STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY,	)	
	)	
	)	
Regarding a Complaint and Petition By	)	
Commonwealth Edison Company For An Order	)	No. 02-0277
Finding PDV Midwest LLC In Violation Of The	)	
Prohibition On Resale Of Retail Electric Service	)	
Contained In the Illinois Public Utilities Act And	)	
Set Forth In Rider 12, Conditions Of Resale Or	)	
Redistribution Of Electricity By The Customer To	)	
Third Persons, And For Other Relief.	)	

Direct Testimony of
LAWRENCE S. ALONGI
Director, Distribution Pricing
Commonwealth Edison Company

April 25, 2003

Q: Please state your name and business address.

A: My name is Lawrence S. Alongi. My business address is Commonwealth Edison Company, Three Lincoln Centre, Oakbrook Terrace, Illinois 60181-4260.

Q: By whom are you employed and in what position?

A: I am employed by Commonwealth Edison Company ("ComEd" or the "Company") in the position of Director, Distribution Pricing.

Q: Please describe your educational background and business experience.

A: I have a Bachelor of Science degree in Electrical Engineering from Northwestern University. I have been employed by ComEd since July 1974. During my employment by ComEd I have had assignments in field engineering, project engineering, distribution planning, system planning, distribution engineering, and distribution pricing. I have held positions as District Engineering Supervisor, Area Engineering Supervisor, Planning Supervisor, Assistant Division Engineer, Division Engineer, and Senior System Rate Administrator. In March 1998, I assumed my present position as Director, Distribution Pricing (the Distribution Pricing Department then was called the Rate Department, and thus my position then was called "Director of Rates"). I have also been a member of the Edison Electric Institute Economic Regulation and Competition Committee since I assumed my present position in 1998.

Q: Please describe your current duties and responsibilities.

A: My primary duties are to plan and direct the development and implementation of ComEd's retail tariffs and revisions to such tariffs. These duties include the planning and direction of ComEd's rate design, cost of service activities, and rate administration. I also direct the preparation of the necessary filings of such tariffs with the Illinois Commerce Commission (the "Commission" or "ICC").

Q: What is the purpose of your testimony in this proceeding?

A: In this proceeding, ComEd seeks a declaration by the Commission that PDV Midwest Refining, L.L.C., ("PDV") on its own or through is authorized agent, Citgo Petroleum Corp., ("Citgo") has engaged in the prohibited resale of electricity to separate entities operating a needle coking plant, Needle Coker, and a calciner plant, Chicago Carbon, adjacent to PDV's refinery facility in Lemont, Illinois, (collectively the "Lemont Facilities"). In addition, ComEd requests the Commission's assistance to determine the amount of charges that properly should be billed for retail electric service provided to the refinery, calciner plant and needle coking plant. My testimony will show that, under applicable tariffs and ComEd practices, PDV is not entitled to (1) be billed for electric usage of the needle coking and calciner plants on a combined basis with the electric usage of its refinery at the reduced rate under Rate CS – Contract Service ("Rate CS") provided for in its Rate CS contract with ComEd or under other applicable ComEd rates or (2) resell electric service to Needle Coker and Chicago Carbon. In addition, I will discuss the appropriate billing arrangements for the Lemont Facilities.

Q: Please explain what is meant by the term "combined billing".

A: Under combined billing ComEd adds together the usages and demand registrations on more than one electric meter owned by ComEd (or a Meter Service Provider as defined in ComEd's Rate MSPS – Meter Service Provider Service) and located on a single customer's premises – or on multiple contiguous premises of a single customer – to determine the customer's bill. That is, the usages of all the electric meters owned by

ComEd (or a Meter Service Provider) and located on the contiguous premises of a single customer are added together, and the demand registrations are added together, for purposes of applying charges to the customer's bill. For combined billed accounts, only one Monthly Customer Charge is charged to the customer, while other charges are assessed for optional facilities, such as monthly rental for multiple meters.

Q: What are the historical ownership relationships applicable to the facilities in question?

A: As indicated in the testimonies of Mr. David Geraghty and Mr. Robert Preuss, prior to 1997, all three of the Lemont facilities in question – the refinery, the needle coking plant and the calciner plant – were under the common ownership of a partnership called Uno-Ven.

Q: Under these circumstances, was combined billing appropriate?

A: Yes.

Q: Please explain.

A: Since all of the facilities were commonly owned and located on the contiguous premises of that single owner, the usage from all of the facilities qualified for combined billing. And, prior to 1997, ComEd did combine bill the usage of each of the facilities on one general service account under Rate 6L – Large General Service ("Rate 6L"), resulting in a bill to Uno-Ven that was lower than it would have been had the electric service provided to the three facilities been billed separately, primarily because of the structure of the demand charge under Rate 6L.

Q: In what way did the ownership interest in the Lemont Facilities change?

