex. 2.0 at 20; ComEd Ex. 1.0 at 8. Removing the 4,426 MWhs required to achieve the new DCEO PY4 goal results in ComEd banking of 326,199 MWhs (=330,615-4,426). ComEd Ex. 2.0 at

20. With the previously accumulated banked savings of 97,777 MWhs, Mr. Brandt testified that ComEd now has 423,976 MWhs banked that can be used through Plan Year 6 of the portfolio to achieve the energy efficiency goals, if needed. ComEd Ex. 2.0 at 20.

IV. DCEO's POSITION

A. Achievement of PY4 Energy Savings Goal

Mr. Baker testified that Section 8-103(b) of the Act requires DCEO and ComEd to achieve an annual energy savings goal of 0.8% of energy delivered during PY4. DCEO Ex. 1.0 at 2, citing 220 ILCS 5/8-103(b). Mr. Baker testified that ComEd calculated the total energy efficiency MWh goal for its service territory as 720,002 MWh. DCEO Ex. 1.0 at 2. According to DCEO's plan submitted in ICC Docket No. 10-0570 and approved by Commission Order dated December 21, 2010, DCEO's share of that goal was 113,624 MWh. DCEO Ex. 1.0 at 2, citing *Commonwealth Edison Co.*, ICC Docket No. 10-0570, DCEO Ex. 1.3 at 2. Mr. Baker testified that ComEd refers to a slightly different number in the Direct Testimony of Mr. Brandt, 109,198 MWh rather than 113,624 MWh, (ComEd Ex. 1.0 at 4), and that the reason for the discrepancy is unclear to Mr. Baker. DCEO Ex. 1.0 at 2.

Mr. Baker testified that DCEO exceeded the percentage reduction goal of 0.8%, achieving an estimated reduction of 0.85% in the ComEd territory, from the two sectors that DCEO serves – the public and low income sectors. DCEO Ex. 1.0 at 3. In the public sector, Mr. Baker explained, DCEO reduced energy use by approximately 1.3% – considerably more than mandated under Section 8-103(b) of the Act. DCEO Ex. 1.0 at 3. Mr. Baker testified that DCEO fell slightly short of the MWh goal of 113,634 MWh in the ComEd territory, achieving 107,640 MWh, 95% of the goal in the DCEO plan. DCEO Ex. 1.0 at 3, citing DCEO Evaluation Summary Report.

Mr. Baker testified that in serving the public and low income sectors, DCEO faced a variety of challenges in PY4 (most of which are not experienced by the utilities), which made attaining the MWh goal difficult. DCEO Ex. 1.0 at 3.

Mr. Baker first identified the size of the markets addressed in its Plan. Public Sector entities use only about 7% of electricity statewide and low income households about 6%- about 13% in total. However, the PY4 MWh goal was not set relative to these percentages, and ultimately required that DCEO achieve a higher percentage energy use reduction for public entities than the utilities did for their customers. DCEO estimated in its three-year plan that to attain the PY4 MWh goal, it would have to reduce public sector electricity use statewide by 1.5%, much higher than the 0.8% statutory goal. Indeed, as noted above, energy use in the public sector for PY4 was reduced by an estimated 1.3%, but the MWh goal was not achieved. Second, Mr. Baker observed that DCEO serves two very difficult, economically challenged sectors. Many public entities have difficult fiscal situations. DCEO staff has heard repeatedly from schools and local governments that its incentives are too low to enable them to implement the efficiency measures. The Program Evaluators also found through their surveys that public sector program applicants frequently cited the low incentives offered by the programs as a barrier to program participation. Mr. Baker testified that the approval process in the government sector is also very slow and energy efficiency must compete against many other priorities. DCEO has increased its incentives relative to utility commercial sector programs, but the pressure to deliver higher energy savings prevents DCEO from raising them as much as public entities would desire. Moreover, Mr. Baker stated, low income programs pose their own unique challenges, as they are not required to pass the Total Resource Cost ("TRC") test and are more costly to deliver, for lower energy savings relative to other sectors. In most cases, unless a low income program covers the entire measure cost, the energy efficiency improvements will not occur.

Third, Mr. Baker testified that under franchise agreements between local governments and ComEd authorizing the Company to deliver electricity within their boundaries, many local governments in northern Illinois do not pay for most of the electricity that they use. Rather, the businesses and residences in the city pay a franchise fee that covers the cost of electricity for the city. Therefore, the governments have very little direct incentive to reduce their energy use. Fourth, Mr. Baker stated that street lighting is one area where the potential for reducing public sector energy consumption is very large, but, the complicated ownership and tariff structures make it difficult for DCEO to help localities achieve that potential. In both ComEd and Ameren territories, a significant share of the street lighting is owned by the utilities. Finally, Mr. Baker testified regarding the challenge of American Recovery and Reinvestment Act ("ARRA") funding. In Illinois, 52 cities and counties were entitled to funds from the U.S. Department of Energy under the Energy Efficiency and Conservation Block Grants ("EECBG") program. In total, they received more than $90 million to use for energy projects within their borders. Most of them used the money for energy efficiency measures in their own facilities. While ARRA required grant recipients to leverage existing state programs, DOE put tremendous pressure on the local governments to spend the funds quickly. Many chose not to apply for EEP funds, but to pay for 100% of project costs with EECBG funds. Some local governments that had already received notices-to-proceed from DCEO, cancelled their projects so they could use the ARRA funds instead. DCEO Ex. 1.0 at 3-6.

B. Rebuttal Testimony Concerning DCEO's Achieved Energy Savings

In rebuttal testimony, Ms. Coughlin reiterated that DCEO's PY4 electric incremental energy savings goal in the ComEd service territory was 113,624 MWh, approved by the Commission as part of the *2011-2013 Plan Order* (DCEO Ex. 1.3 at 2 (Staff Ex. 1.4 at 2). DCEO Ex. 2.0 at 4. Ms. Coughlin also reiterated that, contrary to Staff's testimony that DCEO achieved electric energy savings for ComEd territory of 102,417 MWh, or 90% of the 113,624 MWh goal, DCEO instead achieved electrical incremental savings of 107,640 MWh, or 95% of the 113,624 MWh goal. DCEO Ex. 2.0 at 4-5.

1. Use of a financial ability screen

Ms. Coughlin testified that Staff justifies its adjustment of DCEO's achieved electrical incremental savings by its request to apply modified NTG ratios (without Single Question Screen) retroactively to DCEO's Standard, Custom, and New Construction Public Sector Programs. DCEO Ex. 2.0 at 5. Ms. Coughlin explained that DCEO Evaluator ADM Associates, Inc. ("ADM") used a financial ability screen in its evaluation of public sector program free ridership. DCEO Ex. 2.0 at 5. The financial ability screen involved determination of zero free ridership in those instances in which participants reported not having the financial ability to implement projects without program assistance. DCEO Ex. 2.0 at 5. Staff's request, Ms. Coughlin explained, is to adjust DCEO savings by not accounting for the financial ability screen. DCEO Ex. 2.0 at 5.

Ms. Coughlin testified that DCEO Evaluator ADM did not receive any written comments during the comment period for the Stakeholder Advisory Group ("SAG") on EPY4 evaluation reporting, but did receive a request from Attorney General Consultant Phil Mosenthal, to present EPY4/GPY1 NTG ratios without the imposition of the financial ability screen, as a sensitivity analysis. DCEO Ex. 2.0 at 6. Ms. Coughlin testified that ADM presented this sensitivity analysis in its final custom/standard/new construction Evaluation Measurement & Verification ("EM&V") reporting. DCEO Ex. 2.0 at 6. The resulting NTG, without imposition of the financial ability screen, is the one that ICC Staff requests to apply. DCEO Ex. 2.0 at 6.

Ms. Coughlin stated that DCEO rebuts Staff's testimony because removing the financial ability screen means using a free ridership assessment algorithm that does not account for participant-reported data on financial ability to implement the project in the absence of the program. DCEO Ex. 2.0 at 6. The issue of free-ridership in the public sector, Ms. Coughlin explained, was settled by the Commission prior to this docket in its *PY3 Goals Order* at 18, Section 4. DCEO Ex. 2.0 at 6-8.

Ms. Coughlin testified that Staff's testimony and conclusion (Staff Ex. 1.0 at 21) is contrary to this guidance, in that the Commission makes it clear that a single question is all that needs to be asked to determine free ridership. DCEO Ex. 2.0 at 8. Thus, Ms. Coughlin testified, Staff's request to adjust DCEO's claimed savings should be rejected. DCEO Ex. 2.0 at 8.

