1 BEFORE THE
ILLINOIS COMMERCE COMMISSION
2
IN THE MATTER OF: )
3 )
COMMONWEALTH EDISON COMPANY )
4 ) 02-0479
Petition for declaration of service )
5 currently provided under Rate 6L to )
3 MW and greater customers as a )
6 competitive service pursuant to )
Section 16-113 of the Public Utilities)
7 Act and approval of related tariff )
amendmments. )
8
Chicago, Illinois
9 March 17, 2003

10 Met, pursuant to notice.

11 BEFORE:

12 Ms. Leslie Haynes, Administrative Law
Judge
13
APPEARANCES:
14
SIDLEY, AUSTIN, BROWN & WOOD by
15 MR. G. DARRYL REED
10 South Dearborn Street
16 Chicago, IL 60603
-and-
17 MR. MICHAEL S. PABIAN
MS. ANASTASIA POLEK-O'BRIEN
18 10 South Dearborn Street, Suite 3500
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19 for Commonwealth Edison Company;

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APPEARANCES: (Continued)

PIPER RUDNICK by
MR. CHRISTOPHER J. TOWNSEND
MR. DAVID I. FEIN
203 North LaSalle Street, Suite 1500
Chicago, IL 60601
for Akzo Nobel, Aux Sable Liquid Products, Inc.; General Mills, Inc.; and the Metropolitan Chicago Healthcare Council (collectively, the"Chicago Area Customer Coalition" or the Coalition");
MR. CONRAD REDDICK
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30 North LaSalle Street, Room 900
Chicago, IL 60602
for the City of Chicago;
SCHIFF, HARDIN & WAITE by
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for Illinois Power Company;
GIORDANO & NEILAN by
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333 North Michigan Avenue, Suite 2800
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for Trizec Properties, Inc.;
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for the staff;
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MR. ERIC ROBERTSON
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for the Illinois Industrial Energy Consumers;
SULLIVAN REPORTING COMPANY, by
CARLA L. CAMILIERE, C.S.R.,
License No. 084-003637

1 I N D E X

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| Witnesses: | Direct | Cross | Re-direct | Re-cross | By Examiner |
|---|---|---|---|---|---|
| Paul R. Crumrine | | | | | |

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6 E X H I B I T S

| APPLICANT'S | For Identification | In Evidence |
|---|---|---|
| ComEd No. 17 | | 1478 |
| IIEC Cross No. 1 (re-open) | | 1497 |

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1 THE COURT: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call Docket
3 02-0479. This is the petition of Commonwealth
4 Edison Company, petition for declaration of
5 service currently provided under Rate 6L to 3 MW
6 and greater customers pursuant as a competitive
7 service pursuant to Section 16-113 of the Public
8 Utilities Act and approval of related tariff
9 amendments.
10 MR. REED: G. Darryl Reed of the law firm,
11 Sidley, Austin, Brown and Wood, 10 South
12 Dearborn, Chicago, Illinois 60603 on behalf of
13 the petitioner, Commonwealth Edison Company also
14 on behalf of Commonwealth Edison Company.
15 MR. PABIAN: Michael S. Pabian, 10 South
16 Dearborn Street, 35th Floor, Chicago, Illinois
17 60606.
18 MS. POLEK-O'BRIEN: Anastasia Polek-O'Brien,
19 same address for Commonwealth Edison Company.
20 MR. MATRISCH: Appearing on behalf of the
21 staff of the Illinois Commerce Commission, Steve
22 Matrisch, 527 West Capital Avenue, Springfield,

Illinois 62701.

MR. TOWNSEND: On behalf of the Chicago Area Customer Coalition, the law firm of Piper Rudnick, 203 North LaSalle, Suite 1500, Chicago, Illinois 06601 by Christopher J. Townsend and David I Fein.

MR. ROBERTSON: Eric Robertson Lueders, Robertson, Kozen & Fitzhenry, P.O. Box 7351939 Delmar, Granite City, Illinois 62040, appearing on behalf of Abott Labs, et al. On behalf of the Illinois Industrial Energy Consumers.

MR. HANDELMAN: On behalf of Trizec Properties, Inc., the law firm of Giordano & Neiland, Arthur Handelman, Patrick Giordano, Paul Neiland. Address, 333 North Michigan Suite, 2800, Chicago, Illinois 60601.

