STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	**:**	
On Its Own Motion	**:**	
vs.	**:**	
Commonwealth Edison Company	**:**	
	:	**22-0486**
Order Requiring Commonwealth Edison	**:**	
Company to file an Initial Multi-Year	**:**	
Integrated Grid Plan and Initiating	**:**	
Proceeding to Determine Whether the	**:**	
Plan is Reasonable and Complies	**:**	
with the Public Utilities Act.	**:**	
	:	
Commonwealth Edison Company	**:**	
	:	**23-0055**
Verified Petition for Approval of a	**:**	
Multi-Year Rate Plan under Section	**:**	
16-108.18 of the Public Utilities Act.	**:**	

<u>ORDER</u>

December 14, 2023

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By the Commission:

I. INTRODUCTION

On July 21, 2022, the Illinois Commerce Commission ("Commission") issued an Order requiring Commonwealth Edison Company ("ComEd" or "Company") to file its Multi-Year Integrated Grid Plan ("MYIGP" or "Grid Plan") and initiating Docket No. 22-0486. As required pursuant to Section 16-105.17 of the Public Utilities Act ("the Act"), ComEd filed its MYIGP on January 17, 2023. Also on January 17, 2023, ComEd filed its Multi-Year Rate Plan ("MYRP" or "Rate Plan") pursuant to Section 16-108.18 of the Act, initiating Docket No. 23-0055. The two dockets were consolidated on January 19, 2023.

ComEd's Grid Plan details the investments, expenses, initiatives, and activities that ComEd plans to undertake over the five-year period from 2023 through 2027 and includes information in response to the requirements of Section 16-105.17 of the Act.

ComEd's Rate Plan proposes a general increase in rates for electric service covering billing periods from January 2024 through December 2027, as well as other proposed changes in terms and conditions. ComEd petitioned the Commission to authorize and direct ComEd to make compliance filings necessary to place into effect ComEd's proposed Rate MRPP – Multi-Year Rate Plan Pricing ("Rate MRPP") tariff.

II. FRAMEWORK FOR GRID PLANS AND MULTI-YEAR RATE PLANS

On September 15, 2021, Governor J.B. Pritzker signed into law Public Act 102-0662 ("P.A. 102-0662"). The intent of P.A. 102-0662 is to facilitate Illinois' transition to clean energy, encourage transparency in electric utility regulation, and promote greater diversity in the renewable energy industry. Central to P.A. 102-0662 is the State's transition to clean energy and decarbonization in the electric power sector. The General Assembly found that cost-effective system investments are necessary to support and to improve the existing distribution system so that electric utilities can integrate distributed energy resources ("DER") into the grid; support beneficial electrification ("BE") for electric vehicle ("EV") use and adoption; and promote opportunities for third-party investment in nontraditional, grid-related technologies and resources such as batteries, solar panels and smart meters. 220 ILCS 5/16-105.17(a). P.A. 102-0662 encourages nontraditional solutions to utility, customer, and grid needs that may be more efficient and cost effective, and less environmentally harmful than traditional solutions. *See* 220 ILCS 5/16-105.17(a)(6). Improvements and investments to the utility grid system must be made in a manner that ensures the transition to clean energy includes and equitably benefits all communities and residents, expressly including those who reside in Equity Investment Eligible Communities ("EIEC"), low-income and environmental justice ("EJ") communities (EIEC and EJ are used interchangeably in this Order except where distinction is required). *Id*.

To that end, Section 16-105.17(c) requires electric utilities serving more than 500,000 retail customers in Illinois to submit, for Commission approval, a Grid Plan. 220 ILCS 5/16-105.17(c). The Grid Plan must be designed, among other things, to (1) coordinate the State's clean energy, climate and environmental goals with utility grid investments that are made to effectuate the policy goals of P.A. 102-0662 over a five-year planning horizon; (2) ensure cost-effective improvement and optimization of electricity grid assets; (3) facilitate an increase in DER connected to the grid; (4) support efforts to bring the benefits of grid modernization and clean energy to all retail customers, with at least 40% of those benefits going to EIEC; (5) provide customers with "greater engagement, empowerment and options for energy services"; (6) reduce grid congestion and increase grid capacity for DER interconnection; (7) ensure opportunities for public participation throughout the planning process; (8) provide for the analysis of the cost-effectiveness of the proposed system investments that take into account environmental costs and benefits; (9) support the achievement of the State's environmental goals and emissions reductions, support the long-term growth of energy efficiency ("EE"), demand response and investments in renewable energy; (10) provide sufficient public information to enable grid interconnection; and (11) provide delivery services at rates affordable to low-income customers. 220 ILCS 5/16-105.17(d)(1)-(11).

The General Assembly further determined it was "necessary for electric utilities, the Commission, and stakeholders to have an independently verified set of data to establish the baseline for future distribution grid spending." 220 ILCS 5/16-105.10. The Commission, prior to issuing an Initiating Order on July 21, 2022, pursuant to 220 ILCS 5/16-105.17(e)(8), ordered a third-party independent audit of ComEd's current grid infrastructure and investments, called the Baseline Distribution Grid Assessment ("Grid Assessment"). *See* ComEd. Ex. 2.01.

Additionally, the General Assembly provided for participation by diverse stakeholders to provide real-time information and feedback in the distribution grid planning process. 220 ILCS 5/16-105.17(e). Thus, also prior to the Commission's Initiating Order, the Commission ordered a set of workshops where the public and interested stakeholders could participate in the grid planning process and provide their own input and priorities.

The Grid Plan must include, at a minimum:

- a description of the utility's distribution system planning process;
- a description of the current operating conditions for the distribution system;
- historical and forecasted financial data that includes distribution system investments by investment categories, as well as operating and maintenance expenses;
- system data on DER on the utility's distribution system;
- hosting capacity and interconnection needs;
- a discussion of the scenarios that were considered in developing the Grid Plan;
- evaluation of the short-term and long-run benefits and costs of the DERs located on the distribution system,
- a long-term distribution system investment plan that includes the utility's planned capital investments and planned projects for the five-year plan period;
- a description of the utility's historic distribution system operations and maintenance expenditures for the preceding 5 years;
- a detailed plan for achieving the performance and tracking metrics approved by the Commission including how the utility's programs support efforts to bring 40% of the benefits in the Grid Plan to low-income and EJ communities;
- identification of cost-effective solutions from non-traditional and third-party owned investments; and
- a detailed description of the utility's interoperability plan.

220 ILCS 5/16-105.17(f)(1), (f)(2)(A)-(K).

In addition to requiring a Grid Plan, P.A. 102-0662 established a new, optional multi-year performance-based electric delivery service ratemaking framework. Prior to P.A. 102-0662, ComEd elected to be a "participating utility" within the meaning of Section 16-108.5 of the Act, under which its delivery services rates were set pursuant to a formula established by that section. 220 ILCS 5/16-108.5(a), (c). However, Section 16-108.5, the formula rate statute, became inoperative by its terms on December 31, 2022. 220 ILCS 5/16-108.5(h). Instead, P.A. 102-0662 directed electric utilities serving more than 500,000 customers to either elect traditional rate-setting under Section 9-201 of the Act, 220 ILCS 5/9-201, or file a petition seeking approval of a MYRP to establish base rates over a four-year period. 220 ILCS 5/16-108.18(d)(1), (9). ComEd elected to proceed under the MYRP framework.

The MYRP must contain a four-year investment plan with a description of the utility's major planned investments, including at a minimum, all investments of $2,000,000 or greater over the planned period for a utility that serves more than 3,000,000 retail customers. 220 ILCS 5/16-108.18(d)(2). It must also incorporate the approved performance incentive mechanisms ("PIM"), pursuant to which the return on equity ("ROE") approved in the MYRP is adjusted upwards or downwards, based on the utility's performance with respect to certain Commission-approved metrics. 220 ILCS 5/16-108.18(e)(2)(B). The four-year investment plan provided in the MYRP must be consistent with the Grid Plan. 220 ILCS 5/16-108.18(d)(3)(H).

In addition, the Commission-approved MYRP must:

- provide for recovery of ComEd's forecasted rate base, where rates are based on average annual plant investment and investment-related costs;
- authorize a cost of equity consistent with Commission practice and law, as well as a prudent and reasonable capital structure to be reflected in the revenue requirement;
- provide for recovery of prudent and reasonable projected operating expenses;
- amortize the amount of unprotected property-related excess accumulated deferred income taxes in rates as of January 1, 2023 over a period ending December 31, 2027, unless otherwise required to amortize the excess deferred income tax pursuant to Section 16-108.21; and
- allow for recovery of incentive compensation expenses based on achievement of certain operational metrics, excluding those expenses based on net income or earnings per share.

220 ILCS 5/16-108.18(d)(3)(A)-(G).

ComEd has the burden of establishing by a preponderance of evidence the prudence of its investments and expenditures and the burden of proof to establish that those investments are reasonably necessary to meet the requirements of ComEd's first Commission-approved Grid Plan. 220 ILCS 5/16-108.18(d)(4); *see also* 5 ILCS 100/10-15. The fact that a cost in the MYRP is different from the same cost item in the MYIGP does not, without more, imply that either is imprudent or unreasonable; by the same token, similarity of costs between the MYRP and MYIGP does not imply prudency or reasonableness. 220 ILCS 5/16-108.18(d)(4).

III. FACTUAL AND PROCEDURAL BACKGROUND

A. The Parties

In addition to ComEd, Staff of the Commission ("Staff") participated in this proceeding. The Office of the Illinois Attorney General ("AG") and the City of Chicago (the "City") filed appearances. Petitions to Intervene were filed on behalf of the Citizens

Utility Board ("CUB"); the Chicago Transit Authority ("CTA"); the Northeast Illinois Regional Commuter Railroad Corporation and the Commuter Rail Division of the Regional Transportation Authority (collectively, "Metra"); the Natural Resources Defense Council ("NRDC"), the Environmental Law and Policy Center ("ELPC"), Vote Solar, and the Union of Concerned Scientists (collectively, "JNGO"); the Environmental Defense Fund ("EDF"); Sunrun, Inc. ("Sunrun"); the Solar Energy Industries Association, the Coalition for Community Solar Access, and the Illinois Solar Energy Association (collectively, "Joint Solar Parties" or "JSP"); the Building Owners and Managers Association of Chicago ("BOMA"); Charter Dura-Bar, Inc. and CITGO Petroleum Corp. ("REACT"); Nucor Steel Kankakee, Inc. ("Nucor"); Walmart, Inc. ("Walmart"); the Retail Energy Supply Association ("RESA"); the People for Community Recovery ("PCR"); the Community Development Corporation of Pembroke and Hopkins Park ("CDC"); Sterling Steel, LLC as a member of the Illinois Industrial Energy Consumers ("IIEC"); the Little Village Environmental Justice Organization ("LVEJO"); the Illinois Power Agency ("IPA"); the Data Center Coalition ("DCC"); the Brotherhood of Electrical Workers, AFL-CIO, Local Union 15 ("IBEW"); the Illinois Public Interest Research Group ("PIRG"); and Climate Jobs Illinois, Inc. ("CJI"). The Administrative Law Judges ("ALJs") granted each of these Petitions.

B. Procedural History

Pursuant to due notice as required by law and by the rules and regulations of the Commission, a prehearing conference was held via videoconference in this matter before duly-authorized ALJs on September 28, 2022. An evidentiary hearing in the consolidated cases was conducted on August 22, 2023, and all testimony and exhibits were entered by affirmation and without objection.

The following witnesses testified on behalf of ComEd: Gil Quinones, Chief Executive Officer of ComEd; Terence Donnelly, President and Chief Operating Officer, ComEd; Hon. Susan Tierney, Ph.D., Senior Advisor, Analysis Group, Inc.; Chad Newhouse, Vice President of Regulatory Strategies and Services, ComEd; Craig Creamean, Vice President of Distribution System Operations, ComEd; Lisa Graham, Senior Vice President and Chief Financial Officer, ComEd; Patrick Arns, Director of Distribution Planning, Smart Grid, and Innovation, ComEd; Marina Mondello, Director of Engineering, ComEd; Peter Tyschenko, Director of Asset Performance, ComEd; Nichole Owens, Vice President of Customer Channels, ComEd; Mark Baranek, Vice President of Projects and Contract Management, ComEd; Robert Mudra, Senior Manager of Revenue Policy, ComEd; Rachel Isbell, Director of Financial Planning and Analysis, ComEd; Frank Graves, Principal, Brattle Group; Michael Adams, Senior Vice President, Concentric Energy Advisors; Ned Allis, Vice President, Gannett Fleming Valuation and Rate Consultants; John Leick, Senior Manager of Retail Rates, ComEd; Bradley R. Perkins, Director of Rates & Revenue Policy, ComEd; Michelle Blaise, Senior Vice President of Technical Services, ComEd; Karl A. McDermott, Ameren Distinguished Professor of Business and Government at the University of Illinois Springfield and Chair of the Accounting, Economics, and Finance Department; Nick Day, Principal Program Manager, ComEd; Nwabueze Phil-Ebosie, Director of Engineering, ComEd; Jie Chu, Director of Revenue Management, ComEd; Jason Decker, Vice President of Customer Financial Operations, ComEd; Erica Borggren, Vice President of Customer Solutions, ComEd;

Joshua Levin, Senior Vice President, Chief Financial Officer, and Treasurer, ComEd; and Marzena Walker, Senior Manager of Accounting, ComEd.

The following witnesses testified on behalf of Staff: Curtis N. Sanders, Rate Analyst, Integrated Distributed Planning Division; Scott Tolsdorf, Accountant, Financial Analysis Division; Kenrick Au, Accountant, Financial Analysis Division; Michael McNally, Senior Financial Analyst, Financial Analysis Division; Eric Lounsberry, Director, Safety and Reliability Division; James T. Harmening, Director, Cybersecurity & Risk Management Department; Scott A. Struck, Director, Integrated Distribution Planning Division; Ronaldo V. Jenkins, Policy Analyst (Environmental), Integrated Distribution Planning Division; David Rearden, Senior Economist, Policy Division; Larry Borum III, Clean Energy Innovator Fellow, Policy Division; Suraj Bhan Dhankher, Electrical Engineer, Integrated Distribution Planning Division; Bill Daniel, JULIE Investigator, Safety and Reliability Division; John Antonuk, President, Liberty Consulting Group; Christine Kozlosky, Consultant, Liberty Consulting Group; Mark Lautenschlager, Consultant, Liberty Consulting Group; June Poon, Accountant, Integrated Distribution Planning Division; David Brightwell, Economic Analyst, Policy Program; Prabesh Bista, Financial Analyst, Financial Analysis Division; Latifat Moradeyo, Policy Analyst, Integrated Distribution Planning Division; Buren Ulziiburen, Policy Analyst, Integrated Distribution Planning Division; and Torsten Clausen, Director, Policy Division.

The following witnesses testified on behalf of the AG: Paul J. Alvarez, Consultant, Wired Group; Dennis Stephens, Independent Utility Distribution Consultant; David J. Effron, Utility Regulation Consultant; Mary E. Selvaggio, Utility Regulation Consultant, MES Consulting LLC; and Dr. Lee L. Selwyn, Senior Vice President, Economics and Technology, Inc.

The following witnesses testified on behalf of LVEJO: Juliana Pino, Policy Director, LVEJO.

The following witnesses testified on behalf of BOMA: T.J. Brookover, Regional Manager, AmTrust Realty Corp., and Member of the Board of Directors, BOMA; and Mark J. Pruitt, Principal, The Power Bureau.

The following witness testified on behalf of the City of Chicago: Kyra D. Woods, Climate and Energy Policy Advisor, City of Chicago.

The following witness testified on behalf of the CTA: Kate Tomford, Senior Analyst in Energy, CTA.

The following witnesses testified on behalf of the EDF: Cheryl Watson, Founder and Owner, Equitable Resilience & Sustainability, LLC; Ryan O'Donnell, Founder and Owner, For All Of Us Strategies, LLC; Wasiu Adesope, Sustainable Energy Associate, Blacks in Green, Co-Director, Green Energy Justice Cooperative; and Andrew A. Bochman, Senior Grid Strategist-Defender in the National and Homeland Security Directorate, Department of Energy Idaho National Laboratory.

EDF, CUB, CDC, and PCR ("ECCP") jointly presented the following witness: David G. Hill, Managing Consultant, Energy Futures Group, Inc.

The following witness testified on behalf of the IBEW: Chris Riser, President/Business Manager/Financial Secretary, IBEW.

IIEC, CUB, CDC, and PCR (collectively, “IIEC/CUB/CDC/PCR” or “ICCP”) jointly presented the following witnesses: Greg R. Meyer, Principal, Brubaker & Associates, Inc. (“BAI”); Ali Al-Jabir, Consultant, BAI; Colin T. Fitzhenry, Senior Consultant, BAI; Michael P. Gorman, Managing Principal, BAI.

The following witnesses testified on behalf of JNGO: Willam D. Kenworthy, Senior Regulatory Director – Midwest, Vote Solar; Curt Volkmann, President and Founder, New Energy Advisors LLC; Ronald Nelson, Senior Director, Strategen Consulting; and Boratha Tan, Regulatory Manager – Midwest, Vote Solar.

The JNGO and the EDF jointly presented the following witnesses: Dr. Guillermo Pereira, Senior Energy Analyst in the Climate and Energy Program, UCS; Dr. Gabriel Chan, Associate Professor, Charles M. Denny Jr., Chair in Science, Technology, and Environmental Policy and Co-Director, the Center for Science, Technology, Environmental Policy at the Humphry School of Public Affairs, University of Minnesota; Dr. Destenie Nock, Assistant Professor of Engineering & Public Policy and Civil & Environmental Engineering, Carnegie Mellon University;

The following witnesses testified on behalf of JSP: Kevin Lucas, Senior Director of Utility Regulation and Policy, Solar Energy Industries Association; Steven Rymsha, Director of Grid Solutions and Public Policy, Sunrun; and Divya Balakrishnan, Manager of Grid Integration Engineering, Nexamp, Inc.

The following witnesses testified on behalf of Metra: Lynnette Ciavarella, Senior Division Director – Strategic Planning & Performance, Metra; and Edward Schafroth, Director of Electrical Maintenance – Electric District, Metra.

The following witnesses testified on behalf of Walmart: Alex J. Kronauer, Senior Manager of Energy Services, Walmart; and Lisa V. Perry, Senior Manager of Energy Services, Walmart.

The following witnesses testified on behalf of PIRG: Edward Bodmer, Consultant.

The following witness testified on behalf of CJI: Joe Duffy, Executive Director, Climate Jobs Illinois.

CTA and Metra jointly presented the following witnesses: James G. Bachman, Partner, SPI Energy Group.

On September 12, 2023, the following parties filed Initial Briefs (“IB”): ComEd, Staff, the AG, JNGO, JSP, EDF, ICCP, CTA, BOMA, the City, Walmart, IBEW, PIRG, and LVEJO. On September 13, 2023, Metra filed an IB. On September 27, 2023, the following parties filed Reply Briefs (“RB”): ComEd, Staff, the AG, JNGO, JSP, EDF, ICCP, CTA, Metra, the City, Walmart, PIRG, and LVEJO.

A Proposed Order was served on October 23, 2023. On November 8, 2023, Briefs on Exceptions (“BOEs”) were filed by ComEd, Staff, the AG, JSP, PIRG, JNGO, LVEJO, IBEW, Walmart, the City, EDF, CTA, Metra, and ICCP. In their BOEs, ComEd, the AG, PIRG, ICCP, and JSP requested oral argument, which was granted. On November 20, 2023, Reply Briefs on Exceptions (“RBOEs”) were filed by ComEd, Staff, the AG, JSP, PIRG, JNGO, LVEJO, the City, EDF, and ICCP. The Commission heard oral argument on November 28, 2023.

1. Grid Assessment

To assess the current status of a utility's grid distribution system, P.A. 102-0662 required that the Commission issue an order initiating an independent audit of each electric utility serving over 300,000 retail customers in the State. 220 ILCS 5/16-105.10. The Commission initiated the audit of ComEd on October 14, 2021. *Ill. Commerce Comm'n On Its Own Mtn. v. Commonwealth Edison Co.*, Docket No. 21-0737, Order (Oct. 14, 2021). The grid assessment audit was intended to determine the progress made by the utilities in their investments since their deployment of advanced metering infrastructure and other programs to assist customers decrease their energy usage. The audit is described in detail in the Grid Assessment conducted by Liberty Consulting Group ("Liberty"), which was submitted to the Commission on April 12, 2022. *See* ComEd Ex. 2.01.

2. Stakeholder Engagement

Prior to filing a MYIGP, Section 16-105.17(e) required an extensive workshop process be conducted prior to the initiation of contested proceedings, enabling stakeholders and members of the public to offer comments regarding what should be contained in each utility's Grid Plan. In a Staff Report dated July 19, 2022, Staff stated that in compliance with this requirement, a series of workshops – six for each utility - were conducted between December 20, 2021, and May 20, 2022; these workshops were facilitated by a Commission-retained Facilitator, EnerNex. The workshop process is described in detail in the Facilitator's Report, which was submitted to the Commission in July 2022.

While no party disputes that an extensive workshop process was held pursuant to Section 16-105.17(e), the AG argues that the process did not allow for meaningful stakeholder input as was intended by P.A. 102-0662. The AG complains that ComEd did not provide meaningful investment information in the workshop process, which led to the resolution of very few issues.

The Commission finds that the requirements of Section 16-105.17 were met in an extensive workshop process, as described in the Facilitator's Report. Whether the Grid Plan process included sufficient customer engagement and public and stakeholder participation pursuant to Section 16-105.17(d)(4) and (d)(6) is addressed in Sections V.B.2. and V.B.9.

PART I – MULTI-YEAR INTEGRATED GRID PLAN

IV. APPLICABLE LAW

A. Statutory Framework

1. Standard for Approval

ComEd filed a Grid Plan pursuant to Section 16-105.17 of the Act, which was enacted as part of P.A. 102-0662. 220 ILCS 5/16-105.17. The specific requirements for the information that must, at a minimum, be included in the Grid Plan are set forth in Section 16-105.17(f)(2)(A)-(L) of the Act. 220 ILCS 5/16-105.17(f)(2)(A)-(L).

In evaluating the Grid Plan, the Commission must consider, at a minimum, whether the Grid Plan:

- meets the objectives set forth in 220 ILCS 5/16-105.17(d);
- contains the information required under subsection (f)(2) of the Grid Plan statute;
- considers and incorporates, where practicable, input from interested stakeholders, including parties and people who offer public comment without legal representation;
- considers nontraditional, including third-party owned, investment alternatives that can meet grid needs and provide additional benefits (including consumer, economic, and environmental benefits) beyond comparable, traditional utility-planned capital investments;
- equitably benefits EJ communities; and
- maximizes consumer, environmental, economic and community benefits over a 10-year horizon.

220 ILCS 5/16-105.17(f)(5)(A).

After reviewing the Grid Plan, the Commission may modify ComEd's Grid Plan as necessary to comply with the objectives of the statute and may approve, or modify and approve, ComEd's Grid Plan only "if it finds that the [Grid] Plan is reasonable, complies with the objectives and requirements of" Section 16-105.17, and "reasonably incorporates input from parties." 220 ILCS 5/16-105.17(f)(5)(B). The Commission may reject the Grid Plan in its entirety if it does not comply with the objectives of the statute. 220 ILCS 5/16-105.17(f)(5)(B).

2. Statutory Objectives

The Grid Plan must propose distribution system investments designed to achieve the objectives set forth in Section 16-105.17(d) of the Act and to achieve the metrics previously approved by the Commission pursuant to Section 16-108.18 of the Act in Docket No. 22-0067. 220 ILCS 5/16-105.17(d); 220 ILCS 5/16-105.17(f)(1); *Commonwealth Edison Co*., Docket No. 22-0067, Order (Sept. 27, 2022). Under Section 16-105.17(d), the Grid Plan must be designed to:

(1) ensure coordination of the State's renewable energy goals, climate and environmental goals with the utility's distribution system investments, and programs and policies over a 5-year planning horizon to maximize the benefits of each while ensuring utility expenditures are cost-effective;

(2) optimize utilization of electricity grid assets and resources to minimize total system costs;

(3) support efforts to bring the benefits of grid modernization and clean energy, including, but not limited to, deployment of DER, to all retail customers, and support efforts to bring at least 40% of the benefits of those benefits to [EIEC];

(4) enable greater customer engagement, empowerment, and options for energy services;

(5) reduce grid congestion, minimize the time and expense associated with interconnection, and increase the capacity of the distribution grid to host increasing levels of DER, to facilitate the availability and development of DER, particularly in locations that enhance consumer and environmental benefits;

(6) ensure opportunities for robust public participation through open, transparent planning processes;

(7) provide for the analysis of the cost-effectiveness of proposed system investments, which takes into account environmental costs and benefits;

(8) to the maximum extent practicable, achieve or support the achievement of Illinois environmental goals, including those described in Section 9.10 of the Environmental Protection Act and Section 1-75 of the Illinois Power Agency Act, and emissions reductions required to improve the health, safety, and prosperity of all Illinois residents;

(9) support existing Illinois policy goals promoting the long-term growth of energy efficiency, demand response, and investments in renewable energy resources;

(10) provide sufficient public information to the Commission, stakeholders, and market participants in order to enable nonemitting customer-owned or third-party DER, acting individually or in aggregate, to seamlessly and easily connect to the grid, provide grid benefits, support grid services, and achieve environmental outcomes, without necessarily requiring utility ownership or controlling interest over those resources, and enable those resources to act as alternatives to utility capital investments; and

(11) provide delivery services at rates that are affordable to all customers, including low-income customers.

220 ILCS 5/16-105.17(d).

B. Considerations in Grid Planning

1. ComEd's Position

ComEd explains that it developed the Grid Plan to ensure that ComEd's distribution grid will continue to provide the safe, reliable, resilient, and affordable service that is essential to its customers. *See* ComEd Ex. 5.01 2nd Corr. at 13, 23-30, 44-66; *see also* ComEd Ex. 26.0 at 1. ComEd contends that planning a grid to meet the objectives of P.A. 102-0662 necessitates investments designed to do more than just maintain the status quo since P.A. 102-0662 establishes ambitious goals for the integration of DERs, adoption of electric vehicles, and the transition of the grid from fossil fuels to decarbonized energy. ComEd Ex. 5.01 2nd Corr. at 14-16, 32-44; *see, e.g.*, 415 ILCS 5/9.15 (requiring the entire electric power sector to be fully decarbonized by 2050); 20 ILCS 627/45(a) (calling for 1 million electric vehicles on the road by 2030). ComEd agrees that realization of these goals will provide substantial environmental, economic, and other societal benefits. *See* 220 ILCS 5/16-105.17(a)(1), (a)(2); ComEd Ex. 5.01 2nd Corr. at 14-16, 32-44. However, as ComEd points out, meeting these goals will require changes to the current distribution grid to meet the challenges that new types of resources, customer choices, and technological innovations bring. *Id*. ComEd states that the Grid Plan considers all of these benefits and challenges, and proposes investments to cost-effectively meet these goals while maintaining the high standards of reliable, resilient, and safe service that ComEd has achieved in recent years.

ComEd maintains that its efforts to plan its grid are comprehensive, appropriately balance the numerous objectives and data inputs, and reflect the considerations identified in Section 16-105.17 of the Act. 220 ILCS 5/16-105.17. ComEd states that the Grid Plan was developed with robust public participation through an open, transparent process and informed by extensive analysis to ensure that ComEd's grid will be ready and able to advance the energy policy goals set forth by P.A. 102-0662 as well as the performance metrics that have been put in place by the Commission. ComEd Ex. 5.01 2nd Corr. at 13-14; *see also* ComEd Ex. 26.0 at 1. ComEd further states that these considerations encompass all of the statutory objectives set forth in Sections 16-105.17(a) and 16-105.17(d)(1)-(11) of the Act. 220 ILCS 5/6-105.17(a); 220 ILCS 5/16-105.17(d)(1)-(11).

ComEd asserts that the law requires proposed Grid Plan investments be evaluated in the context of whether the investment meets the objectives of P.A. 102-0662, complies with the specific filing requirements, incorporates stakeholder input where practicable, equitably benefits environmental justice communities, and maximizes consumer, environmental, economic, and community benefits over a 10-year horizon. 220 ILCS 5/16-6-105.17(f)(5)(A)((1)-(6). ComEd maintains that the Act specifically prohibits the evaluation of investments in isolation from their role in meeting P.A. 102-0662's requirements and requires consideration of total benefits over a long-term period. 220 ILCS 5/16-105.17(f)(4); *see also* 220 ILCS 5/16-105.17(f)(5)(A).

ComEd notes that the AG argues some investments are "discretionary" and should therefore be subject to additional scrutiny. However, ComEd maintains there are no "discretionary" investments in the Grid Plan. ComEd Ex. 47.0 at 3. Rather, ComEd states that all of the investments proposed in the Grid Plan are necessary to maintain the service standards required of ComEd's grid and to achieve, cost-effectively, the functions that P.A. 102-0662 expects the distribution grid to perform. *Id*. ComEd asserts that the term "discretionary" is used by various parties in this case in an arbitrary, undefined context that is not useful to the Commission in determining the prudence and reasonableness of any investment. It is not a term used by ComEd in the Grid Plan, and ComEd states the implication that investments can be deferred or eliminated without impact on customers and the system is incorrect. *Id*.

ComEd states that, to the extent there is a dispute among the parties regarding the considerations applicable to grid planning, that dispute centers on the opinion of some parties who believe that grid investment levels should be tied to past levels of expenditure, with only minimal adjustments in future years based on measures of inflation. AG Ex. 1.0 at 84, 87, 89-90, 98-99; ICCP Ex. 2.0 at 14-16; Staff Ex. 5.0 at 23-24. ComEd explains, however, that these proposals are not tied to any engineering or planning considerations and must be rejected. ComEd states that investments made within these constraints will – at best – maintain the grid as it exists today. They will not allow ComEd to meet the ambitious policy goals set forth by the Illinois General Assembly. ComEd therefore concludes that the Commission should find that ComEd's Grid Plan satisfies all applicable requirements, and the investments proposed within the Grid Plan will enable achievement of P.A. 102-0662's policy goals while continuing to meet the core reliability service needs of customers cost effectively.

2. Staff's Position

Staff explains that P.A.102-0662 added Section 16-105.17, entitled "Multi-Year Integrated Grid Plan," to the Act. Section 16-105.17, in broad summary, requires each electric utility serving more than 500,000 retail customers in Illinois to formulate and submit for Commission approval a Grid Plan that complies with the section. Under Section 16-105.17, each utility must formulate its Grid Plan so that the Grid Plan, over a five-year planning horizon, coordinates distribution system investments in such a way as to effectuate the broad policy goals expressed in Section 16-105.17(d). Section 16-105.17(f) prescribes detailed substantive and informational requirements with which Grid Plans must comply.

ComEd's MYIGP must propose distribution system investment programs, policies, and plans designed to optimize achievement of the objectives of Section 16-105.17 and achieve the performance and tracking metrics that were approved by the Commission in Docket No. 22-0067.

3. AG's Position

P.A. 102-0662 identifies multiple goals for the grid as itemized in the prior section. To achieve those goals, the AG asserts that it is critical that discretionary and non-discretionary investments be appropriately considered. Certain investments are necessary for safe and reliable service. For example, non-discretionary spending may arise to connect new customers, relocate facilities in the way of public works projects, replace equipment that fails a functional or diagnostic test, replace equipment damaged by a storm. AG Ex. 1.0 at 53. Other expenses that do not have an immediate need, however, are more discretionary.

The AG stresses that regulators and stakeholders should be able to help define the scope of investments that are discretionary, thereby preserving affordability while advancing state policy. *Id*. at 52. The scope and timing of these expenditures should be subject to a meaningful benefit-cost analysis and stakeholder review. The AG explains that the Risk-Informed Decision Support model ("RIDS") described by AG witnesses Alvarez and Stephens, allows the utility, the Commission and other stakeholders to quantify risks and benefits to inform the development of the discretionary investment portfolio, and provides an appropriate model for review of discretionary spending within the context of Grid Plan development. *Id*. at 53-54.

4. EDF's Position

EDF explains that the focus of P.A. 102-0662's integrated grid and rate planning framework is two-fold. First, it must minimize long-term costs for Illinois customers. Second, it must support the achievement of State renewable energy development and other clean energy, public health, and environmental policy goals. 220 ILCS 5/16-105.17(a). The Commission must keep customers' best interests and experiences top of mind. 220 ILCS 5/16-105.17(a)(5). With that requirement firmly established, the Commission should consider foremost the customers and community leaders called by the EDF to explain the importance of the customer and community experience historically and in this grid planning process.

EDF witnesses Adesope and O'Donnell illustrate the ways in which affordability, EE, equity, and clean energy interact with one another. Mr. O'Donnell explains how electricity is a basic human right. EDF Ex. 3.0 at 10-11. Mr. Adesope's work with Blacks in Green seeks to democratize energy and ensure that the dividends from the energy transition are also delivered to low-income people, to increase affordability. EDF Ex. 7.0 at 2. Solar energy delivers customer choice, independence, and control. *Id*.; EDF Ex. 3.0 at 11. As explained by Mr. O'Donnell, "Changing a person's access to electricity directly impacts that person's quality of life. That is why it is so important that [P.A. 102-0662] make the system fairer and more balanced environmentally and economically." *Id*. To pursue energy sovereignty, ComEd's Grid Plan must shift its focus away from traditional investments that keep customers dependent upon ComEd and toward investments that empower people to make their own energy choices to serve their own needs. *Id*. In pursuing energy sovereignty equitably, the Commission must keep in mind how the energy system serves local communities that are part of global communities; the Commission should drive for equity here without undermining equity elsewhere. *Id*. at 5. Mr. O'Donnell also wants the Commission to require ComEd to work with local community members and companies to deliver culturally competent messaging and education on the opportunities P.A. 102-0662 will provide, as well as provide broader opportunities throughout its organization from entry level to management and executive levels. *Id*. at 9. Finally, he wants data access and transparency, to allow local citizens, journalists, and community organizations to identify and solve disparities resulting from the energy system. *Id*. at 3-4.

Solar can deliver on goals of clean energy, customer choice, and equity, but solar developers are at the mercy of utilities when it comes to outcomes according to EDF. EDF Ex. 7.0 at 4. For example, even though the developer or interconnecting party is responsible for the cost of any identified upgrades, it is not always clear how the utility calculated the cost of those upgrades, and there is no way to verify the validity of the required upgrades. *Id*. EDF therefore asks the Commission to approve of ComEd's commitment to more frequent updates to its hosting capacity maps and asks the Commission to require ComEd to provide regular updates to Staff and other stakeholders on progress on its hosting capacity analyses. Mr. Adesope further asks the Commission to require ComEd to provide the basis for its interconnection cost estimates. Finally, Mr. Adesope asks the Commission to initiate a formal proceeding to investigate adoption of the proposals on hosting capacity reporting and verification raised in the report, Data Validation for Hosting Capacity Analyses, authored by the National Renewable Laboratory ("NREL") and Interstate Renewable Energy Council, Inc. ("IREC"), available at https://www.nrel.gov/docs/fy22osti/81811.pdf.

EDF asks the Commission to pursue policies that provide clean air and a healthy environment. EDF Ex. 3.0 at 3. Ms. Watson testified to the EJ challenges she and her community in Chatham face. EDF Ex. 2.0 at 3, 9. Based on Ms. Watson's experiences, she asks the Commission to approve a Grid Plan that does not place the burden of fossil fuel infrastructure and budget overruns that will result in under-used stranded utility assets (i.e., natural gas infrastructure) on the communities that can least afford the cost of the energy transition and electrification. *Id*. at 6. She asks the Commission instead for a Grid Plan that results in clean, affordable energy. *Id*. She also asks the Commission to approve job training opportunities. *Id*. The cumulative impacts on the health and wealth of consumers make it impossible for disenfranchised areas to participate in the city reaching its greenhouse gas ("GHG") reduction goals, community attaining building improvements, and gaining improved health outcomes. *Id*. at 7. In the end, Ms. Watson wants the Commission to approach this case knowing that people's lives and the planet are at stake. EDF Ex. 2.0 at 12

As reflected in EDF's witness testimony, the Grid Plan as modified and approved by the Commission must aim to achieve Energy Justice. EDF explains that Energy Justice is "the goal of achieving equity in both the social and economic participation in the energy system, while also remediating social, economic, and health burdens on those historically harmed by the energy system." JNGO/EDF Ex. 5.0 at 15-18 (*citing* JNGO/EDF Ex. 5.03 (Initiative for Energy Justice, Energy Justice Workbook). P.A. 102-0662 provides a critical juncture to consider how Illinois' energy-system regulators can make decisions that build toward a future vision that aligns with the goals of Energy Justice. JNGO/EDF Ex. 5.0 at 9-17. Energy Justice offers a frame to reimagine energy systems as tools for revitalization and systems change. JNGO/EDF Ex. 5.0 at 6; JNGO/EDF Ex. 5.02.

5. Commission Analysis and Conclusion

The Commission will carefully consider parties' comments and the objectives of P.A. 102-0662 when approving a Grid Plan in this Order.

V. COMED'S MYIGP

A. Introduction

The Commission finds the Company's proposed Grid Plan does not meet several statutorily mandated requirements set forth in Section 16-105.17 of the Act and must be rejected.

The Act's requirements for approval of a Multi-Year Grid Plan are demanding but clear. *See* 220 ILCS 5/16-105.17(f)(5)(A)(1)-(6). The Commission considered whether the Plan satisfied the Act's approval criteria, including: (1) the pre-filing workshop mandates of Section 16-105.17(e); (2) the Plan content requirements of Section 16-105.17(f)(2); (3) the equity, affordability, and cost-effectiveness Plan design requirements of Section 16-105.17(d); and (4) the intentionality (design goals) of planned DER grid investments. *See* 220 ILCS 5/16-105.17. Section 16-105.17(f)(5)(A) guides the Commission's review of an electric utility's Multi-Year Integrated Grid Plan by providing six minimum considerations for evaluation. *See* 220 ILCS 5/16-105.17(f)(5)(A)(1)-(6). Adherence to the standards of the Act is required to ensure that the Multi-Year Grid Plan delivers benefits to ratepayers and meets the mandates established by P.A 102-0662. Simultaneously, the Commission must ensure that the magnitude of costs imposed on ratepayers is justified under the requirements of Section 16-105.17.

Development of the Company's Grid Plan and the Commission's assessments have been challenging, especially since this is the first iteration of a multi-year infrastructure planning process in Illinois. The Commission has three choices with respect to evaluating a MYIGP, it may: (1) approve; (2) approve with modifications; or (3) reject the plan. *See* 220 ILCS 5/16-105.17(f)(5)(B). The Commission has the authority to modify deficient elements of a plan to bring it into compliance and to open implementation proceedings to review, refine, supplement, or execute approved Grid Plan proposals. *See id.* P.A. 102-0662 also anticipates the possibility that the Commission would be unable to modify a Grid Plan to meet compliance requirements. In such cases, the Commission may reject the Grid Plan, and the utility must file a revised Grid Plan within three months of the Commission's rejection order. *See id.*

The parties in the docket present the Commission with two options: (1) approve the Grid Plan as submitted; or (2) approve the Grid Plan with modifications. The Commission cannot approve the Grid Plan as filed given its failure to demonstrate compliance with the Act.

Parties in this docket largely suggest the Commission approve the Grid Plan with modifications. However, as identified by the parties, the record is replete with instances of the Grid Plan's noncompliance. The areas of non-compliance are foundational components that are necessary not only for the Commission, but also the Company, to determine whether certain investments are prudent and reasonable. *See* Section V.B. The Commission finds the filed Grid Plan lacks necessary information and frameworks for meaningful evaluation, and application, of Grid Plan components. The Commission is unable to modify the Grid Plan as necessary to cure the areas of non-compliance based on this record. A compliant Grid Plan requires consistency with key ratepayer protections—cost-effectiveness, equity, and affordability—and requires the Company to associate proposed investments with P.A. 102-0662's intentional design goal requirements. *See* 220 ILCS 5/16-105.17(d) and (f)(2). It is the Company's responsibility to provide sufficient detail in its Grid Plan. Ultimately, the Commission concludes it is unable to "modify [the] electric utility's Plan as necessary to comply with the objectives" of Section 16-105.17 of the Act. 220 ILCS 16-105.17(f)(5)(B).

Multiple parties recognize the Grid Plan's deficiencies and suggest using post-order activities to bring the Grid Plan into compliance. During oral argument, Staff suggested the Grid Plan could be approved "contingent" upon the Company and parties working towards consensus through the post-docket obligations and stakeholder engagement. *See* Oral Argument Tr. 179:3-6, Docket Nos. 22-0486 & 23-0055 (Nov. 28, 2023) (Staff). However, this remedy is statutorily unavailable. Staff later suggested the contingency could be a form of modification, facilitated through the MYIGP reconciliation process. *See id*. at 259:4-11 (Staff). This approach would require the Commission to approve a modification deferring statutory requirements that could ultimately be deficient to satisfy compliance. Reconciliation is designed to allow a presumption of reasonableness for any spending up to 105% of the revenue requirement allotment for that year, but the allotment is based on an approved Grid Plan. This option requires the Commission to grant approval prematurely. The requisite information needed to evaluate the Grid Plan approval criteria within Section 16-105.17(f)(5)(A) is not within this record.

The Commission declines to use reconciliation proceedings to remedy non-compliant components of this Grid Plan.

The Commission declines to approve a Grid Plan based on information to be developed at a later date in order to protect ratepayers from paying for investments that do not conform to P.A. 102-0662's statutory criteria. While the evidence in this docket may allow the Commission to make choices on some of the spending tied to the P.A. 102-0662 criteria, the Commission cannot allow such a result for the entirety of the Grid Plan. Moreover, the Commission is concerned with the limited opportunities to correct an approved Grid Plan throughout the four years it is in effect.

The last option for the Commission that adheres to P.A. 102-0662 is rejection of the Grid Plan. *See* 220 ILCS 5/16-105.17(f)(5)(B). The Commission finds the Company's filed Grid Plan does not satisfy the statutory requirements for approval, or approval with modification, and rejects it in its entirety. As prescribed in the Act, the Commission directs the Company to refile a Grid Plan within three months of this Order. *See* 220 ILCS 5/16-105.17(f)(5)(B).

The Commission does not make this decision lightly. The Commission recognizes parties to this proceeding invested a great deal of effort in the pre-filing workshops and in litigation before the Commission. The Commission notes significant advances were made. The collaborative process through which parties addressed aspects of this multi-year proceeding is itself one of those accomplishments.

The Commission appreciates the urgency of having a compliant Grid Plan in place and is eager to move forward with a Grid Plan that satisfies the statutory requirements for approval. Given the urgency of P.A. 102-0662's implementation, Section V of this Order identifies and offers the Commission's perspective and guidance related to the Grid Plan components that can be preserved, or modestly revised, in the Company's refiled Grid Plan. Preserving uncontested Grid Plan components should ease litigation burdens and streamline approval of the refiled Grid Plan. This Order endeavors to provide a full assessment of Grid Plan components and characteristics to facilitate compliance on refiling.

This Grid Plan's deficiencies are discussed below.

B. Affordability, community, and environmental benefits

1. Efforts to Bring Customer Benefits to EIEC, Low-Income and EJ Communities (Section 16-105.17(d)(3) / Section 16-105.17(f)(2)(J)(i))

a. ComEd's Position

As described by ComEd, its Grid Plan satisfies the two requirements of P.A. 102-0662 related to bringing customer benefits to EIECs, low-income, and EJ communities. First, under P.A. 102-0662, ComEd must present a plan "designed to … support efforts to bring the benefits of grid modernization and clean energy, including, but not limited to, deployment of [DERs], to all retail customers, and support efforts to bring at least 40% of the benefits of those benefits to [EIECs]." 220 ILCS 5/16-105.17(d)(3). Second, ComEd's Grid Plan must include a detailed plan for achieving the performance metrics approved by the Commission which apply to ComEd, including "[a] description of, exclusive of low-income rate relief programs and other income-qualified programs, how the utility is supporting efforts to bring 40% of the benefits from programs, policies, and initiatives proposed in their [MYIGP] to ratepayers in low-income and environmental justice communities." 220 ILCS 5/16-105.17(f)(2)(J)(i). ComEd contends that, in both cases, the law is clear that there is no requirement for a specific amount of spending in a particular geographic area. 220 ILCS 5/16-105.17(d)(3); 220 ILCS 5/16-105.17(f)(2)(J)(i). ComEd further contends that its Grid Plan satisfies both requirements. It is, in accordance with subsection (d)(3), designed to support efforts to bring 40% of the benefits of the Plan to customers in EIECs. And it includes information about how ComEd is supporting those efforts, in accordance with subsection (f)(2)(J)(i). 220 ILCS 5/16-105.17(f)(2)(J)(i).

In preparation for developing the Grid Plan, ComEd states that it changed the risk assessment processes it uses to identify and prioritize investments to place additional emphasis on the impact of interruptions on customers and communities. ComEd Ex. 1.0 at 10. That updated risk assessment process was used to identify and prioritize investments included in the Grid Plan. *See* ComEd Ex. 43.0 at 15–17; *see also* ComEd Ex. 31.02 Conf.

ComEd points out that, once ComEd had developed its proposed investments for inclusion in the Grid Plan, ComEd analyzed those investments to ensure that the statutory objectives were satisfied. ComEd states that analysis demonstrates that, in 2023 and 2024, the years of the Grid Plan period in which discrete investments are most well-defined, approximately 50% of the planned investments in the System Performance and Capacity Expansion categories will impact the quality of electric service in EIEC areas. ComEd Ex. 1.0 at 10, 11; *see also* ComEd Ex. 5.01 2nd Corr. at 173, Table 5.4-2. As ComEd explains, the Grid Plan, if fully funded, will deliver more than 40% of the benefits of clean energy and grid modernization to EIEC, low-income, and EJ communities. *See* 220 ILCS 5/16-105.17(d)(3); *see also* 220 ILCS 5/16-105.17 (f)(2)(J)(i).

ComEd's analysis focused on two categories of investment, System Performance and Capacity Expansion, where the location and nature of investments are within ComEd's control, and the investments will impact specific subsets of customers, rather than all customers across the system. ComEd Ex. 26.0 at 36-37. ComEd states, moreover, that these are also the two categories that focus on grid modernization and clean energy integration, (*see* 220 ILCS 5/16-105.17(d)(3); (f)(2)(J)(i)), include work that supports improving reliability, resiliency, and the health and safety of the electric grid, and will help meet new customer demand associated with the integration of DERs, adoption of EVs, and other beneficial electrification measures. ComEd Ex. 26.0 at 38. ComEd notes that System Performance investments include advanced telemetry, replacement of obsolete cable, distribution automation, intelligent substations, and communication equipment. ComEd Ex. 47.0 at 9. ComEd further notes that Capacity Expansion investments include new substations and substation reconfiguration, energy storage implementation to alleviate congestion, voltage optimization, feeder enhancements to accommodate EVs, and public school electrification work. *Id*. Again, more than 50% of this work impacts customers in EIECs.

For purposes of the analysis, ComEd determined that an investment "impacts" an EIEC if the investment serves at least five customers located in an EIEC. ComEd Ex. 26.0 at 37. ComEd describes an investment that impacts a customer as one that benefits that customer, ComEd Ex. 47.0 at 9, since a customer that is impacted by a System Performance investment is receiving the benefit of improvements in reliability and resiliency, and a customer that is impacted by a Capacity Expansion investment is receiving the benefit of improvements in the ability of the local grid to meet load. *Id*. In addition, ComEd states that work in other investment categories also supports the goals of grid modernization and clean energy, (*see* 220 ILCS 5/16-105.17(d)(3)), and those benefits are not reflected in the results of the analysis. As a result, ComEd contends that its analysis is conservative but demonstrates the Grid Plan will result in benefits of grid modernization and clean energy in excess of the statutory minimum towards customers located in EIECs and EJ communities.

Despite this evidence, ComEd notes that some parties challenge whether ComEd has satisfied the Act's EIEC provisions. As a result, ComEd asserts is imperative to understand exactly what the Act requires, and why the Grid Plan meets those requirements.

ComEd states that P.A. 102-0662 requires that the Grid Plan be designed to "support efforts to bring the benefits of grid modernization and clean energy, including, but not limited to, deployment of distributed energy resources, to all retail customers, and support efforts to bring at least 40% of the benefits of those benefits to [EIECs]." 220 ILCS 5/16-105.17(d)(3). The Act further specifies that "[n]othing in this paragraph is meant to require a specific amount of spending in a particular geographic area." *Id*. Near identical language is included in the section of the Act setting forth Grid Plan requirements. 220 ILCS 5/16-105.17(f)(2)(J)(i).

ComEd explains that Staff and ComEd agree that this statutory language does "not ultimately require the Company to successfully meet the 40% objective at the conclusion of the MYIGP." Staff IB at 18. ComEd states that other parties' arguments that the Grid Plan fails to deliver benefits to EIEC customers in a specified manner at a specified time are based on a fundamental misunderstanding of the Act's requirements. ComEd addresses these arguments below, but stresses that there is consensus on the need for additional stakeholder discussions and a separate proceeding to develop a method of identifying and calculating benefits arising from grid investments.

For example, ComEd notes that EDF argues the Grid Plan falls short because it lacks detail measuring (i) specific benefits being created; (ii) magnitude of benefits; and (iii) who is receiving those benefits. EDF IB at 31-32. ComEd asserts that this level of specificity is not what the law requires. ComEd notes that EDF cites no legal requirement that such detail be included in the Grid Plan and cannot do so because the Act contains no such requirement. Nevertheless, ComEd states the Grid Plan does in fact include information about the benefits, and the record evidence demonstrates that more than 50% of the benefits of grid modernization and clean energy will be directed to customers in EIECs. ComEd Ex. 26.0 at 36-38, ComEd Ex. 47.0 at 9-10. EDF further argues that "impacts" and "benefits" are separate, as some investments serving particular customers in EIECs may not be "want[ed]" by other customers in the EIEC. EDF IB at 36. This argument does not account for ComEd's obligation to serve all customers and would create a requirement for the evaluation of EIEC benefits that is not in the Act.

ComEd notes that Staff asserts ComEd's analysis of the allocation of EIEC benefits is based solely on the geographic location of particular investments. *See* Staff IB at 16. ComEd states this criticism is misplaced as ComEd's analysis is based on where the customers served by the investment are located, not the location of the investment. ComEd Ex. 26.0 at 37. If at least five customers served by an investment are in an EIEC, the investment is considered to benefit an EIEC. ComEd Ex. 26.0 at 37. ComEd maintains this methodology is reasonable, and accurately captures which customers are receiving the benefits of which investment.

ComEd states that Staff further criticizes ComEd's EIEC benefit analysis on the basis that it does not identify the "types" of benefits that will accrue to customers in EIECs and does not establish a "causal connection" between investments and EIEC benefits. Staff IB at 16-17. However, ComEd's analysis focused on the categories of System Performance and Capacity Expansion. The types of investments that fall into each of these categories, and the benefits to customers arising from them, are well documented in the Grid Plan and supporting testimony. *See, e.g*., ComEd. Ex. 47.0 at 9 (noting that System Performance investments improve reliability and resiliency, and Capacity Expansion investments improve the ability of the grid to meet load). Moreover, Staff does not propose any method of establishing such a "causal connection" or explain why ComEd's identification of benefits is insufficient. And, again, ComEd states no such specific analysis or demonstrations are required by any section of the Act.

ComEd notes that JNGO and EDF argue that ComEd's EIEC benefit analysis is flawed because the benefits of investments are not shown to be proportional to the dollars invested in the project. ComEd states there is no evidence in the record in support of that contention. ComEd states there is consensus, however, on the need for a separate proceeding to develop a method of identifying and calculating benefits arising from grid investments.

ComEd notes Staff recommends that the Commission "clarify ComEd's responsibility" with respect to the statutory language requiring that the Grid Plan be "designed to … support efforts to bring at least 40% of the benefits of those benefits [i.e., grid modernization and clean energy] to [EIECs]." 220 ILCS 5/16-105.17(d)(3). ComEd welcomes direction from the Commission on how grid investment benefits to EIECs should be evaluated. ComEd agrees with Staff that the focus of the statutory language is on the design of the Grid Plan, rather than on retrospective enforcement to ensure that no less than 40% of the benefits of grid modernization and clean energy are received by customers in EIECs. ComEd explains that the Grid Plan has been designed to accomplish that objective.

ComEd states it has agreed to engage in a stakeholder process to evaluate the benefits of grid investments and proposes that some aspects of this process be conducted collaboratively between ComEd and Ameren Illinois Company d/b/a Ameren Illinois ("Ameren") where practical and beneficial. ComEd Ex. 26.0 at 59-60; ComEd Ex. 47.0 at 5. However, ComEd recommends that it be able to conduct its own stakeholder engagement processes within its specific service territory, and that ultimately ComEd and Ameren should present their own methodologies of benefit analysis.

With respect to Staff's suggestion that ComEd be required to measure progress towards that goal, ComEd explains that an annual, retrospective analysis of the number of customers impacted by investments would be possible, so long as it is limited to the investments placed in service over the prior year. *See* ComEd Ex. 26.0 at 40. ComEd states that, given the rate of change in the distribution grid over time, the number of customers impacted by any individual investment will also change over time, making it very burdensome to track the impact by customers of every investment in every year. *Id*.

Finally, ComEd notes that EDF proposes the Commission should require ComEd to report on "equitable job outcomes at the entry level, management level, and executive level, as well as contracting opportunities." EDF IB at 39. ComEd states that it is not aware of EDF testimony supporting this recommendation or defining what an "equitable job outcome" would be. Because this proposal is not supported by record evidence, ComEd asserts it should be rejected.

b. Staff's Position

It is Staff's position that ComEd has not established a clear causal connection between the anticipated outcomes of its MYIGP investments and the benefits allocation required by Sections 16-105.17(d)(3) and 16-105.17(f)(2)(J)(i), referred to jointly as the "Benefits Requirements". As EDF notes, ComEd's primary focus in addressing the requirement that 40% of the benefits of the grid modernization to ratepayers in EIEC, EJ, and low-income communities is based on the location of investments for years 2023 and 2024. Staff Ex. 8.0 at 9.

Staff recommends the Commission clarify ComEd's responsibility to demonstrate support of the Benefits Requirements. Staff Ex. 24.0 at 20. Staff believes the Company is required to design the MYIGP so as to achieve the goals set by the Benefits Requirements and that the Company must measure progress towards meeting those goals. Staff recommends the Commission accept Staff's position that ComEd is required to demonstrate the MYIGP was designed to meet the 40% target set in the Benefits Requirements and clarify ComEd's responsibilities as to the Benefits Requirements in light of that position.

ComEd, on the other hand, argues it is not required to demonstrate that 40% of the benefits from the MYIGP will be directed to EIECs. ComEd Ex. 26 at 36. However, ComEd also argues its MYIGP nonetheless meets this goal, based on a limited review of two categories of grid investments in 2023 and 2024. *Id*. In reaching this conclusion, ComEd asserted that, if an investment served five or more customers located in an EIEC community, the investment was considered to impact that community. *Id*. at 37.

ComEd misses the mark on its statutory duties. Staff, the AG, EDF, JNGO, LVEJO, and Metra determined that the Company has failed to design the MYIGP so as to achieve the Benefits Requirements. CTA also expressed concerns that ComEd could not identify specific projects that support the CTA's mission and that ComEd does not take vital environmental and societal factors into account in its grid planning process. CTA Ex. 1.0 at 10-11.

As pointed out by EDF, the location of investments is not sufficient to meet the standard of directing benefits of the grid equitably and the benefits of grid investments are not proportional to the dollar value of the investments made in EIEC communities. Neither Section 16-105.17(d)(3) nor 16-105.17(f)(2)(J)(i) require a certain amount of spending in a particular geographic area. Investing in a location alone may or may not impact EIEC, EJ, or low-income communities. Likewise, the Company's emphasis on dollars invested as a measure of "impact" does not provide information on the types or categories of benefits that the investment dollars will deliver for EIECs. The idea that five or more customers in an EIEC may be "impacted" by an investment does not eliminate Staff's concerns over whether ComEd has demonstrated its MYIGP complies with the Act. Additionally, Staff points out that ComEd's planned capacity expansion and system performance category investments for EIEC, EJ, or low-income communities do not cover years 2025 through 2027. *Id*. at 19.

The Company's MYIGP does not provide sufficient information to enable Staff to determine how planned projects, programs, and activities in the MYIGP will be effectively leveraged to benefit EIEC, EJ, and low-income communities. Staff Ex. 24 at 19. Reporting on investments does not provide a measure of the outcomes of the proposed investments, and it is the outcome that demonstrates how the Grid Plan is delivering benefits to EIECs. MYIGP benefits must be tracked and measured to promote transparency as to the Company's compliance with this requirement, and the Commission should direct ComEd to do so. Staff Ex. 24.0 at 18, 20.

Staff also recommends the Commission require ComEd address, as a part of its filing in the Company's next MYIGP, JNGO/EDF's recommendations to consider improving equity quality attributes (i.e., distribution, assessment granularity, and dimensions) and incorporating equity in its investment planning and spending processes for ratepayers in EIEC, EJ and low-income communities. Staff Ex. 24.0 at 8-12. As JNGO point out, the Grid Plan should measure how effective ComEd's investments are, not just how much the company is spending. The Company should estimate where it believes benefits will flow at the beginning of the Grid Plan and use this as a benchmark against which to measure actual benefits. *Id*. at 15.

Finally, given the overwhelming rejection of ComEd's approach in this matter by intervenors, Staff supports the JNGO recommendation that the Commission direct the Company to use the Staff/JNGO framework in further stakeholder meetings to refine and improve a methodology for quantifying and tracking benefits. Staff also recommends the Commission clarify ComEd's responsibilities relative to the Benefits Requirements and require ComEd to work with Ameren to host future, utility-run stakeholder meetings.

As a remedy to the deficiencies of the ComEd approach to the Benefits Requirements, Metra proposed that the rates paid by the Railroad ("RR") Class members be frozen or lowered since those members provide critical public transportation powered by clean energy to EIECs. Given that the applicable statutes do not require a specific amount of spending in a particular geographic area, customer rates which would pay for said spending is not relevant to the resolution of concerns in this matter. *See* 220 ILCS 5/16-105.17(d)(3); *see also* 220 ILCS 5/16-105.17(f)(2)(J)(i). Further, Metra's proposal suggests a change in rate design which is not at issue in this proceeding. Metra should raise this issue in ComEd's rate design docket, which will be filed in 2024. Staff recommends that the Commission reject Metra's recommendation to freeze or lower the rates paid by the RR Class members.

c. AG's Position

As part of P.A. 102-0662's commitment to equity, the Grid Plan must "support efforts to bring the benefits of grid modernization and clean energy, including, but not limited to, deployment of DERs, to all retail customers, and support efforts to bring at least 40% of the benefits of those benefits to [EIECs]." 220 ILCS 5/16-105.7(d)(3). ComEd asserts that approximately 50% of its Capacity Expansion and System Performance investments will "impact" service to EIEC areas. ComEd Ex. 26.0 at 36. ComEd claims that an investment "impacts" an EIEC area "if it serves at least five customers located in an EIEC." *Id*. at 37. The AG agrees with Staff witness Jenkins that ComEd has not adequately demonstrated that projects, programs, and activities in the Grid Plan will benefit EIEC communities. Staff Ex. 24.0 at 18-20.

d. LVEJO's Position

Multiple parties, including Staff and LVEJO, have repeatedly expressed concern with the Grid Plan's compliance with the 40% benefit requirement. These concerns include not only how ComEd is calculating the Grid Plan's compliance, but also the lack of meaningful tracking and reporting of benefits over the life of the Grid Plan. As a means to begin to address these concerns, Staff, JNGO, and EDF proposed a framework for equity benefits reporting that they developed for the Ameren MYIGP, Docket Nos. 22-0487/23-0082 (Consol.). LVEJO and the City also support the framework. ComEd's repeated response to the parties' tracking and reporting proposal is to reject the proposed framework and to reject the idea that an equity tracking and reporting system should be included in this proceeding at all. No party aside from ComEd has objected to the proposed Equity Reporting Framework.

LVEJO states that the inclusion of an equity tracking and reporting framework in the Grid Plan is essential to ensuring the high quality delivery of equity benefits over time. It is necessary to ensuring the Grid Plan meets its equity goals. It is also an important step towards compliance with P.A. 102-0662's transparency requirements. Regular reporting will allow the Commission and interested stakeholders to better evaluate the Grid Plan's progress towards meeting its equity goals, and it will help inform the development of future Grid Plans. There is also a particular need for tracking and reporting for this inaugural Grid Plan, where there is ongoing uncertainty and disagreement among stakeholders and ComEd about how the Grid Plan is defining and meeting its equity goals. For all of these reasons, it is necessary for the Grid Plan to include an equity tracking and reporting framework, with the initial one proposed by Staff and EDF as a starting point to build on.

e. IBEW's Position

IBEW supports ComEd's Grid Plan because it ensures skilled union employees are performing the work. A skilled workforce is needed to execute the Grid Plan including, for example, upgrading and replacing infrastructure in the overhead and underground electric grid to ensure safe and reliable electric service to customers. IBEW members pride themselves on being a well-trained and highly skilled workforce. Many members spend years training to become qualified technical experts in their respective fields in the electric trade. IBEW and its members are ready to partner with ComEd and execute the work necessary to accomplish the Grid Plan. IBEW Ex. 1.0 at 3.

IBEW also supports ComEd's Grid Plan not only because its proposed investments to the grid infrastructure will increase the number of good-paying skilled union jobs to work on the grid but because of its commitment to the building of a diverse pipeline of talent to work in the skilled trades. IBEW shares a similar goal of building an inclusive and diverse skilled union workforce that reflects the makeup of the community. *Id*.

Finally, IBEW also supports the Grid Plan because its members live and raise their families in ComEd's electric service territory. IBEW and its members are a part of the community who will benefit from ComEd's grid investments. As such, IBEW supports ComEd's commitment to invest in grid projects that continue ComEd's high level of reliability and reduced customer outages, address the impacts of climate change and need for clean energy, and protect against security threats. *Id*. at 3-4.

f. City's Position

The City argues that the Equity Reporting Framework proposal, included as JNGO/EDF Ex. 11.01, can help to address deficiencies in the MYIGP. The City explains that the framework is informed by the Justice40 reporting framework and specifically tailored to P.A. 102-0662's requirements. Among other requirements, it would require ComEd to report on metrics that address energy equity, including reporting separately for both EIECs and non-EIECs on: (1) investments, (2) shutoffs, (3) disconnection notices, (4) outages, and (5) information and education. JNGO/EDF Ex. 11.0 at 20-21. The City adds that this information will help the City address and understand the energy burden that is experienced in communities across the West, South, and far South sides of Chicago. City Ex. 1.0 at 18-19 (presenting Chicago's energy burden using data provided by Greenlink Analytics). The City supports this framework as an important starting place that can be improved upon through a joint stakeholder workshop process. For these reasons, the City urges the Commission to direct ComEd to adopt the Staff/JNGO initial Equity Reporting Framework.

g. CTA/Metra's Position

Based on ComEd's creative redefinition of the word "benefits," and the fact that ComEd's Grid Plan benefits analysis is based on location of investments for years 2023 and 2024, but did not cover years 2025 through 2027, CTA/Metra note that Staff concluded that ComEd did not establish a clear causal connection between anticipated outcomes of its MYIGP investments and the benefits allocations required by Sections 16-105.17(d)(3) and 16-105.17(f)(2)(5)(i) of the Act. CTA/Metra argue that ComEd's creative definition of the word "benefits" is enough reason to conclude that ComEd's Grid Plan failed to satisfy these statutory criteria. CTA/Metra agree with Staff's analysis and finds the Grid Plan fails to meet this requirement.

h. EDF's Position

EDF recommends that the Commission require ComEd to adopt the Equity Reporting Framework developed by JNGO/EDF witness Pereira and Staff witness Jenkins, and to diligently require ComEd to pursue equity, focusing on measures that deliver customers energy sovereignty and create equitable job and work opportunities.

Section 16-105.17(d)(3) requires ComEd's Grid Plan to be designed to "support efforts to bring the benefits of grid modernization and clean energy, including, but not limited to, deployment of distributed energy resources, to all retail customers, and support efforts to bring at least 40% of the benefits of those benefits to [EIECs]." 220 ILCS 5/16-107.5(d)(3). EDF opines that this provision is focused on benefits, not spending. *Id*. Similarly, Section 16-105.17(f)(2)(J)(j), the Grid Plan must include, at a minimum, a "detailed plan" containing a "description of, exclusive of low-income rate relief programs and other income-qualified programs, how the utility is supporting efforts to bring 40% of benefits from programs, policies, and initiatives proposed in their [MYIGP] to ratepayers in low-income and [EJ] communities." 220 ILCS 5/16-105.17(f)(2)(J)(j). P.A. 102-0662 also requires ComEd's Grid Plan to be evaluated on whether it "considers and incorporates, where practicable, input from interested stakeholders, including parties and people who offer public comment without legal representation." 220 ILCS 5/16-105.17(f)(5)(A)(3).

P.A. 102-0662's provisions require a Grid Plan that delivers energy justice through grid investments. JNGO/EDF Ex. 4.0 at 6. EDF explains that energy justice refers to the goal of achieving equity in both the social and economic participation in the energy system, while also remediating social, economic, and health burdens on those historically harmed by the energy system ('frontline communities'). Energy justice explicitly centers the concerns of marginalized communities and aims to make energy more accessible, affordable, clean, and democratically managed for all communities. Under this definition of energy justice, the MYIGP should be structured such that EIECs receive an equitable share of benefits from grid investments. JNGO/EDF Ex. 4.0 at 8.

With respect to the tenet of recognition justice, ComEd's MYIGP notes that approximately 1.2 million customers, or 30% of its total customer base, "fall within" an EIEC. JNGO/EDF Ex. 5.0 at 38. ComEd's Grid Plan does not, however, provide sufficient detail or communication about the hardships faced by many of its customers. In future Grid Plans, ComEd must take steps to assess and communicate energy inequities among the communities it serves so that it can work to develop comprehensive planning that can address energy justice. *Id*. The Commission can also order ComEd to adopt the data transparency and reporting proposals from JNGO/EDF. *See also* Section V.B.9.

EDF asserts that the area where ComEd's MYIGP needs the most improvement is the area of distributional justice. EDF agrees with Staff that "ComEd did not establish a clear causal connection between the anticipated outcomes of its MYIGP investments and the benefits allocation required by Sections 16105.17(d)(3) and 16-105.17(f)(2)(J)(i)." Staff IB at 16. JNGO likewise concludes that ComEd's narrative discussion of so-called "impact" does not meet the requirement of a "detailed plan" under Section 16-105.17(f)(2)(J)(i).

With respect to procedural justice, the Commission should continue extensive third-party facilitated workshops. JNGO/EDF Ex. 5.0 at 38. The Company should specifically describe how it plans to continue to engage with EIECs in subsequent grid plans. *Id*. at 38-39. Before ComEd can claim to be "supporting efforts" to bring 40% of benefits to EIECs, it will take more than simply tracking investment dollars, and will require an understanding of benefits and outcomes. JNGO/EDF Ex. 11.0 at 17. Benefits are not proportional to the dollar value of the investments made. JNGO/EDF Ex. 11.0 at 17.

Given the weaknesses in ComEd's MYIGP, the Commission should approve the requests of multiple parties to require ComEd to adopt the Equity Reporting Framework. EDF argue that ComEd's point that it is not party to the Ameren MYIGP, in which multiple parties also support the Equity Reporting Framework, is irrelevant. The Equity Reporting Framework was introduced in this docket, in response to specific concerns raised by multiple parties that ComEd's efforts to address P.A. 102-0662's requirement to deliver at least 40% of grid benefits to EIECs and EJ communities were not sufficient. JNGO/EDF Ex. 11.0 at 16. EDF maintains that parties gave ComEd opportunities to address their concerns in testimony, but ComEd doubled down on its original approach, which "provides a definition of impact that includes no measures of outcomes or benefits, instead arguing that its grid plan need only demonstrate that the 'impact' of its proposed investments occurs in EIECs." JNGO/EDF Ex. 11.0 at 16.

The Equity Reporting Framework is informed by the frameworks in place at the federal level and other states as they work to implement their own Justice40 initiatives. *See* JNGO/EDF Ex. 4.0 at 14-32. At every level of government, entities are focused on identifying and tracking benefits, not mere spending, in pursuit of their goals. For example, EDF notes that at the federal level, Executive Order 14008 requires federal agencies to: (1) identify benefits of Justice40 programs; (2) determine how those programs distribute benefits; and (3) calculate and report on how they are reaching the 40% goal set by the Justice40 initiative. EDF Ex. 4.0 at 15.

EDF asserts that the Commission must pursue equity with urgency. EDF Ex. 3.0 at 4. Mr. O'Donnell appreciates ComEd's efforts to deliver benefits to EIECs, but P.A. 102-0662 requires equity generally as well. EDF Ex. 10.0 at 5. To ensure that no customer, no matter where they live, is left behind, ComEd and the Commission need to track who is receiving the benefits of grid investments and who is paying for those benefits. EDF Ex. 10.0 at 5. Energy sovereignty plays a role in delivering equity. Energy sovereignty means recognizing how local communities fit within the larger global community. EDF Ex. 3.0 at 5. Energy sovereignty also means equity and accessibility for ComEd's service area and globally. *Id*. at 5.

Finally, a big part of the Commission's push to require equity must focus on jobs. EDF Ex. 3.0 at 9. The Commission should require ComEd to demonstrate that people who have not previously had roles in energy be part of the energy transition, and not just at the entry level position, but at all levels including management, executive, and contractors. *Id*. To pursue equity, ComEd needs more active recruitment for community members through workforce development for fields like EE and community engagements, including work with community colleges and high school vocational training. EDF Ex. 2.0 at 11.

For the reasons stated above, EDF asks the Commission to: (1) require ComEd to adopt the proposed Equity Reporting Framework, JNGO/EDF Exhibit 11.01, as the starting point for ComEd to track benefits of its grid plan; (2) review the remainder of ComEd's MYIGP by prioritizing programs, policies, and projects that get customers closer to energy sovereignty; and (3) require ComEd to report progress on equitable job outcomes at the entry level, management level, and executive level, as well as contracting opportunities. In all of this, EDF asks the Commission to pursue equity with urgency.

i. JNGO's Position

The parties continue to dispute how ComEd should measure and quantify progress towards the 40% benefits target for EIECs in Sections 105.17(d)(3) and 105.17(f)(2)(J)(i). JNGO disagree with ComEd's proposal to count dollars from investments that "impact" five or more customers in an EIEC. ComEd's claim that "more than 50%" of its Grid Plan investments "impact" customers in EIECs does not meet the letter or spirit of P.A. 102-0662's Justice40 requirement and the Commission should reject it.

JNGO recommend that the Commission modify ComEd's Grid Plan and require ComEd to adopt the Staff/JNGO Equity Reporting Framework as a starting point for quantifying and tracking benefits to EIECs. JNGO are willing to participate in further discussions with ComEd to improve upon this initial tracking and reporting framework for use in future grid plans.

j. Commission Analysis and Conclusion

The Commission agrees with Staff, JNGO, AG, City, and EDF that ComEd's Grid Plan does not sufficiently describe how the Company is supporting efforts to bring at least 40% of benefits from proposed programs, policies, and initiatives to ratepayers in low-income and EJ communities. The Commission further agrees that the Company does not clearly describe how its Grid Plan is designed to bring benefits from clean energy and grid modernization to all retail customers, and to bring 40% of those benefits to EIECs. JNGO/EDF witness Dr. Pereira and Dr. Chan explained ComEd's Grid Plan lacks important details on the approach or framework used to "identify, measure, track, and report (1) what specific benefits are being created, (2) how much these benefits are resulting from Grid Plan investments, and (3) who is receiving those benefits." JNGO.EDF Ex. 4.0 at 10. These are requirements derived directly from P.A. 102-0662. *See* 220 ILCS 5/16-105.17(f)(2)(J)(i) and 220 ILCS 5/16-105.17(d)(3). The Commission directs the Company to provide additional information regarding its proposed Grid Plan's compliance with 220 ILCS 5/16-105.17(d)(3) and 220 ILCS 5/16-105.17(f)(2)(J)(i) upon refiling (*See* Section V.A of this Order). Moreover, the Commission finds that the adoption of post-order workshops does not satisfy the requirements for approval in Sections 16-105.17(d)(3) and 16-105.17(f)(2)(J)(i).

The Company's assertion that it is not required to provide a detailed description of its efforts under Sections 16-105.17(d)(3) and 16-105.17(f)(2)(J)(i) is incorrect. "[T]he [MYIGP] shall comprehensively detail the relationship between these plans, tariffs, and programs and to the electric utility's achievement of the objectives in subsection (d)." 220 ILCS 5/16-105.17(f)(4); *see also* 220 ILCS 5/16-105.17(f)(2)(J)(i). It is the burden of the utility to prove compliance with relevant law. A sufficiently detailed description of the Company's compliance under Sections 16-105.17(f)(2)(J)(i) and 16-105.17(d)(3) is necessary to properly inform the Commission's decision in this case. The Commission may approve an MYIGP "only if it finds that the [p]lan is reasonable, complies with the objectives and requirements of this Section, and reasonably incorporates input from parties." 220 ILCS 5/16-105.17(f)(5)(B). The record in this proceeding does not adequately support the Company's efforts related to bringing at least 40% of benefits to low-income and EJ communities and EIECs sufficient to allow the Commission to approve the MYIGP.

The Company argues its Grid Plan complies with Sections 16-105.17(d)(3) and 16-105.17(f)(2)(J)(i) by counting an investment that serves five or more customers located in an EIEC community to be benefiting EIECs. *See* ComEd Ex. 26.0 at 37. Staff notes the Company's emphasis on dollars invested as a measure of "impact" does not provide information on the types or categories of benefits that the investment dollars will deliver for EIECs and questions the Company's use of five or more customers in an EIEC as the appropriate measure of "impact." *See* Staff Ex. 24.0, at 7, 18. The Commission agrees with Staff and encourages the Company to collaborate with stakeholders to address the requirements of 220 ILCS 5/16-105.17(d)(3) and 220 ILCS 5/16-105.17(f)(2)(J)(i) when refiling its Grid Plan.

The Company must use an appropriate measuring framework to show compliance with Sections 16-105.17(d)(3) and 16-105.17(f)(2)(J)(i). The Equity Reporting Framework Strawman Proposal ("Strawman"), supported and developed by JNGO, EDF, LVEJO, City, and Staff, is informed by a review of extensive literature and Justice40 efforts already in place in several other jurisdictions. *See e.g.,* JNGO/EDF Ex. 4.0 and JNGO/EDF Ex. 11.0. Staff, JNGO, and EDF collaboratively tailored the Strawman to Illinois to ensure environmental and energy goals under P.A. 102-0662 would be achieved. *See id.* All parties, except ComEd, have agreed to use the Strawman to inform the MYIGP's compliance in this docket. ComEd instead urges "flexibility to take the JNGO strawman framework into consideration, but not mandate its use." ComEd Reply BOE at 7. The Commission believes the Strawman, while subject to further improvement, presents a transparent, measurable process for ensuring the Company's compliance with Sections 16-105.17(d)(3) and 16-105.17(f)(2)(J)(i). The emphasis for the new framework in the refiled Grid Plan must be on demonstrating progress toward specific benefits flowing to EIEC communities, both in terms of targeted investment amounts and other, non-monetary metrics. In the new framework, the Company must identify, at minimum: (1) what specific efforts and benefits are being supported, (2) the magnitude and type of anticipated benefits, and (3) who is receiving those benefits. With this information, ComEd will be better informed in its grid planning efforts, and the Commission will be better informed about the prudence and reasonableness of such grid planning. Such an equity framework will facilitate EDF's additional proposal regarding a solar initiative, energy sovereignty, and job creation.

With an established framework in place, the Company is directed to employ the refined reporting proposal to track benefits to EIECs, and EJ and low-income communities, and provide the results in the Annual MYIGP Reports and in future MYIGP filings. ComEd also is directed to work with Ameren on development of a common framework, to the extent feasible. The Commission recognizes the existence of meaningful differences in their systems and grid plans.

EDF's additional proposal regarding a solar initiative, energy sovereignty, and job creation are laudable and the Commission hopes that going forward with better understanding and analysis provided by the Strawman will enable the Company and the Commission to ensure that these goals are being addressed.

As for the proposals of Metra and CTA, although the Commission agrees that public transportation plays an important role in reaching the goals of P.A. 102-0662, the

Commission is not making rate design decisions in this proceeding. Metra and CTA are encouraged to participate in the rate design proceeding to be initiated next year.

In conclusion, the Commission finds the Grid Plan does not comply with 220 ILCS 5/16-105.17(d)(3) and 220 ILCS 5/16-105.17(f)(2)(J)(i). ComEd shall refile its Grid Plan as prescribed in Section V.A of this Order. ComEd is directed to work with Ameren and stakeholders during the development of its revised Grid Plan, using the Strawman to ensure benefits accrue to EIEC, EJ, and low-income communities as required by the Act upon refiling.

2. Customer Engagement (Section 16-105.17(d)(4))

a. ComEd's Position

ComEd maintains that its Grid Plan meets the requirements set forth in P.A. 102-0662 for customer engagement and empowerment. Section 16-105.17(d)(4) of the Act provides that the Grid Plan must be designed to "enable greater customer engagement, empowerment, and options for energy services." 220 ILCS 5/16-105.17(d)(4). ComEd explains that its Grid Plan meets these goals by describing multiple touchpoints with ComEd's customers and programs to educate them and enable them to take control of their energy usage. ComEd further explains that the Grid Plan outlines ComEd's holistic approach to ensure broad customer engagement through various communication channels such as customer satisfaction surveys, call center customer service representatives, mail, e-mail, website, and social media channels, as well as in-person touchpoints, such as community fairs, customer education and awareness campaigns, and stakeholder forums. *See* ComEd Ex. 5.01 2nd Corr. at 9-10; ComEd Ex. 33.0 at 19-21, 22-23. ComEd states that each of these customer touchpoints provides ComEd with an opportunity to learn from, assist, and collaborate with customers and stakeholders. ComEd notes that its Grid Plan also explains how ComEd empowers customers to manage their energy use and educates them about available energy management and assistance options through various customer outreach programs (e.g., the Community Energy Assistance Ambassador Program) and marketing and customer communications (e.g., solar customer education programs). ComEd Ex. 5.01 2nd Corr. at 227; ComEd Ex. 33.0 at 16-18, 21-22, 27; ComEd Ex. 54.0 at 19, 21. ComEd notes that Staff agrees ComEd has met this requirement of the Act.

ComEd points out that only the AG suggests, without factual support, that the Grid Plan does not meet the engagement and empowerment goals of Section 16-105.17. ComEd argues that the AG's assertions are incorrect. ComEd argues that many of its programming and proposals, such as the Disconnection Protection Programs ("DPPs") and fee-free bill payment kiosks, are in direct response to stakeholder and customer feedback, and are specifically designed to engage and empower customers. ComEd Ex. 5.01 2nd Corr. at 227; ComEd Ex. 33.0 at 16-23, 27; ComEd Ex. 54.0 at 19, 21-22.

In totality, ComEd observes that neither the AG, EDF, nor any other party directly objects to ComEd's engagement plan.

b. Staff's Position

Staff reviewed the Company's MYIGP with respect to this statutory requirement and did not have concerns; therefore, Staff did not offer specific testimony on it. Staff Ex. 16.01; Staff Ex. 1.0 at 3-4.

c. AG's Position

The Grid Plan must be designed to "enable greater customer engagement, empowerment, and options for energy services." 220 ILCS 5/15-105.17(d)(4). The AG contends that customers are neither engaged nor empowered when their voices are not heard and their needs are treated as subordinate to the needs of the utility's shareholders. The AG asserts that the overriding concern of ComEd's customers is rate increases. Yet, the AG points out, the Company has proposed massive rate increases driven by unnecessary capital spending and excessive shareholder profits.

d. EDF's Position

Recognizing that traditional grid planning procedures have not always best served customers' needs, the General Assembly has directed a more open, transparent, and responsive process in Section 16-105.17(a)(5). Under Section 16-105.17(d)(4), this open and transparent grid planning process, utilities must pursue greater customer engagement, empowerment, and options for energy services. EDF states that customer engagement, empowerment, and options are part of P.A. 102-0662's overarching goal of incorporating cost-effective integration of renewable energy resources, beneficial electrification, providing opportunities for third-party investment in non-traditional, grid-related technologies and resources such as batteries, solar photovoltaic panels, smart thermostats, and reducing energy usage generally but especially during times of greatest reliance on dirty fossil fuels. EDF asserts that the Grid Plan must maximize the benefits of ComEd's plans, programs, and tariffs for all customers pursuant to Section 16-105.17(f)(4).

Under the traditional utility model that P.A. 102-0662 is meant to revolutionize, most people defaulted to the choices made by their utility, or to some broader market forces outside of their control. EDF Ex. 3.0 at 6. In comparison, distributed generation and community participation models give people more autonomy to opt out of that default position. However, to change the paradigm and return the power of choice to the people, the people need to be aware of this opportunity and know the role they can have in the transition to clean energy, a healthy environment, and a more equitable energy economy. *Id*.

Education is therefore a big part of P.A. 102-0662's outreach and equity goals. EDF Ex. 3.0 at 6. Educating people about opportunities means more than formal education. *Id.* Peer-to-peer learning, especially in libraries or after-school programs, is a great opportunity. *Id*. at 6-7. It is important to build on existing networks to streamline community knowledge, allowing adults to educate children who will naturally ask questions about the solar technology they will see in their communities. *Id*. at 7. Career opportunities go together with that education and practical knowledge. Learning how energy works also creates a new expectation, or paradigm shift, away from fossil fuels and toward solar panels (and not just in rich neighborhoods). Finally, education empowers future generations and is the key to engaging those who have been historically left out. Education is the segue to career opportunities. *Id*.

In summary, EDF asks the Commission to require ComEd to engage in culturally competent outreach, especially through diverse small businesses in its service territory, to educate customers on the opportunities for clean energy and energy equity in the approved Grid Plan.

e. Commission Analysis and Conclusion

The Commission finds that ComEd has complied with Section 16-105.17(d)(4) of the Act. The record shows many instances where ComEd has modified its MYIGP in response to proposals to better serve customers. EDF, however, raises many areas where improvements could be made. The Commission directs ComEd to work with EDF and interested stakeholders to further the customer engagement goals of the Act upon refiling.

3. Grid Performance (Section 16-105.17(d)(5))

a. ComEd's Position

ComEd states that, as required by Section 16-105.17(d)(5) of the Act, the Grid Plan describes in detail the analyses and investments that ComEd will utilize to maintain and improve grid performance during the Grid Plan period by reducing grid congestion, facilitating the interconnection of DERs and other customer-owned resources, and increasing the hosting capacity of the grid reliably and safely. 220 ILCS 5/16-15.17(d)(5); ComEd Ex. 5.01 2nd Corr. at 39-58.

Specifically, ComEd points to planned investments to facilitate interconnection of DERs and EVs, including the DER Management System ("DERMS"), Advanced Distribution Management System ("ADMS"), 4kV to 12kV conversions, and investments to improve grid communications infrastructure known as Renewable Energy Advanced Control and Telemetry Systems ("REACTS"). ComEd Ex. 5.01 2nd Corr. at 39-58, 135-142, 177-179. ComEd states that the Grid Plan also identifies the current challenges and planned solutions for interconnection of DERs to enhance their availability and deployment. ComEd Ex. 5.01 2nd Corr. at 96-102, 130-132. ComEd explains that, among planned solutions, its efforts to further the capacity of the grid to host DERs and streamline interconnection times and costs include the flexible and modular electrical operational technology and informational technology architecture of ADMS, Advanced Telemetry to build intelligent connections between the grid and customer devices, Intelligent Substations and other DERMS to improve hosting capacity by minimizing the system upgrades required to interconnect DERs, and Voltage Optimization improvements to minimize the impact of momentary outages from using DERs. ComEd Ex. 5.01 2nd Corr. at 122-123. ComEd maintains that all of these investments will reduce grid congestion, minimize the time and expense of interconnection, and increase the grid's capacity to host a growing volume of DER, in accordance with Section 16-105.17(d)(5).

b. Staff's Position

Staff reviewed the Company's MYIGP with respect to this statutory requirement and did not have concerns; therefore, Staff did not offer specific testimony on it. Staff Ex. 16.01; Staff Ex. 1.0 at 3-4.

c. City's Position

The City maintains that the record in this case makes clear the need to improve grid performance. The City cites JNGO expert Kenworthy's statement that "[t]here has not yet been a systematic approach to understanding whether and to what extent EIEC[s] have been disproportionately impacted by poor reliability, underinvestment in distribution systems, and/or other dimensions of distribution system performance such as lack of grid access/hosting capacity or low power quality in ComEd's service territory." JNGO IB at 18 (*citing* JNGO Ex. 1.0 at 29). Answering these questions is important to the City and its residents. As the City's expert testified, "investments and programs must maximize community-level benefits and prioritize residents who are disproportionately impacted by pollution burden, extreme weather threats, and energy burden." City Ex. 1.0 at 20. The City maintains that further understanding the relationship between customer demographics and service quality could help alleviate these already burdened customers. For all of these reasons, the City supports JNGO's request that the Commission direct ComEd to conduct a more granular regression analysis at a census block group level to better understand service quality in EIECs.

d. EDF's Position

EDF states that ComEd's MYIGP must be designed to "reduce grid congestion, minimize the time and expense associated with interconnection, and increase the capacity of the distribution grid to host increasing levels of [DER], to facilitate availability and development of distributed energy resources, particularly in locations that enhance consumer and environmental benefits." 220 ILCS 5/16-105.17(d)(5). Consistent with EDF's recommendations under Section 16-105.17(d)(11), and Section V.B.8, EDF respectfully asks the Commission to prioritize grid performance measures that also accomplish the goals of affordability and equity.

e. JNGO's Position

JNGO witness Kenworthy points out that "[t]here has not yet been a systematic approach to understanding whether and to what extent EIEC's have been disproportionately impacted by poor reliability, underinvestment in distribution systems, and/or other dimensions of distribution system performance such as lack of grid access/hosting capacity or low power quality in ComEd's service territory." JNGO Ex. 1.0 at 29. He concludes that this fundamental analysis "is badly needed to understand, measure, and advance grid equity, and should then be used to inform the utility's strategic outlook and plans, capital investments, distribution system operations decisions, and the Commission's evaluation of those proposals." *Id*.

