

Exhibit D

**ICC Dkt. No. 12-0298, ComEd's Verified Application for Rehearing
in the Smart Meter Docket dated July 6, 2012**

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	No. 12-0298
Petition for Statutory Approval of a Smart Grid	:	
Advanced Metering Infrastructure Deployment	:	
Plan pursuant to Section 16-108.6 of the Public	:	
Utilities Act	:	

VERIFIED APPLICATION FOR REHEARING

Commonwealth Edison Company (“ComEd”), in accordance with Section 10-113 of the Illinois Public Utilities Act (the “PUA”), 220 ILCS 5/10-113; the Commission’s Rules of Practice, 83 Ill. Admin. Code § 200.880; and the Commission’s final Order of June 22, 2012 (“the AMI Order” or “Order”), respectfully submits this Application for Rehearing of the AMI Order. This Application is supported by the Affidavit of Joseph R. Trpik, Jr., CPA (“Trpik Affidavit”). In support of this Application, ComEd states:

INTRODUCTION

ComEd seeks rehearing on three aspects of the AMI Order. First, and most important, the plan approved by the Commission in the AMI Order for ComEd’s AMI deployment schedule is no longer sustainable in light of the Commission’s Order in Docket No. 11-0721 (“the Formula Rate Order”). The Energy Infrastructure Modernization Act (“EIMA”) was intended to encourage utilities to make billions of dollars of new investments in the State’s energy infrastructure by creating a new formula rate that would give utilities greater certainty of cost recovery. EIMA was thereby designed to provide utilities with the revenues they need in order to make such large investments.

ComEd’s original AMI deployment plan reflected certain expectations regarding the revenues and cash flow the company would receive under its formula rate. For the reasons set

forth in detail below and in the accompanying Trpik Affidavit, the Formula Rate Order is inconsistent with those expectations, and would result in a revenue shortfall of hundreds of millions of dollars over the next five years. ComEd must evaluate its capacity to make new investments on the basis of the entire recovery allowed by the Commission. Therefore, in response to the Formula Rate Order, ComEd has had no choice but to reevaluate, among other things, its planned expenditures on new investments, including the AMI program. In anticipation of revenue shortfalls for 2012, it has been forced to delay the AMI deployment originally scheduled for 2012 and to reevaluate its participation in the scheme enacted in EIMA.

ComEd has not yet submitted any notice to the Commission withdrawing its participation, and ComEd fervently hopes that the program can go forward. But ComEd simply cannot make \$2.6 billion of new investments – including nearly \$1 billion in AMI – while being denied the total revenues that are needed to fund them. The Commission has now granted rehearing concerning the Formula Rate Order. If the Commission acts expeditiously to correct its Order, and allows the cost recovery which ComEd believes to be required under EIMA and which ComEd needs to make the substantial new investments envisioned by the statute, ComEd is poised to move forward quickly with AMI deployment. Even if the Commission grants relief in the formula rate proceeding, however, the AMI deployment schedule will need to be revised to account for the delays that have occurred as a result of the uncertainty created by the Formula Rate Order. If the Commission declines to revise its Formula Rate Order, the AMI deployment schedule will require more sweeping changes, and ComEd may be forced to withdraw from EIMA altogether.

The second issue on which ComEd seeks rehearing concerns specific statements in the AMI Order that appear to prejudge the question whether an onsite contact – or “door knock” –

should be required prior to disconnection for nonpayment. As the AMI Order elsewhere notes, that issue is the subject of a separate rulemaking under Part 280, and nothing in this Order should preordain the results of that rulemaking.

The third issue on which ComEd seeks rehearing concerns the AMI Order's requirement that ComEd include in its AMI plan various proposals to address "at-risk" and "vulnerable" populations. These include the Commission's directive that ComEd develop metrics to track the impact of AMI deployment on vulnerable populations, Order at 19-20; that ComEd account for the societal cost associated with remote disconnection capability in an AMI cost-benefit study, Order at 53; and that ComEd provide Section 16-108.5(b-10) assistance to customers who are "unable to avoid disconnection." Order at 54. Respectfully, ComEd believes that the concept of a "vulnerable" or "at-risk" population is poorly defined and unworkable. For one thing, the concept as defined by AARP and the Illinois Attorney General ("AG"), and apparently by the Commission as well, is not tailored to meet the statutory goals of helping low-income people. For example, the definition would appear to include wealthy, educated families with young children. For another thing, it is impracticable for ComEd to obtain information from customers concerning, for example, physical or mental disability or social alienation. Further, the inclusion of "societal costs" in a cost-benefit analysis runs directly counter to the express statutory language, which enumerates in detail the "costs" that such an analysis should consider. Finally, to the extent that the Commission envisions diverting Section 16-108.5(b-10) funds to individuals who are ineligible to receive those funds based upon the categories specifically enumerated in Section 16-108.5(b-10), or for purposes other than those set forth in the statute, such a diversion of funds would not be lawful.