2. Use of a retrospective net-to-gross approach

Ms. Coughlin testified that DCEO believes that ADM's use of a retrospective net-to-gross approach (rather than a prospective net-to-gross approach) is appropriate based on the Commission's most recent guidance to DCEO on the issue in ICC Docket No. 13-0449. *Ill. Dept. of Commerce and Econ. Opportunity*, ICC Docket No. 13-0499, Final Order (Jan. 28, 2014) ("*DCEO Plan 3 Order*"); DCEO Ex. 2.0 at 8. Further, Ms. Coughlin testified, applying the prospective ratios cited by Staff to DCEO's programs would not be appropriate, as they were determined with utility customers in mind, and not DCEO's public and low income customers. DCEO Ex. 2.0 at 8-9. If they are to be used, prospective ratios for public and low income sectors should differ from those for the commercial & industrial and residential, because, as the Commission has acknowledged, these sectors face much more constrained budgets and thus less potential for free ridership. DCEO Ex. 2.0 at 9.

3. Disagreement with Staff's adjustments to DCEO's achievement of the percentage goals

Ms. Coughlin testified that Staff disagrees with DCEO's belief that it exceeded the percentage reduction goal of 0.8%, in the ComEd territory, for the specific sectors it serves because Staff disagreed with four aspects of DCEO's calculations: (i) The use of ComEd's modified statutory goal, rather than the unmodified incremental energy savings goal; (ii) The inclusion of claimed savings from our market transformation programs; (iii) Arguments cited earlier in the testimony re our claimed savings for our public sector programs; and (iv) The work papers did not adequately document our underlying assumptions regarding service territory load. DCEO Ex. 2.0 at 9.

Ms. Coughlin explained that after fixing these "problems", as Staff refers to them, Staff asserted that DCEO achieved a 0.77% reduction in load across both sectors, and a 1.23% reduction in the public sector specifically, using retroactive modified NTG ratios, as both parties agree is appropriate. DCEO Ex. 2.0 at 9, citing Staff Ex. 1.0 at 22. Ms. Coughlin testified that the public sector figure would still be a significant reduction beyond the percentage goal of 0.8%, however Staff notes that "if the sector load calculations are not reasonable, both calculations would be inherently flawed." DCEO Ex. 2.0 at 9-10, citing Staff Ex. 1.0 at 27-28.

Ms. Coughlin testified that DCEO does not agree with Staff's adjustments to its achievement of the percentage goals. DCEO Ex. 2.0 at 10. Ms. Coughlin testified that DCEO agrees that the numbers included in Mr. Baker's initial testimony in this docket (DCEO Ex. 1.0 at 3) should have been calculated with the unmodified incremental energy savings goal (727,895), rather than the modified statutory goal (720,002 MWh). DCEO Ex. 2.0 at 10. However, Ms. Coughlin testified, DCEO believes that Staff's concerns with and associated adjustments to DCEO's claimed savings for the public sector programs should be rejected, as she explained, *supra*. DCEO Ex. 2.0 at 10.

Regarding DCEO's work papers, Ms. Coughlin testified that DCEO estimates that public sector energy delivered represents 8.25% of ComEd's total load. DCEO Ex. 2.0 at 10. Ms. Coughlin explained that this estimate is based on the data provided in the Public Sector Share tab of DCEO's work papers, which were previously provided to Staff and are included again in this docket as Ex. 1.1 DCEO Revised Work Papers. DCEO Ex. 2.0 at 10. As noted on this tab, Ms. Coughlin explained, DCEO's source for this data was ComEd, so to Staff's point, DCEO does not believe the reasonableness of the data should be in doubt. DCEO Ex. 2.0 at 10. Ms. Coughlin testified that DCEO further estimates that low income energy delivered represents 5.95% of ComEd's total load. DCEO Ex. 2.0 at 10. Ms. Coughlin explained that DCEO acknowledges that the data to back up this estimate was not included in the original work papers provided to Staff, but is included in Ex. 1.1. DCEO Ex. 2.0 at 10-11. Ms. Coughlin testified that the source for this data was a previously completed 2010 DCEO study, which used data from the U.S. Energy Information Administration, the U.S. Census Bureau's 2008 American Community Survey Census, and the utilities. DCEO Ex. 2.0 at 11. Ms. Coughlin reiterated that DCEO does not believe the reasonableness of this data should be in doubt. DCEO Ex. 2.0 at 11.

Finally, regarding the inclusion of claimed savings for DCEO's market transformation programs, Ms. Coughlin testified that DCEO agrees that it is likely that not all of the savings for these programs would actually reduce the load in public and low income sectors alone. DCEO Ex. 2.0 at 11. Particularly, Ms. Coughlin explained, programs like Lights for Learning and Building Operator Certification are likely to also affect both the traditional residential and commercial markets served by the utilities. DCEO Ex. 2.0 at 11. That said, Ms. Coughlin further testified, while DCEO's Smart Energy Design Assistance Center (SEDAC) is available to private sector customers, traditionally the predominant customer base is public sector entities. DCEO Ex. 2.0 at 11. Thus, Ms. Coughlin testified, DCEO believes it is completely appropriate to include those savings as contributions to public sector load reduction. DCEO Ex. 2.0 at 11. Ms. Coughlin explained, however, that to resolve this issue, DCEO is willing to revise its calculation in this docket to remove the market transformation savings, as it has no substantive effect on the initial claim that DCEO exceeded the percentage goals for DCEO's sector. DCEO Ex. 2.0 at 11.

Accounting for the one error in DCEO's calculation regarding the appropriate ComEd energy savings goal and excluding market transformation claimed savings, Ms. Coughlin testified, DCEO still achieved an estimated reduction of 0.81% in the ComEd territory in the public and low income sectors, and in the public sector specifically DCEO reduced energy use by approximately 1.3%, exceeding in both cases the 0.8% percentage goal for the sectors that DCEO serves. DCEO Ex. 2.0 at 12, Ex. 1.1 DCEO Revised Work Papers.

4. Additional concerns regarding Staff's testimony

Ms. Coughlin testified that DCEO has additional concerns regarding Staff's testimony. DCEO Ex. 2.0 at 12. Ms. Coughlin testified that at no time prior to Staff's direct testimony were any of their concerns or proposed adjustments to DCEO's PY4 claimed savings brought to DCEO's or DCEO's third party evaluator's, ADM's, attention. DCEO Ex. 2.0 at 12. For example, Ms. Coughlin testified, ADM provided DCEO's draft evaluation reports to all members of the Illinois Energy Efficiency SAG, including ICC Staff witness Ms. Morris, well in advance of ADM's filing in this docket. DCEO Ex. 2.0 at 12. Ms. Coughlin testified that ADM received no comments or questions from Staff on these reports or the methodologies used therein. DCEO Ex. 2.0 at 12.

Further, Ms. Coughlin testified, when, in the fall of 2014, ICC Staff sent extensive data requests to DCEO and ADM under this docket, both parties complied. DCEO Ex. 2.0 at 12. Parties provided many emails, work papers, and other files, which frankly did not all seem relevant to these proceedings, but DCEO was willing to share in the spirit of cooperation. DCEO Ex. 2.0 at 12.

After discussion with Staff, DCEO developed a detailed document outlining revisions to the DCEO plan. DCEO Ex. 2.0 at 13. Ms. Coughlin testified that DCEO provided this document on November 26, 2014, and then answered additional follow up questions from Staff on May 15, 2015, which Staff themselves included as a part of their testimony. DCEO Ex. 2.0 at 13, citing Staff Ex. 1.2.

As Ms. Coughlin testified, "[a]fter all of the time and good-faith effort on DCEO's and ADM's part – for a program year that concluded over three years ago – Staff filed its testimony and proposed significant adjustments to DCEO's claimed savings." DCEO Ex. 2.0 at 13. Due to the lateness of this discussion, Ms. Coughlin testified, there was no opportunity for the expert, the DCEO third-party evaluator ADM, to participate substantively, due to budget limitations. DCEO Ex. 2.0 at 13.

Further, Ms. Coughlin testified, DCEO is concerned that the proceedings in this docket have required an inordinate amount of time, as well as ratepayer and taxpayer dollars. DCEO Ex. 2.0 at 13. Ms. Coughlin explained that DCEO respectfully reminds the Commission that, for PY4-6, DCEO has to participate in each of the utility evaluation dockets, and, while DCEO does so agreeably, proceedings that drag on like these mean that ultimately less ratepayer dollars are actually going toward energy efficiency. DCEO Ex. 2.0 at 13. Of course, Ms. Coughlin added, DCEO does not disagree that there should be room for robust debate, if it is warranted. DCEO Ex. 2.0 at 13. However, Ms. Coughlin testified, DCEO hopes that, moving forward, all parties can keep in mind the larger goal of efficiency and effectiveness for the ratepayers of Illinois. DCEO Ex. 2.0 at 13.