JNGO witness Tan's preliminary regression analysis indicates that there are some unanswered questions that remain about the relationships between customer demographics and service quality. This analysis indicates that ComEd should dig deeper and perform its own regression analysis using appropriately granular demographic and geographic data. JNGO strongly recommend that ComEd examine its data at a more granular census block group level rather than the zip code level it currently uses to report reliability statistics. As explained by JNGO witnesses Nock and Kenworthy, zip codes are not designed for demographic research. Using census block group data rather than zip codes for demographic analysis "allows for a more granular and accurate understanding of population characteristics, which can be crucial for research, policy-making, business decisions, public health planning, and many other applications." JNGO Ex. 8.0 at 4-6.

The Commission should therefore direct ComEd to: (1) develop a plan to evaluate equity across multiple dimensions of utility performance (e.g., power quality, customer service, affordability, safety, hosting capacity); (2) conduct this analysis at a sufficiently detailed level of geographic granularity, such as the census block group level; and (3) use the results of that analysis to inform the Company's investment and planning decision-making processes in its next Grid Plan.

f. Commission Analysis and Conclusion

As discussed further in Section VII.B.2.g, the Commission agrees with the collection of data at the census block level to help ensure that the equity goals of the Act are being addressed. The Commission is unable to meaningfully evaluate whether this Grid Plan meets this statutory requirement because to do so would require vital information and frameworks that have not been produced or fully developed in this record. See Sections V.B.4.h, V.B.5.a.vii, and V.B.7.e below. Therefore, for the reasons stated in Section V.A above, the Commission is unable to find ComEd's Grid Plan meets this requirement of the Act at this time.

The Company's grid performance is also subject to evaluation to determine whether the Company has met the performance metrics addressed in Section V.D.

4. Cost-effectiveness of Utility Expenditure and Proposed System Investments, including Environmental Costs and Benefits / Benefit-cost Analysis; Optimization of Grid Assets and Resources to Minimize Total System Costs (Sections 16-105.17(d)(1), (2), (7))

a. ComEd's Position

ComEd contends that the investments identified in ComEd's Grid Plan will cost-effectively meet the evolving needs of customers and the State's renewable energy, climate, and environmental goals while minimizing total system costs, in accordance with Section 16-105.17(d)(1), (d)(2), and (d)(7). 220 ILCS 5/16-105.17(d)(1), (d)(2), (d)(7); ComEd Ex. 5.01 2nd Corr. at 15-16, 19-20. ComEd states that its planned investments must be analyzed in the context of meeting P.A. 102-0662 objectives at the lowest cost to customers over the long term, avoiding investment plans that spend less in the short term but incur substantially greater costs on customers when the investments must inevitably be made. ComEd Ex. 26.0 at 9-10. ComEd further contends that, because its Grid Plan is cost-effective, proposals to delay or defer ComEd's planned investments will not only delay and defer the benefits of those investments for customers but also increase overall costs. *Id.*

ComEd points out that, though deferral may result in the initial cost of investments being lower, the rate of spending increases over time because of escalations in material and labor costs that occur when investments are delayed and must be completed in compressed periods of time. ComEd Ex. 26.0 at 9. ComEd notes there are additional costs to customers from the unmanaged decarbonization risk that results from system degradation, as the environmental and social benefits of meeting P.A. 102-0662's goals are delayed and unrealized. *Id*. at 9–10. ComEd argues that, together, the increased costs of delayed investments along with the lost benefits of decarbonization combine to raise deferred costs to customers significantly above the cost of the proposed Grid Plan investments. *Id*.

As described by ComEd, ComEd's Grid Plan meets the statutory objective of Section 16-105.17(d)(1) by ensuring coordination of the State's renewable energy, climate, and environmental goals while ensuring that expenditures are cost effective. ComEd maintains that the Grid Plan's steady investments over time allow ComEd to utilize grid assets and resources while minimizing total system costs in line with the objective of Section 16-105.17(d)(2). ComEd states that it has analyzed the cost-effectiveness of its proposed investments while accounting for environmental costs and benefits in furtherance of the objective of Section 16-105.17(d)(7).

ComEd states that, while several parties including Staff, AG, ICCP, and Metra submitted commentary regarding Section 16-105.17(d)(1), (2), and (7), none of them demonstrate that ComEd failed to meet the requirements of the Act. In addition, ComEd explains that the AG continues to incorrectly assert that these sections require ComEd to perform a strict benefit-cost analysis. ComEd's position is that these sections do not require such an analysis.

ComEd notes that there are areas of agreement on this topic. First, ComEd agrees with JNGO that clarity on exactly what "cost effectiveness" means in the context of the Grid Plan would be helpful. *See* JNGO IB at 20-22. ComEd also agrees with JNGO and Staff that there should be a venue to discuss cost effectiveness and related topics. ComEd IB at 211-212. While ComEd agrees with Staff that some collaboration with Ameren to establish state-wide analysis for grid investment benefits is likely beneficial, ComEd cautions that a "one size fits all" benefit analysis is unlikely to be successful because of the significant differences in the service territories and operating characteristics of ComEd and Ameren. Thus, while ComEd does not oppose working collaboratively with Staff, stakeholders, and Ameren on this topic, it expects that ComEd and Ameren will present their own methodologies of benefit analysis, with input from Staff and stakeholders, and ultimately adopt different benefits, methodologies, and analyses that are specifically tailored to each utility.

b. Staff's Position

Staff recommends the Commission order ComEd to collaborate with Ameren to develop a manual for how benefit-cost analysis, inclusive of environmental considerations, should be conducted, for both the performance metrics and the MYIGP, in compliance with Sections 16-105.17(d)(7) and 16-108.18(f)(1), and solicit stakeholder and Staff feedback through utility-run stakeholder meetings. Staff Ex. 26.0 at 2; Staff Ex. 16.0 at 3-4. To ensure clarity on how companies should perform benefit-cost analyses including environmental considerations, Staff believes that it would be beneficial for the utilities to join efforts to create an approach that can be applicable to both Companies. ComEd agrees with this recommendation generally, stating that the Company does not object to consulting with Ameren, but Ameren's service territory is very different from ComEd's and it is likely that a workable benefit-cost analysis framework should and will be somewhat different for each utility. ComEd Ex. 47.0 at 5. Staff believes this concern may be addressed by allowing the Company approaches to deviate where appropriate. ComEd also agrees to consult with Staff and stakeholders before a filing of their draft protocol or manual for a benefit-cost analysis. ComEd Ex. 47.0 at 5. Therefore, the Commission should accept Staff's recommendation to direct the ComEd to work with Ameren, allowing the utilities to identify areas of deviation from a shared approach where appropriate.

c. AG's Position

The AG argues that the need to balance necessary investments and changes to utility planning with rigorous capital spending discipline is a pervasive focus of P.A. 102-0662, as a review of the MYIGP and MYRP sections makes clear. *See* 220 ILCS 5/16-105.17(d)(1), (2). Additionally, the Grid Plan must "provide for the analysis of the cost-effectiveness of proposed system investments, which takes into account environmental costs and benefits." 220 ILCS 5/16-105.17(d)(7).

In mandating integrated grid planning, the General Assembly stated that it is "the policy of the State to promote inclusive, comprehensive, transparent, cost-effective distribution system planning and disclosure processes that minimize long-term costs for Illinois customers and support the achievement of State renewable energy development and other clean energy, public health, and environmental policy goals." 220 ILCS 5/16-105.17(a). In furtherance of this policy, the General Assembly included eight specific findings, more than half of which explicitly refer to the need for expenditures to be cost effective, that investments be in customers' best interests, and that costs be fair and reasonable. *Id*. In short, the AG asserts, cost-effectiveness is more than just one issue among many; it is a dominant theme of P.A. 102-0662 and the threshold requirement for all Grid Plan investments.

The proposed investments in the Grid Plan are effectively co-extensive with the system investments that the Company will recover in the Rate Plan for this consolidated docket. And the MYRP section of the Act makes clear that "the burden of proof shall be on the electric utility to establish the prudence of investments and expenditures and to establish that such investments are consistent with and reasonably necessary to meet the requirements of the" Grid Plan. 220 ILCS 5/16-108.18(d)(4).

Synthesizing these various provisions, the AG emphasizes that the Commission may only approve the Grid Plan if ComEd's expenditures are cost-effective, meaning proposed investments are prudent and reasonable and provide net benefits to customers. The plain language of "net benefits" means that the benefits outweigh the costs. To evaluate whether an investment provides net benefits, then, both costs and benefits must be quantified to the greatest extent possible and then weighed against one another. The AG explains a RIDS approach, using a risk-informed benefit-cost analysis, is necessary to ensure that the Grid Plan and Rate Plan are designed to meet P.A. 102-0662's goals in a cost-effective, accountable, and affordable manner.

Under this approach, the first step is to identify which investments are discretionary and which investments are necessary. A benefit-cost analysis should not be required for expenditures that are strictly necessary for safe and reliable service delivery within the upcoming Rate Plan period. AG Ex. 1.0 at 9. The AG maintains that investments that are discretionary with regard to extent or timing should be subject to additional steps. Specifically, the Company should be required to apply the RIDS technique to quantify risks and determine cost-effectiveness, meaning they must identify a portfolio of potential discretionary investments, conduct a risk-informed benefit-cost analysis of the projects or programs, and prioritize the most cost-effective investments in the portfolio over others to create a Grid Plan. *Id*. at 53.

To actually conduct the risk-informed benefit-cost analysis, the AG explains the Company would calculate the "cost" side of the ledger as the cost to customers, meaning capital expenditures would be measured in terms of the revenue requirement necessary for such investment, inclusive of utility profits, interest expenses, and taxes, rather than the cost to the utility. The "benefit" side of the analysis would be determined by the risks avoided. This approach is similar to the total resource cost test that is used to evaluate EE programs, but it would be applied to all discretionary investments.

What ComEd proposes in place of a rigorous benefit-cost analysis is a subjective approach to selecting potential investments based on asset health indexing and risk scoring. ComEd Ex. 26.0 at 44. The AG explains, however, a risk-informed benefit-cost analysis is superior to the Company's asset health indexing and risk-scoring approach to evaluating plant investments and is necessary to meet the requirements for cost-effective and cost-minimizing investments set forth in Section 16-105.17(d). AG Ex. 5.0 at 38. In order to "maximize the benefits" of system investments as required in subsection (d)(1) and "minimize total system costs" as required in subsection (d)(2), one must necessarily understand what the benefits and costs of a proposed investment are. That means they must be defined and, the AG submits, quantified to the maximum extent possible to allow for comparison against other alternatives. Then, in order to "ensur[e] that utility expenditures are cost-effective" by maximizing benefits and minimizing costs, as required in subsections (d)(1) and (d)(2), subsection (d)(7) requires that the utility develop a benefit-cost analysis.

The AG asserts that ComEd has failed to satisfy this statutory requirement. The AG repeatedly asked for ComEd's benefit-cost analyses in connection with its proposed investments. For example, the AG requested a benefit-cost analysis of the Company's Distribution Automation ("DA") Laterals program (discussed in Section V.C.6.i.vii. below), and ComEd objected on the grounds that a request for a benefit-cost analysis "is vague and ambiguous" and that "the phrase 'benefit-cost analysis' is undefined, is not used in this context in the Grid Plan or its supporting testimony, and could be subject to multiple interpretations depending on the context." AG Ex. 5.1 at 17. ComEd goes on to list various qualitative benefits that it expects from its DA Laterals program generally, but there is no assessment of the specific projects proposed as part of the Grid Plan or an attempt to weigh their costs. *Id*. The AG notes that it also requested a benefit-cost analysis for projects in the Capacity Expansion context, which ComEd has failed to provide. AG Ex. 1.0 at 85.

In each case, ComEd stated that it assesses the costs and projected impacts and benefits of various activities in various contexts, whether or not such assessments would be considered a benefit-cost analysis. The AG states that if in fact ComEd does constantly assess costs and benefits of its proposed investments, then the statute requires that it provide such assessments to stakeholders for review. *See* 220 ILCS 5/16-105.17(d)(7).

The AG asserts that ComEd must provide "a clear, comprehensive, and measurable response before stakeholders can properly assess, and the Commission can meaningfully decide, whether the incremental costs above" what is needed to maintain reliability are justified. Staff Ex. 29.0 at 7. That is, ComEd must demonstrate that the amounts invested "in excess of those required for reliability as traditionally defined" translate to "tangible, measurable levels of benefits associated with those other objectives." AG Ex. 1.0. at 8.

The AG asserts that the Commission must not wait for future workshops and proceedings to remedy ComEd's failure to provide for the analysis of the cost-effectiveness of its investments in this Grid Plan. The record shows that ComEd has failed to develop a coherent cost-effectiveness framework and to provide the information to stakeholders that would be necessary to analyze the cost-effectiveness of the Grid Plan's escalating investments. This creates information asymmetry that ComEd has sought to exploit, demanding that the other parties simply take ComEd at its word that its Grid Plan is cost-effective. The AG emphasizes that this is contrary to the Act's mandate for transparency, accountability, and inclusivity. Accordingly, the AG requests that the Commission find the following:

- The cost-effectiveness requirement under the Act means that the utility must conduct a risk-informed benefit-cost analysis on all discretionary investments.
- A discretionary investment includes any investment that is not strictly necessary for provision of safe and reliable service during the Grid Plan period.
- To minimize total system costs, the utility must choose the least-cost alternative to achieve a given outcome.
- ComEd has not satisfied these standards and, therefore, has not achieved the objectives set forth in Sections 16-105.17(d)(1), (2), and (7).

Rather than put the risk of ComEd's deficient cost-effectiveness framework on ratepayers, the AG further requests that the Commission limit ComEd's capital spending in the Capacity Expansion, IT Projects, and System Performance categories to 2019-2022 average levels, adjusted for inflation, as further discussed in Section V.C.6. below.

d. City’s Position

The City argues that the record is clear that ComEd’s Grid Plan “did not provide any analyses that were used to assess the cost effectiveness of its proposed system investments.” Staff IB at 22; *see also* AG IB at 37; JNGO IB at 22. The City maintains that this fails to meet P.A. 102-0662’s requirement to “provide for the analysis of the cost-effectiveness of proposed system investments, which takes into account environmental costs and benefits….” 220 ILCS 5/16-105.17(d)(7). To give meaning to the cost-effectiveness provisions, and to protect ratepayers against unjustified costs, the City explains that more time and attention need to be devoted to a collective understanding of cost-effectiveness assessments. For these reasons, the City supports Staff and JNGO’s recommendation that the Commission open a new proceeding to formalize an approach for benefit-cost analyses, inclusive of environmental considerations, to be conducted for both the performance metrics and the MYIGP.

e. CTA/Metra's Position

Many parties in this proceeding criticize ComEd's Grid Plan based upon ComEd's failure to perform a meaningful benefit-cost analysis, and failure to exercise financial constraint. The size and scope of ComEd's proposed Grid Plan improvements is massive given the comparatively strong reliability of ComEd's existing systems, rated in the top 10% of all investor-owned utilities in the United States. AG Ex. 1.0 at 61. CTA/Metra state that Commission should find that these increases are not supported by a careful or meaningful benefit-cost analysis, and therefore are not designed to be cost effective as required by Section 16-105.17(d)(1) and (d)(7).

Further, while ComEd places great emphasis on its own environmental initiatives, CTA/Metra assert that the Company placed no weight or value on the uncontroverted contributions of the RR Class members to meeting the State's climate and environmental goals, nor did it consider the costs and benefits of raising the RR Class members' rates by 48.7% over the next four years. Accordingly, the Commission should find that ComEd's Grid Plan is not designed to: (1) ensure coordination of the State's climate and environmental goals with the utility's distribution system investments, as required by Section 16-105.17(d)(1); and (2) take into account environmental costs and benefits, as required by Section 16-105(d)(7).

f. ICCP's Position

ICCP contend ComEd's customers were subject to significant and largely unchecked rate impacts under Energy Infrastructure and Modernization Act ("EIMA") formula rate mechanism. Recognizing this, in its enactment of P.A. 102-0662, the General Assembly wrote the following concern into the law:

> While the General Assembly has not made a finding that the spending related to the Energy Infrastructure and Modernization Act and its performance metrics was not reasonable, it is important to address concerns that these measures may have resulted in excess utility spending and guaranteed profits without meaningful improvements in customer experience, rate affordability, or equity.

220 ILCS 5/16-108.18(a)(6). ICCP believe this legislative finding has particular relevance in this proceeding.

ICCP note that in response to EIMA, ComEd began significantly investing in its incremental infrastructure investment plan of approximately $2.6 billion over a ten-year period, consisting of $1.3 billion in infrastructure work and $1.3 billion in smart grid technology, to strengthen and modernize the electric grid. ICCP Ex. 3.0 at 3-4.

ICCP state that EIMA resulted in an increase to ComEd's rate base of approximately $7.7 billion from May 2012 to November 2022, an increase in rate base of 124% during this period of time. *Id*. at 4. That being said, ICCP explain ComEd customers over the last ten years have already paid for system reliability improvements to a level where only incremental progress is needed to achieve Commission-approved annual performance metrics and therefore only incremental annual spending increases are necessary to maintain excellent service reliability for customers. ICCP believe the Company has failed to demonstrate with record evidence that its proposed level of reliability-related capital expenditures would yield additional customer benefits sufficient to justify the huge additional cost to ComEd's ratepayers.

ICCP argue ComEd can meet the service quality and reliability metrics established by the Commission in ComEd's performance metrics docket, by making small, marginal improvements to its reliability performance, with spending growth that does not exceed inflation. ICCP suggest the record demonstrates that the significant increase in reliability-related delivery system investments contemplated by the Grid Plan is not necessary to achieve ComEd's Commission-approved reliability performance metrics over the term of the Grid Plan. ICCP Ex. 2.0 at 13.

ICCP assert when evaluating ComEd's proposed Grid Plan expenditures, the Commission must determine whether the Grid Plan meets the statutory requirements through programs and grid investments that are least cost, cost-effective, and minimize total system costs, while maintaining affordable rates for all ComEd's customers. ICCP contend meeting these objectives ensures that the Grid Plan investments provide benefits to customers that outweigh the associated costs, without unduly burdening customers with large rate increases to achieve the objectives of the Grid Plan. ICCP Ex. 2.0 at 6-7.

ICCP report that, importantly, in outlining the objectives of a MYRP, the General Assembly stated the "performance-based ratemaking framework" requires the utility to "choose cost-effective assets and services, whether utility-supplied or through third-party contracting, considering both economic and environmental costs and the effects on utility rates, to deliver high-quality service to customers at least cost." 220 ILCS 5/16-108.18(c)(4). ICCP state ComEd's burden of proof to recover its "forecasted rate base, based on the 4-year investment plan and the utility's Integrated Grid Plan," requires ComEd to show "that the investments are projected to be used and useful during the annual investment period and least cost." 220 ILCS 5/16-108.18(d)(A).

ICCP note looking to the performance metrics docket, the Commission acknowledged in determining the appropriate level of a performance incentive, the Commission is to consider, among other things a calculation of net benefits that includes customer and societal costs and benefits and quantifies the effect on delivery rates, citing Section 16-108(e)(2)(F). Docket No. 22-0067, Order at 69. ICCP note that clearly, the statutory framework for determining whether ComEd's proposed investments can be recovered in rates requires the application of a least-cost standard to those investments, a showing of net benefits to ComEd's customers and a determination that the proposed level of investments maintains affordable delivery service rates.

According to ICCP, what is abundantly clear from the statutory mandates is that ComEd must meet the Grid Plan's clean energy goals through programs and investments that are least-cost, and which also provide demonstrable benefits (net benefits) that exceed the Grid Plan costs. ICCP do not believe applying a least-cost standard to the reliability-related investments proposed by ComEd is enough to establish their reasonableness, as P.A. 102-0662 also requires ComEd to demonstrate that those reliability investments are cost-effective. *Id*. at 8-9; 220 ILCS 5/16-117(d)(7). ICCP believe the Company must meet statutory clean energy goals in a manner which minimizes both total system costs and adverse rate impacts to customers. Thus, ICCP assert that ComEd must quantify the cost of proposed investments and of alternatives to the proposed investment, and to demonstrate sufficient benefits of the least-cost investment option to offset the costs of the proposed investment. ICCP argue the Commission should not approve recovery of the costs of the proposed investments from ratepayers unless ComEd meets the above statutory criteria.

ICCP state the cost-effectiveness of the proposed reliability-related investments should be measured objectively against the benefits they provide, and this can be done by measuring reliability improvements as defined according to the reliability metrics approved by the Commission. ICCP assert ComEd must demonstrate that the large amount of additional reliability-related system performance investments that it proposed in its Grid Plan are justified by the reliability benefits that this aggressive level of investment provides to customers. However, ICCP witness Fitzhenry's analysis shows ComEd can meet the reliability metric targets established for the Company in Docket No. 22-0067 by maintaining a similar level of reliability performance relative to what it achieved over the last several years. ICCP Ex. 2.0 at 9.

ICCP believe the Commission can moderate ComEd's proposed large delivery service cost increases by adjusting the growth rate of the Company's System Performance investments related to meeting Commission-approved reliability metrics to a level that corresponds to expected growth in inflation. ICCP say this allows ComEd to make needed investments in reliability and quality of service, but to do so in manner that better manages its capital investment program to limit the amount of rate increases to customer. *Id*. at 14.

ICCP state, ultimately, ComEd has the burden of proof in this proceeding to demonstrate that its proposed Grid Plan investments and expenses are providing benefits to customers that exceed the associated cost. In addition, ICCP also state ComEd has the burden of proof to demonstrate that it can undertake the investments contemplated in the Grid Plan while ensuring that the delivery of electricity remains affordable for its customers. ICCP argue ComEd has failed to meet its burden of proof on all of these issues.

g. JNGO's Position

JNGO note that P.A. 102-0662 requires grid investments to be cost-effective. The statute repeatedly emphasizes the importance of cost-effectiveness in its discussion of grid investments and affordable rates. Despite the statute's repeated emphasis of cost-effectiveness, ComEd's Grid Plan fails to articulate a clear definition of the cost-effectiveness standard. In response to multiple data requests, ComEd advanced legal objections rather than substantive responses. In summary, ComEd's Grid Plan fails to define and demonstrate cost-effectiveness in a satisfactory way. JNGO assert that the Commission should therefore: (1) direct ComEd to collaborate with Staff and stakeholders to develop an agreed-upon benefit-cost methodology in advance of ComEd's next Grid Plan filing; (2) clarify that this methodology should disclose the full customer costs of major capital expenditures, expressed as revenue requirements; and (3) require ComEd to file a progress report within one year of the final Order in this docket.

h. Commission Analysis and Conclusion

Under the Act, the Company must "maximize the benefits [of the State's renewable energy goals, climate and environmental goals] . . . while ensuring utility expenditures are cost-effective." 220 ILC 5/16-105.17(d)(1). The Grid Plan must be designed to "optimize utilization of electricity grid assets and resources to minimize total system costs." 220 ILCS 5/16-105.17(d)(2). The Grid Plan must also be designed to "provide for the analysis of the cost-effectiveness of proposed system investments, which takes into account environmental costs and benefits." 220 ILCS 5/16-105.17(d)(7). Together, these provisions require ComEd's Grid Plan to contain a cost-effectiveness analysis of proposed system investments, ensure utility expenditures are cost-effective, and demonstrate how their plan will minimize total system costs while maximizing benefits. The Commission recognizes the challenge faced by the Company complying with these provisions in its first Grid Plan. Nevertheless, the Commission must ensure the proposed spending plan provides a method of determining whether the Company has included only those investments designed to achieve the quantitative and qualitative benefits defined by the Grid Plan statutory framework.

At a minimum, the investments should be tied to the benefits outlined in 220 ILCS 5/16-105.17(d)(3)-(11). ComEd's Grid Plan contains general descriptions of anticipated benefits associated with plan priorities and several tools ComEd will consider in quantifying value. The Company focuses on general value resulting from the Grid Plan and concludes that deferred investment may cost customers more over time. ComEd Ex. 26 at 7-11. Absent from ComEd's explanation of benefit analysis tools is any demonstration that ComEd utilized these tools in developing its current Grid Plan proposal. *Id.* at 57-58. Moreover, the connection between Grid Plan programming and benefits is too general and does not provide insight into the intentionality of planning choices and specific investment levels over the four years of this Grid Plan. *See e.g.*, ComEd Grid Plan, Ex. 5.01, at 155, 240-41, Table 6.1-2.

The Commission agrees with the concerns of various parties that ComEd has not examined the cost-effectiveness of its proposed expenditures as required by the Act. As evidenced in the discussion of the Company's numerous planned projects, the Commission has closely examined the record evidence to determine whether the Company has met its burden. The Commission agrees with Staff and other parties that a methodology must be implemented to ensure that the Grid Plan more clearly meets this requirement. The Company must develop an analytical approach that sets values for contributions toward the statutory goals (at a minimum Section 16-105.17(d)(3)-(11)), both quantitative and qualitative, and identify types of investments where benefit-cost analysis ('BCA') frameworks (like those traditionally used in EE) will be appropriate. All Grid Plan investments should be evaluated in terms of their contribution toward achieving these goals and others consistent with the objectives and requirements of the Grid Plan statute. Until such an analysis is conducted, the Commission cannot determine whether or to what extent the Company's investments will be prudent and contribute to meeting the statutory goals. While the Commission recognizes initial cost-effectiveness analysis will improve over time, ComEd's current framework is not sufficiently developed to demonstrate compliance. Accordingly, the Commission is unable to reasonably assess the investments in terms of cost-effectiveness in furtherance of ComEd's statutory goals.

The Commission finds that the Company's Grid Plan does not comply with Sections 16-105.17(d)(1), (2) and (7).

ComEd is directed to refile a Grid Plan that analyzes the proposed investments according to a cost-effective analysis consistent with statutory provisions and goals. Using the updated analysis, ComEd is directed to develop a revised investment plan that demonstrates connection and progress toward these goals. The Commission directs the Company to share any methodologies being used to assess the statutorily-defined benefits in an analysis of the proposed system investments with Staff and parties to provide ample opportunity for intervening experts to evaluate, provide feedback and suggest changes to ComEd's analysis. The Commission agrees with JNGO's proposal to require the Company to disclose the full customer costs of major capital expenditures, expressed as revenue requirements, and expects this information in ComEd's refiled Grid Plan. The Commission agrees with parties that, once the first Grid Plan is approved, the Company should work transparently and collaboratively with stakeholders to refine analysis methodologies, including to strengthen quantitative and qualitative benefits assessments.

The Commission agrees with Staff that it would be beneficial for the utilities to join efforts to create an approach that can be applicable to both Ameren and ComEd. ComEd agrees with this recommendation generally, stating that the Company "does not object to consulting with Ameren, but Ameren's service territory is very different from ComEd's and it is likely that a workable benefit-cost analysis framework should and will be somewhat different for each utility." ComEd Ex. 47.0 at 5. ComEd also agrees to consult with Staff and stakeholders before a filing of their draft protocol or manual for benefit-cost analysis. The Commission notes the value of statewide consistency in determining methods to address cost-effectiveness in meeting the Grid Plan statutory goals. After the first Grid Plan is approved, ComEd should join Ameren in workshops to increase efficiency and avoid redundancy for stakeholders on common issues, allowing the Companies to identify areas of deviation from a shared approach where appropriate. The Commission recognizes differences in service territory, customers, and operations compared to Ameren and understands that each utility will initially have its own cost-effectiveness methodologies.

5. Environmental Goals (Section 16-105.17(d)(8))

a. Investments, including Environmental Costs and Benefits / Benefit-cost Analysis; Optimization of Grid Assets and Resources to Minimize Total System Costs (Sections 16-105.17(d)(1), (2), (7))

(i) ComEd's Position

ComEd states that its Grid Plan meets the statutory requirements to support a broad set of environmental policy goals. See 220 ILCS 5/16-105.17(d)(8). ComEd maintains it is clear that policymakers expect utility Grid Plans to not only result in reliable, safe, and affordable service but also to advance environmental goals established by P.A. 102-0662 and other Illinois laws. ComEd points out that Section 16-105.17(d)(8) of the Act provides that Grid Plans must be "designed to … to the maximum extent practicable, achieve or support the achievement of Illinois environmental goals," including in particular those related to renewable and zero-carbon energy, "and emissions reductions required to improve the health, safety, and prosperity of all Illinois residents." 220 ILCS 5/16-105.17(d)(8). More specifically, ComEd notes that P.A. 102-0662 sets forth ambitious goals to transition to 100% renewable energy sources for the electricity used in Illinois by 2050, and to achieve one million EVs on the road in Illinois by 2030. *See* 415 ILCS 5/9.15; see also 20 ILCS 627/45.

As an electric delivery utility, ComEd states that its role in the transition to a decarbonized economy is primarily one of support. ComEd notes that the electric grid must be capable of accommodating high levels of load associated with decarbonization and electrification as Illinois moves towards an increased reliance on renewable energy sources and the transportation sector transitions to EVs.

ComEd states that in preparing its Grid Plan it worked to better understand the pace of such change, so as to better prepare the grid to withstand it. ComEd commissioned Energy and Environmental Economics ("E3") to identify and analyze potential pathways for Illinois economy-wide decarbonization, using the goals set forth in P.A. 102-0662 as a baseline. *See* ComEd Ex. 50.06. ComEd points out that a separate Illinois Decarbonization Study demonstrated that electrification could more than double annual and peak demands on ComEd's system by 2050, with the highest rate of growth in the transportation sector. ComEd Ex. 5.01 2nd Corr. at 79. In addition, ComEd states that it further analyzed the potential changes in load patterns that may emerge as customers adopt EVs and other BE technologies. *Id*. at 87-89.

ComEd explains that its Grid Plan reflects this focus on decarbonized energy and improved environmental performance. ComEd's risk assessment methodology – which is used to identify and prioritize projects for inclusion in the Grid Plan – explicitly accounts for the estimated decarbonization impact of potential investments, as well as other direct and indirect environmental impacts. *Id*. at 54. As a result, ComEd states that it prioritizes investments that achieve a greater scope of decarbonization benefits and/or investments that result in more limited direct and indirect environmental impacts.

ComEd states that it has placed an intentional focus on finding solutions that meet system needs while advancing the State's environmental goals. ComEd notes that its Grid Plan includes new substations to accommodate increased loads resulting from winter peak demands (driven by anticipated switching from natural gas to electric heat) and higher summer peak demands (driven by EV adoption and other electrified end-uses). *Id*. at 89. It also includes investments that ComEd asserts will bolster the grid's capability to manage two-way power flows so that customers can both produce and consume energy generated by renewable sources and DER. *Id*. at 18.

ComEd notes that Staff supports both ComEd's commitment to executive level awareness and leadership regarding climate change and the use of climate models in grid planning. Staff IB at 23. Similarly, ComEd notes that EDF requests the Commission endorse ComEd's ongoing partnerships with Argonne National Laboratory and the Electric Power Research Institute. *See* EDF IB at 48-50.

ComEd notes that the City challenges whether the Grid Plan goes far enough in support of environmental goals. ComEd explains that the City asserts ComEd's "Climate Action Plan" is an "Illinois environmental goal" on par with those individually identified in

Section 16-105.17(d)(8) and suggests four outcomes that would further achievement of the City's Climate Action Plan. City IB at 13. ComEd responds individually to those proposals, as summarized in Sections V.C.7.c., VII.B.3.a., VII.B.8., and VIII.I. ComEd agrees that it is important that municipal goals like those of the City are recognized. However, ComEd argues that the City's assertion that its 2022 Climate Action Plan should be provided the same weight State goals specifically listed in Section 16-105.17(d)(8) and the State laws referenced therein lacks support and must be rejected.

(ii) Staff's Position

Staff asserts that the Commission should approve ComEd's inclusion of climate model projections in its planning processes. Staff Ex. 35.0 at 3-4.

Staff and EDF agree that the Company should incorporate insights from climate studies and/or analyses as appropriate, to inform its planning process. Staff also agrees with EDF's requests that the Commission: (1) fully endorse ComEd's use of the Climate Resilience Maturity Model ("CRMM") as well as ComEd's partnership with the Argonne National Laboratory and Electric Power Research Institute ("EPRI"); and (2) require ComEd to include the data and analyses resulting from those partnerships in its next Grid Plan. Staff states ComEd's involvement in the CRMM as well as its partnerships with Argonne National Laboratory and EPRI are expected to significantly enhance its understanding of how to effectively incorporate climate data projections into updated planning processes. Staff notes that ComEd expresses an interest in using the CRMM and ensuring climate risks get addressed at the highest corporate level. ComEd Ex. 21.0 at 8-9.

In addition, Staff recommends that the Commission should direct ComEd to incorporate executive-level awareness and leadership in addressing climate risks within its corporate governance model to set the cultural tone for the Company. Staff asserts that executive-level awareness and leadership in addressing climate risks should be included in ComEd's corporate governance model because climate risks are strategically important and require dedicated attention by executives who have the authority to drive organizational change and set the cultural tone for a Company.

(iii) AG's Position

The AG agrees that ComEd has sought to support the achievement of the State's environmental goals with its Grid Plan. The AG notes that Section 9.10 of the Illinois Environmental Protection Act addresses regulation of fossil fuel electric generating plants. 415 ILCS 5/9.10. The AG asserts that as a distribution utility, ComEd does not own or control any fossil fuel electric generation and that its Grid Plan is limited to assuring that it can accommodate DER and other energy transition demand and needs.

(iv) City's Position

The City asks the Commission to find that P.A. 102-0662's directive that the Grid Plan "achieve or support the achievement" of "emissions reductions required to improve the health, safety, and prosperity of all Illinois residents" includes the City's Climate Action Plan, which the City states aims to equitably reduce emissions 62% by 2040. The City notes that its residents comprise nearly 1/3 of ComEd's customers, and that those residents have repeatedly called for a just and equitable transition to a decarbonized future.

The City asserts that this finding is important to address the disproportionate impact of pollution burden on the City's residents. The City explains that its expert presented analysis detailing community level data on air quality, health, and social factors to identify which neighborhoods must be prioritized for efforts to mitigate air pollution. City Ex. 1.0 at 11. The City states that it works with community leaders to co-design and implement strategies that address the needs of EIECs and shared vision for the future. The City states that its Climate Action Plan lists these strategies in further detail and emphasizes economic inclusion and savings and reduced pollution burden. *Id*. at 13.

The City notes that CTA states that one of the most cost-effective, proven ways to maximize the achievement of Illinois environmental goals and emissions reductions is to facilitate public mass transit that provides service to customers in shared vehicles powered by electricity. *Id*. at 9. The City notes that this key decarbonization strategy is incorporated into its Climate Action Plan, which cites CTA's Charging Forward strategic plan. City Ex. 1.02 at 87. The City asserts that more needs to be done to ensure that ComEd's plan fully supports environmental goals.

The City states that to begin to address these defects, the Commission should grant the requests set forth by City witness Woods, including: additional ComEd staff capacity specifically dedicated to coordinating the Climate Action Plan's objectives with the Grid Plan (*see* Section VII.B.8); a Multi-family Community Solar Parity Initiative (see Section VII.B.3.a); a commitment to evolve ComEd's mapping and planning capabilities over time to facilitate achievement of the Climate Action Plan's electrification targets (see Section V.C.7.c); and a Commission-directed process to inform the future gas transition analysis identified in the Illinois Decarbonization Study (*see* Section VIII.I). City Ex. 1.0 at 3. The City argues that these modifications are needed to ensure ComEd's Grid Plan meets the requirements of Section 16-105.17(d)(8) and that they are reasonable recommendations that should be incorporated under P.A. 102-0662, which specifies that the Grid Plan should reasonably incorporate input from parties. 220 ILCS 5/16-105.17(f)(5)(B).

(v) CTA/Metra's Position

CTA/Metra assert that raising the RR Class rates by 48.7% over the next four years is antithetical to meeting the State's goals and the emissions reductions required to improve the health, safety, and prosperity of all Illinois citizens. CTA/Metra assert that as reflected in the uncontroverted direct testimony of both Metra witness Ciavarella and the CTA witness Tomford, the RR Class members play a critical role in reducing air pollution and greenhouse gas emissions in the Chicago metropolitan region. Metra Ex. 1.0 at 3-6; CTA Ex. 1.0 at 3-5.

CTA/Metra note that Ms. Ciavarella testified concerning part of the environmental benefits contributed by Metra as a whole:

> Even though a diesel-run Metra train emits between 18 and 31 times more carbon dioxide per mile than a single automobile, Metra emits less global warming pollution per

> passenger because hundreds of people ride a train at once, while only one or two people ride in a car. Per passenger, Metra emits 7.3 times less global warming pollution than sedans, 8.6 times less than [sport utility vehicles], and 13.2 times less than pickup trucks. The MED [Metra Electric District] has the extra benefit of running on electricity from the grid, further reducing dependence on oil.

Metra Ex. 1.0 at 3. CTA/Metra note that both Ms. Ciavarella and Ms. Tomford testified concerning the Regional Transportation Authority's ("RTA") 2012 Chicago Regional Green Transit Plan. Ms. Tomford reported that the 2012 Plan concluded that: "Throughout the Chicago region, public transit saves more than 750 million gallons of gasoline each year, keeping more than 6.7 million metric tons of greenhouse gases from being released into the atmosphere." CTA Ex. 1.0 at 4. CTA/Metra assert that while that analysis was of the environmental benefit of the entire RTA's greenhouse gas reduction benefits and not just the contribution of the Chicago "L" system and the Metra Electric District, and was completed 11 years ago, these two systems account for a substantial amount of the greenhouse gas reductions attributed to the entire RTA system. CTA asserts that the Commission should find that CTA's conversion of its 1,800 diesel buses will further reduce pollution and provide environmental benefits to all of Chicago, especially in the EJ and R3 communities. CTA notes that ComEd's Grid Plan identifies no specific project to assist in CTA's transition to electric-powered buses. CTA/Metra assert that the Commission should conclude that ComEd's Grid Plan fails to meet the requirements of Section 16-105(d)(8).

(vi) EDF's Position

EDF asserts that grid plans designed to meet Illinois' environmental goals will also tend to meet Illinois' goals relating to affordability and equity.

EDF notes that among the goals in Section 9.10 of the Environmental Protection Act are reducing emissions from fossil fuel-fired electric generating plants (415 ILCS 5/9.10(b)) and developing safe, sufficient, reliable, and affordable energy supplies (415 ILCS 5/9.10(a)(5)). EDF also notes that among the goals of Section 1-75 of the Illinois Power Agency Act are significant renewable energy portfolio goals, with a long-term renewable energy procurement plan designed to maximize the State's interest in the health, safety, and welfare of its residents, particularly with regard to harmful emissions from fossil fuel-fired electric generation plants. 20 ILCS 3855/11-75(c)(1)(I).

EDF maintains that the Commission cannot reach its equity and affordability goals without also reaching its environmental goals. EDF asserts that its witnesses describe past environmental harms resulting from racist policies and emphasize the importance of clean air, healthy environments, and equal access to the benefits of solar and other technology and innovation. *See* EDF Exs. 2.0 and 3.0. EDF asks the Commission to prioritize the proposals in this docket that will deliver cleaner air and healthier environments, especially those programs and projects that will deliver environmental justice.

EDF notes that climate change is bringing new stresses to the electric grid. EDF Ex. 8.0 at 4. EDF states that climate change-related stressors include high heat events that reduce efficiency of distribution lines and related equipment, threatening the health of linemen, increasing peak demand loads from air conditioning, major precipitation events that can flood substations and short out important grid management equipment, and freeze events that can reveal vulnerabilities in grid operations, such as Winter Storm Uri. *Id*. at 4-5.

To respond to these increasing climate change threats, EDF maintains that utilities must adopt resiliency planning measures. *Id*. at 4. EDF asserts that planning for resiliency is part of every engineer's professional responsibility and is an integral piece of every investor-owned utility's obligation to manage risk for its investors. *Id*. at 4-5, 10. EDF asserts that planning for resiliency is also increasingly important to protect ratepayers and communities from the worst effects of climate change. EDF notes that the world's largest reinsurance companies vary in their estimates, but those estimates suggest that for every $1 spent proactively on resilient measures, a city (and therefore its utilities and their ratepayers) save between $6 and $11 in business interruptions and recovery costs. *Id*. at 5-6.

EDF states that as with cybersecurity strength, a maturity model is a useful tool to walk an organization (or a third party working with the organization, such as a Commission) through a number of relevant categories of best practices that have proven effective and ranks them from just beginning to high performing or "mature." *Id*. at 17. EDF witness Bochman has developed a CRMM for this very purpose. *Id*. at 18; EDF Ex. 13.1. EDF asserts that the CRMM can be used to identify decisions and actions a utility could undertake to move to a more advanced stage of awareness and action, presenting examples of behaviors that have proven helpful in similar organizations. EDF Ex. 8.0 at 18.

EDF explains that the CRMM proposes to measure essential service providers, including electric utilities, on six categories: (1) Governance; (2) Climate Aware Planning; (3) Active Stakeholder and Community Collaboration; (4) Resilience and Adaptation Actions; (5) Customer Engagement and Coordination; and 6) Attention to Equity. EDF Ex. 13.1. EDF states that the CRMM explains the importance of each category in resilience planning and provides examples of behavior that indicate certain maturity levels. *Id*.

EDF notes that Mr. Bochman provides myriad examples of climate change resilience measures, including strengthening berms, levees, and floodwalls for flood protection, expanding low water-use generation for drought protection, and conducting extreme weather risk assessment planning, preparedness, and training. EDF Ex. 8.0 at 7. EDF states that ideally, resilience measures will prioritize by consequence. Utilities should identify their infrastructure assets that are so important that they must be protected first and best. Then, the utility should proceed to layer on climate projections that show what (types of physical forces) are likely to land where and by approximately when. After creating options, benefit-cost analyses are performed that consider multiple inputs, including confidence levels that the measure will provide the required level of protection, duration that the measure will perform as required, how long the project will take to complete, and initial and full lifecycle costs. *Id*. at 8.

EDF asserts that as filed, ComEd's Grid Plan did not reflect that climate risk and resilience were top-of-mind for ComEd. EDF notes that in rebuttal testimony, ComEd provided additional detail on is approach to climate risk and resilience, explaining that Gil Quiniones, Chief Executive Officer of ComEd, has participated in discussions with Exelon Corporation ("Exelon") management on the Key Risk Indicators ("KRIs") that apply to ComEd and the rest of the Exelon enterprise. One of those KRIs applicable to ComEd is climate change. That risk, along with the others on the Risk Register, is reviewed with the Exelon Risk Committee at least annually, ensuring that there is visibility at the corporate governance level to the risks associated with climate change. ComEd Ex. 21.0 at 6. EDF states that it appears that ComEd is in the process of using climate model projections in their Grid Plans, as referenced by ComEd's collaboration with the Argonne National Laboratory, as well as its participation with EPRI. EDF Ex. 8.0 at 14.

EDF supports ComEd's partnerships with the Argonne National Laboratory and EPRI and would encourage ComEd to go further to make climate model projection sense-making a core competency. In addition, EDF encourages ComEd to move beyond the planning phase to begin acting, hardening its most important, most vulnerable assets and/or adapting their processes to accommodate the demands or constraints of a more challenging operating environment. *Id*. at 15.

EDF notes that ComEd has expressed interest in using the CRMM. ComEd Ex. 21.0 at 8-9. EDF appreciates that ComEd has also stated that it will work to ensure that climate risks get addressed at the highest corporate level. *Id*. EDF also appreciates that ComEd has provided useful information and feedback on the CRMM, in particular with the application of the CRMM to different corporate structures. EDF Ex. 3.0 at 2.

EDF hopes that the CRMM is a useful tool to assist ComEd and the Commission for ComEd's next Grid Plan filing, and that ComEd is able to include in its next grid filing a description of its asset prioritization scheme at whatever level of detail requested by the Commission, as well as the actions it has taken to make its most important, most vulnerable assets more resilient. EDF asserts that ComEd should also include in its filing how it has updated its governance model to align leadership or management for climate resilience challenges. *Id*. at 16.

EDF recommends that the Commission fully endorse ComEd's use of the CRMM, as well as ComEd's partnerships with the Argonne National Laboratory and EPRI and encourage ComEd to include the data and analyses resulting from those partnerships in its next Grid Plan.

(vii) Commission Analysis and Conclusion

The Commission finds that ComEd's Grid Plan is compliant with Section 16-105.17(d)(8) on the issue of environmental goals. The Commission encourages both the Company's continued partnership with the Argonne National Laboratory and EPRI and its participation in the CRMM. The Commission directs ComEd to include the data and analyses resulting from those partnerships in its refiled Grid Plan. The Commission also directs ComEd to incorporate executive-level awareness and leadership in addressing climate risks within its corporate governance model to set the cultural tone for the Company, as proposed by Staff.

The Commission notes that the City's proposals related to the Grid Plan's compliance with Section 16-105.17(d)(8) are addressed in other portions of this Order.

The Commission notes CTA/Metra's assertion that ComEd's Grid Plan fails to comply Section 16-105.17(d)(8). The Commission emphasizes the critical role that CTA/Metra will play in achieving P.A. 102-0662's goals, and the Commission encourages ComEd to work closely with CTA/Metra as they pursue efforts that align with those goals.

6. Support existing energy efficiency goals (Section 16-105.17(d)(9)

a. ComEd's Position

ComEd states that P.A. 102-0662 places an emphasis on supporting Illinois' nation-leading programs in EE, demand response, and renewable energy resource investments, and ComEd's Grid Plan includes investments to support continued growth in each of these areas. *See* 220 ILCS 5/16-105.17(d)(9). ComEd believes, and the Grid Plan recognizes, that proactive investments in EE, demand response, and renewable energy resources will continue to be necessary to advance electrification and execute the clean energy transition in a manner that is inclusive and accessible to everyone. *See* ComEd Ex. 5.01 2nd Corr. at 90.

ComEd explains that it uses planning tools and models to develop forecasts that reflect expected increases in EE, demand response, and renewable energy resources but also specific programs such as the advanced application of ADMS in the form of Volt-volt-ampere reactive ("VAR") optimization, which will boost EE and potentially reduce energy consumption and cost. ComEd Ex. 5.01 2nd Corr. at 30-38, 136, 176-177. ComEd further explains that the Grid Plan describes how ComEd intends to establish and promote customer-facing tools for EE, demand response, and renewable energy resources, like residential energy management solutions, Home Energy Reports, and the Solar Calculator and Digital Solar tools. ComEd Ex. 5.01 2nd Corr. at 148-149, 191. It reflects ComEd's plans to achieve the Peak Load Reduction ("PLR") Performance Metric with existing and proposed demand response programs. ComEd Ex. 5.01 2nd Corr. at 216-217. Finally, improved interconnection processes or hosting capacity maps, are also captured in the Grid Plan. ComEd Ex. 5.01 2nd Corr. at 39-44, 130.

ComEd concludes that, collectively, these activities and investments mean that ComEd has proposed a Grid Plan that builds upon the existing statutory frameworks in Illinois to support continued growth in EE, demand response, and renewable energy resources, in alignment with Section 16-105.17(d)(9). ComEd notes that Staff agreed ComEd met this requirement of the Act, and no other party stated that the requirement was unmet.

b. Staff's Position

Staff reviewed the Company's MYIGP with respect to this statutory requirement and did not have concerns; therefore, Staff did not offer specific testimony on it. Staff Ex. 16.01; Staff Ex. 1.0 at 3-4.

c. AG's Position

The Grid Plan must "support existing Illinois policy goals promoting the long-term growth of [EE], demand response, and investments in renewable energy resources." 220 ILCS 5/16-105.17(d)(9). ComEd is subject to Section 8-103B of the Act that provides detailed requirements and opportunities for EE programs. Its four-year, $1.7 billion plan can be found in Docket No. 21-0155. *Commonwealth Edison Co.*, Docket No. 21-0155, Order on Reopening at 15 (May 12, 2022).

d. EDF's Position

EDF asserts that Grid Plans must be reviewed holistically and comprehensively, considering all investments, planning processes, tariffs, rate design options, programs, and other utility policy plans together, as well as how they interact with one another. 220 ILCS 5/16-105.17(f)(4).

As a matter of both affordability and equity, the Commission should require accelerated investments in weatherization and EE in disadvantaged communities to offer long-term relief. EDF Ex. 2.0 at 11. Disadvantaged communities have the most to gain, as they tend to have the highest energy burdens and less energy-efficient housing stock. It is also necessary to make these investments if the City is to meet its climate change goals. *Id*.

As explained by Ms. Watson, EE investments can also be a way to address affordability and avoid disconnections. Alternatives to disconnections could include payment options with a debt forgiveness program if specific payment goals are met. EDF Ex. 2.0 at 10. Other alternatives to avoid disconnections should focus on affordability, and alternatives to traditional energy, like the Illinois Solar for All program. It is important for the Commission to require ComEd to ensure customers have a way to participate in and benefit from clean energy solutions. *Id.* at 11. It should look at programs like those in Hawaii, for default time-of-use rates and fixed charge innovations. *Id*.

In response, ComEd states only that weatherization is an energy efficiency issue better addressed in a separate EE docket. ComEd Ex. 56.0 at 29. EDF opines that ComEd's response is derelict under Section 16-105.17(f)(4), and it entirely misses the point of EDF's testimony, because ComEd fails to acknowledge how that testimony provides a holistic and comprehensive review of how weatherization affects not just energy efficiency itself, but how weatherization intersects and interacts with the additional goals of affordability, equity, and transparency. The separate energy efficiency docket is designed to address EE, not provide a comprehensive, holistic review of how weatherization interacts with these goals. ComEd's proposal to demur this issue to an EE docket is therefore legally unsupportable. Finally, EDF points out that ComEd's response fails to respond in substance to stakeholder input, violating the letter and spirit of Sections 16-105.17(f)(1) and 16-105.17(f)(5)(A)(3).

The Commission should exercise its authority to order a separate implementation or workshop docket requiring ComEd to respond in substance with weatherization and other energy efficiency proposals as suggested by EDF witnesses O'Donnell and Watson, and as suggested by JNGO/EDF witness Nock.

e. Commission Analysis and Conclusion

The Commission notes that P.A. 102-0662 places an emphasis on supporting Illinois' programs in EE, demand response, and renewable energy resource investments, and the Commission agrees with ComEd that its Grid Plan includes investments to support continued growth in each of these areas. *See* 220 ILCS 5/16-105.17(d)(9).

In particular, the Commission finds that ComEd's specific programs such as the advanced application of ADMS in the form of Volt-VAR optimization will boost EE and potentially reduce energy consumption and cost. *See* ComEd Ex. 5.01 2nd Corr. at 30-38, 136, 176-177. ComEd explains that the Grid Plan describes how ComEd intends to establish and promote customer-facing tools for EE, demand response, and renewable energy resources, like residential energy management solutions, Home Energy Reports, and the Solar Calculator and Digital Solar tools. *Id*. at 148-149, 191. It reflects ComEd's plans to achieve the Peak Load Reduction Performance Metric with existing and proposed demand response programs. *Id*. at 216-217. Finally, interconnection processes or hosting capacity maps, are also captured in the Grid Plan. *Id.* at 39-44, 130. Therefore, the Commission finds that ComEd's Grid Plan complies with Section 16-105.17(d)(9) of the Act.

EDF asks that the Commission open a separate docket in which ComEd would respond in substance to the weatherization proposals and EE proposals suggested by EDF and other parties. The Commission agrees that EDF raises valid concerns regarding EE, but these concerns are appropriately addressed through ComEd's EE Plan. In addition, demand response is addressed in the PLR Metric.

7. Enable third-party DERs to seamlessly connect to grid and provide grid benefits (Section 16-105.17(d)(10)

a. ComEd's Position

ComEd states that, with an intentional focus on transparency, its Grid Plan provides sufficient public information to the Commission, stakeholders, and market participants to enable clean energy DERs to be interconnected into the grid and provide grid services as required by Section 16-105.17(d)(10). *See* ComEd Ex. 5.01 2nd Corr. at 32-37; 220 ILCS 5/16-105.17(d)(10). As described by ComEd, a full description of the hosting capacity information made publicly available, and the projects proposed in the Grid Plan to facilitate and interconnect clean energy customer and third-party owned DERs, is set forth in Section V.C.7.

b. Staff's Position

Staff reviewed the Company's MYIGP with respect to this statutory requirement and did not have concerns; therefore, Staff did not offer specific testimony on it. Staff Ex. 16.01; Staff Ex. 1.0 at 3-4.

c. EDF's Position

EDF notes that enabling third-party DERs is important in its own right, but it also contributes to achieving P.A. 102-0662's equity goals. Many people, especially in low-income and middle-income Black and Brown communities, are not able to access rooftop solar. EDF Ex. 7.0 at 3. Solar installation requires that you own the roof, which excludes renters. Community solar provides an easy option for those interested in getting energy from clean sources that cannot or do not want to purchase the equipment themselves. Community solar is also a fundamental component of an equitable energy transition and energy democracy as it makes participation and ownership available to more people. *Id*.

One of the biggest challenges for community solar is the lack of information about interconnection. EDF Ex. 7.0 at 4. There is significant risk in the possible scope of costs to interconnect for each identified location. Very little information is available at the start of a project to help estimate how much it will cost to interconnect. Solar developers can provide only rough estimates based on prior experience. *Id*. Solar developers are therefore at the mercy of utilities when it comes to outcomes. EDF Ex. 7.0 at 4.

In response to stakeholder input, ComEd states that it plans to transition to quarterly hosting map updates by the end of 2023. ComEd Ex. 29.0 at 67; ComEd Ex. 50.0 at 24-25. ComEd also states it is developing ways to update its photovoltaic hosting capacity maps on a monthly basis, starting in September 2024. ComEd Ex. 28.0 at 3. Finally, ComEd is considering more advanced methods and tools, including dynamic hosting capacity analysis. EDF Ex. 12.0 at 2. EDF states that each of these steps is a move forward, and EDF asks the Commission to require ComEd to keep stakeholders updated about its progress on these measures. *Id*. at 2.

In addition to better hosting capacity information, Mr. Adesope requests the Commission order ComEd to establish a better process to help developers understand the basis of cost estimates and provide a way to discuss and question the utility's findings. EDF Ex. 7.0 at 6. Ideally, EDF opines that the Commission would require ComEd to include a role for bidding out the development of interconnection projects to verify that the utility estimates re-tested against what third parties could do the work for. *Id*. at 6-7. ComEd did not respond to Mr. Adesope's recommendations on cost transparency. EDF Ex. 12.0 at 4. For this reason, EDF requests the Commission order ComEd to provide the basis for its interconnection cost estimates to developers, including cost of materials, cost of labor, whether competitive bidding was used to develop those estimates, as well as wait times for different types of projects. *Id*. Finally, Mr. Adesope asks the Commission to require ComEd to make public as much information about how the interconnection process works and expected wait times as possible. EDF Ex. 7.0 at 7.

d. JNGO's Position

P.A. 102-0662 requires a rapid shift towards third-party DERs to provide grid benefits and services that could formerly only be provided by traditional utility infrastructure. JNGO make several recommendations to meet the DER-related requirements, including hosting capacity, flexible interconnection, DER orchestration, NWA, and a virtual power plant program. For the reasons discussed in JNGO's testimony and Initial Brief, the Commission should (1) approve Mr. Nelson's recommendations focused on DERs (Section V.C.7) and PLR (Section V.C.2), and (2) open a proceeding to develop a data access platform so third parties can access the energy system and grid data necessary to design and offer third-party grid solutions.

e. Commission Analysis and Conclusion

ComEd's proposal to update its hosting capacity maps more frequently, including its proposal to start with quarterly updates, with more frequent updates also approved to the extent feasible, is discussed further in Section V.C.7.

The Commission agrees that EDF raises valid concerns regarding the basis for cost estimates that the Company provides for entities wishing to interconnect DER to the grid. More transparency needs to be brought to the process to enable the Commission to find the Company's Grid Plan complies with this requirement. The Grid Plan does not provide a clear map for easing the path to system interconnection, even for existing DER applicants, as required by Section 16-105.17(d)(10). The Grid Plan also fails to provide the "granular, locationally differentiated" data necessary to inform the DER Value Investigation or to design purposeful infrastructure changes.

The Commission agrees with JNGO/EDF that ComEd should provide more information regarding the basis for its interconnection cost estimates to developers, including the cost of materials, cost of labor, whether competitive bidding was used to develop estimates, as well as the wait times for different types of projects. The Commission directs ComEd to be transparent with currently available information and to work with stakeholders to develop additional ways to make as much information public as possible about how the interconnection process works and the expected wait times in its 2026 MYIGP filing. *See also* Section V.C.7.g.v. The Commission is unable to find the Grid Plan meets this statutory requirement as a result of deficiencies in necessary information to allow DERs to "seamlessly and easily connect to the grid" as contemplated by Section 16-105.17(d)(10). Therefore, for the reasons stated in Section V.A above, the Commission declines to approve this Grid Plan.

The Commission notes that the Interconnection Performance Metric is designed to improve the timeline for the process.

8. Customer Affordability (Section 16-105.17(d)(11))

a. ComEd's Position

ComEd states that its Grid Plan is designed to "provide delivery services at rates that are affordable to all customers, including low-income customers," as Section 16-105.17(d)(11) of the Act requires. 220 ILCS 5/16-105.17(d)(11). ComEd points out that P.A. 102-0662 sets out lofty goals for decarbonization, electrification, and integration of renewable energy, and ComEd must make significant investment in the electric grid in order to achieve those goals. ComEd contends that both the particular projects and activities included in ComEd's Grid Plan, and the pace at which ComEd will implement those projects over time, are carefully calibrated to achieve the goals of P.A. 102-0662 while maintaining affordable electric delivery rates.

ComEd emphasizes that Staff agrees the Grid Plan will provide delivery services at affordable rates. *See* Staff IB at 24. And ComEd further notes that LVEJO voiced no concerns regarding affordability, and in fact "supports the inclusion of customer affordability measures in the Grid Plan." LVEJO IB at 5.

ComEd states that three other parties took the position that some portion of ComEd's proposed investments and expenses should be disallowed on the basis of affordability. *See* EDF IB at 67-70; ICCP IB at 17-18; AG IB at 41-44. ComEd notes, however, that none of these parties provides a definition of "affordability" or explains how affordability should be measured by the Commission. Moreover, none of these parties identify which particular projects should be disallowed, in whole or part, in order to render rates "affordable," or explain whether those projects are otherwise prudent, reasonable, or needed for service. ComEd points out that none of the parties explain how the Commission can be sure that, after applying their recommended disallowances, rates will in fact be "affordable." And ComEd asserts that none of these parties directly address the evidence provided in ComEd's direct testimony, demonstrating that, at the pace of investment outlined in ComEd's grid Plan, rates will remain affordable in comparison to those of other electric utilities that serve major metropolitan areas. *See* ComEd Ex. 24.02 Corr. at 16-18.

ComEd emphasizes that affordability is one of several key objectives identified in P.A. 102-0662, alongside decarbonization, electrification, and integration of renewable energy. But, contrary to the contentions of EDF, AG, and ICCP, ComEd maintains that affordability does not outweigh the other policy goals and objectives outlined in P.A. 102-0662. Thus, ComEd asserts that investments cannot be disallowed on that basis alone.

ComEd notes that EDF asserts that affordability "is perhaps the most frequently cited" policy goal in P.A. 102-0662. EDF IB at 67. However, ComEd explains that mentions of clean energy, renewable energy, and distributed energy are more numerous in P.A. 102-0662. ComEd does not dispute that affordability is a priority of the General Assembly – however, ComEd notes that it is but one of many P.A. 102-0662 objectives, and one that is not dispositive when evaluating a particular investment's prudence and reasonableness.

ComEd states that EDF sets forth an entirely new method that it suggests the Commission should use to evaluate whether a project or activity should be included in the Grid Plan by prioritizing its impact on affordability. EDF IB at 68. ComEd notes this framework was not discussed in EDF testimony, and there is no support in the record for it. On that basis alone, ComEd asserts this proposal must be disregarded. 220 ILCS 5/10-103; 220 ILCS 5/10-201(e)(iii).

ComEd also responds that this new EDF proposal is flawed, legally and practically. ComEd explains that the EDF framework would impermissibly ignore the prudence and reasonableness standards, which are the bedrock principles for review of utility investment, and which are expressly adopted in P.A. 102-0662. ComEd further asserts the framework would also subordinate all of the P.A. 102-0662 objectives and requirements, and other legal requirements incumbent on a delivery utility by over-emphasizing one factor – the potential impacts of each investment on overall rates. For instance, ComEd notes that EDF suggests projects that are likely to reduce delivery or overall bills for customers and achieve Section 16-105.17(d) goals ("gold standard" projects) be prioritized over all others. EDF IB at 67-68. ComEd maintains this approach is contrary to the Commission's longstanding prudence and reasonableness standard of review and would ignore many P.A. 102-0662 requirements as well as ComEd's core duty to provide service as an electric utility. ComEd asserts EDF's proposal must be rejected.

ComEd notes that ICCP offer two arguments related to affordability, but the Company states both of them should be rejected. ICCP claim that the planned increase in System Performance investments indicates that ComEd has not given adequate weight to the statutory objective of ensuring affordability. *See* ICCP IB at 17. ComEd states the record evidence demonstrates that this is untrue for several reasons. First, ComEd notes that ICCP focus on the rate of growth in only one of the thirteen investment categories and ignores the overall rate of growth. The average rate of growth in ComEd's overall investment over the ten-year period 2017-2027 is 4.18%. ComEd Ex. 43.0 at 12. ComEd maintains that pace is eminently reasonable. Second, ComEd states that, at ComEd's proposed rate of investment, ComEd's rates will continue to compare favorably to those of utilities in other major metropolitan areas. ComEd's projected 2027 rates will be comparable to the 2022 rates of electric utilities in major metropolitan areas. ComEd Ex. 24.02 Corr. at 16-18. Third, ComEd states that it kept customer affordability top of mind when developing the Grid Plan, and the Grid Plan reflects that focus, both in the projects included and in the pace of investment. ComEd concludes the Grid Plan is carefully constructed to "maximize consumer, environmental, economic, and community benefits over a 10-year horizon," as required by Section 105.17(f)(5)(A)(6). 220 ILCS 5/105.17(f)(5)(A)(6).

ComEd states that ICCP's second argument is that ComEd's support for the affordability of the Grid Plan is limited to testimony regarding the positive economic and jobs impacts of the Grid Plan. *See* ICCP IB at 17-18. ComEd responds that it has provided evidence demonstrating that the Grid Plan will support an estimated 239,129 total jobs over the Grid Plan period. ComEd Ex. 27.0 at 14. But ComEd explains that evidence is not intended to demonstrate that the Grid Plan is affordable; rather it is intended to demonstrate that the Grid Plan supports the General Assembly's policy goals related to creation of quality jobs. Additionally, ComEd points out that the affordability of ComEd's Grid Plan is supported by ample record evidence demonstrating that the Grid Plan delivers significant benefits in terms of reliability, resiliency, safety, and integration of clean and renewable energy, while maintaining delivery service rates that compare favorably to those of utilities in other major metropolitan areas. ComEd Ex. 24.02 Corr. at 16-18. The affordability of the Grid Plan is also supported by the array of initiatives designed to increase affordability for customers, including financial assistance programs and other programs that help customers manage energy use, bill payment kiosks, the DPP, and more. *See* ComEd IB at 31-33.

ComEd notes that the AG opines ComEd customers "can ill afford" the rate increase necessary to implement the Grid Plan, and concludes that the Commission should "restrain[] utility capital spending" and limit the rate of return on rate base in order to maintain affordability. AG IB at 39, 44. ComEd points out, however, that the AG does not engage with the evidence comparing ComEd's forecasted 2027 rates with those of utilities in other major metropolitan areas. ComEd reiterates that, at the pace of investment outlined in the Grid Plan, ComEd's rates will remain affordable in comparison to those of other electric utilities that serve major metropolitan areas. ComEd states that its projected 2027 rates will be comparable, on a cents/kWh basis, to the 2022 rates of electric utilities in major metropolitan areas. ComEd Ex. 24.02 Corr. at 16-17. In addition, ComEd states that its forecasted 2027 monthly total bill falls in the lower half of the range, when compared with average total monthly electric bills in all 50 states in 2021. ComEd

Ex. 24.02 Corr. at 17-18. That evidence is uncontroverted, and ComEd maintains that it demonstrates ComEd's forecasted 2027 monthly bill – which includes all of the investment identified in the Grid Plan filed at the outset of this case – will fall in the lower half of the range when compared with the average total monthly bills in all 50 states in 2021. ComEd Ex. 24.02 Corr. at 17-18. Importantly, ComEd notes that the comparison assumes that the rates of the other utilities do not increase at all over the period 2021-2027; if they do (which is likely), ComEd's 2027 rates will compare even more favorably over the same period, despite the implementation of the ambitious Grid Plan and achievement of equally ambitious P.A. 102-0662 goals.

Finally, ComEd notes that the AG in particular proposed that certain investments or categories of investment should be delayed in order to defray costs. ComEd contends, however, that these proposals fail to account for the magnitude of the work necessary to accomplish the statutory goals of decarbonization, electrification, and DER integration, and for the urgency of P.A. 102-0662's timelines. ComEd states that, in order to achieve those goals, certain investments must be made. As ComEd explains, if those investments are not made now, within this Grid Plan period, they must be made in an accelerated manner in the few remaining years before the statutory deadline. ComEd concludes that proposals to significantly delay those investments or slow their pace within the period of the current Grid Plan are, in essence, proposals to drastically increase the pace of investment in future periods.

ComEd explains, in addition to simply shifting costs to a future period, deferring investments will likely cause the projects to be more costly to customers in the long term. ComEd Ex. 26.0 at 7-10. For example, delayed investments constrain material procurement options, create spikes in demand for labor, and replace carefully planned projects with episodic reactionary emergencies. Short-term reductions in grid investments can also increase customer wait times, delaying the delivery of the benefits of clean energy to customers, and degrading the reliability and resiliency of the grid. *Id.* ComEd contends this combination of increased investment costs along with missed environmental and customer benefits of near-term investment make delaying investments significantly more expensive than the prudent, measured pace of investment outlined in the Grid Plan. ComEd Ex. 47.0 at 19.

ComEd acknowledges, however, that its customers can face circumstances that impact their ability to manage their energy costs. ComEd Ex. 21.0 at 5. For that reason, ComEd states that it has several initiatives underway that are designed to support the affordability of ComEd's rates through the Grid Plan period.

ComEd states that its Grid Plan and supporting testimony describe programs and activities designed to increase affordability for customers, particularly low-income customers. 220 ILCS 5/16-108.18(e)(2)(A)(iv). In particular, ComEd notes that during the Grid Plan period, ComEd's credit and collection policies will promote equity in disconnections, arrearages, and late payment fees, and ComEd will offer financial assistance programs and other types of programs designed to help customers manage their energy use, and in doing so, reduce their electric bill. ComEd Ex. 5.01 2nd Corr. at 249-50; ComEd Ex. 33.0 at 7-9, 11, 20-22. For example, ComEd plans to invest in fee-free bill payment kiosks, which ComEd contends will specifically benefit unbanked customers and offer a new automated DPP (and an interim manual process) that will temporarily remove customers from the disconnection queue while their applications for financial assistance are pending. *See* ComEd Ex. 5.01 2nd CORR at 194, 249-52; ComEd Ex. 54.0 at 5.

In addition, ComEd states that it has recently established, or plans to establish during the Grid Plan period, several customer programs and initiatives designed to promote affordability and energy equity. For example, ComEd's new Fresh Start Services program provides local community agencies information about financial assistance and energy management resources in different mediums and languages. ComEd Ex. 33.0 at 22. The agencies themselves select those resources that best suit their clientele's needs and share them with that clientele to assist with paying their energy bills. *Id.* at 22-23. As a part of this program, ComEd currently works with the Nourishing Hope and Mothers Trust Foundation, a partnership ComEd states it will expand during the Grid Plan period to include additional community partners, including an existing network of hospital case managers. *Id.* at 23.

ComEd points out it also has two new programs designed to provide personalized customer consultations, further empowering customers to make choices based on what best serves their individual needs – the Catch Up and Save Program, and the Credit Empowerment Pilot Program. *Id.* at 20-21. The Catch Up and Save Program "bundles arrearage reduction assistance with EE products," such as ENERGY STAR Certified LED light bulbs, water-saving faucet aerators, and advanced power strips. The Catch Up and Save Program began in January 2023, and as of May 2023, over 17,000 customers had enrolled in the program and saved approximately $26,000. *Id.* at 20. ComEd plans to offer both programs during the Grid Plan period.

Relatedly, ComEd's Credit Empowerment Pilot Program "bundles energy management and personal finance tool and education for low-income customers." *Id.* at 20. Through the Credit Empowerment Pilot Program, ComEd states that it provides up to 1,000 low-income customers with access to both credit building resources (i.e., workshop on the credit system, scams, and maintaining a favorable score, as well as 12-months of unlimited, one-on-one, comprehensive credit counseling inclusive of a personalized credit action plan) and energy assistance (i.e., provision of an in-home device that provides the customer with timely and actionable energy notifications, thereby permitting the customer to make more informed energy usage decisions). *Id.* at 20-21.

Finally, while not within the scope of this proceeding, ComEd has committed to propose a low-income rate in a separate, future proceeding. ComEd Ex. 24.0 Corr. at 5. ComEd concludes that all of these investments, programs, and efforts demonstrate that the Grid Plan will allow ComEd to "provide delivery services at rates that are affordable to all customers, including low-income customers," in alignment with Section 16-105.17(d)(11) of the Act. 220 ILCS 5/16-105.17(d)(11).

b. Staff's Position

Staff, BOMA, the AG, ICCP, JNGO, and EDF express concern about whether ComEd's proposed Grid Plan satisfies the requirement that it be designed to "provide delivery services at rates that are affordable to all customers, including low-income customers," as required by Section 16-105.17(d)(11), and offer various recommendations to address those concerns. BOMA IB at 14; AG IB at 44; ICCP IB at 28; JNGO IB at 26; EDF IB at 57.

Staff states that affordability is a crucial topic in this proceeding and decisions made will have long-term impacts on ratepayers. Staff RB at 13. Staff appreciates the arguments made by the intervenors on this topic and does not oppose any of their recommendations. Staff did not offer testimony specifically on Section 16-105.17(d)(11) and instead offered substantial reductions in capital spending and a lower ROE, as detailed in Staff's briefs. Approval of Staff's recommendations will have a significant and positive impact on affordability.

c. AG's Position

Under the Act, the Grid Plan must "be designed to . . . provide delivery services at rates that are affordable to all customers, including low-income customers." 220 ILCS 5/16-105.17(d)(11). For purposes of affordability, the spending proposed under the Grid Plan is inextricably linked to the Rate Plan because the Grid Plan investments will be recovered through the rates set in the Rate Plan. Thus, the AG's witnesses Alvarez and Stephens testified that constraints on capital spending are "absolutely essential to electric affordability" because capital spending "results directly in rate increases that typically last a long time (over the depreciation period of the equipment in q'estion, which can be 40 years or longer)." AG Ex. 1.0 at 17. The AG iterates that the evidence in this case shows that in addition to the large increases being unnecessary, ComEd's customers can ill afford the substantial rate increases that will be brought about by a nearly 50% increase in plant additions and a more than 50% increase in rates during the four-year Grid Plan period. *Id.* at 7.

The AG explains that ComEd's arguments rest upon layers of unsupported assumptions. For example, ComEd claims that proposals to reduce investment levels in the Grid Plan in the interest of affordability would simply shift those costs to a future period, not eliminate them, and deferring such investments would be more costly to customers in the end. ComEd IB at 30. The AG points out that this argument simply assumes that every single project and every single dollar proposed as part of ComEd's Grid Plan is necessary now or in the immediate future. But the record in this case shows that this is a hotly contested point, and ComEd has come nowhere near its burden of establishing the need for, and the full extent of, its proposed Grid Plan investments. The AG further notes that ComEd's argument assumes that deferring investments to a future period will in fact cost more than making them in the current Grid Plan. The AG stresses that ComEd's basis for this assumption is the entirely arbitrary and unsupported assertion that all of its investments will return $2 in customer benefits for each $1 spent.

The AG next shows that ComEd's second point, that its rates are more affordable than other utilities in major metropolitan areas, is both irrelevant and unconvincing. First, there is nothing in the record indicating that the rates charged by the other utilities to which ComEd compared itself are affordable. Thus, the only inference that one could draw is that ComEd is relatively more affordable than such other utilities. Second, the AG explains that ComEd relies on "total bill" comparisons, which include the effect of the currently low electricity supply cost that is set in competitive markets and procured through the IPA processes. ComEd IB at 31 (*citing* ComEd Ex. 24.02 Corr.; ComEd Ex.

4.0 at 16-17); *see also* 20 ILCS 3855/1-1 *et seq*. Further, the Commission is not setting rates for customers in other metropolitan areas; it is setting rates that ComEd customers in northern Illinois will have to pay. The AG stresses that it is the voices of ComEd's customers that matter, and these customers are overwhelmingly opposed to ComEd's rate increases.

When given the opportunity to opine on the Grid Plan and the Rate Plan, ComEd's customers overwhelmingly oppose ComEd's proposed rate increases, which it claims are necessary to support its Grid Plan. In these consolidated dockets, the Commission has received nearly 170 public comments as of the date briefs were filed, and these customers overwhelmingly expressed opposition to the proposed rate increase. Customers expressed concern regarding energy burden and the difficult choices that it forces upon households.

The AG notes that these comments are indicative of customers facing energy insecurity and energy poverty, as defined in EDF witness Nock's testimony. *See* JNGO/EDF Ex. 6.0 at 12-13. Customers also question the fairness of the rate increases in light of the amount that would be going to shareholders' ROE under ComEd's Grid Plan and Rate Plan. Finally, some customers are unhappy with ComEd's use of the clean energy transition to justify huge rate increases.

The AG emphasizes that that the public commends indicate that ratepayers find ComEd's proposed capital spending and rate increases are detrimental to the equity, affordability, and even environmental goals of P.A. 102-0662.

The AG explains that available data suggest that these customers' personal experiences are not unique. The Company's monthly arrearage data show that consistently around one in six residential customers have a late payment fee, suggesting they are struggling to pay their electric bill. In recent customer satisfaction surveys, every customer class rated satisfaction with ComEd reliability at the highest levels of all attributes measured while every customer class has consistently rated the reasonableness of ComEd rates at the lowest level of any attribute measured. AG Ex. 1.6. Thus, to listen to ComEd's customers, the Company should not sacrifice affordability for marginal reliability improvements. Yet faced with this evidence, along with ComEd's undeniably strong reliability performance, the Company did not conduct any "willingness to pay" research before proposing unprecedented levels of capital spending in its Grid Plan.

Moreover, witnesses for ComEd's public sector, commercial, and industrial customers, both individually and through representative organizations, expressed concern about ComEd's proposed rate increases. City witness Woods testified that "utility affordability continues to be a growing concern for Chicago," and suggested that "the Commission review ComEd's entire rate request through an affordability lens that holistically considers the role of customer protection and accessibility." City Ex. 2.0 at 2, 4. Ms. Woods thus recommends that the Commission find ComEd's proposed ROE to be unjust and unreasonable and to "carefully scrutinize all capital investments to ensure they are necessary and remove any unjustified costs from the revenue requirement." *Id.* at 4-5.

CTA witness Tomford expressed concern "about the proposed level of cost increases for the [RR] Delivery Class and the other classes serving the CTA bus garages." CTA Ex. 1.00 at 11. Public transit provided by the CTA and Metra "saves more than 750 million gallons of gasoline each year, keeping more than 6.7 million metric tons of greenhouse gases from being released into the atmosphere," relieves traffic congestion, and promotes compact development patterns." *Id.* at 4-5. Public transit is a linchpin of the energy transition, yet ComEd is proposing a Grid Plan and Rate Plan that would saddle the RR Class with a rate increase of more than 50%. CTA/Metra Joint Ex. 1.00 Corr. at 4. In spite of this enormous rate increase, ComEd has been unable to provide any specific benefits that the RR Class would receive from the Grid Plan. *Id.* at 5.

These affordability concerns have also been echoed by ComEd's commercial and industrial customers. ICCP witness Al-Jabir testified that ComEd's "proposed Grid Plan and accompanying MYRP would result in significant electricity delivery cost increases to customers in ComEd's service area." ICCP Ex. 2.0 at 13. The acceleration of grid investment proposed in the Grid Plan "does not give adequate weight to the statutory objective of ensuring the affordability of electricity rates." *Id.* at 14. Walmart witness Kronauer explained, "[e]lectricity is a significant operating cost for retailers such as Walmart," so "[w]hen rates increase, the increased cost to retailers can put pressure on consumer prices and the other expenses required by a business to operate." Walmart Ex. 1.0 at 3-4. BOMA witness Pruitt testified that "the rate increases proposed under the MYRP will have a large impact on all customers and increases for the rate classes that service commercial and industrial customers like BOMA members and tenants are definitively higher than those proposed for other rate classes." BOMA Ex. 2.0 at 15. These higher costs are then passed on to tenant businesses, which will "directly impact the thousands of businesses, institutions and other organizations that lease space in BOMA member buildings." BOMA Ex. 1.0 at 117-27. The AG explains that the testimony of these various customer classes underscores AG witnesses Alvarez and Stephens' point that the "productivity of the entire Illinois economy is linked in part to affordable electric rates." AG Ex. 1.0 at 16.

In response to these concerns about affordability, ComEd largely denies the problem exists, claiming "ComEd's rates have continued to remain very affordable." *See* ComEd Ex. 24.0 Corr. at 4. The section of ComEd's Grid Plan discussing affordability points to the "value" that the customers will receive from its investments. ComEd Ex. 5.01 2nd Corr. at 247-49. But the AG maintains that this is entirely non-responsive; it is possible for the benefits of a particular investment, a portfolio of investments, or an entire Grid Plan to outweigh the costs and for the costs to nevertheless be unaffordable. The Act recognized this by creating distinct requirements for both cost-effectiveness and affordability. *Compare* 220 ILCS 5/16-105.17(d)(1), (7) *with* subsection (d)(11).

Next, ComEd points to several new customer programs that, it claims, will help its Grid Plan to be affordable. ComEd IB at 31-33. The AG contends that these programs are inadequate to address the requirement that the Company provide delivery service rates that are affordable for all customers and do nothing to actually lower the overall cost of service, which stem from ComEd's ever-increasing spending levels and the cost of capital it claims is necessary to support that spending. AG Ex. 1.0 at 17:345:356. Rates for essential utility service should be understandable to consumers and increases should be gradual. A more than 60% increase in rates over five years is simply not gradual.

The AG states that Section 16-105.17(d)(11) demonstrates that affordability is inextricable from grid spending. AG Ex. 1.0 at 17. ICCP witness Al-Jabir testified, "the goal of ensuring affordable delivery service rates for all customers can only be met by ensuring that the overall rate of growth in the Company's grid spending during the multi-year rate plan period is set at a level that ensures that delivery service rates remain affordable for all classes of customers." ICCP Ex. 6.0 at 3. Thus, the AG asserts that restraining utility capital spending and limiting ComEd to a reasonable rate of return are the two most important ways that the Commission can maintain the affordability of ComEd's rates.

d. City's Position

The City asks the Commission to "review ComEd's entire rate request through an affordability lens that holistically considers the role of customer protection and accessibility." City Ex. 2.0 at 4. "An obvious starting place to promote affordability is to reduce ComEd's excessive proposed return on equity…" City IB at 2. The City cites numerous parties' assertions that reducing ComEd's rate of return would give meaningful effect to the affordability provisions of P.A. 102-0662. Walmart IB at 10; AG IB at 40; JNGO IB at 26. To ensure customer affordability as is required by P.A. 102-0662, the City requests the Commission to reduce the Company's excessive ROE to 8.91%.

e. ICCP's Position

ICCP believe what is lost on ComEd is the requirement that rates be "affordable," and specifically delivery service rates. ICCP note Section 16-105.17(e)(2)(H) requires the workshop process to review planned capital investment to ensure that *delivery services* are provided at rates that are affordable to all customers, including low-income customers. 220 ILCS 5/16-105.17(e)(2)(H) (emphasis added). ICCP also note Section 16-108.18, outlining the performance ratemaking paradigm, requires the performance incentive mechanisms "achieve affordable customer *delivery service costs*." 220 ILCS 5/16-108.18(e)(2)(A)(iv) (emphasis added). According to ICCP, alongside the clear and distinct affordability standard is the equally clear directive that it is delivery service rates to which the affordability standard applies.

ICCP opine that ComEd's proposed Grid Plan, and accompanying MYRP, would result in significant and unnecessary delivery cost increases to customers in ComEd's service area. ICCP offer ComEd's Grid Plan would result in an average increase in ComEd's Distribution Plant-in-Service of approximately $1.5 billion per year over the time horizon of the MYRP. This significant increase in the level of grid investment highlights that ComEd's proposed Grid Plan does not give adequate weight to the statutory objective of ensuring the affordability of electricity delivery service rates. ICCP note while achieving the statutory clean energy goals over time is an important objective of the Grid Plan, the legislation enabling the Grid Plan makes it clear that the achievement of these clean energy goals should not come at an undue cost to ComEd's customers. ICCP Ex 2.0 at 13-14.

ICCP point out that by ignoring the affordability standard, ComEd seeks to defend its massive level of expenditures by claiming unrelated economic benefits. ComEd witness McDermott testified that ComEd's proposed Grid Plan would inject substantial dollars into the local economies in the Company's service territory, which will promote economic activity, support jobs and generate tax revenues. Furthermore, in response to the ICCP proposal to manage the level of grid spending, he claimed this proposal would reduce the economic benefits to the ComEd service territory through a cumulative reduction of 4,553 jobs supported and $926 million in foregone economic output. ComEd Ex. 27.0 at 2.

ICCP opine that pursuant to P.A. 102-0662 and the Act, the proper focus of ComEd's Grid Plan should be on providing reliable and affordable delivery services to its customers, while cost-effectively facilitating P.A. 102-0662's objectives related to the green energy transition. ICCP state the alleged broader economic benefits discussed by Dr. McDermott simply are not relevant in assessing the reasonableness of the Company's proposed Grid Plan under the criteria specified in P.A. 102-0662 or the Act. ICCP Ex. 6.0 at 14-15.

ICCP point out that notably overlooked by Dr. McDermott is that the increased Grid Plan spending proposed by ComEd will lead to higher delivery service rates in the Company's service area. ICCP also point out that to the extent these delivery service rate increases cause ComEd's customers to reduce spending on goods and services or to curtail their operations in the Company's service territory, negative direct and indirect economic impacts would result that should be considered in evaluating the broader economic impacts of the Company's proposed Grid Plan spending. *Id.* at 16.

ICCP again note that P.A. 102-0662 requires that the cost-effectiveness of the proposed reliability-related investments be measured objectively against the benefits provided. This is accomplished by measuring reliability improvements according to the reliability metrics approved by the Commission. ICCP witness Fitzhenry shows that ComEd can meet the reliability performance metrics the Commission adopted in Docket No. 22-0067, with little or no improvement in its recent historical reliability scores. ICCP argue, conversely, ComEd has not met its burden of proof to demonstrate the large amount of reliability-related investment proposed in its Grid Plan is justified by the reliability benefits that this aggressive level of investment provides to customers. ICCP Ex. 2.0 at 9. In short, ICCP argue that the proposed increase in Grid Plan investment, which is aggressive even compared to the already elevated rate of ComEd's historical grid investment, is not justified by the expected benefits in service quality and reliability, as measured by objective performance metrics. *Id.* at 3. ICCP believe in light of this evidence, it is appropriate to limit the rate of growth in the Company's reliability-related spending to the rate of inflation, to maintain affordable delivery service rates pursuant to P.A. 102-0662.