MR. JOLLY: On behalf of City of Chicago, Ronald D. Jolly, Conrad R. Reddick 30 North LaSalle Suite 900, Chicago, 60602.

MR. MACBRIDE: On behalf of Illinois Power Company Owen McBride, 6600, Sear's Tower, Chicago, Illinois 60606.

1 JUDGE HAYNES: Are there any further
2 appearances?
3 (No response.)
4 JUDGE HAYNES: Hearing none, let the record
5 reflect there are none.
6 We are here today at the direction of
7 the Commission and the record in this proceeding
8 has been reopened.
9 Is there anything we need to discuss
10 before we call our first witness today or are we
11 just going to go ahead with Mr. Crumrine?
12 We do need to discuss the post-hearing
13 schedule, but perhaps that would be better after
14 the witness.
15 Mr. Reed, go ahead and call your first
16 witness then.
17 MR. REED: Thank you, your Honor.
18 My first witness is Mr. Paul R. Crumrine
19 for Commonwealth Edison today. I believe he has
20 previously been sworn in in this proceeding.
21 JUDGE HAYNES: He has.
22

1 DIRECT EXAMINATION
2 BY
3 MR. REED:
4 Q. Would you please state your name, spelling
5 your last name for the record.
6 A. Paul R. Crumrine; C-r-u-m-r-i-n-e.
7 Q. By whom are you employed?
8 A. Commonwealth Edison.
9 Q. What is your position with Commonwealth
10 Edison?
11 A. I'm director of regulatory strategies and
12 services.
13 Q. You have before you a document designated
14 Commonwealth Exhibit 17 that's been filed on
15 E-docket.
16 This document consists of a cover page
17 and four pages of text in question and answer
18 form designated the supplemental testimony of
19 Paul R. Crumrine.
20 Do you have that document before you?
21 A. Yes, I do.
22 Q. Was this document prepared by you or under

1 your direction?
2 A. Yes.
3 Q. Are there any changes which you would like
4 to make to this document?
5 A. No.
6 Q. If I were to ask you the same questions as
7 those contained therein today, would your answers
8 be the same?
9 A. Yes, they would.
10 MR. REED: We now move for the admittance of
11 Commonwealth Edison Exhibit 17 and tender the
12 witness Paul R. Crumrine for cross-examination in
13 this proceeding.
14 JUDGE HAYNES: Is there any objection to
15 admitting ComEd Exhibit 17?
16 (No response.)
17 JUDGE HAYNES: Hearing none, that is admitted.
18 (Whereupon ComEd
19 Exhibit No. 17 was
20 admitted into evidence.)
21 Mr. Robertson?
22

CROSS-EXAMINATION

BY

MR. ROBERTSON:

Q. Thank you. Good afternoon, Mr. Crumrine?

A. Good afternoon, Mr. Robertson.

Q. I would like to turn your attention to -- strike that.

Do you have a copy of the surrebuttal testimony of Mr. Alongi?

A. I'm sorry. I don't -- I think we're getting one. Yes, I do have a copy.

Q. I have a clarification in question about Alternative Rate HEP, which is described at Pages 8 and 9 of his testimony, which is referenced in your supplemental testimony in this proceeding; is that correct?

A. It is offered in my supplemental testimony, yes.

Q. Now --

JUDGE HAYNES: Please speak into the microphone.

BY MR. ROBERTSON:

1 Q. Now, the subparagraph at Page 9 of his
2 testimony refers to a component part of
3 alternative rate HEP which is also described in
4 his attachment LASR-1. And he says that the
5 alternative rate HEP will include charges for any
6 other costs the Company incurs for providing
7 service under the rate.
8 I believe similar language is actually
9 contained in the tariff itself; is that correct?
10 A. Yes, it is.
11 Q. Now, would you agree or disagree that
12 other than rate IPP and the Company's partial
13 requirements contract service rate, Rate PR,
14 there is no equivalent language in any of the
15 other tariffs of Commonwealth Edison?
16 A. I believe you're correct that Rate PR and
17 rate IPP are the only tariffs that have similar
18 language.
19 Q. Would you agree or disagree that Rate PR
20 is -- was offered by the Company pursuant to
21 Section 16-104 Subparagraph F of the Public
22 Utilities Act?