ARGUMENT

I. The Commission Should Grant Rehearing to Revise ComEd's AMI Deployment Schedule.

A. The Commission's Formula Rate Order Drastically Changes the Revenue Assumptions Underlying ComEd's Original AMI Deployment Schedule.

As a general matter, ComEd plans its investment based upon its forecasted revenues. When it anticipates higher revenues, it can afford to make larger investments in new infrastructure. When it anticipates that its revenues and cash flows will fall short of its actual cost of service, it must correspondingly cut back on its expenses, including new investments. Trpik Aff. ¶ 3. The regulatory compact enacted in EIMA reflects these planning needs. In exchange for ComEd's agreement to make extremely large new investments in infrastructure, including AMI, and to be accountable for operational results of these new investments, EIMA provides ComEd, through the formula rate, greater certainty concerning cost recovery and thus greater certainty concerning the projected revenues that will be used to fund the investments. *See generally* 220 ILCS 5/16-108.5.

ComEd crafted its AMI deployment plan based on certain assumptions concerning the costs that it would be permitted to recover under the formula rate, and thus the revenue and cash flow it would receive under that rate and that it planned to use to fund the AMI program. Trpik Aff. ¶ 5. It made those assumptions based on EIMA's text and intent. In three important respects, however, the Commission's Formula Rate Order dramatically departs from those statutorily-based assumptions. Together, these three departures from the EIMA cost recovery framework – which are the subject of the pending rehearing in No. 11-0721 concerning the Formula Rate Order – will produce a revenue gap amounting to hundreds of millions of dollars.

First, ComEd had assumed in creating its AMI plan that it would earn a return of 5.74% (equal to ComEd's long-term debt rate) on the capital it has invested in its pension plans and

which is referred to as a “pension asset” on ComEd’s Federal Energy Regulatory Commission Form 1. Trpik Aff. ¶ 5. Yet the Formula Rate Order did not allow for any investment return at all on the capital that ComEd has invested in its pension plans.

Second, ComEd had assumed in creating its AMI plan that its revenue would be based upon an end-of-year rate base, which would enable ComEd to recover through the reconciliation process the full cost of the substantial capital investments envisioned by EIMA, including AMI-related investments, for the year in which those investments are made. Trpik Aff. ¶ 6. However, the Formula Rate Order instead based ComEd’s revenue upon an average rate base, which will result in ComEd recovering significantly less than the full cost of its investments for the year in which they are made.

Third, ComEd had assumed in creating its AMI plan that it would earn interest equal to its pre-tax weighted average cost of capital (“WACC”) on the amount ultimately determined to be owed to ComEd through the reconciliation process. Trpik Aff. ¶ 7. That amount reflects the difference between the actual costs ComEd incurs in a given year and the amounts that it collected through the rates in effect in that year. Because on average that difference is not billed by ComEd until 24 months after the costs are incurred, ComEd must finance the balance for that period. Trpik Aff. ¶ 7.

ComEd does not raise capital on an investment-by-investment basis; rather, it raises capital for its collective funding needs. It funds that capital with both equity and debt. Trpik Aff. ¶ 8. Equity can come from internally generated funds or from equity infusions by ComEd’s parent company, and EIMA sets ComEd’s return on equity as equal to the 30-year U.S. Treasury bond rate plus 580 basis points. *Id.* ComEd also issues debt to maintain a healthy capital structure consistent with its utility peer companies, including both long-term and short-term debt.

Its cost of debt is equal to a weighted average of outstanding debt, both long-term and short-term – not the current or marginal cost of new debt. *Id.* Thus, ComEd’s actual cost of capital reflects both its equity and debt funding and is equal to the company’s WACC. *Id.* ComEd’s WACC in 2010, as reflected in ICC Docket No. 11-0721, was 8.16%; yet the Formula Rate Order allowed ComEd to recover a financing cost of only 3.42% for the reconciliation-based balances that ComEd must finance. *Id.* at ¶¶ 8-9.

Because the Formula Rate Order sets the formula for annual rate-setting, these three differences between ComEd’s expectations concerning the formula rate and the Formula Rate Order will repeat annually. Together, they will result in a revenue shortfall of hundreds of millions of dollars. Trpik Aff. ¶ 10. ComEd expected to receive approximately \$50 million in revenue for 2011, \$80 million in revenue for each year between 2012 and 2014, and more than \$100 million in revenue for 2015 and each subsequent year, from its investment return on its pension asset, an end-of-year rate base, and a WACC-based interest rate on the reconciliation balance that it is required to finance. *Id.* In addition, other items addressed in the Formula Rate Order have a significant financial impact on ComEd, including cash adjustments to working capital, operating reserves, incentive compensation, other technical items, and the resulting reduction of available equity, which would have accounted for an additional \$40-70 million in revenue each year from 2011 to 2015 and over \$100 million in revenue in 2016. *Id.* The company’s AMI deployment plan was premised on receiving this revenue. *Id.* Yet under the Formula Rate Order, that revenue will not materialize.