ICCP note as further support for the proposition that ComEd's distribution system is reliable, its service reliability ranks favorably among its peers. ICCP also note the last three years of available data (2019-2021) from Form EIA-861, Annual Electric Power Industry Report, for all Investor Owned Public Utilities in Illinois and the five states sharing a land border with Illinois (i.e., Indiana, Iowa, Kentucky, Missouri, and Wisconsin) allows comparison of ComEd's reliability metrics relative to other electric utilities with a similar geographic footprint, and that are subject to similar weather-related impacts on system reliability. *See id.* at 5-6.

ICCP note of the 21 utilities represented, ComEd consistently ranks as one of the top performing utilities in terms of reliability, and ComEd has an average rank of 5 out of 21, putting it in the top quartile of all utilities represented. *Id.* at 6. ICCP also note this analysis proves that the Company's aggressive EIMA expenditures over the years improved system reliability to a point that compares favorably with its peers.

ICCP note ComEd also claimed the same reliability benefits in an investor presentation, from its parent company, Exelon, titled "Leading the Way to a Sustainable Future: Exelon's ESG Programs," February 2021. ICCP also state the presentation compares Exelon's subsidiaries' performance in system reliability and customer satisfaction relative to 20 comparable peer utilities. In addition, ICCP note Exelon's subsidiaries ranked near the top quartile in the Customer Satisfaction Index over the same period. *Id.* at 6-7, Fig. CTF-1.

ICCP point out that by 2021, ComEd was a top performing regional utility in terms of reliability. ICCP note that at the same time, ComEd made $1.7 billion in capital investments and spent $714 million in operations and maintenance ("O&M") expense in 2021. ComEd's current reliability metrics, achieved at the expense of its customers over a ten-year period, do not suggest that further significant increases in capital expenditures or O&M expenses to improve reliability are warranted, or will provide commensurate benefits to the customers paying for them. *Id.* at 11-12. ICCP believe heaping more money on system reliability, given the current reliable status of the distribution system, makes no sense.

ICCP point out ComEd's level of system reliability came at a significant cost to ratepayers. ICCP state ComEd has not proven its proposed accelerated capital spending during the MYRP period is necessary to improve system reliability beyond the historical reliability improvements it has already achieved. Moreover, ICCP also state ComEd has not proven that this large level of proposed capital spending is required to meet the reliability goals in the Grid Plan and the Commission's Order in Docket No. 22-0067.

Based on the regulatory and policy criteria discussed by ICCP witness Al-Jabir, ComEd can maintain its current levels of capital expenditures and O&M expenses that support System Performance, with increases only to match inflation. *Id.* at 22.

ICCP's recommendation is to maintain ComEd's forecasted level of capital and O&M expenses supporting System Performance in 2023, and only increase them at the annual rate of inflation (2.1%) over the MYRP period. ICCP state this recommendation reduces the Company's proposed System Performance capital expenditures over the MYRP period by $493 million, or 12.8%. ICCP also state the recommendation also requires a reduction in System Performance O&M expense over the MYRP period of $10 million, or 11.1%. *Id.* at 22.

ICCP point out ComEd's attention to this critical pillar of affordability in P.A. 102-0662 is limited to just three pages of commentary on P.A. 102-0662's goals, programs for low-income customers, and complaints about speculative program cost outcomes if it does not receive all its requested funding now. ComEd IB at 29-33. ICCP argue the lack of attention to affordability speaks volumes to ComEd's indifference to the overall rate impact. ICCP suggest ComEd has clearly failed to meet its burden of proof to demonstrate that it has satisfied P.A. 102-0662's Grid Plan objective of maintaining affordable rates for all of its delivery service customers.

ICCP argue that not only has ComEd failed to meet the affordability requirement, but the Company also does not meet the obligation to minimize costs pursuant to Section 16-105.17(d)(1). ICCP's system reliability adjustment does as P.A. 102-0662 requires – it serves to minimize costs and allows ComEd to meet the reliability metric targets established by the Commission in Docket No. 22-0067, by maintaining a similar level of reliability performance relative to what ComEd achieved over the last several years. *See* ICCP Ex. 3.0 at 15-18.

ICCP also recognize the rapid increase in rates driven by the massive infrastructure investments made by ComEd during the EIMA formula rate period. In response to EIMA, ComEd invested approximately $2.6 billion over a ten-year period to strengthen and modernize its electric grid, consisting of $1.3 billion in infrastructure work and $1.3 billion in smart grid technology. This EIMA formula rates program resulted in an increase to ComEd's rate base of approximately $7.7 billion from 2012-2022, which resulted in an increase in rate base of 124% during this period of time. ICCP Ex. 3.0 at 3-4. ICCP argue the massive rate increases ComEd proposes in this proceeding build on this foundation of delivery service rates that are already high due to the significant rate increases imposed on customers during the EIMA period.

ICCP prioritize grid projects and investments with affordability in mind. The proposal focuses only on limiting the rate of growth in spending on reliability-related capital and O&M projects. This adjustment does not restrict ComEd's proposed capital and O&M spending on non-reliability related delivery service projects that could facilitate the green energy transition. ICCP Ex. 6.0 at 3.0 at 63-67.

ICCP point out, overlooked by ComEd but not by others, JNGO correctly argue that customer affordability is a key issue in this Grid Plan. JNGO note that many of ComEd customers are already struggling to pay their bills, and that a large increase in ComEd's rates could have profound consequences for ratepayers and the State of Illinois. JNGO IB at 25. ICCP share JNGO's sentiments.

ICCP focus only on managing the rate of growth in spending on reliability-related capital and O&M projects to effectively accomplish the P.A. 102-0662 objectives. ICCP note the recommendations would not restrict ComEd's projected capital and O&M spending on non-reliability related delivery service projects such as distributed energy resources, electric vehicle charging, electrification of homes and businesses, load growth from new customers, and physical and cyber security. Therefore, ICCP's recommendations do not hinder ComEd's efforts to achieve P.A. 102-0662's clean energy goals.

ICCP state ComEd can meet the Commission-approved reliability performance metric targets by continuing the Company's current, already aggressive level of reliability-related capital and O&M spending, adjusted for inflation. Therefore, system reliability will be maintained as a result of implementing ICCP witness Fitzhenry's recommendations. In fact, given the improvement already achieved under current spending, system reliability will be expected to further improve under ICCP's recommendations so as to achieve the Commission's performance goals, which goals should form the basis for ComEd's Grid Plan design. ICCP Ex. 7.0 at 2.

f. EDF's Position

Affordability is the linchpin that brings together all of Illinois' policy goals under Section 16-105.17(d), and in particular the equity goals under Section 16-105.17(d)(3). EDF asks the Commission to view the Grid Plan through a lens of "Energy Justice," to require ComEd to modernize its disconnection policy while it is modernizing other aspects of the grid, and to prioritize all grid investments and investment categories based on their impacts on affordability and overall bill impacts.

A lack of Energy Justice is typified by the prevalence of energy insecurity and energy poverty. Commodifying energy often creates untenable tradeoffs, with negative health impacts that create conditions of energy insecurity for a significant percentage of U.S. residents. JNGO/EDF Ex. 5.0 at 7-14. Energy burden is the percentage of income that a household spends on energy bills, typically averaged over a year. JNGO/EDF Ex. 5.0 at 8.

JNGO/EDF state that the delivery costs as a share of total electricity costs to consumers have grown considerably over the last decade. JNGO/EDF Ex. 5.0 at 26-27. JNGO/EDF witness Chan notes, delivery costs increased 65% in real terms from 2010 to 2020. JNGO/EDF Ex. 5.0 at 28: Figure 6. A typical residential customer has seen delivery costs increase by $9.39 per month ($112.63 per year) over the last 9 years, and $5.48 per month ($6.73 per year) over the last 5 years. JNGO/EDF Ex. 5.0 at 28. Taken as a whole, ComEd's proposed Grid Plan "would likely create significant upward pressure on residential electric rates." JNGO/EDF Ex. 5.0 at 32.

Based on data from the U.S. Department of Energy's Low-Income Energy Affordability Data Tool, the average energy burden in the 20 counties served by ComEd is slightly lower than in the state as a whole (1.9% versus 2.2%). JNGO/EDF Ex. 5.0 at 8-9; *see also* https://www.energy.gov/scep/slsc/lead-tool. Strong evidence, however, suggests a severe and pervasive energy burden among low-wealth customers in ComEd's service area (16.6% versus 17.6% for households with income at or below the federal poverty line). *Id.* These significant racial disparities persist even after controlling for income and poverty levels. JNGO/EDF Ex. 5.0 at 19-21.

To address these inequities, JNGO/EDF argue that the Grid Plan approved by the Commission must contain a comprehensive set of approaches to address inequities in the most basic access to electricity services. JNGO/EDF Ex. 5.0 at 22. ComEd's current affordability performance metric is not adequate to address this disparity. JNGO/EDF Ex. 5.0 at 23. ComEd's plan for that metric does not address how new affordability programs, EE, and DER deployment efforts, or changing disconnection practices, could be implemented. *Id.* Existing public assistance programs are not adequate to address this energy insecurity crisis, either. JNGO/EDF Ex. 5.0 at 23-24.

Modernizing ComEd's disconnection policies is an excellent way to address issues of affordability and equity. ComEd proposes a DPP. Because the costs and benefits of this program are only projections, the Commission should require ComEd to continue to seek broad stakeholder input as it develops the program to best balance costs and benefits, accounting for the extreme economic distress of involuntary disconnection. JNGO/EDF Ex. 11.0 at 11.

Involuntary disconnections can cause cascading economic, physical health, and mental health problems. JNGO/EDF Ex. 5.0 at 13; JNGO/EDF Ex. 6.0 at 18 (risk of cold- and heat-related illness, indoor moisture, mold growth, respiratory illnesses). Disconnection is “an indicator of extreme economic distress.” JNGO/EDF Ex. 5.0 at 13. Between May 2022 and April 2023, ComEd issued 1,354,018 disconnection notices to residential customers, and performed 226,416 involuntary disconnections of residential customers in that same time. JNGO/EDF Ex. 5.0 at 13. It reconnected only 186,819 residential customers, leaving a gap of nearly 40,000 customers who lost service over this period. *Id.* at 13.

ComEd has a substantially higher rate of disconnection in areas served by the Company with a larger share of the population that is Black, indigenous, or people of color (“BIPOC”). JNGO/EDF Ex. 5.0 at 13. In ZIP codes with less than 20% BIPOC population, in the past year there were 2.8 disconnections for every 100 customers. JNGO/EDF Ex. 5.0 at 14. In zip codes with more than 60% BIPOC population, there were 11.6 disconnections for every 100 customers, a rate 4.2 times higher than areas with the smallest BIPOC populations. JNGO/EDF Ex. 5.0 at 14. Research cited by Dr. Nock show that the race is clearly correlated with disconnections and disconnection notices in ComEd’s service area. JNGO/EDF Ex. 6.0 at 22.

JNGO/EDF recommend that the Commission order ComEd to work with stakeholders in developing its proposed DPP, and until that program is implemented, require ComEd to implement its proposed interim disconnection process which should, at a minimum, protect customers with a pending financial assistance application from being disconnected involuntarily. JNGO/EDF Ex. 11.0 at 11. There is a decided asymmetry of costs and benefits associated with involuntary connections. On the customer side, involuntary disconnections are associated with poorer childhood health, developmental delays, hospitalization, and going without food. JNGO/EDF Ex. 11.0 at 13. Limiting disconnections provides large, compounding benefits not easily quantified. *Id.* at 13. On the utility side, the costs of limiting involuntary disconnections are relatively well-defined, and limited to lost revenue of providing service to the net number of households otherwise disconnected from service less those who would have been reconnected to service. JNGO/EDF Ex. 11.0 at 13. ComEd estimates the costs of a full disconnection moratorium at $20 to $55 million, depending on whether it is implemented for all months until its DPP is in place or only during the months that Low-Income Home Energy Assistant Program (“LIHEAP”) and Percentage of Income Payment Plan (“PIPP”) applications are processed. ComEd Ex. 54.0 at 9-10. To be sure, there are likely costs associated with a broader disconnection moratorium, but ComEd’s calculation of potential costs is somewhat simplistic, and based on a stacking of assumptions otherwise lacking support. First, “ComEd estimates that the average past due balances would grow to $408 per residential customer” or “$452 per residential customer,” then “ComEd estimates that 22% of the residential customer arrearages would become charge offs (i.e., uncollectibles). EDF Cross Ex. 1.0 and 1.1. ComEd’s assumptions do not necessarily match actual experience. In 2018 and 2019, before COVID-19, ComEd’s collectibles were $44 million and $35 million, respectively. EDF Cross Ex. 1.0 at 2. In 2020, with COVID-19, uncollectibles rose to just under $54 million, but then in 2021 they plummeted to just under $18 million, only to rise again to $24 million. *Id.* It is more likely that ComEd's uncollectible expenses are just highly variable, and not easily predicted with any high degree of accuracy.

One option would be to require ComEd to confirm with the customer, whether in person, over the phone, or electronic communication, whether the customer is eligible for assistance and interested in applying for assistance. Only a "small segment of people who qualify for assistance are actually applying and receiving needed assistance." JNGO/EDF Ex. 11.0 at 10 (*quoting* ComEd Ex. 33.0 at 7, 9. From 2017 to 2021, only 12-19% of income-eligible households in Illinois were served by any type of assistance from LIHEAP. JNGO/EDF Ex. 11.0 at 1, 10.

In addition, JNGO/EDF suggest the Commission consider the reconnection charges to customers. For an advanced metering infrastructure ("AMI") customer, it costs ComEd approximately $0.85 to involuntarily disconnect a customer and $0 to reconnect them, yet ComEd charges that customer $9.84 for the reconnection, for a net gain of roughly $8.99 per customer. With approximately 168,000 AMI reconnections in 2022, this appears to give ComEd approximately $1.5 million in surplus revenue. *See* EDF Cross Ex. 2.0 & 2.1. For customers that do not have AMI, the cost to disconnect is approximately $43.02, and the cost of reconnection is approximately $34.52, for a total cost of $77.54. EDF Cross Ex. 2.0 & 2.1. ComEd charges those customers $86.70 for reconnection fees, for a net gain to ComEd of $9.17 per customer. With approximately 320 manual reconnections in 2022, ComEd made approximately $3,000 in surplus revenue. EDF Cross Ex. 2.0 & 2.1. At the very least, the Commission should order ComEd to reassess the reconnection fees it charges to involuntarily disconnected customers to closer reflect the actual costs of reconnecting those customers. Doing so would barely make an appreciable difference in ComEd's bottom line, but a $9 savings could be important to an individual customer so seriously struggling to pay bills that they have been disconnected.

Clean energy pathways, including EE and DER proposals raised by EDF witnesses, are tremendous opportunities for the Commission to ensure ComEd meets its affordability goals. The Commission should also consider alternatives to traditional energy, like the Illinois Solar for All program. EDF Ex. 2.0 at 10. It is important for the Commission to require ComEd to ensure customers have a way to participate in and benefit from clean energy solutions. EDF Ex. 2.0 at 11. It should look at programs like those in Hawaii, for default time-of-use rates and fixed charge innovations. *Id.* at 11 & n.1. The Commission should also require accelerated investments in weatherization and EE in disadvantaged communities to offer long-term relief. EDF Ex. 2.0 at 11. Disadvantaged communities have the most to gain, as they tend to have the highest energy burdens and less energy-efficient housing stock. Id. It is also necessary to make these investments if the City of Chicago is to meet its climate change goals. *Id.*

JNGO/EDF state that ComEd's Grid Plan must be designed to "provide delivery services at rates that are affordable to all customers, including low-income customers." 220 ILCS 5/16-105.17(d)(11). Of all the policy goals enacted in P.A. 102-0662, affordability is perhaps the most frequently cited, with requirements to maintain affordability included in three separate provisions in Section 16-105.17, and in ten separate provisions in Section 16-108.18.

With affordability top of mind, P.A. 102-0662 directs the Commission to pursue nontraditional solutions to utility, customer, and grid needs that are more efficient and cost-effective, and less environmentally harmful than traditional solutions. 220 ILCS 5/16-105.17(a)(6). The Commission is required to evaluate grid plans based on the extent they consider nontraditional, third-party owned, investment alternatives that can meet grid needs and provide additional benefits (including consumer, economic and environmental benefits) beyond comparable, traditional utility-planned capital investments. 220 ILCS 5/16-105.17(f)(5)(A)(4); 220 ILCS 5/16-105.17(d)(10) (identifying third party DERs as alternatives to traditional utility owned and controlled capital investments). "It is the policy of this State that cost-effective third-party or customer-owned [DERs] create robust competition and customer choice and shall be considered as appropriate." 220 ILCS 5/16-105.17(f)(2)(K). The Grid Plan must identify cost-effective solutions from nontraditional and third-party owned investments that could meet anticipated grid needs, including, but not limited to DER procurements, tariffs or contracts, programmatic solutions, rate design options, technologies or programs that facilitate load flexibility, nonwires alternatives, and other solutions that meet the requirements of Section 16-105.17(d). 220 ILCS 5/16-105.17(f)(2)(K).

When considering affordability, the Commission must focus its efforts on delivery rates, but without willfully blinding itself to the overall bill impacts of rates that might result from a Grid Plan. The Commission cannot create a hermetic seal between electric wholesale and retail markets. *FERC v. Elec. Power Supply Ass'n*, 577 U.S. 260, 281 (2016). It is well within the Commission's authority to make decisions modifying ComEd's Grid Plan with an eye to overall retail electric affordability, even if making decisions with regards to a distribution Grid Plan has incidental effects on wholesale markets. *Elec. Power Supply Ass'n v. Star*, 904 F.3d 518, 523 (7th Cir. 2018) (*citing Hughes v. Talen Energy Marketing, LLC*, 578 U.S. 150 (2016)).

With all the above in mind, JNGO/EDF the Commission should prioritize grid projects and investments with affordability in mind. First, at the top of the priority list are investments that are likely to lower both the delivery service costs and the overall electric bill of customers, and achieve Section 16-105.17(d) goals including cost-effectively promoting the state's renewable energy, climate, and environmental goals with the utility's distribution system investments. This includes nontraditional grid investments that forego the need for more expensive traditional grid investments and/or contribute to clean energy and other environmental goals. 220 ILCS 5/16-105.17(a)(6).

Second, JNGO/EDF state the Commission should consider grid investments that have the potential to increase delivery rates but are more likely to improve overall electric bills for customers. In pursuing these investments, the Commission need not blind itself to the potential of lower overall electric bills; however, it must also be aware of the risk that certain aspects of customer bills reflect wholesale electric rates not entirely within the Commission's control.

Third, the Commission should consider grid investments that have the potential to improve delivery rates but are more likely to raise overall electric bills for customers. For these projects, the Commission should determine if any goals under Section 16-105.17(d) remain unfulfilled. If the goals of Section 16-105.17(d) have been met, the Commission's analysis should be complete, and it has no need to approve any remaining investments that will raise overall rates without delivering needed grid improvements. However, if there are goals under Section 16-105.17(d) that have not been met, then JNGO/EDF state the Commission should determine whether these investments can deliver on P.A. 102-0662 policy goals and approve any that will have the lowest overall rate impact for customers.

Fourth, at the bottom of the priority list are projects and investments that are likely to increase both delivery service costs and the overall electric bill of customers. *See* 220 ILCS 5/16-108.18(a)(6) (warning against excess utility spending without meaningful improvements to customer experience, rate affordability, or equity). The Commission should disallow these investments unless they provide clear environmental or other societal benefit justifying its cost, or if the investment is necessary to achieve another Section 16-105.17(d) goal that is otherwise unachievable. *E.g.*, EDF Ex. 2.0 at 11 ("It is important for the Commission to require ComEd to ensure customers have a way to participate in and benefit from clean energy solutions.").

g. JNGO's Position

Customer affordability is a key issue in this Grid Plan. JNGO recognize that ComEd will need to make new investments in grid infrastructure, software, and operations to achieve P.A. 102-0662's goals. Yet, P.A. 102-0662 also requires ComEd to "provide delivery services at rates that are affordable to all customers, including low-income customers." 220 ILCS 5/16-105.17(d)(11). The Commission needs to strike the right balance when evaluating ComEd's proposed capital expenditures, revenue requirements, and ROE, recognizing that many ComEd customers are already struggling to pay their bills. JNGO/EDF witness Nock testifies to the prevalence of energy insecurity in vulnerable communities, including in the ComEd region. JNGO/EDF witness Chan further describes the prevalence and disparity of energy insecurity in Illinois and the need to align grid planning with the principles of Energy Justice. The Commission should keep the interests of ComEd's most vulnerable customers front and center as it reviews the Company's proposed investments in this case.

h. Commission Analysis and Conclusion

The Grid Plan shall "provide delivery services at rates that are affordable to all customers, including low-income customers." 220 ILCS 5/16-105.17(d)(11). Staff, BOMA, the AG, ICCP, JNGO, and EDF express concern regarding the compliance of ComEd's proposed Grid Plan with Section 16-105.17(d)(11) and offer recommendations to cure the proposed Grid Plan's deficiencies. *See* BOMA IB at 14; AG IB at 44; ICCP IB at 28; JNGO IB at 26; EDF IB at 57. ComEd objects to many of these proposals. The Commission is concerned with the Company's proposed rate increase and its impact on customer bills. While the Commission appreciates the Company's attempt to satisfy the Act's requirements through new initiatives, the Act requires more than new programs. *See* ComEd IB at 31-33. Under the Act, rates must be shown to be affordable for all customers to enable the Commission to approve the Grid Plan.

ComEd attempts to meet the requirements of Section 16-105.17(d)(11) but falls short. ComEd discusses its historical distribution rates and compares its proposed rates to other electric utilities serving metropolitan areas. ComEd Ex. 24.02 Corr. at 16-18. The AG observes that ComEd does not establish that the rates charged by comparable utilities are affordable. AG RB at 13. The Commission notes, in addition, that affordability necessarily takes account of the circumstances of ComEd's own customer base. Affordability is not a comparison with rates in other jurisdictions, but with the ability of ComEd's own customers to pay their utility bills. ComEd's Grid Plan does not show the connections between the evidence of customers' circumstances (e.g., arrearages, disconnects, DPAs) and ComEd's planned investment level and focus.

ComEd asserts the value customers receive from its investments informs affordability. *See* ComEd Ex. 24.0 CORR at 4. This is not the standard prescribed in Section 16-105.17(d)(11). ComEd bears the burden of proof to show compliance and it has not done so. The Commission acknowledges that there is more than one way to meet the requirements of Section 16-105.17(d)(11). For example, ComEd could have done analysis showing how the Grid Plan will reduce arrearages and disconnections, perhaps demonstrating the selected pace of investment's impact on customers' ability to pay. ComEd did not provide sufficient evidence to show the affordability of its delivery services for all customers. The Grid Plan's deficiencies related to cost-effectiveness also make it difficult for the Commission to determine if the proposed rates are affordable (see Section V.B.4.h. of this Order).

The Commission finds the Grid Plan does not comply with Section 16-105.17(d)(11). ComEd shall refile its Grid Plan as prescribed in Section V.A of this Order.

9. Opportunities for Robust Public Participation Through Open, Transparent Planning Processes (Section 16-105.17(d)(6))

a. ComEd's Position

ComEd points out the Act requires that the Grid Plan "shall be designed to … ensure opportunities for robust public participation through open, transparent planning processes." 220 ILCS 5/16-105.17(d)(6). ComEd contends its Grid Plan meets that standard and goes even further. As developed, initially proposed, and further refined throughout this proceeding, ComEd states its Grid Plan reflects substantial collaboration with Staff and Intervenors. ComEd further states it was developed, in part, via a public workshop process, and the Grid Plan incorporates and reflects additional opportunities for public participation and feedback.

ComEd emphasizes that its Grid Plan filing was preceded by a series of workshops. But, as ComEd explains, before those workshops began, ComEd produced its preliminary Capital Investments Proposal, which is publicly available, for stakeholders to review along with ComEd's Baseline Grid Audit Report. ComEd Ex. 24.02 Corr. at 5; ComEd Ex. 2.01. ComEd states that together the documents provided thorough, transparent, backwards (Baseline Audit Report) and forwards-looking (Capital Investments Proposal) views of ComEd's distribution grid to inform the workshop discussions.

ComEd states that the Grid Plan reflects the feedback received from stakeholders throughout this pre-filing process. ComEd Ex. 24.02 Corr. at 4. ComEd explains that stakeholder feedback informed ComEd's vision and objectives, processes, and investment strategy embodied in the Grid Plan. ComEd Ex. 50.06 at 54. In particular, feedback about the importance of resilience and reliability, timely interconnection of new business and renewable energy developments, mitigation of and adaptation to climate change, integration of electrification and DER, and broadband infrastructure helped validate the prioritization of the individual capital investments detailed in ComEd's Grid Plan. *Id*. Where ComEd received particular feedback that could not be incorporated into the Grid Plan, the rationale is outlined in ComEd Ex. 7.03.

ComEd notes that its efforts to engage with Staff and stakeholders continued after the Grid Plan was submitted, and resulted in further adjustments that are before the Commission now for approval. For example, ComEd's proposed automated and manual Disconnection Protection Program and Facility Locate Pilot both arose from feedback offered in Staff and Intervenor testimony in this proceeding. *See* Sections V.C.6.c.ii (Disconnection Protection Program) and VIII.F (Facility Locate Pilot); *see also* ComEd Ex. 33.0 at 10; ComEd Ex. 36.0 at 8. ComEd states that it adjusted the scope and deployment of certain projects, like REACTs, in response to Staff and Intervenor feedback. *See* Section V.C.6.i.iv; *see also, e.g*., ComEd Ex. 63.0 at 2-3. ComEd also states it has committed to engaging with stakeholders on particular issues, like benefit-cost analysis, use of contingency in project estimates, and DER orchestration, after this proceeding has ended. *See, e.g*., Sections VIII.B, VII.A.2, and VIII.C, respectively. Finally, in response to Staff and others, ComEd has committed to extensive reporting on a slew of issues and investments, which will further support the openness and transparency of ComEd's future grid planning. *See* Section VIII.A; *see also* ComEd Ex. 24.0 Corr. at 10-14; ComEd Ex. 45.0 at 12-22.

ComEd concludes all of these efforts demonstrate that ComEd's Grid Plan was developed in a process that "ensure[d] opportunities for robust public participation through open, transparent planning processes," in accordance with Section 16-105.17(d)(6). 220 ILCS 5/16-105.17(d)(6).

ComEd notes that the AG argues the public participation process fell short because ComEd did not provide stakeholders with "specific investment proposals" during the workshop process and suggests that vast disallowances totaling $1.6 billion are necessary as a consequence. ComEd contends the AG misconstrues both the purpose of the pre-filing workshops and the appropriate outcome in this proceeding. ComEd states that it complied with the requirements of Section 16-105.17(e)(5) and submitted a 65-page preliminary capital investments proposal in advance of the workshop process. That workshop process was detailed, iterative, and resulted in meaningful information exchange among a variety of stakeholders. ComEd points out that no other participants in this proceeding have raised concerns about the sufficiency of the workshop process and no concerns appear in the workshop report produced by the facilitator. ComEd asserts that the fact that the AG, in hindsight, has complaints about the workshops cannot justify an adjustment of the magnitude it proposes.

b. Staff's Position

Staff reviewed the Company's MYIGP with respect to this statutory requirement and did not have concerns; therefore, Staff did not offer specific testimony on it. Staff Ex. 16.01; Staff Ex. 1.0 at 3-4.

c. AG's Position

The AG states that the General Assembly clearly established that it is now "the policy of the State to promote inclusive, comprehensive, transparent, cost-effective distribution system planning and disclosures processes." 220 ILCS 5/16-105.17(a). In mandating that the utilities file a grid plan, the General Assembly presciently found that "[i]nclusive distribution system planning is an essential tool for the Commission, public utilities, and stakeholders to effectively coordinate environmental, consumer, reliability, and equity goals at fair and reasonable costs." 220 ILCS 5/16-105.17(a)(3). And the General Assembly noted that, "in the absence of a transparent, meaningful distribution system planning process, utility investments may not always serve customers' best interests." 220 ILCS 5/16-105.17(a)(5). In furtherance of these findings, the legislature established the objective that the Grid Plan be designed to "ensure opportunities for robust public participation through open, transparent planning processes." 220 ILCS 5/16-105.17(d)(6).

ComEd argues that it satisfied this objective because it underwent a Grid Assessment by a third-party auditor, filed a Capital Investments Proposal, and participated in workshops. All of these things were specifically mandated by the statute and the AG argues that ComEd is attempting to take credit for doing the bare minimum required by the statute. Moreover, the AG maintains that the development of ComEd's Grid Plan has not been open and transparent, as required by the Act. The pre-filing workshop process was supposed to be a key venue for an "open, transparent planning process," the goal of which was to open the utility's planning processes to scrutiny and to make the changes needed to ensure that the utility's priorities align with those of its customers and the State of Illinois as a whole. According to the AG, this requires the utility to provide information to stakeholders early, well before litigation commences, about investment plans and programs. It means providing detailed and granular system data when reasonably requested by stakeholders. It means being responsive to customer and stakeholder concerns about affordability and cost-effectiveness and accepting reasonable recommendations for change.

The AG shows that the workshop process failed to provide tangible results, largely because the Company could not, or would not, provide specific investment proposals for stakeholders to consider. For example, ComEd refused to provide detailed additional information requested by the AG in response to its Capital Investments Proposal, and the Company proved "intransigent" in discovery, particularly in the early parts of the proceeding. Much of the detailed information that ultimately was provided did not come out until ComEd's rebuttal or even surrebuttal testimony, months after the Grid Plan was filed and the information was first requested.

Several parties have proposed post-final Order reporting and workshop requirements that would address the information asymmetry and lack of transparency experienced in this Grid Plan process. The AG notes that while it is encouraging that the

Company and others support a more robust process moving forward, a future process does nothing to protect ratepayers under the Grid Plan and Rate Plan currently before the Commission. Because the Grid Plan is not the result of a fully open and transparent planning process, the AG requests that the Commission step in to restore capital spending constraints that such a participatory process could have provided. Thus, the AG ask the Commission to limit the Company's capital spending under the Grid Plan. Additionally, the Commission should order that future iterations of the MYIGP planning process comply with the benefits workshops recommended in Section VIII.C. and the stakeholder process described in Section VIII.H.

d. EDF's Position

EDF asks the Commission to require transparency and open data sharing to support opportunities for robust public participation in the grid planning process. With appropriate protections for individual ratepayer and customer information, data should be provided at least in the zip code and census block level of detail.

Dr. Nock explains the important role of data and identifying an array of energy poverty metrics. JNGO/EDF Ex. 6.0 at 15-28. Energy burden, energy limiting behavior, energy insecurity, energy poverty, and disconnections for non-payment, number of households behind on bills, the number of customers participating in assistance programs, are all categories of metrics to provide a more complete understanding of energy poverty, where it may be occurring, and the multiple forms people may be experiencing. *Id*. at 13. These metrics should be used to evaluate the equity implications of grid modernization. *Id*. at 13.

It is also important to report metrics at the census block level. JNGO/EDF Ex. 6.0 at 27; EDF Ex. 3.0 at 8-9. Reporting metrics at the zip code level mutes income disparities, which impedes proper calculation of energy limiting behavior. *Id*. at 27. Dr. Nock suspects that the gap in low-income households' ability to cool and heat their homes is much larger than ComEd's zip code analysis currently reveals. *Id*. at 27.

Communities can benefit when utilities like ComEd make data more accessible and transparent. EDF Ex. 3.0 at 3-4. ComEd should have data portals, like the City's, where people can directly download data. EDF Ex. 3.0 at 4. With that data, local organizations and journalists can identify and solve issues. *Id*. at 50. In summary, EDF asks the Commission to order ComEd to maximize data transparency and openness. Specifically, the Commission should order ComEd to collect data on energy burden, energy limiting behavior, energy insecurity, energy poverty, and to continue reporting data on the number of involuntary disconnections for non-payment, number of households behind on bills, and number of customers participating in assistance programs. Further, the Commission should order ComEd to aggregate and share this data on the zip code and census block level, and work with stakeholders in the future to identify additional geographical reporting levels that would be useful to journalists, community-based organizations, and other stakeholders.

e. Commission Analysis and Conclusion

The Act requires that the Grid Plan "shall be designed to … ensure opportunities for robust public participation through open, transparent planning processes." 220 ILCS

5/16-105.17(d)(6). ComEd participated in numerous workshops and formal and informal proceedings that were intended to provide information to stakeholders regarding ComEd's system and its plans and planning processes. ComEd provided an explanation for specific stakeholder feedback that was received during the workshop process and was not incorporated into ComEd's Grid Plan as required by the Act.

As noted further in the data transparency discussion, Section VII.B.2., the Commission directs ComEd to work with stakeholders to include census block data where appropriate upon refiling. Additional information will lead to better discussions as required by the Act.

The Commission notes parties raised concerns over lack of information and non-compliance with various provisions of the Act throughout litigation. To remedy this non-compliance, parties recommend the Commission direct the Company to host further workshops and to collaborate with stakeholders to further develop frameworks and data necessary for the Commission to determine if future Grid Plans comply with the Act. For those workshops and collaborations intended to bring the Company into compliance with the Act, the Commission directs parties to address those issues in the docketed proceeding that shall occur once the Company submits its refiled Grid Plan within 3 months of this Order. The Commission urges a more transparent process and the Company to address comments from previous workshops recommending that the Company focus on active engagement and collaboration, rather than listening and considering. *See, e.g.*, Oral Argument Tr. 195:10-12, Docket Nos. 22-0486 & 23-0055 (Nov. 28, 2023) (Staff) ("I share some of the other views that the Company could have been more forthcoming.").

Throughout this docket, parties recommended the Commission direct the Company to collaborate with stakeholders to further develop ideas, platforms, and action items to continue to achieve the goals of P.A. 102-0662. The Commission recognizes the iterative nature of grid planning as the Company will continue to submit subsequent Grid Plans. The Commission acknowledges the value of stakeholder collaboration outside of docketed proceedings and sees them as a necessary component to further refine and inform future Grid Plans. Once the Commission approves an initial Grid Plan, the Commission foresees these activities occurring before the filing of the Company's next Grid Plan. However, the Commission finds it critical that stakeholder processes be productive venues with engagement from all parties that provide necessary data and information to assist future Commission decisions or processes that occur because of a Commission decision.

Therefore, the Commission requires that any formal workshops it directs stemming from the approval of an initial Multi-Year Grid Plan must, at a minimum: 1) have a facilitator that is agreed upon the interested parties at the beginning of a workshop; 2) have a discrete timeline for meeting cadence and workshop duration at the beginning of the workshop series; 3) include a report at the commencement of the workshop that identifies all party proposals on a specific topic, areas of agreement, areas of disagreement and what the party positions are, areas of consensus, and any data or information required to inform a future Commission decision; 4) that parties shall have discovery rights, as proposed by the AG (see AG IB at 93); and 5) any further accommodations needed, as identified and agreed upon by the parties, to ensure open and transparent engagement between the parties and the utility.

C. Distribution System

1. Long-Term Distribution System Investment Plan

a. Planning Process Overview – Framework and Objectives ((f)(2)(a)(i))

(i) ComEd's Position

ComEd notes Section 16-105.17(f)(2)(H) provides that a Grid Plan must include a "long-term distribution system investment plan," which includes: (i) a description of the planning capital investments, by investment category, and for investments above $3 million, a description of the alternatives considered; (ii) a discussion of how the capital investment plan is consistent with Commission orders regarding procurement of renewable resources, EE plans, distributed generation rebates, and other relevant Commission orders; (iii) a plan for achieving the Commission-approved performance metrics; and (iv) a narrative discussion of the utility's vision for the distribution system over the Grid Plan period. *See* 220 ILCS 5/16-105.17(f)(2)(H). ComEd contends that its Grid Plan contains all of this information.

Chapter Two of the Grid Plan describes ComEd's integrated distribution planning framework, called the Long Range Plan ("LRP"), including an overview of the planning process, the frequency and duration of the process, the roles and responsibilities within the process of ComEd personnel, and the ComEd departments involved, as required by Section 16-105.17(f)(2)(A)(i). 220 ILCS 5/16-105.17(f)(2)(A)(i); ComEd Ex. 5.01 2nd Corr. at 23-66. ComEd states that the LRP is a five-year forward-looking financial and investment planning process, which is updated regularly to meet evolving system and customer needs. ComEd Ex. 5.01 2nd Corr. at 23; ComEd Ex. 49.01 at 15-16. ComEd further states that, each year, it updates the prior year's LRP, removing projections related to the year that just concluded, and adding a new fifth year. ComEd Ex. 49.01 at 15-16.

ComEd notes that its long-standing LRP process was adapted and incorporated into the Grid Plan and focused to achieve the goals of P.A. 102-0662 as well as ComEd's core responsibilities to maintain grid safety and reliability while meeting customer expectations and needs. ComEd Ex. 5.01 2nd Corr. at 23. The integrated distribution planning framework is summarized in ComEd Ex. 5.01 2nd Corr. at 24, Figure 2.1-1.

ComEd explains how its engineers and operations professionals implement this framework on an ongoing basis. ComEd Ex. 5.01 2nd Corr. at 24. Working groups study specific equipment, circuits, and facilities to evaluate system conditions including load forecasting, the impact of new DER interconnections, hosting capacity, and reliability performance. *Id*. Engineers with expertise in grid analytics, failure analysis, distribution planning, engineering standards, and transmission and distribution design, among others, are tasked with studying specific equipment, circuits, and facilities to determine the causes and risks of failure. *Id*. at 44. Data and field analyses are conducted to gather the information needed to form an action plan to address grid challenges. *Id*. at 45. Finally, ComEd program managers then perform challenge sessions with the engineers that developed the action plan to determine what work should be performed and on what timeline. *Id*. ComEd states, because the LRP is developed on an iterative, rolling annual basis, project plans for investments within the LRP are refined multiple times before being implemented. *Id*. at 58-59. ComEd explains that, typically, two LRP cycles are completed each year, allowing ComEd to incorporate the most up-to-date information and assumptions into its financial budget and operational plans. *Id*. The LRP incorporated into the Grid Plan was specifically developed to incorporate a portfolio of investments and O&M expenses needed to achieve P.A. 102-0662 goals as well as supporting ComEd's ongoing delivery service obligations. *Id*. The LRP process is summarized in Table 2.2-1 of the Grid Plan. *See* ComEd Ex. 5.01 2nd Corr. at 60, Table 2.2-1.

ComEd explains that, as a result, the LRP is built from the "bottom-up" with subject matter experts in departments across ComEd proposing specific projects and investments for the relevant years. ComEd Ex. 5.01 2nd Corr. at 60; *see also* ComEd Ex. 49.01 at 16-17. The expert that leads each department's participation in the LRP is a Category Manager. ComEd Ex. 5.01 2nd Corr. at 60. The ComEd Finance Department leads the overall process and coordinates input from Category Managers, ComEd executive leadership, and other experts from throughout ComEd as needed. *Id*.

The categories of investments processed through the LRP are identified in Table 2.3-1 of the Grid Plan. ComEd Ex. 5.01 2nd Corr. at 61. ComEd states that capital project and O&M expenses are prioritized within each category, and the highest-priority items are aggregated to develop the overall LRP. ComEd Ex. 49.01 at 17.

ComEd maintains that each proposed project is put through a stringent process of prioritization to measure the costs and benefits of each proposal and to consider its overall impact on customer affordability. ComEd 5.01 2nd Corr. at 61-63. The benefits that must be shown in order for a project to proceed to implementation include improved safety, operability of the distribution system, equity, reliability, resiliency, readiness for electrification, seamless integration of DER, and adaptation to the impacts of climate change. ComEd Ex. 5.01 2nd Corr. at 65-66; *see also* ComEd Ex. 9.0 2nd Corr. at 20-29.

ComEd points out that only one party's witness questions ComEd's compliance with Section 16-105.17(f)(2)(A)(i). As ComEd explains, Staff witness Antonuk claims that ComEd is only partially compliant with the section because ComEd does not identify distribution system "subprocess frequency and duration or where key functional responsibilities reside, both of which the Act requires." Staff Ex. 29.0 at 31. ComEd contends that this criticism is without merit. ComEd Ex. 46.0 at 14-15. ComEd argues that no provision of the Act uses or defines the term "subprocess," nor does the Act mention "key functional responsibilities." *Id*. ComEd further argues that the Act does require a description of "roles, and responsibilities of utility personnel and departments involved" in the planning process, which ComEd has provided in the Grid Plan and in testimony. *Id*. Because Mr. Antonuk's criticism is not grounded in the plain language of 220 ILCS 5/16-105.17(f)(2)(A)(i), his conclusion that ComEd is only partially compliant with the Act must be rejected. ComEd states it has thoroughly and in granular detail explained the process used to plan and prioritize its capital investments and O&M expenses, including the individuals involved in the process, the steps and approvals, and the considerations used in evaluating potential projects, as required by Section 16-105.17(f)(2)(A)(i).

ComEd asserts that the Commission should find ComEd has satisfied these requirements. In the alternative, any order by the Commission requiring ComEd to provide additional information should clarify exactly what additional information is needed to assure the Commission that Section 16-105.17(f)(2)(A)(i) has been fully satisfied.

(ii) Staff's Position

In direct testimony, Staff listed the information ComEd failed to provide, detailed why that information was required, and explained ComEd's omissions in more detail. Staff Ex. 13.0 at 10, 13. Specifically, Staff determined that ComEd failed to meet the statutory requirements to: (a) identify the frequency and duration of system planning processes, which encompass multiple elements, (e.g., load forecasting, performance planning, asset health assessments); and (b) identify of the roles and responsibilities of those who perform them. 220 ILCS 5/16-105.17(f)(2)(A)(i).

In rebuttal testimony, ComEd disagreed with Staff, citing the Company's treatment of "distribution system planning" in Section 2.1 of the Grid Plan (ComEd Ex. 5.01 2nd Corr.), and in the testimony of Mr. Arns. ComEd Exhibit 7.0; ComEd Ex. 25.0 at 3-4. However, neither the referenced Grid Plan Section nor testimony describe the frequency and duration of system planning processes or the required planning roles and responsibilities of those who perform them. ComEd speciously argued that the lack of a "statutory definition of 'subprocess'" permits ComEd to ignore what Staff termed "planning subprocesses." ComEd Ex. 46.0 at 14. ComEd does not dispute that what Staff described as subprocesses form central elements of distribution planning. Matters such as the forecasting load to be served or the performance and health of the assets serving that load form primary elements of planning. In fact, the innumerable references in ComEd's MYIGP filing and its supporting testimony, exhibits, and workpapers to load forecasts, equipment performance, and asset health and condition as drivers of ComEd's MYIGP capital investments show that these factors are central planning process elements. P.A. 102-0662 promotes transparency and broad participation in ComEd's distribution planning process. 220 ILCS 5/16-105.17(a). Failure to provide information on planning process because there is no definition of "subprocess" in P.A. 102-0662 is contrary to this objective.

Staff asserts that ComEd similarly errs in citing information set forth the Grid Plan and in the direct testimony of ComEd witness Arns, which addressed planning roles and responsibilities as required by Section 16-105.17(f)(2)(A)(i). ComEd Ex. 5.01 2nd Corr. at 23-64; ComEd Ex. 7.0 at 6-48. The information cited does not identify the specific utility groups involved or the specific responsibilities of the personnel and departments at any meaningful level of detail.

ComEd objects to Staff's conclusion that the Company did not meet the statutory requirements, noting that Chapter 2 of its Grid Plan describes its planning framework; provides an overview of the planning process; and addresses process frequency, roles, and responsibilities. However, none of those elements address frequency or duration of key processes elements (e.g., load forecasting) or the responsibilities of the personnel and departments involved.

The Commission should require ComEd to provide the description of all key elements of its distribution process, the persons and departments responsible for performing them and how they do so in its Annual MYIGP Reports and in the Company's next MYIGP.

(iii) AG's Position

The Act provides that the Grid Plan must include a "description of the utility's distribution system planning process, including . . . the overview of the process, including frequency and duration of the process, roles, and responsibilities of utility personnel and departments involved." 220 ILS 5/16-105.17(f)(2)(A)(i). The AG does not dispute that the Company has provided an "overview of the process" in the Grid Plan. ComEd Ex. 5.01 2nd Corr. at 23–67, App. B. While the AG does not agree with certain practices and believe that the planning process is not as inclusive and transparent as the Act requires, the AG agrees that the Company has adequately provided an overview of its planning processes.

(iv) EDF's Position

EDF states that Section 16-105.17(f)(2) establishes the minimum filing requirements for ComEd's MYIGP. 220 ILCS 5/16-105.17(f)(2). It therefore establishes a floor, not a ceiling, for what should be included in a Grid Plan.

(v) Commission Analysis and Conclusion

While ComEd provided an overview of its distribution system planning process pursuant to Section 16-105.17(f)(2)(A)(i), the Commission concludes that more information would be beneficial. Staff identifies an inability to use ComEd's generalized process description to meaningfully connect P.A. 102-0662 mandates with decisions on proposed project designs, objectives, timing, and costs. Descriptions of all key elements of ComEd's distribution process, the persons and departments responsible for performing them, and how they do so would be valuable information to include in ComEd's refiled MYIGP and Annual MYIGP Reports.

b. Stakeholder Feedback and Process Coordination (Section 16-105.17(f)(2)(a)(ii) and (iii))

(i) ComEd's Position

As required by the Act, ComEd summarizes the meetings with stakeholders that were conducted prior to its filing of the Grid Plan. *See* 220 ILCS 5/16-105.17(f)(2)(A)(ii); ComEd Ex. 5.01 2nd Corr. at 20-22.

First, ComEd explains that it participated in a series of workshops moderated by an independent contractor retained by the Commission, along with over 300 unique attendees and featuring 45 presenters on more than eight major topics related to grid planning and ComEd's Capital Investments Proposal. ComEd 5.01 2nd Corr. at 20. ComEd states that these workshops provided ComEd with valuable perspective on numerous topics including the major themes of community needs, transparency and education, benefits, affordability and equity, alignment of energy goals, and community-centric policies. ComEd Ex. 5.01 2nd Corr. at 21-22; *see also* ComEd Ex. 50.06. ComEd states that these perspectives helped shape the Grid Plan, including its vision and objectives, processes, and investments strategy. ComEd Ex. 50.06. Any specific stakeholder input that was not incorporated into the Grid Plan is summarized in ComEd Ex. 50.

In addition to the workshops required by P.A. 102-0662, ComEd describes how it offered workshop participants multiple tours of ComEd facilities and provided detailed discussions to illustrate important elements of grid planning and utility operation. ComEd Ex. 5.01 2nd Corr. at 229-232; *see also* ComEd Ex. 50.06 at 52. Following the Commission's July 2022 Initiating Order, ComEd shares that it hosted three Issues Meetings with parties to the Grid Plan to address non-wires alternatives ("NWAs"), DERs, hosting capacity, and a preview of the Grid Plan. ComEd Ex. 5.01 2nd Corr. at 232.

Finally, ComEd describes how its distribution system planning process is informed by other internal and external stakeholders and planning processes, such as (i) ComEd's transmission planning process, (ii) PJM Interconnection, L.L.C. ("PJM") and its Regional Transmission Expansion Plan, (iii) wholesale distribution customers that receive power from the transmission system using ComEd distribution substations and circuits, and (iv) Exelon Business Services Company ("BSC") and other Exelon Corporation ("Exelon") utilities. ComEd Ex. 5.01 2nd Corr. at 38. ComEd states that it also meets regularly with the Illinois Municipal Electrical Agency and its municipal members (Winnetka, Naperville, St. Charles, and Rock Falls) to understand their future plans and how they might affect ComEd's distribution system. ComEd Ex. 5.01 2nd Corr. at 38-39. ComEd states that each of these coordination processes are described in the Grid Plan, as required by Section 16-105.17(f)(2)(A)(iii).

(ii) Staff's Position

Staff reviewed the Company's MYIGP with respect to this statutory requirement and did not have concerns; therefore, Staff did not offer specific testimony on it. Staff Ex. 16.01; Staff Ex. 1.0 at 3-4.

(iii) AG's Position

The AG states that the Grid Plan must provide "a summary of the meetings with stakeholders conducted prior to filing of the plan with the Commission" as well as "the description of any coordination of the processes with any other planning process internal or external to the utility, including those required by a regional transmission operator." 220 ILCS 5/16-105.17(f)(2)(A). As a general matter, the AG agrees that the Company has satisfied the requirement to provide these summaries and descriptions with its discussion of the pre-filing stakeholder process on pages 20–22 of the Grid Plan and its description of its coordination with other planning processes on pages 38–39 of the Grid Plan.

(iv) Commission Analysis and Conclusion

No party disputes that ComEd provided explanations of stakeholder feedback and process coordination. The Commission finds ComEd complied with the requirements of Section 16-105.17(f)(2)(a)(ii) and (iii). However, for the reasons described in Section V.A above, the Commission declines to approve this Grid Plan at this time.

c. Long-Term Distribution System Investment Plan (Section 16-105.17(f)(2)(H))

(i) Vision of Distribution System for Grid Plan Period (Section 16-105.17(f)(2)(H)(iv))

(a) ComEd's Position

ComEd contends it has presented a comprehensive vision for its distribution system over the next five years, not only in Chapter One of the Grid Plan but throughout the entirety of the Grid Plan and its supporting testimony, as required by Section 16-105.17(f)(2)(H)(iv). In sum, ComEd explains that it is committed to continuing to provide the highest possible quality service to its customers in terms of reliability, safety, resilience, and affordability, while making investments that will allow the state to meet the goals of P.A. 102-0662, transitioning towards a decarbonized economy, creating a more equitable and transparent grid planning process, and meeting the needs and expectations of ComEd's customers in an evolving environment. ComEd Ex. 5.01 2nd Corr. at 13. ComEd notes that Staff and the AG agree ComEd has met this requirement of the Act.

ComEd states it is committed to enacting P.A. 102-0662's vision for an energy economy that will be fully decarbonized by 2050, with one million Evs on the road by 2030, and with a distribution grid that allows customers to both produce and consume energy, manage their use and production, and participate in energy markets. ComEd Ex. 1.0 at 6. ComEd acknowledges that P.A. 102-0662 also requires ComEd to further improve grid security, reliability, and resiliency as it prepares to integrate an influx of renewable and distributed energy resources, and ComEd contends that it is ready to meet that challenge. *Id*. Finally, ComEd states that this vision reflects an intentional focus on equity and providing the benefits of its investments to all the customers and communities ComEd serves, including EIECs. *Id*. at 7.

ComEd further states that this vision is driven by the vast technical knowledge and experience of ComEd's employees and represents ComEd's best thinking on how to build out and maintain the electric distribution system while at the same time meeting the challenges of the coming years. ComEd Ex. 2.0 at 12. ComEd believes this technical perspective is essential because P.A. 102-0662's policy goals are highly ambitious, requiring expertly planned work over multiple years to implement the investments that will achieve them, often with long lead times for projects that will have long lives in service. *Id*. at 13. ComEd argues that only by aligning the investments outlined in the Grid Plan with the objectives of P.A. 102-0662 will ComEd be able to continue meeting the requirements of grid reliability while actively pursuing the transition to a clean and sustainable energy future. ComEd Ex. 26.0 at 7.

(b) Staff's Position

Staff reviewed the Company's MYIGP with respect to this statutory requirement and did not have concerns; therefore, Staff did not offer specific testimony on it. Staff Ex. 16.01; Staff Ex. 1.0 at 3-4.

(c) AG's Position

The AG explains that as part of its Long-Term System Investment Plan, the Company must provide a "narrative discussion of the utility's vision for the distribution system over the next 5 years." 220 ILS 5/16-105.17(f)(2)(H)(iv). Although the AG disputes certain aspects of the Company's narrative and strategy, the AG does not dispute that the Company has satisfied the statutory requirement to provide such a narrative.

(d) Commission Analysis and Conclusion

No party disputes that ComEd provided a narrative discussion of its vision for the distribution system over the next five years and required by Section 16-105.17(f)(2)(H)(iv) of the Act. Details respecting the expected evolution of system or locational needs underlying that vision are valuable and should be included in the Gid Plan, where available. However, for the reasons described in Section V.A above, the Commission declines to approve this Grid Plan at this time.

(ii) Analysis of Flexible Resources (Section 16-105.17(f)(2)(J)(ii))

See Section V.C.7.f.

2. Distribution System Financial Information

Section 16-105.17(f)(2)(C) requires ComEd to provide historical information regarding its investments, by category, in each of the five years preceding the Grid Plan period; its O&M expenses in each of those five historical years; and a forecast of its capital investments and O&M expenses for the five years of the Grid Plan period. 220 ILCS 5/16-105.17(f)(2)(C).

ComEd explains that, as part of the historic distribution system investment plan and in compliance with Section 16-105.17(f)(2)(C)(i)-(ii), ComEd has provided financial investment data for the five years preceding the Grid Plan. Data for 2017-2021 is provided in Table 5.2-1: Historical Capital and O&M by investment category for system investments. ComEd Ex. 5.01 2nd Corr. at 161.

ComEd states it has provided forecast data regarding capital investments and O&M expenses in compliance with 220 ILCS 5/16-105.17(f)(2)(C)(iii). Data for 2023-2027 is provided in Table 5.4-1: Planned Capital and O&M by investment category. ComEd Ex. 5.01 2nd Corr. at 172. Further discussion and elaboration for forecast investments can also be found in testimony and supporting exhibits. *See* ComEd Ex. 9.0 2nd Corr. at 12–13, 32, 36–37; *see also* ComEd Ex. 9.02 Corr.; ComEd Ex. 31.0 Corr. at 114.

Staff reviewed the Company's MYIGP with respect to these statutory requirements and did not have concerns; therefore, Staff did not offer specific testimony on it. Staff Ex. 16.01; Staff Ex. 1.0 at 3-4.

The Commission notes that this issue is uncontested. The Act provides, in relevant part, that the Grid Plan must provide "financial investment data for the five years preceding the Grid Plan." 220 ILCS 5/16-105.17(f)(2)(C)(i)-(ii). The Commission directs ComEd to file updated investment data with its refiled Grid Plan. The Act further provides, in relevant part, that the Grid Plan must provide "forecast data regarding capital investments and O&M expenses." 220 ILCS 5/16-105.17(f)(2)(C)(iii). The Commission directs ComEd to file updated forecast data with its refiled Grid Plan.

3. Current System Conditions (Section 16-105.17(f)(2)(B))

a. ComEd's Position

ComEd states that the Grid Plan sets forth a detailed description of the current operating conditions of ComEd's distribution grid, in compliance with Section 16-105.17(f)(2)(B). ComEd Ex. 5.01 2nd CORR at 67-118. ComEd further states that the Grid Plan also contains additional current operating conditions data related to the planning process. ComEd Ex. 5.01 2nd CORR at 23-66. ComEd notes that Table 1 in its Initial Brief shows how ComEd's Grid Plan addresses the specific aspects of operating conditions required by the Act. ComEd IB at 45-46, Table 1.

ComEd states that additional descriptions of the current operating conditions of the grid can be found throughout the testimonies of ComEd witnesses. *See, e.g.*, ComEd Ex. 50.06 at 119-130; ComEd Ex. 8.0 at 12-14; ComEd Ex. 29.0; ComEd Ex. 31.0 Corr. at 42-60, 65-99; ComEd Ex. 50.0.

ComEd notes that the AG agrees ComEd provided most of the required information but claims that ComEd's data was insufficiently detailed, in that ComEd did not produce system wide information at the circuit- and substation-level. AG IB at 48-49. ComEd asserts the AG's criticisms fall short because P.A. 102-0662 does not require ComEd to provide granular Critical Energy Infrastructure Information ("CEII"), like systemwide information at the circuit and substation level, in the Grid Plan.

ComEd points out that Staff argues "ComEd failed to provide expected [System Average Interruption Frequency Index ("SAIFI")] and [Customer Average Interruption Duration Index ("CAIDI")] values for the MYIGP years; DER deployment by size and customer class; or a MWh forecast that ComEd acknowledges was employed in preparing its MYIGP." Staff IB at 28. ComEd contends that it did provide all this information. Moreover, ComEd states that Staff's insistence that "[e]xpected, not targeted values are critical" to evaluate investments makes a distinction not found in the Act and indicates that its expectations for compliance in this regard are not reasonable. *Id.* at 29. ComEd explains the Grid Plan includes deployed and forecasted DERs by both size and customer class, extensive information for system SAIFI and CAIDI investment forecast impacts are provided as required by the Act and incorporates multiple load and supply forecasts in MWh and otherwise. *Id.*

In particular, ComEd states that Table 2.1-4 and Figure 2.1-3 of the Grid Plan show the deployment and forecasted deployment of solar DERs by both size and customer class. ComEd Ex. 5.01 2nd CORR at 30-39. ComEd states this information is also incorporated in its Initial Brief in Table 1, showing where ComEd complies with each description requirement.

With respect to Staff's claim that ComEd is only partially compliant with Section 16-105.17(f)(2)(B) because the Grid Plan does not provide "the required expected SAIFI and CAIDI data," (Staff Ex. 29.0 at 32), ComEd responds that the Act does not require the SAIFI and CAIDI data for any particular investment and requires this information only "where possible." ComEd Ex. 46.0 at 18-19. ComEd also states that it does provide future SAIFI and CAIDI targets in the form of System Average Interruption Duration Index ("SAIDI") for many of its investments. *Id.* at 20. Thus, as ComEd explains, Staff witness

Antonuk's conclusion that ComEd is only partially compliant with Section 16-105.17(f)(2)(B) is incorrect and must be rejected.

With respect to Staff's claim that ComEd is only partially compliant with 220 ILCS 5/16-105.17(f)(2)(B) because the Grid Plan has not provided an "energy forecast," Staff Ex. 29.0 at 29, ComEd states it included forecast data for load demand and energy supply in multiple documents. ComEd Ex. 46.0 at 21. ComEd argues further that the Act does not mention an "energy forecast" but rather requires the Grid Plan to include "the most recent system load and peak demand forecast for at least the next 5 years, and up to 10 years if available." *Id.* at 21. ComEd states these forecasts are provided in the Grid Plan. ComEd Ex. 5.01 2nd CORR at 30-39; *see also* ComEd Ex. 46.0 at 22-23. ComEd argues Mr. Antonuk's conclusion that ComEd is only partially compliant with Section 16-105.17(f)(2)(B) is incorrect and must be rejected.

ComEd concludes that the Commission should find ComEd has satisfied Section 16-105.17(f)(2)(B) requirements. In the alternative, any order by the Commission requiring ComEd to provide additional information regarding current system conditions should clarify exactly what information is needed in addition to that already provided to assure the Commission that Section 16-105.17(f)(2)(B) has been fully satisfied.

b. Staff's Position

Staff states ComEd failed to comply with Section 16-105.17(f)(2)(B) in three instances: (1) failure to provide certain required data on DER deployment by size and customer class; (2) failure to disclose "expected" SAIFI and CAIDI data; and (3) failure to provide a "system load and peak demand forecast." Staff Ex. 13.0, 11 and 13. With respect to the third, Staff observed that "load" and "demand" can be used interchangeably, but Staff gives distinct meaning to them by applying the typical dichotomy (energy and peak) used both in the industry generally and commonly before the Commission, i.e., interpreting "load" to mean "energy," or MWh. ComEd's references to its rebuttal testimony and the Company's Grid Plan (ComEd Ex. 25.0 at 4-5; ComEd Ex. 29.0; ComEd Ex. 5.01 2nd Corr.) do not address any of the three gaps about which Staff testified. ComEd failed to provide expected SAIFI and CAIDI values for the MYIGP years; DER deployment by size and customer class; or a MWh forecast that ComEd acknowledges was employed in preparing its MYIGP. Staff IB at 28.

ComEd disagrees with Staff about all three instances in which statutory compliance was a concern. First, with respect to DER deployment by size and customer class, ComEd references data in its MYIGP that provides information for solar DERs. ComEd Ex. 5.01 2nd Corr. at 96: Figure 3.3-11: Rapid Increase in DER Interconnections; Table 3.3-4: DER Interconnections – Supporting Data. The evidence ComEd cited, however, does not include information regarding the type, size, or geographic dispersion of other DERs.

ComEd has been unable to provide clear and direct DER projection by size and customer class for the MYIGP period. ComEd Ex. 46.0 at 12, 16. With respect to MWh growth, ComEd cites three consultant-prepared MWh growth scenarios but provides no clarity regarding which, if any, of these scenarios ComEd relied on in preparing the MYIGP. ComEd Ex. 29.0 at 59. ComEd also provided peak load in MWh by year from 1993-2032 and MWh for three scenarios from 2020-2050, presented in 10-year groupings. ComEd Ex. 46.0 at 22-23. Staff states that this information still lacked a simple and direct indication of MYIGP period MWh underlying the development of ComEd's MYIGP.

Second, with respect to "expected" SAIFI and CAIDI data, ComEd argues the Act excuses the provision of the data when providing it is not possible. ComEd IB at 47. However, ComEd does not explain nor cite to any evidence demonstrating that providing the data is impossible. Moreover, ComEd argues it need not provide the relevant data because the Act does not require information by investment, but only for the system as a whole. ComEd IB at 47. ComEd continues to provide only what it "targets," not what it "expects." Staff RB at 16. The Act does not require the identification of performance targets, but rather what the Company expects to achieve as a result of the massive investment it is requesting. *See* 220 ILCS 5/16-105.17(f)(2)(B).

Third, with respect to a forecast of MWh, ComEd argues in effect that, despite requiring both "system load" and "peak demand" forecasts, the Act interprets these terms to mean the same thing. ComEd IB at 48. ComEd then claims it has supplied the data in many documents. *Id.* Staff states that none of the documents cited provide anything identified or identifiable as ComEd's "most recent" energy supply (MWh) forecast or any forecast underlying the formation of its MYIGP. This issue has been in dispute since Staff filed direct testimony in May; four months later ComEd has not provided its own MWh forecast (even a simple chart) current at the time the MYIGP was prepared.

Staff continues to recommend that the Commission require ComEd to provide in its first Annual MYIGP Report and in the Company's next MYIGP a list identifying: (1) the type, size and location of all DERs, not just solar; (2) expected SAIFI and CAIFI performance data for each year of the Grid Plan for the system, and (3) its own MWh forecast, by year for the Grid Plan period.

c. AG's Position

The AG states that Section 16-105.17(f)(2)(B) requires a description of the system conditions that includes "the utility's most recent system load and peak demand forecast for at least the next 5 years, and up to 10 years if available, a discussion of how the forecast was prepared and how distributed energy resources and energy efficiency were factored into the forecast, and identification of the forecasting software currently used and planned software deployments." 220 ILCS 5/16-105.17(f)(2)(B). ComEd provided much of this information in Chapter 3 of the Grid Plan. ComEd Ex. 5.01 2nd CORR at 67-118.

The AG asserts, however, that there were deficiencies in the information that the Company provided. Specifically, the data provided must be "detailed," meaning it should be capable of being used to evaluate proposed investments at the circuit- and substation-level. The AG argues that ComEd refused to provide systemwide information at this level of detail.

d. Commission Analysis and Conclusion

The Act requires that ComEd's Grid Plan set forth a detailed description of the current operating conditions of ComEd's distribution grid. *See* 220 ILCS 5/16-105.17(f)(2)(B). The AG argues that ComEd provided most of the requisite information but that the information was not sufficiently detailed. Staff argues that ComEd is only partially compliant with the Act because it claims that the Grid Plan failed to provide expected SAIFI and CAIDI values for the Grid Plan years; failed to provide DER deployment by size and customer class; and failed to provide a MWh forecast that was employed in preparing the Grid Plan.

The Commission finds that ComEd's Grid Plan does not comply with the statutory requirements of Section 105.17(f)(2)(B) because it does not sufficiently describe in detail all of the current system conditions required by the Act. *See* 220 ILCS 5/16-105.17(f)(2)(B). Current system conditions are an essential element of the Commission's assessment of proposed system investments to accommodate DER deployments and other transition changes. The Commission directs ComEd in its refiled Grid Plan to provide a list identifying: 1) the type, size, and location of all DERs, not just solar; and 2) expected SAIFI and CAIFI performance data for the system for each year of the Grid Plan. The Commission encourages the Company to collaborate with Staff and stakeholder prior to refiling its MYIGP. ComEd shall refile its Grid Plan as prescribed in Section V.A of this Order.

4. System Operations and Maintenance (Section 16-105.17(f)(2)(I))

ComEd states the Grid Plan provides a detailed description of historic distribution system O&M expenditures and of planned O&M expenditures for the Grid Plan period, as required by Section 16-105.17(f)(2)(I). ComEd Ex. 5.01 2nd Corr. at 160-162; *see also* ComEd Ex. 9.0 2nd Corr. at 6-11. Table 5.2-1 of the Grid Plan details the historical O&M expense, by category, for each of the five years 2017 through 2021. ComEd Ex. 5.01 2nd Corr. at 160. Table 5.4-1 of the Grid Plan details the planned O&M expense, by category, for each of the six years 2022 through 2027. *Id*. at 172.

ComEd notes explanations supporting the planned and projected O&M expenditures are set forth throughout the Grid Plan, and in the testimony of ComEd witnesses Tyschenko, Mudra, Mondello, Day, Phil-Ebosie, Chu, Decker, Borggren, and Baranek. *See, e.g*., ComEd Ex. 9.0 2nd Corr. at 6-11; ComEd Ex. 12.0 Corr.; ComEd Ex. 18.0; ComEd Ex. 29.0; ComEd Ex. 30.0; ComEd Ex. 31.0; ComEd Ex. 32.0; ComEd Ex. 33.0; ComEd Ex. 34.0; ComEd Ex. 35.0; ComEd Ex. 36.0; ComEd Ex. 37.0 Corr.

The Commission notes that no party has disputed the adequacy of ComEd's system O&M data or its compliance with Section 16-105.17(f)(2)(I).

The Commission notes that the Act provides, in relevant part, that "the [MYIGP] must include . . . [a] detailed description of historic distribution system operations and maintenance expenditures for the preceding 5 years." 220 ILCS 5/16-105.17(f)(2)(I). The Commission concludes that ComEd's Grid Plan complies with Section 16-105.17(f)(2)(I) because it provides a detailed description of historic distribution system O&M expenditures and of planned O&M expenditures for the Grid Plan period.

The Act further provides, in relevant part, that "the [MYIGP] must include . . . [a] detailed description of . . . planned or projected operations and maintenance expenditures for the period covered by the planning process . . . as well as the data, reasoning and explanation supporting planned or projected expenditures." 220 ILCS 5/16-105.17(f)(2)(I). The Commission concludes that ComEd's Grid Plan complies with Section 16-105.17(f)(2)(I) because it provides a detailed description of planned and projected O&M expenditures. For the reasons described in Section V.A above, the Commission is unable to approve this Grid Plan at this time.

5. Forecast System Conditions including Scenarios (Section 16-105.17(f)(2)(F))

a. ComEd's Position

ComEd explains that, as required by law, ComEd's Grid Plan includes descriptions of a number of scenarios that were considered when determining the forecast system that the Grid Plan investments were planned to facilitate. *See* 220 ILCS 5/16-105.17(f)(2)(F). ComEd states these scenarios include different levels and speeds of adoption of DERs, EVs, and the impacts of various severities of climate change. ComEd Ex. 5.01 2nd Corr. at 30-38. ComEd further states that forecasts for DER and EV adoption use the System Dynamics modelling software to estimate the rate of adoption based on customer decision points, including energy costs, technology costs, and governmental incentives. *See* ComEd Ex. 5.01 2nd Corr. at 31. Figure 2.1-2 and Table 2.1-3 of the Grid Plan show the anticipated level of adoption for Evs. *Id*. at 32-33. Figure 2.1-3 and Table 2.1-4 show the anticipated level of adoption for solar DERs. *Id*. at 34-35. ComEd notes that each of these forecasts involves consideration and weighing of multiple adoption scenarios in order to determine the most likely scenario on which ComEd can engage in system planning. *Id*. at 32, 34. ComEd states both the DER and EV adoption forecasts are used in the load forecast to develop the projects included in the LRP, which includes the impacts of P.A. 102-0662. *Id*. at 36. Figure 2.1-4 of the Grid Plan shows the forecast system load peak through 2032, which ComEd used in developing the investments proposed in the Grid Plan to meet P.A. 102-0662 objectives. *Id*.

To evaluate the potential impacts of climate change, ComEd states that it considered climate change scenarios developed by the Argonne National Laboratory Climate Risk and Adaptation Study ("Argonne Study"), which analyzed the potential impacts of changing weather, sustained heat, and flooding on the design and performance of the power grid in the region. ComEd Ex. 50.06; *see also* ComEd Ex. 5.01 2nd Corr. at 78, 84-86; *see also* ComEd Ex. 50.06 at 131-133.

ComEd also provides that scenarios for decarbonization – including the adoption of DERs – were developed as part of the E3 Illinois Decarbonization Study ("E3 study"), which analyzed pathways to achieve a carbon neutral grid. ComEd Ex. 7.03; *see also* ComEd Ex. 5.01 2nd Corr. at 78-79; *see also* ComEd Ex. 7.0 at 133-136. ComEd states E3 developed three alternative decarbonization scenarios – reference (low rate of adoption), moderate, and high – that varied both in the use of electric infrastructure and the mix of technology solutions that customers adopt across sectors. ComEd notes these scenarios were then applied to analyze different impacts on seasonal peaking, the need for new capacity, and the impact of rises in temperature due to climate change and changing weather patterns. ComEd Ex. 5.01 2nd Corr. at 80-82; *see also* ComEd Ex. 29.0 at 58-61. Using these scenarios, ComEd states it was able to forecast the environmental benefits to customers of different levels of electrification, as shown in Table 3 of ComEd witness Mondello's rebuttal testimony. *Id*. at 61-62.

ComEd states it has attempted to provide all the information requested by Staff, although ComEd's understanding of the information Staff seeks is complicated by Staff's insistence that the information provided by ComEd is insufficient because it is "long term" when the Act specifically provides that long-term scenarios are to be provided. 220 ILCS 5/16-105.17(f)(2)(F).

ComEd also responds to the AG's recommendation that the Commission require ComEd to provide and utilize circuit specific data based on the "geographic dispersion" of DERs and electric vehicles in its scenario planning. AG IB at 49-50. The AG recommends that ComEd be required to adhere to the NARUC-NASEO Task Force on Comprehensive Electric Planning in its Jade Cohort Roadmap. *Id*. ComEd responds that this information is not required by the Act and it is immaterial to the description of the scenarios considered as required by Section 16-105.17(f)(2)(F).

In response to EDF's position that ComEd should use the Climate Resilience Maturity Model in the future, ComEd states that this recommendation is not relevant to the specific statutory requirement, which is backwards looking instead of forwards looking.

ComEd concludes that the Commission should find ComEd has satisfied Section 16-105.17(f)(2)(F). In the alternative, any order by the Commission requiring ComEd to include additional information should clarify exactly what information is required by Section 16-105.17(f)(2)(F) to fully satisfy the Section.

b. Staff's Position

Staff asserts that ComEd did not provide the required identification and discussion of the scenarios considered in MYIGP development, specifically addressing how the scenarios include a reasonable mix of DER types and geographic dispersion. In asserting that it has complied with this requirement, ComEd relies on the same consultant study providing potential pathways for state-wide decarbonization. ComEd Ex. 25.0 at 3; ComEd Ex. 29.0 at 54-86. Except for solar DERs, Staff maintains that ComEd did not provide information addressing the mix, types, and geographic dispersion of other types of DERs forecasted during the MYIGP period. Staff recommends the Commission direct ComEd to address the mix, types, and geographic dispersion of all, not just solar, DERs forecasted during the MYIGP period in its first Annual MYIGP Report and include such information in its next MYIGP filing.

c. AG's Position

The AG asserts that the need to include the geographic dispersion of DERs and Evs is critical to grid planning and to meaningful stakeholder participation. In order to avoid spending ratepayer dollars prematurely or in the wrong location, they explain that the utility must specifically and accurately identify the circuits and other plant that will be needed to accommodate DERs and projected increased load. AG Ex. 1.0 at 33. AG witnesses Alvarez and Stephens testified that the typical process steps require forecasted DER capacity by circuit, forecasted load growth by circuit, quantification of existing and available DER capacity by circuit, and quantification of existing and available load capacity by circuit to identify constraints and target spending.

d. EDF'S Position

EDF respectfully requests the Commission to acknowledge and encourage ComEd's interest in using the CRMM, discussed in more detail at Section V.B.5, to the extent that it will help inform and guide ComEd's decisions in its next MYIGP.

e. Commission Analysis and Conclusion

The Act provides, in relevant part, that "the [MYIGP] must include . . . [i]dentification and discussion of the scenarios considered in the development of the utility's [MYRP]." 220 ILCS 5/16-105.17(f)(2)(F). The Commission agrees with Staff that except for solar DERs, ComEd did not provide information addressing the mix, types, and geographic dispersion of other types of DERs forecasted during the MYIGP period. ComEd should address the mix, types, and geographic dispersion of all DERs forecasted during the MYIGP period in its refiled Grid Plan. The information should be provided in a similar manner to the information already provided for solar DERs. Without this critical information the Commission cannot find the Plan complies with this statutory requirement. For the reasons described in Section V.A above, the Commission declines to approve this Grid Plan at this time.

The Commission appreciates the consideration and inclusion of the Argonne Study and E3 Study in the MYIGP and further notes that ComEd has agreed to consider the CRMM, which is addressed in Section V.B.5.

6. Investments by Category (Section 16-105.17 (f)(2)(H)(i) and (ii))

a. Capacity Expansion

(i) AG's Proposed Limitations on Category Budget

(a) AG's Position

The AG points out that ComEd is proposing Capacity Expansion capital spending totaling $1,375,000,000, which is $535 million, or 63.7%, more than it spent over the 2019-2022 period. AG Ex. 1.0 at 84.

The Grid Plan explains that "Capacity Expansion focuses on both localized and system-wide projects that modify system configuration to meet customer peak demand and improve resiliency, including equipment installations, 4 kilovolt ("kV") to 12kV conversions, removals, replacements, and the Voltage Optimization program." ComEd Ex. 5.01 2nd Corr. at 173. This category of investments "are required to expand, reinforce or reconfigure the grid so that the system meets econometric-forecasted customer capacity (load) requirements." *Id*. ComEd explained that Capacity Expansion investments are needed to "expand hosting capacity for increased electric loads," and they also address "reliability, resilience, DER and beneficial electrification integration, flexibility, and extreme weather preparedness needs." *Id*.

The AG contends that ComEd has failed to justify the levels of Capacity Expansion spending proposed in the Grid Plan. First, ComEd stated that only about 45% of its Capacity Expansion projects are a result of load growth. ComEd Ex. 29.0 at 21. But as the Grid Assessment noted, ComEd's base electrical needs have remained stable while its non-weather normalized peak load decreased by "a substantial 14 percent" and its weather normalized peak decreased by 5% over the EIMA period. ComEd. Ex. 2.01 at

12, 15. This trend will continue throughout the Grid Plan period, with ComEd projecting flat load systemwide through at least 2032. ComEd Ex. 5.01 2nd Corr. at 36. While it is true that pockets of load growth can lead to some capacity expansion expenditures, the Grid Assessment noted that ComEd's system had pockets of load growth historically as well, yet "additions of new substations and lines … has remained moderate." ComEd. Ex. 2.01 at 12. Thus, the AG argues, it follows that historical capital spending levels for Capacity Expansion should be adequate to accommodate load growth pockets during periods of flat load levels and system peaks in the future.

ComEd also pointed to electrification, particularly "EV load additions to the System Load Forecast" as well as DER accommodation as a drivers of accelerated Capacity Expansion spending. ComEd Ex. 29.0 at 31-34. Electrification and DER will have the most impact at the local level and must be analyzed by substation, feeder, or circuit. ComEd Ex. 29.0 at 31. But as discussed in relation to specific projects below, the AG highlights that ComEd has not provided circuit- or substation-specific load histories or forecasts. AG Ex. 1.3 at 16. Similarly, the AG argues that the Company either would not provide or does not track current DER capacity and EV adoption by circuit, nor has it conducted a forecast of the volume of DER by circuit the Company anticipates over the next ten years. AG Ex. 5.1 at 11-12, 24. Thus, the AG asserts that ComEd apparently does not know and has not provided evidence that EV adoption or DER growth will require substantial increases over recent historical levels of Capacity Expansion spending.

The AG argues that ComEd has not carried its burden to establish that a nearly 64% increase in Capacity Expansion spending is warranted. The AG explains that the evidence shows that ComEd's system will see flat load growth during the Grid Plan period, that ComEd's DER forecasts are overstated and underdeveloped, and ComEd has not appropriately balanced affordability and cost-effectiveness when selecting specific Capacity Expansion projects, such as 4kV to 12kV conversions and feeder-level EV enhancements, for its Grid Plan. Rather, the AG asserts that the evidence suggests that ComEd's investment decisions are driven by capital bias and the structural incentive to over-propose and accelerate capital spending. Thus, the AG asks the Commission to limit ComEd's capital spending on Capacity Expansion to the 2019-2022 annual average of $210 million, adjusted for inflation over the 2023-2027 period, which works out to $223 million in 2024, $227.8 million in 2025, $232.8 million in 2026, and $238.1 million in 2027. AG Ex. 1.0 at 9.

In its Initial Brief, ComEd argued that proposals by the AG and other parties "limit ComEd's ability to invest in this, and other categories, to an arbitrary annual amount are unlawful, impractical, and must be rejected." ComEd IB at 54. The AG notes that while ComEd addressed this argument in the section reserved for discussion of the Capacity Expansion budget specifically, it is a broader attack on the AG's recommendations with respect to the Company's Information Technology ("IT") Projects and System Performance budgets as well. The AG maintains that ComEd's argument against the AG's approach is an attempt to shift the burden of proof based on a misunderstanding of the law and a misrepresentation of the facts.

ComEd asserts that the AG's proposal "is contrary to the applicable law, which requires that a disallowance be based on evidence of imprudence or unreasonableness." ComEd IB at 55. Specifically, ComEd cites two cases — *Bus. and Prof'l People for Pub.*

Interest v. Ill. Commerce Comm'n ("*BPI*") and *City of Chi. v. Ill. Commerce Comm'n* ("*City of Chicago*") —for the proposition that "the Commission can only disallow costs if the record evidence establishes imprudence or unreasonableness," meaning once the utility presents prima facie evidence of the reasonableness of its costs, other parties must present evidence rebutting that presumption. The AG contends that these cases are clearly distinguishable from this proceeding.

In *BPI*, ComEd sought to recover fuel costs that it had incurred in connection with four unplanned outages at its nuclear generating stations which were caused by its employees' negligence. *BPI*, 279 Ill. App. 3d at 828–29. Intervenors in the case sought to disallow the costs in a reconciliation proceeding, arguing that the utility should be responsible for the human error of its employees. *Id*. at 828. The Commission rejected the intervenors' arguments and allowed ComEd to recover the costs, ruling that ComEd could not be responsible for its employees' human error unless the evidence showed that it had failed to adequately hire and train its employees. *Id*. at 829. On appeal, the intervenors argued that the Commission had improperly shifted the burden of proof, but the First District upheld the Commission's Order because ComEd had made a prima facie showing of reasonableness by presenting testimony as to its hiring and training procedures, and such evidence went unrebutted. *BPI*, 279 Ill. App. 3d at 830.

Similarly, in *City of Chicago*, the First District rejected an argument by the AG that the Commission had improperly shifted the burden of proof when it found that construction-related costs for a generating station were reasonable. *City of Chi*., 133 Ill. App. 3d at 442. The court stated that "[o]nce a utility makes a showing of the costs necessary to provide service under its proposed rates, it has established a prima facie case, and the burden shifts to others to show that the costs incurred by the utility are unreasonable because of inefficiency or bad faith." *Id*.

The AG notes that these cases are distinguishable from the current proceeding in two important ways. First, the issue in *BPI* and *City of Chicago* was whether to disallow costs that the utility had already incurred, not whether to establish the budget for spending going forward. Forward-looking adjustments to ComEd's proposed spending plan are distinct from disallowances to costs already incurred. ComEd has not yet incurred a single cent of these costs, and the question before the Commission is whether ComEd *ought to* incur them at some point in the next four years *and* get accelerated cost recovery for them. Moreover, the AG's recommendations are critical to restore capital spending governance and limit excessive spending before it occurs.

Second, the AG argues that *City of Chicago* is not binding because the Illinois Supreme Court noted shortly thereafter that the case likely would have come out differently following legislative action to eliminate a presumption in favor of the utility with respect to such costs. *People ex rel. Hartigan v. Ill. Commerce Comm'n*, 117 Ill.2d 120, 132 (1987). It is inapposite to cite a 1985 case when the costs at issue in that case were allowed, in part, because the law *at the time* afforded the utility a "presumption of reasonableness," which no longer applies.

The AG asserts that ComEd is likewise entitled to no presumption of reasonableness here. The Act, and P.A. 102-0662 in particular, has made it clear that "the burden of proof shall be on the electric utility to establish the prudence of investments and expenditures and to establish that such investments [are] consistent with and reasonably necessary to meet the requirements of" the Grid Plan. 220 ILCS 5/16-108.18(d)(4). The AG and other intervenors have done the best they can to review and evaluate ComEd's proposed investments and the corresponding rate increases, but intervenors may not, in every case, have the incentives or the resources necessary "to launch a vigorous challenge to all aspects of the increase." *People ex rel. Hartigan*, 117 Ill. 2d at 135. As the Illinois Supreme Court held in rejecting the utility's argument that intervenors must prove unreasonableness, "Requiring intervenors to establish unreasonableness is therefore no substitute for requiring proof of reasonableness." *Id*. at 135–36.

The AG posits that the question for the Commission remains whether ComEd has established that the proposed spending in its Grid Plan is reasonable, and unlike in *BPI*, the record in this case contains extensive evidence of the failure of ComEd's processes and procedures. Whereas in *BPI*, ComEd made a prima facie showing that its costs were prudent and reasonable by demonstrating that its hiring and training practices were sufficient, the AG points out that the issues in this case are much broader, and the record shows that ComEd has failed to establish that its extraordinary spending plan is reasonable.

Under the Act, the relevant processes to assessing the prudence and reasonableness of Grid Plan investments are whether the Grid Plan is the result of an open and transparent planning process; whether it is cost-effective, least-cost, and affordable; and whether it satisfies the objectives of P.A. 102-0662. As the AG has argued, ComEd failed to provide the transparent and inclusive planning process contemplated by the Act. Similarly, the AG notes that ComEd's framework for analyzing cost-effectiveness has been found to be insufficient by virtually every party that has addressed the issue, and ComEd's customers have criticized the Grid Plan's impacts to affordability.

The AG argues that, in effect, ComEd proposes an unworkable standard that would entitle it to spend money on investments simply by proposing them unless Staff or intervenors come forward with specific evidence to the contrary. As AG witnesses Alvarez and Stephens explained, they "would have greatly appreciated the opportunity to review the prudence and reasonableness of the Company's individual project and program proposals, and to make recommendations on the merits of individual projects and programs as proposed," but this was not possible for two reasons. AG Ex. 5.0 at 9. First, the procedural schedule was too brief given the number and type of projects proposed. *Id*. at 9-10; *see also* ComEd Ex. 58.04 (containing about 47 pages listing about 70 projects per page). Second, the AG contends that ComEd's intransigence in discovery and lack of transparency did not allow witnesses to review the information needed until late in the case or, in many cases, not at all. *Id*. at 10-13.

The AG maintains that to require intervenors to affirmatively seek the necessary data and detailed justification is virtually impossible in the context of a rate case procedural schedule. AG Ex. 1.0 at 28. ComEd proposed $8.5 billion in capital spending across 546 programs and projects (not including unknown and, in some cases, as-yet undefined quantities of projects within "blanket" programs). AG Ex. 1.0 at 27. Its support for these projects was often cursory and inadequate. For a specific example of how

ComEd's initial filing sought to justify a Capacity Expansion project, consider investment tracking number ("ITN") 59300, which ComEd describes as "Distribution Bus Reconfigurations." The only description of what the project entails is "Bucket ITN for IP2 program work," and the project needs are described as simply, "Replace Obsolete Equipment or Technology / Improve Existing Condition." ComEd Ex. 9.05 Corr. at 20. The "Project Benefits" are described as follows: "Will improve customer experience / Will improve system health / Will improve operating flexibility / Will improve reliability / Will improve resiliency." *Id*. There was only one alternative considered, which was "to leave existing station bus configurations which are not optimal for reducing customer interruptions." *Id*. But the alternative was not chosen because it "does not deliver optimal benefits." *Id*. On the basis of this description, ComEd sought to include more than $12 million in the Grid Plan. The AG maintains that the only way to obtain intelligible and detailed information about proposed projects was to conduct discovery.