1 A. If that paragraph refers to the
2 requirement that the utilities offer delivery
3 services to less than 100 percent of the
4 customer's requirement, I would agree.
5 Q. Okay. And you are correct, and,
6 therefore, you have given the correct answer,
7 okay.
8 Now, would you agree or disagree that
9 under the language of the statute, the Company is
10 permitted to recover other costs of providing
11 service to such remaining electric power and
12 energy requirement? I'll refer you to the last
13 couple lines.
14 A. Yeah, that's an accurate paraphrase of
15 what is in Subsection F.
16 Q. Now, would you agree with me that there is
17 no equivalent language in the Public Utilities
18 Act with regard to the offering of an hourly
19 energy pricing rate or a Realtime pricing rate,
20 if you know?
21 A. As most of us know, I'm not a lawyer, but
22 I would disagree with that. I believe that

1 although that phrase is not specifically used in
2 Section 16-107, it does require that that rate be
3 subject to Article IV, which allows for cost
4 recovery.
5 Q. Right.
6 A. So I think that the concept is also there
7 in HEP or in the hourly pricing tariff.
8 Q. Just make sure I understand the
9 distinction.
10 In the first instance there is specific
11 statutory language which parallels the language
12 in the Rate PR; is that correct?
13 A. For the section of the statute that refers
14 to the Company's obligation to provide a product
15 like PR, that's correct.
16 Q. And the remaining portion of the Act, I
17 think you and I can both agree provides that
18 utility rates should be set to allow the utility
19 the opportunity to recover the costs of providing
20 the service.
21 And do you agree with that statement?
22 A. As a general statement.

1 Q. Okay. And, therefore, all rates should be
2 designed to allow the utility to recover the cost
3 of providing the service?
4 A. I believe -- I agree with that general
5 statement as well.
6 Q. Okay. Now, do you agree that alternative
7 Rate HEP is designed to be revenue neutral IN
8 relation to ComEd's rates in effect on October 1,
9 1996?
10 A. As a general statement, yes, I do agree
11 with that.
12 Q. And do you agree that the design of rate
13 HEP as proposed by the Company or in the --
14 originally and as modified by the Company --
15 strike that.
16 Do you agree that rate HEP AS originally
17 proposed implemented by the Company was designed
18 to be revenue neutral with regard to rates in
19 effect on October 1, 1996?
20 A. Yes.
21 Q. And do you agree that the -- with the
22 modifications that the Company originally

1 proposed in this proceeding, Rate HEP, I'm not
2 talking about the alternative, but the
3 modification you proposed, rate HEP was designed
4 to be revenue neutral in relation to the ComEd's
5 rates in effect on October 1, 1986?
6 A. Again, as a general statement, that's
7 correct.
8 Q. Now, under the alternative rate, HEP
9 described by Mr. Alongi at Pages 8 and 9 of his
10 surrebuttal testimony, do the -- maybe a better
11 way to do this is, do you have a copy of your
12 response to IIC data request?
13 MR. REED: Which one?
14 MR. ROBERTSON: 6 and 7.
15 THE WITNESS: I suspect we do.
16 BY MR. ROBERTSON:
17 Q. I want to refer -- in considering that
18 response I also want to refer you to Item D, the
19 market value credit in alternative ratemaking.
20 Now, the market value energy -- as
21 originally proposed in Mr. Alongi's surrebuttal
22 would essentially be equivalent to the transition

1 charged calculated under Sections 16-102,
2 definition of transition charge less the
3 mitigation factor; is that correct?
4 A. The market value energy credit? I'm sorry
5 but there isn't a term of that in the alternative
6 HEP.
7 Q. Market value credit, Item D.
8 A. I'm sorry. I need the question again.
9 Q. I'm using a term that's in the data
10 response. Maybe I'm referring to the wrong
11 thing.
12 But under the section Alternative Rate
13 HEP, there is an Item D, market value credit, is
14 there not? And if there is not, what is the
15 reference in the data request of market value
16 credit?
17 A. I'm sorry. I'm getting a little confused
18 there is too many Item Ds. There is one in the
19 data request and one in the tariff and they don't
20 all refer to the same concept.
21 Q. Maybe that's the problem I was having.
22 Let's go to the one referred in the data request.