V. STAFF'S POSITION

A. Staff's Proposed Adjustment to ComEd's Achieved Energy Savings

Ms. Morris testified that the total combined incremental net energy savings achieved through the energy efficiency programs administered by ComEd and DCEO in the ComEd service territory in PY4 equals 1,046,497 megawatt-hours ("MWh"), which exceeds the overall unmodified statutory goal set forth in Section 8-103(b)(4) of the Act. Staff Ex. 1.0 at 5, citing Staff Ex. 1.1 at 1, Table 2, row (c). Ms. Morris testified that although the overall unmodified statutory incremental energy savings goal in the ComEd service territory was met in PY4, DCEO did not meet its PY4 incremental energy savings goal in the ComEd service territory that was approved by the Commission in ICC Docket No. 10-0570. Staff Ex. 1.0 at 5. Ms. Morris further testified, however, that ComEd's achievements more than "covered" DCEO's shortfall, which allowed the overall unmodified statutory incremental energy savings goal in the ComEd service territory to be met. Staff Ex. 1.0 at 5. In addition, Ms. Morris testified, ComEd met the efficiency standard mandated by Section 8-103(b) of the Act, as modified by subsections (d) and (e) of that Section for PY4. Staff Ex. 1.0 at 5.

1. ComEd's PY4 Incremental Energy Savings Goal

Ms. Morris testified that ComEd's PY4 modified incremental energy savings goal equals 610,804 MWh. Staff Ex. 1.0 at 5, citing Staff Ex. 1.1 at 1, Table 1, row (b), and ComEd Ex. 1.0 at 5. The Commission approved several provisions in the *2011-2013 Plan Order* that would allow for adjustments to ComEd's incremental energy savings goals over the course of Plan 2. *See 2011-2013 Plan Order* at 18-20, 36, 40, 47. Ms. Morris testified that only one such energy savings goal adjustment occurred, namely, adjustment to ComEd's incremental energy savings goal as a result of ComEd's May 20, 2011 adjustment to the spending screen for PY4. Staff Ex. 1.0 at 6, citing *2011-2013 Plan Order* at 40. Ms. Morris noted that ComEd's Plan 2 itself provides an example of how the incremental energy savings goal would be updated: "if the spending screen recalculation results in a 5% reduction in dollars, the kWh target would be reduced by a corresponding 5%. The opposite would also be true – if the spending screen were to increase 5%, the kWh target for that year would also increase 5%." Staff Ex. 1.0 at 6, quoting *Commonwealth Edison Co*., ICC Docket No. 10-0570, ComEd Ex. 1.0 Corr. ("Plan 2") at 33.

Ms. Morris testified that prior to the energy savings goal adjustment, ComEd's original PY4 incremental energy savings goal was 618,787 MWh. Plan 2 at 7. Ms. Morris explained that ComEd's PY4 adjusted spending screen is 98.7099% of the PY4 spending screen used in Plan 2. Staff Ex. 1.0 at 6. Based on the methodology used by ComEd, applying the 98.7099% adjustment factor to the Plan 2 ComEd original PY4 incremental energy savings goal of 618,787 MWh, results in a 7,983 MWh decrease to ComEd's PY4 incremental energy savings goal. Staff Ex. 1.0 at 6. As a result, Ms. Morris testified, ComEd's PY4 modified incremental energy savings goal equals 610,804 MWh, based on the savings goal adjustment methodology proposed by ComEd in Plan 2. Staff Ex. 1.0 at 6, citing Staff Ex. 1.1 at 1, Table 1, row (b); ComEd Ex. 1.0 at 5.

2. ComEd's Achieved Energy Savings

Ms. Morris testified that ComEd met its PY4 modified incremental energy savings goal by administering the residential and business energy efficiency programs in its service territory that are described in detail in the ComEd Evaluation Reports filed in this docket on April 21, 2014. Staff Ex. 1.0 at 7, citing ComEd Summary Evaluation Report; ComEd Evaluation Report #1 – Evaluation Report #22. Based on the ComEd Evaluator's verified energy savings estimates for each of these residential and business energy efficiency programs, Ms. Morris explained, ComEd met the efficiency standard mandated by Section 8-103(b) of the Act, as modified by subsections (d) and (e) of that Section for PY4. Staff Ex. 1.0 at 7, citing ComEd Summary Evaluation Report at 2.

Ms. Morris further explained that verified energy savings means that "deemed" or "fixed" energy savings values, assumptions, and evaluation factors (*e.g*., realization rates, NTG ratios) were applied prospectively, where applicable, as opposed to retroactive application of evaluated energy savings values, assumptions, and evaluation factors. Staff Ex. 1.0 at 7. Actual participation is used in calculating total program verified energy savings. Staff Ex. 1.0 at 7. ComEd Evaluation Report #20 states that verified savings "are savings using deemed savings parameters when available and after evaluation adjustments to those parameters that are subject to retrospective adjustment for the purposes of measuring savings that will be compared to the utility's goals. Parameters that are subject to retrospective adjustment will vary by program but typically will include the quantity of measures installed." Staff Ex. 1.0 at 7-8, quoting ComEd Evaluation Report #20 at 54.

On the other hand, Ms. Morris explained, evaluation research findings are "savings reflecting evaluation adjustments to any of the savings parameters (when supported by research) regardless of whether the parameter is deemed for the verified savings analysis. Parameters that are adjusted will vary by program and depend on the specifics of the research that was performed during the evaluation effort." Staff Ex. 1.0 at 8, quoting ComEd Evaluation Report #20 at 54. The ComEd Summary Evaluation Report states that on "a current evaluated basis [non-deemed], the evaluation team estimated that ComEd's efficiency programs achieved 862,914 net MWh energy savings in the ComEd service territory for PY4." Staff Ex. 1.0 at 8, quoting ComEd Summary Evaluation Report at 1. Thus, Ms. Morris testified, regardless of prospective versus retroactive application in calculating energy savings, ComEd exceeded both its original PY4 incremental energy savings goal from Plan 2 as well as its PY4 modified incremental energy savings goal. Staff Ex. 1.0 at 8. As noted in the Plan Year 3 ("PY3") compliance with energy savings goal docket, Staff believes that pursuant to Section 8-103(f)(7) of the Act, the cost-effectiveness evaluation of the energy efficiency programs should use the best available information (*e.g.*, including interactive effects), which may include evaluation research findings energy savings values, and not necessarily the deemed energy savings values which may be outdated or inappropriate. Staff Ex. 1.0 at 8-9, citing *Illinois Commerce Comm'n v. Commonwealth Edison Co*., ICC Docket No. 11-0593, Staff Ex. 1.1 at 1, Table 1a, row (f); *see also, Illinois Commerce Comm'n v. Commonwealth Edison Co*., ICC Docket No. 11-0593, Staff Ex. 1.0 at 23-24. Ms. Morris testified that this seems consistent with ComEd's approach to use the best available updated avoided costs in the cost-effectiveness analysis. Staff Ex. 1.0 at 9. Ms. Morris testified that the cost-effectiveness results of the energy efficiency programs operating in the ComEd service territory since the inception of the Section 8-103 energy efficiency programs will be reviewed in detail in the Plan Year 5 ("PY5") compliance with energy savings goal docket, namely ICC Docket No. 14-0075; thus, Ms. Morris' failure to take issue with a particular TRC test assumption set forth in Evaluation Report #1 (ComEd PY4 TRC Report) or Staff Exhibit 1.5 (DCEO PY4 Revised Cost Effectiveness Report) filed in this proceeding should not be construed as supportive of those TRC assumptions and cost-effectiveness results. Ms. Morris testified that the TRC results and assumptions of the energy efficiency programs operating in the ComEd service territory will be addressed in ICC Docket No. 14-0075 as directed by the Commission. Staff Ex. 1.0 at 9.

Regarding ComEd's energy savings results presented in her testimony, Ms. Morris noted that she has presented the verified energy savings amounts, which differ from Staff's best estimate of actual incremental energy savings achieved by ComEd in PY4. Staff Ex. 1.0 at 9. For example, Ms. Morris explained, the Commission approved deeming a NTG ratio of 0.8 for specialty CFL light bulbs for purposes of Plan 2, and ComEd's Evaluators actually estimated a specialty CFL light bulb specific NTG ratio during PY4 and the results show that the actual PY4 NTG ratio for specialty CFL light bulbs is 0.44 (Staff Ex. 1.0 at 9, citing ComEd Summary Evaluation Report at 8), which is significantly below the deemed NTG ratio of 0.8 used in estimating ComEd's verified energy savings amount. Staff Ex. 1.0 at 9.