The Formula Rate Order not only will reduce ComEd’s revenues in the ways just discussed; it will also increase the company’s costs by making it more difficult for the company to raise funds through equity and increase the cost of its debt. Trpik Aff. ¶ 11. With respect to

equity, ComEd projects that its actual return on equity (“ROE”) would decrease by as much as 2.8%, meaning that the company will recover significantly less than its actual cost of equity. *Id.* With respect to debt, ComEd expects that its credit rating will be reduced by credit rating agencies, which could ultimately result in higher debt borrowing costs and an overall higher cost of capital. *Id.*

B. As a Result of the Uncertainty Created by the Commission’s Formula Rate Order, ComEd Cannot Meet Its Original AMI Deployment Schedule.

As a result of the massive revenue shortfall that would result from the Formula Rate Order, ComEd has been forced to pull back on the investments that it originally had planned for 2012, including those associated with AMI, and to reevaluate its investment plans for upcoming periods, including its continued participation in the AMI program. Trpik Aff. ¶¶ 2, 12, 15. It is financially infeasible for ComEd to undertake significant investments in new infrastructure when it lacks adequate revenue to fund those investments. Trpik Aff. ¶ 2.

For 2012, ComEd has slowed its AMI deployment pending the outcome of rehearing concerning the Formula Rate Order. Trpik Aff. ¶¶ 13-14. ComEd is hopeful that the formula rate can be corrected on rehearing so as to provide it with the needed revenue to make the substantial investments envisioned by the EIMA. In the face of the uncertainty created by the Formula Rate Order, however, it would not be a viable financial strategy for ComEd to continue with its 2012 deployment plan. Trpik Aff. ¶¶ 13-15. Accordingly, it has been necessary for ComEd to defer a number of steps and benchmark dates included in the original AMI deployment plan. Specifically:

- ComEd has extended the schedule for all business process designs, other than the process designs that supported the original September 2012 meter installation start date, including delaying the award of the contracts for this work;

- Contract negotiations with meter vendors and placement of initial meter orders to support the September 2012 installation date did not occur in June, as had been scheduled;
- Because it is likely that meter installation will not begin in September, a number of associated support activities, such as purchasing vehicles for the installers, have been delayed;
- The scheduled project start date for the replacement of the Meter Data Management system has been delayed by six months, until January 2013. Replacement of this system is necessary to support the installation of smart meters beyond the first approximately 400,000; and
- Hiring of additional project team members has been extended in time due to the reduction in the 2012 scope of work, as described above.

Trpik Aff. ¶ 14. These steps – which were necessary in the wake of the Formula Rate Order – will make it impracticable for ComEd to meet its AMI deployment objectives for 2012. *Id.*

If the Formula Rate Order is revised on rehearing to reflect ComEd's expectations concerning the formula rate – which were based upon its legal interpretation of the EIMA – ComEd is ready to move quickly to place its AMI investments back on track. The delays made necessary by the Formula Rate Order and resulting uncertainty will unfortunately still require a modified deployment schedule, but ComEd is confident that EIMA's statutory goals can be realized. *Id.*

If, on the other hand, the Formula Rate Order is left unchanged after rehearing, ComEd will require substantial modifications to the AMI deployment plan at the very least, and may be forced to reconsider its participation in the AMI program altogether. *Id.* ComEd cannot invest

billions of dollars in new infrastructure when it is denied the revenue streams that are needed to fund such investment. *Id.*

The near-term availability of capital through access to the debt markets does not offer a solution to the revenue shortfall that would result from the Formula Rate Order. Trpik Aff. ¶ 15. ComEd's capital structure already reflects greater leverage than is appropriate – greater leverage than virtually any other similarly situated utility company in the United States. *Id.* While debt financing is an important and essential tool for ComEd, relying heavily on incremental debt financing would not be a viable financial strategy for funding new investments. To take on incremental new debt to cover the lost revenue is analogous to recommending to a person whose pay has just been cut that he should rely on bank loans and credit card debts not only to make up his lost earnings, but that he should also assume additional long-term obligations based on those loans. *Id.*

In sum, ComEd is hopeful that the Formula Rate Order will be corrected and that AMI deployment can then continue on a modified schedule. ComEd has chosen not to withdraw as a participating utility in the EIMA precisely because of that possibility. The regulatory compact enacted in the EIMA would bring extraordinary benefits to ComEd's customers and to the State of Illinois. ComEd is hopeful that the statute's vision can be made a reality – but in view of the present uncertainty caused by the Formula Rate Order, ComEd is unable to proceed with its original AMI deployment schedule.