1 No. 6, there you refer the charges
2 section of proposed rate HEP, parens, quote, Item
3 D, close parens, market value credit, end quote,
4 close parens.
5 To what does that refer?
6 A. The market value credit that's referred to
7 in the data request is the what I will call, for
8 lack of a better term, the back-out amount for
9 market value that is used to determine the
10 revenue neutrality component that is left over
11 after costs of delivery services, cost of
12 transmission, and the costs of market values left
13 over.
14 The market value credit is the value
15 that's used to determine the last item, the cents
16 per kilowatt hour item that is used to achieve
17 revenue neutrality or estimated up-front revenue
18 neutrality.
19 Q. And is that -- I'm looking at LASR-1
20 Page 1, which is the alternative rate HEP under
21 the charges section -- I'm looking at Item D,
22 little Roman Numeral I, is that the market value

1 that's referenced in your response to the data
2 request?
3 A. It's not exactly the same thing. The
4 charge in subpart D under charges and rate HEP is
5 actually the resulting cents per kilowatt hour
6 charge that is, again, the revenue neutrality
7 estimate. It's the charge that achieves revenue
8 neutrality.
9 Implicit in determining that value is a
10 market value credit that is used to determine
11 what amount is left over for revenue neutrality
12 after delivery services, transmission, and the
13 providing the commodity is determined.
14 So the market value credit is actually
15 used to determine the charge that shows up in
16 Item D in the tariff.
17 Q. I'm sorry for the confusion. I want to
18 make sure I understand what's happening here.
19 Under charges, the charges section
20 proposed rate HEP alternative rate LASR-1 D is a
21 charge expressed in cents per kilowatt hour
22 calculated to be equal to the charge determined

1 using the formula set forth the definition of
2 transition charge Section 16-102; is that correct
3 so far?
4 A. So far that's correct, yes.
5 Q. So the charge that is to be expressed here
6 is to be equivalent to the transition charge less
7 the mitigation factor, and in that formula there
8 will be a market value. And that market value
9 will be determined in accordance with Section
10 16-112 except that there will be certain
11 adjustments, new market value which will not be
12 included; is that correct?
13 A. Except for the very beginning when you
14 said this charge is set to the transition charge
15 less the mitigation factor. It's actually -- in
16 overly simplistic terms, it's actually the
17 transition charge plus the mitigation factor.
18 Q. That's what I meant.
19 A. And it's determined by backing out a
20 market value credit in accordance with the
21 equation in 16-102 using the market value from
22 16-112 with a few exceptions.

1 Q. All right. Now, if the mitigation factor
2 were, in fact, included in the calculation, then
3 this charge would be smaller, all else equal; is
4 that correct?
5 A. Other than for customers whose transition
6 charge would otherwise be zero, yes, that's
7 correct.
8 Q. And if the -- let's go back to in
9 calculating that, I'll call it a hybrid
10 transition charge because it's being calculated
11 16-102, but we're including the mitigation factor
12 now.
13 Ordinarily calculating the transition
14 charge would include whatever value's determined
15 in accordance with Section 16-112, is that
16 correct, as a component of the calculation?
17 A. That's generally correct.
18 Q. Now, is it true that under the regular
19 transition charge, the higher the market value,
20 the lower the transition charge, all else equal?
21 A. As a general statement, yes, that's
22 correct.

1 Q. And would it be true to say that the, all
2 else equal, the lower the market value, the
3 higher transition charge?
4 A. Again, all else being equal, yes.
5 Q. Now, in this particular calculation of the
6 hybrid transition charge, the market value that
7 will be used will not reflect the adjustments for
8 marketing costs or uncollectible costs that are
9 currently included in the market value energy
10 charge calculation made by the Company under its
11 currently existing market value index tariff; is
12 that correct?
13 A. That's correct. The effect of those
14 modifications ends up in this revenue neutrality
15 factor.
16 I really don't like the term, hybrid
17 transition charge. Let's make it clear that's
18 your term. I prefer revenue neutrality term.
19 Q. I just got the idea it was hybrid because
20 you use the term calculated as set forth in the
21 definition of transition charge Section 16-102.
22 So with regard to -- if you'll bear it

1 with me and let me call it hybrid transition
2 charge it will make my thought process a little
3 easier.
4 Now, with regard to the hybrid
5 transition charge, are there any other
6 adjustments to the market value component used to
7 calculate the hybrid transition charge other than
8 the exclusion of sales and marketing costs and
9 uncollectible costs that are currently reflected
10 in market value under the Company's existing
11 marketing value index tariff?
12 A. I'm sorry. Could I have that read back
13 please. Could you repeat the question.
14 JUDGE HAYNES: Could you repeat the question.
15 MR. ROBERTSON: Sure. I ask him questions all
16 the time.
17 THE WITNESS: I'm sorry. I just missed
18 something in the question.
19 BY MR. ROBERTSON:
20 Q. We're talking about adjustments to the
21 market value that will be used to calculate the
22 hybrid transition charge.