Ms. Morris further explained that an "NTG ratio" is a "factor representing net program savings divided by gross program savings that is applied to gross program impacts to convert them into net program impacts. The factor itself may be made up of a variety of factors that create differences between gross and net savings, commonly including free riders and spillover. The factor can be estimated and applied separately to either energy or demand savings." Staff Ex. 1.0 at 9-10, quoting *Illinois Commerce Comm'n v. Ameren Illinois Co. d/b/a Ameren Illinois, Commonwealth Edison Co., The Peoples Gas Light and Coke Co., North Shore Gas Co., Northern Illinois Gas Co. d/b/a Nicor Gas Co.*, ICC Docket No. 15-0187, IL-TRM v4.0 (part 6) at 781 ("IL-TRM Version 4.0"). Ms. Morris explained that a "free rider" is a "program participant who would have implemented the program's measure(s) or practice(s) in the absence of the program. Free riders can be (1) total, in which the participant's activity would have completely replicated the program measure; (2) partial, in which the participant's activity would have partially replicated the program measure; or (3) deferred, in which the participant's activity would have partially or completely replicated the program measure, but at a future time." Staff Ex. 1.0 at 10-11, quoting IL-TRM Version 4.0 at 781. Ms. Morris also offered definitions for other components referenced in the NTG ratio definition. Staff Ex. 1.0 at 10-11.

Ms. Morris testified that the *2011-2013 Plan Order* adopts in large part the NTG Framework document filed as AG Ex. 1.2 in ICC Docket No. 10-0570. Staff Ex. 1.0 at 11, citing *2011-2013 Plan Order* at 46-47. Ms. Morris explained that Staff Ex. 1.6 contains the NTG Framework. Staff Ex. 1.0 at 11. All of the programs must comply with the NTG Framework except for a portion of ComEd's Residential Lighting Program. In particular, the Commission approved 0.8 as the deemed NTG ratio for specialty CFLs for all three years of Plan 2, and energy savings goals adjust due to changes in the standard CFL NTG ratio. Staff Ex. 1.0 at 11, citing *2011-2013 Plan Order* at 46-47. Ms. Morris testified that the NTG Framework outlines the circumstances in which an energy efficiency program may have a NTG ratio deemed prospectively versus evaluated and applied retroactively. Staff Ex. 1.0 at 11, citing Staff Ex. 1.6 at 2.

Ms. Morris testified that she recommends the Commission find that the total incremental net energy savings that was achieved through the energy efficiency programs administered by ComEd in PY4 equals 944,080 MWh. Staff Ex. 1.0 at 11-12, citing Staff Ex. 1.1 at 1, Table 2, row (a). As ComEd exceeded its PY4 modified incremental energy savings goal of 610,804 MWh by 333,276 MWh (Staff Ex. 1.0 at 12, citing Staff Ex. 1.1 at 1), Ms. Morris testified that Staff recommends that the Commission find that ComEd met the efficiency standard mandated by Section 8-103(b) of the Act, as modified by subsections (d) and (e) of that Section for PY4. Staff Ex. 1.0 at 12.

3. Disagreement with ComEd Regarding the Amount of Achieved Energy Savings

Ms. Morris testified that Staff disagrees with ComEd regarding the amount of achieved energy savings. ComEd claims that the total incremental net energy savings that was achieved through the energy efficiency programs it administered in PY4 is 944,142 MWh, which matches the verified energy savings amount presented in the ComEd Summary Evaluation Report filed in this proceeding on April 21, 2014. Staff Ex. 1.0 at 12, citing ComEd Ex. 1.0 at 7, and ComEd Summary Evaluation Report at 2, Table E-1. While there is no dispute that ComEd met its PY4 modified incremental energy savings goal, Staff does not agree with ComEd's assessment of the verified amount of incremental net energy savings that should be attributed to ComEd's energy efficiency programs in PY4. Staff Ex. 1.0 at 12-13. Ms. Morris explained that the incremental net energy savings amounts that Staff proposes are different from ComEd's proposed amounts for two of ComEd's energy efficiency programs, which in combination result in a net decrease of 62 MWh of incremental net energy savings. Staff Ex. 1.0 at 13. Staff proposes an increase of 507 MWh in incremental net energy savings to ComEd's Business Prescriptive Program (sometimes referred to as the Business Standard Program) and a decrease of 569 MWh in incremental net energy savings to ComEd's Small Business Energy Savings ("SBES") Program. Staff Ex. 1.0 at 13.

a. Business Prescriptive Program

Ms. Morris testified that while ComEd's incremental net energy savings estimate for its Business Prescriptive Program is 234,120 MWh (Staff Ex. 1.0 at 13, citing ComEd Summary Evaluation Report at 2), Staff estimates net energy savings for this program at 234,627 MWh. According to Ms. Morris, Staff applies the Plan Year 2 ("PY2") Lighting End-Use NTG ratio of 0.75 to the PY4 incremental gross energy savings attributable to light bulbs in the program, which results in a 507 MWh increase to the incremental net energy savings attributable to the program. Staff Ex. 1.0 at 14. ComEd's Evaluator derived the Lighting End-Use NTG ratio of 0.75 during PY2. Staff Ex. 1.0 at 14, citing Staff Ex. 1.3 at 2. Staff contends the PY2 Lighting End-Use NTG ratio of 0.75 is more specific to light bulbs than the PY2 Multiple End-Use NTG ratio estimate of 0.74 derived from the entire PY2 Business Prescriptive Program population across all end uses. Staff Ex. 1.0 at 14. Ms. Morris testified that real differences can exist between different types of energy efficiency measures offered through the same energy efficiency program that can result in different levels of free ridership by measure type. Staff Ex. 1.0 at 14. A measure-type specific NTG ratio, such as the Lighting End-Use NTG ratio, may provide a better NTG estimate for a future plan year compared to a Multiple End-Use NTG ratio. Staff Ex. 1.0 at 14. Because the PY2 Lighting End-Use NTG ratio was estimated using a sufficient sample size and resulted in a reasonable level of precision, Ms. Morris testified that Staff recommends the PY2 Lighting End-Use NTG ratio of 0.75 be prospectively applied to the PY4 incremental gross energy savings from light bulbs, consistent with the prospective NTG provision in the NTG Framework. Staff Ex. 1.0 at 14.

b. Small Business Energy Savings Program

Ms. Morris testified that while ComEd's incremental net energy savings estimate for its SBES Program is 9,009 MWh (Staff Ex. 1.0 at 14-15, citing ComEd Ex. 1.0 at 6), Staff estimates incremental net energy savings at 8,440 MWh. Staff Ex. 1.0 at 14-15. Ms. Morris stated that ComEd's estimates are derived by retroactively applying a PY4 Trade Ally NTG ratio that ignores customers' responses to free ridership survey questions and instead relies completely on trade allies' survey responses. Staff Ex. 1.0 at 15. Conversely, Ms. Morris testified, Staff's calculation provides a balanced approach that includes both customers' and trade allies' responses in the formulation of the NTG ratio. Staff Ex. 1.0 at 15. For the SBES Program (ComEd Evaluation Report #20 and ComEd Evaluation Report #21, filed April 21, 2014), Staff recommends that the Commission approve a 569 MWh reduction to ComEd's proposed incremental net energy savings for the program based on applying a PY4 Trade Ally/Customer Blended NTG ratio of 0.89. Staff Ex. 1.0 at 15, citing Staff Ex. 1.1 at 3, Table 7. Ms. Morris testified that Staff calculated the NTG ratio of 0.89 by averaging the NTG ratios estimated from responses of both participating customers (NTG=0.83) and trade allies (NTG=0.95) to NTG survey questions, each of which was calculated by the ComEd Evaluator. Staff Ex. 1.0 at 15. Staff applied this PY4 Trade Ally/Customer Blended NTG ratio retroactively because the SBES Program was a new energy efficiency program during PY4 that had not previously been evaluated and thus it falls under the retroactive NTG application provision under the Plan 2 NTG Framework. Staff Ex. 1.0 at 15, citing Staff Ex. 1.6 at 2.

Ms. Morris testified that the NTG ratio of 0.89, which considers input from both participating customers and trade allies involved with the program, was applied to PY4 incremental gross energy savings from the SBES Program, instead of the NTG ratio estimate of 0.95 derived solely from responses of trade allies that ignores responses from participating customers to NTG survey questions pertaining to the determination of free ridership. Staff Ex. 1.0 at 15-16.

Regarding the ComEd Evaluator's statement that "[f]ree-ridership cannot exist in markets that would not have been served without the program first overcoming the market barriers" (ComEd Evaluation Report #20 at 25), Ms. Morris testified that in relation to small business customers in the ComEd service territory, Staff finds it hard to believe that no small business customers were participating in ComEd's energy efficiency programs that existed prior to the PY4 SBES Program. Staff Ex. 1.0 at 16. Ms. Morris noted that one of the statutory requirements is that the utilities must demonstrate their energy efficiency portfolio of measures "represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs." Staff Ex. 1.0 at 16, quoting 220 ILCS 5/8-103(f)(5).