A: As indicated in the testimonies or Messrs. Geraghty and Preuss, in 1997, the Uno-Ven partnership ceased ownership of the Lemont Facilities and, unbeknownst to ComEd at the time, the resulting changes in ownership left PDV owning the refinery, Unocal owning the calciner plant through Chicago Carbon, and Unocal and PDV owning 75% and 25% of the needle coking plant, respectively, through Needle Coker.

Q: Under these circumstances, is combined billing to PDV appropriate for electric service used at all three facilities?

A: No.

Q: Please explain.

A: Although the needle coking and calciner plants are contiguous to the refinery in Lemont, they are not PDV facilities (i.e., PDV does not have more than 50% ownership of either the needle coking plant or the calciner plant) and, therefore, the electric service for the needle coking and calciner plants does not qualify for combined billing with the electric service used by PDV at the refinery.

Q: What tariff provisions apply to this case?

A: Between August 1997 and August 2002, PDV obtained electric service from ComEd under a reduced rate contract executed under the provisions of Rate CS ("the Rate CS Contract") which, at paragraph 1.3(a) of the Rate CS contract, incorporates the tariff provisions of ComEd's Rate 6L and Terms and Conditions. ComEd's Rate 6L provides, under the heading "Measurement of Demand and Kilowatt-hours Supplied", that "[w]here two or more metering installations are provided on the customer's premises . . ." demands and kilowatt-hours supplied shall be combined for billing purposes. (Emphasis added.) In addition, the tariff provisions state, "The Maximum Demands and kilowatt-hours supplied for two or more premises will not be combined for billing purposes hereunder." The provisions of Rate 6L do not define in any way the meaning of "customer" or "premises" for purposes of combining demands and kilowatt-hour usages. (Copies of Rate 6L tariff sheets describing "Measurement of Demand and Kilowatt-hours Supplied" and other tariff sheets addressed in my testimony are attached as Exhibit 3.1.)

Q: Are any other tariff provisions applicable?

A: Yes, the provisions of ComEd's tariff Terms and Conditions apply. Specifically, it states: "Customer shall have the same meaning as "retail customer" defined in Section 16-102 of the [Public Utilities] Act." In addition, since August 2002, PDV has been taking service at the Lemont Facilities under Rate RCDS – Retail Customer Delivery Service ("Rate RCDS") and Rider PPO-MI – Power Purchase Option (Market Index) ("Rider PPO"). An identical provision referring to Section 16-102 of the Public Utilities Act appears in the definition section of the Rate RCDS tariff. Section 16-102 of the Act provides: " 'Retail customer' means a <u>single entity</u> using electric power or energy at a <u>single premises</u>…" (Emphasis added.) (Copies of the relevant tariff pages are included in Exhibit 3.1.) Thus, because the Lemont Facilities are owned and operated by at least two different and distinct entities (not one) with a majority ownership (ownership of more than 50%), there are at least two customers for the electric services provided by ComEd to the Lemont Facilities.

Q: Please explain your latter statement.

A: Because Unocal owns 100% of the calciner plant through Chicago Carbon and more than 50% (i.e., 75%) of the needle coking plant through Needle Coker, and because those two plants are on contiguous property, they could be regarded as one customer and electric service provided to both of those plants could be combined billed with each other. They would nonetheless still be regarded as a different customer from the PDV refinery.

Q: Is there anything else that that applies to this situation?

A: Yes. ComEd explains the meaning of the terms "customer" and "premises" in its Rate Memorandum: General No. 5, dated January 24, 1966 ("General No. 5"), informational copies of which were provided to the Staff of the Illinois Commerce Commission by ComEd in its normal course of business. (A copy of General No. 5 is attached as Exhibit 3.2.) In General No. 5, ComEd makes it clear that a "customer" means a single entity requesting service for a single premises – consistent with the statutory definition. General No. 5 also states that if there are two or more entities involved, then each entity must be treated as a separate customer and those customers are not entitled to combined billing. Thus, the calciner and needle coking plants, which are not owned by PDV, do not qualify for combined billing with PDV's refinery.

Q: Would it be permissible for PDV to resell some of the electric service to Unocal for use at the needle coking and calciner plants?

A: No.

Q: Please explain.