II. The AMI Order Should Be Modified to Remove Language Improperly Pre-Judging the Door-Knock Issue.

The AMI Order correctly finds that this docket, which concerns the approval of ComEd's AMI plan, is not the right place to address what the Commission's rules require with respect to notification prior to disconnection. Order at 61. But the Order then goes on to offer extensive

commentary concerning the notification required in the context of disconnection for non-payment. Order at 62. The Order's extraneous discussion of whether a "door knock" is required under current Commission rules and whether that requirement should be "retained" even when a meter can be disconnected remotely, Order at 62, is not within the scope of the issues before the Commission in this docket and was not part of the Proposed Order or the testimony and briefing in this proceeding. Opining on the meaning of current Section 280.130(d) is improper in this proceeding, and such language should be deleted on rehearing so as to avoid inappropriately prejudging this issue, which is currently pending in a Part 280 rulemaking.

Indeed, there is no full or proper record in this proceeding that could support a conclusion about whether a "door knock" should be required prior to a disconnection for non-payment. For instance, the AMI Order does not mention or address the safety issues for utility workers that result from attempting to contact a customer at the premises at the time of disconnection. These safety issues, however, are the subject of significant evidence in the Part 280 rulemaking. Further, no notice and opportunity to be heard was given on this issue, contrary to the Commission's rules and due process. As the AMI Order correctly finds at the outset of its discussion, issues concerning compliance with current Part 280 are appropriately addressed in proceedings other than the current one, and questions on the meaning of the language in the current rule should be addressed there as well.

In addition to the absence of a proper evidentiary record, the interpretation of the rules offered in the AMI Order is not consistent with the plain language of those rules. Thus the AMI Order concludes that Section 280.130(d) of the Commission's rules "requires notice at a premises prior to disconnection for non-payment." Order at 62. But the current rule only states that "[a] utility shall attempt to advise the customer that service is being discontinued by

directing its employee making the disconnection to contact the customer at the time service is being discontinued.” 83 Ill. Adm. Code §280.130(d). This language neither mentions nor explicitly requires a premises visit, notice at the premises, or an in-person contact.¹ ComEd is not asking the Commission to state here that the current rule does not require a premises visit, but simply to avoid the unnecessary and inappropriate prejudgment of an issue not before the Commission in this docket, but which is pending and is the subject of substantial evidence in a different docket. ComEd’s AMI Plan explicitly provides for compliance with the effective version of Part 280 – whether the current rule or a new rule.

Furthermore, disputes as to the meaning of Section 280.130(d) may affect numerous parties beyond those involved in this docket, and such issues should not be addressed in this proceeding whose sole purpose is to approve ComEd’s AMI Plan. Indeed, several parties in the Part 280 proceeding have filed Briefs on Exceptions asserting that the language in the Final Order amounts to a ruling by the Commission on the “door knock” issue. *See* ICC Docket No. 06-0703, AARP/AG Brief on Exceptions at 7 (describing the Final Order as “clarifying the goal and importance of the premise[s] visit notification requirement”); ICC Docket No. 06-0703, City of Chicago Brief on Exceptions at 3-4 (“[T]he Commission adopted the City’s recommendations that ComEd should be required to take certain actions to assist customers who are at risk of disconnection . . .”). It would be unfair and unwarranted to permit this type of bootstrapping argument when the AMI Order correctly holds that the “door knock” issue is not properly before the Commission in this proceeding. Therefore, the Commission should grant rehearing on this

¹ It is also unclear what the added language means. Does it apply to non-AMI meters, AMI meters, or both? To the extent the language creates a meaning of the current rule for AMI meters only, it would inappropriately suggest multiple meanings for the same rule. Further, the advent of AMI cannot change the meaning of the Part 280 rules. This is yet another reason to avoid addressing this issue in the AMI order.

issue to remove the extraneous and unsupported discussion of the interpretation and scope of Section 280.130(d) of Part 280.

III. The AMI Order Should Be Modified To Remove Language Concerning Vulnerable Or At-Risk Populations.

The AMI Order accepts various proposals advanced by AARP and the AG concerning “vulnerable” or “at-risk” populations. While it is not entirely clear which persons might fall into those categories, AARP/AG’s testimony suggests that the terms could encompass “[i]n addition to low income customers, . . . those customers with an elderly, disabled, or very young member of the household, as well as those who rely on a language other than English,” AARP/AG Ex. 1.0, 22:495-97, and “the socially isolated,” AARP/AG Ex. 2.0, 1:13. The AMI Order directs ComEd (a) to attempt to develop metrics to track the impact of AMI deployment on “vulnerable” populations, Order at 19-20; (b) to account for the “societal costs” associated with remote disconnection capability in the cost-benefit study accompanying ComEd’s AMI plan, Order at 53; and (c) to provide Section 16-108.5(b-10) assistance to aid customers who are unable to avoid disconnection, Order at 54. The AMI Order should be modified to remove each of these directives.