Ms. Morris testified that Staff has several concerns with applying the PY4 Trade Ally NTG. Staff Ex. 1.0 at 16. First, Staff is concerned that the trade ally responses to NTG survey questions may likely understate the level of free ridership because the trade allies have a vested financial interest in ensuring the energy efficiency program continues. Trade ally participants in the SBES Program "include lighting contractors, HVAC contractors, and environmental companies that specialize in providing energy efficient products." Staff Ex. 1.0 at 16, quoting ComEd Evaluation Report #21 at 16. As noted in the ComEd Evaluation Report #20, "One [trade ally] said he was satisfied because the program was 'a good source of steady income and a good way to expand my client base.'" Staff Ex. 1.0 at 16-17. Thus, Ms. Morris contended, trade allies have a vested interest in exaggerating the impact of the SBES Program on their sales in responding to the Evaluator's NTG survey questions. Staff Ex. 1.0 at 17. Ms. Morris testified that Staff believes ignoring the participating customers' responses to the NTG survey questions and focusing solely on the trade ally responses in estimating the NTG ratio is inappropriate and does not provide for a balanced NTG assessment of the SBES Program. Staff Ex. 1.0 at 17.

Second, Ms. Morris testified that the sample size used to compute the PY4 Trade Ally NTG is very small; only 10 trade allies were surveyed. Staff Ex. 1.0 at 17, citing

ComEd Evaluation Report #21 at 15. Ms. Morris stated that reliance upon a NTG derived solely from a very limited number of trade allies' responses is not a reasonable NTG methodology as it can produce unstable NTG results over time. Staff Ex. 1.0 at 17. If any one of the trade allies would respond to the survey questions by stating that the SBES Program had no impact on their energy efficiency promotional efforts, the NTG may drastically shift to a lower value. Staff Ex. 1.0 at 17. Thus, Ms. Morris contended, reliance on this trade ally method alone with limited sample points is not the best approach, nor is this a method that can produce stable and meaningful NTG results over time. Staff Ex. 1.0 at 17. By contrast, Ms. Morris testified, 84 small business customers who had participated in the SBES Program were included in the NTG survey efforts that Staff relied upon in part to derive Staff's recommended PY4 Trade Ally/Customer Blended NTG ratio. Staff Ex. 1.0 at 17, citing ComEd Evaluation Report #20 at 63.

Third, Ms. Morris testified, while trade allies certainly influence customer decisions, they may not know what the customers would have done without the SBES Program and whether the customer would have hired a contractor to install energy efficiency products without the program. Staff Ex. 1.0 at 17. Given the small business customers' estimated free ridership values are 17% for electric energy saving projects (ComEd Evaluation Report #20 at 2; ComEd Evaluation Report #21 at 2), it seems likely that a portion of these customers may have been considering high efficiency units, while the trade ally may respond that the energy efficiency project was only undertaken by the customer due to the trade ally's marketing efforts about the SBES Program. Staff Ex. 1.0 at 17-18. Ms. Morris testified that adopting the 5% free ridership value based on trade ally input (ComEd Evaluation Report #20 at 2; ComEd Evaluation Report #21 at 2) and ignoring the participating small business customers' responses showing 17% free ridership in this program is not reasonable and likely overstates the true impacts from the SBES Program. Staff Ex. 1.0 at 18.

Finally, Ms. Morris stated, the customers' responses to spillover questions are not ignored, while at the same time their responses to free ridership questions are being ignored. Staff Ex. 1.0 at 18; ComEd Evaluation Report #20, at 3-4, 67. Favoring trade ally results for free ridership and claiming participating customers' free ridership results were unreliable, while at the same time favoring participating customers' spillover results, is inconsistent. Staff Ex. 1.0 at 18. Ms. Morris testified that to give zero-weighting to customer surveys with respect to free ridership and to give them a 100-percent-weighting with respect to spillover is unreasonable. Staff Ex. 1.0 at 18.

Ultimately, Ms. Morris testified, Staff believes it is unsound to ignore either trade ally surveys or customer surveys in this case. Staff Ex. 1.0 at 18. Staff's recommended approach averages the NTG ratios for the trade allies and participating customers resulting in a NTG of 0.89. Staff Ex. 1.0 at 18.

B. Staff's Proposed Adjustment to DCEO's Achieved Energy Savings

1. DCEO's PY4 Incremental Energy Savings Goal

Ms. Morris testified that DCEO's PY4 incremental energy savings goal in the ComEd service territory equals 113,624 MWh. Staff Ex. 1.0 at 18-19, citing DCEO Ex. 1.0 at 2, Staff Ex. 1.1 at 1, and Staff Ex. 1.4 at 2. Ms. Morris notes that Mr. Brandt has testified that DCEO's incremental energy savings goal in the ComEd service territory is 109,198 MWhs (ComEd Ex. 1.0 at 4), which is an amount listed under ComEd's "Proposed Energy Savings Goals," "DCEO Goal" in ComEd's Plan 2 (Plan 2 at 7, Table 3). Staff Ex. 1.0 at 19. While the Commission approved ComEd's Plan 2 in ICC Docket No. 10-0570, Ms. Morris explained that the Commission also approved DCEO's plan as part of that Plan 2 Order. Staff Ex. 1.0 at 19, citing *2011-2013 Plan Order* at 73-74. Ms. Morris testified that Staff recommends that the Commission use the incremental energy savings goal specified in DCEO's approved plan of 113,624 MWh. *Commonwealth Edison Co.*, ICC Docket No. 10-0570, DCEO Ex. 1.3 at 2 ("Staff Ex. 1.4"). Staff Ex. 1.0 at 19. The Commission explicitly approved DCEO's incremental energy savings goals in the ComEd service territory for PY5 and Plan Year 6 ("PY6") (*2011-2013 Plan Order* at 20), and these incremental energy savings goals are consistent with the incremental energy savings amounts specified in DCEO's testimony in this case (DCEO Ex. 1.0 at 2), DCEO's approved plan (Staff Ex. 1.4 at 2), and the amount of energy savings DCEO projected that it could achieve – an amount listed under ComEd's "Projected MWh Attained each Year," "DCEO" in ComEd's Plan 2 (Plan 2 at 7, Table 3). Staff Ex. 1.0 at 19.

2. DCEO's Achieved Energy Savings

Ms. Morris testified that Staff estimates that DCEO achieved a total incremental net energy savings of 102,417 MWh. Staff Ex. 1.0 at 20, citing Staff Ex. 1.1 at 1, Table 2, row (b). Thus, DCEO fell short of its PY4 incremental energy savings goal of 113,624 MWh by 11,207 MWh. Staff Ex. 1.0 at 20. Ms. Morris testified that Staff confirmed that the 107,640 MWh of incremental net energy savings in the ComEd service territory in PY4 that DCEO claims that it achieved (DCEO Ex. 1.0 at 3) is both reflective of the sum of the DCEO program-level incremental net energy savings values using evaluated energy savings results presented in the individual DCEO Evaluation Reports filed in this docket on August 28, 2014, and matches the summarized net energy savings values presented in the DCEO Evaluator's Revised Cost Effectiveness Summary Report. Staff Ex. 1.0 at 20, citing Staff Ex. 1.5 at 6, Table 3.

Ms. Morris testified that the difference between the incremental net energy savings that Staff attributes to DCEO's energy efficiency programs (102,417 MWh) and the incremental net energy savings proposed by DCEO (107,640 MWh) lies in a difference in the NTG ratios used. Staff Ex. 1.0 at 20. DCEO's proposed incremental net energy savings amount applies PY4 NTG ratios (with Single Question Screen) retroactively to PY4 incremental gross energy savings, while Staff proposes to apply PY4 *modified* NTG ratios (without Single Question Screen) retroactively. Staff Ex. 1.0 at 20-21, citing Staff Ex. 1.1 at 3, Table 7. Ms. Morris testified that Staff does not support several of the NTG ratios used in the computation of incremental net energy savings as reported by DCEO; thus, Staff computed the incremental net energy savings by applying the DCEO Evaluator's PY4 *modified* NTG ratios (without Single Question Screen) *retroactively* to the PY4 incremental gross energy savings for DCEO's Standard, Custom, and New Construction Public Sector Programs. Staff Ex. 1.0 at 21. DCEO's NTG ratios were developed using a methodology based upon a single question to determine whether a participating customer had the financial ability to afford the energy efficiency project without the financial support provided by the program, rather than a multi-factor assessment. Staff Ex. 1.0 at 21. Based solely upon the response to that *single* question, the NTG methodology classifies a participating customer as a non-free rider if that customer indicates they did not have the financial ability. Staff Ex. 1.0 at 21. As DCEO's Evaluator noted, such an approach "could potentially attribute a large amount of savings to the effects of the program when they should be attributed to free ridership." Staff Ex. 1.0 at 21, quoting Public Sector C&S CN – Part 3 at 3-12. The DCEO Evaluator provides modified NTG ratios with reliance on this single question screen removed for comparison purposes. Staff Ex. 1.0 at 21, citing Public Sector C&S CN – Part 3 at 3-13, Table 3-21. Ms. Morris testified that if reliance on this single question is removed, DCEO's incremental net energy savings is 102,417 MWh; accordingly, Staff recommends that the Commission approve that amount. Staff Ex. 1.0 at 21.