The AG explains how the monumental difficulty of this undertaking was exacerbated by ComEd's intransigence in discovery. AG Ex. 5.0 at 9-10. To facilitate its review of the hundreds of projects that ComEd proposed, the AG asked for the following data points for each substation and circuit in order to evaluate the Company's proposed investments: capacity ratings; peak load served; service voltage; counts of customers served; circuit length, including underground and overhead miles; installed DER capacity; capacity of pending DER interconnection requests; circuit average interruption frequent index history (five years); and circuit average interruption duration index history (three years). *Id*. at 10. The AG requested this information both at the beginning of the workshop process and prior to the filing of the Grid Plan in order to prepare to conduct the fulsome analysis that ComEd now argues is necessary. *Id*. at 11. The AG explained that ComEd refused to provide the data unless it was viewed on site. *Id*. at 11-13.

Understanding that a line-by-line challenge to every single investment would be impossible under the circumstances, the AG also conducted a structural and process-based evaluation of ComEd's Grid Plan by looking at its capital spending governance and approval process as well as the large-scale drivers of investment. The AG proposed that the Company engage in benefit-cost analysis of proposed projects, requested information about ComEd's approach to determining the cost-effectiveness of investments, and requested detailed historical data that would have allowed them to validate ComEd's process. Again, the AG found that it was either unable to get the necessary information or, when presented with information, found it wanting.

To validate this high-level, structural approach, the AG evaluated ComEd's Grid Plan by prioritizing a deeper dive into investment categories and projects that, in the experience of their expert witnesses, appeared to be most concerning based on the initial evidence presented and by responses to discovery. AG Ex. 5.0 at 13. AG witnesses Alvarez and Stephens explained that they focused their attention "on the proposals that appeared to be unnecessary or premature investments as indicated by responses to discovery," and they "found the most egregious examples of unnecessary or premature investments among the Capacity Expansion and System Performance spending categories." *Id*. Their concern regarding IT Projects was similarly based on their findings that it was well out of step with historical spending levels and that significant drivers of the accelerated spending such as ADMS and a new asset management system appeared to be programs that, in Mr. Alvarez and Mr. Stephens' experience, have not proven cost-effective when other utilities deployed them. AG Ex. 1.0 at 87-89. The AG argues that these specific examples overwhelmingly revealed that ComEd is attempting to accelerate its capital spending without justification.

The AG maintains that utilities are able to exploit information asymmetry between the utilities and other stakeholders to drive up capital spending. AG Ex. 1.0 at 15-16. The AG argues that the General Assembly recognized this too and, to address it, demanded an open and transparent planning process; required that Grid Plans be cost-effective, minimize total system costs, and be affordable, and gave the Commission discretion to modify the Grid Plan as necessary to achieve these objectives. 220 ILCS 5/16-105.17(d)(1), (2), (7), (11); 220 ILCS 5/16-105.17(f)(5)(B). The Grid Plan that ComEd has proposed is not the result of a transparent and accountable process, in the AG's view. Every other party in this proceeding to address the issue has found that ComEd's approach to both determining cost-effectiveness and demonstrating it to ratepayers is flawed. ComEd's own customers have raised serious concerns regarding affordability. These failures are just as much a part of the record as any individual project.

Because the record shows that ComEd has not carried its burden of establishing that its Grid Plan IS prudent and reasonable, the AG asserts that the Commission must fashion a remedy. The Act provides that the Commission can reject the Grid Plan in its entirety if it does not comply with the objectives and requirements of Section 16-105.17, or the Commission "shall modify" the Grid Plan as necessary to comply with the objectives of this Section. The AG recommends that the Commission address the flaws with ComEd's Grid Plan at their root — the lack of capital spending governance — by limiting ComEd's capital spending budget on Capacity Expansion, IT Projects, and System Performance to recent historical levels, which have proven to be adequate for ComEd to maintain and improve its grid.

ComEd further asserted in its Initial Brief that the AG's focus on individual investment categories is "arbitrary." The AG responds that these were not arbitrarily selected, as ComEd claims. They represent some of the largest increases over past practice, which naturally leads the questions of why such acceleration is necessary, especially in a context where "changes that affect electricity use . . . tend to evolve more than transform." ComEd. Ex. 2.01 at 5. Enormous increases in Capacity Expansion spending when load is flat and DER adoption projections are relatively modest lead to questions of premature spending. Spending $126 million to deploy new asset management software when the Company already has a functional system and it is currently deploying a wide range of new software measures raises serious questions about ComEd's IT Projects governance. It is justifiable to focus on accelerated System Performance spending when the Company has more than doubled its spending in the same category in the past decade and presently has one of the most reliable and resilient grids in the United States. ComEd. Ex. 2.01 at 56; AG Ex. 1.0 at 44. The AG contends that extraordinary increases in spending require extraordinary proof, so there is nothing "arbitrary" about the AG's focus on the drivers of those extraordinary increases.

ComEd also took issue with the AG's use of inflation as an escalating factor, claiming that it expects the Company's total capital expenditures will grow at an average annual rate of 4.18% over the 2017-2027 period while inflation is projected to be approximately 3%. But this claim is misleading because it minimizes the extent to which this apparently steady growth rate has accelerated and will continue to accelerate. Using ComEd's own numbers, capital spending increased by 5.5% from 2017 through 2021, or at an average annual growth rate of approximately 2%. During this time, inflation averaged approximately 2.4%, so ComEd's capital spending tracked below the rate of inflation. By 2027, however, ComEd is projecting capital spending to increase by approximately 38% in total over its 2021 levels, with an average annual growth rate of approximately 5.64%. ComEd estimated that inflation during this period will be approximately 3.40% on average, so that means its proposed capital spending would increase at a rate 224 basis points above the rate of inflation, on average. The AG argues that this simply demonstrates that ComEd is seeking to accelerate capital spending well beyond its increases in the past and well beyond the rate at which its customers' purchasing power is likely to grow.

ComEd next claimed that certain programs would need to be cut from the Capacity Expansion budget entirely if the Commission were to adopt the AG's recommendation. ComEd accused the AG of paying "lip service to the idea of increasing investment to accommodate DER and EV charging" while proposing adjustments that would decrease investments in those categories. ComEd IB at 62. To be clear, ComEd can prioritize whatever investments are necessary and most prudent within its Capacity Expansion budget. The AG does not purport to provide a detailed roadmap for what programs ComEd can invest in and at what levels. The purpose of the AG's recommendation to impose reasonable capital spending constraints, similar to what companies in a competitive market would encounter, in order to drive discipline and protect the interests of ratepayers. AG Ex. 5.0 at 27-28. The AG's recommendations do not target and need not affect investments needed to accommodate DER or EV charging.

Finally, ComEd claimed that the Commission cannot adopt both an inflation cap and individual disallowances because it may result in the disallowance of the same costs twice. This is a misplaced concern. If the Commission sees fit to disallow specific programs, or specific amounts of programs, it can so specify while ensuring that the total budget does not exceed the amount recommended by the AG. As the foregoing demonstrates, the AG's recommendation to limit ComEd's capital spending in the Capacity Expansion (and other) categories is not only lawful, it is reasonable and supported by extensive record evidence.

(b) ComEd's Position

ComEd states Capacity Expansion is a category of investments that includes localized and system-wide investments that modify system configuration to make efforts to meet customer peak demand and improve resilience. ComEd Ex. 5.01 2nd Corr. at 160. Overall, as explained by ComEd, Capacity Expansion investments are those which are required to expand, reinforce, or reconfigure the grid so that the system meets econometric-forecasted customer capacity (or load) requirements. *Id*. at 161. ComEd states that examples of specific investments include, among many others, equipment installations, 4kV to 12kV conversions, facility removals and replacements, and the Voltage Optimization program. *Id*. Specific Capacity Expansion investments are described in Table 5.2-2 of the Grid Plan and with extensive detail in supporting testimony. *Id*. at 161, Table 5.2-2; *see also* ComEd Ex. 50.06 at 104-119; ComEd Ex. 29.0 at 18-49.

ComEd's proposed Capacity Expansion budget is summarized in Table 5.4-1 of the Grid Plan, which ComEd states shows the investments to be made during the Grid Plan period at issue in this case. ComEd Ex. 5.01 2nd Corr. at 172.

ComEd contends that proposals to limit its ability to invest in this, and other categories, to an arbitrary annual amount are unlawful, impractical, and must be rejected. ComEd notes the AG proposes to limit the year-over-year growth in Capacity Expansion investments at the rate of inflation and proposes to apply similar limitations to System Performance and IT investments. AG Ex. 1.0 at 99. ComEd points out that ICCP similarly propose to cap both capital expenditures and O&M expense related to the System Performance category at the rate of inflation. ComEd also notes that Staff proposes to cap certain types of System Performance investments at the rate of inflation. ComEd contends all of these proposals should be denied.

ComEd notes that the AG proposes to cap growth in capital expenditures in the Capacity Expansion, System Performance, and IT investment categories at the rate of inflation, using an average of 2019-2022 expenditures in each category as the baseline. AG Ex. 1.0 at 99. As ComEd explains, in total, across the three categories, the AG would use this methodology to disallow approximately $1.6 billion in capital expenditures over the Grid Plan period. *Id*. ComEd argues this proposal is contrary to the applicable law, which requires that a disallowance be based on evidence of imprudence or unreasonableness. ComEd further argues the proposal is also entirely arbitrary, because it only focuses on the categories of investment anticipated to grow the fastest over the Grid Plan period, while ignoring the fact that overall investment across all categories is anticipated to grow at a reasonable pace. ComEd urges the Commission not to adopt a proposal which disallows broad swaths of investment without finding that the particular disallowed projects are imprudent or unreasonable.

ComEd next addresses the relevant legal principles, as well as the general theory underlying the inflation cap proposal, as applied to the AG's proposal to disallow Capacity Expansion investments. ComEd's argument also directly applies to the inflation cap proposals of the AG, ICCP and Staff relating to System Performance and IT investments, which are further addressed in Sections V.C.6.e.(i) and V.C.6.e.(ii).

ComEd explains that, while P.A. 102-0662 created a new option for electric utilities to file for an MYRP, P.A. 102-0662 did not alter the bedrock principle that the Commission must evaluate utility investments on their prudence and reasonableness. 220 ILCS 5/16-108.18(d)(3)(A); 220 ILCS 5/16-108.18(d)(4). ComEd contends that, under longstanding Commission practice and law, the Commission can only disallow costs if the record evidence establishes imprudence or unreasonableness. *See, e.g.*, *BPI,* 279 Ill. App. 3d at 829-30; *City of Chi.* 133 Ill. App. 3d at 442-43. ComEd explains that once a utility presents sufficient evidence of the prudence and reasonableness of its costs, the burden shifts to the parties proposing adjustments to support their positions with evidence that the costs are imprudent or unreasonable because of inefficiency or bad faith. *City of Chi*., 133 Ill. App. 3d at 442-43; *see also Ill. Commerce Comm'n on Its Own Mtn. v. Ill. Consol. Tel. Co*., Docket No. 94-0042, 1995 Ill. PUC LEXIS 828 at *103 (Dec. 6, 1995) ("[I]n an investigation initiated by the Commission to address the reasonableness of rates wherein parties proffer conflicting proposals, each party proposing a result should bear the burden of adducing evidence in support of that proposal."). ComEd points out that Staff agrees with this assessment.

ComEd argues that the proposals to tie ComEd's annual investment budgets to inflation are not based on the prudence or reasonableness of the individual projects within the investment categories to which they would apply. ComEd points out that the AG witnesses state that they propose to cap Capacity Expansion and System Performance investments because these categories include "unnecessary or premature investments." *See* AG Ex. 5.0 at 13. ComEd states it has provided extensive evidence supporting each of the projects and programs the AG witnesses challenge, as summarized in further detail in the sections that follow. ComEd contends that, instead of meeting their burden under the law, the AG witnesses offered no evidence concerning the amount of ComEd's proposed spending on any individual project or program they deemed to be "unnecessary or premature," meaning that their proposed inflation-cap disallowance of project costs is untethered to record evidence.

ComEd points out that both the AG and ICCP witnesses acknowledge their proposals are not tethered to the prudence and reasonableness of any investments. AG Ex. 5.0 at 9 (stating that it "was not possible" to review the prudence and reasonableness of ComEd's planned investments); ICCP Ex. 6.0 at 11 ("My recommended approach does not micromanage ComEd's prioritization of projects that have been found to be prudent and reasonable."). ComEd considers this to be a fatal flaw in their proposals. ComEd concludes that the Commission cannot disallow projects if there is no evidence in the record that the project is imprudent or its costs are unreasonable – precisely what these proposals would do.

ComEd states that the AG and ICCP fail to carry their burden to demonstrate that the investments they would disallow by capping the growth in the Capacity Expansion, IT, and System Performance investment categories are imprudent or unreasonable, because the parties fail to identify imprudent or unreasonable investments that align with the significant disallowances they propose. ComEd asserts the parties' failure to bear their burden is obvious purely on the numbers. ComEd notes that ICCP propose disallowances in the System Performance category that total approximately $493 million. However, ComEd emphasizes that they do not offer an opinion regarding a single investment that falls into that category. In contrast, ComEd notes that Staff analyzed individual projects and expenditures and – while ComEd does not endorse Staff's methodology or their ultimate positions – Staff proposes a disallowance of approximately $450 million across all investment categories.

In a similar vein, ComEd notes that the AG proposes disallowances totaling approximately $1.6 billion in the Capacity Expansion, IT, and System Performance categories. Unlike ICCP, the AG does address specific investments in these categories. However, ComEd points out that the AG's proposed $1.6 billion disallowance is approximately $227 million greater than the total of all the individual projects with which the AG actually engages, and for most of those projects, the AG is proposing only a partial disallowance. ComEd emphasizes that the AG would have the Commission disallow at least $227 million in carefully planned, meticulously supported investments, above and beyond the total value of all individual projects with which the AG takes issue.

ComEd states that, while ComEd does not agree with Staff's analysis or recommended adjustments with regards to certain investments (and indeed urges their rejection), ComEd appreciates that Staff has attempted to evaluate the prudence and reasonableness of every proposed Grid Plan investment. ComEd asserts this is the only approach permitted by the Act and Commission precedent. Therefore, ComEd maintains that the only modifications that should be considered to the Grid Plan investments are those that Staff has proposed, in accordance with the law.

ComEd explains that, in addition to being contrary to the applicable law, the inflation cap proposals are arbitrary, in that they focus only on specific investment categories, rather than the Grid Plan overall, and because no party has demonstrated that inflation is a relevant or helpful metric against which to measure growth in investment.

ComEd notes its Grid Plan includes investments in a total of thirteen categories. As ComEd witness Donnelly explained, over any period, investment in some categories will increase, or increase more quickly than others, while investment in other categories might decrease or remain flat. ComEd Ex. 22.0 at 9-10. ComEd contends the AG witnesses have arbitrarily selected the three categories of Capacity Expansion, System Performance, and IT, in which investment is planned to increase the most significantly during the Grid Plan period, and have chosen to ignore – for purposes of the inflation cap they propose – the remaining ten categories of investment, as well as the overall total level of investment – a wholly arbitrary approach in conflict with the record evidence and applicable law.

ComEd states that it carefully plans and closely monitors its overall level of investment – the total in all thirteen categories – to ensure that necessary investments can be made while ensuring that bill impacts on customers are reasonable. But as ComEd explains, on a category-by-category basis, growth is not linear and investments interact across categories, and across years. ComEd provides for example, in years where the ComEd service territory experiences a major storm, expenditures in the Corrective Maintenance category are much higher than in other years. ComEd Ex. 22.0 at 10. When a major storm occurs, ComEd reallocates money from other investment categories to cover needed Corrective Maintenance expenditures. *Id*. In future years, ComEd then rebalances its investment in the categories where spend decreased to support the Corrective Maintenance need. *Id*. In another example, ComEd occasionally has a need for a significant project, like Renewable Energy Advanced Control and Telemetry Systems ("REACTS"), where the bulk of the investment will be in a single category (System Performance in the case of REACTS). *Id*. Expenditures in that category typically grow as ComEd implements the project but may plateau or decrease after the project is in service. *Id*. ComEd contends that a cap on growth in individual investment categories does not account for, or allow, these kinds of necessary fluctuations in individual projects and across categories.

ComEd states the evidence in this case demonstrates that ComEd's total capital investment is carefully managed so that the rate of growth remains within a reasonable range. ComEd explains that overall total capital expenditures will grow at an average annual rate of 4.18% over the 2017-2027 period. ComEd Ex. 43.0 at 12. Over the same period, the average rate of inflation is projected by ComEd to be at 3.00%. *Id*.

ComEd concludes it is clear that any proposal to limit ComEd's investments in particular categories to a particular rate of growth, such as that of inflation, is arbitrary because it would ignore the measured rate of growth across all investment categories in total.

ComEd points out that none of these parties explain why the Commission should adopt a cap set at the rate of inflation. ComEd contends there simply is no reason to expect that utility investment will move with the rate of inflation, and notes that neither the AG nor ICCP witnesses (in the context of System Performance investments) responded to ComEd witness Donnelly's testimony on this point. ComEd Ex. 43.0 at 3.

ComEd argues that, in fact, inflation is a measure of the rate at which prices of goods and services are increasing across the entire economy. ComEd Ex. 43.0 at 3-4. In other words, as ComEd explains it, the concept of inflation recognizes that a good or service that costs $1.00 today cost only $0.96 last year. *Id*. The good or service is the same, but the price has increased at the rate of inflation. *Id*. ComEd maintains that, as a result, proposals to cap investment at the rate of inflation would only allow ComEd to maintain the same level of spending power that ComEd had in the past. ComEd contends that while the number of nominal dollars spent will increase, ComEd's spending power will remain the same.

ComEd argues that holding investment in the grid steady at a historic level, adjusted for inflation, ignores the fact that the electric distribution grid is undergoing significant change, and change that is accelerated by the specific direction of the Illinois General Assembly. ComEd states the necessary investment in the grid may outpace the average economy-wide rate at which consumer prices are increasing, at least in the short- and medium-term. ComEd Ex. 22.0 at 11. ComEd believes the fact that ComEd is planning to make investments at a pace faster than the rate of inflation in order to accommodate the growing reliance on the electric grid should not come as a surprise and does not indicate that any of the planned investments are inappropriate.

ComEd asserts the AG witnesses offer some additional rationales to support their proposals, none of which are supported by the record, and all of which should be rejected by the Commission. First, ComEd notes the AG witnesses stated that their proposed inflation cap on investment "offers the Commission a unique opportunity" (to do what is unclear) and that "[t]he impact (or lack thereof) demonstrated by the elimination of programs and projects that ComEd recommended but did not implement would certainly constitute information of great value in the development of future [G]rid [P]lans." AG Ex. 1.0 at 98. In other words, ComEd explains, the AG witnesses are suggesting that the Commission undertake an experiment, which consists of denying ComEd the funding necessary to implement prudent and reasonable projects without identifying specific projects in order to see if the elimination of projects will cause negative impacts on customers. ComEd contends that, leaving aside the legal infirmities in this proposal, this is astonishingly ill-advised from a policy perspective.

ComEd argues this experiment would result in a disallowance of more than $1.6 billion in projects the record demonstrates to be prudent and reasonable. *Id*. at 99. ComEd states that, by the time the next Grid Plan ComEd presents comes before the Commission in 2026, the impact of the un-implemented programs and projects that make up that $1.6 billion will have been felt by ComEd and by customers for three years. ComEd contends that failure to implement these programs, which ComEd has established are necessary for ComEd to provide safe and reliable service at a reasonable cost and to reach P.A. 102-0662 goals, would impact customers through the end of this Grid Plan in 2027, and potentially even further due to the delay in implementation of these essential programs. ComEd argues that the AG witnesses' characterization of this proposal as a "unique opportunity" fails to consider the real-life negative implications for ComEd's customers.

Second, ComEd notes the AG witnesses stated that because ComEd's grid is already "among the most reliable and resilient in the United States," investments that are "intended solely to improve reliability and resilience" should be deferred "in favor of investments to accommodate DER, [EV] charging, or other P.A. 102-0662 policies and goals." AG Ex. 5.0 at 6. ComEd points out, however, as described in the witnesses' direct testimony, the AG witnesses propose to disallow portions of planned investment not only in the System Performance investment category – which primarily includes investments in reliability and resiliency – but also in the Capacity Expansion category. AG Ex. 1.0 at 99. ComEd states that its planned investments in the Capacity Expansion category include work to address DER and BE integration. *See* ComEd Ex. 5.01 2nd Corr. at 173, 181-182 (discussing the Feeder Level EV Enhancements project included in the Capacity Expansion category). ComEd contends that the AG's proposed reductions to the Capacity Expansion budget would require completely cutting the following programs: Feeder Voltage Conversion – 4/12kV; Feeder Capacity for Evs; Feeder Capacity for Public School Assessments; Energy Storage Solutions for Area Congestion; Substation Bus Reconfigurations; Substation & Feeder Capacity Margins; and 34kV Operational Flexibility Enhancements. ComEd Ex. 26.0 at 50.

ComEd maintains that these cuts would eliminate the ability of the distribution system to accommodate electrification loads supporting the clean energy transition and peak load reduction. *Id*. at 50. In other words, ComEd asserts, while the AG pays lip service to the idea of increasing investment to accommodate DER and EV charging, they are actually proposing to decrease investment in support of those very goals.

Specifically regarding the Capacity Expansion investments, ComEd asserts that, not only does the AG offer no evidence or argument on the imprudence or unreasonableness of the Capacity Expansion projects but the only grounds the AG does offer do not support this disallowance.

ComEd notes that the AG first argues that ComEd's projected growth in Capacity Expansion investments is not supported because ComEd's grid will experience "flat load systemwide," and asserts that any "pockets of load growth" can be addressed with the inflation-capped total expenditures. AG IB at 52-53. ComEd asserts this position misreads the record evidence.

ComEd explains that approximately 24% of the Capacity Expansion investment portfolio is dedicated to Voltage Optimization, which will reduce customer consumption. ComEd Ex. 29.0 at 21. In other words, while the AG argues that Capacity Expansion investments are unnecessary because load will remain flat, ComEd states a significant portion of the Capacity Expansion investments are responsible for keeping load growth flat. Without those investments, overall consumption may increase – in turn, requiring more investment to keep up with growing load.

ComEd further explains that another 45% of the Capacity Expansion portfolio of investments is driven by the need to meet forecasted load growth. *Id*. The AG suggests that this investment is exaggerated because load will grow only in "pockets," and asserts that because ComEd was able to address pockets of load growth at the historical level of investment, the Commission can cap investment in this category at the rate of inflation. ComEd responds that the primary problem with this argument is that it lacks necessary context. The "pockets" of load growth that ComEd is anticipating over the Grid Plan period are related to EV charging and other electrification, which are anticipated to be far more significant over the Grid Plan period than they have been historically.

ComEd points out that there is uncontested evidence demonstrating the impact of electrification on ComEd substations. ComEd evaluated potential electrification scenarios where electrification-related load additions were applied to feeders at random 10%, 25%, and 50% penetration levels, and the results were aggregated at the substation level. ComEd Ex. 29.0 at 34-36. ComEd explains that a 50% penetration load would be equivalent to 6,500 direct current ("DC") fast chargers or 104,000 Level 2 chargers, while a 10% penetration load is equivalent to 1,300 DC fast chargers or 20,000 Level 2 chargers. *Id*. For context, ComEd notes, the State's goal is to have one million Evs on the road by 2030, 20 ILCS 627/45(a), which will likely require far more than even the 6,500 DC fast chargers in the highest penetration scenario (50%). In that 50% penetration scenario, ComEd states, over 700,000 customers would be served by a substation operating at 100% loaded. ComEd Ex. 29.0 at 35. In the 10% penetration scenario, over 150,000 customers would be served by a substation operating at 100% loaded. *Id*. at 36. ComEd concludes that the thousands of impacted customers are the "pockets" that are expected to be addressed via Capacity Expansion investments.

Finally, ComEd notes that the AG argues ComEd's Capacity Expansion investments are unsupported because ComEd has not provided "circuit- or substation-specific" load forecasts. AG IB at 53. ComEd maintains it is not possible to predict, four years in the future, which individual circuits will experience load growth as a result of EV charging, electrification, or other factors, or in what amount the load on any individual circuit will grow. And more importantly, ComEd asserts, it is not necessary to do so. ComEd points out that there is no dispute in this case that EV charging and electrification adoption will increase dramatically, and no party has contested ComEd's estimates of that adoption in aggregate. *See, e.g.,* Staff Ex. 31.0 at 20 ("EV expansion will impose a substantial need for system enhancements.").

ComEd argues that the AG's proposed disallowance of Capacity Expansion investment must be rejected. It is contrary to law and Commission precedent, and the AG's general statements in support of this disallowance are directly contradicted by specific, highly detailed evidence.

ComEd concludes that the Commission cannot and should not adopt the parties' proposals to cap growth in certain investment categories at the rate of inflation. However, if the Commission does choose to adopt such a cap, ComEd proposes that it must not adopt other disallowances in the impacted investment category as doing so would constitute a double disallowance. For instance, as pointed out by ComEd, if the Commission determines to apply an inflation cap to the Capacity Expansion investment category, that cap would disallow approximately $450 million in planned investment. Because it is not clear whether, or which, particular projects would be impacted by that inflation-based disallowance, ComEd contends that other disallowances of Capacity Expansion investment would potentially disallow the same costs twice.

(c) Staff's Position

The AG proposes limiting ComEd's Capacity Expansion budget to $921.7 million during the Grid Plan period, claiming that ComEd has not demonstrated the need for the large increase in spending. Staff believes its approach of proposing adjustments on a per-project basis is superior to the AG's across-the-board reduction. However, should the Commission decline to adopt Staff's adjustments, Staff does not oppose the Commission adopting the AG's proposed adjustment in the alternative.

(d) ICCP's Position

Several parties argued for inflation cap proposals relating to System Performance and IT investments, including ICCP. ICCP link their inflation cap proposal to ComEd's reliability spend towards achieving Performance Metric 1 and Performance Metric 2 targets. ICCP suggest ComEd presents several versions of one argument: that the Act provides only for review of the reasonableness and prudence of individual projects, not a categorical budget constraint. ICCP argue contrary to ComEd's assertions, ICCP's inflation cap proposal is prudent and reasonable and is supported by facts and substantial evidence.

ICCP witness Fitzhenry examined the specific Grid Plan investments ComEd intended to meet the Performance Metric 1 and Performance Metric 2 targets. He explained that, "ComEd proposes multiple system performance investments across the distribution, substation, relay, and high-voltage distribution systems to support achievement of the SAIDI and EJ/Restore, Reinvest, Renew ("R3") communities' performance metrics." ICCP Ex. 3.0 at 18. Indeed, he examined the specific investments that are part of ComEd's Grid Plan. *Id*. at 18-19.

ICCP argue Mr. Fitzhenry's recommendation that ComEd maintain its current levels of capital expenditures and O&M expense to support system performance, and to increase ComEd's forecasted level of capital and O&M expense supporting system performance in 2023 at the annual rate of inflation (2.1%) over the MYRP period, was not blindly applied. Mr. Fitzhenry's adjustments were in fact applied to specific projects within certain categories delineated by ComEd. ICCP Ex.3.0 at 21-22.

ICCP suggest that furthermore, even if Mr. Fitzhenry had not identified the specific capital expenditures associated with his adjustment, in the context of his analysis and proposal to the Commission, his proposal remains prudent and reasonable. ICCP argue he did not need to address specific projects to legitimize his recommendation. ICCP assert he proved that ComEd has already made significant levels of distribution investment over the last ten years to improve grid reliability and resiliency, so much so that its reliability metrics have been better than peer utilities. ICCP point out at current levels of distribution investment, ComEd will be capable of continuing to pursue distribution projects to ensure its system reliability meets the Commission approved Performance Metric 1 and Performance Metric 2 targets which established the criteria for measuring reliability and resiliency. *Id*. at 3-4.

ICCP argue a fundamental pillar of a reasonableness and prudence determination is cost-effectiveness, and ComEd failed to demonstrate that its proposed reliability investments (either individually or collectively) are cost-effective in light of the Company's historical and projected reliability performance. ICCP argue the burden of proof to demonstrate cost-effectiveness rests with the Company, not with other parties. ICCP assert ComEd cannot shift this burden of proof onto ICCP.

ICCP argue ComEd's insistence that the only standard to apply is prudence and reasonableness of individual projects, ignores P.A. 102-0662's mandate that the Company "provide delivery services at rates that are affordable to all customers, including low-income customers." 220 ILCS 5/16-105.17(d)(1). Thus, ICCP point out review of the expenses ComEd seeks to recover from ratepayers through delivery rates is subject not only to prudence and reasonableness review as individual projects but also to affordability review as categories of expenditures. ICCP assert that the Commission is to consider not only whether each project can be justified on its own merits as appropriate but also whether the total costs to ratepayers of expenditures for a particular purpose are more than necessary to achieve said purpose. ICCP argue that throughout the record in this proceeding, they have demonstrated that ComEd proposes to include in delivery rates far more reliability-related capital expenditures than are necessary to achieve the Company's Commission-approved reliability performance metrics and therefore these expenditures should be curtailed for the sake of delivery rate affordability.

ICCP point out ComEd also argues the inflation rate cap Mr. Fitzhenry proposed is arbitrary because it would ignore the measured rate of growth across all investment categories. As to any suggestion the inflation rate is arbitrary, ICCP witness Fitzhenry quickly dismissed such assertions. First, he had a credible reason for his inflation rate. ICCP assert that the purpose of using the Blue-Chip Consensus GDP Chained Price Index as the rate of inflation is that it encompasses all industries, without putting a particular weight on the cost of medical expenses as an example, as is the case with the Consumer Price Index. Further, ICCP argue ComEd did not provide any evidence to support its claim that the cost of the investments included in the System Performance category will increase at a faster rate than the Blue-Chip Consensus GDP Chained Price Index. In fact, in ComEd's own analysis provided in discovery, the Company assumed inflation rates of 2.20%, 2.13%, 2.21%, and 2.26% for the years 2024-2027, respectively. ICCP Ex. 7.0 at 9.

ICCP note ComEd states ComEd's proposal would see overall total capital expenditures grow at an average annual rate of 4.18% over the 2017-2027 period, and that over the same period, the average rate of inflation is projected by ComEd to be 3.00%. However, ICCP note rates are being set prospectively, and the inflation rates in the 2017-2022 period are not relevant. ICCP argue on a going forward basis, the rate of inflation to be applied to capital expenditures should be for the MYRP period. And as shown, the Company assumed inflation rates of 2.20%, 2.13%, 2.21%, and 2.26% for years 2024-2027, respectively, not 3% or some higher rate.

ICCP point out the 2.2% average inflation rate ComEd uses is nearly identical to the 2.1% inflation rate Mr. Fitzhenry utilized in his analysis. Despite the availability of its own remarkably similar inflation metric in the record, ICCP state the Company declines to provide any alternative measure of forecasted inflation it considers more reflective of reasonable utility cost of service growth. Thus, the only alternative measure of inflation during the relevant time period that ComEd has made available for the Commission's consideration is essentially the same as what ICCP propose.

ICCP assert the Company's argument that Mr. Ali Al-Jabir micromanages ComEd's prioritization of projects that have been found to be prudent and reasonable is without merit. ICCP suggest neither Mr. Al-Jabir nor Mr. Fitzhenry are micromanaging anything. The witnesses dispute ComEd's requested level of reliability-related investment. ICCP argue if the Commission accepts ICCP's adjustment, ComEd will be able to manage its reliability projects with the funding made available to it.

ComEd could choose to prioritize certain projects over others, and it could defer the completion of certain projects to future Grid Plan periods. ICCP assert prioritization of projects and consideration of each project's share of the Company's total annual budget for a category of expenditures mirrors the management choices confronted by businesses in competitive industries. If ComEd has grown accustomed to enjoying the financial security of a regulated monopoly without the accountability of meaningful rate regulation, ICCP propose the Commission remind the Company that the regulatory compact holds regulated utilities accountable to the ratepayers they serve.

(e) JSP's Position

JSP respond to AG arguments raised in Section V.C.6.a related to ComEd not demonstrating a need for hosting capacity as it relates to proposed spending on hosting capacity in Section V.C.7.c. While JSP do not propose alternative numbers, JSP disagree with the AG that there is not a demonstrated need for additional hosting capacity.

JSP state that diminishing hosting capacity is a critical barrier to enabling the clean energy transition. JSP Ex. 3.0 at 7. According to JSP, ComEd's MYIGP must "ensure coordination of the State's renewable energy goals, climate and environmental goals with the utility's distribution system investments" (220 ILCS 5/16-105.17(d)(1)), which JSP believe includes the ambitious new distributed and utility-scale solar goals from Section 1-75(c)(1)(C) of the IPA Act (20 ILCS 3855/1-75(c)(1)(C)).

JSP concede ComEd does not assess its available hosting capacity or the gap between the demand and available hosting capacity in any substantial detail. *See, e.g*., JSP Ex. 3.01. JSP further concede that the MYIGP further does not study the alignment between where hosting capacity is needed compared to where it might be available but in areas where larger-scale renewable development is challenging. *See, e.g*., JSP Ex. 6.0 at 8-9. However, JSP posit that P.A. 102-0662 provides ample justification for substantial expansions.

JSP cite that Section 1-75(c)(1)(C) of the IPA Act requires that the IPA procure 45,000,000 renewable energy credits ("RECs") per year from new solar and new wind systems by the 2030-31 delivery year. JSP contend that of that amount, 55% must be solar and 50% of that amount — for a grand total of 12,375,000 RECs per year — from the Adjustable Block Program, which is all distribution-interconnected solar. *See* 20 ILCS 3855/1-75(c)(1)(C), (c)(1)(K) (explaining systems eligible for the Adjustable Block Program). JSP further contend that in addition to distribution-connected solar systems capable of generating 12,375,000 RECs per year through the Adjustable Block Program, other procurements — for instance, the 3% of new solar RECs from brownfield-located systems and the possibility that the 47% of solar from utility-scale systems may be distribution interconnected — and millions more RECs per year may be procured from systems tied to the distribution grid. *See* JSP Ex. 3.0 at 8.

JSP calculate that at an alternating current ("AC") capacity factor of 25% — an extraordinarily high estimate, especially for roof-mounted systems — the Adjustable Block Program alone requires at least 5.65 gigawatts (AC) of new distribution interconnected solar with the possibility for hundreds or more megawatts (AC) of distribution-interconnected brownfield solar and utility-scale solar. According to JSP, a substantial portion — currently 70% — of the Adjustable Block Program capacity is allocated primarily to ComEd-interconnected systems.

While JSP note the AG's disappointment with the information about hosting capacity made available by ComEd, JSP emphasize that the proper response is not to reduce funds available for hosting capacity upgrades that harm the renewable industry — not ComEd. Instead, according to JSP the AG's concern is a further reason why the Commission should adopt JSP's hosting capacity proposal described in Section V.C.7 that matches MYIGP investment with where developers have actually submitted interconnection applications and (at the developer's—not the ratepayer's—expense) ComEd found no hosting capacity available through a finding that substantial upgrades are necessary to safely interconnect.

(f) Commission Analysis and Conclusion

The AG proposes to cap growth in capital expenditures in the Capacity Expansion category at the rate of inflation, using an average of 2019-2022 expenditures as the baseline, which amounts to $921.7 million during the Grid Plan period. The burden is on ComEd to prove its proposed budgets for Grid Plan investments are reasonable and prudent. While Section V.C.6.a of the Order is meant to specifically address Capacity Expansion, the AG and ICCP make overarching arguments that ComEd failed to justify its capital spending and as such an overall reduction in ComEd's budget is warranted on a category level. JSP argues against adopting the proposed caps and the potential impact a cap could have on upgrades necessary to increase hosting capacity.

The AG's and ICCP's argument is worth noting. P.A. 102-0662 requires an investment intentionality that connects purposeful Grid Plan components with the significant expenditures required to achieve statutory objectives. *See* 220 ILCS 5/16-105.17(d), (f)(2). The Grid Plan should answer the questions that are P.A. 102-0662's guardrails -- Why this project? Why there? Why now? Why that cost? P.A. 102-0662 requires that infrastructure projects be designed to coordinate investments with climate and environmental goals, to optimize assets to minimize costs, and to be cost-efficient, with an equitable distribution of benefits and rates that are affordable. *See* 220 ILCS 5/16-105.17(d). Those requirements distinguish Grid Plan capacity and reliability improvements from a broad system upgrade. Although system-wide investments will inevitably affect some P.A. 102-0662 objectives, the Grid Plan as filed does not allow the Commission to evaluate the proposed investments' purposeful design and compliance with P.A. 102-0662's cost and benefit guardrails.

For the reasons stated in Section V.A above, the Commission declines to make a finding on the merits of AG's proposal at this time. The Commission notes ComEd's systemwide peak load has been falling throughout the EIMA period, and the Company is projecting flat systemwide load through at least 2030. ComEd Ex. 5.01 2nd CORR at 36 (Figure 2.1-4). It is crucial that the refiled Grid Plan develop capacity expansion investments at a pace and scale that is supported by evidence.

Given the expansive record in this proceeding, the Commission prefers to assess the specific projects and determine whether ComEd has met its burden of proof on that level. Accordingly, objections to specific Capacity Expansion projects are addressed below.

(ii) 4kv to 12kv Conversion Project

(a) ComEd's Position

ComEd contends that its approach to 4kV to 12kV conversion and associated cost estimates should be approved as set forth in the Grid Plan. ComEd states this program is critical to the grid's resilience in the face of load growth through BE. ComEd Ex. 5.01 2nd Corr. at 72-73, 177-179; *see also* ComEd Ex. 50.06 at 111. ComEd further states that converting a single 4kV circuit to 12kV can provide three times the load capacity and thus facilitate the charging of 500 Evs and the interconnection of 5,000 kilowatt ("kW") of renewable generation. ComEd Ex. 29.0 at 42; *see also* ComEd Ex. 5.01 2nd Corr. at 177-179. Additionally, ComEd notes, customers served by 12kV facilities have experienced outages 46 minutes shorter on average than customers served by 4kV. ComEd Ex. 29.0 at 43-44. ComEd states conversions also allow for customers to benefit from ComEd's Voltage Optimization ("VO") program, reducing customer bills by an average 2%. ComEd Ex. 50.06 at 111-112, 114.

ComEd points out there are more than 1,000 4kV circuits within ComEd's service territory, and more than 200 substations that serve these circuits. ComEd Ex. 5.01 2nd Corr. at 177; *see also* ComEd Ex. 50.06 at 111; ComEd Ex. 29.0 at 41. ComEd states it has prioritized 4kV to 12kV conversions in areas with obsolete equipment, declining asset health, and lower operational flexibility, specifically at substations where customers are isolated from the benefits of 12kV facilities. ComEd Ex. 50.06 at 112; ComEd Ex. 29.0 at 41. ComEd contends that approximately 55% of the proposed conversions in 2023 and 2024, representing an investment of approximately $34 million, will positively impact EIEC areas. ComEd Ex. 5.01 2nd Corr. at 177.

ComEd acknowledges that the AG has advocated a phased approach to investments that would dramatically reduce the pace of the 4kV to 12kV conversion program. AG Ex. 1.0 at 86. ComEd contends the AG justifies this approach by minimizing the benefits of conversion. *Id*. By contrast, as ComEd points out, all other parties that have testified regarding the 4kV to 12kV conversion program cite its numerous benefits in capacity and resiliency. *See* Staff Ex. 11.0 at 8; JNGO Ex. 2.0 at 37; JSP Ex. 3.0 at 9. ComEd further notes that most 4kV facilities date back to at least the 1950s, making their replacement inevitable. ComEd Ex. 29.0 at 45. ComEd states it has demonstrated that replacement by the conversion program is less expensive to customers than reactive replacements when 4kV facilities fail in service. ComEd Ex. 29.0 at 45. Thus, ComEd concludes, the AG's proposed delay approach is not supported by the record, or by the other parties, and must be rejected.

(b) Staff's Position

The AG proposes limiting ComEd's capacity expansion budget in part due to ComEd not carrying its burden of justifying the proposed levels of 4kV to 12kV conversions. Staff believes its approach of proposing adjustments on a per-project basis is superior to the AG's across-the-board reduction. However, should the Commission decline to adopt Staff's adjustments, Staff does not oppose the Commission adopting the AG's proposed adjustment in the alternative.

(c) AG's Position

The Company proposed approximately $86 million in the Grid Plan for 4kV to 12kV conversions. ComEd Ex. 9.05 Corr. (ITN 59294). These investments target the retirement of the legacy 4kV system and upgrading it to "modern 12kV standards." ComEd Ex. 5.01 2nd Corr. at 177. While the AG does not dispute that some conversions will likely be necessary during the Grid Plan period, they assert that the relevant questions are whether a conversion is necessary due to risk of overloading and, if such a risk exists, where and when, and explain that the only way to answer these questions is through a benefit-cost analysis on the circuit level. Unfortunately, the AG points out that ComEd either does not have or will not share the data supporting whether overloads are approaching on a circuit- or substation-specific basis. AG Ex. 5.0 at 46. Thus, the AG concludes that the Company has not provided data that supports the rate of 4kV conversion the Company proposes in its Grid Plan. *Id*.

In its Initial Brief, ComEd noted that this program is beneficial because a 12kV circuit can provide three times the load capacity, which can facilitate charging of 500 Evs and interconnecting 5,000 kW of renewable generation. This appears to be a good thing on its face, but the AG is simply making the logical recommendation that, if load growth is the driver for a particular project, that ComEd be required to demonstrate that enhanced load capacity will be needed during the Grid Plan period before undertaking these projects. As noted above, ComEd has not provided such detailed supporting data, but the information that is available suggests that, for most 4kV circuits, that level of demand may be a long way off. The record shows that the average nameplate capacity of DER installed per 4kV circuit is 18.5 kW, so it is unlikely that a substantial number of 4kV circuits require 5,000 kW of renewable generation capacity that a 12kV circuit could provide. AG Ex. 5.1 at 24. Moreover, ComEd does not have data that allows it to estimate the average number of EV owners on its 4kV circuits, so it is far from clear that there are a significant number of 4kV circuits approaching 500 or more EV chargers. *Id*.

ComEd also claims that 4kV to 12kV conversions will reduce outage times and allow customers to benefit from voltage optimization. Of course, reducing outage times and gaining efficiency through VO are generally beneficial, but they should be quantifiable benefits determined by looking at, for instance, the number and duration of outages on a circuit that ComEd is seeking to convert as well as the number and type of customers on the circuit who would be impacted. Again, ComEd has not provided this level of detail or a benefit-cost analysis that would enable the Commission and the parties to evaluate the scope of this project. AG Ex. 5.0 at 46. But comparing ComEd's proposal with the data in the Grid Assessment, the AG notes that it appears that ComEd is overstating the urgency of these conversion projects.

The AG points out that, as of 2020, 4kV circuits made up just under a quarter of all of ComEd's distribution circuits, about 8.6% of overhead distribution circuit miles, and 5.3% of underground distribution circuit miles. ComEd Ex. 2.01 at 18–19. More than half of ComEd's 4kV overhead circuit miles are lateral tap circuits that are tapped off the mainlines. *Id*. at 18. While the number of customers on a tap varies widely, it is likely the case that many of them have relatively few customers and/or primarily residential customers. Moreover, as of 2020, 94% of ComEd's distribution circuits had tie capability, meaning that the Company already has the ability to tie circuit segments together to reduce the number of customers affected by an outage. *Id*. at 18. Thus, the AG maintains that it is not a given that spending millions of dollars to convert a 4kV circuit will provide net benefits based on the number and types of customers served by that circuit, and a benefit-cost analysis should be required, reflecting the extent that the circuit is currently providing reliable service.

The AG emphasizes that this does not mean that 4kV circuit conversions should be delayed until a circuit overloads or equipment fails in service. On the contrary, the AG explains that the Company should begin planning to convert a 4kV circuit (or substation) to 12kV when load forecasts indicate that overload is approaching in the near-term. In some instances, a full 4kV conversion may be justified even for "emergent" replacement (i.e., when equipment fails) if loads are forecasted to exceed a 4kV circuit or substation's capacity or the equipment is exceptionally expensive (e.g., extremely costly 4kV substation power transformers). AG Ex. 5.0 at 46-47. In each case, under the AG's recommendation, ComEd would be able to prioritize converting the most problematic circuits serving the most customers at a reasonable pace.

The AG argues that this is, in fact, what ComEd has been doing for the past decade. The Grid Assessment found that ComEd has decreased its overhead 4kV circuit mileage since 2012, and it "typically converted 4kV circuits to 12kV circuits when aged 34kV/4kV substations became unreliable or parts were unavailable because of obsolescence." ComEd Ex. 2.01 at 18-19. In most situations, however, the AG contends that the cost to replace any single piece of equipment pales in comparison to the cost to convert an entire 4kV circuit, but the only way to be sure is to conduct a benefit-cost analysis. In a situation where ComEd is claiming the need for so many other important investments, it should be able to defer a portion of its planned 4kV to 12kV conversions to limit its capital spending and focus on other priorities. Because the Company has not conducted a benefit-cost analysis, however, the AG argues that ComEd has not carried its burden of justifying the proposed levels of 4kV to 12kV conversions and increases in Capacity Expansion spending must be limited.

(d) JSP's Position

JSP note that like ComEd's other investment proposals, JSP do not object to ComEd's proposed 4kV to 12kV upgrade project per se. However, JSP urge the

Commission to reject any suggestion that this conversion project satisfies the requirements of Section 16-105.17(d)(5) and find that hosting capacity expansion proposals like JSP's proposal in Section V.C.7.c below are required to meet that MYIGP obligation.

JSP note that as part of ComEd's proposal to upgrade certain distribution assets from 4kV to 12kV, ComEd witness Mondello testified that there may be as much as 5,000 kW of additional hosting capacity associated with each conversion. *See* ComEd Ex. 29.0 at 42. However, JSP counter that JSP witness Balakrishnan testified that not only does ComEd typically require front-of-meter systems to interconnect at 34.5kV (rendering 12kV upgrades irrelevant), "ComEd's proposal is simply one more tool in the toolbelt for identifying constraints." JSP Ex. 6.0 at 6-7. According to JSP, ComEd even concedes that hosting capacity must be considered on an asset-by-asset basis rather than in general: "the impact of individual investments on DER hosting capacity is difficult to quantify, given that there are multiple co-variates which influence hosting capacity and in view of the locational and temporal nature of hosting capacity." ComEd Ex. 29.0 at 70. JSP aver that ComEd further provided no evidence to show that a particularly large number of interconnection applications would benefit from the conversion of 4kV assets to 12kV assets.

JSP claim they do not contest ComEd's conversion from 4kV to 12kV because JSP do not have blanket opposition to ComEd improving its grid. However, JSP urge the Commission to consider ComEd's 4kV to 12kV conversion project solely as a means to remove "obsolete" assets and not as a program designed to alleviate hosting capacity issues identified by JSP.

JSP note that ComEd in briefs did in fact highlight ComEd witness Mondello's claim that a 4kV to 12kV conversion could add up to 5,000kV of hosting capacity but did not appear to argue that the 4kV to 12kV conversion satisfies in whole or in part ComEd's obligations under Section 16-105.17(d)(5) except by implication in an introductory section. JSP complain that ComEd incorrectly suggests that JSP witness Balakrishnan supported the 4kV to 12kV conversion. Nevertheless, JSP state that they do not object to the substance of ComEd's proposal solely due to the misrepresentation of Ms. Balakrishnan's testimony. While JSP do not agree with the implication that the 4kV to 12kV upgrades aid ComEd in meeting its obligations under Section 16-105.17(d)(5), JSP do not object to the upgrades themselves.

(e) Commission Analysis and Conclusion

Generally, all parties support or recognize the need for 4kV to 12kV conversion. JSP merely object to any characterization that the proposed conversions increase hosting capacity or are used to satisfy Section 16-105.17(d)(5) of the Act. Staff makes recommended adjustments on a per project basis and has not proposed any adjustment to ITN 59294. The AG objects to ITN 59294 arguing that ComEd failed to provide a benefit-cost analysis at the circuit level. However, the AG does not argue that these conversions should not happen. The AG argues that ComEd should defer a portion of spending on 4kV to 12kV conversions to minimize capital spending and focus more on other projects. The AG did not make a specific recommendation related to the costs with this ITN but rather made a general recommendation regarding reducing Capacity

Expansion spending on a category level. The Commission concludes it is important that the refiled Grid Plan contain capacity expansion investments at a pace and scale that is supported by sufficient evidence. For the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(iii) Public School Assessments – ITN 84389

(a) ComEd's Position

ComEd states its proposed Public School Assessments (ITN 84389) and associated cost estimates should be approved as set forth in the Grid Plan. ComEd acknowledges that it is required by law, 220 ILCS 5/8-402.2, to implement a Public Schools Carbon-Free Assessment Program ("PSCFA") that provides a no-cost analysis of the energy improvements schools can make to achieve a clean energy future, like electrification. ComEd Ex. 5.01 2nd Corr. at 192. ComEd contends that the electrification of public-school heating and cooling systems is a specific goal of P.A. 102-0662 and a key solution to combat climate change. ComEd Ex. 5.01 2nd Corr. at 182-183, 192; ComEd Ex. 50.06 at 109. ComEd explains that the Public School Assessments (ITN 84389) program is a capacity expansion investment program designed to support the PSCFA by performing upgrades to the distribution system that will allow public schools to electrify their facilities in the manner determined by the analysis. ComEd Ex. 29.0 at 97.

ComEd points out that one in every three schools has a likelihood of triggering a grid constraint when it implements clean energy electrification projects. *Id*. at 98. ComEd anticipates that up to 52 public schools will directly benefit from this program by being able to electrify sooner and thus contribute to a more resilient grid. *Id*. at 97. ComEd adds that an additional 140 schools will directly benefit from this program because these investments will provide necessary, timely capacity for other schools on the priority feeders, ensuring a single feeder investment is not duplicated where multiple schools may be connected. *See Id*. at 98. As a result, ComEd states its Grid Plan includes $86.6 million in investments for Public School Assessments (ITN 84389). *Id*. ComEd continues that ITN 84389 will invest in numerous feeders that serve more than 40% EIEC customers. *Id*. at 97.

ComEd states that, to fully implement this program, the Commission should reject Staff's recommendation for a significant reduction in funding. *See* Staff Ex. 29.0 at 11. ComEd contends that, if the proposed levels of investments for the program are not maintained, ComEd's distribution system capacity will be insufficient to meet the anticipated adoption rate of public school electrification and the objectives of the P.A. 102-0662's PSCFA. ComEd Ex. 29.0 at 97. Additionally, ComEd explains, reductions in the proposed budget for this program will result in potential delays or deferrals of public school electrification. *Id*. at 98. ComEd adds that delays or deferrals of this program may influence public schools to avoid carbon-free investments, which runs counter to the goals of P.A. 102-0662. *Id*.

ComEd further contends that Staff's recommendation for a reduction in funding must be also rejected because it improperly duplicates the proposed dollar investment reduction across two separate programs. *See* Staff Ex. 29.0 at 11. Specifically, Staff proposes a $34.5 million decrease for both Public School Assessment (ITN 84389) and Feeder Level EV Enhancement (ITN 79628). *See id*. ComEd alleges, by recommending a $34.5 million investment decrease for both programs (or $69 million total), rather than a single decrease of $34.5 million across the two programs, Staff has improperly duplicated the proposed reduction, which will lead to an elimination of the benefits for these programs. ComEd Ex. 50.0 at 17.

ComEd further states Staff also incorrectly suggests that there is overlap or duplication between this program and other programs in ComEd's Grid Plan. Staff Ex. 31.0 at 17, 20-21; Staff Ex. 29.0 at 11. ComEd contends its investments are not duplicative but rather fund distinct and necessary projects. ComEd Ex. 29.0 at 103. As ComEd explains, simply because two programs perform work on the same distribution circuit does not mean that ComEd will be performing the same work two times ComEd Ex. 50.0 at 16.

Finally, ComEd notes that Staff recommends the ITNs that address public school conversions, EV charging, and 4kV to 12kV conversions should be managed through a "single funding source" for purposes of reconciliation, reasonableness, and prudence review. Staff Ex. 31.0 at 21; ComEd Ex. 50.0 at 17-18. ComEd believes this recommendation is misguided. ComEd explains that these ITNs are evaluated differently, managed differently, and implemented differently. ComEd Ex. 50.0 at 18. ComEd further states they are also designed to fulfill different purposes and are intended to serve a different set of customer needs. ComEd Ex. 50.0 at 18. ComEd contends they must remain distinct so customer benefits can be properly associated with the specific investments providing the benefit. ComEd Ex. 50.0 at 18.

(b) Staff's Position

ComEd's MYIGP includes $86.986 million in investments for ITN 84389 (Public Schools Assessment) to address capacity expansion expected to be necessary to support school electrification as part of the PSCFA. Staff Ex. 15.0 at 17. This expansion will occur principally through enhancements to existing feeders or conversions of lower capacity feeders to support higher loads. Staff proposed an adjustment that removed $30.654 million from ComEd's MYIGP. Staff Ex. 29.0 at 11; Staff Ex. 29.01 Corr. The adjustment considered factors created by other ITNs that address feeder conversions and enhancements, particularly ITN 79628 (Feeder Level EV Enhancement), discussed further in Section V.C.6.a.(v).

In direct testimony, Staff found ComEd's description and justification for scope of ITN 84389 inadequate because the Company had not provided accurately calculated or reasonably supported estimates of the number of schools involved; had not accounted for overlap among its multiple 4kV to 12kV programs; and had not offered accurate estimates of likely costs or tied those to the spending levels it proposed. Staff Ex. 15.0 at 19. With respect to ITN duplication, Staff cited ComEd's 4kV to 12kV conversion to accommodate EV growth, ITN 79628, Feeder Level EV Enhancement and the Company's proposed $144 million in overall 4kV to 12kv conversion.

In rebuttal testimony, ComEd provided additional information about ITN 84389 which addressed ComEd's feeder identification and prioritization process. ComEd Ex. 29.0 at 91-94. Acknowledging that it cannot predict school commitments to electrification process, ComEd described a focus on identifying feeders most likely to require enhancement, should school electrification occur. *Id*. at 92. ComEd also identified the "likely costs" of required work as $1 million for a 12kV feeder enhancement and $3 million for a 4kV to 12kV circuit conversion. ComEd acknowledged "the potential for overlap" among the MYIGP ITNs addressing feeder enhancements and conversions and agreed with the need to "leverage synergies across programs to maximize efficiency." *Id*. at 95-96.

ComEd's focus on avoiding "duplication of investments" avoids the real issue, which is not about performing the same work twice but about the total level of work to be performed. *Id*. at 95. For example, consider a school conversion that addresses 30 locations, five of which are also included in another ITN that consists of a total of 20 locations. Forecasted expenditures should cover 45 locations; i.e., enough to cover every project justified for MYIGP inclusion.

In rebuttal testimony, Staff described the new information provided by ComEd. ComEd discussed 65 feeders whose conditions may at some future point require enhancement, should the 225 schools served by them commit to electrification. Staff Ex. 31.0 at 16-17. Tellingly, however, ComEd provided no evidence that these 225 schools, as opposed to the many schools served by many other feeders in ComEd's service territory, had indicated there were plans to pursue electrification, or even that these schools are more likely to do so than public schools on other feeders that do not require enhancement to create the capacity to serve them after electrification. ComEd Ex. 29.0 at 94. ComEd testified that it "assumes that 7% of the population of public schools will proceed with electrification during the Grid Plan period, where approximately half are served by priority feeders that will require improvements." *Id*. Importantly, Staff states, ComEd does not provide the basis for 7% electrification pursuit estimate. Moreover, the target date for completing a key first step that will support public school electrification – the Carbon-Free Assessment – is two years after the conclusion of the first ComEd MYIGP. Staff Ex. 31.0 at 17.

Further, ComEd's planned investments to convert or enhance 65 prioritized feeders will only address half of the feeders that need to be upgraded and half of the schools served by those feeders, which in turn is one quarter of total schools at issue. ComEd Ex. 29.0 at 94. Thus, ComEd will proactively address lines that, even at of the end of the MYIGP period, have a one in four chance of actually leading to school electrification. Even if ComEd achieves the 7% level, it will have paved the way for electrification in less than 2% of schools. Staff Ex. 31.0 at 17.

In consideration of factors such as these, Staff recommended a slower pace than contemplated by the $87 million ComEd has projected for Public Schools Assessment. Staff also recommended ComEd work more closely with schools considering electrification to both minimize the time to complete electrification and forecast investment levels with greater certainty, rather than spending on feeders with a low probability of resulting in school electrification. Staff Ex. 31.0 at 17. Importantly, Staff also recommended a common funding source to limit all 4kV-to-12kV feeder conversions and 12kV feeder enhancements, recognizing that one job can address two or even three ITNs requiring such work. Staff Ex. 31.0 at 17. This approach allows flexibility to shift, for example, between school conversions and enhancements for school electrification and EV charging location accommodation, but without increasing costs overall. Staff testified that, despite ComEd acknowledging an overlap, the Company did not remove any of the cost duplication from the ITNs in which overlap exists. Staff Ex. 29.0 at 11. Staff recommended joint treatment of ITN 84389 (Public School Assessments) and ITN 79628 (Feeder Level EV Enhancement). With joint consideration of these two ITNs, Staff recommended a downward adjustment of one-third of their combined total, with one-half of that total then applied to each ITN.

In surrebuttal testimony, ComEd acknowledged that 18 feeders addressed by ComEd's Public School Assessments, Feeder Level EV Enhancements, and 4kV Conversion ITNs fall into more than one of those programs. ComEd Ex. 50.0 at 16. ComEd stated that an individual feeder "may" require enhancements in multiple locations, but does not indicate which, if any of the 18 overlapping feeders identified require enhancements uniquely addressed by each overlapping program. ComEd further stated that the Company will, instead of saving the investment costs, simply move to the next feeder in priority order when a particular conversion or enhancement qualifies under two different ITNs. In other words, ComEd will elect to do more work than justified by and included in MYIGP investments ultimately approved by the Commission. *Id*. at 16-17.

The proper solution is for ComEd to account for and transparently identify specific overlap in feeders in the MYIGP. This solution will fulfill the needs identified by ComEd and does so at less cost to customers. Even before accounting for the broader implications of Staff's recommendation to commonly account for and manage all feeder conversion and enhancement ITNs, the 18 feeders ComEd conceded have overlap will produce cost implications of $18 to $54 million based on ComEd's cost range for the work involved. ComEd Ex. 29.0 at 94.

In rebuttal testimony ComEd acknowledged "the need to identify and leverage synergies across programs to maximize efficiency." *Id*. at 95-96. Nevertheless, the Company takes strong exception to Staff's proposal to merge ITNs that address public school conversions, EV charging, and 4 to 12kV conversions into a common funding source as a way to account for duplication of feeder work and promote transparency. ComEd Ex. 29.0 at 101; ComEd Ex. 50.0 at 18. The witness's support for this statement rests on the value in tying customer benefits to the investments they require and on the need for regular reevaluation and refinement. However, the specific purposes of individual work items and their costs are not lost through the establishment of a common, single investment limit and management. Merging ITNs into a common funding source will more effectively connect goals with which ComEd can agree, i.e., to tie customer benefits to underlying investments and "identify and leverage synergies across programs to maximize efficiency." ComEd Ex. 29.0 at 101.

The information provided by ComEd remains insufficient to address the concerns raised by Staff. For these reasons, the Commission should accept Staff's proposal to reduce the Public School Assessments by $30.654 million. This proposal treats this ITN 84389 and ITN 79628 together, given the overlap between them. The total adjustment for the two ITNs amounts to one-third of their combined total, with one-half of that total then applied to ComEd's request for each ITN. The amount of each ITN's adjustment was then assigned to each ITN based on the percentage of each year's annual plant additions as proposed in ComEd's MYIGP.

ComEd claims that reducing forecasted investment levels for Public School Assessment – ITN 84389 will leave it unable to "meet the anticipated adoption rate of public school electrification." ComEd IB at 65. To the contrary, fully funding ITN 84389 would require anticipatory expenditures for electrification that may not even be required at the locations or in the numbers planned. Anticipatory feeder conversions and enhancements, without any known interest or intent to electrify by schools served by such facilities, is wasteful. ComEd argues projects might be delayed if specific schools are required to show firm interest or commitment to electrification before feeder conversion or enhancement, but there is no clear indication that anticipatory feeder work will actually support a material level of school electrifications. ComEd concedes only one-third of eligible schools have "a likelihood of triggering a grid constraint." ComEd IB at 65. Staff argues that a "likelihood" is neither a certainty nor indicative of a high probability, and not every "constraint" necessarily requires the major work of feeder conversion or enhancement.

Moreover, the investments ComEd proposes under ITN 84389 will reach only half of the eligible schools on feeders that have a likelihood of imposing a constraint. Thus, at most, Staff states that the large expenditures will cover only 1/6th of eligible schools; the number is likely to be 1/10th or less when "likelihoods" and "constraints" are considered. ComEd describes the benefit of ITN 84389 as enabling the schools on the feeders that ComEd will address "able to electrify sooner." *Id*. Staff asserts that random and infrequent convergence between the work involved and a school electing to electrify come at a very high cost to customers.

Staff argues that optimizing the utilization of electricity grid assets and resources to minimize total system costs requires a more prudent approach that better balances the interests of school electrification and costs to customers. That balance is the foundation for Staff's recommendations that ComEd should: (1) manage all feeder conversion and enhancement ITNs together; and (2) work closely with schools to reduce durations to complete electrification and to manage together all ITNs that address feeder conversions and enhancements.

ComEd opposes common management, or a single funding source, dismissing Staff's concerns about overlap among projects by stating the obvious, i.e., "simply because two programs perform work on the same distribution circuit does not mean that ComEd will be performing the same work two times." ComEd IB at 66. Staff did not recommend a common management because it thought ComEd might perform the same work twice. Rather, Staff recommended common management of the ITNs that address public school conversions (ITN 84389), EV charging (ITN 79628), and other feeder conversions and enhancements through a single funding source because of the interplay among them.

P.A. 102-0662 mandates that ComEd's MYIGP shall be designed to "optimize utilization of electricity grid assets and resources to minimize total system costs." 220 ILCS 5/16-105.17(d)(2). ComEd's approach adds more circuits than planned when work on a single circuit serves the purposes of multiple ITNs; such additions increase rather than minimize total system costs. Optimizing utilization of grid assets and resources to minimize total system costs requires a single source of judgement and control in identifying circuits for conversion and enhancement.

Staff notes that ComEd has not suggested, nor is it reasonable to conclude, that there are vast gaps in reliability between feeders ranking lower but still above the "cut line" for work and those just below that line. Thus, if a feeder just below the cut line becomes subject to work for EV charging purposes, appropriate attention to minimizing costs while optimizing grid asset use, calls for consideration of deferring another feeder above the line for a comparatively short time. Instead of eliminating a circuit planned under a second ITN if it has been converted or enhanced under a first ITN, ComEd will just go down its list to a lower priority circuit. Optimizing utilization of grid assets and resources to minimize total system costs should mean that needed and planned work drive the costs, not that cost drive whatever levels of work a predetermined funding level permits. Staff asserts that ComEd's MYIGP should take advantage of overlap to get only planned work done for lower costs, not to chase set investment values by adding work when overlap permits.

ComEd also cites the benefits of investments under this ITN to EIEC communities, but does not explain how, particularly with the sizeable investments remaining after Staff adjustments, it would be impaired from assuring equitably distributing either the work or the benefits involved.

Staff concludes that the Commission should accept Staff's adjustments to the forecasted MYIGP investments under Public School Assessment (ITN 84389) and as described in connection with Feeder Level EV Enhancement (ITN 779628). The Commission should also require these and other ITNs that fund feeder enhancement or conversion be subject to common management for planning and prioritizing such work with a single funding limit over the course of the MYIGP.

(c) AG's Position

The AG notes that Staff recommended reducing the program budget by approximately $30.7 million. Because ComEd had failed to identify a specific and convincing need for these projects at the level proposed and the potential for duplication with other Capacity Expansion investments, Staff recommended combining public school capacity upgrades with the projects for 4kV to 12kV conversions and Feeder Level EV Enhancements and reducing the pace of investment overall. The AG shares the concerns raised by Staff and notes that Staff's analysis provides further support for the AG's argument that ComEd has not established the need for Capacity Expansion levels that are 63.7% higher than the 2019-2022 period.

(d) Commission Analysis and Conclusion

Electrification of public school buildings is a goal of P.A. 102-0662. ComEd's proposed investment in ITN 84389 is to support the PSCFA by upgrading the distribution system that will allow public schools to electrify their facilities. The issue before the Commission is whether ComEd's forecasted $86.986 million Capacity Expansion investment for this program is reasonable and prudent.

It is not surprising that neither ComEd, nor any other party, knows how many or which specific schools will choose to electrify during the Grid Plan period. However, this uncertainty must be taken into account as a factor in determining the amount of capital spending to support the program. Another uncertainty is to what extent there will be a grid constraint that requires the major work of feeder conversion or enhancement. According to the record only approximately one third of eligible schools could potentially trigger a grid constraint.

Additionally, Staff has demonstrably shown that there is overlap between the Public School Assessment, Feeder Level EV Enhancement, and 4kV to 12kV Conversion projects. This overlap between the ITNs calls into question the investment amounts ComEd claims are needed under each individual project.

The Commission agrees with Staff's contention here that optimizing the use of grid assets and resources to minimize total system costs requires a more prudent approach that better balances the interests of school electrification and costs to customers. The inherent uncertainty of the forecasted pace for public school electrification, the uncertainty of the amount of work that may need to be performed, and the overlap in the ITNs should be addressed in the refiled Grid Pan. For the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(iv) Summer Critical Engineering Projects – ITN 68570/16542

(a) ComEd's Position

ComEd states its proposed Summer Critical investments and associated cost estimates should be approved as set forth in the Grid Plan. ComEd explains that its Summer Critical investments address overload relief work identified through the Area Planning process to validate that the distribution system is designed to meet the forecasted peak demands on the system while also assuring that ComEd operates a safe and reliable electric distribution system. ComEd Ex. 5.01 2nd Corr. at 174. ComEd contends its Summer Critical Engineering – ITN 68570 and Projects $100k to $5M – ITN 16542 are investments that are essential to ComEd's Summer Critical Program. ComEd Ex. 29.0 at 108. ComEd further states its Summer Critical Program investments provide customers with reliable and resilient service during the period of the year when reliable electricity service is of the utmost importance. ComEd Ex. 5.01 2nd Corr. at 174; ComEd Ex. 29.0 at 113. ComEd contends these investments are also needed to meet seasonal peak demand. ComEd Ex. 29.0 at 108. ComEd notes that projects designated as "summer critical" are constructed and in service by June 1 of each year prior to the hottest part of the summer when the system is projected to operate at its peak stress conditions. ComEd Ex. 29.0 at 108.

ComEd acknowledges Staff claims that there is an "anomaly" with the Summer Critical Engineering projects because there is a "vastly larger" cost forecast for certain feeder projects in the outer years of the Grid Plan. Staff Ex. 31.0 at 24-25. ComEd contends that, based on this alleged "anomaly," Staff seeks to decrease funding for Summer Critical Engineering – ITN 68570 by $39.3 million. *Id*. at 25-26; Staff Ex. 29.0 at 12-13; ComEd Ex. 50.0 at 20. ComEd argues that this conclusion, and its related recommendation to reduce funding, are misguided and must be rejected. As ComEd witness Mondello explains, the referenced project costs are not "anomalies" and are not distribution line feeder projects, but rather are properly forecasted costs for substation projects. ComEd Ex. 50.0 at 19. ComEd contends Staff's recommendations are also predicted on unsubstantiated calculations. ComEd Ex. 50.0 at 20. ComEd notes its proposed levels of investments for the Summer Critical program are conservative. ComEd Ex. 50.0 at 20. ComEd points out Staff has conceded that the proposed levels do not exceed historical levels of investments. ComEd Ex. 50.0 at 18-20; Staff Ex. 31.0 at 23-24. ComEd contends Summer Critical Engineering – ITN 68570 and Projects $100k to $5M – ITN 16542 provide important services to ComEd's customers at the most important time of the year for electricity service. ComEd states its cost estimates are accurate and consistent with historical levels, and the ITNs should be approved as set forth in the Grid Plan.

(b) Staff's Position

ComEd's MYIGP includes $81.938 million in investments for ITN 68570 (Summer Critical Engineering) to fund its Summer Critical program that annually addresses a subset of observed planning criteria violations, including activities such as preventing component overloads at substations and feeders. The Summer Critical program increases system resiliency by providing operational flexibility. ComEd's MYIGP also includes $38.486 million in investment for ITN 16542 (Projects $100k to $5 million) to augment funding of Summer Critical programs and to address winter critical issues that violate ComEd planning criteria. ComEd Ex. 9.05 Corr.; Staff Ex. 15.07; Staff Ex. 15.0 at 16. Staff recommends an adjustment of $39.3 million for ITN 68570 and $0 for ITN 16542. Staff Ex. 31.0 at 22-26; Staff Ex. 29.0 at 12-13; Staff Ex. 29.01 Corr.

In direct testimony, Staff found that the lack of specificity provided by ComEd in describing how it derived engineering costs for ITN 68570 (Summer Critical Engineering) precluded clearly linking the work performed with the very significant engineering costs. Compounding this lack of clarity, ComEd failed to provide historical expenditures. Because of the lack of historical costs provided, the lack of specificity in identifying the projects involved, specifically for 2026 and 2027, and the increasingly large ITN 68570 expenditures as the MYIGP period proceeds, Staff concluded that reducing annual investments for 2025 through 2027 to the 2024 level, with adjustments for escalation was proper. Staff Ex. 13.0 at 25; Staff Ex. 15.0 at 15.

In direct testimony, Staff also found that ITN 16542 (Projects $100k - $5 million) showed significant annual MYIGP period increases, increasing five times from 2024 to 2027. ITN 16542 also suffered from a lack of development of the specific locations and configurations to be addressed, and a failure to provide substantive support of the work involved or the basis for estimating the costs. Staff concluded that ComEd failed to justify the increased investments above the level its MYIGP forecasted for 2024. Staff Ex. 15.0 at 17. Therefore, Staff proposed adjustments that would limit annual investments for 2025 through 2027 to the 2024 level, with adjustments for escalation. Staff Ex. 13.0 at 25.

Staff states that two factors were not clear: (1) why ComEd treated both ITN 68570 and ITN 16542 as "Bucket" ITNs rather than "Blanket" ITNs; and (2) whether ComEd employs ITN 16542 in connection with ITN 68570 in implementing its Summer Critical program. Staff explains that ComEd classifies plant investments in three ways. Unique projects are undertaken only once; Bucket projects are specific types of unique projects whose costs are expected to exceed $100,000 but for which specific plans have not been developed; and Blanket projects provide a single funding source (ITN) for groups of recurring tasks. ComEd 9.0 at 40-41. Blanket and Bucket ITNs both provide a single source of funding for related groups of work, but ComEd uses them differently. After being established for a given year, Bucket ITNs provide a pooled source of funding for the individual work to be performed under the category of work that the Bucket ITN addresses. As ComEd identifies specific individual work scopes and secures approval for those individual scopes, the Company assigns each such scope its own separate project identifier, sets an associated forecast value for that work scope, and subtracts that value from the Bucket ITN's total. Conversely, Blanket ITNs produce no unique identification or eventual spinout of individual work scope forecasted costs. All costs for work incurred under a Blanket ITN remain assignable to the Blanket ITN. ComEd Ex. 31.0 at 42.

Developing an accurate presentation of any historical or future year's Bucket ITN values must consider not only the amounts remaining at the Bucket level, but also must "add back" in effect all the values spun out from the Bucket over time. Therefore, Staff states that ComEd's initial misidentification of ITN 68570 as a Blanket and its subsequent correction of that error required Staff to conduct that "add back" process, using information ComEd provided in its rebuttal testimony about the spun-out work scopes and values. Staff Ex. 29.0 at 110. In rebuttal testimony, ComEd made clear the joint use of ITN 68570 and ITN 16542 is intended to fund its Summer Critical program. ComEd Ex. 29.0 at 108.

In rebuttal testimony, Staff determined that forecasted MYIGP investment levels for ITN 16542 and ITN 68570, now reviewable together after the "add backs" appropriate following ComEd's corrected description of ITN 69570 as a Bucket ITN, showed no increase above historical levels. Staff Ex. 31.0 at 23. However, Staff found a new anomaly through its review of ITN 16542 and ITN 68570 MYIGP projects and their dollar amounts as presented by ComEd in rebuttal testimony. ComEd Ex. 29.03. For 2023 and much of 2024, ComEd assigned specific spend amounts to individual locations to be addressed. The Company showed $300,000 placeholders for locations to be addressed later in the MYIGP period, with two extreme exceptions. Staff Ex. 31.0 at 24.

Staff explains that for one 2026 location, ComEd assigned a value of $10 million and for another $10.5 million. ComEd Ex. 29.03. The pattern repeated for 2027, in which ComEd assigned $10 million to each of two projects. *Id*. Staff testified that ComEd did not provide any material level of detail supporting these four projects. Staff Ex. 31.0 at 25. Staff concludes that the lack of information about the four high-dollar-value projects meant that ComEd had not justified MYIGP investment levels for each of them at amounts above the $300,000 placeholder value assigned to all the other mid- to late-MYIGP period locations. Ultimately, Staff proposed an adjustment that would employ the $300,000 value per feeder.

In surrebuttal testimony, ComEd explained that the $40.5 million in question for 2026 and 2027 addresses substation transformer additions at roughly $10 million each to relieve constraints in areas of local growth. ComEd Ex. 50.0 at 20. However, ComEd did not identify specific locations or provide details about the four locations. ComEd also failed to explain the circumstances or potential consequences of first addressing this work only as the MYIGP period approaches its end. ComEd Ex. 50.0 at 19. In Staff's view, changing from a consistent, multi-year pattern of feeders consistently priced at $300,000 to late MYIGP additions with values 33 times higher requires more detailed support than the very general information that ComEd has offered.

Staff concludes that the Commission should reject ComEd's arguments. ComEd failed to provide justification for the introduction of four expensive substation projects at either $10.0 million or $10.5 million each at the end of the MYIGP period. While acknowledging that the four substation locations drove the extreme increase in annual forecasted MYIGP investment values, ComEd provides no explanation for why its evidence failed to: (1) provide meaningful information about the needs that work at the four substation locations will address; (2) why work consisting of a series of low cost work locations suddenly requires massive expenditures for substation locations right at the end of the MYIGP; or (3) even where those substations are located. Staff argues that the Commission should accept the adjustments Staff has proposed to the forecasted MYIGP investments under ITN 68570 and ITN 16542.

(c) Commission Analysis and Conclusion

The Commission agrees with Staff's contention that ComEd has not provided adequate information to justify the four high value projects identified by Staff. ComEd does provide additional clarification in surrebuttal testimony that the feeder projects are actually substation transformer projects. However, ComEd does not provide sufficient further details about these projects or why they are being addressed in 2026 and 2027. ComEd merely asserts that they are complex projects and provides a general description of what work it may or may not need to do at these locations. ComEd Ex. 50 at 19. Moreover, of the total $40.5 million for these projects, $10 million goes towards a substation transformer addition in the "South region" and $30.5 million goes towards a substation transformer addition in the "North region[.]" *Id*. ComEd does not provide any explanation as to why the North region substation transformer, wherever that is, needs exponentially more investment. The Commission directs ComEd to address these concerns in the refiled Grid Plan. For the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(v) Feeder Level EV Enhancements – ITN 79628

(a) ComEd's Position

ComEd contends its proposed Feeder Level EV Enhancements (ITN 79628) and associated cost estimates should be approved as set forth in the Grid Plan. ComEd states P.A. 102-0662 sets the ambitious goal of achieving one million Evs in Illinois by 2030. 20 ILCS 627/45(a)(1); ComEd Ex. 5.01 2nd Corr. at 125-127. ComEd notes the Feeder Level EV Enhancement Program (ITN 79628) is comprised of projects that will enable the grid to meet that goal by increasing capacity on grid feeders in EV targeted areas, which will allow for higher levels of EV penetration in ComEd's service territory. ComEd Ex. 29.0 at 99. In fact, as ComEd points out, the primary goal of this program is to prepare the grid so that capacity is not an obstacle to EV adoption by avoiding extended delays in customers adopting zero carbon emitting technologies for transportation. *Id*. at 100. ComEd states Feeder Level EV Enhancements (ITN 79628) has a budget of approximately $97 million during the Grid Plan period, which ComEd anticipates will be sufficient to handle the estimated 100,000 incremental EV chargers that will be installed in ComEd's service territory through the end of 2027. ComEd Ex. 50.06 at 107.

ComEd points out that, despite Staff's acknowledgement of the likelihood that "EV expansion will impose a substantial need for system enhancement," Staff recommends a proposed reduction of $34.5 million for this program. Staff Ex. 31.0 at 20. ComEd contends that Staff's adjustment must be rejected. ComEd explains that, without the Feeder Level EV Enhancement program (ITN 79628), it is unlikely that the grid will be able to support sufficient EV chargers to allow the State to meet the EV goal set by P.A. 102-0662. *See* ComEd Ex. 29.0 at 103-104, 106-107.

In addition, ComEd argues Staff's proposed adjustment is based on incorrect information. ComEd notes, for example, that Staff witnesses suggest that there is overlap or duplication between this program and other programs in ComEd's Grid Plan. *See* Staff Ex. 29.0 at 11; Staff Ex. 31.0 at 17, 20-21. ComEd asserts that this is incorrect. ComEd insists the investments for this program are not duplicative with any other proposed investments. ComEd Ex. 29.0 at 103; ComEd Ex. 50.0 at 16.

ComEd further contends the Commission should also reject Staff's proposal for this program to be managed through a "single funding source," along with other programs in the Grid Plan. Staff Ex. 31.0 at 21; ComEd Ex. 50.0 at 17-18. ComEd notes these ITNs are evaluated differently, managed differently, and implemented differently. ComEd Ex. 50.0 at 17-18. ComEd adds that they are also designed to fulfill different purposes and are intended to serve a different set of customer needs. *Id*. Accordingly, ComEd concludes they must remain distinct so customer benefits can be properly associated with the specific investments providing the benefit. *Id*. at 18.

(b) Staff's Position

ComEd's MYIGP includes $96.936 million in planned investment for ITN 79628 (Feeder Level EV Enhancement) to address existing and projected EV load growth, the availability of EV chargers by third parties, and feeder customer counts. Staff Ex. 15.05. Staff proposed an adjustment that removes $30.653 million from ComEd's MYIGP on a basis similar to that proposed for ITN 84389 (Public School Assessments). Both ITNs address 4kV-12kV feeder conversions and 12kV enhancements. As with the Public School Assessments (ITN 84389), Staff found substantial duplication among the feeders addressed by these two ITNs and other ComEd ITNs that address feeder conversion and enhancement. ComEd's justification for Feeder Level EV Enhancement falls short in similar areas as its justification for Public School Assessments, in that the Company cannot identify the specific locations of future EV charging facilities or relate those locations to feeders that will require conversion or enhancement. Staff Ex. 31.0 at 20.

In direct testimony, Staff found ComEd's description and justification for scope of ITN 76928 inadequate because the Company's MYIGP did not (1) demonstrate how it determined the MYIGP's proposed annual feeder enhancement expenditures and instead relied upon general EV growth; (2) provide details of future installations; (3) adequately justify increased load needs on a system-wide basis, or (4) clearly differentiate how the needs of this specific ITN were unique from other 4kV to 12kV conversions accounted for elsewhere in its MYIGP. Staff Ex. 15.0 at 13-14. Staff found the overlap between the work of this ITN and ITN 84389 (Public School Assessments). Therefore, Staff concluded that ComEd had failed to justify inclusion of planned MYIGP investments for this ITN.

Staff explains that in rebuttal testimony, ComEd corrected the Company's previously incorrect designation of ITN 79628 as a Blanket ITN, rather than its actual operation as a Bucket ITN. ComEd Ex. 29.0 at 100. This error has the same implications for analyzing historical and project costs as described in Section V.C.6.a.iv, addressing Summer Critical Engineering Projects – ITN 68570.

ComEd also cited an analysis by which the Company determined that 676 4kV feeders and 1,060 12kV feeders do not have the capacity to support added EV charging loads without enhancement. ComEd Ex. 29.0 at 100. Similar to the Public School Assessments ITN, ComEd expressed agreement with Staff's desire to identify and leverage synergies across ComEd's feeder conversion ITNs. ComEd Ex. 29.0 at 101. ComEd also identified overlap in feeders across its various ITNs that comprise feeder conversion or enhancement. ComEd Ex. 29.0 at 102.

In rebuttal testimony, Staff acknowledged that the study cited by ComEd identified a substantial need for feeder conversion or enhancement to accommodate additional EV charging facilities but noted ComEd failed to identify specific locations for those added facilities. Staff Ex. 31.0 at 20. As compared with school electrification however, Staff determined that ComEd provided more meaningful information about potential locations for EV charging facilities in relation to feeders that may require upgrading to serve them. Staff Ex. 31.0 at 20. Noting the similarity with the Company's position regarding overlap in connection with ITN Public School Assessments, Staff cited the same ComEd unwillingness to treat overlap as a reason for lowering costs to customers, and instead express intention to continue work further down its priority lists, rather than recognizing overlap as an opportunity to reduce customer costs without sacrificing any work driving those projected levels. Staff Ex. 31.0 at 20.

In rebuttal testimony, Staff addressed the need to account for overlap among feeder-related ITNs and for flexibility in altering prioritization of work under those ITNs to address school electrification and EV charging facility feeder work as specific locations become known. Staff Ex. 29.0 at 11-12. As noted above in the section addressing ITN 84389 (Public Schools Assessments), ComEd's surrebuttal testimony acknowledges that 18 feeders appear in multiple ITNs. ComEd Ex. 50.0 at 16. Staff proposes a downward adjustment of one-third of forecasted MYIGP plant investments for the combined total of this ITN 79628 and ITN 84389, with one-half of that total then applied to ComEd's request for each ITN. The amount of each ITN's adjustment was then assigned to each ITN based on the percentage of each year's annual plant additions as proposed in ComEd's MYIGP. Given the significant overlap between both ITN 79628 (Feeder Level EV Enhancements) and ITN 84389 (Public School Assessments) the Commission should accept Staff's downward adjustment for both of them.

ComEd calls Staff's adjustments to ITN 84389 and ITN 79628 an improper duplication. Staff argues that these adjustments are not duplicative, and instead reflect a reasoned approach to establishing a single investment level that accommodates the overlapping natures of these two ITNs as well as the 4kV conversion program ITNs in a way that will more appropriately consider minimizing total system costs in optimizing grid asset and resource use. The arguments that ComEd makes with respect to ITN 79628 regarding duplication, overlap, and common management and single source funding are the same as those it made in connection with Public School Assessment – ITN 84389.

For these reasons Staff concludes the Commission should accept the adjustments Staff has proposed to the forecasted MYIGP investments under ITN 79628, and as described in connection with Public School Assessment – ITN 84389. The Commission should also require these and other ITNs that fund feeder enhancement or conversion to be subject to common management for planning and prioritizing such work and subjecting it to a single funding limit over the course of the MYIGP.

(c) AG's Position

The AG argues that the Company has failed to provide EV forecasts that would justify spending nearly $100 million in four years to increase capacity for EV charging. The AG explains that this should be a data-driven decision that is based on forecasts of localized needs. AG Ex. 5.0 at 50. The AG highlights that while ComEd has estimated that EV charging demand will be 90MW at peak by 2027, it has provided no workpapers supporting that estimate, and it has provided no detail as to how that 90MW breaks down by region or circuit, and a breakdown by circuit is essential to justify the list of work by circuit that Ms. Mondello provides with her rebuttal testimony. The AG specifically requested whether ComEd has forecasted the geographic locations of the expected number of EV chargers by ComEd operating zone, zip code, census tract, feeder, or circuit, and ComEd responded, "No." AG Cross Ex. 2 at 15. The AG explains that, not only did ComEd fail to forecast where on its system EV adoption might drive feeder-level enhancements, it increased the budget further by adding a "locational uncertainty multiplication factor" when determining the number of feeders to include in its proposal. AG Ex. 1.3 at 13. In other words, ComEd was unable or unwilling to conduct a feeder- or circuit-level forecast to determine where this type of work might be needed, and it added a cushion to the budget because of the uncertainty. The AG maintains that this is clear evidence of ComEd's unreasonable approach to developing its Grid Plan.