A. The Concept of “Vulnerable” Or “At-Risk” Populations Is Poorly Defined and Unworkable.

As an initial matter, the concept of “vulnerable” or “at-risk” populations is poorly defined and overbroad. For example, it is entirely unclear who might fall into the category of “the socially isolated” or how such people might be identified by a public utility company. The demographic groups identified by AARP/AG are also an imprecise proxy for whatever social phenomenon they seek to measure. For example, the definitions proposed by the AARP/AG witnesses include families with young children – which would include some of the wealthiest

and most highly educated customers in ComEd's service area. There is no reason to believe that such customers are placed "at risk" in any way. The same observation could be made of many customers who are "elderly," that is, over 65 years of age.

Additionally, even if the concept of "vulnerable" or "at-risk" populations could be made more concrete, ComEd is not positioned to obtain information concerning its customers' ages, income level (other than for those customers who qualify for low-income programs), education level, disability, or degree of social isolation. As explained in ComEd's testimony, ComEd would need to conduct surveys of its customers to identify vulnerable or at-risk populations; but customers are likely to resist disclosing to a public utility company, for example, whether they suffer from mental illness or disability, their income or educational level, or whether they feel socially isolated. Indeed, many customers may be offended at such personal inquiries. *See* ComEd Ex. 10.0, 9:231-10:254.²

B. EIMA Does Not Authorize Consideration of Societal Costs Associated With Remote Disconnection Capability in the AMI Cost-Benefit Study.

ComEd acknowledges that the disconnection of electric service to a customer can have social consequences. Evaluating the societal costs associated with remote disconnection capability, however, is beyond the scope of this proceeding, which concerns solely whether ComEd's AMI plan meets specific requirements set forth by statute. The statute sets forth a detailed list of the factors that should be included in the cost-benefit analysis to be submitted with an AMI plan. Among these various factors, the statute expressly contemplates

² The AMI Order recognizes these difficulties and directs ComEd to engage in a discussion with stakeholders to develop a methodology to identify and track vulnerable populations. The Order further leaves open the possibility that, at a later date, ComEd can provide an explanation of the barriers to tracking vulnerable populations. The Order also acknowledges that it may not be possible to develop such a methodology. Order at 20. For purposes of this Application for Rehearing, ComEd contends that the concept is sufficiently ill-defined and unworkable on its face that ComEd should not be required to pursue the development of such a methodology.

consideration of certain societal benefits and societal costs. The statute does *not*, however, include any mention of societal costs associated with remote disconnection capability:

“Cost-beneficial” means a determination that the benefits of a participating utility’s Smart Grid AMI Deployment Plan exceed the costs of the Smart Grid AMI Deployment Plan as initially filed with the Commission or as subsequently modified by the Commission. This standard is met if the present value of the total benefits of the Smart Grid AMI Deployment Plan exceeds the present value of the total costs of the Smart Grid AMI Deployment Plan. *The total cost shall include all utility costs reasonable associated with the Smart Grid AMI Deployment Plan.* The total benefits shall include the sum of avoided electricity costs, including avoided utility operational costs, avoided consumer power, capacity, and energy costs, and avoided societal costs associated with the production and consumption of electricity, as well as other societal benefits, including the greater integration of renewable and distributed power resources, reductions in the emissions of harmful pollutants and associated avoided health-related costs, other benefits associated with energy efficiency measures, demand-response activities, and the enabling of greater penetration of alternative fuel vehicles.

220 ILCS 5/16-108.6(a) (emphasis added). When a statute is this specific about the factors that must be considered, one should presume that the drafters intended to omit other factors that are not expressly included. *See Baker v. Miller*, 159 Ill. 2d 249, 260 (1994) (“[T]he enumeration of one thing in a statute implies the exclusion of all others”); *People v. Spencer*, 408 Ill. App. 3d 1, 8 (1st Dist. 2011) (“The maxim *expressio unius est exclusio alterius* is an aid of statutory construction that means ‘the expression of one thing is the exclusion of another.’ [Citation.] This maxim is based in logic and common sense and dictates that where a statute or regulation lists the things to which it refers, it may be inferred that all omissions therefrom should be understood as exclusions.”).

C. EIMA Does Not Authorize the Expenditure of Section 16-108.5(b-10) Funds For Customers Who Are Unable To Avoid Disconnection.