Ms. Morris explained why Staff's recommendation for DCEO energy savings applies the evaluated modified NTG ratios (without Single Question Screen) retroactively as opposed to applying the prospective NTG ratios evaluated in PY2 and PY3. Staff Ex. 1.0 at 22. Despite the fact that the Commission has previously rejected retroactive application of energy savings evaluation results for ComEd's energy efficiency programs (*see PY2 Goals Order* at 6; *PY3 Goals Order* at 22), Staff believes that it is appropriate to apply the PY4 modified NTG ratios (without Single Question Screen) retroactively for evaluation of DCEO's PY4 savings. Staff Ex. 1.0 at 22. The Commission approved retroactive application of evaluated NTG ratios for DCEO's energy efficiency programs for future plan years under DCEO's Plan 3 in ICC Docket No. 13-0499 "because DCEO's retrospective approach accounts for real world variables and actual results." Staff Ex. 1.0 at 22, quoting *DCEO Plan 3 Order* at 20. Although this recent Order pertains to DCEO's Plan 3, and this proceeding evaluates a plan year which falls in Plan 2, Ms. Morris testified that the Commission could apply the NTG ratios *retroactively* for DCEO given this recent finding and the fact that DCEO is apparently comfortable with the risk associated with *retroactive* NTG ratio application. Staff Ex. 1.0 at 22. While the NTG Framework adopted for Plan 2 primarily involves *prospective* NTG application, there is a provision that relates to applying NTG ratios *retroactively* in certain circumstances. Staff Ex. 1.0 at 22, citing Staff Ex. 1.6 at 2. It appears that the DCEO Evaluator would concur that *retroactive* application of NTG ratios for DCEO is appropriate for the PY4 DCEO programs under the NTG Framework adopted in Plan 2 because the programs experienced "significant changes" that warrant the programs to fall under the *retroactive* NTG application provision of the NTG Framework. Staff Ex. 1.0 at 22, 23, citing ADM Assocs., Inc. Response to Staff Data Request JHM 1.03. While Staff does not necessarily disagree with ADM's claim regarding the changes to the programs, Staff would note that the same argument could be made for a number of the PY4 ComEd energy efficiency programs that are applying the *prospective* NTG ratios. Staff Ex. 1.0 at 23. Ms. Morris testified that determining what constitutes "significant changes" under the *retroactive* provision in the Plan 2 NTG Framework is very subjective and an issue parties recognized when addressing a new NTG framework in the more recent Plan 3 dockets. Staff Ex. 1.0 at 23, citing *2014-2016 Plan Order*; *see also Commonwealth Edison Co*., ICC Docket No. 13-0495, Order on Rehearing (May 7, 2014) at 3.

Ms. Morris testified that if the Commission determines that DCEO's PY4 incremental net energy savings should be calculated using prospective NTG ratios, as opposed to retroactive NTG ratios, applying *prospective* NTG ratios to DCEO's PY4 incremental gross realized energy savings yields PY4 incremental net energy savings of 84,025 MWh attributable to DCEO's energy efficiency programs operating in the ComEd service territory. Staff Ex. 1.0 at 23, citing Staff Ex. 1.1 at 1, Table 2, row (d). Ms. Morris testified that it is reasonable to apply prospective NTG ratios to DCEO's gross energy savings for PY4. Staff Ex. 1.0 at 24. As Ms. Morris stated, it should also be noted that the DCEO Evaluation explains that the differences in NTG ratios estimated for the DCEO programs between PY3 and PY4 are likely due to methodology differences, rather than actual changes in free ridership: "The results of this analysis indicated that it is highly likely that the differences in assessed free ridership between [PY3] and [PY4] are primarily attributable to differences in the assessment methodology rather than changes in actual free ridership from one year to the next." Staff Ex. 1.0 at 24, quoting Public Sector C&S CN – Part 3 at 3-14. Thus, Ms. Morris stated, applying the *prospective* NTG ratios is likely to produce a reasonable estimate of incremental net energy savings of the DCEO energy efficiency programs in PY4. Staff Ex. 1.0 at 24.

3. Proposed Modifications to DCEO's Plan

Ms. Morris testified that although the overall unmodified statutory electric incremental energy savings goal as set forth in Section 8-103(b)(4) of the Act was met in the ComEd service territory in PY4, DCEO did not meet its Commission-approved PY4 incremental energy savings goal in the ComEd service territory. Staff Ex. 1.0 at 24. Ms. Morris stated that ComEd's achievements more than "covered" DCEO's shortfall, which allowed the overall PY4 unmodified statutory incremental energy savings goal in the ComEd service territory to be met. Staff Ex. 1.0 at 24. While DCEO filed testimony explaining its performance shortfall it did not provide any proposed modifications to its plan in its testimony, but Ms. Morris noted that DCEO provided some proposed modifications in responses to discovery. Staff Ex. 1.0 at 24-25. Ms. Morris testified that while she is not an attorney, she understands that Section 8-103(e) of the Act states: "If the Department is unable to meet incremental annual performance goals for the portion of the portfolio implemented by the Department, then the utility and the Department shall jointly submit a modified filing to the Commission explaining the performance shortfall and recommending an appropriate course going forward, including any program modifications that may be appropriate in light of the evaluations conducted under item (7) of subsection (f) of this Section. In this case, the utility obligation to collect the Department's costs and turn over those funds to the Department under this subsection (e) shall continue only if the Commission approves the modifications to the plan proposed by the Department." Staff Ex. 1.0 at 25, quoting 220 ILCS 5/8-103(e).

Ms. Morris testified that in discovery, DCEO provided explanations of some program modifications it was making in light of the DCEO Evaluator's recommendations. Staff Ex. 1.0 at 25. Ms. Morris testified that DCEO's proposed modifications to its plan appear reasonable and should help improve the performance of the DCEO energy efficiency programs going forward. Staff Ex. 1.0 at 25. Therefore, Ms. Morris testified, Staff recommends that the Commission approve the DCEO modifications to its plan summarized in Staff Ex. 1.2. Staff Ex. 1.0 at 25.

4. DCEO's Plan Statements Regarding Its Performance Shortfall

Ms. Morris testified that Staff does not agree with DCEO's assertion that "DCEO exceeded the percentage reduction goal of 0.8%, achieving an estimated reduction of 0.85% in the ComEd territory, from the two sectors that DCEO serves – the public and low income sectors." Staff Ex. 1.0 at 25, quoting DCEO Ex. 1.0 at 3. Ms. Morris stated that there are several problems with DCEO's calculations. Staff Ex. 1.0 at 25. First, DCEO's calculation relies upon ComEd's proposed modified statutory goal as opposed to the correct overall PY4 unmodified incremental energy savings goal. Staff Ex. 1.0 at 26. Second, DCEO includes energy savings from the Department's market transformation programs, despite the fact that it is not clear that all the savings that occur through these programs would actually reduce the load of public sector and low income customers. Staff Ex. 1.0 at 26. Accordingly, Staff believes that it is improper to include these savings in the calculation of percent of public sector and low income customer load. Staff Ex. 1.0 at 26. Third, Staff disagrees with the savings claimed for certain of DCEO's Public Sector Programs, as explained *supra*. Staff Ex. 1.0 at 26. Fourth, DCEO's work papers do not thoroughly document some of the key underlying assumptions surrounding the calculation to arrive at the percentage of ComEd service territory load that is public sector and low income. Staff Ex. 1.0 at 26. DCEO estimates that public sector customers energy delivered represents 8.25% of ComEd's total projected energy delivered in PY4 and low income customers' energy delivered represents 5.95% of ComEd's total projected energy delivered in PY4; however, it is unclear as to whether or not this is a reasonable estimate. Staff Ex. 1.0 at 26.

Ms. Morris testified that after fixing the first three problems Staff identified in DCEO's calculation, and using retroactive modified NTG ratios to calculate DCEO's savings for its public sector and low income programs, Staff calculates a 0.77% reduction in load of the low income and public sectors as opposed to a 0.85% reduction claimed by DCEO. Staff Ex. 1.0 at 26-27, citing Staff Ex. 1.1 at 2, Table 4.