Additionally, the AG notes that ComEd may be spreading Capacity Expansion in multiple categories, thereby duplicating budgets in the Grid Plan. ComEd has many specifically-identified Capacity Expansion projects such as new substations, substation upgrades, and new feeders. ComEd's Capacity Expansion category also includes blanket budgets for the Feeder-Level EV Enhancement program ($96.8 million), Area Congestion ($49 million), Public School Carbon Free Assessments ($87 million), Increasing Capacity Margins ($30 million), unidentified Projects Between $100k & $5 million ($34 million), 4kV to 12kV conversion ($79 million), and Capacity Expansion Baseline Work ($21 million). Capacity Expansion work does not differ by cause; whether for a public school's solar system, or EV charging, or general load growth, capacity is expanded to enable more electricity to get from one place to another at a point in time. Once the capacity of a circuit or substation is increased, the new capacity can be used for any purpose. Thus, while some amount of blanket budgeting may be necessary when projecting future spending, the AG argues that spreading Capacity Expansion capital spending over multiple spending programs creates the risk of extensive budget duplication.

ComEd witness Mondello provided lists of circuits proposed for work under three different capacity expansion programs: Public School Carbon Free Assessments; Feeder Level EV Enhancement; Summer Critical Engineering and Projects. By comparing these circuit lists, AG witnesses Alvarez and Stephens found that:

- 10 of the 100 circuits identified for capacity expansion under PSCFA program were also identified for capacity expansion under the Feeder Level EV Enhancement program;
- 35 of the 100 circuits identified for capacity expansion under the Feeder Level EV Enhancement program were also identified for capacity expansion under the Summer Critical Engineering program;
- 25 of the 100 projects identified for capacity expansion under the PSCFA program were also identified for capacity expansion under the Summer Critical Engineering and Projects program; and
- several circuits appeared as capacity expansions projects in all three programs.

AG Ex. 5.0 at 51-52. The AG points out that these are clearly duplicated Capacity Expansion budgets and notes that Staff raised similar concerns. Staff Ex. 31.0 at 20-22.

The AG explains that these duplicates were found by comparing circuit identities on just three of hundreds of Capacity Expansion projects and programs, many of which are blanket programs which themselves may expand capacity through projects on multiple circuits. With more time, effort, and project and program circuit lists, it is likely that additional Capacity Expansion capital budget duplications would be found. The AG contends that what is needed is a single Capacity Expansion substation and circuit list that takes into account all load and DER forecasts, rather than multiple blanket program budgets that appear to increase the capital budgets for which customers will be charged in rates. This could be facilitated by the joint, transparent, participatory MYIGP development process the AG recommends in Section VIII of the AG's Initial Brief.

The AG notes that Staff agreed with the AG's criticisms, finding that ComEd had failed to identify specific locations for where feeder upgrades would be needed during the Grid Plan period, and that there was significant overlap between the Company's budgets for Feeder-Level EV Enhancements, Public School Carbon Free Assessment upgrades, and 4kV to 12kV conversions. *Id*. at 42–43. Staff therefore sought a reduction of approximately $30.7 million to the proposed budget. The AG does not join Staff's request for a specific adjustment, but the AG notes that Staff's findings support their position that has failed to clearly identify a need for the proposed level of spending for this project. The AG maintains that $30.7 million reduction Staff identifies could easily be part of the $60.8 million reduction to ComEd's proposed Capacity Expansion budget for 2024 and the $453.3 million reduction over the total grid period recommended by the AG. *See* AG Ex. 1.0 at 99.

(d) Commission Analysis and Conclusion

The Commission understands the need to prepare the grid to support EV charging to meet the State's EV goals. The Commission directs the Company to include information on specific locations where feeder upgrades would be needed in its refiled Plan. ComEd's planning strategy (e.g., follow forecasted demand or enable future demand) is also not explained. For the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(vi) New Rockwell TDC – ITN 64090

ComEd states the New Rockwell Transmission Distribution Center ("TDC") (ITN 64090) is uncontested and should be approved. ComEd Ex. 5.01 2nd Corr. at 176. ComEd notes the TDC is a major capital investment that will add new feeders and capacity to alleviate highly loaded substations. ComEd Ex. 9.0 2nd Corr. at 57. ComEd points out that the area surrounding New Rockwell is expected to reach allowable limits for criteria and design in 2025. *Id*. at 57. ComEd contends this growth necessitates the construction of a new substation with four 50 MVA transformers. *Id*. at 58. ComEd states that the Grid Plan includes $54.5 million capital investment for New Rockwell TDC. ComEd Ex. 31.12 at 29, 36.

No other party addressed this ITN in briefs and it appears to be uncontested, other than the AG's overall opposition to the Capacity Expansion budget. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(vii) Skokie Hardening – ITN 81680

ComEd notes the Skokie Hardening project (ITN 81680) is uncontested. ComEd states the Skokie Hardening project is a capacity expansion project that will convert the existing 138kV open air bus design at the Skokie substation to a 138kV breaker-and-a-half gas insulated switchgear design. ComEd Ex. 9.0 2nd Corr. at 63. ComEd continues that the Skokie Hardening work would reconfigure the facilities to be part of the Bulk Electric System ("BES"). ComEd Ex. 31.0 Corr. at 105. ComEd states these changes would reduce the risk of bus-related outages and extended customer outages during events at the current station that is no longer meeting substation design standards. *Id*. at 63-64. ComEd notes the Grid Plan included $67.3 million capital investment for the Skokie Hardening project. ComEd Ex. 9.0 2nd Corr. at 44. ComEd points out that, after the filing of the MYRP, this project (ITN 81680) was postponed and approximately $67.3 million of jurisdictional plant in service for the Skokie Hardening work (ITN 81680) has been removed from ComEd's revenue requirement in 2027. ComEd Ex. 31.0 Corr. at 106.

No other party addressed this ITN in briefs and it appears to be uncontested, other than the AG's overall opposition to the Capacity Expansion budget. The Commission notes that ComEd has postponed the investment in ITN 81680; therefore, ComEd removed approximately $67.3 million of costs reflected in ITN 81680 from its proposed revenue requirement. Should this project continue to be postponed, the Commission directs ComEd to remove these costs from its proposed revenue requirement upon refiling.

b. Corrective Maintenance – Uncontested

ComEd states that the Corrective Maintenance investment category, which includes the repair and replacement of deteriorated, damaged, or obsolete assets, is uncontested and should be approved. ComEd Ex. 5.01 2nd Corr. at 248. ComEd notes this category of work includes both emergent and planned work performed to repair and replace materials and equipment to reinforce the safety and reliability of the distribution system. *Id*. at 183. ComEd states the anticipated benefits of Corrective Maintenance investments include: (1) maintaining safe and reliable system operation through configuration; (2) avoiding unscheduled outages; and (3) mitigating risk of emergencies during severe weather events. *Id*. at 248. ComEd explains that, as a result, these investments provide customer value by: (1) preventing costly emergency repairs and more costly replacements in the future; (2) avoiding service outages; and (3) avoiding premature retirement of assets and maximizing the life of equipment to minimize replacement costs. *Id*. at 248. ComEd further notes that the Grid Plan includes $2.661 billion (2023-2027 capital and O&M) in investments for Corrective Maintenance. *See Id*. at 11.

The Commission notes this issue is uncontested. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

c. Customer Operations

(i) Fee Free Kiosks

(a) ComEd's Position

ComEd states the Commission should approve its uncontested fee-free bill payment kiosk proposal (also referred to as "Bill Payment Kiosks") and its associated estimated investment. *See id*. at 192; ComEd Ex. 34.01 at 35. ComEd provides that this proposal will help ensure ComEd can support its customers and is aligned with P.A. 102-0662's goals of affordability and customer empowerment. *See* 220 ILCS 5/16-105.17(d)(4), (11).

ComEd explains that it is aware that many of its customers are "unbanked," and accordingly, are only able to use cash to make their bill payments. *See* ComEd Ex. 5.01 2nd Corr. at 192-193, 223, 249. ComEd notes that, since ComEd does not accept cash as a form of bill payment, customers paying ComEd bills in cash must pay their ComEd bills at either authorized (*e.g.,* Walmart or Firstech) or unauthorized (*e.g.,* currency exchange) agents, both of which charge the customer a service fee. ComEd Ex. 34.01 at 35. To alleviate this issue, ComEd plans to install kiosks across the Chicagoland area, including the South and West neighborhoods of Chicago. ComEd Ex. 33.0 at 23. ComEd states the kiosks will provide unbanked customers with the option to pay their ComEd bill with cash, without incurring a service fee. *Id*.; ComEd Ex. 34.01 at 35. ComEd further states that its Smart Assistance Manager tool (which is designed to provide personalized guidance on available assistance based on a customer's particular set of circumstances) will eventually be integrated into the kiosks, essentially rendering the kiosks a "one-stop-shop" for customers to both make fee-free bill payments as well as learn about and apply for available financial assistance. *See* ComEd Ex. 5.01 2nd Corr. at 192; ComEd Ex. 33.0 at 24.

ComEd contends that by equipping customers with the ability to make fee-free cash payments and easier access to financial assistance, these kiosks will empower customers to pay their bills in the manner they choose, connect customers with information on available assistance and energy management programs and options, and increase customer affordability by removing the additional service fees. *See* ComEd Ex. 34.01 at 35; *see also* 220 ILCS 5/16-105.17(d)(4), (11).

ComEd's updated target launch date for the bill payment kiosks is 2025. ComEd Ex. 54.0 at 23. ComEd notes that while the updated implementation date changes the timing of when the kiosks' cost will be incurred, it does not change the total amount of funding needed for the kiosk program. *Id.* at 23. ComEd calculates that the revised forecasted investment for the bill payment kiosks totals approximately $9.2 million (inclusive of $8.9 million in capital costs and $300,000 in O&M expenses), which will be split evenly between 2024 and 2025. *Id.* ComEd argues both the program and the updated budget should be approved.

(b) LVEJO's Position

LVEJO highlights that ComEd's planned investment in customer operations includes an expansion of the fee-free bill payment kiosk program beyond the seventy current locations. ComEd Ex. 5.01 2nd Corr. at 192. LVEJO states the record shows that no party has objected to the fee free kiosks program, and several parties have actively expressed support for it. However, LVEJO requests that the Commission direct ComEd to describe the implementation timeline more fully for this project. Both the process for distributing the kiosks as well as a tentative launch timeline are described in the surrebuttal of ComEd witness Chu, yet are not incorporated into the Company's Initial Brief. ComEd Ex. 54.0 at 22.

(c) City's Position

The City emphasizes the many benefits of the fee free kiosks. The City concurs with ComEd and LVEJO and notes that a fee free payment option will further serve P.A. 102-0662's affordability objectives and the imperative to promote customer protection and accessibility. City Ex. 2.0 at 4. For these reasons, the City urges the Commission to approve ComEd's fee-free bill payment kiosk proposal.

(d) Commission Analysis and Conclusion

The Commission recognizes this item is uncontested and supported by various intervenors. As noted by LVEJO in its BOE, exploring and implementing ways to make kiosk information available in different languages would be beneficial, as it would make kiosks more accessible to customers who are fluent in other languages. The Commission encourages the Company to continue working with stakeholders to understand the challenges its customers experience. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(ii) Proposed New Disconnection Protection Project

(a) ComEd's Position

ComEd states that its Grid Plan proposes an automated Disconnection Protection Program ("DPP") and that ComEd testimony proposes an interim manual DPP in response to a request by JNGO. *See* ComEd Ex. 5.01 2nd Corr. at 194; ComEd Ex. 54.0 at 6-7. ComEd contends the DPP will help achieve several of P.A. 102-0662's goals including affordability and equity, (*see* 220 ILCS 5/16-105.17(d)(11)), because it directly benefits low-income customers by removing the threat of disconnection while they await the processing of their LIHEAP application. ComEd Ex. 33.0 at 11. ComEd continues that no party has opposed the DPP and the Commission should approve ComEd's proposed investment in both the interim and automated DPP versions.

ComEd states that, presently, when customers apply for financial assistance programs, such as the LIHEAP or PIPP at local administrative agencies ("LAAs"), customers remain in the disconnection queue until their applications are approved and ComEd is notified that the customer has received financial assistance that is equal to or greater than their arrearage. *See* ComEd Ex. 33.0 at 10-11. ComEd states further that, since it can take LAAs 30 days to review applications for approval, customers remain at risk for disconnection and may have their service disconnected due to nonpayment while their applications are pending. *See Id.* at 11. To eliminate this issue, promote equity in disconnections, and further minimize disconnections among ComEd customers, ComEd states its proposed DPP will remove customers from the disconnection queue once ComEd is notified of the customer's application, rather than waiting for approval. *See Id*.; ComEd Ex. 5.01 2nd Corr. at 194. ComEd contends the DPP is an automated solution that will not require the customer to take any action. It will take approximately six months to one year to build out, inclusive of the time it will take to enable CC&B, ComEd's new customer system. ComEd Ex. 33.0 at 11. As such, ComEd's target launch date for the DPP is late 2024 to mid-2025. *Id*.

ComEd points out that JNGO/EDF recommended, and ComEd agrees, that an interim manual DPP is needed until ComEd's automated DPP is fully implemented. JNGO/EDF Ex. 11.0 at 11. As such, ComEd proposes to establish a manual, interim process for removing eligible customers from the disconnection queue. ComEd Ex. 54.0 at 6–7. ComEd states that the manual interim DPP process will require several Full-Time Employees ("FTEs") to manually process the 1,000+ electronic notifications ComEd receives on average each business day from the LAAs when customers apply for assistance and manually remove those customers from the disconnection queue. *Id*.; *see also* ComEd Ex. 33.0 at 10. ComEd proposes to launch the interim program in March 2024 and given the seasonal nature of the LIHEAP enrollment period, ComEd anticipates that the interim manual process will only be necessary for a period of five to eight months out of the year (i.e., March to May 2024, October to November 2024, and March to May 2025). *See* ComEd Ex. 54.0 at 7. ComEd notes that JNGO/EDF support both ComEd's automated DPP and interim programs. *See* ComEd Cross Ex. 1.0 at 146. ComEd further notes that no party has challenged either the DPP or the interim manual program.

When developing the DPP, ComEd states it also considered the JNGO's alternative proposal – a complete moratorium on *all* residential disconnections for non-payment, but that option was rejected because it does not comport with the law and would be significantly more costly than ComEd's proposed interim manual solution. ComEd Ex. 54.0 at 9–10. More specifically, ComEd states that under the Act, ComEd has a duty to pursue minimization and collection of uncollectibles and that duty includes "implementing disconnections based on the level of uncollectibles." *See* 220 ILCS 5/16-111.8I(5). ComEd contends that, a blanket moratorium on disconnections, inclusive of customers who would have not qualified for the DPP would run contrary to ComEd's express obligation to make every reasonable effort to minimize uncollectibles. ComEd argues that its proposed interim, manual process, however, offers a much more targeted solution that continues to protect those who would benefit from disconnection protection while also enabling ComEd to continue to abide by its legal duty to minimize its uncollectibles. *See* ComEd Ex. 54.0 at 6-7.

ComEd contends that an examination of the expense associated with a moratorium provides further context. As ComEd witness Chu explains, "if ComEd were to halt all residential customer disconnections during the months the LAAs are processing LIHEAP and PIPP applications (*i.e.,* 5 to 8 months of the period), then uncollectibles would increase by an estimated $20 to $25 million." *Id*. at 9. Taken a step further, if "ComEd were to halt disconnections for all residential customers until the DPP was implemented (a 12- to 18-month period) uncollectibles would increase by an estimated $39 million to $55 million." *Id*. In comparison, ComEd states that the cost of its interim program (which is discussed in more detail below) is estimated to be anywhere from $950,000 to approximately $1.52 million in O&M expense – a difference of, at least, tens of millions. *Id*. at 7, 9.

Turning now to the cost of the proposed interim and automated DPP, ComEd anticipates that the automated DPP will cost approximately $4.55 million, including $911,000 in O&M costs and $3.64 million in one-time capital costs, with limited ongoing costs during the Grid Plan period. *See* ComEd Ex. 54.0 at 5. ComEd estimates that the interim program will cost between $0.95 million and $1.52 million in O&M expense (the vast majority of which covers labor), with no capital costs. *See id*. at 7. ComEd points out that JNGO/EDF witness Chan notes that he would recommend efforts to reduce associated O&M costs, but would still support both programs, even if a reduction is not feasible. *See* ComEd Cross Ex. 1.0 at 147. However, ComEd states that because the interim program will be temporary and only implemented during certain months, ComEd intends to use contract labor, and the interim manual program's cost estimate reflects contracted labor rates. ComEd Ex. 54.0 at 7. As a result, ComEd believes that its estimated costs of $5.5 million to $6.07 million for the combined DPP and interim manual program are reasonable. ComEd contends this is especially true when considered against the estimated cost ($39 to $55 million) of the alternative proposed by JNGO/EDF, in which ComEd would establish an indefinite moratorium on disconnections pending full DPP implementation. JNGO/EDF Ex. 11.0 at 11. Based on ComEd's surrebuttal position, accounting for the adjustments reflected in ComEd Cross Ex. 1.0, ComEd included $1,520,000 in its 2024 revenue requirements for the interim program. *See* ComEd RB, App. A at 21, Sch. 1.09.

Furthermore, ComEd asserts that EDF's additional recommendations – (1) that ComEd issue a moratorium on disconnections until more households receive LIHEAP assistance; (2) that ComEd receives "surplus revenue" in the form of reconnection fees after customers' service is disconnected; (3) that ComEd should extend its medical disconnection exemption beyond 60 days; and (4) that ComEd should emphasize the first three activities of the Act's provisions outlining ComEd's duty to minimize uncollectibles – are outside the scope of this proceeding, should be raised in ongoing informal 83 Ill. Adm. Code 280 ("Part 280") discussions and forthcoming Part 280 rulemaking proceeding, and otherwise should be rejected because they are unsupported by the evidence and law.

ComEd argues that EDF failed to offer testimony advancing their recommendation of a moratorium pending additional households receiving LIHEAP assistance as well as their assertion that ComEd stands to receive "surplus revenue" in the form of reconnection fees. Additionally, ComEd states that EDF's argument in relation to a disconnection moratorium, reconnection fee practice, and extension of medical disconnection exemption all implicate Part 280 discussions and are more appropriately addressed in that forum.

ComEd states that, contrary to EDF's assertion, there is nothing in the Act that permits the Commission to "set the level of uncollectibles" at which ComEd has the right to take action to minimize uncollectibles through the distribution of disconnection notices, disconnecting service for nonpayment, and pursuing collection activities to recover costs. Instead, ComEd provides that the Act requires "utility companies to evaluate the rate at which their uncollectibles are accumulating and take actions, inclusive of those enumerated in the statute, to minimize that number." ComEd RB at 53.

(b) LVEJO's Position

LVEJO supports the inclusion of the new DPP and the interim program. LVEJO adds these programs are necessary steps to help meet the Grid Plan's affordability goals and the larger equity goals mandated by P.A. 102-0662.

(c) City's Position

The City argues that the record in this case makes clear the need for a DPP. The City emphasizes its expert's testimony explaining that communities across the West, South, and far South sides of Chicago experience a greater energy burden, and "when pushed to the point of disconnection, the impact on a home can reverberate far beyond the delivery of electricity to food spoilage, impacts on medical supplies, environmental conditions such as mold or extreme heat, and mental stress, further compounding the distress." City Ex. 1.0 at 19. The City maintains that the proposed disconnection protection project will help to alleviate these burdens by "removing the threat of disconnection while [customers] await the processing of their [energy assistance] application." ComEd IB at 75 (*citing* ComEd Ex. 33.0 at 11).

The City also notes the importance of an interim manual protection program. The City supports JNGO/EDF's request that the Commission should require ComEd "to continue to seek broad stakeholder input as it develops the program to best balance costs and benefits, accounting for the extreme economic distress of involuntary disconnection." EDF IB at 62 (*citing* JNGO/EDF Ex. 11.0 at 11). The City supports this continued dialogue to improve the program going forward, and urges the Commission to direct ComEd to implement an expansive DPP as well as its proposed interim DPP.

(d) EDF's Position

EDF supports ComEd's proposed automated DPP. EDF also supports ComEd's proposed interim process to remove eligible customers from ComEd's disconnection queue. EDF commends ComEd in this instance for following P.A. 102-0662's instruction to respond to stakeholder input. 220 ILCS 5/16-105.17(f)(1). EDF further requests the Commission order ComEd to collaborate with stakeholders, including EDF and JNGO, to develop the parameters of its DPP still in development.

EDF states it is premature at this stage to pre-judge any broader disconnection proposals. Nevertheless, in response to concerns raised by ComEd about broader disconnection protection policies, EDF states that ComEd and the Commission could examine ways to provide even additional disconnection protection to ComEd customers in the future. In developing its interim process, ComEd states that a broader moratorium would be too expensive and that ComEd would violate supposed legal duties to disconnect customers. The Commission should not make any findings based on ComEd's oversimplified assertions. ComEd's assessment of what a disconnection moratorium would cost varies widely and does not necessarily match the actual experience of the disconnection moratorium imposed in the wake of COVID-19. EDF Cross Ex. 1.0 at 2. In that real disconnection moratorium, the uncollectibles varied almost as much between years without a moratorium as they did between years with a moratorium (from a low of $18 million in 2021 to a high of $44 million in 2018). *Id.*

EDF contends ComEd's so-called legal "duty" to pursue disconnections is nothing of the sort. Section 16-111.8 permits, but does not require, a utility to request an automatic adjustment mechanism to adjust for over- and under-collections of "uncollectible" amounts. A condition, not a universally applicable legal duty, to collecting this adjustment mechanism are a series of efforts designed to minimize the amount of uncollectibles. 220 ILCS 5/16-111.8. ComEd mentions only one such condition, seeking disconnections, while ignoring the rest, which include identifying customers with late payments, contacting those customers, and educating those customers about assistance programs and payment plans. *Id.* Moreover, ComEd elides the portions of the statue giving the Commission discretion to set a "level of uncollectibles" on which disconnection efforts are made. *Id.* In other words, it is in the Commission's discretion to direct ComEd to pursue disconnections only if a certain level of uncollectibles has been reached; using this discretion the Commission can easily control the costs of any disconnection policy it sees fit.

EDF adds that if the Commission were to issue findings of fact or issue a policy decision here, it should focus on the evidence presented by EDF and others highlighting the benefits of minimizing disconnections and pursuing broader disconnection protection policies. First, disconnections in ComEd's service territory are strongly correlated with race, even after controlling for income and poverty levels. JNGO/EDF Ex. 5.0 at 19. Preventing disconnections would prevent the cascading economic, physical health, and mental health problems associated with involuntary disconnections. *See*, JNGO/EDF Ex. 5.0 at 13; JNGO/EDF Ex. 6.0 at 18. There is a decided asymmetry of costs and benefits associated with involuntary disconnections, in that utilities tend to experience relatively well-defined costs limited to lost revenue. JNGO/EDF Ex. 11.0 at 13. In contrast, limiting involuntary disconnections for customers delivers a broad array of large, compounding benefits not easily quantified. JNGO/EDF Ex. 11.0 at 13 (childhood health outcomes, development delays, hospitalizations, going without food).

As discussed in Section **Error! Reference source not found.**, JNGO/EDF witnesses Chan and Nock describe the role of disconnections on customers, particularly on low-income customers, and present research showing a concrete relationship between disconnections and race. Dr. Chan proposed an interim disconnection program to at least prevent customers who have applied for assistance programs do not experience a disconnection while their request is being processed. JNGO/EDF Ex. 11.0 at 11. ComEd proposes such an interim program but opposed a broader disconnection proposal. ComEd Ex. 54.0 at 6-7, 9-10.

EDF states Ms. Watson appreciates ComEd's willingness to address some of her suggestions about protecting customers facing disconnection, as well as community engagement on ComEd programs. EDF Ex. 9.0 at 2. Ms. Watson is unsure about the estimated cost of ComEd's proposed DPP to remove customers from the disconnection queue upon application for assistance instead of waiting for the utility waiting for approval of that application. EDF Ex. 2.0 at 2. EDF contends utility disconnections harm people and harm families, so each one avoided is important. *Id.*

Moreover, EDF notes that if someone has an extenuating medical condition, there should never be a disconnection. *Id*. at 10. For customers with some medical conditions, utility service is essential to life and health. *Id*. at 7. Currently, EDF witness Watson understands that ComEd's medical disconnection exemption is limited to only 60 days, without an extended option for those with chronic conditions, and the medical exemption cannot be used twice within 12 months. *Id.* at 12. EDF contends that losing service for these customers is life-threatening. *Id.*

EDF adds that to extend disconnection programs to more customers, and focus on strategies of identifying, community with, and educating customers at risk of involuntary disconnections — as opposed to focusing on simply disconnecting them — the Commission should consider alternative strategies, such as prioritizing PAYS investments for customers at risk of involuntary disconnection. The Commission should consider requiring ComEd to extend its medical exemption beyond 60 days and allow customers with chronic life- and health-threatening conditions to avoid the reapplication process. The Commission could also consider ordering ComEd to cease disconnections until it improves the number of income-eligible households served by any type of assistance, such as LIHEAP. *Id.*; JNGO/EDF Ex. 11.0 at 1 (noting that only 12-19% of eligible households receiving any type of assistance from LIHEAP). Alternatively, EDF suggests the Commission could waive or lower reconnection charges for low-income customers to help ease the cycle of debt. In any event, the Commission should order ComEd to consider these and other options as ComEd works with stakeholders to develop its full DPP.

EDF adds that other alternatives to disconnections could include payment options with a debt forgiveness program if specific payment goals are met. EDF Ex. 2.0 at 10. Alternatives to avoid disconnections should focus on affordability, and alternatives to traditional energy, like the Illinois Solar for All program. *Id*. EDF states it is important for the Commission to require ComEd to ensure customers have a way to participate in and benefit from clean energy solutions. *Id*. at 11. EDF adds the Commission should look at programs like those in Hawaii, for default time-of-use rates and fixed charge innovations. *Id.*

EDF concludes the Commission should direct ComEd to implement an expansive DPP that, at a minimum, protects customers with a pending financial assistance application from involuntary disconnection. JNGO/EDF Ex. 11.0 at 22. EDF contends the Commission should further order ComEd to adopt its proposed interim DPP. While EDF is unsure of the basis for the costs of identifying such customers as proposed by ComEd, the costs are currently estimates formed in short notice in the development of this case, ComEd will have additional time to identify savings in the program, and the Commission and stakeholders will have additional opportunities to review the reasonableness and prudence of those costs in future proceedings. EDF adds in no event should the Commission issue a decision in any way limiting options to broaden the DPP based on ComEd's oversimplified and unsupported estimate of the costs of a broader disconnection program.

(e) JNGO's Position

JNGO support ComEd's intent to implement a DPP to protect customers from the risk of disconnection while they await processing of their LIHEAP and PIPP applications. JNGO recommend that ComEd continue working with stakeholders to seek out cost savings in the program so that the Commission can ensure the reasonableness and prudence of those costs in a future proceeding.

(f) Commission Analysis and Conclusion

The Commission recognizes ComEd's proposed interim and automated DPPs are uncontested and generally supported by LVEJO, JNGO, and EDF.

EDF proposed a general moratorium on disconnections until more households begin receiving LIHEAP or similar assistance. A moratorium in this instance, as currently proposed, provides no incentive for customers to seek assistance, may implicate Part 280 considerations, and is likely to present more issues than solutions. The Commission notes EDF's remaining recommendations for the extension of medical disconnection exemptions beyond 60 days, disconnection and reconnection fees, and a debt forgiveness plan are intriguing and should be further developed in the refiled Grid Plan.

The Commission encourages ComEd to continue to collaborate with various parties throughout the development of the DPPs so that additional financial and societal benefits may be considered in future grids plans. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(iii) BOMA's Proposed Generalized Deferral of Customer Operations Investment

(a) BOMA's Position

BOMA recommends that the Commission require ComEd to identify capital expenses that are absolutely essential, as distinct from those that could be deferred for the benefit of customer affordability in order to help avoid rate shock to customers. BOMA Ex. 2.0 at 9-11. The MYIGP identifies a range of projects and programs that meet the goals set forth in P.A. 102-0662, meet approved performance metrics, and that are responsive to the guidance received from stakeholders. However, the costs associated with the MYIGP are substantial and stand to negatively impact consumers by requiring higher ComEd delivery charges. Delaying the commencement of capital spending on some of the projects and programs within the MYIGP until years three and four of the plan would result in a more gradual rate increase for all consumers, helping to avoid rate shock, while still allowing ComEd to meet its objectives within the term of the MYIGP. BOMA Ex. 2.0 at 6; BOMA Ex. 2.3 at 9-10.

BOMA explains it is appreciative that ComEd must make certain of its expenditures more immediately under the MYIGP in order to meet regulatory requirements or other reliability needs (including expenditures towards its meter exchange program and actions to meet its PLR Metric). However, as Mr. Pruitt points out, ComEd does not assert that no deferments of its planned early capital expenditures are possible. BOMA Ex. 2.3 at 11-12.

(b) ComEd's Position

ComEd argues that BOMA witness Pruitt's recommendation that "[a]dministrative program costs [for ComEd Customer Operations be reduced] through outsourcing, equipment leasing and other approaches to contain Administrative program capital costs to no more than 0.35% over the 2022-2027 period[]" must be rejected. BOMA Ex. 2.0 at 5-6. ComEd contends Mr. Pruitt's conclusion that outsourcing or leasing resources is more economical is wholly unsupported by the law and the record evidence. *See* BOMA Ex. 2.0 at 5; ComEd Ex. 33.0 at 32-33. ComEd states that, for example, if the Commission were to follow the logic of BOMA witness Pruitt, it would ignore ComEd's obligations under 83 Ill. Adm. Code 410 ("Part 410") for meter exchanges. Instead, ComEd contends the Commission should recognize that this recommendation is based on nothing more than pure speculation that outsourcing, leasing, and utilization of contractors is always (or even in this situation) more economical than utility-owned equipment and in-house employees. ComEd concludes there is no evidence that increased outsourcing or leasing will have any, let alone a positive, impact on customers and reduce costs.

ComEd contends that BOMA admits that ComEd's Grid Plan "identifies a range of projects and programs that meet the goals set forth in P.A. 102-0662, meet approved performance metrics, and that are responsive to guidance from stakeholders." BOMA IB at 4. Yet, ComEd points out, BOMA then argues that Grid Plan investments should be reduced, specifically urging that ComEd "identify capital expenses that are absolutely essential, as distinct from those that could be deferred for the benefit of customer affordability." *Id.* ComEd observes that no other party supports BOMA's proposal. Therefore, the Commission should reject BOMA's recommendation that ComEd defer Customer Operations expenditure.

ComEd first contends, as previously discussed, BOMA witness Pruitt's call for the deferral of expenditures in 2023 is misplaced as the 2023 costs associated with those expenditures are not included in this present MYRP. As such, any recommendation to disallow 2023 costs should be deemed outside the scope of this proceeding and dismissed.

Second, ComEd argues, each of the Customer Operations investments proposed by ComEd is essential and necessary to ensure that ComEd meets its customers' needs and is responsive to customer feedback. Illustratively, ComEd offers, some intervenors who represent ComEd customers in this proceeding request that ComEd implement its Customer Operations proposals immediately. For example, ComEd notes, LVEJO calls for the implementation of ComEd's proposed bill payment kiosks "as quickly as possible." LVEJO IB at 8. Similarly, ComEd observes, EDF witness O'Donnell expressly states that he wants "to see real change as the Commission implements P.A. 102-0662," and that he "want[s] this change now" because "[t]oo much effort and too much work went into passing P.A. 102-0662 to have to wait any longer to see results." EDF Ex. 3.0 at 4.

ComEd concludes that BOMA's recommendation to defer ComEd's efforts in these areas is contrary to the urgency articulated by other intervenors.

Third, ComEd argues, due to legal requirements, ComEd simply cannot postpone half of its meter exchange capital costs, which comprise most of the planned capital expenditures in the Customer Operations category. ComEd explains that it is required by Part 410 (83 Ill. Adm. Code 410.170(b)) to test and exchange its non-residential AMI meters on an eight-year cycle. This issue is partially moot as ComEd intends to shift away from the eight-year replacement cycle of its non-residential meters to a fully randomized sample testing schedule upon approval of its Petition for Waiver of the Part 410 requirements in Docket No. 23-0474; however, ComEd must maintain the eight-year cycle until its waiver petition is granted. ComEd Ex. 33.0 at 34. Similarly, ComEd argues a postponement of Customer Operations capital costs in the Grid Plan years would prevent ComEd from meeting its Commission-approved PLR Performance Metric established under Section 5/16-108.18(e)(2)(A)(ii). ComEd avers BOMA has not offered a response to any of ComEd's arguments, and its recommendations should be rejected.

(c) Commission Analysis and Conclusion

For the reasons stated in Section V.A above, the Commission declines to make a finding on BOMA's proposal at this time. The Commission notes that customer affordability and the avoidance of rate shock are important issues that should be carefully considered and discussed in the refiled MYIGP.

d. Facility Relocation

(i) Facilities Relocation Projects – ITN 19742

ComEd states that the Facilities Relocation projects that are greater than $100k (ITN 19742) is not contested and should be approved. ComEd notes this investment category is a "bucket" ITN that will fund individual projects (as plans develop and become authorized) to resolve conflicts in public rights-of-way that were initiated by planned government agency projects. ComEd Ex. 5.01 2nd Corr. at 163-164; *see also* ComEd Ex. 31.0 Corr. at 60– 61. ComEd further notes that the Facilities Relocation projects that are greater than $100k will allow ComEd to support infrastructure improvements. ComEd Ex. 31.0 Corr. at 64. ComEd states the Grid Plan includes $168 million capital investment for ITN 19742 (2023-2027). *Id*. at 62.

ComEd points out that Staff witness Antonuk suggested no adjustment to 2023 or 2024 dollar amounts for this project but initially proposed to limit the investment for 2025-2027 to 2022 levels, with an adjustment for escalation. Staff Ex. 13.0 at 25. ComEd continues that, after further information was provided by ComEd, Mr. Antonuk withdrew this recommendation and this investment as proposed by the Grid Plan is no longer contested. *See* Staff Ex. 29.0 at 4.

The Commission notes this issue is now uncontested; however, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

e. IT Projects

ComEd states the IT projects are divided between Distribution Operations IT projects and Customer Operations IT projects. ComEd asserts that all of its proposed IT projects and their estimates should be approved by the Commission as prudent and reasonable in part because they have been developed through ComEd's robust and well-established IT project management lifecycle process, which takes projects from conception, through review and approval, to execution. ComEd explains that all Company IT investment projects move through five lifecycle phases: (1) demand management; (2) initiation; (3) planning; (4) execution; and (5) closure. *See* ComEd Ex. 34.0 at 14 (Figure 4), 16–25; ComEd Ex. 34.04 Conf. at 2.

Staff recommends the Commission reduce spending on 15 Customer Operations ITNs at a reduction of 5.68% of total IT project spending. The AG recommends the Commission reduce the entire IT budget to equal the average spending level from 2019-2022 plus inflation.

The Commission notes all proposed IT project investments will be discussed and considered below.

(i) AG's Proposed Limitations on Category Budget

(a) AG's Position

The AG proposes limiting ComEd's IT investment budget to $471.8 million during the Grid Plan period, claiming that ComEd has not justified its proposed spending levels. The AG notes the Company's Grid Plan proposes IT project capital spending that is 76.5% ($329 million) higher than the most recent 4-year period (2019-2022). AG Ex. 1.0 at 87, 99.

The AG notes the larger concern is that ComEd is proposing an excessively large increase to an already increased budget. Between 2012 and 2020, ComEd spent $640.3 million on IT related investments and an additional $258 million through 2022, resulting in significant improvements to ComEd's IT and communications capabilities. ComEd. Ex. 2.01 at 26; ComEd Ex. 5.01 2nd Corr. at 160, 172. ComEd now suggests that it should be authorized to undertake at least three generational IT projects in just four years, notwithstanding the fact that due to its recent IT spending, it can remotely monitor operating conditions and control nearly 100% of substation and circuit breakers. ComEd. Ex. 2.01 at 13.

The AG adds that in just four years, ComEd is proposing to spend $759 million, which the AG recommends be reduced to $471.83 million. AG Ex. 1.0 at 99. The AG explains this reduction is necessary to limit the growth in IT spending and avoid replacing capabilities that have not been shown to be insufficient or outdated. For example, ComEd wants to spend more than $70 million on a project to "upgrade and/or replace many of the core financial systems and related processes by implementing an integrated fully supported and updated finance, accounts payable, and supplier management technology platform," which it refers to as Apollo. ComEd Ex. 49.1. ComEd is proposing to spend more than $110 million to deploy the ADMS and Core Geographic Information System ("GIS"), which ComEd claimed would "provide enhanced decision tools capable of automating some processes." ComEd IB at 98. And it is proposing to replace its existing enterprise asset management system at a cost of nearly $113 million. ComEd IB at 100. Even though its "IT Projects investments during the 2012-2020 period proved substantial, representing $640 million in capital plant additions," ComEd would exceed that amount by more than $100 million in just four years in its proposed Grid Plan. *See* ComEd Ex. 5.01 2[nd] Corr. at 172 (Table 5.4-1); ComEd. Ex. 2.01 at 27.

The AG states that rather than recognizing the extraordinary justification it should be required to provide in the face of such accelerating expenditures, ComEd complained that Staff witnesses demanded "very granular detail" that it found difficult to provide for projects that are planned several years in the future. ComEd IB at 88. The AG argues the Commission should disregard ComEd's complaint for two reasons. First, ComEd elected to file an MYRP; it was not required to seek cost recovery through an MYRP. If it found that it is only capable of predicting costs for one future test year, then it should have chosen a traditional rate case. Second, by electing a multi-year proceeding and then claiming that it is difficult to justify projects in further out years, ComEd is attempting to place the full burden of that uncertainty on ratepayers. Finally, if planning five years into the future is too uncertain, ComEd should limit, not expand, spending, particularly in the absence of clear IT deficiencies.

The AG does not take the position that ComEd should do *none* of its proposed IT projects, but accelerating them all on the vague premise that increasing DER penetration and "customer expectations" will require that these measures be deployed in the next four years strains credulity. The AG contends that taken as a whole, these proposals are not consistent with the objectives that the Grid Plan be affordable, cost-effective, and minimize total system costs. Therefore, the Commission should reduce the IT budget to equal the average level from 2019-2022 plus inflation, and reduce the IT budget to $471.8 million over the grid plan period.

(b) ComEd's Position

ComEd states that the AG proposes to cap the rate of growth in IT investments at the rate of inflation. ComEd contends that, for all of the legal and policy reasons ComEd discussed in Section V.C.6.a, above, the Commission should reject the concept of an inflation cap out of hand. ComEd notes that no other party supports the AG's proposed disallowance.

ComEd argues that, as an initial matter, the AG fails to support the application of an inflation cap to the IT investment category. ComEd notes that, in particular, the AG witnesses assert that an inflation cap proposal is appropriate because of "unnecessary or premature investments among the *Capacity Expansion* and *System Performance* spending categories." AG Ex. 5.0 at 13 (emphasis added). ComEd states that, even if this is true, which ComEd contends it is not, it provides no support whatsoever for their proposal to apply an inflation cap to the IT investment category.

ComEd states that the AG offered only three paragraphs of discussion, in direct testimony, regarding two particular IT projects it deems insufficiently supported, namely ADMS and the asset management system, and offered no testimony in rebuttal. *See* AG Ex. 1.0 at 88–89. ComEd states it responded to that testimony with detailed information in support of the prudence, reasonableness, need for, and benefits of the identified projects. ComEd points out the AG offered nothing in rebuttal in support of its prior position regarding these two IT projects. ComEd further notes that the AG offered no evidence concerning the amount of ComEd's proposed spending on either of the two IT projects that they deemed to be "unnecessary or premature," meaning that, even if that premise was correct, their proposed inflation-cap disallowance of project costs is untethered to record evidence. As such, ComEd contends that the proposal to limit IT investments based on inflation should be rejected.

ComEd further points out that the total cost of the two projects the AG challenges is $214 million, but the AG's inflation cap proposal would disallow $287 million from the IT investment category, approximately $73 million more than the total cost of the projects with which the AG takes issue. Moreover, ComEd states the AG does not appear to suggest that all projects should be disallowed, but merely challenges whether all of the forecasted spend is necessary. In sum, ComEd maintains that the AG's inflation cap proposal would disallow costs that even the AG believes are appropriately within the scope of the Grid Plan.

In addition, ComEd argues that the factual premise of the AG's argument is wrong. ComEd states that, while the AG witnesses claim that "increases" in the IT category have not been justified, the increase is primarily driven by the Apollo project, a major project supporting the finance function that ComEd justified in its direct case and with which no witness, on behalf of the AG or any other party, took issue. ComEd Ex. 49.01 at 31-32. ComEd states that, absent the inclusion of the uncontested Apollo project, spending in the IT investment category is essentially the same as the inflation-adjusted 2019 to 2022 average. ComEd Ex. 49.02 at 22-23. ComEd contends the AG did not rebut this evidence. ComEd Ex. 49.0 at 23-24. Therefore, ComEd argues there are no "substantial increases… [that] have not been justified," as the AG contends, and the AG's recommendation to cap growth in IT investment at the rate of inflation is baseless. AG Ex. 1.0 at 97.

ComEd also contends that, as noted above, if the Commission chooses to apply an inflation-based disallowance to the IT investment category, it cannot also adopt other disallowances of investments in this category, because those disallowances would be duplicative.

(c) Staff's Position

Staff stands by its proposed IT adjustments from its Initial Brief and believes Staff's approach of proposing adjustments on a per-project basis is superior to the AG's across-the-board reduction. However, should the Commission decline to adopt those Staff's adjustments Staff does not oppose the Commission adopting the AG's proposed adjustment in the alternative.

(d) Commission Analysis and Conclusion

For the reasons stated in Section V.A above, the Commission declines to make a finding on the AG's proposal, but will examine parties' objections to proposed IT investments on a project-by-project basis as detailed below. The Commission notes ComEd bears the burden to show its Grid Plan IT investments are designed at a pace and scale that is supported by sufficient evidence and consistent with the requirements of P.A. 102-0662.

(ii) Distribution Operations IT Investments

(a) EU Outage Reporting and ADMS – ITN 78173

(i) ComEd's Position

ComEd explains that the Exelon Utility ("EU") Outage Reporting and Analytics ADMS Integration (ITN 78173) is an IT project that will establish an ADMS Data Warehouse ("ADW") for a single source for the outage reporting platform. ComEd Ex. 31.0 Corr. at 66. ComEd further explains that, as a part of the IT investments strategy, this project will retire the legacy outage communication system and will enable timely outage information, enhance mutual assistance capabilities, and provide reporting and metrics on outage events. *See* ComEd Ex. 5.01 2nd Corr. at 198-201; *see also* ComEd Ex. 31.0 Corr. at 67. ComEd continues that this single source of information will enable ComEd to leverage outage data to effectively manage storm restoration work. ComEd Ex. 52.0 Corr. at 35. ComEd notes that the Grid Plan includes an $8.15 million capital investment for the EU Outage Reporting and Analytics ADMS (2023-2027). ComEd Ex. 31.0 Corr. at 69.

ComEd notes that Staff was the only party to voice concerns regarding this project, and no longer contests the project. Therefore, the project is uncontested and should be approved as presented in the Grid Plan without adjustment.

(ii) Staff's Position

Staff states that following review of ComEd's surrebuttal testimony, Staff proposes no adjustment for the MYIGP period. Staff Ex. 29.01. Staff notes that ComEd's surrebuttal testimony provided more clarity, including a lengthy description of the project's development, upgrade timeline, and activities, noting that project planning and design work will begin in 2024 followed by development in 2025 and 2026, to build new data tunnels in the reporting platform from ADMS, update data transformations and existing reports, create new reports, and develop new integration to the reporting platform. ComEd Ex. 52 at 39-40. ComEd also described the process used by the Company to estimate project costs including discussing the cost factors considered, internal and external labor hour estimates for design, testing, implementation, and delivery, and product upgrade costs. ComEd Ex. 52.0 at 34.

(iii) Commission Analysis and Conclusion

The Commission recognizes this issue is now uncontested. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(b) EU Mobile Dispatch and Mobile Mapping Enhancement – ITN 84500

(i) ComEd's Position

ComEd notes that the Grid Plan includes a $7.39 million capital investment for the EU Mobile Dispatch and Mobile Mapping Enhancement (2022-2023) (ITN 84500). ComEd Ex. 31.0 Corr. at 78. ComEd states the Mobile Dispatch System ("MDS" or "OneMDS") platform is a multi-year advanced digital work dispatch program. ComEd Ex. 5.01 2nd Corr. at 198-201; *see also* ComEd Ex. 9.0 2nd Corr. at 48; ComEd Ex. 52.0 Corr.

at 37. ComEd explains that the platform is ever evolving, and ultimately will become the OneMDS 2 project that enhances the fully converged platform and provide additional functionality. ComEd Ex. 31.0 Corr. at 77. ComEd contends these investments drive improved operations by digitizing activities such as field time reporting, data entry forms, and automated scheduling during large storm restoration activities. ComEd Ex. 9.0 2nd Corr. at 48; ComEd Ex. 31.0 Corr. at 78.

ComEd notes that Staff was the only party to voice concerns regarding this project, and no longer contests the project. Therefore, the project is uncontested and should be approved as presented in the Grid Plan without adjustment.

(ii) Staff's Position

Staff states that following review of ComEd's surrebuttal testimony, Staff proposes no adjustment for the MYIGP period. Staff Ex. 29.01 Corr. Staff notes ComEd provided additional details about ITN 84500, including a lengthy description of the project's development, upgrade timeline and activities noting that project planning and design work will begin in 2025 followed by four system infrastructure implementation phases conducted over a two-year period to replace hardware, address cybersecurity gaps, integrate GIS, and enhance functionality. ComEd Ex. 52 at 39-40. ComEd also described the process used to estimate project costs including discussing the cost factors considered, internal and external labor hour estimates for design, testing, implementation, and delivery, and product upgrade costs. *Id*. at 42-43.

(iii) Commission Analysis and Conclusion

The Commission recognizes this issue is now uncontested. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(c) EUN Refresh – ITN 84615

(i) ComEd's Position

ComEd notes that the Grid Plan includes a $10.02 million capital investment for the Exelon Utility Network ("EUN") Refresh project (2023-2027) (ITN 84615). ComEd Ex. 31.0 Corr. at 83. ComEd explains that the EUN Refresh project will support the replacement of the real-time computer aided program that enables the ComEd Operation Control Center ("OCC") to work with the Supervisory Control and Data Acquisition ("SCADA") system and the outage management system ("OMS") applications. *See* ComEd Ex. 5.01 2nd Corr. at 131-133; *see also* ComEd Ex. 31.0 Corr. at 82. ComEd further explains that the SCADA system enables remote control and monitoring of essential equipment while OMS allows for monitorization of outages and provides real-time outage information to customers. ComEd Ex. 31.0 Corr. at 82. ComEd argues that refreshing the equipment will reduce equipment failures and improve resolution times. *Id.* at 82. Further, ComEd adds that these enhancements improve continuity of service for ComEd's customers by making the availability of accurate outage data on the customer outage website possible. *Id.* at 82–82; *see also* ComEd Ex. 52.0 Corr. at 45.

ComEd states it has provided support for the investment, including for example, the benefits of the project to not only customers but the overall system; the components the project will incorporate; the project timeline; the details for the estimate; and an explanation of how project costs are allocated among participating utilities. *See* ComEd Ex. 31.0 Corr. at 82–85; *see also* ComEd Ex. 52.0 Corr. at 44–50. In surrebuttal testimony, ComEd states, it provided a detailed description of the activities to be accomplished. ComEd Ex. 52.0 Corr. at 46-47.

ComEd contends that a delay or disallowance of EUN Refresh will limit ComEd's ability to maintain the electrical grid properly, reliably, and safely while limiting cyber security risks. ComEd Ex. 52.0 Corr. at 48.

ComEd opposes Staff's reduced adjustment to this project, as it is not supported by the record and must be rejected. ComEd explains that if Staff's recommended adjustment is approved, many of these functions will not be implemented during the Grid Plan period, which will place ComEd's electric grid at greater risk for cyber or ransomware events. ComEd Ex. 52.0 Corr. at 46. ComEd concludes the EUN Refresh project (ITN 84615) should be approved as proposed in the Grid Plan, without adjustment.

(ii) Staff's Position

Staff understands ComEd's MYIGP includes $10.02 million in investment for ITN 84615 (EUN Refresh) to replace technically obsolete and discontinued communications equipment, routers, switches, and firewalls in use to support ComEd's OCC. ComEd Ex. 31.0 at 82. Based on the information provided in rebuttal and surrebuttal testimony, Staff finds ITN 84615 is appropriate for inclusion in ComEd's MYIGP. However, Staff contends that inclusion should come at an investment level $4.350 million lower than ComEd's proposed amount to reflect a recent merger of ITN 84615 work with an Exelon multi-operating project ("MOP") that would serve to reduce costs by $4.350 million. Staff Exs. 30.01, 30.02.

Staff proposed an adjustment would reduce yearly MYIGP plant additions for ITN 84615 as depicted in the table noted in Staff Ex. 29.01 Corr.

Staff notes that in its direct testimony, Staff stated that information provided by ComEd did not provide adequate justification for the EUN Refresh project. Staff Ex. 14.0 at 33. In direct testimony, ComEd did not mention ITN 84615 specifically; the project appeared only in a brief profile of proposed MYIGP projects which described the project as replacing obsolete equipment or technology and benefiting system health and security. ComEd Ex. 5.01 2nd Corr. at 596. Later, ComEd conceded that authorization materials did not exist because the project had not progressed to the planning step at which authorization is given. Staff Ex. 14.01. Staff found the expenditure forecast for the EUN Refresh project addressed by ITN 84615 unreliable due to the lack of information provided by ComEd, which produced gaps. Specifically, these gaps included project description, need, scope, the steps and activities to be completed, the sequencing of and schedule for those steps, a delineation of deliverables, specification of work units requiring performance to complete project activities, an explanation of the capabilities ITN 84615 would provide, and how those capabilities will produce value commensurate with expected costs to justify inclusion in the MYIGP. Staff Ex. 14.0 at 33-34.

In rebuttal testimony, Staff notes ComEd provided a more complete explanation of the project need, goals, objectives, benefits, and factors considered in the development of forecasts of its investment costs. ComEd Ex. 31.0 at 82-95. The information explained that the technically obsolete communications hardware reached end-of-life and will not be supported by manufacturers for future patches or firmware upgrades. ComEd also clarified that the EUN project does not overlap with the REACTS project. ComEd Ex. 31.0 at 82. The only timeline information provided was a go-live date of 2027. ComEd Ex. 31.0 at 83.

In surrebuttal testimony, ComEd provided additional detail about ITN 84615 and provided an illustrative diagram to demonstrate the systems supported by the EUN ComEd Ex. 52.0 at 45 and 49. ComEd also provided a more detailed timeline, indicating the project would begin in 2023 with an engineering design phase which would be followed by annual purchase and installation of specific network equipment during each subsequent year of the MYIGP, ending with project completion in 2027 as well as a list of the material units serving as the basis for cost per unit estimates used to develop the projected costs for the project. ComEd Ex. 52.0 at 46 at 50.

Based on the information provided in rebuttal and surrebuttal testimony, Staff finds the inclusion of ITN 84615 appropriate in ComEd's MYIGP, but at an investment level $4.350 million lower than ComEd has proposed, as shown in Staff Exhibit 30.01, to account for the insufficient definition of the steps and activities to be accomplished during the EUN Refresh project, or their sequencing and schedule. For these reasons, the Commission should accept Staff's adjustment to ComEd's EUN Refresh project.

(iii) Commission Analysis and Conclusion

The Commission notes that the parties agree that an investment for the inclusion of ITN 84615 is appropriate, as it will provide impactful benefits to the operation, visibility, and security of the Grid. The Commission understands that prior to the merger of the EUN Refresh project with other Exelon utilities, the ComEd-only costs of the project was estimated at $11.740 million. *See* Staff Ex. 30.01. Following the merger, the ComEd-only costs are now forecasted to be $7.39 million, with a corresponding jurisdictional amount of $6.307 million. ComEd currently seeks $10.024 million in capital investment. The Commission agrees with Staff's proposed reduction to account for the reduction of ComEd-only costs as a result of the merger. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(d) Advanced Distribution Management System – ITN 54529

(i) ComEd's Position

ComEd notes that the Grid Plan includes $88.6 million capital investment for the ADMS program (2023-2027) (ITN 54529). ComEd Ex. 31.0 Corr. at 87. ComEd explains that ADMS is a set of computer-aided tools used by operators of electric distribution networks to monitor, control, and optimize the performance of the distribution system. ComEd Ex. 5.01 2nd Corr. at 135-137; *see also* ComEd Ex. 31.0 Corr. at 85. ComEd states its ADMS will provide enhanced decision tools capable of automating some processes, thus making grid operation faster. ComEd Ex. 5.01 2nd Corr. at 136. ComEd further states that the ADMS program provides essential benefits including the reduction of outage durations, improved disaster response, real-time data processing to manage the distribution system, and optimized operations performance across multiple systems. ComEd Ex. 5.01 2nd Corr. at 135-137; ComEd Ex. 9.0 2nd Corr. at 50; ComEd Ex. 31.0 Corr. at 85. ComEd adds that ADMS will enable the distribution system to support changing customer needs as the market shifts due to increased electrification and the deployment of DERs. ComEd Ex. 9.0 2nd Corr. at 50.

ComEd observes that the AG is the only party to contest investment in ITN 54529. The AG's opposition is based entirely on its overall recommendation to limit IT project spending, to 2019-2022 levels plus inflation. AG Ex. 1.0 at 89-90. ComEd contends that this recommendation must be rejected. ComEd further contends that this recommendation is based on the incorrect theory that ADMS was more costly than expected in other jurisdictions and is thus likely to be less cost effective when deployed by ComEd. *Id.* at 88. Moreover, ComEd states the AG provides no analysis of ComEd's ADMS program other than this anecdotal observation. In contrast, ComEd states cost estimations for ADMS have been benchmarked to comparative strategic projects successfully implemented by ComEd and are reliable. ComEd Ex. 31.0 Corr. at 92. If implemented, ComEd argues that the AG's recommended adjustment would delay the realization of the benefits offered by ADMS with no realized gains in efficiency or cost savings. *Id*. at 92. ComEd illustrates that the "cost constraint" recommendation of the AG does not consider the prudence or reasonableness of any investment, and thus fails to meet the criteria of review required by law. Thus, ComEd concludes, the ADMS project (ITN 54529) should be approved at its full requested amount as proposed in the Grid Plan without adjustment.

(ii) AG's Position

The AG notes the Company is proposing to spend $88.6 million on deployment of a new ADMS. This investment "is a multi-year program to drive standardization of business processes and the convergence of multiple, utility-specific systems onto a common platform for distribution operations." ComEd Ex. 5.01 2nd Corr. at 197. Coupled with this investment, the Company intends to spend $31.5 million to update its GIS. Using the GIS, an ADMS "acts as a centralized decision support system that assists control room personnel, field operating personnel, and engineers with the monitoring, control and optimization of the electric distribution grid." *Id*. ComEd argues that its ADMS proposal, together with the related GIS program, would "provide essential benefits, including the reduction of outage durations, improved disaster response, real-time data processing to manage the distribution system, and optimized operations performance across multiple systems." ComEd IB at 98.

The AG explains that ComEd described only vague and high-level benefits of the program. ComEd witness Tyschenko testified that "ADMS replaces aging and outdated systems, removing system redundancy, and improving operational efficiencies," which will enable ComEd to become more efficient during large system events using automation and advanced capabilities." ComEd Ex. 31.0 Corr. at 91. ADMS would also set up "an operational platform to adapt and/or add advanced applications to meet growing customer expectations." *Id.* at 91. This would "enable[] efficient operations of the grid, which in turn provide customer benefits such as shortening outage durations and providing grid operators with new abilities to increase system resiliency." *Id*. The AG contends that there is nothing tangible in this explanation to demonstrate that nearly $88.6 million in capital expenditures on a new ADMS and $31.5 million on a new GIS would provide net benefits to customers.

ComEd also points out that some capabilities appear to be discretionary upgrades. For example, the Company claims that it would be able to combine its OMS and SCADA system, among others, onto a single platform. ComEd Ex. 31.0 Corr. at 85. But according to the Grid Assessment, the SCADA and other systems were only recently installed. ComEd. Ex. 2.01 at 13. The AG adds that ComEd's AMI, installed between 2014 and 2018, has already been integrated with its OMS "to facilitate easier identification of outages and to verify restored service." ComEd. Ex. 2.01 at 80, 82. The AG avers the investments over the last ten years have achieved significant visibility and remote management capabilities. In other words, ComEd is positing the need to replace systems of a relatively recent vintage that are providing the capabilities ComEd claims to need.

The AG further contends that other capabilities ComEd cites in support of this program appear to be premature. For instance, the Company cites the need to integrate Distribution Energy Resources Management ("DERMS") as a potential use in "later ADMS stages." ComEd Ex. 31.0 Corr. at 91. As described in the AG's Initial Brief, the level of DER capacity the Company anticipates by 2027 is not large relative to peak loads (9% by 2027 at most) and will be unevenly distributed by circuit and substation such that systemwide interventions like a state-of-the-art ADMS may be premature. AG Ex. 1.0 at 88.

The AG also notes that ComEd is proposing to replace these systems with a common platform that, in the experience of the AG's witnesses, has proven slow and costly to implement. AG Ex. 1.0 at 88. AG witnesses Alvarez and Stephens noted that they have "observed significant problems with field equipment data accuracy in the geographic information systems upon which ADMS relies." *Id.* at 88. It has been their experience that "differences between physical and digital realities have doomed almost all ADMS deployments to implementations that are costlier and longer than anticipated." *Id.* at 88. Thus, they expressed concern that ADMS "will not be used and useful within the Grid Plan period." *Id*. at 88.

The AG contends ComEd has not demonstrated that it will need the more advanced capabilities it claims ADMS would support within the next four years, or that combining multiple capabilities onto a single platform at a cost of approximately $120 million over four years would provide net positive benefits to ratepayers. This appears to be a clear-cut case of a premature investment that should likely be de-prioritized. The risk-informed decision support process that the AG recommend would enable ComEd to conduct a benefit-cost analysis of the various IT projects programs that are driving such astonishing spending increases and prioritize those that would provide the greatest benefits to ratepayers at the lowest cost. In light of these concerns, the AG recommend that the Commission limit the Company's IT projects spending to 2019-2022 levels plus inflation and consider deferring all or part of the ADMS and GIS implementation to future Grid Plans.

(iii) Commission Analysis and Conclusion

The Commission notes the AG objects to ITN 54529, noting that all or part of the ADMS program should be deferred to future Grid Plans, following a benefit-cost analysis.

The AG did not convey a desire to terminate the project altogether, nor did it give a specific recommendation regarding proposed adjustments to ITN 54529. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(e) Geographic Information System – ITN 59076

(i) ComEd's Position

ComEd notes that the Grid Plan includes $31.5 million capital investment for the GIS program (2023-2027) (ITN 59076). ComEd Ex. 31.0 Corr. at 99. ComEd contends it has demonstrated the prudence and reasonableness of the GIS, and the associated costs, which should be approved without adjustments. ComEd states that the GIS is designed to update the current software that allows for deployment of standardized design of assets, data maintenance, and development of mutual assistance efficiency. ComEd Ex. 5.01 2nd Corr. at 198. ComEd explains that, as the name would imply, this system is a geographically focused program, able to present electrical distribution system physical locations so that ComEd can properly and safely plan and complete electrical circuit connectivity. ComEd Ex. 31.0 Corr. at 93. ComEd continues that this Exelon-wide project will improve communications during storm events, enable for better data analytics, and improve IT performance during storms. ComEd Ex. 9.0 2nd Corr. at 56.

ComEd acknowledges that the AG recommends this project be capped at 2019-2022 spending amounts (adjusted for inflation). AG Ex. 1.0 at 89-90. ComEd contends this recommendation should be rejected. The "cost constraint" recommendation of the AG does not consider the prudence or reasonableness of any investment, and thus fails to meet the criteria of review required by law, according to ComEd. ComEd states this project is related to other programs at ComEd such that delay in the deployment will prevent ComEd from incorporating it into inter-dependent programs, such as ADMS, which would render it and several other programs less cost efficient. ComEd Ex. 31.0 Corr. at 99.

(ii) AG's Position

The Company notes that the GIS program "is foundational to ADMS implementation," so the AG analyzes the GIS project together with the ADMS project in Section V.6.C.e.(ii).(d).

(iii) Commission Analysis and Conclusion

The Commission notes the AG objects to ITN 59076, noting that all or part of the GIS program should be deferred to future Grid Plans, following a benefit-cost analysis. The AG did not convey a desire to terminate the project altogether, nor did it give a specific recommendation regarding proposed adjustments to ITN 59076. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(f) Enterprise Asset Management – ITN 78092

(i) ComEd's Position

ComEd contends it has demonstrated the prudence and reasonableness of the Enterprise Asset Management ("EAM 2.0") and the associated costs (also referred to as "ITN 78092"), which should be approved without deferral. ComEd explains that the EAM 2.0 program is a multi-year effort to replace the outdated Asset Suite 8 ("AS8"). ComEd Ex. 5.01 2nd Corr. at 197. ComEd further explains that EAM is a software system that manages not only assets, but also their respective makeup, as well as preventative and corrective maintenance. ComEd Ex. 31.0 Corr. at 99. ComEd maintains that the EAM 2.0 updated technology will allow for a modernization of supply management and enhance service to customers by providing intuitive solution and enable a shift from time-based to condition based maintenance. ComEd Ex. 31.0 Corr. at 100-101.

ComEd states the current AS8 software was put into service in 1998, and the technology at the time had limited capabilities to manage modern assets, such as distributed energy and renewable resources, customer owned assets, and smart devices (such as smart streetlights). ComEd Ex. 31.0 Corr. at 99, 103. ComEd contends it must update its technology beyond that available in 1998 to ensure that customer resources, such as DERs, can be fully adopted and flexibly integrated onto the grid. ComEd Ex. 5.01 2nd Corr. at 196-197. ComEd notes, therefore, that the Grid Plan includes $81.0 million capital investment for the EAM 2.0 program (2023-2027). ComEd Ex. 31.0 Corr. at 100.

ComEd observes that the AG is the only party to contest investment in ITN 78092. The AG's opposition is based entirely on its overall recommendation to limit IT project spending, to 2019-2022 levels plus inflation. As discussed above, the "cost constraint" recommendation of the AG does not consider the prudence or reasonableness of any investment and thus fails to meet the criteria of review required by law, according to ComEd. ComEd contends that the AG recommended the investment in EAM be deferred to a future grid plan because it erroneously believes that ComEd's other asset management application will serve the same purpose. AG Ex 1.0 at 89. ComEd argues this is incorrect. ComEd Ex. 9.0 2nd Corr. at 62; ComEd Ex. 31.0 Corr. at 101. ComEd further contends that the current AS8 software was implemented in 1998, is at the end of its useful life, and it is unable to be repaired and supported. *Id.* ComEd states not adopting EAM 2.0 will leave the system exposed to security and operational risks. *Id*. at 103-104. ComEd concludes that, as a result, a delay in implementing EAM 2.0 is likely to lead to emerging cyber threats that will drive up support costs and threaten grid security. *Id.* at 211. ComEd maintains that the investments in EAM 2.0 should be allowed as articulated in the Grid Plan and supporting testimony without delay.

(ii) AG's Position

The AG states the Company proposed to spend $126 million to deploy a new asset management system, EAM 2.0. The Grid Plan described this investment as "a multi-year project to replace ComEd's AS8 work and asset management platform." ComEd Ex. 5.01 2nd Corr. at 197. It would "improve customer experience and asset management through end-to-end process design with customer insight into work status, updated data models accommodating new asset types and ownership models, and improved technical integration and performance." *Id.*

AG witnesses Alvarez and Stephens identified a pair of significant concerns with this proposal. First, they noted that the cost, $126 million, appears to be excessive, given that it is only ComEd's portion of this project's cost, which will be shared across five Exelon utilities. AG Ex. 1.0 at 89. AG witnesses Alvarez and Stephens found it "unique" that a new asset management system would cost as much or more than an ADMS. *Id*. Their second concern was that this is an entirely discretionary investment, given that ComEd already has a work and asset management system on which it currently relies for forecasting and planning. *Id*.

Given the discretionary nature of the investment, the AG contends that upgrading the Company's asset management software at a cost of well over $100 million calls for a risk-informed benefit-cost analysis. They assert that the Company has provided no such justification that the upgrade would be cost-effective for customers. Moreover, the Company is required to "optimize utilization of electricity grid assets and resources to minimize total system costs" as well as "provide delivery services at rates that are affordable to all customers." 220 ILCS 5/16-105.17(d)(2), (11). As noted above, the Company's Grid Plan proposes a 27.8% increase in capital spending over the 2019-2022 period and a 60% rate increase in just five years, so the Company should be incentivized to identify capital projects that could be deferred at low risk. AG witnesses Alvarez and Stephens note that a hundred-million asset management application, when the Company already has an asset management application, appears to be a prime candidate to defer to future Grid Plans. AG Ex. 1.0 at 89.

(iii) Commission Analysis and Conclusion

For the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(g) EU IT Storm System Resiliency and ERO Improvements – ITN 86406

ComEd states the EU IT Storm System Resiliency and ERO Improvements (ITN 86406), previously called EU Storm Critical Systems (ITN 84462), is designed to address storm system resilience and testing, to improve responsiveness during storm events. ComEd Ex. 31.0 Corr. at 74. As proposed by ComEd, the total cost for the project is $2.81 million. *Id*. at 75.

ComEd notes that Staff witness Kozlosky indicated that certain IT Project ITNs lacked substantial definition and cost justification. Staff Ex. 14.0 at 29–30. In response, ComEd provided project authorization presentation for ITN 84462, which was previously supplied as workpaper ITN 54529 PCC Deck (3 of 3) – Public. ComEd Ex. 31.09; *see also* ComEd Ex. 52.0 Corr. at 4. ComEd notes Staff found the additional information sufficient and modified its position to find the project and its costs, as proposed, to be reasonable. Staff Ex. 30.0 at 19, *see also* Staff Ex. 29.0 at 16. As a result, ComEd states this ITN is now uncontested.

However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(iii) Customer Operations IT Investments

This section addresses the 15 contested Customer Operations IT projects as noted in the agreed outline. The referenced sections are listed below:

Contested

(1) CC&B Day 2 – (ITN 84623);
(2) CC&B Hardening – (ITN 78090);
(3) CC&B 2.9 and Meter Data Management 2.5 Upgrade – (ITN78081);
(4) EU Customer Flight Path 2.0 – (ITN 79299);
(5) EU Customer Flight Path – (ITN 79323);
(6) EU Common Meter Data Management System Software Upgrade – (ITN 78165);
(7) EU AI Chat Enhancements – (ITN 79307) ;
(8) ComEd/PECO OSC Consolidation – (ITN 78097);
(9) Next Generation AMI – (85438);
(10) EU Customer Care and Billing and Mater Data Management Enhancements – (ITN 79300);
(11) EU Customer Hardening & Resilience (ITN 78469);
(12) EU Load Profile Settlement Upgrade – (ITN 78147);
(13) Third Party Platform Rationalization and Optimization – (ITN 84529);
(14) Customer Relationship Management Enhancements – (ITN 84531); and
(15) Digital and Self Service Platform Enhancements – (ITN 84619)

(a) ComEd's Position

ComEd states the Commission should approve each of ComEd's proposed Customer Operations IT projects at their full (100%) proposed estimated budget. *See* ComEd Ex. 34.0 at 7-10 (Figure 1). As summarized in further detail below, ComEd contends these projects are necessary to maintain the security and resiliency of ComEd's IT systems and are needed to ensure that ComEd is meeting evolving customer needs and expectations. ComEd argues that, while Staff challenges 15 of ComEd's proposed Customer Operations IT projects as lacking granular data and precise budget estimates, ComEd has provided sufficient evidence that justifies each Customer Operations IT project and its estimated budget. ComEd notes that neither Staff nor any intervenor argues that ComEd's proposed Customer Operations IT projects are imprudent or unreasonable. ComEd points out that Staff acknowledges that "the nature of the projects was neither atypical nor surprising" and the investments "have the potential to deliver net beneficial results". Staff IB at 53-54. ComEd argues that Staff's recommended adjustment is just that – an adjustment impacting the revenue requirement – and not a suggestion that any of the proposed IT projects be disallowed in their entirety or prohibited.

ComEd explains that it has met its evidentiary burden for each IT project to support approval of their entire proposed budgets. ComEd contends Staff's demand for such granular data for each of these 15 projects is not only unreasonable given the projects' early stage, but also incompatible with the framework of multi-year ratemaking and multi-year grid planning. ComEd also argues that Staff has not sufficiently supported its recommended adjustment. ComEd explains that many of the projects are sequential, meaning that they build on the work done in other projects, completed in earlier years. ComEd Ex. 34.0 at 10 (Figure 2). ComEd concludes that the Commission should reject Staff witness Antonuk's recommendation for a 50% adjustment for the 15 Customer Operations IT projects. ComEd adds the Commission should also approve the two proposed IT Customer Operations projects that no party (including Staff) oppose.

ComEd notes that it has engaged with Staff in good faith throughout this proceeding to provide additional information about the Customer Operations IT projects. ComEd states that while ComEd's direct testimony, including the Grid Plan, included sufficient detail for the Commission to approve these projects, just as it did for other capital investment projects, Staff requested more detail. *See, e.g.,* Staff Ex. 14.0 at 8. In response, for each project, ComEd provided a detailed project description, a list of expected benefits, a summary of the projected timeline, and a discussion of how ComEd reached the estimated cost for each project in rebuttal testimony. ComEd Ex. 34.0 at 27-81. ComEd also explains that it responded to extensive data requests related to the proposed Customer Operations IT projects in discovery. ComEd Ex. 55.0 at 10. ComEd argues that, while Staff makes much ado about ComEd providing additional details "for the first time" in surrebuttal testimony (Staff IB at 53, 57, 68, 71, 74, 77, 80, 85, 88, 91, 94, 97), Staff obscures the fact that ComEd provided such extensive information in response to Staff's request in rebuttal testimony. *See, e.g.,* Staff Ex. 30.0 at 3-6.

ComEd argues that Staff's assertion that ComEd's cost estimates are "unreliable" disregards the thorough evidence provided by ComEd regarding project cost estimates. Staff IB at 54, 57, 61. For each project, ComEd provided details about how each estimate was reached. For example, for each project, ComEd provided the estimated number of full-time equivalent employees and positions needed to complete the work. *See, e.g.,* ComEd Ex. 34.0 at 20, 34–35, 38, 40–41. ComEd also explained when cost estimates were based on recent experiences with similar projects. ComEd Ex. 34.0 at 40, 50, 53, 71, 80; ComEd Ex. 55.0 at 26. ComEd states it has provided an in-depth discussion of its IT project life cycle, internal project management procedure and policy documents, and detailed information regarding its process for estimating the cost of such projects. ComEd Ex. 34.0 at 13-27; ComEd Exs. 34.03, 34.04, 34.05, 34.06, 34.07, 34.08, 34.09, and 34.10. ComEd concludes that this substantial evidence shows that the projects' initial cost estimates were determined through this well-developed process and will be continuously managed and refined through these robust processes throughout the project's life cycle. *Id*.

ComEd argues that Staff's argument regarding "backloading" of projects near the end of the Grid Plan period also lacks support in the record and ignores the reality of multi-year ratemaking. Staff IB at 53. ComEd explains that the implementation timeframe for 10 of the 15 projects begins in the first three years of the Grid Plan period and only four projects are scheduled to begin implementation in the final year of the Grid Plan period (2027). ComEd says that Staff also ignores the fact that P.A. 102-0662 requires that the Grid Plan include investments through 2027. *See* 220 ILCS 5/16-105.17(f)(2)(C)(iii).

Finally, ComEd requests that, if the Commission adopts Staff's adjustment, it should approve the budget for the Customer Operations IT projects as a group (as Staff suggests) and allow ComEd to reallocate the approved funding between projects as needed. ComEd also requests that if the Commission decides to adjust the approved budget for any IT projects, it should take care not to double-count its adjustment with the contingency adjustment agreed to by Staff and ComEd, and supported by the AG, as discussed in Section VII.A.2, below.

ComEd argues that Staff's insistence on exacting detail for each IT project in this proceeding is unnecessary because the Commission will have several future opportunities to review the reasonableness and prudence regarding IT project expenditures. ComEd has also agreed with Staff to annual IT project reporting to provide the approved Project Concurrence Committee authorization document for any IT projects that receive authorization in the reporting period. ComEd Ex. 45.0 at 19.

ComEd adds that the Customer Care & Billing ("CC&B") Implementation – Customer Information System Implementation Release 2 (ITN 63081) and Analytics Smart Energy Services 5 oPower License Renewal 2027 (ITN 84570) are unopposed by Staff and the intervenors, and therefore should be approved by the Commission, without modification.

(b) Staff's Position

Staff proposed adjustments that would reduce the total investments for the group of 15 Customer Operations ITNs addressed in Section V.C.6.e.iii by one half. Staff Ex. 29.01 Corr. Staff adds that under its proposal, ComEd should retain the flexibility to move funding among the 15 Customer Operations ITNs that ComEd may reasonably determine over the MYIGP period.

Staff states it found that the information provided by ComEd in its direct testimony lacked adequate justification. Specifically, the information lacking included project description, need, scope, steps and activities to be completed, sequencing of and schedule for those steps, a delineation of deliverables, specification of work units requiring performance to complete project activities, an explanation of the capabilities the project would provide, and how those capabilities will produce value commensurate with expected costs to justify inclusion in the MYIGP. Staff Ex. 14.0 at 9.

Staff contends that although the Company provided additional information for each project through its rebuttal and surrebuttal testimony, it was not enough to justify the Company's MYIGP inclusion on its own merit. Staff notes the group of 15 Customer Operations ITNs share characteristics that warrant treating them as a group. Staff explained that, despite the shortcomings that led Staff to conclude these 15 Customer Operations projects were insufficiently justified and not supported by credible estimates underlying MYIGP investment forecasts, the nature of the projects was neither atypical nor surprising.

Staff states that while likely to produce substantial expenditures over the MYIGP, it was not possible to determine with reasonable confidence which projects can be expected to contribute to expenditures or by how much. Chief among Staff's concerns was the backloading of so many Customer Operations projects to the end of the MYIGP period, which added uncertainty about what will be accomplished by the end of the MYIGP. *Id.*

Staff states the unreliability of the estimate and the associated lack of activity and work unit identification justify Staff's approach of permitting half of ComEd's MYIGP-proposed investment levels for the group of 15 Customer Service IT projects of which ITN 84623 forms a part. Staff recommends, despite all the uncertainties of this group, substantial funding, and broad discretion to ComEd to allocate the funding among the group of projects, while being mindful of the concerns that undercut each ITNs justification, estimate reliability, and timing when examined on a stand-alone basis.

For these reasons, the Commission should accept Staff's recommendation to limit overall funding to these fifteen Customer ITNs to a total of $66.156 million.

(c) Commission Analysis and Conclusion

The Commission agrees that Customer Operations IT projects and enhancements are needed to support the overall goals of P.A. 102-0662 and provide customers with continued access to tools and resources needed to enhance the customer experience, support additional customer proposed protection programs, and improve the overall customer experience. Understanding the inherent degree of uncertainty when forecasting years in advance, the Commission acknowledges that the timing and scope of projects may be significantly impacted by events that happen in the earlier years of the MYIGP. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investments at this time.

(iv) Low-Income Smart Home – ITN 75424

(a) ComEd's Position

ComEd contends that its Grid Plan and supporting testimony shows the prudence and reasonableness of the costs of the Low-Income Smart Home project (ITN 75424), and states the Commission should approve the project and its costs, without adjustment. ComEd explains that the Low-Income Smart Home project is designed to empower customers and address affordability issues, specifically the lack of broadband access that impact some of ComEd's customers, especially low-income customers. ComEd Ex. 5.01 2nd Corr. at 459; 220 ILCS 5/16-105.17(d)(4), (11). ComEd notes that, as explained in the Grid Plan, "[l]ack of broadband access may … have limited the ability of some customers to take advantage of broadband-enabled resources with the potential to reduce energy bills or realize energy savings." ComEd Ex. 5.01 2nd Corr. at 17.

As a result, ComEd contends that the goal of the Low-Income Smart Home project is to understand how the addition of broadband and broadband-enabled smart home technologies are able to reduce energy costs for customers who historically have not had access to these technologies due to income, education, awareness, or other related limitations. *See* ComEd Ex. 35.0 at 42; *see also* ComEd Ex. 56.0 at 27. ComEd states the project will develop an integrated approach for deploying broadband-enabled smart home technologies to low-income customers that will enable them to better participate in new and existing demand response programs, and allow ComEd to assess the implications and effectiveness of technologies for low-income customers. ComEd Ex. 35.0 at 42-43. ComEd notes that the project will include an enrollment process, a smart home kit, and automation, in order to maximize customers' ability to save money on energy while making the process as streamlined as possible to reduce the time, cost, and effort of participants. *Id.* ComEd adds that, while the full details of the project are not fully known (given that it is intended to be launched in 2025), the project will provide low-income customers with smart home kits that are WiFi-enabled (*e.g.*, control a window unit air conditioner, appliance controls, and occupancy sensors) to assist with automating the reduction of energy consumed overall, and responding automatically to price signals to help customers reduce their bills. ComEd Ex. 35.0 at 42-43. ComEd contends that, ultimately, these investments will benefit low-income customers by addressing their needs and promoting affordability by reducing energy bills. ComEd Ex. 35.0 at 42-43.

ComEd forecasts the project costs as $2.759 million in capital costs and $348,000 in O&M expense during the Grid Plan period. ComEd states it reasonably developed those figures given the timing and stage of the project, although some of the granular pieces of information listed by Staff witness Kozlosky are not yet available. ComEd Ex. 31.12 at 34; ComEd Ex. 35.0 at 43; ComEd Ex. 34.0 at 18-21, 23-24.

ComEd acknowledges that Staff recommended the project costs for the Low-Income Smart Home be entirely disallowed, originally asserting that ComEd had not provided sufficient justification for this project that will be launched in 2025. Staff Ex. 14.0 at 6-7; Staff Ex. 30.0 at 21. ComEd notes that Staff now acknowledges that ComEd provided substantial additional information in rebuttal and surrebuttal testimony. *See* Staff IB at 95-97. However, ComEd observes that Staff nonetheless adheres to its proposal based on the assertion that there still is insufficient information on “key details”, i.e., (1) “activities to be accomplished,” (2) “associated work units,” and (3) “projected costs.” Staff IB at 97- 98. But ComEd contends that Staff is mistaken.

ComEd notes that ComEd witness Borggren has provided a detailed description of the project, a list of its expected benefits, a summary of its projected timeline, and a discussion of how ComEd estimated the project costs. ComEd Ex. 56.0 at 28. ComEd adds that, while Staff witness Kozlosky also asserted ComEd had not clearly defined the steps, activities, sequencing, and scheduling for the project, ComEd has provided additional details for each year 2023, 2024, and 2025. Staff Ex. 30.0 at 21; ComEd Ex. 56.0 at 28-29. ComEd points out, for example, that 2023 involves a technology market assessment that already has begun; 2024 involves lab testing, customer research, technology assessments, and a request for proposal for a vendor; and, in 2025, ComEd will use the outcomes of the 2023 and 2024 activities to finalize the internal authorization for the project to be launched in 2025. ComEd Ex. 34.0 at 17 (describing the authorization process); ComEd Ex. 56.0 at 28-29 (further details for this project).

As a result, ComEd concludes the record evidence supports approval of the Low-Income Smart Home project costs at ComEd’s proposed levels.

(b) Staff’s Position

Staff proposed an adjustment to reduce the Low-Income Smart Home by $2.759 million. Staff Ex. 29.01 Corr.

In direct testimony, Staff stated that information provided by ComEd in the MYIGP and subsequent discovery did not provide adequate justification for the Low-Income Smart Home project. Staff Ex. 14.0 at 6. Staff contends ComEd did not specifically mention the Low-Income Smart Home (ITN 75424), and the project appeared only in a brief profile of proposed MYIGP projects, listing the need for the project as ensuring affordable service and supporting customers in need and benefits of increased customer satisfaction. ComEd Exhibit 5.01 2nd Corr. at 459. Staff notes ComEd stated that authorization materials did not exist because the project had not progressed to the authorization step. Staff Ex. 14.01. Specifically, Staff found the definition and justification for the Low-Income Smart Home project (ITN 75424) insufficient and the estimates underlying the forecast of its MYIGP investments unreliable due to the lack of information provided by ComEd. Staff adds the lack of information included deficient project description, need, scope, steps and activities to be completed, sequencing and scheduling for those steps, deliverables, specification of work units requiring performance to complete project activities, an explanation of the capabilities the project would provide, and how those capabilities will produce value commensurate with expected costs to justify inclusion in the MYIGP. Staff Ex. 14.0 at 9.

In rebuttal testimony, Staff states ComEd provided more information regarding the project need, goals, objectives, benefits, and factors considered in the development of the proposed cost. ComEd. Ex. 35.0 at 42. ComEd identified a project goal to develop an approach to deploy smart home technologies to low-income customers to increase participation in demand response programs offered by ComEd using web or mobile technology to facilitate customer enrollment in conservation programs using smart home technologies. ComEd Ex. 35.0 at 42. ComEd also noted that the project would provide \$200-\$250 valued home-kits with smart technologies but did not provide expected levels of customer participation. *Id*. at 43. ComEd discussed different factors considered by the Company in developing the project's cost estimate, including environment set-up and build-out, platform testing and integration, program launch, and production support, but failed to attribute specific costs to these factors. *Id*. ComEd also indicated that the project was in the Demand Phase, therefore it would not have well-developed project plans and estimates. *Id*.; ComEd Ex. 34.0 at 15.

Following rebuttal testimony, Staff continued to find the Low-Income Smart Home project (ITN 75424) lacked sufficient definition, justification, and expenditure forecast reliability to support its inclusion in ComEd's MYIGP. Staff Ex. 30.0 at 21.

Staff states that in surrebuttal testimony, ComEd provided additional details about the Low-Income Smart Home project for the first time. ComEd indicated that the project authorization and funding, the last step of the demand management phase, would not occur until 2025, following completion of a technology market study to assess smart home technologies, lab testing, customer research, technology assessments, and selection of a vendor following a request for proposal process. These future activities will facilitate development of a more reliable estimate, one that ComEd uses internally for IT project authorization and funding. ComEd Ex. 56.0 at 28.

Staff contends that while the scope and timeline of the Low-Income Smart Home have become clearer, the project as a whole still omits key details such as a description of the activities to be accomplished, associated work units, and projected costs. ComEd claims the Company sufficiently described project needs and features and provided a reliable estimate of costs underlying proposed investment levels. Staff argues that ComEd conceded that, due to very early timing of Low-Income Smart Home – ITN 75424, the Company was unable to provide some of the information Staff requested. Moreover, Staff notes ComEd made clear that its ability to define scope and work activities will depend on the results of future testing, research, and technology assessments. Costs appear to be equally uncertain, as a request for proposals from vendors are expected sometime in the future. Staff contends that for Low-Income Smart Home – ITN 75424 ComEd does not bother to cite to the project's cost estimation through proxies or outside services firms, leaving the estimate for Low-Income Smart Home – ITN 75424 even more unreliable than those of the 15 Customer Operations IT ITN group that Staff examined together. Staff adds that without this this information, ComEd's MYIGP cost estimate remains unreliable, and Staff recommends the Commission remove all the MYIGP-proposed investments associated with ITN 75424.

For these reasons, Staff recommends the Commission accept its adjustment and reduce ComEd's MYIGP for Low-Income Smart Home (ITN 75424) by $2.759 million.

(c) Commission Analysis and Conclusion

The Commission understands that the Low-Income Smart Home Project is an investment with the potential to enable customers, who primarily reside in EJ and EIEC communities, to participate in new and existing demand response programs. However, the Commission agrees with Staff's contention that ComEd failed to provide key project details including an estimation of project costs. The Commission urges ComEd to address these concerns in the refiled Grid Plan. For the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

f. New Business

ComEd explains that the New Business investment category establishes the work performed to connect new customers and upgrade existing customers' service to accommodate changing load demands. ComEd Ex. 5.01 2nd Corr. at 165-166. ComEd adds the completion of these projects will help satisfy Section 16-105.17(f)(2)(C)(iii) of the Act.