The AMI Order also directs ComEd to provide Section 16-108.5(b-10) assistance to “customers who are unable to avoid disconnection.” Order at 54. To the extent that the Commission intended in its Order to direct that Section 16-108.5(b-10) assistance be provided to “vulnerable” or “at-risk” customers who would not qualify as “low-income,” that directive violates the express terms of the statute. Section 16-108.5(b-10) expressly states that ComEd’s contribution is to be made to an “energy low-income and support program,” 220 ILCS 5/16-108.5(b-10). For the Commission to expand the scope of that program to all vulnerable people, regardless of whether they qualify as “low-income,” would nullify the express choice made by the legislature to focus the statutory assistance program on low income households.

Finally, EIMA makes clear that the purpose of low-income support programs is the “*avoidance* of imminent disconnection,” 220 ILCS 5/16-108.5(b-10) (emphasis added) – not to provide support to customers who are *unable* to avoid disconnection. Thus, the Commission’s directive is inconsistent with the plain terms of the statute.

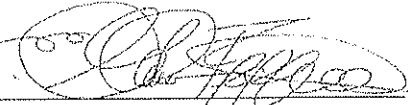
CONCLUSION

For the foregoing reasons, ComEd’s application for rehearing should be granted.

Dated: July 6, 2012

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

By: 

One of its attorneys

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STATE OF ILLINOIS)
)
COUNTY OF COOK)

VERIFICATION OF ROSS C. HEMPHILL

I, Ross C. Hemphill, having first been duly sworn, state and aver as follows:

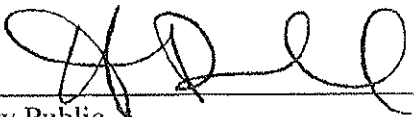
1. I am Vice President, Regulatory Policy & Strategy of Commonwealth Edison Company ("ComEd"). I am an adult and if called to testify, could testify competently as a witness on the facts stated in the attached Verified Application for Rehearing and this Verification.

2. I have read the foregoing Application for Rehearing for ComEd's Petition for Statutory Approval of a Smart Grid Advanced Metering Infrastructure Deployment Plan pursuant to Section 16-108.6 of the Public Utilities Act. The facts stated therein are true and correct or, on information and belief, I verily state that I believe them to be true.

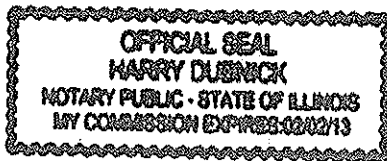


Ross C. Hemphill

SUBSCRIBED AND SWORN to
Before me on this 6th day of
July, 2012.



Notary Public



STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY :
 : No. 12-0298
Petition for Statutory Approval of a Smart Grid :
Advanced Metering Infrastructure Deployment :
Plan pursuant to Section 16-108.6 of the Public :
Utilities Act :

AFFIDAVIT OF JOSEPH R. TRPIK, JR., CPA

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, Joseph R. Trpik, Jr., CPA, being first duly sworn, declare under oath as follows:

1. My name is Joseph R. Trpik. I am currently employed by Commonwealth Edison Company (“ComEd”) as Senior Vice President, Chief Financial Officer, and Treasurer. As Senior Vice President, CFO, and Treasurer of ComEd, I am responsible for all financial activities, including financial reporting and analysis, budgeting, business planning, financings, and risk management. Since 2001, I have held a variety of positions at ComEd and other companies affiliated with Exelon Corporation (“Exelon”).

2. For reasons I will describe more specifically in the following paragraphs, ComEd’s original Smart Grid Advanced Metering Deployment (“AMI”) schedule cannot be sustained given the financing challenges created by the Commission’s May 29, 2012 Order in ComEd’s first formula rate case proceeding, ICC Docket No. 11-0721 (the “11-0721 Order”). The gap between our actual costs and revenues allowed has led ComEd to conclude that it would not be a viable financial strategy for ComEd to proceed with the discretionary infrastructure projects under the statute, including the AMI project as it had initially planned. ComEd is

committed to meeting its obligations under the Energy Infrastructure Modernization Act (“EIMA”), including those related to installation of Smart Grid AMI, and to be accountable for operational results of new investments but cannot practicably do so unless and until it obtains relief from the Commission, including the grant of ComEd’s Application for Rehearing in this docket.

3. ComEd plans its level of investment each year based upon its forecasted revenues and earnings. When ComEd’s revenues and cash flows fall short of its actual cost of service, it has no choice but to cut its levels of new investment. The unexpected and significant reduction in future revenues and cash flow resulting from the 11-0721 Order have adversely impacted the investments that ComEd can make in EIMA programs including, but not limited to, AMI.