Ms. Morris testified that using prospective NTG ratios to calculate DCEO's savings for its public sector and low income programs, excluding savings from DCEO's market transformation programs, and using the correct unmodified PY4 statutory energy savings goal, Staff calculates a 0.63% reduction in load of the low income and public sectors as opposed to a 0.85% reduction claimed by DCEO. Staff Ex. 1.0 at 27, citing Staff Ex. 1.1 at 2, Table 5.

Ms. Morris testified that using DCEO's savings claims, excluding savings from DCEO's market transformation programs, and using the correct unmodified PY4 statutory energy savings goal, Staff calculates a 0.81% reduction in load of the low income and public sectors as opposed to a 0.85% reduction claimed by DCEO. Staff Ex. 1.0 at 27, citing Staff Ex. 1.1 at 2, Table 6.

Ms. Morris noted that the validity of these calculations are intrinsically linked to the validity of the key underlying assumptions, which she identified as the fourth problem with the calculation. Staff Ex. 1.0 at 27. Thus, if it is determined that the DCEO sector load calculations are not reasonable to rely upon, Ms. Morris explained, these calculations would be inherently flawed. Staff Ex. 1.0 at 27. Ms. Morris testified that she would welcome ComEd's feedback concerning the reasonableness of the DCEO sector load calculations based on the best information available to ComEd. Staff Ex. 1.0 at 26.

Ms. Morris testified that Staff also does not agree with DCEO's assertion that in "the public sector, DCEO reduced energy use by approximately 1.3% - considerably more than mandated under Section 8-103(b) of the Public Utilities Act." Staff Ex. 1.0 at 27, quoting DCEO Ex. 1.0 at 3. Ms. Morris explained that Staff similarly found several problems with DCEO's calculation. Staff Ex. 1.0 at 27-28. Ms. Morris testified that after fixing the first three problems identified with DCEO's calculation, excluding savings from DCEO's market transformation programs, using the correct unmodified PY4 statutory energy savings goal, and using the retroactive modified NTG ratios, Staff calculates a 1.23% reduction in public sector load as opposed to the 1.3% reduction claimed by DCEO. Staff Ex. 1.0 at 28, citing Staff Ex. 1.1 at 2, Table 4. Ms. Morris testified that using prospective NTG ratios to calculated savings for DCEO's public sector programs, excluding savings from DCEO's market transformation programs, using the correct unmodified PY4 statutory energy savings goal, Staff calculates a 0.98% reduction in public sector load as opposed to a 1.3% reduction claimed by DCEO. Staff Ex. 1.0 at 28, citing Staff Ex. 1.1 at 2, Table 5. Ms. Morris further testified that using DCEO's savings claims, excluding savings from DCEO's market transformation programs, and using the correct unmodified PY4 statutory energy savings goal, Staff calculates a 1.26% reduction in public sector load as opposed to a 1.3% reduction claimed by DCEO. Staff Ex. 1.0 at 28, Staff Ex. 1.1 at 2, Table 6. Ms. Morris again noted that if it is determined that the DCEO sector load calculations are not reasonable to rely upon, these calculations would also be inherently flawed. Staff Ex. 1.0 at 28.

C. Banking of Energy Efficiency Savings That Exceed the PY4 Goal

Ms. Morris testified that generally speaking, "banking" of energy savings is the carrying-over of electric energy savings above legislatively mandated levels resulting from the utility's and the DCEO's energy efficiency programs for a given plan year for potential use to meet incremental energy savings goals for later plan years in the utility's service territory, if needed. Staff Ex. 1.0 at 29. The overall unmodified statutory energy savings goal (inclusive of DCEO) must be achieved in order for any "banking" of energy savings to occur. *PY2 Goals Order* at 5. ComEd currently has 97,777 MWh of energy savings banked from prior plan years. *PY3 Goals Order* at 18.

Ms. Morris testified that the PY4 unmodified statutory incremental energy savings goal as specified by Section 8-103(b)(4) in the ComEd service territory equals 727,985

MWh, which is 0.8% of projected energy delivered in the year commencing June 1, 2011, as set forth on page 37 of ComEd's approved energy efficiency Plan 2. Staff Ex. 1.0 at 29, citing Plan 2 at 37. Ms. Morris testified that the total combined incremental net energy savings achieved through the energy efficiency programs administered by ComEd and DCEO in the ComEd service territory in PY4 equals 1,046,497 MWh. Staff Ex. 1.0 at 29, citing Staff Ex. 1.1 at 1, Table 2, row (c). Thus, Ms. Morris testified, the overall unmodified statutory incremental energy savings goal has been exceeded in the ComEd service territory in PY4, which allows for banking of excess energy savings. Staff Ex. 1.0 at 29-30.

Ms. Morris testified that the Commission granted ComEd the ability to bank energy savings above the statutory energy savings goal that it had accumulated from Plan 1 for use during Plan 2. Staff Ex. 1.0 at 30. Additionally, Ms. Morris explained, the Commission granted ComEd's "request to accumulate and apply 'banked' kWh savings across years – specifically from PY1 through PY4 for application in PY5" and further approved "applying any banked savings or CFL carryover from PY1 through PY5 to PY6." Staff Ex. 1.0 at 30, quoting *2011-2013 Plan Order* at 53. The Commission imposed a 10% banking restriction from each plan year of plan 1, Ms. Morris noted, but approved an alternative banking restriction structure for Plan 2. Staff Ex. 1.0 at 30, citing *2011-2013 Plan Order* at 53.

Ms. Morris explained that as ComEd does not need to use any previously banked energy savings to meet the PY4 incremental energy savings goal (*i.e.*, the PY4 energy savings goal has been met without applying any previously banked energy savings), these banking restrictions are not applicable to PY4. Staff Ex. 1.0 at 30-31. With respect to banking, Ms. Morris explained, the Commission only needs to determine the cumulative amount of banked energy savings available at the end of PY4 in the ComEd service territory that can potentially be used, if necessary, in future plan years of Plan 2, subject to the Commission's banking restrictions adopted in the *2011-2013 Plan Order*. Staff Ex. 1.0 at 31.

Ms. Morris testified that Staff recommends that the Commission approve banking of an incremental 318,512 MWh of excess energy savings from PY4 for potential use during the remaining plan years of Plan 2, if needed. Staff Ex. 1.0 at 31. Ms. Morris stated that this is the amount of incremental net energy savings achieved in excess of the PY4 unmodified statutory incremental energy savings goal in the ComEd service territory. Staff Ex. 1.0 at 31, citing Staff Ex. 1.1 at 2, Table 3, row (c). Ms. Morris testified that Staff recommends that the Commission approve the cumulative amount of banked energy savings in the ComEd service territory through PY4 at 416,289 MWh, which includes the incremental 318,512 MWh banked energy savings from PY4 and the previously banked energy savings through PY3 of 97,777 MWh (*PY3 Goals Order* at 18). Staff Ex. 1.0 at 31, citing Staff Ex. 1.1 at 2, Table 3.

Ms. Morris testified that the Commission should not accept ComEd's proposed cumulative banking amount of 428,392 MWh. Staff Ex. 1.0 at 31, citing ComEd Ex. 1.0 at 9. Ms. Morris stated that while ComEd has proposed that the Commission approve the cumulative amount of banked energy savings in the ComEd service territory through PY4 at 428,392 MWh, which includes an incremental 330,615 MWh banked energy savings from PY4 and the previously banked energy savings through PY3 of 97,777 MWh (ComEd Ex. 1.0 at 8), there are several problems that Staff discovered with ComEd's banking calculation and that Staff thus recommends that the Commission reject ComEd's proposed cumulative banking amount for three reasons. Staff Ex. 1.0 at 31-32.

First, Ms. Morris testified, ComEd used an improper methodology for calculating banking. Staff Ex. 1.0 at 32. Rather than calculating the excess of the PY4 unmodified statutory incremental energy savings goal of 727,985 MWh, ComEd calculated banking using its proposed modified incremental energy savings goal of 720,002 MWh. Staff Ex. 1.0 at 32, citing ComEd Ex. 1.0 at 8. The Commission has rejected allowing a utility to bank energy savings based on the modified incremental energy savings goal, and thus Staff recommends that the Commission again reject such attempts in this docket. Staff Ex. 1.0 at 32, citing*, e.g., 2014-2016 Plan Order* at 49. Second, Ms. Morris testified that Staff disagrees with the amount of incremental net energy savings that ComEd assumed DCEO achieved. Staff Ex. 1.0 at 32. Based on Staff's review of the direct testimony filed by ComEd and DCEO, the incremental net energy savings values claimed by DCEO (107,640 MWh, DCEO Ex. 1.0 at 3) are not equal to the amount assumed by ComEd for DCEO (106,474,945 kWh, ComEd Ex. 1.0 at 8) in its banking calculation. Staff Ex. 1.0 at 32. No explanation is provided for this discrepancy in the testimony filed by either DCEO or ComEd in this proceeding. Staff Ex. 1.0 at 32. Based on a comparison of the DCEO program-level incremental net energy savings contained in ComEd's PY4 Annual Report (*Commonwealth Edison Co*., ICC Docket No. 10-0570, Corrected Report at 52 (filed May 14, 2014) ("ComEd's PY4 Annual Report")) with those contained in the DCEO Evaluator's Revised Cost Effectiveness Report, it appears that the discrepancy in incremental net energy savings is due to the energy savings from DCEO's Smart Energy Design Assistance ("SEDAC") Program (1,165,402 kWh) being excluded from ComEd's calculation. Staff Ex. 1.0 at 32-33, citing Staff Ex. 1.5 at 6, and ComEd's PY4 Annual Report at 52. Third, Ms. Morris testified that Staff disagrees with the amount of incremental net energy savings that ComEd claimed to achieve, as addressed *supra*. Staff Ex. 1.0 at 33.