(i) Industrial Customers, Not Reimbursed – ITN 5741

ComEd notes the Grid Plan includes $167.7 million capital investment for the Industrial Customers, Not Reimbursed program (2023-2027) (ITN 5741). ComEd Ex. 31.0 Corr. at 57. ComEd states that investments in Industrial Customers, Not Reimbursed include activities to expand and upgrade transmission lines, substations, distribution feeders and should be approved as presented in the Grid Plan as it is uncontested. ComEd Ex. 5.01 2nd Corr. at 200-220, *see also* ComEd Ex. 31.0 Corr. at 59.

ComEd points out that Staff witness Antonuk suggested no adjustment to 2024 or 2025 dollar amounts but proposed to limit for 2026 and 2027 to 2025 levels, with an adjustment for escalation. Staff Ex. 13.0 at 25. ComEd adds that, after additional information was provided by ComEd, Staff witness Antonuk withdrew his recommendation and this investment as proposed by the Grid Plan is no longer contested. *See* Staff Ex. 29.0 at 4, 13. ComEd contends that sufficient investment is necessary for ComEd to continue to meet statutory obligations under Section 8-101 of the Act, to serve load in a timely, cost-effective, and reliable manner. ComEd Ex. 31.0 Corr. at 59. ComEd concludes that the Commission should approve the proposed investments in this area as it is uncontested and it is necessary for ComEd to meet statutory obligation.

The Commission recognizes that this proposed investment is now uncontested. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(ii) New Business – City Commercial – ITN 49461

(a) ComEd's Position

ComEd contends that New Business—City Commercial investments (ITN 49461) should be approved, without adjustments. ComEd states these investments include investments to engineer, design, and install infrastructure to support new electric services to commercial and industrial customers. ComEd Ex. 5.01 2nd Corr. at 165. ComEd acknowledges that Staff witness Lounsberry has recommended significant reductions for this program by reducing the budget to historical levels adjusted on a forward basis only for the rate of inflation. Staff Ex. 5.0 at 22-24; Staff Ex. 21.0 2nd Corr. at 17-19; ComEd Ex. 29.0 at 53–54. ComEd also acknowledges that ICCP support Staff's position. ComEd contends that, to reach its proposed adjustment, Staff applies the inflation-adjusted status quo approach. As ComEd has explained (in the context of the AG and ICCP), this approach fails to lawfully consider the prudence and reasonableness of the investments. ComEd further contends that this methodology fails to consider all of the other budgetary growth factors, besides inflation, set out in the Grid Plan, including expected growth in service connections for commercial baseline activity, and the fact that ComEd has a duty to serve its customers, including new customers. ComEd Ex. 29.0 at 54. Further, ComEd contends that the recommendation to tie Grid Plan investments to inflation is factually and legally unsound (as described further in Section V.C.6.a.(i)) and must be rejected. ComEd concludes that the Commission should approve ITN 49461 as proposed in the Grid Plan without adjustment.

(b) Staff's Position

Staff recommends the Commission reduce ComEd's capital expenditures associated with its New Business – City Commercial (ITN 49461) by $1,700,828 in 2024; $2,982,872 in 2025; $3,161,380 in 2026; and $2,810,737 in 2027.

Staff states that in its direct testimony, it found that ComEd incurred around $66 million in costs associated with ITN 49461 in the five historical years prior to the MYRP filing. Staff Ex. 5.0 at 22. However, ComEd projected it will incur around $91.5 million in costs for the subsequent five calendar years. *Id.* Staff notes the difference in these two amounts represents an increase of roughly 38.6% in the capital cost associated with this topic. *Id.* ComEd responded by arguing Staff's recommendation incorrectly assumes the increased budget would be based solely on inflation. ComEd Ex. 29.0 at 53-54. ComEd also argues Staff's recommendation does not account for all the growth factors in the MYIGP including expected growth in service connections for commercial baseline activity. *Id.* at 54.

Staff adds that in its rebuttal testimony, Staff updated the historical cost information based on a supplemental data request response. Staff Ex. 21.0 2nd Corr. at 17. Staff states this update caused Staff to reevaluate its use of ComEd's historical 2022 costs to set the baseline level for the adjustment because ComEd's supplemental response significantly increased the 2022 historical value by over $4 million, causing it to become more of an outlier compared to the other historical values. *Id.* at 18. This review resulted in Staff modifying its baseline calculation after making the determination that a five-year average value was the most appropriate baseline valuation. *Id.*

Staff contends ComEd did not address Staff's modification to the recommendation to reduce ComEd's the capital expenditures associated with ITN 49461 in its surrebuttal testimony. Staff recommends the Commission reduce ComEd's capital expenditures associated with its ITN 49461 in order to smooth rate impacts and achieve a core focus of P.A. 102-0662 – affordability. 220 ILCS 5/16-105.17(a).

(c) ICCP's Position

ICCP support the adjustment recommended by Staff witness Lounsberry to decrease ComEd's proposed capital expenditures included in rate base associated with ITN 49461, reflecting excessive forecast costs for New Business – City Commercial. *See* Staff Ex. 5.0 at 22-24.

(d) Commission Analysis and Conclusion

New Business—City Commercial investments are necessary, as it will engineer, design, and install infrastructure to support new electric services to commercial and industrial customers as required as part of ComEd's duty to provide electricity service. Moreover, ComEd notes there has been a steep increase in very large projects that are requesting 100-300+ MWs of new capacity. *See* ComEd Ex. 5.01 2nd Corr. at 165.

The Commission does not believe ComEd has met its burden to explain how the expected growth in service supports its proposed increase. The Commission agrees that Staff's proposed adjustment appropriately attempts to balance ComEd's ability to support new City Commercial business while considering the impact on customer rates. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

(iii) New Business – Third-Party Attachment – ITN 56167

(a) ComEd's Position

ComEd contends that New Business – Third-Party Attachment investments (ITN 56167) should be approved, as adjusted by ComEd and Staff. ComEd states that investments in New Business –Third-Party Attachment include those activities such as designing, engineering, modifying, and installing poles to support third parties' need to provide services, such as 5G technology and fiber services. ComEd Ex. 5.01 2nd Corr. at 199. ComEd states this type of support not only allows third parties to use the existing infrastructure but is statutorily required by the Act and the Federal Communications Commission ("FCC"). 220 ILCS 5/21-1001(a), *see also* ComEd Ex. 52.0 Corr. at 28-29.

ComEd notes that the Grid Plan initially sought $81.1 million for capital investment in Third-Party Attachments, however, ComEd has since adjusted the project to include only 2024-2027 (the 2023 amount was $13.1 million) and updated projections resulting in a total projected project cost of $58.4 million. ComEd Ex. 9.02 Corr.; *see also* ComEd

Ex. 52.0 Corr. at 27; Staff Ex. 5.0 at 25. ComEd points out that Staff witness Lounsberry concurs with this revised cost estimate. Staff Ex. 21.0 Corr. at 21. ComEd further notes that ICCP support this investment in accordance with Staff's original recommendation (ICCP IB at 30-31), and that no other party has presented evidence regarding the prudence and reasonableness of this investment.

ComEd concludes that the Commission should approve the $58.4 million because ComEd has employed a reasonable and prudent approach to develop the projections and it is essential to meeting the Act and FCC requirements. ComEd Ex. 52.0 Corr. at 28.

(b) Staff's Position

Staff states the Commission should accept its proposal to reduce ComEd's capital expenditures associated with its New Business – Third-Party Attachment (ITN 56167) by $4,033,045 in 2024; $4,113,705 in 2025; $4,195,979 in 2026; and $4,279,898 in 2027.

Staff notes that ComEd incurred around $67.8 million associated with ITN 56167 in the five historical years prior to the MYRP filing. Staff Ex. 5.0 at 24. However, ComEd projected it will incur around $81.1 million in costs for the subsequent five calendar years. *Id.* The difference in these two amounts represents an increase of roughly 19.6% in the capital costs associated with this topic. *Id.*

Staff states ComEd did not respond to Staff's direct testimony on this topic. Staff Ex. 21.0 2nd Corr. at 19. However, in rebuttal testimony, Staff noted that ComEd provided a supplemental data request response that significantly reduced the 2022 actual costs. *Id.*; Staff Ex. 21.03. This resulted in Staff modifying its adjustment based on these updated values, in particular, ComEd's supplemental data request response significantly decreased the 2022 historical values by over $12 million, producing a disjointed comparison of ComEd's historical to projected costs. *Id.* at 20. Staff calculated a five-year historical average of about $11,800,000 while the three-year average, which removed the highest and lowest values from the five years of historical information, came to $9,700,000 to use as a potential baseline for projecting future costs. Given that the most recent historical cost information (2021 and 2022) was lower than either of the averages calculated, Staff determined the lower of the two averages, the three-year average, was most appropriate value to use as a baseline for ITN 56167. *Id.*

In response, ComEd agreed to reduce its forecast for ITN 56167 to match the adjustment that Staff proposed in its direct testimony. ComEd Ex. 52.0 at 26. However, ComEd stated that Staff's updated adjustments should not be accepted because the funds are necessary to support make ready work and meet statutory obligations from the Act and FCC requirements. *Id.* ComEd also indicated that it utilized a three-year average plus 10% reserve for pole replacement volumes, due to the variability in customer application, and that it is projecting a yearly reduction in customer Contributions In Aid of Construction due to an increase in overlash applications whose make-ready costs are not transferrable to defined telecommunication attachers. *Id.* at 27. Finally, ComEd indicated that the overlash applications represent a potential $3-4 million risk per year. *Id.*

Staff states its adjustment set forth in its rebuttal testimony is correct. There is a link between the cost associated with ITN 56167 and the revenue associated with third-party attachments, given both involve third-party attachments. On the revenue side of the third-party attachment, ComEd has determined that a flat forecast was appropriate for 2023 to 2027. On the cost side, ComEd has modified its request to $58.4 million; however, this is a significant increase over historical values and Staff's calculation shows $41.8 million (2023 amount was $9.9 million) is more appropriate. As a result of ComEd's revised projections in its surrebuttal testimony, Staff's adjustment values are now the difference between Staff's original valuation versus the revised valuation, $4,033,045 (14,176,885 – 10,143,840) for 2024, $4,133,705 (14,460,422 – 10,346,717) for 2025, $4,195,979 (14,749,631 – 10,553,652) for 2026, and $4,279,898 (15,044,623 – 10,764,725) in 2027. Staff Ex. 5.0 at 26; Staff Ex. 21.0 2nd Corr. at 21. Therefore, Staff recommends the Commission accept its recommendation to reduce ComEd's capital expenditures associated with ITN 56167.

(c) ICCP's Position

ICCP support the adjustment recommended by Staff witness Lounsberry to decrease ComEd's proposed capital expenditures included in rate base associated with ITN 56167, reflecting excessive forecast costs for New Business – Third Party Attachment. *See* Staff Ex. 5.0 at 24-26.

(d) Commission Analysis and Conclusion

ComEd notes the primary goal of the New Business – Third-Party Attachment is to allow external parties (cable TV and fiber optic companies) to install and utilize their equipment or infrastructure on existing grid infrastructure. *See* ComEd Ex. 52.0 at 28. Staff argues that ComEd's initial plan necessitated adjustments as associated with the five historical years prior to the MYRP filing, and ComEd agreed to Staff's initial adjustment. However, a supplemental data request response significantly reduced the 2022 actual costs, distorting the historical average for which Staff's adjustment is based. This resulted in Staff modifying its adjustment based on these updated values. The Commission agrees with Staff's modified adjustment that was offered in rebuttal testimony. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

g. Preventative Maintenance

(i) Targeted Overhang Program

(a) ComEd's Position

ComEd contends the TOP is critical for meeting the challenges of climate change as well as ComEd's reliability performance metrics and should be approved as proposed in the Grid Plan without adjustments. ComEd Ex. 51.01 at 25. ComEd states that Staff's proposed disallowance must be rejected because it lacks a reasonable basis, and it would deny customers significant benefits.

ComEd explains that TOP identifies weak-wooded trees (those that are prone to failure during storm events) and targets them for removal and replacement. ComEd Ex. 5.01 2nd Corr. at 187; *see also* ComEd Ex. 51.01 at 74–76; ComEd Ex. 30.0 at 2. ComEd states that traditional vegetation management practices focus on management and removal of tree limbs and other vegetation within the right-of-way ("ROW") of power lines and include trimming trees to create a distance between the lines and surrounding vegetation. ComEd Ex. 30.0 at 10-11. ComEd further explains that, in contrast, TOP is an innovative application of vegetation management that does not replace traditional management practices. ComEd Ex. 30.0 at 2, 10. ComEd states the program targets the threats to lines that come from tree limbs that are higher than (i.e., that overhang) the vegetation in direct proximity to the ROW and that pose a threat to the lines from falling during storm events. ComEd Ex. 30.0 at 10-11. ComEd notes that damage from falling overhanging tree limbs is the leading cause of power outages on ComEd's distribution system from vegetation. ComEd Ex. 5.01 2nd Corr. at 187; *see also* ComEd Ex. 30.0 at 2. ComEd states that, by selectively identifying vegetation overhang threats using TOP, ComEd will be able to prevent thousands of hours of outages to customers that would otherwise occur by falling overhanging weak-wooded tree limbs during storm events. ComEd Ex. 30.0 at 9-10. ComEd points out that three weak-wooded species of trees (Siberian Elm, Silver Maple, and Willow) are particularly prone to break during storm events and are responsible for a significant number of these outages. ComEd explains that the TOP program will specifically identify those species for removal and replacement. ComEd Ex. 30.0 at 3, 5–6.

ComEd continues that TOP utilizes Light Detection and Ranging ("LiDAR") and Hyperspectral Imagery ("HSI") technology from aerial devices to identify weak-wooded species of trees that overhang ComEd's distribution lines throughout its service territories. ComEd Ex. 5.01 2nd Corr. at 187; *see also* ComEd Ex. 51.01 at 25; ComEd Ex. 30.0 at 3, 13. ComEd states these technologies are not new but have become significantly more reliable and affordable in recent years such that they can now be efficiently utilized by TOP to identify threatening overhang vegetation far more quickly and cost effectively than visual identification by field personnel, which is not as precise and is far more time and labor intensive. ComEd Ex. 30.0 at 10, 12-13.

ComEd contends the impact of climate change is highly likely to increase the frequency and severity of storm events in ComEd's service territory in the years of the Grid Plan and beyond. ComEd Ex. 5.01 2nd Corr. at 187; *see also* ComEd Ex. 30.0 at 12. ComEd believes this has been demonstrated by ComEd's experience with two derecho events in the past five years. ComEd Ex. 5.01 2nd Corr. at 108-110. ComEd contends that, by selectively identifying vegetation overhang threats using TOP, ComEd will be able to prevent thousands of hours of outages to customers that would otherwise occur by falling overhanging weak-wooded tree limbs during storm events. ComEd Ex. 51.01 at 26; ComEd Ex. 30.0 at 9-10. ComEd has estimated that the savings to customers from avoided outages alone in the Grid Plan period will be approximately $238 million. *Id*. ComEd contends further savings will be realized by improved efficiencies in standard vegetation management that TOP will provide, including an estimated 5% reduction in costs, approximately $95 million over the benefit period, of ComEd's distribution cycle trim program. ComEd Ex. 30.0 at 8; ComEd Ex. 51.0 Corr. at 7. Thus, ComEd states that although the investment required for TOP is significant at $71 million, the benefits that will be realized from TOP far exceed this cost. ComEd Ex. 5.01 2nd Corr. at 187.

ComEd contends that Staff grounds its opposition to TOP on the basis that a "central tenet of P.A. 102-0662 is affordability." Staff IB at 104. ComEd states it shares the goal of affordability and has extensively evaluated this project in terms of the benefits that will be realized relative to its costs. ComEd points out that, despite the benefits of TOP and the resulting forecasted economic savings to ComEd's customers, Staff witness

Lounsberry recommends that the program be provided no funding. Staff Ex. 21.0 2nd Corr. at 10, 13. ComEd notes that Staff witness Lounsberry did not disagree with the information provided by ComEd witness Day in rebuttal testimony and even acknowledged that he "did not conduct a deep dive into the metric information due to time limitations." Staff Ex. 21.0 2nd Corr. at 12. Further, ComEd notes that Mr. Lounsberry admitted that TOP's use of LiDAR and HSI would more accurately identify problematic overhang vegetation than field employees and provide more detail as to the location and species of overhang vegetation. ComEd Cross Ex. 1.0 at 153-154. ComEd further points out that Mr. Lounsberry admitted that he had not performed any analysis to confirm or dispute the information provided by ComEd but was instead primarily concerned that TOP might be "unique" despite being given multiple examples of LiDAR and HSI in use by other utilities. Staff Ex. 21.0 2nd Corr. at 13. ComEd contends that, as a result, Staff witness Lounsberry based his recommendation on simple suspicion of the benefits of those technologies without being able to articulate any specific technical or policy objections to their use. ComEd Cross Ex. 1.0 at 153-156. ComEd considers most remarkable that Staff witness Lounsberry stated he would not change his recommendation to defund TOP even if convinced that the program would result in more than $238 million savings to ComEd's customers – over three times the cost of TOP. ComEd Cross Ex. 1.0 at 156. ComEd contends this position is in direct contravention of the principles of evaluating programs by costs and benefits that Staff has advocated throughout this case.

ComEd insists that, given recent experiences across the United States with utility infrastructure damaged by storm events, the urgency of the TOP program to mitigate the impacts of storm damage to distribution facilities is apparent. ComEd contends that this innovative, forward-looking program will provide economic benefits to ComEd customers more than three times greater than its projected cost and will ensure that the impacts of storms and other events that will undoubtably become more common as the impacts of climate change increase can be mitigated to the extent possible. ComEd contends that Staff's opposition to TOP is short-sighted, admittedly without basis, and made without any substantive technical analysis or policy reasoning. ComEd further contends that the record evidence is uncontested that TOP is a prudent, reasonably costed program that will provide reliability and O&M benefits to customers far in excess of its expense. ComEd states Staff failed to articulate any rational basis for the program to be removed from the Grid Plan. As a result, ComEd urges the Commission to approve ComEd's proposal and fund TOP as proposed in the Grid Plan.

(b) Staff's Position

Staff states the Commission should accept its proposal to reduce ComEd's capital expenditure associated with TOP by $13,000,000 in 2024; $24,000,000 in 2025; $17,000,000 in 2026; and $17,000,000 in 2027.

Staff notes multiple concerns with TOP. First, Staff contends ComEd initiated a very similar program recently involving Ash trees that had succumbed to the emerald ash borer, an invasive insect species. Staff Ex. 5.0 at 15. Staff notes that ComEd was able to conduct that program without relying on LIDAR and HSI. Second, Staff notes that, in the past, ComEd, conducted more aggressive management of its ROWs and identified problematic trees both on and off its ROW for line clearance or removal. *Id.* Staff states it was ComEd's own modification to its past ROW maintenance activities that has allowed these weak-wooded trees to grow on and off of the ROW. Third, ComEd's TOP is a six-year program, but there is no indication that, after TOP ends, ComEd plans to continue any oversight of weak wooded trees such that in another 15 or 20 years, the program would need to be repeated. Staff contends ComEd's MYIGP is silent on this eventuality. Finally, Staff notes that ComEd could initiate TOP on a much smaller scale and over a longer period if the program is needed for reliability purposes, but in a manner similar to the Emerald Ash Borer Mitigation program to help mitigate rate payer costs. Staff Ex. 5.0 at 16.

Staff notes ComEd responded by claiming that current vegetation field employees can identify trees during normal cycle maintenance with time intensive walk downs across varied terrain and access issues, through visual planning and data collection, but the accuracy, level of information, and additional benefits are much lower compared to a comprehensive remote sensing inventory. ComEd Ex. 30.0 at 12-13. ComEd also indicated that, prior to the Company's Emerald Ash Borer Mitigation Program, which ran from 2016 to 2022, the Company utilized manual inspection with limited data collected because, at the time, the remote sensing technology had a higher cost and was unproven within the utility vegetation management industry. *Id.* at 13. Next, ComEd noted that a field employee can identify species and approximate strike potential but cannot supply the level of detail needed to conduct a precise, thorough analysis of the entire system while maximizing reliability and customer impact. *Id.* Finally, ComEd stated that using field employees would only achieve the goal of identifying locations of targeted species with limited data points and would not give ComEd the tools needed to develop long-term vision and strategy to best prepare the system for climate change impacts to customers while improving reliability. *Id.* at 14.

Staff adds ComEd provided additional information about TOP including examples of output from a pilot program that ComEd is running. *Id.* at 3-4. ComEd also provided additional details about the various benefits ComEd assigned to TOP. *Id.* at 8-10. Additionally, ComEd provided information about how ComEd's tree trimming programs have reduced tree-related reliability indices. *Id.* at 17-20.

In rebuttal testimony, Staff noted that ComEd had identified six utilities that are using LiDAR and/or HSI; however, several of these utilities operate in California or Florida where there may be a more pressing need for the use of LiDAR and/or HSI to identify vegetation issues on their systems. Staff Ex. 21.0 2nd Corr. at 13. Staff also noted that, for Pacific Gas and Electric Company, one of the six utilities that utilizes LiDAR, it appears to utilize LiDAR only in critical portions of its system with the majority of that involving its transmission system; as opposed to ComEd's proposal for using it on its distribution system. *Id.* Staff highlighted a concern that ComEd's TOP proposal may be unique and stated that Staff was not convinced ComEd needed to use this cutting-edge technology to conduct this type of work, especially at significant additional expense to ratepayers. *Id.*

Staff notes ComEd provided additional examples of utilities using LiDAR and/or HSI technology in its surrebuttal testimony, but the vast majority of these examples involved using these technologies on their transmission assets; with Xcel Energy being the exception with the use of the technology on some distribution assets associated with wildfire mitigation within Colorado. ComEd Cross Ex. 1.0 at 155. Staff adds Duke Energy used LiDAR and HSI to identify ash trees as part of its emerald ash bore program, but understands this program was limited to circuits that operated at either 69 kV or 138 kV, whereas ComEd's proposed TOP program will review all distribution circuits. *Id.*

Staff repeatedly requested ComEd to consider a smaller scale program that would extend the removal of problematic trees over a longer time horizon without the use of LiDAR and/or HSI technologies, which would also allow Staff to determine the necessity and the cost effectiveness of the alternative program versus ComEd's proposal. Staff Ex. 5.0 at 18-19; Staff Ex. 21.0 2nd Corr. at 11-12; ComEd Cross Ex. 1.0 at 156. Staff is also concerned that ComEd failed to consider alternatives that would reduce the potential cost of the program, such as eliminating the use of LiDAR and HSI, or what extending the timing of the program has more to do with the Company's request to use regulatory treatment of the TOP rather than what is best for ratepayers.

Staff explains that a central tenet of P.A. 102-0662 is affordability. Staff determined that ComEd's proposal to use LiDAR and HSI over its entire distribution system is unique compared to other programs and ComEd did not investigate alternative approaches to its TOP, such as reducing the scope or lengthening the years for the program to operate in order to reduce the impact on ratepayers. As such, ComEd's TOP will cost the ratepayers $71 million over the MYRP period, which is a significant sum of money, especially in light of ComEd's continued refusal to investigate more cost-effective alternative approaches. According to the Company, a system wide field inspection would cost between $3.1 million and $4.7 million versus the LiDAR and HSI cost of $15 million. ComEd Ex. 51.0 at 6-7. However, that information alone is insufficient to determine an alternative approach to ComEd's proposal. Therefore, Staff recommends the Commission remove the TOP in its entirety from the MYRP.

(c) Commission Analysis and Conclusion

The Commission understands that ComEd's proposed investment does not replace and is in addition to its traditional vegetation management practices that focus on the management and removal of tree limbs and other vegetation within the ROW. The Commission considers the proposed investment intriguing and innovative. However, the Commission agrees with Staff's contention that the Company could initiate TOP, but on a much smaller scale with a more targeted approach that introduces cost-effective alternatives. The record is devoid of any alternatives for the Commission to consider. In the refiled Grid Plan, the Commission urges ComEd to assess how a scaled down alternative investment would be allocated over the MYIGP time period, how the narrowed scope compares to the initial proposal in this proceeding, and whether LiDAR and HSI technology should be incorporated. For the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

h. Real Estate – Uncontested

ComEd explains that the Real Estate investment category includes investments in ComEd-owned buildings, reporting centers, and facilities including any buildings and facilities within ComEd-owned substations. ComEd Ex. 5.01 2nd Corr. at 168-169. ComEd states this category funds maintenance, repairs, landscaping, refreshment or renovations of buildings, and furniture acquisition. *Id.* ComEd contends these investments support on-going business operations, allow facilities to remain current with modern amenities and standards, and promote a healthy and safe environment for ComEd employees and customers. *Id.* ComEd further notes that these investments improve ComEd employees' work environment and enable them to execute work in a productive and safe manner. *Id.* ComEd points out that no party contested a project within the Real Estate investment category.

The Commission recognizes that the Real Estate investment category is uncontested. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

i. System Performance

(i) AG and ICCP Proposed Limitations on Category Budget

(a) ComEd's Position

ComEd states that System Performance is a category of investments that is responsible for improving the overall material condition and reliability of the distribution system. ComEd Ex. 5.01 2nd Corr. at 204. ComEd explains that System Performance investments include, among many others, advanced telemetry (including REACTS), cable systems, distribution automation ("DA"), line clearance, and targeted reliability. *Id.* at 205-206. ComEd further explains that System Performance investments are required to maintain and improve safety for both customers and employees and improve grid performance in terms of reliability and resilience. *Id.* at 204. ComEd adds that specific System Performance investments are described in Table 5.2-10 of the Grid Plan and with extensive detail in supporting testimony. *Id.* at 170*,* Table 5.2-10; *see also* ComEd Ex. 50.06 at 86–104; ComEd Ex. 29.0 at 49–53. ComEd notes that its proposed System Performance budget is summarized in Table 5.4-1 of the Grid Plan, which includes the investments to be made during the Grid Plan period at issue in this case. ComEd Ex. 5.01 2nd Corr. at 172. ComEd maintains that its proposed System Performance investments are necessary to maintain and improve the grid as it evolves to meet challenges including climate change and electrification as described in Section V.C.5, above.

As also summarized above in relation to the Capacity Expansion and IT investment categories, ComEd contends that proposals by the AG, Staff, and ICCP to cap the growth in capital expenditures and O&M expense for System Performance investments by the rate of inflation must be rejected as contrary to law and policy. *See* Sections V.C.6.a and e, above. ComEd notes these proposals include Staff witness Lounsberry's recommendation to apply an inflation growth rate to spending on certain System Performance projects (URD Cable replacements and commercial new business expenditures), and ICCP's proposal to cap growth of all capital expenditures and O&M expense in the System Performance category at the rate of inflation, using investment in 2023 as the baseline. *See* Staff Ex. 5.0 at 3. ComEd points out that, in total, ICCP would use this methodology to disallow $493 million in capital expenditures and $10 million in O&M expense over the Grid Plan period. *See* ICCP Ex. 3.0 at 22. ComEd adds that the AG similarly proposes to cap growth in the System Performance category at the rate of inflation, but uses a different calculation than ICCP. ComEd observes that the AG and ICCP recommend drastic reductions to the entire System Performance category of investments, by constraining investments to historical levels adjusted only by inflation. According to ComEd, the AG recommends a category-wide reduction of $947 million. ComEd asserts both recommendations must be rejected. ComEd maintains that these proposals are without any basis in law, are untethered to any analysis of the prudence and reasonableness of any specific investment, ignore the requirements of the Act, and would constitute reversible error if adopted.

ComEd argues that, in addition to the legal and policy failures discussed in detail in Sections V.C.6.a and e, above, the application of these caps to the System Performance category is problematic given the confluence of demands that are anticipated to impact the electric delivery system over the coming years, including the need to interconnect DER, the demands of large and growing numbers of Evs, beneficial electrification of homes and business, other load growth, and mandated improvements in the reliability of the grid including to reinforce it against cyber and physical threats and the challenges arising from climate change. ComEd contends that these factors require ComEd to make significant investment over the coming years in order to keep pace with the expectations of customers and policy makers. ComEd states that both the AG and ICCP assume that historical reliability performance is a predictor of future reliability and conclude that ComEd need not make investments to maintain reliability performance over the Grid Plan period and beyond. However, ComEd asserts that underlying assumption is contradicted by the record evidence. ComEd notes that the grid is changing, and the pace of change is anticipated to accelerate over the Grid Plan period and the years beyond. ComEd states the disallowances that the AG and ICCP propose will hamstring ComEd's efforts to maintain its current levels of reliability in the face of that change.

ComEd notes that one key example of these expectations is the performance metrics that were recently approved by the Commission, which require annual incremental improvements in reliability performance totaling 15% over a 10-year period to achieve an incentive of 0.1 basis points per year. As explained in more detail in the rebuttal testimony of ComEd witness Mondello, ComEd contends that the reliability performance metrics are extremely stringent, and ComEd anticipates incurring penalties based on failure to meet the required improvements in 7 out of 10 years even if ComEd is permitted to invest as set forth in the Grid Plan. ComEd Ex. 29.0 at 135-136. ComEd maintains that, if the ICCP and AG proposals are adopted, ComEd will be effectively limited to the current level of spending power – foreclosed from investing more, in real terms, in achieving the incremental improvements in reliability that are required in order to avoid incurring additional penalties under the performance metrics.

ComEd states that the core of both parties' arguments is that "ComEd can meet the service quality and reliability metrics" approved by the Commission in Docket No. 22-0067 "by making small, marginal improvements to its reliability performance." ICCP IB at 10; *see also* ICCP Ex. 6.0 at 5; ICCP Ex. 7.0 at 3-4. ComEd notes that this assertion was repeated throughout the testimony of the ICCP witnesses, without any further analysis or evidentiary support. ComEd states that repetition does not make a statement true, and neither ICCP witness explained how it could possibly be true. ComEd continues that neither of the witnesses has the depth of experience to make such broad conclusions about a delivery system, and neither of them acknowledges ComEd witness Mondello's testimony to the contrary. ComEd asserts that the evidence is completely uncontroverted.

ComEd contends the witnesses simply make the conclusory statement that ComEd will be able to achieve the performance metrics if the Commission adopts their proposed disallowance, but neither witness offers an alternative analysis that would support their conclusions, or points to any faults in ComEd's analysis. ComEd adds that the witnesses appear to fundamentally misunderstand what inflation represents, and how difficult it is to achieve continuing incremental improvements in reliability. In sum, ComEd concludes that there is no basis in the record evidence for a conclusion that ComEd will be able to meet the Commission's reliability performance metrics if its System Performance investments are seriously reduced.

ComEd states that AG witnesses Alvarez and Stephens take this line of thought even further, "question[ing] whether grid investment should be driven by a 'need' to improve reliability and resilience." AG Ex. 5.0 at 6. ComEd points out, however, that Section 16-108.18 of the Act provides that the new performance-based ratemaking framework under P.A. 102-0662 should be designed to "maintain and improve service reliability and safety," and requires performance metrics that "ensure the utility maintains and improves the high standards of both overall and locational reliability and resiliency, and makes improvements in power quality." 220 ILCS 5/16-108.18(c)(1); 220 ILCS 5/16-108.18(e)(2)(A)(I).

ComEd points out that the Commission-approved performance metrics are – as required by law – intended to drive "incremental improvements over baseline performance." 220 ILCS 5/16-108.18(e)(2). When approving the performance metrics, the Commission found them to be "challenging but attainable," and indeed adopted modifications to the performance metrics that were intended to "make achieving the performance metrics more challenging." Docket No. 22-0067, Order at 104. In that docket, ComEd notes, the Commission specifically rejected arguments from IIEC and the AG that the reliability performance metrics "[were] not challenging enough." *Id*. at 104. Nevertheless, the AG and ICCP persist and carry that argument into this case.

ComEd notes that the AG also asserts "reliability investments are reaching the point of diminishing returns, meaning that the cost to achieve additional improvements has accelerated beyond the point of cost-effectiveness." AG IB at 68. ComEd states this is a collateral attack on the Commission's findings in Docket No. 22-0067 and must be rejected. *See Newkirk v. Bigard*, 109 Ill. 2d 28, 39 (1985) ("[A] party cannot collaterally attack an agency order in a proceeding such as this unless the order is void on its face as being unauthorized by statute."). In that docket, ComEd states, the Commission found that the reliability performance metrics "will, to the extent practicable and achievable by the utility, encourage *cost-effective*, equitable utility achievement" of reliability and resiliency outcomes. Docket No. 22-0067, Order at 104 (emphasis added). ComEd maintains that the AG cannot now argue that efforts to achieve the metrics that the Commission has already deemed to result in "cost effective" improvement of reliability and resiliency are not, in fact, cost-effective.

ComEd also notes that AG witnesses Alvarez and Stephens state that, because ComEd's grid is already "among the most reliable and resilient in the United States," investments that are "intended solely to improve reliability and resilience" should be deferred "in favor of investments to accommodate DER, [EV] charging, or other [P.A. 102-0662] policies and goals." AG Ex. 5.0 at 6. ComEd contends, however, that as DER and

Evs become more prevalent across the system, the distinction between investments "solely to improve reliability and resilience," and investments that accommodate DER, EV charging, and other P.A. 102-0662 goals is not nearly as clear as the AG witnesses imply. ComEd Ex. 43.0 at 8.

ComEd states that ICCP claims its recommended disallowance of System Performance investments will have no impact on ComEd's ability to achieve other P.A. 102-0662 goals related to the clean energy transition, such as the integration of DER and Evs. ComEd explains that this is untrue. ComEd states that, in simple terms, there are two types of grid infrastructure investments that support DER and EV charging: (i) investments to interconnect individual DER or EV chargers to the system; and (ii) investments to ensure the distribution grid can withstand the additional loads and power flows caused by DER and Evs in the aggregate. *Id.* ComEd maintains that without the investments in that second category, such as advanced distribution protection schemes, the incremental loads and changing power flows caused by the interconnected DER and Evs will cause reliability and resiliency problems, such as fault energy and momentary outages. *Id.* at 8. ComEd contends it would be imprudent to invest in the first category without also investing in the second category, or while deferring investments in the second category, because doing so would be tantamount to knowingly causing reliability problems in "backbone" System Performance. ComEd adds that the AG's rhetoric rings hollow because the AG witnesses also propose to cap not only expenditures in System Performance, but also in Capacity Expansion, which includes many investments in the first category, which they say should be prioritized. ComEd concludes that the Commission should not accept this tradeoff simply to cut short-term investment costs as proposed by the AG and ICCP.

ComEd states that, for the legal and policy reasons discussed in detail in Sections V.C.6.a and e, above, and for the reasons particular to the System Performance category detailed here, the AG, ICCP, and Staff proposals to cap investments and O&M expense in the System Performance category should be rejected.

(b) Staff's Position

Staff stands by its proposed system performance adjustments from its Initial Brief and believes Staff's approach of proposing adjustments on a per-project basis is superior to the AG's and ICCP's across-the-board reduction. However, should the Commission decline to adopt those Staff's adjustments, Staff does not oppose the Commission adopting either the AG's or ICCP's proposed adjustment in the alternative. Staff RB at 47.

(c) AG's Position

The AG contends the Company's Grid Plan proposes System Performance capital spending that is 55.9% ($1.147 billion) higher than the most recent 4-year period (2019-2022). AG Ex. 1.0 at 61, 99.

The AG notes ComEd's System Performance investments "target obsolescence, degradation and continuous improvement in the reliability, resiliency, safety, and health of the electric grid. ComEd Ex. 5.01 2nd Corr. at 169. This category "consists of investments in distribution lines, high-voltage distribution lines, substations, and protective relays." *Id.* at 204. ComEd explained that its System Performance projects are intended to improve safety and grid performance (reliability and resilience). *Id*. According to ComEd, distribution investments include "advanced telemetry" (including the REACTS communications projects), distribution automation, and targeted reliability, and they are intended to enable "first quartile" SAIFI and CAIDI reliability performance and meet reliability performance metrics. *Id.* at 204–207. Substation System Performance investments include substation hardening and replacements. *Id.* at 207–209. Relay & Protection System Performance investments include replacing electro-mechanical relays with microprocessor-based relays, intelligent substation projects, and SCADA/communications investments. *Id.* at 209–210. According to the AG, these investments are intended to "maintain or improve the reliability and security of ComEd's infrastructure" by providing "improved situational awareness, improved real-time monitoring," data collection, and "precise coordination and fault detection." *Id.*

The AG explains that prior to the Grid Plan, ComEd invested heavily in System Performance projects, including substation hardening, DA, and SCADA and other communication systems upgrades over the last 10-12 years. *Id.* at 170. According to the Grid Assessment, this spending amounted to nearly $3.7 billion in System Performance projects during the EIMA period, including $2.7 billion for the distribution system, $218 million for relay and protection, $615 million for substations, and $130 million for the high voltage distribution system. ComEd Ex. 2.01 at 30. The AG adds that for the past decade, ComEd has continuously escalated System Performance spending, going from $213 million in 2012, to $431 million in 2020, and averaging approximately $595 million for 2021, 2022, and 2023. *Id.*; ComEd Ex. 5.01 2nd Corr. at 160, 172. Yet ComEd has asserted that prior investments were "only the beginning" and "only addressed a small percentage of the overall ComEd distribution system." ComEd Ex. 5.01 2nd Corr. at 171. The AG assets that for the four-year Grid Plan period, ComEd's System Performance would average nearly $800 million per year. *See Id.* at 172 (Table 5.4-1).

The AG states that even momentarily setting aside affordability concerns, to justify such extraordinary increases in System Performance spending, the AG argue that ComEd must establish that such investments are cost-effective, that is, that the benefits to customers would outweigh the costs of the rate increases needed to pay for them. AG Ex. 1.0 at 62-64. They explain that because System Performance spending is intended to improve reliability, resiliency, and safety, ComEd should be able to demonstrate that its spending would provide tangible benefits in the form of improvements to the key reliability metrics such as reductions to SAIDI, SAIFI, and CAIDI, and the outage costs avoided as a result of such improvements. *See* AG Ex. 1.0 at 58; Staff Ex. 29.0 at 32-33; ICCP Ex. 3.0 at 14-15.

The AG asserts that the record shows that ComEd has not carried its burden of proving that its System Performance spending as a whole would result in reliability and resiliency benefits that outweigh the costs. As the Grid Assessment found, ComEd's system achieved nearly full redundancy by 2020 such that customer loads on 94% of ComEd's distribution circuits can be rerouted, ComEd has "modernized" approximately 40% of its protective relays, and ComEd completed full SCADA system installations for substations by 2020, which allows it "to monitor operating conditions and to control nearly 100 percent of substation equipment and circuit breakers remotely." ComEd Ex. 2.01 at

9-12. As a result of these improvements, ComEd's grid is now among the most reliable and resilient in the United States. AG Ex. 5.0 at 6. According to the Company's own report, ComEd recorded its best ever SAIDI and SAIFI, its best CAIDI in over 20 years, and was recognized as the "Most Resilient Power Grid in the U.S" in 2022. *Id*.

In order to understand the benefits of proposed reliability investments, the AG explain that ComEd would necessarily need to estimate its future performance if such investments were to be allowed. As Staff witness Antonuk testified, however, ComEd has failed to provide projected SAIFI and CAIDI data. Staff Ex. 29.0 at 32. This means that the record is "essentially devoid of meaningful SAIDI and CAIDI detail" and "provides no quantified way (either roughly estimated or refined) to relate the multiple types of investments made at least in major part to improve reliability to overall SAIFI, CAIDI, or other reliability measures expected to result in the future." Staff Ex. 29.0 at 32. As Mr. Antonuk testified, "ComEd asserts the need for billions of dollars in investments to sustain reliability and to meet modest improvement targets – investments whose necessity for meeting those goals has been substantially questioned." Staff Ex. 29.0 at 32. Projected SAIFI and CAIDI data "is critical in justifying the Company's own belief about required investment levels and also in demonstrating specifically how goals will fail to be met under the reduced investment levels recommended." *Id.* at 33. Mr. Antonuk found it "telling" that "ComEd has chosen . . . not to provide forecasts of system results under metrics including, but not limited to SAIFI and CAIDI." *Id.* at 33.

The AG notes ComEd claims that these investments are necessary because of a "confluence of demands" that it anticipates will impact its grid "over the coming years" such as the interconnecting DER, adoption of Evs and other electrification measures, other load growth, and "mandated improvements" in the reliability of the grid. ComEd IB at 140. ComEd cited its reliability performance metrics as a "key example" of these demands. *Id.*

But the AG contends that ComEd's proposed increase is not necessary to achieve ComEd's Commission-approved reliability performance metrics over the term of the Grid Plan. ComEd has two Commission-approved performance metrics related to reliability and resiliency. The first is a system-wide improvement in SAIDI, excluding planned outages and up to five major event days ("MEDs"). ComEd Ex. 5.01 2nd Corr. at 213. The second is an improvement of SAIDI, SAIFI, Customers Experiencing Multiple Interruptions ("CEMI"), and Customers Experiencing Long Interruption Duration ("CELID") in EJ and R3 communities. *Id*.

ICCP witness Fitzhenry found that "ComEd has not proven that further acceleration of annual capital expenditures for system reliability is needed" to achieve ComEd's reliability performance metrics, or that "[a] further increase in annual capital expenditures for reliability for reliability improvements" would be cost-effective. ICCP Ex. 3.0 at 3. Mr. Fitzhenry was able to calculate ComEd's SAIDI targets for each year of the Grid Plan to determine the level of systemwide improvement that would be needed for ComEd to achieve its reliability performance metrics. *Id.* at 16. To improve its reliability performance by 1% per year, ComEd would only need to improve its SAIDI by 2.6 minutes over 2020 levels in order to hit its performance metrics. *Id.* at 17. This means that ComEd would need to improve its SAIDI (without MEDs) by approximately 30 seconds per year during the Grid Plan period to achieve its performance metrics. ICCP Ex. 7.0 at 7. At historical investment levels, ComEd was able to reduce its SAIDI by more than 38 minutes from 2012-2021, for an average of well over 4 minutes per year. *See* ComEd Ex. 5.01 2nd Corr. at 113 (Figure 3.5-4). Thus, Mr. Fitzhenry concluded that ComEd should have no trouble meetings its systemwide SAIDI performance metric "by maintaining a similar level of reliability performance relative to what it achieved over the last several years." ICCP Ex. 3.0 at 18. ComEd criticized ICCP for not appreciating "how difficult it is to achieve continuing incremental improvements in reliability." ComEd IB at 141. The AG contends it should go without saying, but there is no requirement in the Act that the performance metrics, and the corresponding incentives for the utility, be easy to achieve. *See* 220 ILCS 5/16-108.18(e).

Accordingly, the AG argues that ComEd's claim that a 55% increase in System Performance spending over 2019-2022 levels is necessary is either misleading because ComEd could make the necessary improvements for much less, or ComEd's reliability investments are reaching the point of diminishing returns, meaning that the cost to achieve additional improvements has accelerated beyond the point of cost-effectiveness. The AG argues that taking ComEd's argument to its logical conclusion, it would be justified in making ever-escalating levels of capital investment to achieve fewer marginal improvements to reliability. The AG asserts that ComEd should not be allowed to flout the law of diminishing returns by spending more and more to achieve less and less. There must be a limitation. The AG explains that the Act provides multiple limitations, including a mandate that the utility engage in an open and transparent planning process, that all distribution system investments be cost-effective and affordable, and that plans to achieve performance metrics must provide net benefits to ratepayers. 220 ILCS 5/16-105.17(d)(1), (2), (6), (7), (11); *id.* at 16-108.18(e)(2)(F). Faced with ComEd's lack of capital spending restraint, the AG asserts that the Commission must enforce these statutory limitations.

The AG contends that ComEd also mischaracterizes the testimony of AG witnesses Alvarez, and Stephens by suggesting that they recommend the prohibition of any investment in reliability, or that reliability is unrelated to the adoption of DER, and that Evs are unrelated to reliability. The AG clarifies that its recommendation would allow the Company to spend approximately $6.76 billion in capital investments over the next four years, including $2.25 billion on System Performance alone. The AG contends it is simply untrue that the AG seek to *prevent* investment in reliability and resiliency, including reliability-related investments driven by DER and Evs. As AG witnesses Alvarez, and Stephens testified, "[t]he question is, by continuing to *increase* System Performance spending, does ComEd's MYIGP include investments beyond the point of diminishing return?" AG Ex. 5.0 at 47-48.

The AG contends that ComEd is expecting reliability gains to level off while its spending to achieve those gains accelerates. *See id* at 48 (Figure 1). The AG avers that this is an untenable situation for ComEd's customers and the State of Illinois, and asserts that the Commission must step in and enforce the limits provided for in the Act to prevent runaway spending.

Undergirding these systemic trends, the AG argue that they identified several specific examples of inflated budgets for System Performance spending, as discussed further in the subsections that follow. They assert that the Company has not considered potential cost-effective alternatives to its Intelligent Substation; Relay, Protection, and Control Replacements; and REACTS programs, and that the analysis the Company provided raise serious questions as to whether such investments are cost-effective.

The AG adds ComEd spent nearly $3.7 billion over ten years during EIMA and achieved substantial reliability improvements. Now it wants to spend nearly $3.2 billion in just four years to again improve reliability and resiliency. Based on the vast amount of capital ComEd has pumped into its system over the past decade and corresponding reliability improvements it has realized, the AG asserts that accelerating capital spending is likely to result in little more than gold plating and diminishing returns. Thus, the AG asks the Commission to adopt their recommendation to limit ComEd's capital spending and cap its System Performance budget at an already high $544.8 million in 2024, $556.4 million in 2025, $568.7 million in 2026, and $581.6 million in 2027.

(d) ICCP's Position

ICCP's recommendation is to maintain ComEd's forecasted level of capital and O&M expenses supporting System Performance in 2023, and only increase them at the annual rate of inflation (2.1%) over the MYRP period. ICCP state this recommendation reduces the Company's proposed System Performance capital expenditures over the MYRP period by $493 million, or 12.8%. The recommendation also requires a reduction in System Performance O&M expense over the MYRP period of $10 million, or 11.1%. ICCP. Ex. 3.0 at 22.

ICCP note ComEd complains again about the inflation allowance offered on top of the level of capital expenditures and O&M expense allowed by ICCP. ComEd IB at 139. ICCP points out that as part of its argument, ComEd asserts it's not likely to meet the annual incremental improvements in reliability performance totaling 15% over a 10-year period to achieve an incentive of 0.1 basis points per year. ComEd IB at 140. ComEd adds that if the ICCP and AG proposals are adopted, ComEd will be effectively limited to the current level of spending power – foreclosed from investing more, in real terms, to achieve the incremental improvements in reliability that are required in order to avoid incurring additional penalties under the performance metrics. *Id*. at 141. ICCP suggest several responses are in order.

ICCP point out there is nothing in P.A. 102-0662, the performance metric statute (220 ILCS 5/16-108.18), or ComEd's performance metrics Order (Docket No. 22-0067) that suggests or implies the utility should be afforded whatever monies it wants to meet its targets. Indeed, it would be a perverse result if that were the case. ComEd would then be entitled by this logic to whatever budget it claims it needs to meet its targets. In ComEd's view, ratepayers would pay these large sums, absorb huge rate increases, and then have to pay for costly basis points adjustments, so that ComEd can meet the Performance Metrics 1 and 2 targets.

ICCP note ComEd made the same plea in its performance metric docket. ComEd argued against Staff's reduction of MEDs, claiming it will not earn an incentive and instead will incur a penalty if its performance degrades from the baseline. Docket No. 22-0067, Order at 76. ICCP add that the Commission was not persuaded. The Commission directed, as an alternative, to include all MEDs as ComEd asked, with an exclusion of up to five MEDs. The Commission concluded this finding was supported by the record "and results in a metric that is challenging but attainable". *Id*. at 102-103. The Commission added Staff's proposal will encourage ComEd to take measures to reduce the occurrence of MEDs, while also addressing ComEd's concerns regarding weather-driven volatility in reliability statistics. *Id*. at 103.

ICCP note the Commission made it abundantly clear that the Performance Metrics 1 and 2 targets were attainable and never does the Commission suggest a specific level of funding would be needed. ICCP argue this record conclusively demonstrates ComEd can meet the reliability metric targets established by the Commission for the Company in the performance metric case by maintaining a similar level of reliability performance relative to what it achieved over the last several years.

ICCP state the AG rightfully concludes that the record shows ComEd has not carried its burden of proving that its system performance spending as a whole would result in reliability and resiliency benefits that outweigh the costs. AG IB at 66. The AG adds that, because system performance spending is intended to improve reliability, resiliency, and safety, ComEd should be able to demonstrate reductions to the SAIDI, SAIFI, and the CAIDI, and quantify the outage costs avoided as a result of such improvements. *Id*. ComEd never estimated its future performance under these reliability indices, but ICCP did.

ICCP witness Fitzhenry calculated ComEd's SAIDI targets for each year of the Grid Plan to determine the level of system-wide improvement that would be needed for ComEd to achieve its reliability performance metrics. Mr. Fitzhenry concluded that ComEd should have no trouble meeting its system-wide SAIDI performance metric "by maintaining a similar level of reliability performance relative to what it achieved over the last several years." ICCP Ex. 3.0 at 18.

Thus, ICCP, the AG, and others have shown that ComEd has not met its burden of proving that its system performance spending provides benefits that outweigh the costs. Therefore, ICCP's proposal to moderate the Company's system performance spending, and the AG's proposal to limit ComEd's capital spending and cap its system performance budget at an already high \$544.8 million in 2024, \$556.4 million in 2025, \$568.7 million in 2026, and \$581.6 million in 2027 (See AG IB at 69), are reasonable and appropriate limitations on these expenditures.

(e) Commission Analysis and Conclusion

ComEd proposes \$3.199 billion in system performance capital expenditures in the Grid Plan, after spending \$3.7 billion over ten years through EIMA. *See* ComEd Ex. 5.01 2nd Corr. at 170, Table 5.2-10; Grid Assessment at 30. The AG proposed a reduction of the system performance budget to equal the average spending level from 2019-2022 plus inflation. ICCP's proposal would maintain ComEd's forecasted level of capital supporting System Performance in 2023, only increasing at the annual rate of inflation over the MYRP period.

The burden is on ComEd to prove its proposed budgets for Grid Plan investments are reasonable and prudent, and that the Grid Plan meets the requirements of P.A. 102-0662. The Company has not satisfied this burden. Without a cost-effectiveness analysis the Commission is unable to determine if the Company's system performance investment proposals are properly aligned to the requirements of the Act, at the correct scale, and pace (see Section V.B.4.h. of this Order). The Commission notes that ComEd has one of the most reliable electric distribution systems in the country, making a cost-effectiveness analysis crucial when weighing the reasonableness of the Grid Plan's system performance components. *See* AG Ex. 5.0 at 6.

As discussed in Section V. A., the Commission shall determine the appropriate budget for all proposed projects relating to system performance upon the Commission's finding that the Company has submitted a Grid Plan that complies with the Act.

(ii) Intelligent Substation and Relay, Protection, and Control Replacement Programs

(a) ComEd's Position

ComEd contends the Intelligent Substation and Relay, Protection, and Control Replacement programs should be approved as proposed in the Grid Plan, rather than delayed decades, as ComEd states is suggested by the AG. ComEd notes the Grid Plan includes $146.3 million capital investment for the Intelligent Substation program and $51 million for the Relay, Protection, and Control Replacement program (2023-2027). ComEd Ex. 29.0 at 163. ComEd maintains that the investments for these programs support the goals outlined in Section 105.17(d)(1)-(3) of the Act. 220 ILCS 5/16-105.17(d)(1)-(3). ComEd observes that even the AG, the only party opposed to the programs, concedes that "some level of spending" on the program "may be justified." AG IB at 69-73. ComEd argues the AG's opposition should be rejected because it fails to cite support in the record evidence and lacks a specific adjustment proposal.

ComEd explains that an intelligent substation is a set of substation bus, breaker, control relay, and communication system upgrades that combine reliable, flexible, and future-proof substation technologies and equipment into one project. ComEd Ex. 5.01 2nd Corr. at 127-128; *see also* ComEd Ex. 29.0 at 157. ComEd further explains that its intelligent substations allow automated fault locating, which provides precise locations of disturbances on the distribution system for faster response time and enables advanced pre-failure detection (e.g., advanced transformer monitoring, slow breaker clearing times) and analysis, which helps predict a variety of failure modes such as transformer degradation or pending breaker failure. ComEd Ex. 5.01 2nd Corr. at 127-128; *see also* ComEd Ex. 29.0 at 157. ComEd contends that investments in intelligent substations have resulted in fewer circuit breaker failures and bus lockouts, and thus fewer customer interruptions. ComEd Ex. 5.01 2nd Corr. at 127-128. ComEd states that, for this Grid Plan, ComEd's proposed Intelligent Substations investments include upgrading electro-mechanical protective relays to modern microprocessor-based devices, replacing aging and poor performing circuit breakers, and technology to remotely monitor asset health in real-time at ComEd's Ford City, Crosby, and Lansing substations. ComEd Ex. 5.01 2nd Corr. at 210; *see also* ComEd Ex. 29.0 at 158–159.

ComEd acknowledges that the AG recommends the Intelligent Substation and the Relay, Protection, and Control Replacement programs should not be implemented at one time but instead slowly over decades. AG Ex 1.0 at 77. ComEd believes this recommendation is based on the AG's opinion that ComEd has not conducted any analysis on the programs, and its assertion, made without analysis or specific comparisons, is that there are less expensive solutions, such as line sensors, as alternatives in place of substation relay upgrades. AG Ex. 1.0 at 76-77. ComEd argues that the AG's conclusions are incorrect. ComEd adds that it has conducted an analysis on the performance of intelligent substations and has seen an 80% reduction to bus lockout resulting in customer interruptions. ComEd Ex. 29.0 at 165. Moreover, ComEd states the AG fails to consider all of the benefits of installing intelligent substations and microprocessor relays, which cannot simply be replaced by line sensors and fault indicators. ComEd Ex. 29.0 at 166-177.

ComEd contends that deferral of the Intelligent Substation and the Relay, Protection, and Control Replacement programs, as proposed by the AG, would be expected to result in Large Substation Events (defined as events resulting in outages to greater than 1,000 customers and/or resulting in repair costs exceeding $500,000) across ComEd's six substations, while foregoing the substantial reliability and benefit-costs of the programs. ComEd Ex. 29.0 at 172. ComEd urges that the cost-effective benefits of the Intelligent Substation and the Relay, Protection, and Control Replacement programs described in the Grid Plan and testimony should not be arbitrarily delayed and that ComEd's investment should be approved as proposed.

ComEd observes that, in its Initial Brief, the AG again erroneously asserts that "ComEd has not completed a specific analysis of the benefits of the Intelligent Substation program," but then acknowledges that ComEd's analysis showed that "the Intelligent Substation projects will result in 80% fewer substation circuit breaker lock-outs." AG IB at 70. ComEd notes that the AG argues that ComEd's analysis lacks context (*id*.), but fails to note the additional context that ComEd provided in testimony, specifically that the proposed investments will lead to 98,000 avoided customer interruptions, 4,960,000 avoided minutes of interruption, a $3.2 million reduction in system operating costs, and $30.3 million in customer benefits. ComEd Ex. 29.0 at 165.

ComEd observes that the AG also opposes ComEd's proposed investment in microprocessor-based relays, claiming that "ComEd's need for microprocessor-based relays to accommodate DER appears to be overblown." AG IB at 72. ComEd argues that the AG's focus on the need to accommodate DER is misplaced. ComEd explains that the record reflects that increased DER penetration is "not the main driver of these relay upgrades." ComEd Ex. 29.0 at 167. Microprocessor-based relays have many benefits that are ignored by the AG, including superior fault locating capabilities and the enablement of advanced protection and control schemes, ComEd contends. *Id*. at 166.

ComEd argues the AG's arguments in support of its proposed disallowance fail to consider the entire record. ComEd concludes that it has justified its planned investment in these Intelligent Substation and Relay, Protection, and Control Replacement programs, and they should be approved by the Commission, as proposed.

(b) AG's Position

The AG contends that ComEd's Intelligent Substation and Relay Replacement programs are prime examples of ComEd's failure to rigorously ensure the benefits of proposed investments outweigh the costs. According to ComEd, "an Intelligent Substation is a set of substation bus, breaker, control relay, and communication system upgrades that combine reliable, flexible, and future-proof substation technologies and equipment into one project." ComEd Ex. 29.0 at 157. A major component of these projects is replacing and reconfiguring substations busses to change from a straight-bus to a ring configuration. *Id.* at 159–160. The Relay, Protection, and Control Replacement program "upgrades outdated protective relays, such as electro-mechanical relays, with modern microprocessor-based relays." *Id.* at 158. These investments are intended "to modernize ComEd substations," including "upgrading electro-mechanical protective relays to modern microprocessor-based devices, replacing aging and poor performing circuit breakers, and technology to monitor asset health in real time." ComEd Ex. 5.01 2nd Corr. at 210. The Company is proposing to spend approximately $146 million on intelligent substations and another $40 million on relay replacements in the Grid Plan. ComEd Ex. 29.0 at 163 (Table 18), 164 (Table 19).

The AG demonstrates that there are several flaws in the Company's proposed Intelligent Substations project. First, the price tag of the program is high and appears to be increasing. During the EIMA period, ComEd upgraded 14 substations to "intelligent" versions at a cost of at least $134 million. ComEd Ex. 2.01 at 78. In the Grid Plan, ComEd is proposing to fully digitize just five substations at a cost of $141 million, which works out to an average cost of $28 million per substation, or slightly less than double the close to $15 million per substation cost between 2012 and 2020. AG Ex. 1.0 at 76. Given that the average ComEd substation serves approximately 4,773 customers, this works out to an average of $5,866 per customer. *Id.* at 76. Given these increasing costs, as well as historical data which could be analyzed to determine the cost-effectiveness of such investments, the AG argues that ComEd should have been able to provide a robust business case to support the program.

But ComEd has not completed a specific analysis of the benefits of the Intelligent Substation program. The AG explains that when asked for a benefit-cost analysis, or the underlying customer and reliability data for the substations in question that would allow stakeholders to conduct their own benefit-cost analysis, the Company refused to provide such data on the grounds that "the Intelligent Substation program is not primarily or directly prioritized to respond to outages in the context of short term reliability impacts, but rather to advance resiliency in prevention of, and impact reduction of, future events and outages." AG Ex. 5.1 at 22. Therefore, in ComEd's view, "SAIDI and SAIFI performance are not independently meaningful short term measures of the outcome of this program." *Id*.

Instead, the Company claims that the Intelligent Substation projects will result in 80% fewer substation circuit breaker lock-outs that result in customer interruptions as compared with other substations. ComEd Ex. 29.0 at 165. But the AG explains that this 80% reduction does not provide appropriate context because it does not indicate the frequency with which circuit breaker lock-outs resulting in customer outages occur. AG Ex. 5.0 at 59. AG witnesses Alvarez and Stephens testified that if circuit breaker lock-outs resulting in customer outages happen ten times a year per substation on average, an 80% reduction benefit might be worth the cost of intelligent substation conversion. *Id.* at 59. But if circuit breaker lock-outs resulting in customer outages happen once in ten years per substation on average, an 80% reduction benefit will definitely not be meaningful or worth the cost to convert. *Id.* at 59. The AG asserts that a risk-informed and data-driven benefit-cost analysis would be able to provide this context, which is why the Company should be required to conduct one for discretionary programs such as upgrades to intelligent substations.

The AG explains another concern with the Intelligent Substation program is that the largest part of the 80% circuit breaker lock-out reduction benefit is likely due to the ring-bus design the Company has made a part of intelligent substation conversion. AG Ex. 5.0 at 60. AG witnesses Alvarez and Stephens testified that “straight-bus substation design can be converted to a ring-bus design absent intelligent substation conversion at a small fraction of the cost of intelligent substation conversion.” *Id.* at 60. Thus, the AG continues, implementing a ring-bus design rather than a full intelligent substation conversion could, in many cases, be a more cost-effective alternative, but it appears to be one that ComEd did not consider.

The AG states that with respect to Relay, Protection, and Control Replacement, the Company is proposing to spend approximately $40 million to upgrade to microprocessor-based relays. Relays are a common piece of equipment on the electric grid that tells another piece of equipment when to operate; for example, a relay can sense a fault and instruct a circuit breaker to open. AG Ex. 1.0 at 77. Microprocessor relays have capabilities that older versions do not have, including improving fault-locating capabilities (thus reducing service interruption duration), improving adverse event records for forensic analysis, and providing real-time status reporting. ComEd Ex. 5.01 2nd Corr. at 210. ComEd claimed that reliability and resiliency are the “main driver” of relay upgrades in the short term, yet it provides no quantitative analysis in support of this claim. ComEd Ex. 29.0 at 166-167. AG witnesses Alvarez, and Stephens estimate that a microprocessor-based relay can cost as much as $150,000 per relay to install, and conclude that the Company should be able to provide evidence of reliability improvements provided by the devices as well as proof that the Company cannot obtain substantially the same benefits with lower cost solutions such as line sensors and fault locators. AG Ex. 1.0 at 77–78.

The AG adds ComEd also claims that microprocessor-based relays will be necessary to accommodate DER penetration because high levels of solar systems and batteries, also known as inverter-based resources, can confuse relays without microprocessors, causing a myriad of problems. AG witnesses Alvarez and Stephens testified that the “confusion” arises from inverter-based resources’ lack of inertia. AG Ex. 1.0 at 78. The problems typically cited that might occur at high levels of DER include older relays’ inability to detect islanding; inability to “ride through” disturbances caused by large amounts of DER capacity disconnecting at once; and inability to operate properly in instances of reverse power flow (when current flows to the transmission grid from distribution, rather than the other way around). *Id.* at 78.

However, the AG asserts that ComEd’s need for microprocessor-based relays to accommodate DER appears to be overblown, at least in the next 4-5 years of the Grid Plan period. The AG explains that DER capacity on ComEd’s system will still be small relative to peak load by 2027. AG Ex. 1.0 at 78. As of 2022, only 3% of ComEd’s circuits have more DER capacity than 10% of peak load interconnected, and only 1% of ComEd’s circuits have more DER capacity than 25% of peak load interconnected. *Id.* at 78-79. The AG further points out that the level of DER capacity at which relays without microprocessors will begin to exhibit problems is as now yet unknown, and it will vary significantly from circuit-to-circuit depending upon each individual circuit's characteristics and conditions. *Id.* at 79. To date, ComEd has not yet experienced any of the DER-related problems it claims it must avoid through replacement of relays with microprocessor-based versions. *Id.* at 79. Thus, the AG argues that it is not cost-effective to prepare the entire system to address this potential problem given that it is not clear whether all circuits will experience high DER penetration, when a given circuit might experience a high level of DER penetration, exactly what the impacts of such DER penetration will be, and whether a microprocessor-based relay is the best technology to mitigate those impacts.

Finally, the AG notes that ComEd is not starting from scratch with these investments. Nearly all of the 114 substations that directly serve the distribution system from the transmission system have multiple substation buses allowing the transfer of loads in case of the loss of a transformer. ComEd Ex. 2.01 at 12. ComEd completed full SCADA system installations for substations by 2020, which already allows ComEd to monitor operating conditions and control nearly 100% of substation equipment remotely. *Id.* at 13. And ComEd has already "modernized" 40% of its protective relays with up to 83% of 345 kV transmission lines and up to 55% of 34kV lines having them as of 2020. *Id.*; ComEd Ex. 2.01 at 17 (Percentage of Microprocessor Relays by Voltage System (2020)).

The AG argues it is possible that some level of spending on Intelligent Substations and Relay, Protection, and Control Replacements may be justified, but the AG contends that ComEd has not provided sufficient evidence to include that it needs to inflate its System Performance budget by 55.9% for this equipment, particularly because current spending has proven sufficient to install it on large portions of its system over the last several years.

(c) Commission Analysis and Conclusion

The Commission agrees with the AG that ComEd has not completed a specific benefit-cost analysis of the Intelligent Substation program. The AG further contends there are likely other less expensive alternatives that the Company could employ to reduce costs.

ComEd states that upgrading substations to Intelligent Substations should not be implemented all at once. ComEd notes it completed 26 Intelligent Substation projects from 2012 through 2022 and plans to complete six more (out of a total of 810 substations) from 2023-2027.

The Commission finds that, without the cost-effectiveness analysis required by 220 ILCS 5/16-105.17 (d)(1), (2), and (7), it is unable to determine if these system performance investments are prudent, reasonable, in compliance with the goals and objectives of P.A. 102-0662, and supported by sufficient evidence within the record.

As discussed in Commission's decision in Section V.A, the Commission shall determine the appropriate budget for all proposed projects relating to system performance upon the Commission's finding that the Company has submitted a Grid Plan that complies with the Act.

(iii) Undergrounding/Pocket Reliability – ITN 59288

(a) ComEd's Position

ComEd contends that the Undergrounding/Pocket Reliability program (ITN 59288) should be approved as proposed in the Grid Plan, rather than arbitrarily delayed, as ComEd states is recommended by Staff and the AG. ComEd explains that this program identifies pockets or sections of circuits that are at the highest risk of damage or long duration outages (particularly during extreme weather), and improves resiliency, or hardens, those pockets or sections. ComEd Ex. 5.01 2nd Corr. at 56-58; *see also* ComEd Ex. 29.0 at 115. ComEd adds that the solutions to harden the pockets protect utility customers from outages. ComEd Ex. 5.01 2nd Corr. at 56-58; *see also* ComEd Ex. 29.0 at 115. ComEd notes that among the solutions the Undergrounding/Pocket Reliability program considers include installing spacer cable; re-routing sections of circuits that are in wetlands or heavily vegetated areas; installing stronger, different height, or alternate material poles; increasing operational flexibility with additional switching points; and targeted vegetation management solutions. ComEd Ex. 29.0 at 115. ComEd calculates the funding for this program at approximately $238.2 million (2023-2027). ComEd Ex. 29.0 at 115-116. ComEd estimates that this program will produce $44 million in annual reliability benefits to customers, meaning the benefits of ComEd's proposed $238 million investment would exceed the costs after only 5.5 years. ComEd Ex. 29.0 at 118.

ComEd contends that the AG and Staff propose reducing the Undergrounding/Pocket Reliability program because they claim that ComEd has failed to prove the program investments are cost-effective. *See* AG Ex 1.0, at 69-70; Staff Ex. 15.0 at 11-12; Staff Ex. 13.0 at 23. ComEd adds that the AG and Staff also claim ComEd has failed to provide sufficient information to support these investments. *See* AG Ex 1.0, at 69–70; Staff Ex. 15.0 at 11-12; Staff Ex. 13.0 at 23. ComEd argues these conclusions are incorrect and should be rejected by the Commission. ComEd notes that the AG mischaracterizes the scope of the program by over emphasizing undergrounding. AG Ex. 1.0 at 70. ComEd continues that, because only approximately 20% of projects have historically included overhead to underground conversions, the AG's critique, even if credited, is wholly inapplicable to 80% of the program. ComEd Ex. 29.0 at 117-118. ComEd further contends that Staff's claims suggesting ComEd has failed to provide sufficient information supporting the program are also false. *See* Staff Ex. 13.0 at 23. ComEd argues it has provided ample information supporting the program. ComEd Ex. 29.0 at 118; *see also* ComEd Ex. 50.0 at 11-13. Specifically, ComEd states it has identified the feeders it expects to harden between 2023-2027 and provided the basis for the assumptions relating to customer impact and interruption duration, which all factor into the identified societal savings and storm related costs. ComEd Ex. 29.0 at 118; *see also* ComEd Ex. 50.0 at 11-13.

ComEd observes that Staff does not appear to question the need for this program or the customer benefits that flow from it. However, ComEd notes that Staff proposes to reduce spending on this program by $67.7 million in the last two years of the Grid Plan period (2026 and 2027). According to ComEd, Staff asserts that there is no basis in the record for justifying this amount of investment in those years, noting particular concern with the fact that there appears to be a "dramatic" increase in the program investment in the last two years of the Grid Plan compared to 2024 and 2025. Staff IB at 108. ComEd argues Staff's concern is misplaced.

ComEd Ex. 29.04 provides details on 83 projects in 2024, 31 projects in 2025, 72 2210 projects in 2026, and 77 projects in 2027. ComEd Ex. 29.0 at 116; ComEd Ex. 29.04. Ignoring the outlier year of 2025, the average number of projects in 2026 and 2027 (73) is nearly identical to the average number of projects in 2023 and 2024 (72), ComEd explains. Based on historical data, ComEd estimates that the average cost of each project will be $394,000 over the 2024-2027 period. ComEd Ex. 29.0 at 116. ComEd notes that because of compound issues with some sections of circuits, it may be necessary to perform multiple projects (each at an estimated $394,000) on a single section, but this cost of investment is constant across ComEd's projection. In other words, ComEd contends, the record evidence does not support Staff's claim that there is a "dramatic increase" in the cost per project. ComEd Ex. 29.0 at 116.

ComEd maintains that the AG's opposition to the Undergrounding/Pocket Reliability investment is based entirely on its persistent and incorrect belief that "undergrounding" is the primary, if not exclusive, solution that ComEd is proposing to increase the resiliency of these circuits. ComEd observes that the AG asserts that ComEd should consider rerouting or increased vegetation management as potential solutions in place of undergrounding. ComEd contends this completely misses the evidence in the record that ComEd is already implementing those, and many other, solutions as part of the program. *See* ComEd Ex. 29.0 at 115. As ComEd witness Mondello testifies, solutions considered in the program distinct from undergrounding include, but are not limited to: installing spacer cable; re-routing sections of circuits that are in wetlands or heavily vegetated areas; installing stronger, different height, or alternate material poles; increasing operational flexibility with additional switching points; and targeted vegetation management solutions. *Id.* In sum, all of the hardening techniques identified by the AG have already been incorporated into the Undergrounding/Pocket Reliability investment.

ComEd contends that reducing the level of investment as proposed by the AG and Staff would result in substantial program deferrals and create a risk of degradation of service, increased repeated outages, and increased costs for customers. ComEd Ex. 29.0 at 119-122. ComEd adds it will also be impeded from meeting its two Commission-approved Reliability Performance Metrics because ComEd would almost certainly be unable to achieve the targeted 15% SAIDI improvement for both the entire system and also in the EIECs during 2023-2027. ComEd Ex. 29.0 at 119; ComEd Ex. 50.0 at 12. ComEd therefore concludes that, as a result, ComEd's proposed Undergrounding/Pocket Reliability program investment should be approved as proposed and not arbitrarily delayed. *See* ComEd IB at 145-147.

(b) Staff's Position

Staff proposed adjustments reducing the forecasted ITN 59288 MYIGP investments by $68.903 million, reducing them to $169.281 million, as shown by the table in Staff Ex. 29.01 Corr. Staff asserts this value reflects a smaller adjustment than what Staff initially proposed. Staff Ex. 13.01.

Staff found that ComEd had not demonstrated the need for its MYIGP substantial increase above the corresponding 2022 value of $20.5 million, after adjustment for escalation. ComEd had not identified work levels (*e.g.*, circuit types, circuit lengths, circuits for undergrounding) or provided a sufficient basis to demonstrate the reliability of estimates underlying its MYIGP forecasted investment values. Staff Ex. 15.0 at 12.

In rebuttal testimony, ComEd provided a list of feeders and projected spend for each feeder across the MYIGP years. ComEd Ex. 29.04. ComEd also described the assumptions underlying program scope and selection of feeders involved and provided a societal savings estimate, focusing on customers who experience more than four or more reductions in three successive years ("CEMI4R3") and those experiencing long interruptions duration for three consecutive years ("CELID12R3"). ComEd Ex. 29.0 at 118. ComEd also cited the percentage of investments to be targeted to EIECs, but did not explain why or how Staff's adjustment would diminish the ability to focus on EIECs. ComEd Ex. 29.0 at 119.

In rebuttal testimony Staff observed that ComEd provided no reason to conclude (nor was any apparent) that lower investment levels (*e.g.*, following Staff's adjustment to ITN 59288) that ComEd would prove unable to dedicate benefits at the range (25-40%) cited by the Company. Staff concluded that the ComEd failed to present sufficient information to justify the need for investments under ITN 59288 or in combination with other investments at levels at the levels proposed by the Company's MYIGP. Staff also noted that reliance on CEMI4R3 and CELID12R3 improvements to date to support significantly increased expenditures under ITN 59288 was misplaced. For example, between 2012 and 2017, ComEd saw a reduction of 91% in CEMI4R3 values. Another reduction of 11% came between 2017 and 2022, all before the $238.184 million in ITN 59288 investments proposed for the MYIGP. Staff Ex. 31.0 at 27.

Apart from continually failing to justify the MYIGP investment levels of ITN 59288, Staff also observed that ComEd included a list of feeders that raised concern about the reliability of the estimates employed. Staff Ex. 31.0 at 28. Staff determined that ComEd appeared to have employed firm estimates for its feeder pocket repair projects in 2023 and for most of 2024, but included placeholders for the remaining proposed amounts. *See* ComEd Ex. 29.04; Staff Ex. 31.0 at 28. ComEd did not explain its basis for identifying required levels of feeder work or for estimating the expenditures required to perform it. The data revealed that the generally expected single repair pocket for the earlier period becomes two or more pockets as the MYIGP duration continued. ComEd provided no explanation for the substantial increase in expected work levels per feeder in 2025 through 2027.

Ultimately, Staff found that ComEd had failed to justify the work levels and estimates underlying ComEd's investment levels for ITN 59288. Staff determined that ComEd's justification did not extend beyond investment values based on the number of feeders the Company proposed for 2024 and the distribution in numbers of pockets requiring repair, and repair costs per pocket.

ComEd generally alleged that reducing expenditures for ITN 59288 will produce repeat outages and that ComEd is transitioning from a reactive approach to a proactive approach to prevent additional customers from experiencing excessive outage repetition.

However, ComEd provided no quantification of the increased repeat outages expected or an explanation of why a change in approach, coupled with the greatly increased investment levels is necessary for activities that, as noted above, have already produced a reduction in repeat outages by well over 90% at investment levels that are far lower than those proposed by ComEd's MYIGP. ComEd Ex. 50.0 at 12.

ComEd further claimed that Staff's adjustment produced a reduction in benefits to customers living in EIECs. ComEd Ex. 50.0 at 13. This point raises unanswered questions about why the Company cannot, even after Staff's adjustments, target a higher percentage of ITN 59288 expenditures of the $10 billion plus in total MYIGP investments to address any disparity its past practices may have caused. ComEd provides very limited "examples" of how projects are analyzed by reliability engineers, examples that show the use of historical averages to develop project costs. ComEd Ex. 50.0 at 13. The Company also cites an earlier description about how scopes and expenditures are determined. ComEd Ex. 50.0 at 13. Staff contends this general description of process and less than a handful of examples does not begin to address a fundamental question raised by Staff's observation of a very large post-2024 increase in costs per feeder on the approximately 260 feeders to be worked under ITN 5928 during the MYIGP. ComEd Ex. 29.04.

Staff notes the AG highlighted the substantial improvement ComEd has already made in reducing the numbers of ComEd's four million customers subject to multiple interruption under the applicable CEMI standard to only about 1,500 and those subject to lengthy interruption durations under the applicable CELID standard to less than 500. AG IB at 74. Furthermore, the vast improvement in performance under the CEMI and CELID standards cited by ComEd to justify investments under ITN 59288 underscores the need for ComEd to explain why it cannot continue to meet the Act's goal of: optimizing the utilization of electricity grid assets and resources to minimize total system costs absent the large increases it proposes as the MYIGP period proceeds. *See* 220 ILCS 5/16-105.17(d)(2). ComEd cites evidence largely consisting of qualitative assertions about service degradation risk, increases in repeated outages, increased costs, and failure to meet performance metrics. Staff avers that evidence does not provide quantitative dimensions on these risks, nor does it explain why it is necessary or appropriate.

Staff states that as the record evidence demonstrates, historically it took far lower expenditures than those reflected in ComEd MYIGP forecasted investments under ITN 59288 to achieve substantial improvements in reliability measures, *e.g.*, $11.2 million spent in 2021 and $20.5 million estimated for 2022. Staff Ex. 15.0 at 11. Even after Staff's adjustments, ComEd will have funding several times larger than those previous levels. Staff proposed $34.2 million for 2024, with escalation thereafter. *Id.* ComEd failed to demonstrate that optimizing the utilization of electricity grid assets and resources to minimize total system costs requires the vast growth in investments it has proposed, especially when compared to its recent historical spending.

Therefore, Staff recommends the Commission accept Staff's proposed adjustment of $68.903 million to the Undergrounding/Pocket Reliability program, ITN 59288.

(c) AG's Position

The AG identifies yet another System Performance program example that raises cost-effectiveness concerns: ComEd's Undergrounding/Pocket Reliability program.

ComEd proposes approximately $210 million in capital investments to underground the overhead lines and undertake pocket reliability projects for customers experiencing frequent or long duration interruptions. AG Ex. 1.0 at 69. While targeting customers experiencing frequent interruptions (measured by CEMI) and customers experiencing especially long service interruptions (measured by CELID) is laudable, the AG iterates that it is necessary to ensure that spending to achieve reliability improvement is outweighed by the benefits. *Id.* at 69.

The AG contends that the evidence shows that the benefits of this program are unlikely to outweigh the costs. They explain that the number of customers violating the Commission's CEMI and CELID standards is small, and that over the last five years, the number of customers violating the CEMI standard averaged just 1,552 customers per year, while the number of customers violating the CELID standard has averaged just 451 per year out of more than four million customers. *Id.* at 69-70; ComEd Ex. 2.01 at 14. The AG asserts that the law of diminishing returns is clearly apparent here, and independent research agrees. A study of undergrounding's benefits and costs in Texas, a state with frequent hurricanes, found that the benefits of undergrounding were just $0.30 for every $1 spent.

The reason is that undergrounding is unreasonably expensive, and ends up benefitting very few customers per dollar. ComEd reports a cost of $1.4 million to underground one mile of overhead line on average. AG Ex. 1.3 at 10-12. Given that ComEd operates 66,508 circuit miles to serve its 4.1 million customers, an average of 62 customers per mile, a project which undergrounds one mile of overhead line will improve the reliability of just 62 customers on average, at an average cost of $22,580 *per customer* ($1.4 million divided by 62 customers). AG Ex. 1.0 at 70.

The AG notes that ComEd attempted to rebut this evidence by pointing out that "[o]nly approximately 20% of projects historically included overhead to underground conversions. The claim by Mr. Alvarez and Mr. Stephens regarding undergrounding being too expensive does not apply to 80% of the scope" in the undergrounding/pocket reliability program." ComEd Ex. 29.0 at 117. Asserting that the AG's critique does not apply to 80% of the program projects does not mean that the critique is incorrect with respect to the 20% to which it does apply. Moreover, AG witnesses Alvarez and Stephens explain that even if undergrounding is only 20% of the program's projects, "it likely constitutes more than 80% of the program's budget . . . because undergrounding is so extremely costly relative to the other types of Pocket Reliability projects." AG Ex. 5.0 at 53. For example, while the Company reports the undergrounding of an overhead line costs $1.4 million per mile (and we note that one circuit mile may serve 50 customers or less), the cost to re-route a circuit around a troublesome, wooded area (by building a new circuit segment) is just $600,000 per mile. AG Ex. 1.3 at 10-12. Further, the AG explains that both undergrounding and re-routing solutions are far more costly to customers than aggressive vegetation management, which as an O&M expense, earns the Company no profits. The AG concludes that the Undergrounding/Pocket Reliability program is yet another example of ComEd's failure to rigorously assess the costs and benefits of its proposed capital expenditures and further evidence that its System Performance spending must be limited.

(d) Commission Analysis and Conclusion

ComEd asserts that the Undergrounding/Pocket Reliability program identifies pockets or sections of circuits that are at the highest risk of damage or long duration outages, particularly during extreme weather, and improves resiliency, or hardens, those pockets or sections to prevent or reduce customer outages. ComEd estimates that this program will produce $44 million in annual reliability benefits to customers.

Staff proposes to reduce spending on this program by $67.7M in the last two years of the Grid Plan period (2026 and 2027) to match the spending noted in 2024 and 2025. Staff asserts that there is no basis in the record to justify a significant increase in the program investment in the last two years of the Grid Plan compared to 2024 and 2025.

The AG opposes the program, noting "undergrounding" is the primary, if not exclusive, solution that ComEd is proposing to increase the resiliency of these circuits. The AG asserts that ComEd should consider alternative hardening techniques, aside from undergrounding. The AG contends that both undergrounding and re-routing solutions are far more costly to customers than other methods that achieve similar results while carefully considering the costs and benefits.

The Commission finds that, without the cost-effectiveness analysis prescribed by 220 ILCS 5/16-105.17 (d)(1), (2), and (7), it is unable to determine if these system performance investments are prudent, reasonable, in compliance with the goals and objectives of P.A. 102-0662, and supported by sufficient evidence within the record. As discussed in Section V.A, the appropriate budget for all proposed system performance projects shall be determined upon the Commission's finding that the Company has submitted a Grid Plan that complies with the Act.

(iv) REACTS

(a) ComEd's Position

ComEd argues that the Commission should approve ComEd's modified REACTS and Platform Enablement Reinforcement Measures ("PERFORM") program, and its reduced $602.45 million budget during the Grid Plan period, which is supported by Staff and JNGO. ComEd Ex. 63.0 at 1-3.

ComEd explains that the REACTS program is designed to deploy an advanced communications and telemetry network that will utilize multiple technologies to provide enhanced functionality to the distribution grid in a secure and reliable manner with the further objective of facilitating DER and electrification adoption. ComEd Ex. 5.01 2nd Corr. at 140. ComEd notes that its distribution grid already relies on communication systems to optimally function, utilizing a variety of technologies including wireless mesh networks, microwave, radio, fiber, and cellular technologies. ComEd Ex. 5.01 2nd Corr. at 140; *see also* ComEd Ex. 32.0 at 23-28. However, ComEd recognizes that some of these technologies are becoming obsolete and more expensive to maintain, providing fewer capabilities and offering less flexibility to manage current and future grid monitoring and control needs. ComEd Ex. 32.0 at 28-31. ComEd states that the REACTS program integrates next generation communication technology to replace this obsolete telecommunication infrastructure to improve telemetry and redundancy between its major substations, enhance its SCADA system, and unify disparate wireless networks. ComEd Ex. 5.01 2nd Corr. at 140.

ComEd explains it would execute the REACTS program in concert with the improved resiliency standards of PERFORM. ComEd notes that PERFORM standards promote sustainability and efficiency of designs by ensuring that overhead and underground structures meet physical capacity requirements for ComEd's planned additional assets, including communication system assets, at enhanced levels of resiliency against wind and weather. ComEd Ex. 32.0 at 59-62. ComEd believes that PERFORM will ensure that distribution facilities will be constructed with the ability to support ComEd's communication infrastructure and avoid early modification or replacement of facilities unable to support added communication assets. *Id.*

ComEd explains that REACTS and PERFORM have been ongoing since 2019 and these investments have been reviewed and approved by the Commission during annual reconciliation proceedings for reasonableness and prudence. ComEd Ex. 53.0 at 15; ComEd Ex. 53.03. Since 2019, ComEd observes, REACTS has installed 288 miles of fiber optic cable, connecting to and increasing the visibility and control of 24 ComEd substations and 143 distribution devices and enabling 8 Advanced Distribution Protection ("ADP") schemes and the connection of 6 MW of DER via DERMS. ComEd Ex. 53.0 at 16. REACTS investments have resulted in increased network availability, reduced latency, and $3 million in recurring annual savings. ComEd Ex. 53.0 at 16. ComEd states that the associated PERFORM circuit resiliency work completed in tandem with the advanced communication deployment has reinforced 396 miles of distribution circuits. ComEd Ex. 53.0 at 16.

ComEd recognizes that its position has evolved throughout the proceeding, and now, with concurrence from Staff and JNGO, ComEd is proposing to spend $602.45 million over the next four years on REACTS and PERFORM, as shown on the following table reproduced from ComEd Ex. 63.0:

Table 4: REACTS and PERFORM Investment During the Grid Plan Period (in millions)

Year	2024	2025	2026	2027	Total
REACTS	$44.18	$56.17	$86.53	$109.52	**$296.40**
PERFORM	$77.10	$77.38	$72.99	$78.58	**$306.05**
Total	**$121.28**	**$133.55**	**$159.52**	**$188.10**	**$602.45**

ComEd acknowledges that this amount is revised from the initial Grid Plan filing and results from significant consideration and implementation of stakeholder feedback. ComEd Ex. 63.0 at 2-3. ComEd, Staff, and JNGO agree that $602.45 million is the correct amount to invest in REACTS and PERFORM in the initial Grid Plan period considering the benefit these investments will provide to the grid and ComEd's customers. ComEd Ex. 63.0 at 1-3; ComEd Ex. 63.02. ComEd and Staff agree that the $602.45 million will be spent solely on REACTS and PERFORM programs and that any money not spent on these programs will not be spent or allocated on other programs. ComEd Ex. 63.0 at 9. ComEd claims that, as part of the agreement with Staff, ComEd will provide a report on the REACTS and PERFORM program progress each year of the Grid Plan. *Id.* at 9-10.