1 As I understand it, that market value
2 will not reflect the sales and marketing costs
3 and the uncollectible costs that are currently
4 included in the Company's market value energy
5 charge as determined under the Company's current
6 market value index tariff; is that correct?
7 A. That is correct.
8 Q. Are there any other adjustments to market
9 value either proposed or existing that will not
10 be included in the calculation of the market
11 value for the hybrid transition charge?
12 A. The annual adder that is in the equation
13 in the PPO is shown as AA will not -- will also
14 not be included in that calculation.
15 Q. And will that have the tendency to
16 increase or decrease the market value that's
17 determined for the hybrid transition charge?
18 A. By not including it in the market value
19 credit, the effect of that will end up in this
20 revenue neutrality term rather than being backed
21 out as part of the market value, correct.
22 So the market value will be lower -- the

1 credit will be lower, and the resulting cents per
2 kilowatt hour will be --
3 Q. Charge?
4 A. -- charge will be in this revenue
5 neutrality component or what you're calling the
6 hybrid.
7 Q. And it will be higher than it would
8 otherwise have been?
9 A. That's correct. The cents per kilowatt
10 hour will move from one place to the other within
11 the charges.
12 Q. Now, I also understand that on the other
13 side of the equation, you are not including or
14 not using the adders or adjustments that we just
15 talked about to market value of the hybrid
16 transition charge for the determination of the
17 hourly rate HEP prices or price; is that correct?
18 A. That's correct. They're not being
19 charged, so they're not being backed out.
20 Q. And Mr. Crumrine, is it the Company's
21 position that it is required by law to offer a
22 Realtime pricing rate such as rate HEP?

1 MR. REED: Objection; calls for a legal
2 conclusion.
3 MR. ROBERTSON: Well, Mr. Crumrine is familiar
4 with Public Utilities Act. There are portions of
5 his direct testimony in this proceeding, and his
6 rebuttal testimony in this proceeding refer to
7 the Act.
8 If he done know or if he doesn't know
9 what the Company's position is, he can tell me.
10 But he's already opened the door to some
11 of this in his testimony in this proceeding
12 already.
13 JUDGE HAYNES: If you can, I will allow the
14 question to the extent the witness knows.
15 THE WITNESS: As I sit here, I'm not sure
16 about the legal requirement that you just asked
17 me.
18 BY MR. ROBERTSON:
19 Q. Do you know whether or not rate HEP was
20 offered under Section 16-107 in the Act?
21 A. It was -- it is.
22 Q. Does 16-107 require the Company to offer a

1 real time pricing rate in accordance with that
2 section?
3 A. As a general statement, yes.
4 Q. Now, does it require the Company to offer
5 that rate to all nonresidential customers?
6 A. That's the last step down the path that I
7 don't think I can go.
8 As I sit here, I don't know for sure.
9 Q. Okay. Would you agree, subject to check,
10 that the Act provides that each electric utility
11 shall file on or before May 1, 1998 a tariff or
12 tariffs which allow nonresidential retail
13 customers in the electric utility service area to
14 elect real time pricing beginning October 1,
15 1998?
16 A. As I'm looking, you've probably read
17 Subsection A, yes.
18 Q. Now, in your sur -- or your partial --
19 strike that.
20 In your supplemental testimony in this
21 proceeding, which you've introduced into evidence
22 here today, you have attached, I believe,

1 to -- as part of your testimony a copy of a
2 proposed order, is that correct -- or is that
3 attached to the motion filed by the motion?
4 A. It's not attached to my testimony.
5 Q. All right. The Company's filed a
6 stipulation and motion to which your testimony
7 was attached; is that correct?
8 A. I believe that's correct.
9 Q. Now, in that testimony -- in that motion
10 and the stipulation, I believe, references made
11 to the filing of another rate, a rate MEP; is
12 that correct?
13 A. Are you saying referenced in the motion?
14 I'd have to refresh my recollection.
15 Q. Page 4 of the motion, paragraph 8.
16 A. Yes, it refers to a filing of the Rider
17 MEP.
18 Q. Do you know whether or not Commonwealth
19 Edison could be compelled to offer a rate such as
20 MEP, I think that stands for what monthly energy
21 pricing?
22 A. It does stand for monthly energy pricing.