4. ComEd plans to invest significant sums over the next several years in order to maintain and improve current infrastructure and implement EIMA-related programs. These expected investments would increase safety and reliability, specifically through the modernization of the distribution system and reduction of customer outages due to storms. ComEd is also required to ensure continued customer benefits through the development of service-enhancing technology, low-income support programs and energy innovation programs. EIMA programs amount to \$2.6 billion of investment over the next ten years. The investment in AMI alone was projected to be \$900 million over this period.

5. However, ComEd’s revenue and earnings projections were negatively affected by the 11-0721 Order, threatening its expected investments. The overall impact of the 11-0721 Order on ComEd’s revenue requirement was extreme and results in a decrease of approximately \$220 million in 2011-2012, declining to approximately \$110 million in 2013, and then escalating

in 2016 to approximately \$225 million. That Order negatively affected ComEd's projections in three principal ways and the Commission has now granted rehearing concerning these three issues in ICC Docket No. 11-0721. First, prior to receiving the 11-0721 Order, it was ComEd's full expectation that it would earn a return equal to its long-term debt rate on the capital it has invested in its pension plan, and which is referred to as a "pension asset", in excess of annually incurred costs. This would have accounted for approximately \$70 million in revenue in 2011, approximately \$60 million in revenue in 2012, and approximately \$50-\$60 million in revenue each year from 2013 through 2016. ComEd's investment plans were based on the premise that ComEd would collect that revenue.

6. Second, before receiving the 11-0721 Order, ComEd expected that its revenue would be based on an end-of-year, not average, rate base. Use of the average rate required by the 11-0721 Order does not reflect ComEd's actual rate base and will result in a significant decrease in revenue.

7. Third, prior to the 11-0721 Order, ComEd also expected that it would earn interest on the reconciliation adjustment, or "true up" balances, under EIMA while they are outstanding. These balances, which will be determined each year, reflect the difference between the actual costs ComEd incurred in a given year and the amounts that it billed through rates in that year. Because these "true up" rate adjustments are billed 24 months after ComEd's costs are incurred on average, ComEd must finance its "true up" balances for that period.

8. The so-called "hybrid" interest rate of 3.42% adopted by the Commission is lower than ComEd's cost of capital used to finance the investments and does not allow ComEd to recover the full cost of financing the "true up" balances. Under EIMA, the interest on the "true

up” amount must allow ComEd to recover its cost of financing. ComEd sources its capital from equity and debt, and it raises money for its collective funding needs and not on an investment-by-investment basis. Equity can come from either internally generated funds or from equity infusions from ComEd’s parent company, Exelon. EIMA sets ComEd’s cost of equity, or return on equity (“ROE”), as equal to the 30-year U.S. Treasury bond rate plus 580 basis points. ComEd also issues debt on a regular basis to maintain a healthy capital structure that is also consistent with our utility peer companies. ComEd’s total debt outstanding comprises long-term and short-term debt issued at various points in time, so its true cost of debt is equal to a weighted average of debt outstanding. Therefore, ComEd’s true cost of funding any investment, be it the reconciliation adjustment or some other portion of ComEd’s total financing needs, is equal to its pre-tax weighted average cost of capital (“WACC”). ComEd’s 2010 WACC, reflected in ICC Docket No. 11-0721, was 8.16%.

9. While each reconciliation adjustment does need to be financed for considerably longer than the one-year period that defines the maturity of the longest “short-term” debt, the need to use WACC for this adjustment applies irrespective of investment term. ComEd’s WACC already reflects the short- and long-term debt term in ComEd’s capital structure, and assigning only debt to support this portion of its investment double counts that debt and effectively treats ComEd’s capital structure as being other than our actual capital structure. Because of this, only an interest rate equal to ComEd’s WACC allows ComEd to recover its true cost of financing, and the hybrid rate adopted by the Commission does not permit ComEd to recover its costs of financing.

10. As stated, the return on pension asset, an end-of year rate base and capital structure and a WACC-based interest earned on the regulatory asset would have accounted for

approximately \$50 million in revenue for 2011, approximately \$80 million in revenue per year in 2012 through 2014, and more than \$100 million in 2015 and in each subsequent year. In addition to this, other items addressed in the 11-0721 Order have a significant financial impact to ComEd. Such items include cash adjustments to working capital, operating reserves, incentive compensation, other technical items, and the resulting reduction of available equity, which would have accounted for \$40-70 million in revenue each year from 2011 to 2015 and over \$100 million in revenue in 2016. ComEd had planned on funding future capital expenditures, including investments related to EIMA, with earnings that included these amounts.