ComEd notes that the $602.45 million is not modified or further reduced by the understanding that ComEd and Staff have related to contingency, which is discussed in Section VII.A.5, below.

According to ComEd, the $602.45 million represents a 34% reduction from the $909 million proposed in the original Grid Plan for REACTS, and an 18% reduction from the $734 million investment proposed by ComEd in rebuttal and surrebuttal testimony. ComEd Ex. 32.0 at 3-4; ComEd Ex. 53.0 at 2. ComEd claims it is confident that this revised initial Grid Plan investment in REACTS will not negatively affect or strand currently planned investments in distribution fiber that have been fully designed and are ready to be deployed. ComEd Ex. 63.0 at 6. ComEd, Staff, and JNGO all agree that the REACTS program provides significant benefits to customers, improves system reliability, and will allow ComEd to facilitate achievement of the goals of P.A. 102-0662 for utilization of DERs, Evs, and the transition to a clean energy future, according to ComEd.

ComEd observes that the AG is the only party that remains opposed to ComEd's proposed investment in REACTS. AG Ex. 1.0 at 64-67; *see generally*, AG Ex. 7.0. ComEd notes that it opposes all spending on REACTS during the Grid Plan period. AG IB at 84. According to ComEd, the AG has made no specific analysis of REACTS other than to question ComEd's conclusions regarding the benefits provided by the program. AG Ex. 7.0 at 7-18. The AG also makes no specific proposal to modify the investment, concluding instead that the entire program should be disallowed. AG Ex. 1.0 at 64-67. ComEd believes that it responded at length to the AG's assertion that ComEd had not conducted an alternatives analysis in rebuttal testimony, explaining in detail the alternatives that ComEd considered, and why those alternatives were inferior to the hybrid REACTS communications network and PERFORM resiliency investments being deployed by ComEd. ComEd Ex. 32.0 at 44-54. Further, ComEd demonstrates that the record evidence shows numerous factual errors, misapplication of analysis, and failure to acknowledge information in the AG's testimony. ComEd Ex. 53.0 at 28-37. While the AG's position on REACTS may be consistent with its position regarding other ComEd programs – deny all proposed investments and approve only historical grid investments modified by inflation – such a position does not reflect a careful consideration of REACTS and PERFORM on their merits, in contrast to the position taken by Staff and JNGO that both agree to a more limited but still robust investment in communications and telemetry technology.

ComEd contends that the REACTS provides the secure, resilient, high-bandwidth, and low-latency communications systems essential to support and enable the grid to meet evolving grid challenges and opportunities. ComEd Ex. 32.0 at 18. ComEd explains a number of systems critical to the electrification and clean energy goals of P.A. 102-0662 are dependent on the REACTS investments to be able to function as required, including DERMS and ADMS. ComEd Ex. 5.01 2nd Corr. at 140-141; *see also* ComEd Ex. 32.0 at 74-89. ComEd further explains DA, which is critical to mitigating the customer impacts from severe weather events and facilitating growing customer-driven DER integration, requires very low latency network solutions to react in near real-time to achieve benefits such as minimizing customer outages and eliminating momentary interruptions. ComEd Ex. 32.0 at 18. Additionally, according to ComEd, enhanced substation security services (such as high-definition and 4K video resolutions), require high bandwidth solutions to deliver the quantity of video data for continual, effective, near real-time security monitoring and alarm response, along with post-event analysis. ComEd Ex. 32.0 at 18.

ComEd contends that the surrebuttal testimony of ComEd witness Phil-Ebosie explains that the AG's testimony on REACTS is replete with errors. *See* ComEd Ex. 53.0 at 28-31. ComEd illustrates that these errors include inaccurate and erroneous descriptions of technologies (such as mesh networks and "internet-of-things" communication), conflating and confusing basic technical concepts (such as data rate and bandwidth) and ignoring swaths of testimony regarding ComEd's history with public common carriers and the transition from 4G to 5G. *Id.* ComEd contends none of these errors were addressed or explained in the AG's Initial Brief.

Regarding the AG's proposed disallowance of REACTS, ComEd notes that the AG first argues that ComEd could achieved the same results as REACTS using "common carrier cellular rather than by private LTE." AG IB at 77. ComEd observes that the AG cites no record evidence in support of this argument and ignores the extensive refutation of this argument in ComEd's testimony. Specifically, ComEd contends that witness Phil-Ebosie's rebuttal testimony describes in detail ComEd's experience with public carrier options, the numerous ways in which public carrier options have fallen short of ComEd's requirements, and the improvements ComEd has seen when operating its own communications network. *See* ComEd Ex. 32.0 at 23-29.

ComEd observes that the AG next argues that there are "fatal flaws" in a model ComEd prepared showing that the benefits of the REACTS investments would exceed the costs of those investments within a reasonable period of time. AG IB at 79-82. This argument fundamentally misconstrues both the purpose and results of ComEd's analysis, according to ComEd. ComEd witness Phil-Ebosie's surrebuttal testimony explains that this model was not intended to be the sole justification for the REACTS program and thus omitted societal benefits, future use case enablement, and non-quantifiable benefits that are key to realizing the overall benefit of REACTS, ComEd explains. *See* ComEd Ex. 53.0 at 33-36. Moreover, the AG's argument that ComEd failed to demonstrate the net present value of the REACTS investments exceeds the costs over the Grid Plan period ignores the fact that the AG's own witness concluded that a present value analysis (using assumptions that are presumably favorable to the AG's position) shows only that the break-even year, where the perpetual benefits from ComEd's investment begin to outweigh the upfront costs, shifts backwards by only two years, from 2032 to 2034, which actually confirms ComEd's benefit-cost calculations by arriving at a similar result. AG Ex. 7.0 at 13.

Finally, ComEd acknowledges that the AG argues that ComEd could use "'IoT' (Internet of Things) devices" to provide a "direct 'home run' connection between each SmartMeter [sic] and the ComEd server" instead of continuing to rely on the existing mesh network for connecting AMI meters. AG IB at 83. ComEd argues this argument is based on technical inaccuracies regarding the function and connectivity of a mesh network and IoT devices and fails to understand the purpose of REACTS. ComEd Ex. 53.0 at 29-30. ComEd explains that REACTS is not replacing the AMI mesh network, (ComEd Ex. 32.0 at 23-24), rather REACTS will unlock increased functionality, reduce operating expense and support increased security posture to the low-latency, high-bandwidth use cases such as those that come from connecting to DA devices that are becoming increasingly important to preparing the grid to meet the goals of P.A. 102-0662. *Id.* at 10-14.

ComEd contends that Staff and JNGO agree with ComEd that REACTS is a valuable and necessary grid investment that should be approved. The AG offers no persuasive rationale to deny or defer spending on REACTS. ComEd asserts the position of Staff and JNGO supporting REACTS and PERFORM investments at the amount of $602.45 million for the initial Grid Plan should be adopted and the position of the AG should be rejected.

(b) Staff's Position

Staff does not oppose the REACTS program. However, in direct testimony, Staff stated that ComEd had not adequately justified the pace of the expenditures it proposed. Specifically, ComEd did not propose a reasonably clear and sufficiently detailed depiction of program requirements that extends through all years it will take to complete REACTS, including years beyond the MYIGP period. ComEd did not provide current total estimated REACTS program costs over the life of the program, an estimate of when the project will be completed, or explain how much of the project is expected to be complete by the end of the MYIGP period. Staff Ex. 15.0 at 32. Information marked confidential, however, indicates that ComEd does not expect to complete the REACTS program during the MYIGP period; it appears to anticipate completion many years into the future and at a final cost many times greater than the values shown to date. Staff Ex. 15.0 at 31-32.

Staff adds ComEd did not provide a reasonably clear, detailed, or complete explanation of physical quantities to be installed or of the nature, locations, and magnitudes of enhanced capabilities expected to exist at the end of 2027. There was no clear demonstration that the MYIGP investment forecasts were driven by a current total program estimate that was sufficiently detailed, reflective of all significant cost components, and demonstrably reliable. Additionally, ComEd did not demonstrate that the planned pace of work was based on a sound analysis of alternative durations, their benefits and costs, and a clear justification of how and why ComEd balanced program duration against resulting rate burdens. Absent evidence that ComEd has undertaken an analysis that considered a slower pace of REACTS work, Staff could not support a pace for 2025 through 2027 MYIGP investments that is faster than the pace indicated by capital investments forecasted for 2023 and 2024. Staff Ex. 15.0 at 35-36. Staff calculated that pace as amounting to $150 million per year for the 15 ITNs that formed the REACTS program at the time Staff filed direct testimony. Staff Ex. 13.0 at 25.

Staff notes REACTS costs are decreasing both continually and significantly. For example, a December 2022 Project Authorization Overview appeared to show $1.598 billion in expenditures for 2023-2027, well above the $929 million in proposed MYIGP investments as understood at the time of Staff's direct testimony. Staff Ex. 15.27. Moreover, as ComEd stated in rebuttal testimony, expected expenditures have continued to fall substantially since ComEd filed its MYIGP. Planning to employ larger amounts of wireless, as opposed to fiber-based communications technology, produced a decrease of about by approximately $175 million, about 19% of the MYIGP proposed values. ComEd Ex. 32.0 at 4. Moreover, ComEd continues to evaluate opportunities to increase efficiency in REACTS deployment. *Id*. For example, as it completes the leading, backbone program layer that connects substations, ComEd will determine the best mix of fiber and wireless technologies for work on the succeeding distribution layer to maximize efficiencies. ComEd Ex. 32.0 at 38. All the $175 million saved by the recently incorporated switch to wireless came from reducing required work under the PERFORM element (*i.e.*, for the communications component) because, while wireless is marginally more expensive than fiber, it reduces work on poles that support it. ComEd Ex. 32.0 at 96. This circumstance underscores the importance, from a cost reduction point of view, in pacing of and interaction between the fiber/wireless and PERFORM work as ComEd continues to seek to optimize wireless to save costs in the future.

In rebuttal testimony, ComEd provided significantly more information about quantities it expected to install during the MYIGP period. ComEd Ex. 32.0 at 98, 100. It also provided three alternate deployment scenarios which produce material differences in investment levels during the MYIGP ComEd Ex. 32.0 at 106-107; ComEd Ex. 32.03. The Company did not, however, provide cost or schedule estimates for the program at completion, citing "evolving deployment priorities," "engineering analysis," "how the REACTS network is fundamentally structured," "significant variability … beyond the Grid Plan period," and "further engineering analysis to determine the optimal mix of fiber and wireless." Staff Ex. 31.02. ComEd provided many references to ultimate program cost and schedule, designating each confidential, while at the same time refusing to accept any of them as representative of what ComEd believes the total program will cost or how long it will take to complete. *See e.g.*, Staff Ex. 15.24 Conf.; Staff Ex. 31.01; ComEd Ex. 32.02.

After reviewing ComEd's rebuttal testimony, Staff recommended reflecting the $175,297,688 produced by including private wireless communications as a reduction to the MYIGP's initially proposed $929.1 million for the ITNs comprising REACTS, as Staff understood the program at the time of its direct testimony. Staff also recommended adding the eight ITNs (64051, 76378, 77214, 77220, 77226, 77228, 81085, and 83537) that ComEd identified as proposing investments comprising part of REACTS. This correction adds $43,556,185 to the value of the investments ComEd's MYIGP proposed for REACTS as Staff addressed the program.

However, at that time, ComEd had not provided a reasonably clear explanation of total program cost and duration. Accordingly, Staff continued to propose a limit on annual expenditures for 2025 through 2027 of $150 million, noting continued substantial movement in expected costs, lack of transparency, and a continuing belief that investment levels more moderate than those proposed by the Company remained appropriate as it continues to work through large program uncertainties on a program of such long and costly duration. Staff Ex. 29.0 at 6-9; Staff Ex. 29.01.

Staff notes circumstances clearly indicated very large future cost savings, with many factors underscoring Staff's fundamental concern about REACTS. The large uncertainties that ComEd says preclude reasonably reliable estimates of future costs also militate against a pace of work that will foreclose what Staff believes are significant achievable cost savings. For that reason, while giving the Company credit for proposing more moderate MYIGP investment levels confidentially in its rebuttal testimony, Staff was not persuaded at the time of its rebuttal testimony to accept any of them. However, of the three confidential scenarios addressed in ComEd's rebuttal testimony, the low scenario showed significant movement in the right direction, and moreover was presumably offered based on a well-thought-out approach to optimizing lower expenditures by balancing them among the many ITNs comprising REACTS.

Staff states ComEd's surrebuttal testimony presented substantial additional information about REACTS both within and beyond the MYIGP period; details of work planned during the MYIGP caused Staff to reconsider its position. ComEd addressed the three scenarios the Company offered in rebuttal testimony and offered an approach to effectively make expenditures at rates substantially less than those initially proposed.

Staff engaged in discussions with ComEd about REACTS as Staff was considering whether to change its recommendation to conform to this low of three ComEd confidential rebuttal approaches. Staff IB at 114. Staff also had discussions with JNGO, after learning that JNGO supported funding for REACTS at a level reduced from those proposed by ComEd but higher than that proposed by Staff. *Id.* Through these collaborative discussions, Staff, ComEd, and JNGO reached consensus on several key components of REACTS, as noted in ComEd's supplemental surrebuttal testimony, despite 2025-2027 investment values higher than the $150 million annual levels Staff originally recommended. ComEd Ex. 63.0 at 7-10. While different in certain respects, total investment levels over the MYIGP period reach those generally consistent with the middle of ComEd's three rebuttal approaches. ComEd also agreed that expenditures earmarked in the MYIGP for REACTS will not be shifted to non-REACTS projects, which will allow Commission and stakeholders to track REACT spending levels and ascertain the extent to which that spending yielded successful results. *Id.*

Staff adds the AG recommended deferring approval of the program pending completion of a Commission investigation. AG IB at 84-85. Staff identified a number of concerns in areas cited by the AG, but determined they could be addressed by controlling the pace of deployment, which would give the Company valuable information about continuing opportunities to reduce overall costs for a program that will extend many years beyond the MYIGP and ultimately require expenditures many times over those associated with investments made during the MYIGP. Controlling the pace of REACTS can also allow accumulation of information useful in verifying benefit levels, prioritizing work better, and ultimately tailoring program scope to optimize its effectiveness in light of the Act's goal to minimize costs.

Staff contends the Commission's final Order should include the requirements noted in ComEd Ex. 63.0 at 9-11. Staff adds these were essential to Staff reaching a compromise with respect to REACTS.

(c) AG's Position

In its initial Grid Plan filing, ComEd proposed to construct a utility-owned fiber communications network that would include more than $900 million in capital expenditures during the Grid Plan years of 2023-2027. ComEd Ex. 63.01 at 1. In response to stakeholder concerns, ComEd agreed between rebuttal and surrebuttal testimony to reduce spending on REACTS/PERFORM to $734 million. Despite the large reductions to the proposed budget, and the significant change in scope between direct testimony and rebuttal and again between rebuttal and supplemental surrebuttal, the AG highlights that the Company is nevertheless planning massive capital expenditures that will drive rate increases during this Grid Plan and risk locking in capital spending for many years beyond.

The AG has identified several concerns with the REACTS/PERFORM proposal: (1) ComEd did not meaningfully seek and consider alternatives to a capital-intensive, utility-built communications project; (2) ComEd's financial analysis supporting the project has serious flaws; (3) ComEd's record building communications infrastructure should give the Commission pause; and (4) ComEd has not demonstrated a need for the capabilities to the extent that would justify an advanced communications project. As a result of these flaws, the AG recommends that the Commission defer approval of the REACTS/PERFORM program until a more thorough examination of the plan can take place.

AG witness Selwyn advised that "ComEd's needs [could] be supported by common carrier cellular rather than by private LTE … and potentially at far lower cost and with far greater redundancy than would be possible under any type of single-customer private LTE network." AG Ex. 7.0. at 23. But ComEd appears to have made no direct attempt to examine the potential for common carrier cellular carriers to meet its needs, concluding based upon evaluations undertaken in 2018 and 2019, that "[p]ublic carrier options were ruled out because of lifecycle concerns, complexity with additional IT security infrastructure to maintain security over public systems, reliability concerns in utility critical events, and high recurring monthly costs." ComEd Ex. 32.0 at 46-47. Importantly, ComEd's now-five-year-old 2018-2019 evaluations were undertaken at a time when 5G was barely off-the-ground, and long before the widespread introduction of 5G by any major US cellular carrier. The AG adds that despite its stated "lifecycle concerns," ComEd's proposed private long-term evolution ("PLTE") relies upon 4G LTE technology that is already obsolete and is in the declining stage of its life cycle – *i.e*., ComEd in proposing to invest in already-obsolete 4G PLTE technology.

ComEd claims that public carriers would not meet its needs, but at no time has ComEd submitted a formal specification of its requirements to any public telecom carrier. ComEd Ex. 32.01 at 1. More to the point, ComEd provided copies of several consultant reports the Company had commissioned to develop its REACTS proposal. The AG note that none of these appear to have included consideration of using public carrier facilities in place of facilities to be constructed by ComEd. AG Ex. 7.0 at 18-19. For example, ComEd argues that public carriers would not be able to provide the level of security, priority and protections against service obsolescence that its use of private facilities would afford. *Id.* 19. But as Dr. Selwyn noted, ComEd's specifications could have been put to public carriers that may well be able to serve all or a part of ComEd's service requirements. *Id.* at 19.

ComEd also asserts that it would be able to provide superior network reliability, performance, and technological advancement relative to what could be expected from any common carrier. ComEd Ex. 32.0 at 49, 53-54. But Dr. Selwyn pointed out that ComEd did not explain how or why it, rather than a telecommunications common carrier with massive and redundant network infrastructure, decades of experience producing highly reliable telecommunications services that are somehow more than sufficient to satisfy the mission-critical requirements of any number of enterprise and government customers, would be better equipped to design, construct and manage a stand-alone telecommunications network. AG Ex. 7.0 at 20.

The AG contends that by failing to meaningfully consider alternatives, ComEd has not complied with the Act's requirements to exercise prudence, demonstrate the cost-effectiveness of its investments, or consider third-party alternatives. Under the Act, ComEd is required to identify "potential cost-effective solutions from nontraditional and third-party owned investments that could meet anticipated grid needs." 220 ILCS 5/16-105.17(f)(2)(K).

Additionally, the AG avers that ComEd produced a flawed financial analysis of REACTS/PERFORM that calls the cost-effectiveness of the investment into question. In his rebuttal testimony, Mr. Phil-Ebosie presented what purports to be a financial benefit-cost analysis that would superficially seem to indicate that, over the 15-year period from 2024 through and including 2038, the REACTS/PERFORM capital expenditures would yield benefits that, on a cumulative basis, will more than cover the costs of these programs, resulting in net positive cumulative benefits overall. ComEd Ex. 32.0 at 89. From his review of the ComEd financial model, however, Dr. Selwyn concluded that "the model contains several serious — indeed, fatal — flaws that render its results entirely meaningless and unreliable [and that] [c]orrecting these shortcomings actually results in precisely the opposite conclusion – i.e., over the 2024-2038 period, the cumulative costs of REACTS/PERFORM will far exceed any benefits that ComEd seeks to ascribe to them." AG Exhibit 7.0 at 7.

Specifically, Dr. Selwyn identified three key errors in the ComEd business case model:

> (1) The model entirely omitted one of the most fundamental elements of any capital budgeting analysis: the time value of money.
>
> (2) The model assumed, without any basis or explanation, that once the initial REACTS/PERFORM investments have been completed by the end of 2027, the Company will incur zero additional capital costs or ongoing operating expenses associated with these assets.
>
> (3) ComEd's projections of the long-term future "benefits" associated with REACTS/PERFORM are at best highly speculative, and given the protracted time frame over which these "benefits" are projected to arise, proper capital budgeting practice would typically include some type of adjustment for the uncertainties associated with these assumed benefits, the precision of which diminishes the further into the future one goes.

AG Ex. 7.0 at 10-11. After correcting for these errors in the ComEd model, Dr. Selwyn concluded that "at no point through 2038 does the REACTS/PERFORM investment program yield positive cumulative net economic benefits. In fact, the cumulative net benefit through 2038 is seen as a *negative* \$106.5 million." *Id.* at 16 (emphasis in original).

The AG states that in his surrebuttal testimony, Mr. Phil-Ebosie sought to dismiss these errors as "misunderstandings" on Dr. Selwyn's part. ComEd Ex. 53.0. In his surrebuttal testimony, Mr. Phil-Ebosie revised the purpose of his benefit-cost model as follows: "The model we developed was not intended to maximize the Net Present Value ("NPV") or ROI timing, as Mr. Selwyn mistakenly assumes in his testimony, but rather to respond to a request from Staff for 'an analysis of alternative durations, their benefits and costs, and a clear justification of how and why ComEd balanced those attributes of program duration against resulting rate burdens.'" ComEd Ex. 53.0 at 33.

The AG claims that while Dr. Selwyn did not characterize the Phil-Ebosie model as something that was "intended to maximize the NPV or ROI timing," Mr. Phil-Ebosie himself had earlier described his model as demonstrat[ing] that the REACTS investment is cost beneficial on those merits alone." ComEd Ex. 32.0 at 64. He then revised his position to suggest that the only thing his model was doing was somehow responding to "a request from Staff for 'an analysis of alternative durations, their benefits and costs." ComEd Ex. 53.0 at 33. But the AG states it correctly pointed out that even satisfaction of that Staff request still requires that time value of money and a reasonable estimate of benefits be included in the analysis, which ComEd clearly and unambiguously failed to do.

The AG notes the second error in the ComEd capital budgeting analysis that Dr. Selwyn identified was the omission of all ongoing costs of the REACTS/PERFORM system after 2027. The AG points out that ComEd's failure to acknowledge this unexplained omission is particularly remarkable in view of his testimony that ComEd and Exelon have an IT organization of approximately 1,400 internal IT personnel and more than 170 Exelon IT personnel to manage, design, deploy and operate advanced networks in multiple geographies, and comprising more than 75,000 network devices." ComEd Ex. 53.0 at 31-32. Presumably these professionals will continue to be employed after 2027 to handle ComEd's communication needs.

Along similar lines, Dr. Selwyn pointed out that ComEd's proposed PLTE network will be based upon obsolete 4G wireless technology rather than the current state-of-the-art 5G. Mr. Phil-Ebosie claimed that "Dr. Selwyn ignores [Mr. Phil-Ebosie's] testimony describing how ComEd is deploying REACTS to efficiently transition to a 5G network if and when that transition becomes necessary." ComEd Ex. 53.0 at 30. Even assuming that ComEd has planned to transition to a 5G network, ComEd's benefit-cost model does not account for the *costs* that ComEd would incur to "efficiently transition to a 5G network if and when that transition becomes necessary." *Id*. Moreover, the AG argues that ComEd did not provide an updated benefit-cost model to show the effect of the significant changes to the scope and cost of the program found in ComEd's surrebuttal and supplemental surrebuttal testimony.

The third concern identified by Dr. Selwyn is ComEd's failure to adjust its benefit-cost analysis to reflect the increasing uncertainties associated with cost and benefit projections covering periods well into the future, in this instance more than a decade in the future. ComEd offered no response to this point.

In the end, the AG asserts that it will be ComEd's ratepayers, not its shareholders, who will be called upon to bear the costs, at whatever level the Commission may ultimately allow, of these massive telecommunications overbuilds. And it is ComEd's ratepayers, not its shareholders, who require the assurance that the investment that they, the ratepayers, are being called upon to make will yield net positive benefits to them. The AG explains that if the Commission allows ComEd to go forward with these proposed capital outlays, ComEd's shareholders will be made whole, and be assured a return on their investment, irrespective of the actual economic benefits that might (or might not) flow from the investment itself. Thus, the AG asks the Commission to require ComEd to affirmatively demonstrate that ratepayers who will be required to pay for these telecommunications assets will realize net positive economic benefits on a NPV basis because ComEd has made no such showing.

Dr. Selwyn also noted that ComEd's experience with self-managed telecommunications networks does not bode well for the type of projects being proposed here. AG Ex. 7.0 at 20. ComEd witness Arns, whose testimony was adopted by Mr. Phil-Ebosie, stated that the wireless mesh network is "becoming obsolete, resulting in increased maintenance costs, lower security, and ultimately providing fewer capabilities and less flexibility." ComEd Ex. 53.01 at 63. Mr. Phil-Ebosie admitted that "mesh networks offer limited range, are susceptible to interference and signal degradation," frequently result in network congestion, and "in certain cases when a main access point fails, the large number of nodes its [sic] supports also lose connectivity." ComEd Ex. 32.0. Dr. Selwyn explained that

> In the 'mesh network' architecture used by ComEd, low-power wireless transceiver devices are deployed at each SmartMeter location. The transmission range of each of these devices is very short – of the order of a few hundred feet – that is capable of reaching adjacent and nearby locations only. A mesh network creates what amounts to a 'daisy-chain' of individual wireless devices, that receive and retransmit signals down the chain from one device to the next. If the chain is interrupted, such as might occur when an individual device failure occurs or when some type of RF [Radio Frequency] interference is present, the daisy-chain is broken and the transmission cannot traverse the gap.

AG Ex. 7 at 20-21.

To avoid the obsolescence that ComEd's witnesses admit they are facing in connection with its mesh network, Dr. Selwyn notes that an alternative approach, one that appears to have been summarily rejected by ComEd, would have been to use public cellular carriers to provide a direct "home run" connection between each SmartMeter and the ComEd server. Dr. Selwyn explained that similar IoT devices are now widely used for such applications, and the use of direct "straight through" cellular connectivity for the types of remote metering and monitoring devices that are used by ComEd would be a superior approach than the mesh network that ComEd built and now admits, six to eight years later, is now "becoming obsolete." ComEd Ex. 53.01 at 63.

The AG asserts that ComEd's proposal to build a fiber network does not appear to be justified by the technical needs of its proposed telecom applications. As Dr. Selywn testified, "[m]ost of ComEd's telecom applications involve relatively low data rate (bandwidth) transmissions that are well within the capabilities of cellular technology." AG

Ex. 7.0 at 23. It is not clear that fiber would be needed to support the data rates of applications ranging from security camera videos to meter data. Moreover, even if sub-second response times were needed for advanced protection schemes, the Company has not established that such schemes would be necessary and cost-effective *everywhere* on the grid. AG Ex. 5.0 at 61. The AG contends that ComEd is proposing to deploy fiber optic cables with multi-gigabit bandwidths to support data rates in the range of a few hundred to a few thousand bits per second, raising a question of whether the full extent of fiber communications infrastructure ComEd is proposing would be used and useful.

Despite these arguments, ComEd responds that the AG has made "no specific analysis of REACTS other than to question ComEd's conclusions regarding the benefits provided by the program," and the AG has "made no specific proposal to modify the investment, concluding instead that the entire program should be disallowed." ComEd IB at 150. First, the AG points out that ComEd's criticism that the AG made "no specific analysis other than to question ComEd's conclusions regarding the benefits provided by the program" is puzzling. The "benefits provided by the program" are perhaps the most important information that stakeholders and the Commission need in order to evaluate the prudence and cost-effectiveness of the investment. The AG questions ComEd's conclusions regarding the benefits of the program because the record shows that ComEd's business model for the program contained several fatal flaws. *See* AG Ex. 7.0 at 7.

Similarly, ComEd's criticism that the AG has "made no specific proposal to modify the investment" is conceptually misguided and factually incorrect. The burden is on ComEd to prove that its proposed investment is prudent, reasonable, cost-effective, and the least-cost alternative. 220 ILCS 5/16-105.17(d)(1), (2), (7); *id.* at 16-108.18(d)(4). The AG contends that if ComEd failed to do so, or if the justification it provided contains material flaws, regulators and stakeholders are not required to rescue the proposal by designing an alternative approach to meeting ComEd's purported needs. The AG asserts that if ComEd would like to spend over half a billion dollars of ratepayer money in four years for a communications project, ComEd alone is responsible for developing a proposal and submitting it to the Commission for approval. Staff and other stakeholders then have the ability to review, evaluate, and sometimes even criticize the proposal.

The AG further explains that ComEd's argument that the AG suggested no alternative is also false. The AG highlights that there is at least one potential alternative that ComEd did not meaningfully consider: ComEd could have developed detailed specifications for its communications needs and solicited requests for proposals, information, or quotes from third-party carriers. AG Ex. 7.0 at 18-19. ComEd admitted that it has not done this. *Id*. ComEd argued that public carriers cannot provide the level of service and security that it requires for its network, but as the Dr. Selwyn noted, issues such as security and priority "could certainly have been specified in [requests for proposals] or similar solicitations to public carriers." *Id.* at 19. In fact, Dr. Selwyn testified that there is reason to believe that telecommunications common carriers are able to meet the demanding specifications that ComEd has identified for its REACTS project, given that "there are any number of other large enterprise firms and governments that have, from their perspective, comparable mission-critical needs, yet seem to be able to utilize common carrier services." *Id.* at 19-25.

The AG adds the other reasons ComEd cites for REACTS in its Initial Brief do not hold up to careful scrutiny. For example, ComEd says that REACTS is necessary to support DERMS and ADMS, but it is already using DERMS in certain instances, and has not established a widespread need for ADMS. ComEd also points to DA, which requires "very low latency network solutions to react in near real-time to achieve benefits such as minimizing customer outages and eliminating momentary interruptions." ComEd IB at 151. But as shown in the Grid Assessment, ComEd has been extensively investing in DA for years without a comprehensive, utility-owned communications network. ComEd Ex. 2.01 at 21-22.

ComEd also argues that "enhanced substation security services (such as high-definition and 4K video resolutions) require high bandwidth solutions to deliver the quantity of video data for continual, effective, near real-time security monitoring and alarm response, along with post-event analysis." ComEd IB at 151. But ComEd must be able to establish that these benefits will outweigh the costs of establishing a system-wide communications network and that it, as opposed to carriers in its service territory, is in the best position to deliver it.

To resolve these questions about the REACTS/PERFORM project, the AG recommends that the Commission defer approval of the program until a more thorough examination of the plan can take place. Under Section 16-105.17(f)(6) of the Act, the Commission can, as part of its order approving or modifying the Grid Plan, "create a subsequent implementation plan docket, or multiple implementation plan dockets, if the Commission determines that multiple dockets would be preferable, to consider a utility's detailed plan or plans, as directed in the Commission's order." 220 ILCS 5/16-105.17(f)(6). The AG proposes that the Commission exercise this authority and order a Staff-led investigation of the REACTS/PERFORM following the conclusion of this proceeding. The Company has been planning this project since at least 2018 and has changed its scope multiple times in this proceeding alone. The AG concludes that an additional delay to assure the Commission that a utility-owned telecommunications network is the most prudent and least-cost option is warranted given high cost and the cost-effectiveness and affordability questions at stake.

(d) JNGO's Position

JNGO state ComEd's REACTS program is the Company's most expensive proposed MYIGP investment. JNGO add that in his direct testimony, JNGO witness Volkmann recommended more scrutiny of the REACTS/PERFORM program. Mr. Volkmann was particularly concerned that ComEd (1) did not perform a benefit-cost analysis for the REACTS/PERFORM project, and (2) did not appear to sufficiently evaluate less expensive wireless technologies (like PLTE) to offset at least part of the Company's planned fiber deployment. JNGO Ex. 2.0 at 29. To be clear, Mr. Volkmann did not dispute ComEd's need for advanced communications as DER penetrations increase, however he was not convinced that such an expensive private fiber deployment like REACTS is the most cost-effective solution for ComEd at this time. *Id. a*t 31.

JNGO note that in its rebuttal testimony, ComEd found a way to reduce the 2024-2027 REACTS/PERFORM cost by $175 million by substituting PLTE communications for some of its planned fiber deployment. JNGO Ex. 9.0 at 6. After reviewing ComEd's revised plan, Mr. Volkmann concluded that ComEd could further reduce the cost of REACTS "by deploying even more PLTE instead of fiber at the distribution layer." *Id*. at 9. Mr. Volkmann also noted that ComEd still has not produced a robust benefit-cost analysis for REACTS/PERFORM that includes the full customer costs of investments, measured by revenue requirements. *Id*. at 16.

After Mr. Volkmann filed his rebuttal testimony, the Company engaged in a series of meetings with Mr. Volkmann and, separately, with Staff witnesses to examine the REACTS/PERFORM program in more detail. JNGO state these meetings resulted in ComEd further reducing the scope of its proposal. These changes reduced the cost of REACTS/PERFORM by an additional $132 million. In total, ComEd revised total cost of $602 million during the Grid Plan period represents an approximate 34% reduction from the original $909 million cost of REACTS/PERFORM. ComEd Ex. 63.0 at 6.

JNGO state Mr. Volkmann believes that the reduced scope of REACTS/PERFORM is reasonable and therefore does not oppose ComEd's revised proposal, with the understanding that ComEd will continue to carefully examine the potential for cost savings in later years of the plan. JNGO continue to strongly recommend that the Commission open a new proceeding involving ComEd, Staff, and interested stakeholders to formalize its approach to benefit-cost analyses, including the potential reflection of the full customer costs of investments, measured by revenue requirements.

(e) Commission Analysis and Conclusion

ComEd initially proposed $909 million for the REACTS program. However, the Commission now understands some of the parties have reached a compromise. ComEd, Staff, and JNGO agree that the REACTS investment in the Grid Plan period should now reflect $602.45 million in capital expenditures, as detailed in ComEd's supplemental surrebuttal testimony. This revised proposal reflects a 34% reduction from the original $909 million cost of REACTS.

The Commission notes the AG is the only party that remains opposed to ComEd's proposed investment in REACTS, as it opposes all spending on the program during the Grid Plan period and suggests the Commission defer approval of the program until a more thorough examination of the plan can take place. The AG contends that by failing to meaningfully consider alternatives, such as being supported by a common cellular carrier instead of a private fiber or LTE network, ComEd has not complied with the Act's requirements to exercise prudence, demonstrate the cost-effectiveness of its investments, or consider third-party alternatives. The AG further recommends the Commission create a subsequent implementation plan docket, or multiple implementation plan dockets, to consider a utility's detailed plan or plans, as directed in the Commission's Order. 220 ILCS 5/16-105.17(f)(6). The AG proposes that the Commission exercise this authority and order a Staff-led investigation of the REACTS program following the conclusion of this proceeding.

The Commission finds that ComEd has not provided sufficient justification for the proposed investments, and has failed to show that the investments are prudent, reasonable, and cost-effective. The REACTS program is the Company's most expensive proposed MYIGP investment. Without a compliant analysis of the Grid Plan's cost-effectiveness, the Commission cannot determine whether the REACTS program is a cost-effective Grid Plan investment.

Relatedly, the Commission finds that the Company appears to have failed to meaningfully consider public carrier alternatives. The Company obtained reports from consultants going back several years to evaluate the potential REACTS project, but none of those reports appear to have included consideration of using public carrier facilities in place of facilities to be constructed by ComEd. AG Ex. 7.0 at 18-19. ComEd argues that its homegrown facilities would provide a higher level of security, reliability, performance, technological advancement, and protections against service obsolescence. *Id.* at 19; ComEd Ex. 32.0 at 49, 53-54. ComEd did not, however, adequately explain how or why its own network, rather than a telecommunications common carrier's, is more cost effective. AG Ex. 7.0 at 20. Under the Act, ComEd is required to identify "potential cost-effective solutions from nontraditional and third-party owned investments that could meet anticipated grid needs." 220 ILCS 5/16-105.17(f)(2)(K).

The Commission questions the Company's need for additional bandwidth and improved response time, particularly at the distribution level, that fiber would provide. The Commission further notes that the financial model the Company presented in support of the project fails to consider the time value of money, reflects zero ongoing operating expenses or additional capital costs beyond the initial Grid Plan investment (including future equipment upgrades), and fails to account for the uncertainty of its benefit calculation in the program's later years.

For these reasons, the Commission rejects ComEd's REACTS program proposal as part of this Grid Plan filing. The Commission directs the Company, Staff, and the parties to examine the above shortcomings in the refiled Grid Plan.

(v) URD Cable Replacement Program – ITN 4920

(a) ComEd's Position

ComEd contends that the Underground Residential Distribution ("URD") Cable Replacement program (ITN 4920) should be approved as proposed in the Grid Plan. ComEd explains that this program replaces defective underground cable to mitigate fault risk, customer interruptions, and emergent restoration costs. ComEd Ex. 5.01 2nd Corr. at 57; *see also* ComEd Ex. 29.0 at 122. ComEd notes how the URD Cable Replacement program addresses an industry-known material condition issue with non-jacketed cross-linked polyethylene cable, as well as other cable types with increasing failure risk. ComEd Ex. 5.01 2nd Corr. at 57; *see also* ComEd Ex. 29.0 at 122. ComEd states that it uses machine learning to prioritize individual fuses, pockets of fuses, or geographical areas to identify the remaining 1,700 miles of URD cable to be replaced. ComEd Ex. 5.01 2nd Corr. at 57; *see also* ComEd Ex. 29.0 at 122-123. ComEd calculates the funding for this program between 2023 to 2027 is $398.3 million, which will allow the URD Cable Replacement program to replace the remaining 1,700 miles of defective underground cable. ComEd Ex. 29.0 at 122.

ComEd observes that while Staff and ICCP do not oppose the URD Cable Replacement Program, they support Staff's proposed reduction of the project's capital expenditures. Staff proposes, and ICCP support, a reduction in the capital expenditures for this program by $23,668,222 in 2024; $30,089,739 in 2025; $20,619,373 in 2026; and $20,331,836 in 2027. Staff IB at 116; ICCP IB at 32. Staff concedes that its proposal would reduce the miles of defective cable that ComEd could replace during the Grid Plan period and would extend the program into the future.

ComEd observes that, in testimony, the AG proposed extending the program by 20 years, effectively deferring the proposed URD cable replacements planned for the Grid Plan period. Staff Ex 21.0 2nd Corr. at 16; AG Ex. 1.0 at 68. ComEd explains that adopting the AG's proposal would result in an additional $163 million to the total replacement cost, approximately $34 million in additional repair costs, and will result in approximately 255,126 additional customer interruptions. ComEd Ex. 29.0 at 126. However, ComEd notes the AG did not brief the issue, and understands the AG no longer advances its proposal.

ComEd contends the Commission should reject Staff's proposal because it would result in reduced annual cable replacement mileage, which will put customers at risk of increased costs, increased repeated outages, and unfairly delay benefits that other customers have already been able to achieve through replacement activities. ComEd Ex. 29.0 at 125. Moreover, ComEd argues that adopting Staff's proposal would in fact increase costs to ComEd's customers. As ComEd explains, adopting Staff's proposal would require an additional three years to complete the cable replacements, resulting in an additional $30.77 million of total replacement cost, $4.95 million in additional repair costs, and $26 million in societal costs from an additional 37,012 customer interruptions. ComEd Ex. 50.0 at 14-15. ComEd asserts that Staff does not refer to any record evidence that disputes these calculations. ComEd observes that Staff's only argument in support of its proposal is that doing so would "smooth rate impacts." *See* Staff IB at 116. ComEd recognizes that it is not opposed to the concept of smoothing rate impacts when possible, but in this case attempting to smooth would significantly increase the overall costs (direct and societal) to customers and thus diminish the overall cost effectiveness of the program.

ComEd concludes that the cost-effective benefits of the URD Cable Replacement program described in the Grid Plan and testimony should not be delayed and ComEd's investment should be approved as proposed without adjustment.

(b) Staff's Position

Staff contends the Commission should reduce ComEd's capital expenditures associated with its URD Cable Replacement program – ITN 4920 by $23,668,222 in 2024; $30,089,739 in 2025; $20,619,373 in 2026; and $20,331,836 in 2027.

In its direct testimony, Staff noted that ComEd projected a significant increase in capital expenditures associated with ITN 4920. Staff Ex. 5.0 at 19. In particular, ComEd incurred approximately $247.9 million in costs associated with work for ITN 4920 in the five years prior to the MYRP filing. *Id.* However, ComEd projected it will incur around $398.4 million in costs for the subsequent five calendar years which represented an increase of roughly 60% over the prior period. *Id.*

In rebuttal testimony, Staff updated its calculations to account for inflation in the historical values and updated the historical costs information based on an update from ComEd. Staff Ex. 21.0 2nd Corr. at 15. Staff also noted it recognized that reducing the budget of the URD Cable Replacement program will result in fewer miles of cable replaced, but Staff's adjustment only appeared to extend the program by at most two years. *Id.* ComEd responded by noting it calculated Staff's proposed cost reduction would require ComEd to extend the program by an additional three years, which ComEd calculated would cause an additional $30.77 million of total replacement cost, and approximately $4.95 million in additional repair costs. ComEd Ex. 50.0 at 14. ComEd also claimed that delaying the program would create approximately 37,012 additional customer interruptions with an Interruption Cost Estimate calculated cost of approximately $26 million. *Id.* at 14-15.

Staff concludes the Commission should accept its recommendation to reduce ComEd's capital expenditures associated with its ITN 4920 in order to smooth rate impacts.

(c) ICCP's Position

ICCP support the adjustment recommended by Staff witness Lounsberry to decrease ComEd's proposed capital expenditures included in rate base associated with ITN 4920, reflecting excessive forecast costs for replacement of poor performance underground cables. *See* Staff Ex. 5.0 at 19-22.

(d) Commission Analysis and Conclusion

ComEd states its URD Cable Replacement program replaces a specific type of cable with a known material condition issue in order to mitigate fault risk, limit customer interruptions, and reduce emergent restoration costs. ComEd indicates that it has approximately 1,700 miles of this type of underground cable to replace and proposes to replace it in its entirely by the end of the Grid Plan period. Neither Staff nor ICCP appear to challenge the need to replace the cable at issue. However, Staff proposes, and ICCP supports, a reduction in the capital expenditures for this program by $23,668,222 in 2024; $30,089,739 in 2025; $20,619,373 in 2026; and $20,331,836 in 2027. Staff adds ComEd's proposal amounts to a 60% increase in spending when compared to the five years before the MYRP. Staff asserts its proposal will only extend the program by two years, at most, and will help smooth rate impacts. ComEd notes that Staff's proposed cost reduction would require ComEd to extend the program by an additional three years and argues this extension would increase the cost of implementing the program.

The Commission notes the defective underground cable is a known fault risk that could result in unnecessary power interruptions and costly emergent restoration costs and repairs. However, the Commission finds that, without the cost-effectiveness analysis prescribed by 220 ILCS 5/16-105.17 (d)(1), (2), and (7), it is unable to determine if these system performance investments are prudent, reasonable, in compliance with the goals and objectives of P.A. 102-0662, and supported by sufficient evidence within the record. As discussed in Section V. A., the Commission shall determine the appropriate budget for all proposed projects relating to system performance upon the Commission's finding that the Company has submitted a Grid Plan that complies with the Act.

(vi) 4/12kV DA Circuit Recloser – ITN 53791/59286

(a) ComEd's Position

ComEd states that the 4/12kV DA Circuit Recloser program (ITN 53791/59286) should be approved as proposed in the Grid Plan, and not be delayed as Staff proposes, since doing so would delay direct benefits to customers. ComEd notes this program is designed to install additional mainline reclosers (devices that automatically reconfigure distribution feeders in the event of a fault) on the distribution system to achieve customer segmentation with maximum segments between 400 and 750 customers. ComEd Ex. 5.01 2nd Corr. at 134; *see also* ComEd Ex. 29.0 at 127. As ComEd explains, this means that any distribution fault or event (*e.g.*, car running into a distribution pole, mylar balloon, wildlife) will result in no more than 750 customers interrupted for any one event. ComEd Ex. 50.06 at 93; ComEd Ex. 29.0 at 127. ComEd contends that, in short, the 4/12kV DA Circuit Reclose program will improve reliability by increasing the number of intelligent automated reclosers (smart switches) on distribution circuits to detect and autonomously respond to disturbances, as well as increase operational awareness, flexibility, and efficiency. ComEd Ex. 5.01 2nd Corr. at 134; *see also* ComEd Ex. 29.0 at 129. ComEd adds that the Grid Plan includes $345.5 million in capital investment for the 4/12kV DA Circuit Recloser program (2023-2027). ComEd Ex. 29.0 at 128.

As ComEd explains, Staff asserts ComEd did not justify the cost of the 4/12kV DA Circuit Recloser program and recommends reducing the size of the program to its 2023 levels, adjusted for inflation, resulting in a total reduction of $94.6 million between 2024 and 2027. Staff Ex 13.0 at 25; Staff Ex. 15.0 at 24-26. ComEd states the Commission should reject this recommendation since ComEd has provided ample information supporting the 4/12kV DA Circuit Recloser program. ComEd Ex. 29.0 at 132. ComEd observes that Staff argues that the investments proposed by ComEd in this program are not needed to meet ComEd's Performance Metrics 1 and 2. *See* Staff IB at 118-126. ComEd maintains that it has explained repeatedly in testimony that it would be unable to meet Performance Metrics 1 and 2 if Staff's proposal is adopted. *See, e.g.* ComEd Ex. 29.0 at 135-137. Staff's Initial Brief includes a convoluted critique of ComEd's analysis of the effect of Staff's proposal on SAIFI and SAIDI metrics. *See* Staff IB at 118-126. As a result, Staff has failed to provide a compelling response.

ComEd notes that it identified the feeders requiring additional DA between 2023-2027. ComEd Ex. 29.0 at 132. ComEd also states it demonstrated that the annual societal benefit of the approximately 3,100 devices installed is between $42.7 million and $70.6 million per year, meaning the program would have fully recovered the installation costs within 5-8 years, and would continue providing annual societal benefits to customers for the remainder of the equipment's life, resulting in between $854 million to $1.412 billion in lifetime societal benefits, using today's dollars. ComEd Ex. 29.0 at 132. ComEd argues that reducing the program as proposed by Staff would result in a decrease in annual avoided customer interruptions ("ACI"), reliability including SAIDI, power quality, system visibility, and grid resiliency and flexibility. ComEd Ex. 29.0 at 135-140. In particular, ComEd contends the reduced investment levels in the 4/12kV DA Circuit Recloser Program would result in the deferral of work to future years, and result in an estimated 445,000 additional unnecessary customer interruptions, with total societal costs of $44.5 million. ComEd Ex. 29.0 at 139. As a result, ComEd concludes it has demonstrated the benefits of the 4/12kV DA Circuit Recloser program.

ComEd observes that Staff's arguments ignore this evidence and justification for the program. ComEd recognizes that Staff does not cite any evidence that undermines, contradicts, or otherwise challenges ComEd's testimony regarding the benefits of ComEd's investments, or the increased costs that would be borne by ComEd's customers if Staff's proposal is adopted. Therefore, ComEd argues that the Commission should reject Staff's proposal, which would increase costs and reduce benefits to ComEd's customers and approve ComEd's proposed investments without adjustment.

(b) Staff's Position

Staff states ComEd's MYIGP includes $442.5 million in plant additions captured under four ITNs (ITN 53791, ITN 59286, ITN 68635, and ITN 56909) that will extend incorporation of DA in the Company's distribution system. ComEd Ex. 9.05 Corr. Staff proposes an adjustment totaling $126.167 million for the MYIGP period, with yearly amounts shown in the table in Staff Ex. 29.01 Corr.

In direct testimony, Staff noted two other DA-related ITNs (ITN 52116, for 34kV circuits and ITN 59301, DER connectivity) which were adequately justified with sufficient reliability of estimates underlying their MYIGP investment. Staff Ex. 15.0 at 22. Two of the four DA project ITNs account for 72 percent of the proposed MYIGP investment levels and address ComEd's goal of reducing to 750 or less the numbers of customers served on a single feeder segment; these are a Sectionalization program addressed by ITN 59609, begun in 2019, and the Circuit Recloser work encompassed by ITN 53791 started a number of years earlier. Staff Ex. 15.0 at 22. The third of these four DA projects, ITN 56909, provides funding for installing line mounted sensors, continuing a program begun in 2019. The fourth of the DA ITNs, ITN 68635 (DA Laterals) provides continued funding for a program that begun in 2020. Staff Ex. 15.0 at 24.

Staff concluded that ComEd failed to justify MYIGP DA-related investments at the full levels proposed by its MYIGP, finding investments levels well above those required to meet reliability targets. Staff Ex. 15.0 at 24. In rebuttal testimony, ComEd stated that the adjustment proposed by Staff for ITN 56909 would prevent ComEd from achieving CAIDI and SAIDI reduction targets, and that Staff's proposed adjustments for the two other DA-related ITNs, 53791 and 59286, would increase risks of failure to meet Commission-approved performance metrics 1 and 2. ComEd Ex. 29.0 at 148, 153, and 132.

In rebuttal testimony, ComEd presented a complex discussion of expected SAIDI performance under ComEd's proposed investment levels. It centered on consideration of MEDs beyond the five that the performance metric program permits ComEd when measuring reliability performance and addressed the SAIDI impacts, using historical data, that as many as six additional MEDs could have. ComEd Ex. 29.0 at 134,136. ComEd's rebuttal testimony did not recognize that future year MEDs will experience moderated SAIDI impacts. An MED from an era predating installations to reduce SAIDI will show greater SAIDI consequences than a similar day occurring after those investments. Proposed MYIGP investments approaching $500 million under these four ITNs, augmented by the effects of broader MYIGP investments totaling some $10 billion and O&M expenses totaling $4 billion more, will have a major impact on MED SAIDI results.

Staff contends ComEd gauged its planning relative to reliability performance metric program incentives on the basis that it is reasonable to produce extremely high levels of assurance that it will secure the maximum rewards available solely, through investment in the ITNs at issue here. Such a planning strategy, which would all but guarantee maximum shareholder rewards through rate-based investments, does not comport with common sense notions of an "incentive" program. The structure under which those incentives occur includes, in effect, "penalty," "neutral," and "reward" zones. It is one thing for plans to provide reasonable assurance of operations in the neutral zone even; it is quite another to plan investments designed to place the Company at the reward ceiling even in the most extreme weather years.

Staff states it is appropriate to require ComEd to optimize performance across all investments proposed in the MYIGP period. Prudence requires monitoring and reacting continually to how circumstances affect and result in adjustments to priorities in investments in these four ITNs and others ITNs that have reliability consequences. This also requires "fine tuning" O&M activities like vegetation management, inspection and maintenance, dispatch and others that affect outage duration. It also requires optimizing coordination with public officials, emergency responders, or the resources of others in the field during MEDs. It also takes attention to receipt and use of information from customers about outage locations and numbers. Staff contends ComEd should be required to optimize expenditures and resources in all these areas to achieve incentives at any level – especially those that maximize shareowner value.

Staff adds ComEd has also addressed minutes of SAIDI reduction after adding a large number of assumed MEDs per year, without evidencing any adjustment for the beneficial effects that MYIGP investments and O&M expenditures will have on SAIDI results during those future MEDs. In rebuttal testimony, Staff noted the problems with the analysis of ComEd. Staff Ex. 31.0 at 15.

Nevertheless, even accepting the validity of an analysis which is both too narrow and too generous, correcting just a few of its errors shows that ComEd's proposed investments under these four DA-related ITNs are far too high. In rebuttal testimony, Staff charted minutes of SAIDI improvement (provided by ComEd) from the four ITNs at issue here and some others for which the Company identified such improvements. Staff Ex. 31.03. Staff also discounted those minutes to reflect the percentage of investment or expenditure remaining after the adjustments proposed by Staff and for elimination of ComEd's proposed TOP. Staff Ex. 31.0 at 13. Staff also provided a table showing that, even when using ComEd's most recent five-year average SAIDI values (after excluding the five MEDs permitted in future calculations) reaching targeted SAIDI levels performance would require investments 1/5 of those proposed by ComEd's MYIGP and only 1/3 of those levels, net of adjustments proposed by Staff. Staff Ex. 31.0 at 14. With apportionment of those minutes among MED and non-MED days, Staff continued to conclude that investments should be approved consistent with the level Staff determined to be justified in direct testimony. Staff Ex. 31.0 at 15.

Staff adds that ComEd also makes the point that SAIDI performance resulting from the investments at issue cannot occur until ComEd makes them. ComEd Ex. 50.0 at 5. While true, this self-evident point does not undercut Staff's conclusion or the adjustments Staff proposed based on those adjustments. *Id.* First, ComEd's MYIGP calls for 2023 investments of $60.544 million; Staff proposed no adjustments to that year's investment total. The unadjusted $60.544 million of 2023 comprises 19% of total MYIGP investments, net of Staff's proposed adjustments. *Id.* Thus, all but a full year's share of pro rata MYIGP investments (20% times five years equals 100%) are expected to be in place before 2024 begins. Second, with field work concentrating on the months without harsh weather, much of the investments of any given year will be in place well before it ends; referring to a 100% delay is not helpful. *Id.*

Moreover, to the extent work advancement is material to performance against reliability metrics, ComEd has extremely wide latitude in advancing work for the affected projects during the year without increasing total year costs. ComEd also has wide latitude to advance expenditures slated for later years to an earlier year in the affected projects. Staff states a shift of even a partial year's investments to an earlier one would significantly advance contributions to SAIDI improvement. Even more significantly, ComEd's MYIGP permits movement of expenditures among all projects and between years, subject to reasonableness and prudence demonstration. Moving, for example, $25 million to the projects at issue here would represent less than 1.5% of the roughly $2 billion ComEd proposes in yearly investments under its MYIGP and about one third of one percent of total investments through 2027. Staff understands that installations precede improvements. Staff simply approached the question of execution of a five-year plan calling for $10 billion in investments from a pragmatism likely no different than what ComEd will do when examining how emergent circumstances apply to what involve marginal adjustments in expenditure timing and magnitude.

Staff notes the surrebuttal testimony of ComEd purports to apply "Mr. Lautenschlager's proposal" to show that reductions to its proposed investments will leave it unable to meet applicable SAIDI performance measures. ComEd Ex. 50.0 at 5. Staff contends the analysis supporting that conclusion suffers critical flaws.

First, the analysis errs in measuring minutes of SAIDI improvement using a five-year historical SAIDI average which was not proposed by Staff. Staff's reference to the five-year average was intended to show the large number of minutes of SAIDI improvement available using the five-year historical analysis ComEd addressed. More significantly, the reduction that ComEd must attain is from its most recent three-year average. The most recent three years for which full-year data exists yields an average of 41.0 minutes as the starting point. Staff Ex. 31.03.

Second, discounting the minutes by two thirds is extraordinarily aggressive considering the data that ComEd has presented in Staff Ex. 31.03. Staff contends investments and other expenditures net of the adjustments at issue put ComEd in a position of comfortably achieving maximum awards in all MYIGP years following 2024; it is not clear that even ComEd believes it will perform at high levels against the 2024 target. As described above, the flexibility that ComEd will have in executing its MYGIP requires comparatively small movement of investments and expenditures to boost performance in all plan years to account for the delay in producing reductions in SAIDI minutes – a delay that ComEd substantially overstated. The SAIDI improvement that future MEDs will show will drive results even further in a positive direction.

ComEd also claims “societal benefits” associated with avoiding or limiting the durations of outages, apparently relying again on the Interruption Cost Estimate (“ICE”) Calculator inputs from its rebuttal testimony. ComEd IB at 154. Even if the ICE Calculator’s validity and the application of its details to ComEd’s territory and customers were clearly established, the use of that method serves to “ratchet up” reliability targets already accepted by the Commission, such as those under the performance metric program. Staff demonstrated that ComEd’s MYIGP forecasted investment levels will well exceed those appropriate for addressing performance metric program targets. Adding a societal benefits justification as ComEd proposes simply serves to set a new and higher standard – one that will impose a minimum of $126.167 million more in investments for which customers must pay. P.A. 102-0662’s mandate to optimize utilization of grid assets and resources to minimize total system costs requires avoiding the effective ratcheting of reliability objectives that ComEd would produce. *See* 220 ILCS 5/16-105.17(d)(2). The Company proposes well over $10 billion in investments and expenditures; Staff’s adjustments leave ComEd with more than sufficient resources to meet reliability and other Act objectives without adding more.

Staff notes ComEd also cites power quality, system visibility, and grid resiliency and flexibility benefits. ComEd IB at 154. However, the testimony on which this statement relies makes only brief, qualitative mention of those benefits and does not address the level by which those benefits would be sacrificed or impaired by acceptance of Staff’s recommended adjustments. ComEd Ex. 29.0 at 135-140.

ComEd proposed an amount approaching one half billion dollars which will be reduced to $316.3 million following Staff’s adjustment as originally proposed. This amount can be further reduced without putting ComEd at risk of failing to meet base performance metric program performance levels. If the Commission accepts the argument that the approved MYIGP should require ComEd to perform beyond average levels to maximize performance metric program incentives earned, nothing in ComEd’s Initial Brief argues effectively against that approach.

Staff adds ComEd addressed two other DA-related ITNs in sections separate from that addressing ITNs 53791 and 59286. The first of the four DA-related investment sources that ComEd addressed is ITN 68635 (DA Laterals). Staff argues ComEd makes the same unpersuasive reliability and societal benefits arguments already addressed above in connection with 4/12kV DA Circuit Recloser work addressed by ITNs 53791 and 59286. ComEd IB at 155.

Regarding the second of the four DA-related investment sources addressed separately, ITN 56909 (Line Sensor Program), ComEd claimed that meeting reliability targets required the full level of MYIGP proposed investments under ITN 56909. Staff notes it has already addressed the errors that make this analysis invalid. ComEd also claimed that Staff’s adjustment would impede the achievement of system visibility needed to minimize customer interruption frequencies and durations. ComEd IB at 156. Staff contends its adjustments still leave significant funding for the four DA-related ITNs at issue. Staff RB at 52. Staff’s proposed reduction still gives ComEd strong assurances of "maxing out" rewards under the performance metric program. Staff IB at 125. ComEd has not addressed how Staff's adjustment will cause a diminution in system visibility. Thus, with the substantial investment levels that remain after Staff's adjustments, ComEd is positioned to appropriately meet P.A. 102-0662's goal of optimizing the utilization of electricity grid assets and resources to minimize total system costs.

Staff avers that far from assuring maximum rewards, the MYIGP plan should require ComEd to seek out all reasonable means for moving out of the incentive neutral zone and up and through its reward zone. The Company should have to move past a comfortable "business as usual" approach to attain maximum rewards. Alternatively, starting from comforting assurance that those reward levels will be attained does not, in Staff's view, comport with a sound interpretation of an incentive mechanism, particularly when it comes at the expense of investments exceeding $400 million and the resultant impacts on customer rates. ComEd's claim that "[i]t should be noted that the brunt of the impact of Mr. Antonuk's proposal would be borne by ComEd's customers" would be more accurately and relevantly stated as "Staff's adjustments prevent customers from bearing the brunt of expenditures that give ComEd the benefit of rewards without requiring sufficiently assiduous efforts to attain them." ComEd Ex. 29.0 at 136.

Staff argues the record evidence supports an even larger adjustment than that Staff has proposed, should the Commission agree that some incentive should remain "on the table" to encourage ComEd diligence and aggressiveness in seeking performance levels that will maximize the rewards available to its shareowners. Staff's proposed reduction still gives ComEd strong assurances of "maxing out" rewards under the performance metric program. Should the Commission find it appropriate to challenge ComEd to optimize its MYIGP execution by fine tuning all plan investments and other expenditures, the data appears to support an even further reduction in total investments under ITNs 53791, 59286, 68635, and 56909, still leaving ComEd comfortably starting in the neutral zone, *i.e.*, not at substantial risk of penalties, and on a path to achieving maximum awards during the MYIGP period, if it remains diligent and flexible in applying the vast economic resources that the MYIGP will place at its disposal.

(c) Commission Analysis and Conclusion

ComEd seeks $345.5 million in capital investment for the 4/12kV DA Circuit Recloser program. ComEd notes that this program is designed to install additional mainline reclosers (devices that automatically reconfigure distribution feeders in the event of a fault) on the distribution system to achieve customer segmentation with maximum segments between 400 and 750 customers. ComEd explains that with this program, any distribution fault or event will result in no more than 750 customers interrupted for any one event.

Staff contends that ComEd failed to justify the cost of the program and recommends reducing the size of the program to its 2023 levels, adjusted for inflation, resulting in a total reduction of $94.6 million between 2024 and 2027. Staff argues that the investments proposed by ComEd in this program are inappropriately based on its ability to secure the maximum incentives available for its reliability performance metric program incentives. Staff avers that investments should not be based on the Company's ability to exceed the deadband of any performance metric.

ComEd asserts that Staff's briefing on the program's effect on Performance Metrics 1 and 2 is convoluted. ComEd notes that it has explained through testimony why it would be unable to meet Performance Metrics 1 and 2 should Staff's adjustment be adopted. ComEd contends that regardless of the performance metrics, the program investments are necessary to make the overall distribution system more resilient and reliable to the benefit of customers, as defined in its rebuttal testimony.

The Commission finds that ComEd's justification for the level of investment needed for this program relies on ComEd's ability to exceed its performance metrics with the expectation of earning incentives. The amount of investments ultimately approved for this MYRP must advance the goals of P.A. 102-0662 and not be based on maximizing performance metric incentives. If this were to be allowed, ComEd would essentially be rewarded for securing investments related to the performance of the system, rather than utilizing the tools currently at its disposal to provide specific and meaningful benefits to ratepayers.

The performance metrics, as approved in Docket No. 22-0067, shall continue to be challenging, yet achievable. The Commission finds that, without the cost-effectiveness analysis prescribed by 220 ILCS 5/16-105.17 (d)(1), (2), and (7), it is unable to determine if these system performance investments are prudent, reasonable, in compliance with the goals and objectives of P.A. 102-0662, and supported by sufficient evidence within the record. As discussed in Section V. A, the Commission shall determine the appropriate budget for all proposed projects relating to system performance upon the Commission's finding that the Company has submitted a Grid Plan that complies with the Act.

(vii) DA Laterals Program – ITN 68635

(a) ComEd's Position

ComEd urges that the DA Laterals program (ITN 68635) should be approved as proposed in the Grid Plan, and not reduced as proposed by Staff and the AG. ComEd explains that this is a program designed to utilize standalone DA devices to provide protection, reclosing capability, and data logging and communications capabilities that increase resiliency and drive down CAIDI and SAIFI. ComEd Ex. 5.01 2nd Corr. at 134-135; *see also* ComEd Ex. 29.0 at 141-142. ComEd states the DA Laterals program makes a significant contribution to reducing the impact of an outage and supports rapid restoration of customers. ComEd Ex. 29.0 at 146-148. ComEd notes that the Grid Plan includes $62.9 million in capital investment for the DA Laterals program (2023-2027). ComEd Ex. 29.0 at 142.

As ComEd explains, Staff recommends reducing the DA Laterals program by $23.9 million because it claims that ComEd has proposed a level of expenditures for the DA programs that are in excess of what is required to meet the reliability targets. Staff Ex. 15.0 at 24-25. ComEd contends that Staff is incorrect. ComEd states it has provided ample information supporting the program and the program costs, including information showing that customers will experience CAIDI/SAIDI improvements and annual societal benefits that they would not realize without the program. ComEd Ex. 29.0 at 143, 147. For example, ComEd explains that reducing the investment in the DA Laterals program by $23.9 million, as proposed by Staff (*see* Staff Ex. 13.01), would equate to a loss of $14.5 million per year in societal benefits due to more customers experiencing longer outages. ComEd Ex. 29.0 at 148-149. As with the DA Circuit Recloser program, ComEd observes that Staff argues that ComEd's proposed investments in this program are not needed to meet Performance Metrics 1 and 2. *See* Staff IB at 118-126. And, just as with the DA Circuit Recloser program, Staff wrongly ignores the customer benefits of the program and the record evidence showing how Staff's proposal would negatively affect ComEd's customers. ComEd calculates the benefits of the program over the Grid Plan period amounts to more than twice the reduction in investment cost that would be realized by Staff's proposal. ComEd states this analysis also directly rebuts the AG's argument made that ComEd has failed to perform a benefit-cost analysis of the DA Laterals program, ComEd states. *See* AG IB at 85-89.

According to ComEd, the AG argues that ComEd's entire System Performance category investment should be limited to 2019-2022 levels, plus inflation, and that ComEd should rely on outmoded equipment (TripSavers) or no reliability improvement all in lieu of investing in DA Laterals with the resulting improvement in reliability results for customers. *See Id.* ComEd contends this argument entirely ignores the demonstrated societal benefits provided by the program, which invalidates the AG's premise. ComEd contends that the AG's claim the benefits of installing DA Laterals no longer exceed costs is incorrect and should also be rejected. AG Ex. 5.0 at 57. ComEd states it has demonstrated that the benefits of the DA Lateral program would exceed the costs after just 2.1 years and would continue to provide recurring annual benefits for the life of the equipment. ComEd Ex. 50.0 at 10-11; *see also* ComEd Ex. 29.0 at 145-148.

ComEd concludes that the Commission should approve ComEd's DA Laterals program described in the Grid Plan and testimony as proposed. ComEd observes Staff and the AG entirely ignore the record evidence and justification for the DA Laterals program, focusing instead exclusively and myopically on ComEd's ability to achieve the performance metrics. *See* Staff IB at 118-126. ComEd believes that Staff does not cite any evidence that challenges ComEd's testimony regarding the benefits of ComEd's investments, or the increased costs that would be borne by ComEd's customers if Staff's proposal is adopted. Therefore, ComEd argues that the Commission should reject Staff's proposal and approve the DA Laterals program without adjustment. Similarly, ComEd contends that the AG's arguments should be rejected for this reason also, and for the reasons rebutting their inflation-based approach to investment adjustments described above.

(b) Staff's Position

Staff's position on this investment is noted in Section V.C.6.i.vi.(b) above.

(c) AG's Position

The AG notes ComEd proposes approximately $63 million in capital investments for its DA Laterals (ITN 68635) program. ComEd Ex. 9.05 Corr. at 22. This program entails the installation of full vacuum reclosers on laterals. The AG explains a lateral is a conductor that taps into a larger conductor, and they are usually short, serving 20 to 50 residential customers per lateral at most utilities. AG Ex. 1.0 at 80. ComEd's system is squarely within this range, as it estimates that its 55,000 laterals serve an average of 38 customers each, although the number of customers fed on a given lateral can range from one customer to 900 customers. ComEd Ex. 29.0 at 142. As AG witnesses Alvarez and

Stephens explained, "It has been standard utility practice for many decades to install a fuse where a lateral taps into a larger conductor. When there is a fault on the lateral, these fuses blow, thus isolating the faulted lateral and avoiding a service interruption for all customers served by the larger conductor." AG Ex. 1.0 at 80.

The AG explains that more recently, new technologies have become available. A recloser is a device that can be useful in instances of transient faults (for example, when a tree branch momentarily grazes a conductor). *Id.* at 81. Rather than simply blowing like a fuse, a recloser makes one or two (or three) attempts to "reclose" (restoring power) after opening in response to a fault. With reclosers, transient faults do not result in sustained outages for customers. For permanent faults, reclosers remain open, just like fuses. *Id.* at 81.

According to AG witnesses Alvarez and Stephens, full vacuum reclosers are expensive and have traditionally been employed only at the backbone level, typically benefitting several hundred or a thousand or so customers each. *Id*. In recent years, manufacturers of full vacuum reclosers have introduced miniature versions (called "TripSavers" or "Fuse Savers") designed for use on laterals, in place of fuses. *Id*. The AG highlights that there are significant differences in the cost of these various technologies: an existing fuse requires no additional capital outlay to maintain, and a TripSaver costs several thousand dollars to install, but ComEd estimates that a full vacuum recloser costs approximately $67,000 to install on average. AG Ex. 1.3 at 9.

Under the DA Lateral program, ComEd proposed to install a total of 892 vacuum reclosers at a cost of $62.9 million as part of the Grid Plan. ComEd Ex. 29.0 at 142. This will replace the Company's "TripSaver" program, under which it "installed reclosing devices on the worst performing and highest risk fuse taps," although this solution "lacked remote visibility" because TripSavers cannot communicate with other devices. ComEd Ex. 29.0 at 141-142. During the Grid Plan period, the Company expects to install vacuum reclosers on approximately 2% of all laterals. *Id.* at 142.

According to the AG, it appears that the Company considered two alternatives to the installation of full vacuum reclosers (which was in itself rare as the Company frequently only considered one alternative at most). ComEd Ex. 9.05 Corr. at 22. The first alternative considered was to do nothing, but it rejected that alternative because the Company would "miss on SAIFI & CAIDI benefits" because it estimates 0.107-0.132 minutes per 500 devices for CAIDI reduction and 0.0016-0.002 SAIFI reduction for every 500 devices. *Id.* The second alternative appears to have been continuing the Company's TripSaver program. *Id.* As noted above, TripSavers are significantly less costly but lack some functionality of full vacuum reclosers.

The AG contends that the Company is not starting from scratch on DA. Starting in 2008, ComEd began installing thousands of TripSavers to replace fuses, and it has systematically been replacing TripSavers with vacuum reclosers. ComEd Ex. 2.01 at 22. During the EIMA period, the number of automatic circuit reclosers grew by 143%, going from 3,062 in 2012 to 7,444 in 2021, and increased the number of "smart grid" schemes from 733 to 1,990. *Id*. at 13, 21. The Grid Assessment noted that these schemes, by limiting the number of customers affected by a faulted circuit segment, "are most effective in reducing SAIFI and CAIDI metrics." *Id*. In no small part as a result of these improvements, ComEd's grid is now among the most reliable and resilient in the United States. AG Ex. 5.0 at 6. According to the Company's own report, ComEd recorded its best ever SAIDI and SAIFI, its best CAIDI in over 20 years, and was recognized as the "Most Resilient Power Grid in the U.S" in 2022. *Id*. In short, the AG argues that the Company has been investing in distribution automation, including reclosers, for years, and it has reaped the reliability benefits as a result. The AG asserts that ComEd's claim that it needs to not only maintain, but to *accelerate*, spending and upgrade technology once again in the next four years should only be permitted if ComEd can provide clear, quantified benefits that would outweigh the costs of such spending.

The AG argues that this is a perfect situation in which to employ a risk-informed benefit-cost analysis, as the Company has multiple available alternatives, each of which have somewhat different benefits and wildly different costs. Unfortunately, the Company has not completed a benefit-cost analysis of the program. AG Ex. 5.1 at 17. Given the benefits realized under historical levels of spending during the EIMA period, and the much higher cost per device for full vacuum reclosers, stakeholders have reason to be concerned of further increasing the Company's investments in full vacuum reclosers.

AG witnesses Alvarez and Stephens testified that full reclosers will likely be cost-effective only on laterals where there is a high customer count and high number of transient faults. In their experience conducting risk-informed benefit-cost analyses in other jurisdictions, AG witnesses Alvarez and Stephens found that at least 50-60 customers, or a high concentration of commercial customers, are needed before installing TripSavers will be cost-effective. AG Ex. 1.0 at 82. Thus, if a TripSaver that costs $5,000 is not cost-beneficial for laterals with fewer than 50-60 customers, then a full vacuum recloser costing $67,000 to install will not be cost-effective. *Id.* at 1615–1616. The laterals on which ComEd has already installed full vacuum reclosers have 319 customers on average, so the benefits from those early installations would not automatically extend to all circuits, which average approximately 38 customers.

The AG notes ComEd responded that its $62.9 million DA Laterals program should be approved because it would still make "a significant contribution to reducing the impact of an outage and supports rapid restoration of customers." ComEd IB at 154. ComEd also claims that it demonstrated its DA Laterals program would provide net benefits after just 2.1 years. ComEd IB at 155. However, the AG assert that this analysis, which was not provided until rebuttal testimony (and further refined in surrebuttal), suffers from a pair of flaws. First, ComEd's analysis assumes customer counts and reliability profiles similar to those in the 29 locations where it installed reclosers as part of a pilot program. ComEd Ex. 50.01. Instead of simply assuming these conditions, the Company should establish requirements for the locations at which it proposes to install the devices. Second, the AG argues that ComEd has not compared its proposed investments with a potentially lower-cost alternative: to install TripSavers or fuses. Thus, they conclude that the DA Laterals program does not satisfy the Act's requirements that the investment be both cost-effective and least-cost.

The AG notes Staff witness Lautenschlager found that ComEd proposed investments in DA programs, including the DA Laterals program, at a level "well in excess of that required to meet reliability targets." Staff Ex. 15.0 at 24. Mr. Lautenschlager found that ComEd's spending on four DA programs should be limited to 2023 levels, given that it would be able to meet SAIDI targets at such spending levels and ComEd failed to demonstrate incremental benefits sufficient to justify a 71% cost increase from 2023 to 2027. Staff Ex. 15.0 at 21, 25-26. In sum, the AG asserts that the record shows that ComEd has failed to demonstrate a need for accelerated spending on the DA Laterals program.

To enforce the Act's mandates that ComEd prove that its investments are cost-effective and minimize system costs, the AG ask the Commission to require the Company to employ a tiered approach to the DA lateral program:

- The Company should only be able to install full vacuum reclosers, the costliest option, on those circuits in which a risk-informed benefit-cost analysis indicates the dollar value of such installations exceeds costs.
- TripSavers, a recloser-like device that offers only the most critical capabilities of a recloser at a fraction of the cost of a full vacuum recloser, should only be installed where the benefits exceed the costs.
- Because Tripsavers are much more expensive than a fuse, unless indicated otherwise by a risk-informed benefit-cost analysis, the vast majority of ComEd's laterals should be protected by the standard, fused approach.

AG Ex. 5.0 at 57. Second, the AG asks the Commission to limit ComEd's System Performance capital expenditures to 2019-2022 levels as recommended above to restore the capital spending discipline that ComEd failed to exercise on its own.

(d) Commission Analysis and Conclusion

ComEd seeks $62.9 million in capital investment for the DA Laterals program. ComEd notes that this program is designed to utilize standalone DA devices to provide protection, reclosing capability, and data logging and communications capabilities that increase resiliency and drive down CAIDI and SAIFI. ComEd argues that the program makes significant contributions to reducing the impact of outages and supports rapid restorations for customers.

As noted above, Staff contends that ComEd failed to justify the cost of the program and recommends reducing the size of the program to its 2023 levels, adjusted for inflation, resulting in a total reduction of $23.874 million between 2024 and 2027. Staff argues that the investments proposed by ComEd in this program are inappropriately measured by its ability to secure the maximum incentives available for its reliability performance metric program incentives. Staff avers that investments should not be based on the Company's ability to exceed the deadband of any performance metric.

The AG also contends ComEd failed to perform a benefit-cost analysis and argues ComEd failed to meet its burden. The AG asserts that ComEd should have its entire System Performance category investment limited to 2019-2022 levels and that ComEd should rely on its existing equipment (such as TripSavers), rather than additional investments to programs like DA Laterals.

ComEd explains that the benefits of the DA Laterals program would exceed cost after just 2.1 years and would continue to provide recurring annual benefits for the life of the equipment. ComEd also argues against using TripSavers and suggests that the AG's argument ignores the societal benefits provided by the program.

The Commission agrees with the AG that the Company failed to compare its proposed investments in vacuum reclosers with a potentially lower-cost alternative (TripSavers or fuses). *See* AG Ex. 5.0 at 57-58. The Commission finds that, without the cost-effectiveness analysis prescribed by 220 ILCS 5/16-105.17 (d)(1), (2), and (7), it is unable to determine if these system performance investments are prudent, reasonable, in compliance with the goals and objectives of P.A. 102-0662, and supported by sufficient evidence within the record. As discussed in Section V. A, the Commission shall determine the appropriate budget for all proposed projects relating to system performance upon the Commission's finding that the Company has submitted a Grid Plan that complies with the Act.

(viii) Line Sensor Program – ITN 56909

(a) ComEd's Position

ComEd maintains that the Line Sensor program (ITN 56909) should be approved as proposed in the Grid Plan, and not arbitrarily reduced, as proposed by Staff. ComEd states that Line sensors provide measurement of electrical parameters (mostly voltages and currents) along the feeders and lines throughout the distribution grid, making the electric grid visible for monitoring, protection, and control, which enables a controllable, dynamic, safe, and responsive electric power system. ComEd Ex. 5.01 2nd Corr. at 132; *see also* ComEd Ex. 29.0 at 150. ComEd explains that the Line Sensor program will install communicating line sensors on the ComEd system to enhance visibility and reliability by enabling ComEd to proactively identify and address issues, minimize outage duration, optimize maintenance efforts, and improve overall grid resilience by identifying issues before they result in an outage. ComEd Ex. 29.0 at 150-151, 154-155. ComEd notes the Grid Plan includes $34.3 million capital investment for the Line Sensors program (2023-2027). *Id.* at 151.

ComEd acknowledges that Staff recommends reducing the budget for the Line Sensor program to match the budget for 2023, adjusted for inflation, resulting in a reduction of $7.6 million. *See* Staff Ex. 13.0 at 25; Staff Ex. 13.01 at 2. ComEd believes this recommendation is based on Staff's claim that ComEd has proposed a level of expenditures in excess of that required to meet reliability targets. Staff Ex. 13.0 at 16-18, 25; Staff Ex. 15.0 at 24-26. ComEd contends that Staff is incorrect, and that ComEd's proposed Line Senor program budget has been carefully determined and is necessary to meeting the reliability targets. ComEd Ex. 29.0 at 153. ComEd explains that, without the proposed investments, the CAIDI targets of the program, and ultimately SAIDI, cannot be achieved. ComEd Ex. 29.0 at 153. Additionally, ComEd contends that the Commission should reject Staff's recommended adjustment because it would impede achieving necessary system visibility that is crucial for effectively minimizing the frequency and duration of customer interruptions. *Id.*

As with the DA Circuit Recloser program, ComEd observes that Staff incorrectly asserts that ComEd's proposed investments in this program are not needed to meet Performance Metrics 1 and 2. *See* Staff IB at 118-126. And, just as with the DA Circuit Recloser program, Staff's brief entirely ignores the customer benefits of this program and the record evidence showing how Staff's proposal would negatively affect ComEd's customers. ComEd demonstrates that the annual societal benefit of the approximately 13,005 devices ComEd proposes to install is conservatively estimated at $3.4 million. ComEd Ex. 29.0 at 155. Non-quantifiable benefits from the program include more rapid restoration of service following outages and allowing ComEd to predict outages and mitigate the issues in a cost-effective proactive manner, rather than a more costly reactive manner. ComEd Ex. 29.0 at 154, 156.

According to ComEd, Staff ignores this evidence and justification for the program, focusing instead exclusively on the effect of the program on ComEd's ability to achieve the performance metrics. *See* Staff IB at 118-126. ComEd observes that Staff does not cite any evidence that challenges ComEd's testimony regarding the benefits of the Line Sensor Program, or the increased costs that would be borne by ComEd's customers if Staff's proposal is adopted. Accordingly, the Commission should reject Staff's proposal, and approve the Line Sensor Program as proposed in the Grid Plan without adjustment.

(b) Staff's Position

See Section V.C.6.i.vi.(b) above.

(c) Commission Analysis and Conclusion

ComEd seeks $34.3 million in capital investment for the Line Sensor program. ComEd notes that this program is designed to enhance visibility and reliability by enabling ComEd to proactively identify and address issues, minimize outage duration, optimize maintenance efforts, and improve overall grid resilience by identifying issues before they result in an outage.

As noted above, Staff contends that ComEd failed to justify the cost of the program and recommends reducing the size of the program to its 2023 levels, adjusted for inflation, resulting in a total reduction of $7.62 million between 2024 and 2027. Staff argues that the investments proposed by ComEd in this program are inappropriately measured by its ability to secure the maximum incentives available for its reliability performance metric program incentives. Staff avers that investments should not be based on the Company's ability to exceed the deadband of any performance metric.

ComEd claims Staff is incorrect. ComEd notes that without the proposed investments, the CAIDI targets of the program, and ultimately SAIDI, cannot be achieved. ComEd also suggests that Staff ignores the customer benefits of this program and the record evidence showing how Staff's proposal would negatively affect ComEd's customers and hinder ComEd's ability to mitigate the issues in a cost-effective proactive manner, rather than a more costly reactive manner.

The Commission finds that, without the cost-effectiveness analysis prescribed by 220 ILCS 5/16-105.17 (d)(1), (2), and (7), it is unable to determine if these system performance investments are prudent, reasonable, in compliance with the goals and objectives of P.A. 102-0662, and supported by sufficient evidence within the record. As discussed in Section V. A., the Commission shall determine the appropriate budget for all proposed projects relating to system performance upon the Commission's finding that the Company has submitted a Grid Plan that complies with the Act in providing the necessary information for an informed assessment.

(ix) Substation Reliability Enhancements – ITN 54223

(a) ComEd's Position

ComEd contends the Substation Reliability Enhancements program (ITN 54223) should be approved as proposed in the Grid Plan, and not be arbitrarily reduced, as proposed by Staff. ComEd explains that Substation Reliability Enhancements are investments for unique Substation Hardening and Digital Smart Substation ("DSS") projects aimed at reducing large scale substation events. ComEd Ex. 5.01 2nd Corr. at 209; *see also* ComEd Ex. 31.0 Corr. at 47-49. ComEd further explains that, due to the significant capital expenditures involved in these projects, and the need to maintain flexibility to reallocate investments over time to respond to situations where higher risk projects arise, ComEd uses a bucket approach to ITNs for these projects. *Id.* at 48-50. In other words, as ComEd describes, when the scope of a specific project is developed and appropriately authorized, that project becomes a unique project and the funding for it is transferred from the associated bucket project ITN to the new unique project ITN. *Id.* at 49-50.

ComEd reasons that because the Substation Reliability Enhancements (ITN 54223) is a bucket ITN, it, along with multiple other unique subordinate ITNs, represent the complete portfolio of Substation Reliability Enhancement projects. *Id.* at 46-49. Excluding the uncommon 2020 year (COVID-19), over the past five years, ComEd states it has spent $32 million annually on these projects through the bucket ITN 54223 and the unique project-specific ITNs that are funded from that bucket. *Id.* at 46. ComEd adds it has allocated $32.6 million for the Substation Reliability Enhancements bucket (ITN 54223) in 2027, which is consistent with ComEd's recent historical spend on these types of projects. *Id.* at 49. While ComEd has not identified specific project plans for this specific ITN in 2027, ComEd maintains this is not something that should render these proposed investments as imprudent or unreasonable; rather, ComEd contends the Commission should recognize that this level of detail cannot be developed years in advance on an individual substation basis. *Id.* at 50.

ComEd points out that Staff takes issue with ComEd's proposed spend in 2027 from this particular bucket ITN but not with any of the unique ITNs for other Substation Reliability Enhancements that are funded from this bucket in 2024-2026 (which average $32 million per year). *See* Staff IB at 126. As ComEd explains, Staff suggests that ComEd defer 2027 activities until after the end of the Grid Plan period, based on its assertion that ComEd has not shown that deferral of the 2027 expenditures has a substantial probability of producing significant reliability issues, and the fact that ComEd has previously delayed work on the Ford City and Sawyer substations. Staff IB at 128; Staff Ex. 31.0 at 31.

ComEd contends that both the logic and facts underpinning Staff's argument are faulty. ComEd believes it has demonstrated a need, which Staff does not appear to dispute, to spend $32 million per year on substation reliability projects. The fact that ComEd has previously deferred investment in the Ford City and Sawyer substation in favor of higher priority substation reliability projects in no way means those projects are not important or that the level of investment ComEd has proposed in this program in 2027 is unreasonable or imprudent.

ComEd concludes that the Commission should reject Staff's recommendation because these essential investments are necessary, and the failure of substation equipment can have significant consequences and customer impacts. ComEd Ex. 52.0 Corr. at 22-25. Recognizing that specific project plans have not been fully developed for work that will not occur until 2027, ComEd states it provided a reasonable estimate of the two reliability projects that would be funded from this ITN. ComEd Ex. 31.0 Corr. at 50-51; ComEd Ex. 31.03. ComEd also explained why the work could not be deferred: the operational condition of the equipment, much of which is already obsolete, will not improve, and a deferment fails to contribute to the enhancement of service reliability for ComEd customers and will likely result in higher costs due to inflation. ComEd IB at 158; ComEd Ex. 52.0 Corr. at 25. As such, ComEd concludes that the Staff recommendation should be rejected, and the investments approved as proposed.

(b) Staff's Position

Staff states ComEd's MYIGP included $35.627 million in investment for ITN 54223 to maintain or improve substation reliability by hardening projects. In direct testimony, based on lack of available information, Staff proposed adjustments to this program, reducing the expenditures for ITN 54223 during the MYIGP years by $32.590 million. ComEd Ex. 9.05 Corr.; Staff Ex. 15.0; Staff Ex. 13.0.

Staff asserts the table in Staff Exhibit 13.01 shows 90% of the MYIGP investments for ITN 54223 occur in a single year, the last of the MYIGP, 2027. Staff Ex. 13.01; Staff Ex. 15.04. In direct testimony, Staff found a lack of definition for the inordinately large investment value in the MYIGP's final year and concluded that ComEd had not sufficiently justified the inclusion of 2027 ITN 54223 expenditures in its MYIGP. Staff Ex. 15.0 at 12.