1 Q. Do you know whether or not ComEd could be
2 compelled to offer such a rate by the Commission
3 or do you have an opinion as to whether or not
4 they could be?
5 A. It's my non-legal opinion that we could
6 not be compelled to offer it.
7 Q. Now, the ComEd motion also refers to an
8 agreement between ComEd and certain parties, is
9 that correct, and a stipulation?
10 A. That's correct.
11 Q. Now, I'll try to shorten this up a little
12 bit. I think you've already been through this
13 once today. I'm going to show you a copy of what
14 I would ask the court reporter to mark as IIC
15 Cross-exhibit No. 1 which is entitled, Agreement
16 Regarding Various Matters Involving or Affecting
17 Rates for Electric Service Offered by
18 Commonwealth Edison Company. The date is March
19 3, 2003.
20 Do you have a copy of that?
21 A. Yes, I do.
22 Q. Is that document and the attachments

1 thereto and the supplemental memorandum and
2 agreements contained therein a true and correct
3 copy of the agreement that's referred in the
4 motion and stipulation?
5 A. The copy I'm looking at is.
6 Q. Okay. Now, is it correct to say that but
7 for -- we'll call this exhibit the agreement but
8 for the agreement, your supplemental testimony
9 would not have been filed today?
10 A. I think that's likely, yes.
11 Q. That's likely?
12 A. I'm sorry. Yes.
13 Q. Would it be true to say that but for the
14 agreement, the Company would not be prepared to
15 file Rider MEP?
16 A. I think that it is also likely we would
17 not be ready to file Rider MEP.
18 Q. Would you agree that ComEd is an
19 independent distribution company?
20 A. I'm not sure I know what you mean by the
21 term, "independent distribution company."
22 Q. I'm sorry. Integrated distribution

1 company?
2 A. Do you mean are we functioning understand
3 the integrated distribution company rules.
4 Q. Yes?
5 A. As opposed to functional separation?
6 Q. Yes.
7 A. That is correct.
8 Q. And do you agree that residential
9 customers on the ComEd system do not have demands
10 for electricity that exists for three megawatts
11 per customer?
12 A. I agree.
13 Q. Do you agree that customers on the --
14 residential customers on the ComEd system did not
15 have demands of electricity in excess of one
16 megawatt per customer?
17 A. I agree.
18 MR. ROBERTSON: I don't have anything further.
19 Thank you. I would move the admission of IIC -- I
20 don't know what number I said IIC Cross-exhibit
21 1. But I don't have any idea where we are as far
22 as numbering in this proceeding.

1 When I say IIC Cross-exhibit No. 1 on
2 reopening.
3 JUDGE HAYNES: Sounds good. Is there any
4 objection?
5 MR. REED: No objection.
6 JUDGE HAYNES: IIC Cross-exhibit 1 on
7 reopening is admitted.
8 (Whereupon IIC
9 Cross No. 1 was
10 admitted into evidence.)
11 Is there any further cross-examination?
12 Redirect?
13 MR. REED: We do have one question.
14 JUDGE HAYNES: Okay.
15 REDIRECT EXAMINATION
16 BY
17 MR. REED:
18 Q. Mr. Crumrine, is Commonwealth Edison
19 Company asking the Commission or asking the
20 Commission to approve the agreement that's been
21 marked and entered into the record as IIEC
22 Cross-exhibit No. 1 on reopening?

A. No, it is not.

MR. REED: Thank you.

No further questions.

JUDGE HAYNES: Recross?

RECROSS-EXAMINATION

BY

MR. ROBERTSON:

Q. Yeah. In the context of the agreement and in the context of the filing made in this case that Commonwealth Edison and supporters of the agreement are asking that the Commission approve the motion that they filed initiating these proceeding and asking for certain relief; isn't that true?

A. That's correct.

Q. And as I understand it, in this docket and in the other dockets, the Company and the proponents are asking not only that the Commission adopt or grant the motion, but that the Commission enter orders that are word for word the same as those proposed by the ComEd and the proponents of the settlement; are they not?