A: ComEd's Terms and Conditions tariff further states: "The Company will not furnish electricity for resale except as provided under Rider 12 - Conditions of Resale or Redistribution of Electricity by the Customer to Third Persons or except electric power and energy purchased under Rider PPO pursuant to Section 16-110(b) of the Act." Resale, as noted in Rider 12, is the furnishing of electricity by a customer to a third person or persons where (a) the electricity is separately charged for in whole or in part, or

(b) it is metered or its use is limited in any way. Rider 12 prohibits resale of electric service except under very limited circumstances of certain grandfathered buildings for which resale was permitted under practices that were in effect prior to January 2, 1957. (A copy of Rider 12 is included in Exhibit 3.1.) The Lemont Facilities are not covered by the grandfathering provision of Rider 12. Even more fundamentally, PDV is neither a properly certificated public utility nor a properly certificated Alternative Retail Electric Supplier ("ARES") and, therefore, may not provide electric service to retail customers such as Needle Coker and Chicago Carbon. Consequently, it is inappropriate for PDV to take service and resell it to Needle Coker or Chicago Carbon for use at the needle coking or calciner plants. In other words, when common ownership of the refinery ended, the combined billing of these operations also should have ended. Needle Coker and Chicago Carbon should have been set up as new customers under ComEd's Rate 6L tariff and received electricity from ComEd, not PDV. (Because of their common ownership and their contiguous location, however, Needle Coker and Chicago Carbon would have been entitled to combined billing as a single customer.) Thus, ComEd requests that, in accordance with relevant provisions of ComEd's tariffs, the Public Utilities Act, and the Commission's rules, the Commission prohibit PDV from reselling electricity to Needle Coker or Chicago Carbon.

Q: Why is it important that the number and identities of customers billed for electric service be properly determined and that unauthorized resale not take place?

A: Foremost among the reasons is to ensure that retail customers receive service from an entity that is subject to the jurisdiction of the Commission, to assure the benefits and protections of regulated service. While resale of electric service is authorized under certain circumstances, those resale providers are under the Commission's jurisdiction. Another purpose of the prohibition against unauthorized resale of electric service is to avoid situations in which property owners obtain "middle man" profits on the sale of an otherwise regulated service. In that regard, establishing the correct relationship between the provider of electric service and each customer is important to ensure that the customer has the statutorily-provided ability to choose its electric supplier and to select among that provider's offerings.

Q: Please describe the appropriate manner in which electric service should be provisioned and billed to the three Lemont Facilities?

A: Since, as noted above, the refinery is under separate ownership from the calciner and needle coking plants, the latter would constitute separate customers from the refinery. Separate metering facilities need to be installed so that ComEd can measure and render accurate bills to Chicago Carbon and Needle Coker for service to the calciner and needle coking plants. (Although, since Chicago Carbon and Needle Coker are both more than 50% owned by Unocal, their billing could be combined.) ComEd's Terms and Conditions tariff states: "The customer shall provide a suitable place for the metering equipment which shall be readily accessible to employees of the Company for reading, testing, inspecting, or exchanging such metering equipment." In addition, Section 6.27 of ComEd's "Information and Requirements for the Supply of Electric Service", which is incorporated by reference in ComEd's tariff Terms and Conditions, Sheet No. 56, states: "Meter connection devices of a type approved by the Company (both indoor and outdoor) shall be furnished, installed and maintained by the Customer." Thus, Chicago Carbon and Needle Coker should install the appropriate meter connection arrangements to enable ComEd to install the necessary meters.

Q: Please describe how similar changes in ownership are generally handled?

A: Changes in ownership of portions of a customer's premises is not uncommon. Generally, when ownership of portions of a customer's premises is split, the customer contacts ComEd to arrange for the appropriate entity to be billed for the electric service associated with the portion of the premises being transferred to new ownership. ComEd coordinates with the entities involved and installs appropriate meters at each new customers' premises so that correct bills will be rendered for each customer.

Q: Is there a recent example of this?

A: Yes. ComEd had a special service contract with a certain steel producer, Company A. During the term of that contract, Company A filed for Chapter 11 bankruptcy protection, which was subsequently converted to a Chapter 7 liquidation proceeding. Last October, Company B purchased a portion of Company A's facility out of the large and highly complex bankruptcy proceeding. An affiliate of Company A, Company C, operates the remaining portion of the facility not purchased by Company B. The division of the facility between the two customers required Company B and Company C to install additional meter connections so that ComEd could separately meter and bill each customer individually.

Q: What is ComEd asking of the Commission?

A: In this case, ComEd is asking the Commission to order PDV, Needle Coker, and Chicago Carbon to coordinate and cooperate with ComEd so that ComEd can install the appropriate metering to render separate bills for electric service to each of these distinct entities.

Q: What else is ComEd requesting?

A: ComEd is also asking the Commission to order it to reissue corrected bills to PDV going back to the start of the Rate CS contract with PDV that take into account the fact that usage at the calciner and needle coking plants did not qualify for combined billing with service at PDV's refinery because those facilities were not PDV facilities. The bills would seek to recover the shortfall either from either PDV or from Chicago Carbon and Needle Coker. Because ComEd did not have its own metering data to separately bill the electric service provided to the needle coker and calciner plants, such billing would be based on PDV's meter data that it used to bill Unocal for the usage at the calciner and needle coking plants.

Q: Does this conclude your testimony?

A: Yes, it does.