11. The 11-0721 Order's severe, adverse financial impacts will also potentially make it more difficult for ComEd to raise funds through equity and increase the cost of its debt. I project that our actual ROE would decrease by as much as 2.8%, meaning we are recovering significantly less than our actual cost of equity. Furthermore, I project that our credit metrics as assessed by the credit rating agencies will decrease, which could ultimately result in higher debt borrowing costs and an overall higher cost of capital. These negative financial impacts will be felt by ComEd, its investors, and its customers throughout the entire EIMA formula rate period.

12. The massive reduction in revenues available to fund new investment and the negative financial impacts caused by the 11-0721 Order will not allow ComEd to proceed with the investment plan put into place before issuance of that Order, including in particular discretionary investments such as AMI. In general, ComEd will need to pull back on planned investments because of the reduction in expected revenue. AMI is not the only project adversely impacted.

13. In particular, the 11-0721 Order negatively impacted our planning with respect to AMI in two separate, but related, ways. First, the revenue and earnings impacts that I described above cautioned against ComEd proceeding on the current schedule with such a large long-term investment. Second, although the revenue and earnings losses were not immediate, the 11-0721 Order creates a great deal of uncertainty about our ability to recover our costs, not only those that were directly impacted by the 11-0721 Order but others that we will be incurring under EIMA, including AMI costs. The Commission's grant of rehearing in ICC Docket No. 11-0721 on the three rate-making issues I discussed above, while a welcome development, does not remove the concrete adverse impacts of the 11-0721 Order or even the uncertainty created by that Order.

14. In direct response to, and as a result of the 11-0721 Order, ComEd took the following steps with respect to the AMI deployment plan:

- Other than the process designs that supported the original September 2012 meter installation start date, the schedule for all other business process designs has been extended. Among other things, the award of the contract for this work has been delayed;
- Completing the contract negotiations with meter vendors and placing the initial meter orders to support the September 2012 installation date did not occur in June, as had been scheduled;
- Because it is likely that meter installation will not begin in September, a number of associated support activities, such as purchasing vehicles for the installers, have been delayed;
- The schedule project start date for the replacement of the Meter Data Management system has been delayed by six months, until January 2013.

Replacement of this system is necessary to support the installation of smart meters beyond the first approximately 400,000; and

- Hiring of additional project team members has been extended out in time due to the reduction in the 2012 scope of work, as described above.

These steps – which were necessary in the wake of the Formula Rate Order – will make it extremely difficult and impractical, for ComEd to meet its AMI deployment objectives for 2012. If the 11-0721 Order is revised on rehearing to reflect ComEd’s expectations concerning the formula rate – which were based upon its legal interpretation of the EIMA – ComEd is ready to move quickly to place its AMI investments back on track. The delays made necessary by the 11-0721 Order and resulting uncertainty will unfortunately still require a modified deployment schedule, but ComEd is confident that EIMA’s statutory goals can be realized. If, on the other hand, the 11-0721 Order is left unchanged after rehearing, ComEd will require substantial modifications to the AMI deployment plan at the very least, and may be forced to reconsider its participation in the AMI program altogether. ComEd cannot invest billions of dollars in new infrastructure when it is denied the revenue streams that are needed to fund such investment.

15. In my professional opinion, and in the views of ComEd’s management, it would not have been a viable financial strategy for ComEd to have proceeded with the AMI project on the original deployment schedule in light of the projected immediate and long-term revenue and financial impacts of the 11-0721 Order. The near-term availability of capital through access to the debt markets, while nearly always possible at some cost, provides no answer to the problem. Although ComEd has been ordered to work with Staff and possibly other parties to analyze ComEd’s capital structure, ComEd’s capital structure already reflects more leverage than is appropriate and more than virtually every other similarly-situated utility company in the United

States. Although debt financing is an important and essential tool for ComEd, incremental debt financing is not now a viable financial strategy for funding new investment, especially in response to a negative regulatory outcome such as the 11-0721 Order and the environment of uncertainty in which we are now operating. Recommending that ComEd should access additional funds through debt is analogous to recommending to someone whose pay has just been cut that he should rely on bank loans and credit card debt to not only make up his lost earnings, but that he should assume additional long-term obligations based on that loan. The correct answer is to adjust spending, not take on additional debt. Moreover, ComEd does not view the resulting unfavorable financial ratios I described above, including return on equity, as remotely sufficient to justify any additional equity contributions.

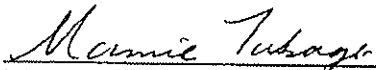
I solemnly affirm under penalty of perjury and upon personal knowledge that the content of this Affidavit is true and correct.

FURTHER AFFIANT SAYETH NOT.


Joseph R. Trpik, Jr.

On this 6th day of July 2012, before me, the undersigned notary public, personally appeared Joseph R. Trpik, Jr., proved to me through personal knowledge to be the person whose name is signed above on this document in my presence.

Subscribed and sworn to before me
this 6th day of July, 2012


My commission expires: 6-6-16