1 A. I don't remember whether if they have to
2 be word for word. I just don't recall. I know
3 they have to be essentially the same.
4 Q. Essentially identical except for captions
5 or some words like that?
6 A. I don't recall the exact qualification.
7 Q. Okay.
8 MR. ROBERTSON: I have nothing further.
9 MR. REED: No.
10 JUDGE HAYNES: Thank you, Mr. Crumrine.
11 You're excused.
12 I believe IIEC in their response to the
13 ALJ ruling indicated that the they may want to
14 file briefs, they may want to file testimony.
15 Does IIEC have a proposal on how they
16 wish to proceed?
17 MR. ROBERTSON: Well, I don't believe that we
18 feel the need in response to the two changes that
19 were proposed by Mr. Crumrine in his supplemental
20 testimony to file testimony in response to that
21 specific thing or those specific recommendations.
22 JUDGE HAYNES: Testimony, but how about

1 briefing?
2 MR. ROBERTSON: I don't have a good idea for
3 you there because of the three cases that are
4 currently pending before the Commission which are
5 the subject of IIC Cross Exhibit 1 on rebuttal.
6 I recognize the proponents of the
7 settlement want to move as quickly as possible to
8 get a resolution of their motion and the some
9 relief they asked for.
10 My only concern is that other parties
11 who are not participants in the settlement and
12 who may be required to file a substitutive
13 response in one or more of the other cases be
14 given a fair opportunity to prepare whatever
15 briefs or brief they wish to file in these
16 proceedings. And that would be a function in
17 part of the coordination between the three ALJs
18 on what dates for filing we're going to have in
19 these three cases.
20 I think the schedule is proposed by the
21 components contemplated that all of this would be
22 done on the same day, briefs would be filed in

1 all three cases on the same day, reply briefs and
2 talking about briefs on exception now.
3 JUDGE HAYNES: My question was specifically
4 for post --
5 MR. ROBERTSON: For this case.
6 JUDGE HAYNES: And specifically post-trial
7 briefs or do you not object to the schedule and
8 the joint reply that called for the ALJs'
9 proposed order tomorrow?
10 MR. ROBERTSON: Ordinarily, I would prefer to
11 have the opportunity to file a brief with the ALJ
12 in order to have some hopeful influence on the
13 development of the proposed order.
14 I believe that in this instance, I'd be
15 willing to accept the idea that we would file
16 briefs on exception in lieu of initial briefs.
17 JUDGE HAYNES: So is there no alternate
18 schedule to the 18th for the proposed order, the
19 21st for briefs and exceptions, and the 24th --
20 MR. ROBERTSON: I filed so many pleadings. I
21 filed a recommended schedule that contemplated
22 the filing of preliminary briefs and then a

1 proposed order and then briefs on exception I
2 thought in this case. And I suggested that if we
3 didn't do the preliminary briefs, then we do a
4 schedule that required the filing of briefs on
5 exception at approximately the same time I had
6 the initial preliminary brief. I don't have it
7 in front of me. I should have brought it with
8 me.
9 When does all this have to be done by
10 March 28th?
11 MR. GIORDANO: Yes, sir.
12 MR. ROBERTSON: I guess depending on when your
13 Honor files a proposed order, I think if I didn't
14 say so specifically in here, I could live with a
15 schedule filing a brief on exceptions on March
16 the 21st. I think that would be pretty close to
17 what they proposed.
18 JUDGE HAYNES: I guess it depends on what the
19 Commission decides tomorrow. I take it there's
20 no objection to the schedule contained in the
21 joint reply?
22 MR. ROBERTSON: I guess let me make a specific

1 recommendation if the Commission decides to grant
2 the motion or deal with the proposed order that
3 you issued within the next day or two, then
4 Friday,
5 March the 21st for briefs on exception and
6 Tuesday the 25th for reply briefs, as I believe
7 the other cases were contemplated filing reply
8 briefs that Monday the 24th.
9 JUDGE HAYNES: Okay. I will take that
10 schedule to the Commission tomorrow. Is there
11 anything further?
12 MR. REED: We have nothing, your Honor.
13 MR. MATRISCH: Staff has nothing, your Honor.
14 JUDGE HAYNES: I will also be marking -- not
15 marking this heard and taken, but continuing it
16 generally pending the Commission's decision.
17 Thank you very much.
18 (Continued sine die.)
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