VI. STIPULATION

Following the filing of ComEd's and DCEO's rebuttal testimony, Staff, the AG, the City , DCEO, and ComEd entered into a Stipulation to resolve all of the contested issues among the signatories ("Parties") in this proceeding. Joint Ex. 1.0. At the November 17, 2015 evidentiary hearing, ComEd moved for its admission into evidence, the motion was unopposed, and the Stipulation was admitted into evidence. The Parties request that the Commission approve the Stipulation and decline to rule on the previously contested issues in this docket. Joint Ex. 1.0, ¶ 15.

Through the Stipulation, the Parties have agreed to, *inter alia,* the following:

1. The Stipulating Parties have entered into this Stipulation for the purpose of settling and resolving the contested issues in this proceeding regarding the calculation of the PY4 energy savings goals in the ComEd service territory,

portions of the independent evaluator's calculations of energy savings achieved during PY4, and the calculation of ComEd's banked energy savings for PY4 and cumulatively.

2. The Stipulating Parties agree that the PY4 statutory energy savings goal calculated for the ComEd service territory pursuant to Section 8-103(b)(4) of the Act equals 727,985 megawatt-hours ("MWhs"). *See Commonwealth Edison Co.*, ICC Docket No. 10-0570, Final Order (Dec. 21, 2010), at 23, 35-6.

3. The Stipulating Parties agree that ComEd's PY4 statutory energy savings goal as set forth by Section 8-103(b) equals 610,804 MWhs. ComEd Ex. 1.0, 4.

4. The Stipulating Parties agree that DCEO's PY4 statutory energy savings goal equals 113,624 MWhs. DCEO Ex. 1.0, 2.

5. The Stipulating Parties agree that ComEd achieved and exceeded its PY4 statutory energy savings goal. In order to resolve the contested issues in this docket, the Stipulating Parties agree that the Commission should find the total energy savings attributable to ComEd's energy efficiency portfolio for PY4 is 944,111 MWhs. For the purpose of this Stipulation and for that purpose only, the savings shall be determined by averaging the recommendations of ComEd and Staff.

6. The Stipulating Parties agree that DCEO fell short of its PY4 energy savings goal in the ComEd service territory of 113,624 MWhs. In order to resolve the contested issues in this docket, the Stipulating Parties agree that the total energy savings attributable to DCEO's energy efficiency portfolio in the ComEd service territory for PY4 is 107,640 MWhs.

7. The Stipulating Parties agree that modifications to DCEO's plan as reflected in Staff Exhibit 1.2 are reasonable and should be approved pursuant to Section 8-103(e) of the Act.

8. After covering DCEO's shortfall, the Stipulating Parties agree that ComEd's MWh savings in excess of the statutory savings goal (*i.e.,* banked savings) for PY4 is 323,766 MWh.

9. The Stipulating Parties agree that ComEd's cumulative amount of banked savings through PY4 is 421,543 MWh, which includes cumulative banked savings through PY3 of 97,777 MWh and 323,766 MWh of banked savings in PY4.

* * * *

13. The Stipulating Parties agree that the Stipulation is submitted for the purposes of reducing the uncertainties of litigation, conserving resources,

reducing the scope and complexity of contested matters between and among the Stipulating Parties, and simplifying the resolution of issues in this proceeding. The Stipulating Parties enter into this Stipulation in recognition of the requirement that any resolution of issues by the Commission must be supported by substantial record evidence, and otherwise in accordance with the law. Further, this Stipulation does not constitute agreement between or among the Stipulating Parties on the underlying methodologies and inputs used to calculate energy savings goals or achieved energy savings in this docket, and is not deemed binding in any other proceeding, nor is it to be offered or relied upon in any other proceeding, except as necessary to enforce the terms of this Stipulation.

14. The Stipulating Parties agree that the Stipulation is fair, equitable, in the public interest, and supported by the record in this proceeding.

15. The Stipulating Parties intend and agree that this Stipulation resolves all contested issues in this docket, such that no contested issues remain in this docket for the Commission to resolve. The Stipulating Parties therefore request that the Commission approve the Stipulation and decline to rule on the previously contested issues in this docket.

16. The Stipulating Parties further agree that the provisions of this Stipulation are not severable. In the event that the Commission declines to adopt the Stipulation in its entirety or decides to substantively rule on the merits of one or more of the previously contested issues in this docket, or the terms of the Stipulation are subsequently vacated or determined to be invalid by a court of competent jurisdiction, the Stipulating Parties are relieved of compliance with the terms of the Stipulation and free to advance contrary arguments, or take such position or pursue such remedies as they might otherwise pursue.

Joint Ex. 1.0 at 2-4, ¶¶ 1-9, 13-16.

VII. COMMISSION ANALYSIS AND CONCLUSION

The Commission finds that the Stipulation is a settlement among all the parties in this case and is supported by the evidentiary record, reasonable, in the public interest, and comports with State law, including Section 8-103. The Commission appreciates the parties' efforts to resolve the contested issues among themselves, and encourages them to continue to work cooperatively on energy efficiency evaluation issues. As a result, the Commission approves the Stipulation and declines to rule on the previously contested issues in this docket.

VIII. FINDINGS AND ORDERINGS PARAGRAPHS

The Commission, having given due consideration to the entire record and being fully advised in the premises, is of the opinion and finds that:

(1) Commonwealth Edison Company is an Illinois corporation engaged in the transmission, sale and distribution of electricity to the public in Illinois, and is a public utility as defined in Section 3-105 of the Public Utilities Act;

(2) the Commission has jurisdiction over Commonwealth Edison Company and the subject matter of this proceeding;

(3) the statements of fact set forth in the prefatory portion of this Order are supported by the evidence and the record and are hereby adopted as findings of fact;

(4) the Plan Year 4 statutory energy savings goal calculated for the Commonwealth Edison Company service territory pursuant to Section 8-103(b)(4) of the Public Utilities Act equals 727,985 megawatt-hours;

(5) Commonwealth Edison Company's Plan Year 4 statutory energy savings goal is 610,804 MWhs, and the Department of Commerce and Economic Opportunity's Plan Year 4 statutory energy savings goal is 113,624 MWhs;

(6) Commonwealth Edison Company achieved 944,111 MWhs of energy savings in Plan Year 4, and thus exceeded its portion of the statutory energy savings goal;

(7) the Department of Commerce and Economic Opportunity achieved 107,640 MWhs of energy savings in the Commonwealth Edison Company service territory in Plan Year 4, which fell short of its statutory energy savings goal;

(8) the modifications to the Department of Commerce and Economic Opportunity plan as reflected in Commission Staff Exhibit 1.2 are reasonable and are approved pursuant to Section 8-103(e) of the Public Utilities Act;

(9) the statutory energy savings goal for Plan Year 4 as set forth in Section 8-103(b) of the Public Utilities Act and the demand response reduction goal as set forth in Section 8-103(c) of the Public Utilities Act have thus been achieved in the Commonwealth Edison Company service territory;

(10) Commonwealth Edison Company is permitted to bank 323,766 MWhs from Plan Year 4, which results in a cumulative total of 421,543 MWh of energy savings (including cumulative banked savings through Plan Year 3 of 97,777) available for the potential use in Plan Years 5 and 6.

IT IS THEREFORE ORDERED that Commonwealth Edison Company is found to have achieved 944,111 MWhs of energy savings during Plan Year 4, and therefore is found to have complied with the incremental energy savings mandated by Section 8-103(b) of the Public Utilities Act, as modified by subsections (d) and (e) of that Section.

IT IS FURTHER ORDERED that Commonwealth Edison Company is permitted to bank 323,766 MWHs from Plan Year 4, which results in a cumulative total of 421,543 MWh of energy savings available for the potential use in complying with future Plan Years 5 and 6.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Illinois Administrative Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this ___________ day of ________________, 2015.

(SIGNED) BRIEN J. SHEAHAN Chairman