In rebuttal testimony, ComEd acknowledged that the Company does not yet have fully developed project plans for ITN 54223 work by year, including for the $32.6 million in forecasted investments. ComEd Ex. 31.0 at 50. However, ComEd provided an overview of the two investments, an estimated $25 million for the Ford City Substation and $7 million for the Sawyer Substation, that comprise the 2027 MYIGP investment values. ComEd Ex. 31.04. Justifications for these projects included poor equipment health and past outages. ComEd Ex. 31.0 at 50-51.

In rebuttal testimony, Staff cited ComEd's previous deferral of the Ford City substation work for four years to reallocate expenditures to another project. Staff also cited the ability of ComEd to delay work on the Sawyer substation for approximately nine years following the 2018 onset of the large-scale events ComEd cited. Staff Ex. 31.0 at 30.

As the party with the burden of proof in this docket, it should be incumbent on ComEd to explain why: (1) the Company did not perform the work before the MYIGP period; (2) why it continues to be reasonable to delay its performance to 2027, given the consequences of failure; and (3) why it propose to perform the work in 2027 the final year of the Company's first MYIGP. In rebuttal testimony, Staff continued to recommend deferral of the two large 2027 projects until after the conclusion of the ComEd MYIGP, absent a showing that deferral would create a substantial probability of producing significant reliability issues. Staff Ex. 31.0 at 30.

In surrebuttal testimony, ComEd discussed the equipment at the two substations slated to produce the large 2027 MYIGP investment, the substations' ages and conditions, and the consequences that would result from certain failures. ComEd Ex. 52.0 at 23-25. ComEd addressed the consequence of failure, but not the probability that such consequence would occur. In addition, ComEd does not address how, if at all, physical circumstances at the substations or the customer consequences of failure have changed over the many years ComEd has been comfortable deferring the work. Staff IB at 128. ComEd cited surrebuttal testimony stating that: (1) substation equipment "can have significant consequences;" (2) the work cannot be deferred because obsolete equipment "will not improve;" and (3) deferral will not "contribute to the enhancement of service reliability." ComEd IB at 158; ComEd Ex. 52.0 Corr. at 25.

Staff notes each of these statements has already been true for the years preceding the MYIGP period; none of them resulted in action from ComEd and none are proposed to until the very last year of the MYIGP. ComEd's proposal to insert two large projects into the last MYIGP year requires at a minimum an explanation of how: (1) relying on a discussion of possible consequence of failure without addressing their probability of occurrence; (2) how, if at all, obsolescence and other physical circumstances, which have not required attention for long periods of time have now changed; and (3) why after such a long period of inaction, it is now necessary for the Company to take action in the last year of the MYIGP.

Staff concludes the Commission should accept Staff's adjustment to reduce the expenditures for ITN 54223 during the MYIGP years by $32.590 million.

(c) Commission Analysis and Conclusion

The Commission recognizes that given prior deferments for previously approved upgrades to the Ford City and Sawyer Substations, forecasting $32.59 million at year four of the MYIGP indicates reasonable uncertainty as to whether this project will be deferred again beyond the next four years. The record supports Staff's contention that the Company has not sufficiently explained why after such a long period of inaction, it is now necessary for the Company to take action in the last year of the MYIGP. Moreover, the record reflects that the Company addressed the consequence of failure, but not the probability that such consequence would occur. Because the Company is not committed to progressing forward on upgrades to the Ford City and Sawyer Substations within this MYIGP customers should not be expected to absorb these costs in rates.

The Commission finds that, without the cost-effectiveness analysis prescribed by 220 ILCS 5/16-105.17 (d)(1), (2), and (7), it is unable to determine if these system performance investments are prudent, reasonable, in compliance with the goals and objectives of P.A. 102-0662, and supported by sufficient evidence within the record. As discussed in Section V. A., the Commission shall determine the appropriate budget for all proposed projects relating to system performance upon the Commission's finding that the Company has submitted a Grid Plan that complies with the Act.

j. A&G – Uncontested

ComEd states that Administrative and General ("A&G") is one of the thirteen Investment Categories described in the Grid Plan. ComEd notes that planned capital and

O&M investment expenditures for A&G during the Grid Plan period are set forth in Table 5.4-1 of the Grid Plan. ComEd Ex. 5.01 2nd Corr. at 172. ComEd concludes that the A&G category of investments is uncontested and ComEd's investment proposal should be approved without adjustment.

The Commission recognizes that the A&G category of investments is uncontested. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

k. Back Office Allocation – Uncontested

ComEd states that Back Office Allocation is one of the thirteen Investment Categories described in the Grid Plan. ComEd notes that planned capital and O&M investment expenditures for Back Office Allocation during the Grid Plan period are set forth in Table 5.4-1 of the Grid Plan. ComEd Ex. 5.01 2nd Corr. at 172. ComEd concludes that the Back Office Allocation category of investments is uncontested and ComEd's investment proposal should be approved without adjustment.

The Commission recognizes that the Back Office Allocation category of investments is uncontested. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

l. Vehicles – Uncontested

ComEd states that Vehicles is one of the thirteen Investment Categories described in the Grid Plan. ComEd notes that planned capital and O&M investment expenditures for Vehicles during the Grid Plan period are set forth in Table 5.4-1 of the Grid Plan. ComEd Ex. 5.01 2nd Corr. at 172. ComEd concludes the Vehicles category of investments is uncontested and ComEd's investment proposal should be approved without adjustment.

The Commission recognizes that the Vehicles category of investments is uncontested. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

m. Tools – Uncontested

ComEd states that Tools is one of the thirteen Investment Categories described in the Grid Plan. ComEd notes that planned capital and O&M investment expenditures for Tools during the Grid Plan period are set forth in Table 5.4-1 of the Grid Plan. ComEd Ex. 5.01 2nd Corr. at 172. ComEd concludes the Tools category of investments is uncontested and ComEd's investment proposal should be approved without adjustment.

The Commission recognizes that the Tools category of investments is uncontested. However, for the reasons stated in Section V.A above, the Commission declines to approve ComEd's proposed investment at this time.

7. Distributed Energy Resources

a. Current System DERs (Section 16-105.17(f)(2)(D))

(i) ComEd's Position

ComEd explains that the Grid Plan provides information on the DERs on ComEd's distribution system including the total number and nameplate capacity of DERs that have completed interconnection, and the current DER deployment by type, size, and geographic dispersion, as required by 220 ILCS 5/16-105.17(f)(2)(D). ComEd Ex. 5.01 2nd Corr. at 33-38, 95-101. Figure 2.1-3 of the Grid Plan shows ComEd's forecast of solar impacts for rooftop, commercial and industrial rooftop, and community solar DERs through 2041. *Id*. at 34. Table 3.3-4 of the Grid Plan describes the specific interconnections of DER from 2008 to 2022. *Id*. at 96. Figure 3.3-12 and Table 3.3-5 of the Grid Plan detail DER interconnections by geographic Operating Area. *Id*. at 97. Figure 3.3-11 of the Grid Plan shows the increase in DER interconnections from 2008 to 2022 distinguishing between solar and other forms of DERs. *Id*. at 96. ComEd contends that no party disputes that the Grid Plan complied with the requirements of Section 5/16-105.17(f)(2)(D).

(ii) Staff's Position

Staff reviewed the Company's MYIGP with respect to this statutory requirement and did not have concerns; therefore, Staff did not offer specific testimony on it. Staff Ex. 16.01; Staff Ex. 1.0 at 3-4.

(iii) JNGO's Position

ComEd's Grid Plan documents a rapid rise in DER interconnections over the past three years after a long period of slow, stable growth. The data show that, at present, ComEd must interconnect more than 10,000 DERs per year (or well more than 40 per business day) to keep up with demand. This rate will continue to grow, JNGO note, which highlights the need for new hosting capacity and flexible interconnection processes.

(iv) Commission Analysis and Conclusion

The Commission agrees with ComEd that this is an uncontested issue. However, pursuant to Commission's decision in Section V. A., the Commission finds that the Grid Plan does not comply with the requirements of the Act.

b. Projected DERs (Section 16-105.17(f)(2)(F))

(i) ComEd's Position

ComEd's discussion of the scenarios considered in the development of the Grid Plan, including DER scenarios that involve the projection of DERs, is provided in Section V.C.5, above. ComEd notes that JNGO provide context on DER projections as the basis of its recommendations addressed elsewhere and that no other party commented on this topic.

(ii) JNGO's Position

JNGO note that ComEd's Grid Plan forecasts that the Company will need to interconnect a cumulative total of more than 2,000 MW of distributed solar by 2028 and more than 4,000 MW by 2041 to meet the state's policy goals. *See* Grid Plan at Figure 2.1-3. To put this in perspective, ComEd had only 620 MW of distributed solar on its grid at the end of 2022. *See* Grid Plan at Table 3.3-4. JNGO explain that this means ComEd needs to be prepared to interconnect nearly three times more distributed solar capacity in the next five years than it has ever connected to date. This will be a major challenge, involving tens of thousands of DER interconnection applications, and it will require coordinated and sustained attention from the Commission and all stakeholders to achieve it. JNGO state that its recommendations for ComEd to develop a Hosting Capacity Roadmap, Flexible Interconnection Plan, and DER Orchestration Plan represent good first steps to meeting this challenge.

(iii) Commission Analysis and Conclusion

The Commission agrees with ComEd that this is an uncontested issue, but notes the lack of forecasted DERs beyond solar resources. Moreover, pursuant to the Commission's decision in Section V. A, the Commission finds that the Grid Plan does not comply with the requirements of the Act. *See* also Sections V.C.5, V.C.7.e, and V.C.7.f , for further discussion of forecast system conditions. JNGO's proposals are discussed immediately below in Sections V.C.7.d-g.

c. Hosting Capacity (Section 16-105.17(f)(2)(E)(i))

Section 16-105.17(f)(2)(E)(i) requires the following:

> The utility shall make available on its website the hosting capacity analysis results that shall include mapping and GIS capability, as well as any other requirements requested by the Commission or determined through Commission rules. The plan shall identify where the hosting capacity analysis results shall be made publicly available. This shall also include an assessment of the impact of utility investments over the next 5 years on hosting capacity and a narrative discussion of how the hosting capacity analysis advances customer-sited distributed energy resources, including electric vehicles, energy storage systems, and photovoltaic resources, and how the identification of interconnection points on the distribution system will support the continued development of distributed energy resources.

220 ILCS 5/16-105.17(f)(2)(E)(i).

(i) ComEd's Position

(a) Updating Hosting Maps

As ComEd explains, the Grid Plan identifies where hosting capacity results are made publicly available and assesses the impact of proposed investments over the next five years on hosting capacity with a discussion of how these hosting capacity investments support and advance DERs, Evs, and other customer-owned solutions, as required by Section 6-105.17(f)(2)(E)(i). ComEd Ex. 5.01 2nd Corr. at 39-44. ComEd further explains that the Grid Plan also specifies the web location of ComEd's public-facing hosting capacity map and describes the features of that map with focus on how they can be used to accommodate DERs. *Id*. at 39-40. ComEd adds that the Grid Plan further describes the systems used to develop the hosting capacity map and how those systems are used to provide an estimate of the amount of DERs that can be accommodated under current configurations of the grid. *Id*. at 42-43. Finally, ComEd notes that the Grid Plan discusses plans for the next five years of investments to improve hosting capacity and provide more options for customers looking to deploy DERs and other flexible resources. *Id*. at 43-44.

ComEd states that no party has disputed that the Grid Plan complies with the requirements of Section 16-105.17(f)(2)(E)(i). In addition, ComEd notes that ComEd and Staff agree that ComEd should update its photovoltaic hosting capacity maps on a quarterly basis, update its hosting capacity maps monthly for individual feeders on which the penetration of DERs is high and accelerating, and provide the EV and storage hosting capacity maps, after those maps are developed, which is targeted to occur throughout 2023 and 2024. ComEd Ex. 29.0 at 74.

(b) Investment Category

ComEd contends that the Commission should reject Staff and JNGO's recommendations that ComEd make hosting capacity into an investment category. Specifically, ComEd notes Staff and JNGO recommend that hosting capacity be integrated into ComEd's risk model as a "category of consequence" for prioritization of capital investments. Staff IB at 130; JNGO IB at 36. ComEd contends this recommendation does not reflect the reality of hosting capacity evaluation, which includes numerous variables and is difficult to quantify in the way JNGO and Staff assert is necessary. ComEd witness Mondello provides a detailed explanation of these variables and issues in her rebuttal testimony. ComEd Ex. 29.0 at 69–70. ComEd states, in short, that including hosting capacity as an investment category would not provide the clarity or direct causal link Staff suggests. Furthermore, ComEd states it is already tracking links between investment category and hosting capacity. ComEd Ex. 29.0 at 71. In addition, ComEd maintains that its risk model already appropriately captures and tracks hosting capacity under existing prioritization criteria. *Id*. at 72. Nevertheless, ComEd is open to continuing discussion on how ComEd's investments impact hosting capacity in existing forums such as the Interconnection Working Group.

(c) Dynamic Hosting Capacity

ComEd has agreed to begin evaluating dynamic hosting capacity in 2024.

(d) Hosting Capacity Investment

ComEd acknowledges that JSP recommend the Commission direct ComEd to identify feeders and substations where at least one study from ComEd issued pursuant to 83 Ill. Adm. Code 466 ("Part 466") or 467 ("Part 467") identifies at least $0.75/watt ("W") in upgrades (or $0.20/W in feeder upgrades) and include those assets as part of the Grid Plan portfolio of distribution system upgrades. ComEd further acknowledges that JSP recommend an upgrade of at least 20 megawatts ("MW") of hosting capacity, or such larger amount as supported by ComEd's preferred equipment. ComEd contends that JSP's recommendation is not necessary for ComEd's Grid Plan to meet statutory requirements, and the Grid Plan should not be modified in response.

ComEd notes that, while JSP cite Section 16-105.17(d)(5) as a statutory basis for its proposal, this is irrelevant to whether the Grid Plan meets the specific statutory requirements of Section 5/16-105.17(f)(2)(E)(i). ComEd adds that JSP witness Balakrishnan concedes that her recommendations are methods of addressing her identified interconnection issues but not the exclusive means of addressing hosting capacity, and she further acknowledges that there should be "a variety of ways to identify hosting capacity constraints and necessary upgrades." JSP Ex. 3.0 at 7-8. ComEd states its Grid Plan and supporting testimony describe plans over the next five years of investments to improve hosting capacity and identify constraints. ComEd Ex. 5.01 2nd Corr.at 43-44; *see also* ComEd Ex. 29.0 at 66. As such, ComEd contends that JSP's recommendation is not necessary, is legally unsupported on the basis of both Section 16-105.17(f)(2)(E)(i) and Section 16-105.17(d)(5) and should not be incorporated into the Grid Plan.

(ii) Staff's Position

(a) Updating Hosting Maps

Staff states that the Commission should approve ComEd's commitment to update its photovoltaic hosting capacity maps on a quarterly basis. ComEd Ex. 50.0 at 22. The Commission should further direct the Company to update its hosting capacity maps monthly for individual feeders on which the penetration of DERs is high and still accelerating. Staff Ex. 27.0 at 10. Further, the Commission should approve ComEd's commitment to provide quarterly updates to the EV and storage hosting capacity maps, after those maps are developed, which is targeted to occur in September 2024. ComEd Ex. 50.0 at 22; ComEd Ex. 29.0 at 73.

ComEd stated that it is targeting monthly updates to its photovoltaic hosting capacity maps starting in September 2024. The Commission should approve ComEd's commitment and direct ComEd to provide monthly updates of the photovoltaic hosting capacity maps beginning September 2024.

Staff further recommends that the Commission approve ComEd's commitment to publish its hosting capacity maps with load and generation hosting capacity values by DER types for solar, storage, Evs, and other forms of BE. Staff Ex. 27.0 at 11; ComEd Ex. 50.0 at 22. Currently, ComEd publishes hosting capacity values for generation only. However, hosting capacity which includes load and generation information can provide important insights for long-term planning for DER integration by regulators and the Company. JNGO Ex. 3.0 at 19. P.A. 102-0662 recognizes the importance of hosting capacity analysis by DER type, requiring a narrative discussion of how the hosting capacity analysis advances customer-sited distributed energy resources, including Evs, energy storage systems, and photovoltaic resources. *Id*.

(b) Investment Category

Staff notes that ComEd agrees that impact on hosting capacity is one factor that should be considered when prioritizing investments, and the Company actively does this through its prioritization risk model. ComEd Ex. 50.0 at 23. However, ComEd stated that hosting capacity is only one factor relevant in determining where to focus investments, and as such does not warrant a dedicated investment category. ComEd Ex. 29.0 at 72.

ComEd's approach appears to be inconsistent with P.A. 102-0662 which requires an assessment of the impact of utility investment over a five-year horizon on hosting capacity. 220 ILCS 5/16-105.17(f)(2)(E)(i). It would be difficult, if not impossible, Staff opines, to provide such an assessment without a causal link between a particular investment and increased hosting capacity.

ComEd's current model uses twelve separate categories of consequence for scoring projects but does not explicitly address a project's impact on hosting capacity. JNGO Ex. 2.0 at 37. Staff notes that JNGO suggest that as a solution, ComEd could modify its risk model to include hosting capacity as a category of consequence. JNGO Ex. 2.0 at 37. If this strategy is adopted by ComEd, investment drivers would be clearer in indicating an "increase hosting capacity" as a project benefit.

For the above reasons, Staff asserts the Commission should direct ComEd to develop a specific category of investments to be included in the MYIGP designed, in whole or in part, to improve the hosting capacity of its electric distribution system.

(c) Dynamic Hosting Capacity

ComEd plans to enhance and improve its hosting capacity capabilities, including commitments to begin consideration of dynamic hosting capacity ("DHC") in 2024. Staff agrees with JNGO that DHC will enable ComEd to cost-effectively integrate more DERs onto its distribution grid and leverage the capability of DERs to operate flexibly to avoid temporary capacity constraints. *Id*. As such, Staff recommends the Commission direct ComEd to investigate using DHC analysis to calculate the hosting capacity of its distribution system and report out on its findings in the Annual MYIGP Report. This issue is uncontested.

(d) Hosting Capacity Investment

Staff notes that JSP propose a method to aid in determining where to invest in hosting capacity and calls on ComEd to use interconnection studies to identify substations and feeders that need upgrades. JSP Ex. 3.0 at 9, 10. ComEd does not reject this proposal outright. Instead, ComEd generally commits to improving hosting capacity, identifying the ultimate impact of the costs of upgrades, and DER integration into the grid in a collaborative manner. ComEd Ex. 29.0 at 71.

Staff explains that JSP's recommendation can, at best, supplement ComEd's planning. It could be one factor ComEd might use to focus its infrastructure spending, but it raises issues about the allocation of costs between ratepayers and DER suppliers. Staff Ex. 25.0 at 10. If hosting capacity is increased by 20 MW to accommodate more DER installations, unless other programs are set up, those costs will be solely borne by ratepayers. An alternative arrangement would need to be established to allocate a portion of those upgrade costs to DER facilities that are installed after capacity is increased. As a result, JSP's proposal to change investment planning requires investigation and discussion to ensure that ratepayers are not unfairly burdened, and thus, Staff cannot agree to this proposed change. *Id*.

(iii) City's Position

(a) Updating Hosting Maps

As recognized in P.A. 102-0662, the concept of hosting capacity is an important dimension of electric utility performance. 220 ILCS 5/16-105.17(f)(2)(E). City witness Woods provided a firsthand example of the difficulties that can arise when customers must wait for the capacity they need, explaining that a developer seeking to move to "all-electric" was told by ComEd it would take several years for needed electrical upgrades. City Ex. 1.0 at 28-29. Although this is just one example, these problems are expected to multiply as Chicago buildings electrify at the pace specified in the City's Climate Action Plan. As the City transitions to a clean energy economy, the City demonstrated that Chicagoans need access to better and more timely data. *Id*. at 28. Ms. Woods further explained that ComEd's mapping tools would benefit from more real-time and granular data. *Id*. at 27-29. To this end, the City supports the hosting capacity recommendations of JNGO witness Nelson. *See* JNGO Ex. 3.0 at 25; JNGO Ex. 10.0 at 2.

For the reasons detailed by JNGO, the City urges the Commission to memorialize the following commitments as recommended by JNGO witness Nelson and agreed to by ComEd witness Mondello: (1) provide monthly updates to its photovoltaic hosting capacity maps by September 2024; (2) enhance the maps to include energy storage and Evs updated on a quarterly basis; (3) provide accessible DER queue data by feeder, updated on a quarterly basis; and (4) begin consideration of DHC in 2024. ComEd Ex. 50 at 22; JNGO Cross Ex. 2. The City also supports JNGO's request that the Commission direct ComEd to report on its progress through the Commission's Interconnection Working Group.

(iv) JSP's Position

(a) Hosting Capacity Investment

JSP recommend that the Commission direct ComEd to identify feeders and substations where at least one study from ComEd issued pursuant to Part 466 or 467 identifies at least $0.75/W in upgrades (or $0.20/W in feeder upgrades) and include those assets as part of the MYIGP portfolio of distribution system upgrades. JSP recommend an upgrade of at least 20 MW of hosting capacity, or such larger amount as supported by ComEd's preferred equipment. *See* JSP Ex. 3.0 at 9.

JSP argue that their recommendation is supported by statute and helps fill a gap in the MYIGP related to hosting capacity. By statute, the MYIGP must be designed to:

> reduce grid congestion, minimize the time and expense associated with interconnection, and increase the capacity of the distribution grid to host increasing levels of distributed energy resources, to facilitate availability and development of distributed energy resources, particularly in locations that enhance consumer and environmental benefits.

220 ILCS 5/16-105.17(d)(5). Furthermore, the MYIGP must "ensure coordination of the State's renewable energy goals, climate and environmental goals with the utility's distribution system investments" (220 158 ILCS 5/16-105.17(d)(1)), which includes the

ambitious new distributed and utility-scale solar goals from Section 1-75(c)(1)(C) of the Illinois Power Agency Act (75 ILCS 3855/1-75(c)(1)(C).

A lack of hosting capacity is a barrier to new renewable generation development and interconnection—and ultimately the clean energy transition envisioned by the Climate and Equitable Jobs Act. *See* JSP Ex. 3.0 at 7. JSP witness Balakrishnan explained that when a Level 2 through Level 4 system under Part 466 or any system under Part 467 applies for interconnection, the interconnecting utility must engage in several studies that include non-binding cost estimates. *See* JSP Ex. 3.0 at 3-4. If there is "hosting capacity" available, the non-binding cost estimates for upgrades are likely to be relatively lower; if there is not capacity available those upgrades are likely to be higher—in fact, at times so high that it becomes impractical for most systems to interconnect at a specific point. *See id*. at 4-7. The interconnection customer must pay for 100% of such upgrades. *See id*. at 6; *see* 83 Ill. Adm. Code 466.Appendix D at §§ 5.1-5.2.

JSP's proposal is geared to address this need in recognition of the gap between the legal requirements that the MYIGP address increases to hosting capacity and the JSP's perception of a lack of proposals within the MYIGP designed specifically to upgrade hosting capacity. *See* JSP Ex. 3.0 at 7-9. JSP witness Balakrishnan noted that her proposal for identifying substations where upgrade costs exceeded $0.75/W or associated feeders where upgrades exceeded $0.20/W was not intended as the exclusive way to increase hosting capacity — Ms. Balakrishnan's proposal was simply another way to identify and address interconnection "black holes" and avoid impairment of Illinois clean energy goals. *See id.* at 9-11. Ms. Balakrishnan specifically recommended using studies prepared under Part 466 or 467 because to her understanding ComEd does not typically review its entire system for hosting capacity and these studies are already conducted in ComEd's normal course of business. *See id*. at 10.

JSP witness Balakrishnan emphasized that nothing in her proposal would change the general approach of interconnection customer paying, because the MYIGP-directed upgrades (should they happen) would likely be long after an interconnection customer must pay their 100% deposit or be forced from the queue. *See* JSP Ex. 3.0 at 12. In other words: this proposal is not about saving an individual system from a bad (or unlucky) choice in location — it is to save renewable developers, ComEd, and all ratepayers from a vicious cycle where the clean energy transition is impaired as hosting capacity shrinks and interconnection costs become more infeasible at more locations.

Ms. Balakrishnan noted that ComEd conceded that "while ComEd projects that some planned upgrades may increase hosting capacity, ComEd makes clear that hosting capacity is not the primary purpose and any incremental hosting capacity increases are not quantified." JSP Ex. 3.0 at 8-9. While some ComEd proposals may have the effect of marginally increasing hosting capacity such as the 4 kV to 12 kV feeder upgrade program — although not for community solar, which ComEd typically interconnects at 34.5 kV — at a minimum, the 4 kV to 12 kV upgrade program shows the importance of having a variety of ways to identify hosting capacity constraints and necessary upgrades. *See* JSP Ex. 6.0 at 6-7. Without JSP's proposal for intentional and measurable increases to hosting capacity, it is not clear how ComEd can meet the requirements of Section 16-105.17(d)(5).

Staff appears to object to the JSP's proposal on the basis that "unless other programs are set up, those costs will be solely borne by ratepayers. An alternative arrangement would need to be established to allocate a portion of those upgrade costs to DER facilities that are installed after capacity is increased." Staff IB at 141. Staff provides few clues about what such an "alternative arrangement" would look like or what portion of upgrade costs should be allocated otherwise, how an alternative arrangement or reallocation would be designed, and why upgrades that benefit all ratepayers (by supporting P.A. 102-0662's clean energy deployment goals) are improperly recovered as distribution assets. The Commission should approve JSP's proposal and reject Staff's vague criticisms.

As a result, the Commission should approve JSP's proposal that the Commission direct ComEd to upgrade by at least 20 MW the hosting capacity for any feeder or substation where a Part 466 Level 2-4 or Part 467 interconnection study shows upgrade costs of over $0.75/W or $0.20/W in upgrades to a feeder.

(v) JNGO's Position

(a) Hosting Capacity Investment

ComEd defines hosting capacity as "the amount of [DER] that can be accommodated on the existing system (feeders) without adversely impacting power quality or reliability under existing control configurations and without requiring significant system upgrades." JNGO Ex. 2.0 at 35. Hosting capacity is important because P.A. 102-0662 establishes aggressive clean energy and beneficial electrification targets for Illinois. JNGO state that if ComEd does not proactively address hosting capacity constraints on the system, P.A. 102-0662's goals could be infeasible. *Id*. at 35-36.

To date, ComEd has not explicitly considered the impact on hosting capacity as one of the factors (or "drivers") it uses to determine how or when to prioritize specific capital projects. P.A. 102-0662 changes the status quo. It specifically directs utilities to design their Grid Plans to "increase the capacity of the distribution grid to host increasing levels of distributed energy resources…" 220 ILCS 5/16-105.17(d)(5). JNGO witnesses Kenworthy and Volkmann therefore both recommend that ComEd develop a framework to incorporate hosting capacity as a driver of capital projects, including amending its Risk Model to include hosting capacity as a "category of consequence" for prioritizing capital investments. *Id*. at 37.

ComEd witness Mondello "agrees that the impact on hosting capacity is one of the factors that should be considered when prioritizing investments" and states that ComEd is "open to continuing discussing how ComEd's investments impact hosting capacity with Staff and stakeholders in existing forums such as the Interconnection Working Group." ComEd Ex. 50 at 23. The Commission should memorialize this agreement in its final Order and affirm ComEd's intent to engage with stakeholders to update the Company's investment prioritization model to include hosting capacity as a driver for new capital projects.

(b) Updating Hosting Maps

JNGO witness Nelson provides an in-depth discussion of hosting capacity analysis and has several recommendations regarding (1) the frequency and scope of hosting capacity map updates, and (2) the need for ComEd to continuously improve its hosting capacity capabilities, including consideration of Dynamic Hosting Capacity to meet future grid needs. JNGO Ex. 3.0 at 9-25.

Mr. Nelson explains that ComEd currently evaluates hosting capacity using a "static" method that uses conservative assumptions to produce a single hosting capacity value regardless of time or other conditions. In contrast, DHC can provide seasonal or hourly results that approximate real-time grid conditions. This future capability will enable ComEd to cost-effectively integrate more DERs onto its distribution grid and take better advantage of the capability of DERs to operate flexibly to avoid temporary capacity constraints. *Id.* at 22-24.

In surrebuttal testimony, ComEd witness Mondello explains the steps ComEd is taking to enhance and improve its hosting capacity capabilities. These include commitments to: (1) provide monthly updates to its solar hosting capacity maps by September 2024; (2) enhance the maps to include energy storage and Evs updated on a quarterly basis; (3) provide accessible DER queue data by feeder, updated on a quarterly basis; and (4) begin consideration of DHC in 2024. ComEd Ex. 50 at 22; JNGO Cross Exhibit 2 (Response to ELPC-COMED 9.01). ComEd witness Mondello states that ComEd is open to discussing ComEd's plans for future hosting capacity improvements through existing forums such as the Commission's Interconnection Working Group. *Id*.

JNGO appreciates ComEd's commitments to work with stakeholders to update and continuously improve its hosting capacity maps and methodologies. The Commission should acknowledge and memorialize these commitments in its final Order and direct ComEd to report on its progress through the Commission's Interconnection Working Group.

(vi) Commission Analysis and Conclusion

(a) Updating Hosting Maps

The Commission views ComEd's proposal to update its hosting capacity maps expeditiously and more frequently as a minimum investment. The objective of the applicable P.A. 102-0662provisions is that DER providers be able "to seamlessly and easily connect to the grid" using "open standards and interfaces," which the Commission reads to require more than an information service. 220 ILCS 5/16-105.17(d)(10) and (f)(2)(L). The centrality of current and future DER interaction with the grid requires a Plan that is more specific, and intentional in advancing this goal.

The Commission notes that ComEd and Staff agree that ComEd should update its photovoltaic hosting capacity maps on a quarterly basis, update its hosting capacity maps monthly for individual feeders on which the penetration of DERs is high and accelerating, and provide the EV and storage hosting capacity maps, after those maps are developed, which is targeted to occur throughout 2023 and 2024. ComEd Ex. 29.0 at 74. ComEd is targeting monthly updates to its photovoltaic hosting capacity maps starting in September 2024. ComEd Ex. 29.0 at 72-73. ComEd has also indicated that it will offer quarterly updates of the EV and storage hosting capacity maps once developed. ComEd Ex. 50.0 at 22. The Commission approves ComEd's commitments.

Moreover, the Commission directs ComEd to report on its progress through the Commission's Interconnection Working Group.

(b) Investment Category

The Commission finds ComEd's Grid Plan does not comply with P.A. 102-0662, which requires an assessment of the impact of utility investment over a five-year horizon on hosting capacity. 220 ILCS 5/16-105.17(f)(2)(E)(i). The Commission agrees with Staff's reasoning that it would be difficult, if not impossible, to provide such an assessment without a causal link between a particular investment and increased hosting capacity. The Commission agrees with Staff's proposal to require ComEd to develop a specific category of investments to improve the hosting capacity of its electric distribution system, but directs the Company to include the information in its refiled Grid Plan per Section V.A of this Order. The specifics of ComEd's compliance with Staff's proposal can also be refined in the Interconnection Working Group.

(c) Hosting Capacity Investment

The Commission finds the concerns of both JNGO and JSP regarding whether ComEd is adequately prioritizing hosting capacity in making investment decisions to be compelling, but the actual best solution for addressing this concern is not clear. JSP witness Balakrishnan's recommendations are one method of addressing interconnection issues but not the exclusive means of addressing hosting capacity. JSP Ex. 3.0 at 7-8.

The Commission finds that the Company's Grid Plan does not comply with Section 16-105.17(f)(2)(E)(i). The Commission recommends that ComEd collaborate with stakeholders in the development of the refiled Grid Plan (see Section V.A of this Order), as JSP and JNGO proposals to hosting capacity could aid the Company in meeting the requirements of the Act. The Interconnection Working Group also remains a resource for assisting in Grid Plan development.

(d) Dynamic Hosting Capacity

The Commission notes ComEd's plans to enhance and improve its hosting capacity capabilities, including commitments to begin consideration of DHC in 2024. The Commission agrees with Staff and JNGO that DHC will enable ComEd to cost-effectively integrate more DERs onto its distribution grid and leverage the capability of DERs to operate flexibly to avoid temporary capacity constraints. The Commission agrees with Staff's recommendation to require ComEd to investigate using DHC analysis to calculate the hosting capacity of its distribution system, and directs the Company to report its findings in the refiled Grid Plan (see Section V.A of this Order).

d. Interconnection (Section 16-105.17(f)(2)(E)(ii))

(i) ComEd's Position

ComEd explains that the Grid Plan discusses interconnection requirements and the manner in which these requirements comply with the Commission's regulations, as required by Section 16-105.17(f)(2)(E)(ii) and Parts 466 and 467 of the Commission's Rules. ComEd Ex. 5.01 2nd Corr.at 128-130. ComEd notes that Figure 4.2-3 of the Grid Plan details the interconnection process, while the Grid Plan discusses the analysis tools used to expedite the interconnection process and ComEd's plans for improving the interconnection process to facilitate deployment of DERs, Evs, and other customer-owned resources. *Id*. at 129-130. ComEd states no party has disputed that the Grid Plan complied with the requirements of Section 16-105.17(f)(2)(E)(ii). ComEd specifically notes that Staff agrees that ComEd has met this requirement of the Act.

ComEd adds that JNGO is the only other party to address this topic, requesting that the Commission direct ComEd to: (1) produce a written plan for implementing and scaling Flexible Interconnection approaches including DERMs; and (2) report on its progress through the Commission's Interconnection Working Group. ComEd has agreed to work with stakeholders to discuss concepts such as Flexible Interconnection and DER Orchestration that covers different DER control scenarios, including DERMS, within the Interconnection Working Group.

(ii) Staff's Position

Staff reviewed the Company's MYIGP with respect to this statutory requirement and did not have concerns; therefore, Staff did not offer specific testimony on it. Staff Ex. 16.01; Staff Ex. 1.0 at 3-4.

(iii) JNGO's Position

JNGO note that P.A. 102-0662 requires ComEd to improve the interconnection and hosting capacity of its grid. P.A. 102-0662 states that ComEd's Grid Plan "shall be designed to …reduce grid congestion, minimize the time and expense associated with interconnection, and increase the capacity of the distribution grid to host increasing levels of distributed energy resources, to facilitate availability and development of distributed energy resources, particularly in locations that enhance consumer and environmental benefits." 220 ILCS 5/16-105.17(d)(5).

To meet these goals, JNGO opine that ComEd will need to implement "Flexible Interconnection" strategies that can increase distribution system utilization (and therefore defer the need for system upgrades) by curtailing active power exports from DER units when they have the potential to create grid congestion. These strategies are varied and can include both autonomous grid response (such as "volt-watt" inverter control) or active network management where the utility can monitor and directly curtail DER output. JNGO Ex. 3.0 at 35-36

JNGO point out that the Company is piloting a flexible interconnection solution at its Mendota substation project, which uses a DERMS to curtail power generation to avoid a substation transformer upgrade. According to ComEd, this DERMS solution has curtailed less than 0.1% of DER output to avoid millions of dollars for transformer replacement that would otherwise have been assigned to the interconnecting generators. *Id*. at 36.

JNGO support ComEd's implementation of DERMS to control large loads and generators, such as the pilot project at Mendota. However, direct control of smaller DERs is likely unnecessary, potentially infeasible, and could require billions of dollars of investment for potentially limited benefit. There are alternative approaches that rely on autonomous grid signals to optimize small DERs to align with grid needs. These approaches can likely provide the same level of reliability and performance without the complexity, cost, and risk of centralized control. *Id*. at 43.

Based on the record, JNGO are persuaded that moving forward with some basic level of DERMS functionality is reasonable. However, ComEd's MYIGP lacks detail regarding ComEd's eventual plan for DERMS, including the Company's intent for monitoring and controlling small-scale DER on its system. JNGO therefore support Mr. Nelson's recommendation for the Company to work with stakeholders to develop Flexible Interconnection and DER Orchestration Plans that clearly define how different types and sizes of DERs can be optimized, who will be responsible for their optimization, and the specific role of a DERMS. JNGO Ex. 10 at 24-25.

ComEd states that it is currently in the process of putting together its development and deployment strategy and timeline for different DERMS use cases and is open to discussing its plans with stakeholders. In response to discovery, ComEd clarified that it will work with stakeholders through existing forums such as the Interconnection Working Group "to discuss concepts such as Flexible Interconnection and DER Orchestration that covers different DER control scenarios, including DERMS." JNGO Cross Ex. 3. The Commission should acknowledge and memorialize these commitments in its final Order and direct ComEd to (1) produce a written plan for implementing and scaling Flexible Interconnection approaches including DERMs, and (2) report on its progress through the Commission's Interconnection Working Group.

(iv) Commission Analysis and Conclusion

The Commission finds that the Grid Plan complies with Section 16-105.17(f)(2)(E)(ii), which requires a discussion of the utility's interconnection requirements and how they comply with the Commission's applicable regulations. However, pursuant to the Commission's decision in Section V. A., the Commission finds that the Grid Plan does not comply with the requirements of the Act.

The Commission notes that ComEd has committed to working with stakeholders through existing forums such as the Interconnection Working Group to discuss concepts such as Flexible Interconnection and DER Orchestration that cover different DER control scenarios, including DERMS. The Commission acknowledges these commitments and directs ComEd to include in its refiled Grid Plan (1) a written plan for implementing and scaling Flexible Interconnection approaches including DERMs, and (2) ComEd's commitment to report on its progress through the Commission's Interconnection Working Group. The Commission agrees with JNGO that these solutions should be explored in the near future to meet P.A. 102-0662's goals and by requiring reporting, the Commission can ensure that the solutions are being seriously considered.

e. Evaluation of Benefits and Costs of DERs (Section 16-105.17(f)(2)(G))

(i) ComEd's Position

ComEd states that the Grid Plan evaluates the short-term and long-run benefits and costs of DERs on the distribution system, as required by 220 ILCS 5/16-105.17(f)(2)(G), and as a result, contrary to Staff's assertion, is compliant with Section 16-105.17(f)(2)(G). ComEd Ex. 5.01 2nd Corr. at 33-38, 95-101. ComEd explains that, among other analysis, Figure 2.1-5 of the Grid Plan shows the annual energy offsets provided by DERs, Evs, and EE programs that provide a direct benefit to the grid. *Id*. at

37. ComEd adds that the Grid Plan also discusses the challenges that DERs can pose to the grid including output variability, backflows, and high voltages (as shown in Figure 3.3-14 of the Grid Plan). *Id*. at 97-99. ComEd explains that, because of the challenges DERs can pose, utilization of more advanced and complex monitoring, protection, automation, control systems, and high-speed communications systems are necessary to facilitate DERs, which incurs additional costs on the grid. *Id*. at 99-101. ComEd points out that all of the analysis described in the Grid Plan will be used in the upcoming Value of DER Investigation proceeding, as discussed further in Section VIII.C.

ComEd alleges Staff witness Rearden claims that ComEd is not compliant with Section 16-105.17(f)(2)(G) because ComEd did not provide "empirical information that could be used to estimate the costs or benefits for any form of DER." Staff Ex. 25.0 at 2. ComEd contends that it is unclear, given the breadth of information and testimony in the record, why Staff witness Rearden reached the incorrect conclusion that ComEd did not provide information that could be used to estimate the costs or benefits of DERs. ComEd states it provided this information in multiple documents including the Grid Plan (ComEd Ex. 5.01 2nd Corr. at 124-125 ("Benefits and Costs of DER"), 149-152 ("Anticipating and Validating New Technologies")), ComEd Ex. 50.06 at 123–126 ("System Data on DERs on ComEd's Distribution System," "Evaluation of Benefits and Costs of DERs"), ComEd Ex. 29.0 at 58–65 ("DER Scenarios and Trends"), 81 ("Non-Wires Alternatives"). *See* ComEd Ex. 46.0 at 13. Thus, ComEd contends it has complied with 220 ILCS 5/16-105.17(f)(2)(G) and Staff's criticism must be rejected.

Notwithstanding the above, ComEd points out that Staff agrees ComEd has met this requirement of the Act, contingent upon ComEd's participation in the DER evaluation investigation. ComEd states it is currently participating in the DER evaluation workshops and intends to participate in the forthcoming evaluation. ComEd further states ComEd and Staff agree that the Commission should defer decisions about DER evaluations in light of the Commission's initiation of an investigation into the value of, and compensation for, DER, which will consider those issues in depth.

ComEd acknowledges Staff also opines that the Commission should not allow ComEd to install, own, or operate DERs without Commission approval. ComEd does not agree with this position but also believes that it is not necessary or proper to resolve in this case. ComEd contends this issue can be discussed and, if necessary, taken to the Commission for determination after stakeholder input in the forthcoming valuation of DER proceeding.

ComEd notes that JNGO challenge whether ComEd's Grid Plan meets the Section 16-105.17(f)(2)(G) requirement and seeks a Commission Order directing ComEd to produce data using a "marginal cost analysis." JNGO IB at 40-43. ComEd contends that JNGO's statutory interpretation is faulty, however, and must be rejected. As ComEd explains, JNGO asserts that the "Grid Plan does not satisfy [P.A. 102-0662]'s requirement to produce data that the Commission can use to inform the DER Value Investigation," but ComEd argues that the use of ComEd's DER information by the Commission in the Value of DER investigation is suggestive, and not mandatory. *Id*. at 41; see 220 ILCS 5/16-105.17(f)(2)(G) ("The Commission may use the data produced through this evaluation to … inform the Commission's investigation and establishment of tariffs and compensation for distributed energy resources …"). In addition, ComEd states it has already provided sufficient data in the record to satisfy this requirement. ComEd further states Section 16-105.17(f)(2)(G) does not require that utilities provide any particular data analysis, such as a "marginal cost analysis." Therefore, ComEd concludes that JNGO's recommendations must be rejected.

(ii) Staff's Position

Staff recommends the Commission defer decisions about DER evaluations, in light of the Commission's initiation of an investigation into the value of, and compensation for, DER, which will consider those issues in depth. *See* 220 ILCS 5/16-107.6(e). Staff also recommends that the Commission find ComEd satisfies this section of P.A. 102-0662, contingent upon its participation in the DER evaluation investigation. The investigation will constitute a lengthy and in-depth consideration of DERs that will develop sufficient information to establish well-founded rebates. Engaging these topics in that venue will provide the Commission with more flexibility to make important decisions.

Staff further opines that the Commission should not allow ComEd to install, own, or operate DERs without Commission approval. Staff Ex. 9.0 at 11; Staff Ex. 25.0 at 2. ComEd responded to Staff's recommendation on this issue by referring to Commission approval of the Bronzeville microgrid, which permitted the Company to own and operate Battery and Energy Storage Systems. *Commonwealth Edison Co.*, Docket No. 18-0808, Order (Dec. 4, 2018). Staff argues that ComEd's arguments do not address the policy goals expressed in Section 105.17(f)(2)(K), which is to establish and maintain a competitive market to enhance the availability and affordability of renewable resources for all customers. Staff Ex. 9.0 at 11. ComEd's arguments also do not address how it intends to allocate interconnection costs between ratepayers and interconnection customers. *Id*. at 9. Staff maintains that allowing ComEd to own distribution energy storage assets or other DERs without Commission approval based on a single proceeding that occurred prior to P.A. 102-0662 enactment would be contrary to P.A. 102-0662 and policy goals stated therein. Staff Ex. 9.0 at 10-11; Staff Ex. 25.0 at 2, 13-14.

(iii) JNGO's Position

On June 29, 2023, the Commission opened its investigation pursuant to Section 16-107.6(e) "into the value of, and compensation for, distributed energy resources." P.A. 102-0662 requires utilities to generate data for the DER Value Investigation through their Grid Plans. The Act requires the MYIGP to include:

> An evaluation of the short-term and long-run benefits and costs of distributed energy resources located on the distribution system … The Commission may use the data produced through this evaluation to … inform the Commission's investigation and establishment of tariffs and compensation for distributed energy resources … pursuant to Section 16-107.6 of this Act.

220 ILCS 5/16-105.17(f)(2)(G). Following the DER Investigation, JNGO explain that utilities are to update their DG compensation tariffs on an annual basis "with inputs derived from their integrated grid plans." 220 ILCS 5/16-107.6(e)(2).

JNGO witness Kenworthy concludes that ComEd's Grid Plan does not satisfy P.A. 102-0662's requirement to produce data that the Commission can use to inform the DER Value Investigation. JNGO Ex. 1.0 at 22. Mr. Kenworthy recommends that the Commission direct ComEd to produce this data using a "marginal cost analysis" to calculate the long-run system-wide capacity value of adding incremental DERs to its distribution system. As explained by Mr. Kenworthy:

> Marginal cost analysis in the context of electric distribution system planning refers to the examination of the incremental costs associated with expanding or modifying the distribution system to meet the changing electricity demand. It involves assessing the additional expenses incurred when increasing the capacity or making improvements to the existing infrastructure. That relationship should be expressed in dollars per kilowatt per year ($/kW-year).

JNGO Ex. 1.0 at 23. While there are a variety of ways to conduct a marginal cost analysis, Mr. Kenworthy defers to ComEd to select an approach that works best for the Company.

In rebuttal, ComEd states that Mr. Kenworthy's recommendations regarding marginal cost analysis are "premature and unreasonable." It states that "this topic is not one that should be addressed by the Grid Plan but rather should be addressed in the separate proceeding initiated by the Commission with regards to the value of DER." ComEd's position is directly contradicted by the statute. P.A. 102-0662 states that ComEd's Grid Plan "must include" an evaluation of the "locational, temporal, and performance-based benefits and costs of distributed energy resources" to inform the Commission's DER Value Investigation. 220 ILCS 5/16-105.17(f)(2)(G). The statute uses mandatory language and does not give utilities the option to wait for a separate proceeding.

Furthermore, ComEd's objections appear to misunderstand the nature of Mr. Kenworthy's recommendation. Importantly, Mr. Kenworthy is not recommending that ComEd propose a methodology for valuing DERs in this Grid Plan. The Commission will approve a methodology as part of the upcoming DER Value Investigation. Instead, he recommends that ComEd begin producing the "granular, locationally differentiated" data that the Commission can plug into its methodology to establish DER values. *See* 220 ILCS 5/16-107.6(e)(2) (requiring utilities to update their DG compensation tariffs on an annual basis "with inputs derived from their integrated [G]rid [P]lans").

JNGO states it will continue discussing and working with ComEd, Staff, and other stakeholders in the DER Value Investigation docket that is proceeding in parallel with this Grid Plan docket. However, because P.A. 102-0662 states that ComEd's Grid Plan "must include" this information, JNGO requests that the Commission direct ComEd to: (1) conduct a marginal cost analysis, using a methodology of its choice, that can be used to inform the Commission's Section 16-107.6(e) investigation, and (2) file the results in this docket within one year of the Commission's final Order.

(iv) Commission Analysis and Conclusion

DER infrastructure is a core element of the transition P.A. 102-0662 envisions. Yet, ComEd's Grid Plan fails to provide a clearly defined plan for easing system interconnection, even for existing DER applicants. The required Plan elements for "implementing open standards and interfaces," or otherwise enabling third parties to connect DER resources "seamlessly and easily," are absent from ComEd's Grid Plan. 220 ILCS 5/16-105.17(f)(2)(L); 220 ILCS 5/16-105.17(f)(10).

ComEd's Grid Plan also fails to evaluate the short-term and long-run benefits and costs of DERs on the distribution system, or to identify the places, times, and types of new investment needed to meet expected developments. 220 ILCS 5/16-105.17(f)(2)(G). ComEd's Grid Plan provides an overview of recent upward trends of DER adoption on its system as well as technical considerations DERs pose to grid planners. ComEd Grid Plan at 87-92. ComEd concludes that "the adoption of variable renewable generation requires careful evaluation of potential production scenarios and respective impacts to the grid," but provides no discussion of the scenarios or benefits analysis ComEd has used to develop its specific investment proposals in this Grid Plan. Id. at 93. The record evidence reflects ComEd's and Staff's recommendations to defer this analysis to the Value of DER investigation required in Section 16-107.6. However, Section 16-105.17 of the Act is clear that the Grid Plan must include "[a]n evaluation of the short-term and long-run benefits and costs of distributed energy resources located on the distribution system, including, but not limited to, the locational, temporal, and performance-based benefits and costs of distributed energy resources." 220 ILCS 5/16-105.17(f)(2)(G). Section 16-105.17(f)(2)(G) states the Commission may use the data produced through the Grid Plan evaluation to "inform the Commission's investigation…pursuant to Section 16-107.6 of this Act." The Value of DER investigation Sections 16-107.6(e)(2), (e)(5) and (e)(6) connect calculation of DER rebates directly to the Grid Plan's DER evaluation.

In the absence of the required DER benefits and costs analysis, the Commission finds that ComEd's Grid Plan does not comply with 220 ILCS 5/16-105.17(f)(2)(G). The Commission directs ComEd to include an evaluation of short-term and long-run benefits and costs of DER as described in Section 16-105.17(f)(2)(G) in its refiled Grid Plan. The Commission recognizes the difficulty in providing such an analysis under this timeline and understands that even preliminary results could take several months to develop. Nevertheless, this information is essential to the Commission's determination that ComEd's Grid Plan complies with the statute and that ComEd is evaluating methods to reduce costs and harness the grid benefits associated with DERs.

Additionally, the Commission directs ComEd to include a marginal cost analysis, as described by JNGO, in the Company's refiled Grid Plan.

f. Analysis of Flexible Resources (Section 16-105.17(f)(2)(J)(ii))

(i) ComEd's Position

ComEd states its Grid Plan describes the use of non-traditional sources of electricity generation as well as storage solutions to provide grid solutions in compliance with the requirement of Section 16-105.17(f)(2)(J)(ii) to include "[a] detailed analysis of current and projected flexible resources" to meet the goals of P.A. 102-0662 and the performance metrics previously determined by the Commission. 220 ILCS 5/16-105.17(f)(2)(J)(ii); ComEd Ex. 5.01 2nd Corr.at 176, 184, 217. ComEd adds that the utilization of non-traditional sources of generation to provide grid solutions is also discussed extensively in the rebuttal testimonies of ComEd witnesses Blaise (ComEd Ex. 26.0) and Mondello (ComEd Ex. 29.0). ComEd notes that the Act's language is challenging because the term "flexible resources" is not defined in the Act. ComEd Ex. 46.0 at 4. ComEd concludes that, as a result, and contrary to Staff's assertion, ComEd's Grid Plan is compliant with Section 16-105.17(f)(2)(J)(ii).

ComEd notes Staff witness Antonuk contends that ComEd has not complied with Section 16-105.17(f)(2)(J)(ii). Staff Ex. 29.0 at 30. ComEd contends Section 16-105.17(f)(2)(J)(ii) does not require that the Grid Plan analyze "forms of DERs" as Staff witness Antonuk claims, rather it requires analysis of projected flexible resources by type, size, location, and environmental impact. ComEd states this information is provided in the Grid Plan, including solar and for types of DERs other than solar. ComEd Ex. 5.01 2nd Corr. at 33-38, 95-101. Further, ComEd states its DER forecast includes the Grid Plan years and can be found in multiple places including ComEd Ex. 5.01 2nd Corr. at 34 (Figure 2.1-3), 32 (Figure 2.1-2), ComEd Ex. 7.03 at 38 (Figure 21), and ComEd Ex. 29.0 at 59-60 (Figures 11 and 12). *See also* ComEd Ex. 46.0 at 5-9. ComEd notes that additional information regarding flexible resources was provided in ComEd Exhibits 26.0 and 29.0, each focusing on impacts during the Grid Plan years as well as years beyond. ComEd Ex. 26.0 at 30-35; ComEd Ex. 29.0 at 58-61. Finally, ComEd contends it has presented extensive information regarding flexible resources by type, size, and anticipated need in multiple sources. ComEd Ex. 5.01 2nd Corr. at 33-38, 95-101; *see also* ComEd Ex. 29.0 at 58-61. Thus, ComEd concludes that Staff witness Antonuk's criticisms are without merit. ComEd maintains it has fully complied with the requirements of Section 16-105.17(f)(2)(J)(ii).

(ii) Staff's Position

In direct testimony, Staff listed the information Section 16-105.17(f)(2)(J)(ii) requires; identified what ComEd failed to provide in its MYIGP filing; and explained ComEd's omissions. Specifically, Staff states that ComEd did not address the environmental impacts of flexible resources or provide a forecast of those impacts that included resource type and size and what anticipated needs those resources can meet. Staff Ex. 13.0 at 10, 13. The references ComEd provided to demonstrate compliance are not persuasive. ComEd Ex. 25.0 at 3. The evidence the Company cited as addressing environmental impacts only addresses methods that ComEd proposes to apply in the future, it provides no present measurements of those impacts. ComEd Ex 26.0 at 27-35. Similarly, the evidence cited as providing information required by Section 16-105.17(f)(2)(J)(ii) addresses plans for integration of DER and NWAs, rather than the required environmental impacts of flexible resources or a forecast by resource type, size, and needs those resources can meet. ComEd Ex. 29.0 at 54-81. The Company provided a consultant study that examined different pathways for decarbonizing the State's economy but failed to identify any scenario used to develop its MYIGP and address associated environmental impacts.

The Commission should direct the Company to identify in its first Annual MYIGP Report and include such information in its next MYIGP filing all, not just solar, flexible resources during the Grid Plan period by year, type, size, and environmental impact by appropriate unit and include resource type and size and what anticipated needs those resources can meet.

(iii) Commission Analysis and Conclusion

ComEd provided a limited analysis of current and forecasted solar resources, as well as plausible environmental benefits tied to solar and electrification. *See* ComEd Ex. 26.0 at 32-35 and Ex. 29.0 at 58-65. Section 16-105.17(f)(2)(J)(ii) aims to support performance metric achievement, as such, a focus on solar resources and electrification will provide limited value. Additionally, without a broader set of potential flexible resources, such as EVs and storage, the Commission has incomplete analysis with which to evaluate the prudence of ComEd's proposed investments toward statutory goals. The Commission finds that ComEd has failed to provide the environmental impact of the projected flexible resources. Information that would be valuable in the refiled MYIGP, and in the Annual MYIGP Report, includes all, not just solar, flexible resources during the Grid Plan period by year, type, size, and environmental impact by appropriate unit and includes resource type and size and what anticipated needs those resources can meet. The Commission finds that ComEd has not met this statutory requirement.

g. Evaluation of Non-Traditional Grid Sources (Section 16-105.17(f)(2)(k))

(i) ComEd's Position

ComEd contends the Grid Plan complies with the requirement of Section 16-105.17(f)(2)(K) to identify potential cost-effective solutions from nontraditional and third-party owned investments that could meet anticipated grid needs by not only analyzing DERs but addressing potential solutions from nontraditional and third-party investments. ComEd Ex. 5.01 2nd Corr. at 33-38, 95-101; ComEd Ex. 29.0 at 81-86. ComEd states it presented evidence on how multiple non-traditional solutions are considered by the Grid Plan including energy storage, DERMS, customer solutions, demand response, energy efficiency, and NWAs. ComEd Ex. 29.0 at 81-82.

ComEd acknowledges that Staff witness Antonuk concludes the Grid Plan does not comply with Section 16-105.17(f)(2)(K) because it does not present a forecast of non-traditional resources by type or size. Staff Ex. 29.0 at 30. ComEd further acknowledges Staff's assertion that ComEd has not fully provided information regarding NWAs that present potentially cost-effective solutions for meeting anticipated grid needs. ComEd argues that it has provided extensive forecasts of available resources and that Staff's conclusion is not based on the plain language of the Act, which ComEd states does not include any requirement that information be presented as a "forecast of resources by type or size." ComEd Ex. 46.0 at 11. Moreover, ComEd contends that even if such a requirement could be read into the Act, ComEd has provided a forecast of available resources – including the DERs that are considered "flexible resources" by type and size – in ComEd Exhibit 7.03. *Id*. Thus, ComEd concludes it has fully complied with the requirements of Section 16-105.17(f)(2)(K) and Staff witness Antonuk's unsubstantiated conclusion must be rejected.

ComEd further contends the Commission should reject JNGO's recommendation that the Commission direct ComEd to produce its NWAs framework. ComEd agrees with Staff that this issue can be deferred to the valuation of DER investigation proceeding where a detailed discussion of the topics regarding non-traditional grid resources will occur. ComEd maintains that proceeding will provide the opportunity to consider NWAs matters in depth with stakeholder involvement. Additionally, ComEd points out Staff states that the future rulemaking docket on Solution Sourcing Opportunities ("SSO") "is likely to prove the optimal method to develop an NWA process." Staff IB at 134-135. ComEd is also open to participating in that proceeding. ComEd concludes that, in light of the anticipated proceedings and the information ComEd has already provided, JNGO's recommendation should be rejected.

With respect to EDF's proposal, ComEd posits that Section 16-105.17(f)(2)(G) requires ComEd to evaluate the benefits and costs of DERs. ComEd includes a discussion of the benefits and costs of DERs in Section 4.2.1 of the Grid Plan and in the testimony of ComEd witness Arns. *See* ComEd Ex. 5.1 2nd Corr. at 124-125; ComEd Ex. 50.06 at 124. ComEd states that it is involved in the recently initiated Commission investigation into the value of, and compensation for, DERs to further address this issue. ComEd argues that EDF's arguments regarding a benefit-cost analysis tool for use with NWAs are better addressed in a different docket. ComEd explains that it is not clear from EDF's brief whether or how this relates to the value of DER proceeding, or whether it is more appropriately addressed in the broader benefit-cost proceeding proposed by a number of parties and supported by ComEd.

(ii) Staff's Position

Staff and JNGO agree that ComEd's MYIGP is not compliant with Section 16-105.17(f)(2)(K). Staff cites the information Section 16-105.17(f)(2)(K) requires and what ComEd failed to provide. ComEd specifically has not identified NWAs that present potentially cost-effective solutions for meeting anticipated grid needs. Staff Ex. 13.0 at 13. ComEd provided two examples of previous NWAs use to address Company grid needs but did not offer any suggestions as to how NWAs projects might be used to address specific needs during the MYIGP years. ComEd Ex. 25.0 at 3.

Staff opines that evidence stating that ComEd considers NWAs in its capacity planning process is not sufficient to demonstrate compliance. ComEd has not identified NWAs to meet capacity needs of the Company during the MYIGP period; either analyses performed by ComEd indicated that no cost-effective NWA solutions exist or that ComEd has not performed the analyses. Nonetheless, further discussion on these topics in the Commission's investigation, as well as any subsequent docketed proceeding, will provide the Commission with more flexibility to make important decisions. Staff Ex. 9.0 at 6. Additionally, the Commission is required to establish rules governing SSO for NWAs in a future rulemaking docket, which is likely to prove the optimal method to develop an NWAs process. 220 ILCS 5/16-105.17(f)(2)(K). ComEd should continue to report on and pursue SSO so that those opportunities are not ignored in the interim. Staff Ex. 9.0 at 6.

(iii) EDF's Position

EDF welcomes ComEd's proposal to develop a new benefit-cost analysis tool for NWAs, and ComEd's commitment to participate in the Commission's investigation into the value of and compensation for DERs. ECCP Ex. 2.0 at 5. EDF asks the Commission to include in its Order a memorialization of ComEd's commitment to develop a benefit-cost analysis tool for NWAs, and further, to include in its order a memorialization of ComEd's commitment to share the benefit-cost analysis tool and instruction guide for stakeholder review and feedback, and to consider potential revisions to the tool based on that feedback. ECCP Cross Ex. 3.0.

ComEd's current approach to NWAs demonstrates why it is important for ComEd to develop an effective benefit-cost analysis tool, consistent with rules the Commission may adopt under Section 16-105.17(f)(2)(K). As originally filed, ComEd's grid plan did not provide a detailed framework for determining when NWAs should be assessed, which NWAs should be considered, or how many NWAs would be compared. ECCP Ex. 2.0 at 4-5. EDF proposes that ComEd follow the guidance of the National Standard Practice Manual to develop a jurisdiction-specific test. ECCP Ex. 1.4. The purpose of a jurisdiction specific test is to develop a single test based on the conditions and policy objectives for a given jurisdiction to be used when assessing NWAs. ECCP Ex. 2.0 at 6.

EDF asks the Commission to order ComEd to collaborate with interested stakeholders in the development of a benefit-cost analysis tool for NWAs, including to share the tool and instruction guide for stakeholder review and feedback, and to consider potential revisions to the tool based on that feedback. EDF further requests the Commission order ComEd to share its benefit-cost analysis tool and instruction guide no later than 90 days after the final Order in this matter, and to require ComEd to address feedback to include proposals for a jurisdiction-specific test as proposed in the testimony of CUB/EDF witness Hill. ECCP Ex. 2:0 at 6.

(iv) JNGO's Position

P.A. 102-0662 encourages the use of nontraditional solutions to grid needs including DERs, controllable load, beneficial electrification, and innovative rate design. Grid Plans must (1) provide sufficient public information to enable NWA solutions, and (2) "identify" cost-effective solutions that could meet anticipated grid needs. The Act also directs the Commission to initiate a rulemaking process to standardize SSO from NWAs and other nontraditional sources.

ComEd's Grid Plan states that the Company expects to "continually refine" its consideration of NWAs as it gains experience, but the Grid Plan does not include a detailed description of ComEd's approach for evaluating NWAs. Staff and EDF witnesses express concern that the Grid Plan falls short of the analysis required by P.A. 102-0662. ComEd responds that it is in the process of formalizing its framework to ensure more effective consideration of NWAs. However, ComEd's intent to complete an NWA framework in the future does not satisfy P.A. 102-0662's intent for Grid Plans contain this information today. P.A. 102-0662 requires ComEd's MYIGP to "provide sufficient public information to … enable [DERs] to act as alternatives to utility capital investments." 220 ILCS 5/16-105.17(d)(10). The Grid Plan does not contain this information. JNGO therefore recommends that the Commission direct ComEd to produce its NWA Framework within a reasonable time of the Commission's final Order and provide an adequate opportunity for the parties to provide feedback to the Company and the Commission, consistent with P.A. 102-0662's intent that utility programs be informed by stakeholder feedback. 220 ILCS 5/16-105.17(f)(1). JNGO also recommends that the Commission initiate the rulemaking contemplated by Section 16-106.17(f)(2)(K) to establish formal rules for how the NWAs procurement process should work.

(v) Commission Analysis and Conclusion

Although the Commission agrees with many of the points raised by EDF, this MYIGP proceeding does not need to reach a conclusion on which benefit-cost analysis is appropriate. Indeed, it appears that all parties agree that this is not the appropriate proceeding to reach final conclusions regarding a benefit-cost analysis for NWAs. In particular, EDF and JNGO seem satisfied with ComEd's commitment to enter into discussions regarding the appropriate benefit-cost analysis for NWAs. The Commission finds this appropriate as the record is not developed enough to reach a conclusion on this issue in this docket.

With respect to JNGO's proposal, the Commission finds that the Act uses mandatory language, and ComEd had ample notice and opportunity to include the required information in this Grid Plan. ComEd's Grid Plan states that the Company expects to "continually refine" its consideration of NWAs as it gains experience. However, as part of the refiled Grid Plan, the Commission expect such information, as proposed by JNGOs, to be provided to comply with the Act. 220 ILCS 5/16-105.17(f)(2)(K); *see also* 220 ILCS 5/16-105.17(d)(10).

Also, the Commission notes that value of DER proceeding has been initiated and the SSO rulemaking will soon be initiated. In-depth discussions of the issues raised by parties are also appropriately addressed in those proceedings. Additional valuation of nontraditional and third-party resources will be discussed in the DER Value proceeding and SSO rulemaking.

D. Performance Metrics (Sections 16-105.17(f)(1)(B), (f)(2)(J), and (f)(2)(H)(iii))

1. Resilience and Reliability

a. ComEd's Position

ComEd states that its Grid Plan provides a plan and information about the investments needed to meet the two reliability and resiliency performance metrics approved by the Commission in Docket No. 22-0067. *See also* 220 ILCS 5/16-108.18(b)(6).

ComEd explains that Performance Metric 1 pertains to overall reliability and resiliency based on SAIDI. ComEd Ex. 5.01 2nd Corr. at 213; ComEd Ex. 8.0 at 5. ComEd states that this performance metric is designed to incent continuous reliability improvement across the system in terms of both outage frequency and duration for the 10-year period from 2024 through 2033. *Id.*

As further explained by ComEd, Performance Metric 2 pertains to reliability and resiliency in EJ and R3 communities. *Id.* ComEd states that this metric is designed to improve reliability and resiliency performance for vulnerable customers. ComEd Ex. 5.01 2nd Corr. at 215-216.

ComEd notes that Section 5.5.1 of the Grid Plan provides ComEd's plans for achieving both reliability and resiliency performance metrics. ComEd Ex. 5.01 2nd Corr. at 213-216. Specifically, ComEd proposes multiple system performance investments across various categories—including distribution, substation, relay and protection, and high-voltage distribution—to support the achievement of the two performance metrics. ComEd Ex. 5.01 2nd Corr. at 213-215. ComEd points out that its plans to meet the reliability and resiliency performance metrics are also described in the testimony of ComEd witness Mondello. ComEd Ex. 8.0 at 6-7.

ComEd notes that various parties have recommended reductions to ComEd's proposed reliability/system performance investments. *See e.g.,* Staff Ex. 31.0 at 15, 27; AG Ex. 1.0 at 68. ComEd argues that these recommendations are misguided, and they will severely and negatively impact ComEd's ability to meet these performance metrics. *See e.g.,* ComEd Ex. 50.0 at 5-6. ComEd offers as an example its analysis of the impact of each of the investment adjustments proposed by Staff witness Lautenschlager. *See e.g.,* ComEd Ex. 50.0 at 5-6. ComEd argues that its analysis shows that if Staff witness Lautenschlager's recommended reductions are adopted, ComEd will not be able to meet the Performance Metric 1 (systemwide SAIDI) in *any year of the Grid Plan*. *Id*. at 5. ComEd claims this is illustrated in Table 1 in ComEd witness Mondello's surrebuttal testimony. ComEd Ex. 50.0 at 5-6. Accordingly, ComEd argues, Staff and AG recommendations should be rejected.

ComEd maintains that it has provided a detailed plan for achieving Performance Metrics 1 and 2, and no party questions ComEd's plan to achieve either metric. ComEd observes that the only party to address this issue in briefs – ICCP – asserts that ComEd can meet its systemwide SAIDI goals (Performance Metric 1) by maintaining similar level of reliability relative to what was achieved under EIMA. ICCP IB at 32-33. ComEd contends ICCP does not provide any analysis in support of its claim. *See* ComEd IB at 139-141. While ICCP's comments demonstrate that it does not agree with ComEd's plan to achieve Performance Metric 1 (and is silent on Performance Metric 2), it does not contest the fact that ComEd satisfied Section 16-105.17(f)(2) by providing a plan to achieve Performance Metric 1 (and 2), ComEd notes.

Accordingly, ComEd argues its Grid Plan satisfies the statutory requirements of P.A. 102-0662. *See* 220 ILCS 5/16-105.17(f)(2).

b. AG's Position

The AG notes that ComEd argues that it will not be able to meet its Performance Metric 1 goals in any year of the Grid Plan, should Staff and intervenor adjustments be adopted. ComEd IB at 166. As a preliminary matter, the AG asserts that the purpose of performance incentive mechanisms is to incentivize *non-investment* performance because utilities already have all the incentive they need to spend more capital. Rather, performance metrics are about allocating capital budgets and managing operations to prioritize programs that align utility, ratepayer, and state goals without relying on increased spending. Moreover, as ICCP have demonstrated, "ComEd can meet the system-wide SAIDI without MED performance targets by maintaining a similar level of reliability performance relative to what it achieved over the last several years." ICCP IB at 26. Additionally, as the AG has shown, ComEd has not demonstrated that its accelerating capital spending, and System Performance spending in particular, is cost-effective, and the Company has not demonstrated that it would provide "net benefits" to customers, as it must for purposes of the performance metric. *See* Section V.C.6.i. above. The AG notes that the Commission should be mindful of the law of diminishing returns and should not permit ComEd to pursue SAIDI reductions at any cost.

c. ICCP's Position

ICCP believe ComEd can meet the system-wide SAIDI without MED performance targets by maintaining a similar level of reliability performance relative to what it achieved during the EIMA period. ICCP argue distribution investments should be made so long as they are prudent, just and reasonable; however, ComEd has not demonstrated that accelerated levels of distribution investments in excess of the aggressive level of historical investment are needed to achieve its performance metric targets. ICCP Ex. 3.0 at 18.

ICCP note the only reasonable conclusion to be drawn based on this record is that ComEd can meet the reliability performance targets established by the Commission by maintaining its current levels of system reliability, or with only small improvements to its current levels of reliability. Consequently, ICCP state ComEd's proposed increase in reliability-related project spending cannot be justified by a need to make large reliability improvements for the benefit of its customers. *Id*. at 20.

For ICCP's arguments in support of the aforementioned, see preceding Sections IV.A.1 and 2; V.B.4 and 8.

d. Commission Analysis and Conclusion

This performance incentive mechanism encourages utilities to cost-efficiently allocate capital budgets and to align utility, ratepayer, and state goals. The Commission finds that the levels of spending authorized in this order sufficiently allow the Company to pursue this performance metric without experiencing a reduction in basis points. Record evidence indicates that ComEd can maintain its recent level of spending and still achieve Performance Metrics 1 and 2 in a reasonable yet challenging manner, as intended by the Act. *See* ICCP IB at 26.

2. Peak Load Reduction

a. ComEd's Position

ComEd argues that its Grid Plan, as revised in testimony, complies with Section 16-105.17(f)(2) because it provides a detailed plan to achieve the PLR Performance Metric established by the Commission in Docket No. 22-0667. *See* 220 ILCS 5/16-105.17(f)(2). ComEd notes that its revised plan proposes to implement its PLR Performance Metric through six programs, *i.e.*, three existing and three new programs, and through programs selected through a 2024 Request for Information ("RFI"). According to ComEd, no party disputes that the Grid Plan has satisfied this requirement.

ComEd argues that the Commission should approve ComEd's revised plan to implement its PLR Performance Metric, including: (1) relying on three existing demand response programs and implementing three new load reduction programs to increase load reduction capability by 50 MW annually during 2024-2027 and (2) conducting an RFI process in 2024 to identify potential additional or alternative means to increase its load capability. ComEd asserts the combination of three existing demand response programs and the three new proposed load reduction capability programs is well designed to provide value for customers. *See, e.g.,* ComEd Ex. 35.0 at 7-33; ComEd Ex. 56.0 at 5, 9-20. ComEd contends that the 2024 RFI is an appropriate vehicle for stakeholders to provide ideas for additional measures that ComEd could adopt and implement in a suitable and practical manner sometime after 2024. *See, e.g.,* ComEd Ex. 56.0 at 6-9.

ComEd explains that its revised PLR Performance Metric plan: (1) reflects certain inputs from Staff and intervenors, and adopts certain recommendations of BOMA and JNGO made in this docket, sometimes with modifications; and (2) provides stakeholders with the opportunity for additional input through the 2024 RFI. ComEd Ex. 35.0 at 2, 7-30; ComEd Ex. 35.01; ComEd Ex. 35.02; ComEd Ex. 56.0 at 2-3, 5-20.

ComEd Plan to Achieve PLR Performance Metrics

ComEd explains that throughout this proceeding, it has provided detailed information in testimony about how it plans to achieve the PLR Performance Metric. ComEd points out that its witness Borggren explained how the 2023 baseline for the PLR Performance Metric would be established and how achievement under the metric in 2024-2027 would be determined. ComEd Ex. 35.0 at 10-11. ComEd states those subjects are not contested. ComEd notes that its witness Borggren also provided the updated incremental costs of the PLR Performance Metric programs reflected in the MYRP, which reflect the more robust information available to ComEd after the Commission issued its Order on Rehearing in in Docket No. 22-0067. *Id*. at 15-18. ComEd understands those are not contested.

ComEd contends that its plan to use the three existing demand response programs (Peak Time Savings or ("PTS"), Central AC Cycling ("AC Cycling"), and Residential Real Time Pricing ("RRTP")") for the PLR Performance Metric is not opposed and should be approved. *See, e.g.,* ComEd Ex. 35.0 at 12-13.

ComEd observes that EDF supports ComEd's use of the three existing programs, although EDF asks the Commission to order ComEd to expand the programs (focusing mainly on the PTS), because it believes that ComEd can achieve higher peak load reduction capability. ComEd appreciates EDF's support of the three existing programs, but EDF's request that the Commission mandate expansion of those programs is not practical, according to ComEd. ComEd reiterates that PLR plan forecasts and targets 50 MW of incremental annual (year over year) load reduction capability in 2024-2027. ComEd Ex. 35.0 at 8, 11, 12-14. ComEd maintains that its analysis shows that it is not possible to reasonably achieve 150 MW incremental load reduction capability annually in a cost-effective manner that would benefit customers. *Id.* at 15; ComEd Ex. 56.0 at 9. Further, ComEd contends EDF's request strays too far into the role of utility management. *See, e.g.,* ComEd Ex. 56.0 at 7. ComEd argues the Commission should not prospectively manage ComEd's business choices about the cost-effective level of resources to devote to individual PLR Metric programs.

Existing PLR Stack Programs

ComEd notes that it plans to meet the PLR Performance Metric in part with its existing demand response portfolio, which consists of AC Cycling, PTS, and RRTP (commonly referred to as "Hourly"). *See, e.g.,* ComEd Ex. 35.0 at 12-13 (road map and projected peak load reduction capability by program), *Id.* at 15-18 (program costs). The existing demand response portfolio in the first category of programs approved by the Commission in Docket No. 22-0067 is uncontested except for JNGO/EDF witness Nock's recommendation that low-income customers not be enrolled in the PTS or AC Cycling programs on the theory that the programs could incentivize low-income customers to let their homes reach excessive temperatures, ComEd explains. JNGO/EDF Ex. 6.0 at 43-44. ComEd contends that it appreciates JNGO/EDF witness Nock's concern, but it would be inappropriate to discourage or prevent participation by low-income customers. ComEd points out that it has seen no evidence of dramatic increases in indoor temperatures during a called event. ComEd Ex. 35.0 at 32. Also, the programs are designed to mitigate that potential concern. *Id.* at 32. Finally, ComEd states that it is committed to providing all customers, regardless of their income, options to manage their energy use, participate in decarbonizing efforts, and benefit from money-saving offerings. *Id*. at 33. As a result, ComEd concludes, the Commission should reject proposals to prohibit certain residential customers from participating in energy management programs like AC Cycling, PTS, or RRTP, based on income.

New Proposed PLR Stack Programs

ComEd explains that it proposes three new programs to include in its PLR program stack – Bring Your Own Device Load Control ("BYOD") Program; Mandatory Load Response ("MLR") Program; and the Storage Program, extensively described by ComEd witness Borggren (*see* ComEd Ex. 35.0 at 20-24 (BYOD program), 24-27 (MLR program), 27-30 (Storage Program); *see also Id.* at 13 (projected load reduction capability by program); *Id.* at 15-18 (program costs). ComEd acknowledges that no party disagrees with ComEd that these new programs are eligible for inclusion in the program stack established by the Commission in Docket No. 22-0067, apart from Staff's request that the Commission provide clarification as to the Storage program, discussed below. *See* ComEd Ex. 35.0 at 9; *see also* Docket No. 22-0067, Order at 133-134 (established four categories of eligible programs) and *Id.* at 115, 133-134 (excluding three categories of programs). Staff does not object to ComEd's three new load reduction programs in 2024-2025 (although Staff requests that ComEd consider programs through a workshop process for 2026 and beyond, which is addressed below). Staff Ex. 32.0 at 6-7.

BYOD Program

As ComEd explains, the BYOD program allows customers to "bring their own" ComEd-approved load control device to the program (initially smart thermostats) and to be compensated in light of the value or potential value associated with its load reduction capability. ComEd argues that it plans initially to limit the program to ComEd-approved smart thermostats, with other devices to be added in the future. *See* ComEd Ex. 35.0 at 20; ComEd Ex. 56.0 at 13-14. The BYOD program provides for an initial $30 incentive to customers for enrollment and a maximum $30 annual event incentive per year (referring to ComEd calling an "event" that takes advantage of the device for load reduction purposes under the PLR metric). ComEd Ex. 35.0 at 21. ComEd also points out that it has begun a competitive Request for Proposal ("RFP") process for a third-party platform provider and will launch the BYOD program in Q1 2024. ComEd Ex. 35.0 at 20-24; ComEd Ex. 35.01; ComEd Ex. 56.0 at 12-13.

ComEd recognizes that Staff and intervenors do not oppose the BYOD program or draft tariff. ComEd Ex. 56.0 at 13. In fact, ComEd observes, no party opposed the BYOD program or its proposed tariff in their Initial Brief. However, ComEd acknowledges, JNGO proposed that the Commission condition approval of the BYOD program on ComEd working "with stakeholders to expand the BYOD program to include a diverse set of devices including [Virtual Power Plants ("VPP")] and the appropriate pay-for-performance mechanisms." JNGO Ex. 10.0 at 31. ComEd states that it agrees with JNGO that the VPP and "pay-for-performance" concepts should be proposed and discussed in relation to the BYOD program, and ComEd has provided the best mechanism to do so in the 2024 RFI. ComEd argues there is no sound basis for making approval of the BYOD program and the BYOD tariff contingent on future events or changes, however, especially ones that have not yet been developed. ComEd Ex. 56.0 at 14.

MLR Program

ComEd demonstrates that the MLR Program is an opt-in program available to nonresidential customers. According to ComEd, participants must agree to respond with load reduction when ComEd or ComEd's third-party provider calls an event, typically in times of high load. ComEd Ex. 35.0 at 24-25. ComEd explains each participant (or participating group) will enter into a customized mandatory load reduction agreement containing agreed terms necessary to accommodate any operating limitations and requirements and payment terms consistent with the nature of the load reduction provided. *Id*. at 25. ComEd notes that it has already released an RFI for the MLR program and an RFP for third-party providers and will launch the MLR program in the first half of 2024. ComEd Ex. 35.0 at 24-27; ComEd Ex. 35.02; ComEd Ex. 56.0 at 12, 14-15.

ComEd notes that no party opposes the MLR program in their Initial Brief. ComEd argues that BOMA generally supports the MLR program but makes several suggestions, including clarifications that customers participating in the PJM market are not barred from participating in the MLR program, compensation suggestions, recommended contractual terms, and performance tracking as well as suggesting that ComEd pilot the MLR program before offering it at scale. BOMA Ex. 2.3 at 5–9. According to ComEd, BOMA generally supports the MLR program, but recommends certain program and tariff modifications and stakeholder meetings in the first quarter of 2024 to discuss those modifications. BOMA IB at 2, 5-8. BOMA mostly, but not entirely, is correct that ComEd already has accepted several of those modifications in whole or in part. *See Id.* at 6; ComEd IB at 172.

ComEd maintains that it accepts several of BOMA's suggestions, including BOMA's proposed clarification regarding PJM participation, agreeing to make a clarification to that effect in the associated draft tariff. ComEd Ex. 56.0 at 15. ComEd states that it also agrees that incentive pricing and calculations will be governed by the third-party provider, with certain modifications for planning purposes and future adjustments based on market demand and uptake and other relevant factors. *Id*. at 16. Finally, ComEd argues that it also generally accepts BOMA's suggestion to modify the draft tariff to explain how participants' performance will be monitored and reported. *Id.* at 15–17.

However, ComEd appreciates, but does not accept, BOMA's six different proposed contract terms that would be included in customized load reduction agreements (also proposed by BOMA) for purposes of the MLR program, according to ComEd. ComEd argues that BOMA proposes various modifications to the MLR program, including contractual terms to include in the proposed Rider MLR tariff, that should not be adopted because they are impractical, do not reflect the contemplated MLR program design, and/or are too specific to include in a tariff. BOMA IB at 2, 5-8; *see* ComEd Ex. 56.0 at 16. In addition, ComEd claims BOMA's suggestions intrude too far into ComEd's (or the third-party's) management of the PLR programs. For those participating customers who enroll in the MLR program with a third-party service provider, the provider and the customer will decide the contract terms, not ComEd. For customers working directly with ComEd, ComEd concludes the proposed terms are too specific to include in the draft tariff. *Id.* at 16. Given the customized nature of the program, the Commission should also decline to set contract terms and reject BOMA's proposals.

ComEd contends that another area of disagreement concerns the customer participation compensation. ComEd's agreement that prices will change is based on annual changes in customer contracts that reflect market conditions; it is not based on FERC Order 2222. *See, e.g.*, ComEd IB at 172. According to ComEd, BOMA complains that ComEd's agreement as to pricing methodology allows compensation rates to go higher or lower depending on the relevant inputs. ComEd contends that BOMA argues that the compensation rates always should meet or exceed the compensation rates of PJM. BOMA IB at 6-7. ComEd argues BOMA is mistaken. ComEd believes it has stated that it is willing to agree that the compensation rate will start with a rate at equal to least the PJM capacity rate, with flexibility to set different rates based on dispatchability, volume, seasonality, and system needs. ComEd Ex. 56.0 at 16. ComEd argues there is no sound reason to deviate from compensation that reflects markets and instead create a floor or ratchet based on PJM's rates. Moreover, customers under the MLR program may engage with a third-party provider selected by ComEd using a competitive RFP or may engage directly with ComEd. A third-party provider will govern the incentive pricing and calculations under the MLR program for those customers who engage with the provider, and not ComEd. ComEd Ex. 35.0 at 24–25; ComEd Ex. 56.0 at 16.

Additionally, ComEd concludes that it does not agree with BOMA's suggestion that ComEd undertake a pilot program for up to 50% of the MW capacity of the MLR program for 2024-2025. ComEd asserts a pilot program is unnecessary. ComEd explains that the MLR program is already structured to provide for flexibility and adjustments over time based on performance and input from participants and stakeholders. *Id*. at 17. Moreover, ComEd contends, a pilot program is not needed because the Act and the Commission's final Order in Docket No. 22-0067 provide for annual independent reviews of ComEd's performance under each of the approved performance metrics beginning in 2025. 220 ILCS 5/16-108.18(f)(3); Docket No. 22-0067, Order at 227-228. ComEd explains that the MLR Program allows for flexibility and adjustments over time based on performance and input from participants and stakeholders. ComEd Ex. 56.0 at 17. It also involves customized contracts between customers and third parties. Therefore, there is no good reason (and because of its customization, likely no good way) to slow full MLR program implementation by requiring a pilot program.

Finally, ComEd argues BOMA's request for a stakeholder process focused specifically on the MLR program in the first quarter of 2024 (BOMA IB at 8) is unnecessary, and it is duplicative of and potentially inconsistent with, ComEd's 2024 RFI.

ComEd acknowledges that only JNGO witness Nelson directly challenges the MLR program, claiming it does not provide significant incremental benefits compared to ComEd's existing Voluntary Load Response ("VLR") program. JNGO Ex. 10.0 at 4, 34-38. ComEd argues that such a belief is mistaken because VLR and the proposed MLR program are separate programs that provide differing benefits to the participating non-residential customers. ComEd explains VLR events are called by ComEd, but a customer's participation in a VLR event is voluntary. ComEd Ex. 56.0 at 17-18. ComEd states that VLR does not require testing to verify capability and does not provide a consistent annual incentive to customers. *Id*. at 18. In contrast, ComEd contends, the MLR program will require the customers who opt in to participate in load reduction events, and they will be required to participate in at least one event annually, to reduce their load in exchange for incentives. *Id*. at 18. ComEd explains that it or its third-party service provider will call the MLR event, as noted above. *Id*. at 18. In addition, as explained by ComEd, the MLR program provides distinct benefits for participants and the grid that VLR cannot provide; specifically, the MLR's mandatory feature means that ComEd can rely on the MLR resource, giving ComEd the flexibility and availability to call reliable MLR events for any grid need. *Id*. at 18. Moreover, ComEd states, customers participating in the PJM market will not be prohibited from participating in the MLR program, providing customers with an additional opportunity to receive compensation for their load reduction. *Id.* at 18.

The Storage Program

ComEd states the Storage Program is the third new PLR program and should be adopted. ComEd IB at 169, 174-175. ComEd explains the Storage Program will leverage energy storage systems ("ESSs") in ComEd's service territory that have been selected through a competitive RFP process and developed in the "ESS Program", a part of ComEd's Distribution operations. ComEd Ex. 35.0 at 28. ComEd argues that the ESS Program is an innovative approach to use of NWAs to adapt ComEd's grid while strategically deferring more costly infrastructure upgrades. *Id*. at 28. ComEd further explains that it expects to use a competitive bid process to identify the most effective solution for the grid needs, meaning that ESSs could be owned by ComEd or third parties. *Id*. at 28, 28. ComEd concludes that because the Storage Program will leverage ESSs selected through the ESS Program bid process, the particulars of the Storage Program are not yet known; however, ComEd intends to launch the Storage Program in 2026. *Id*. at 12, 28.

ComEd acknowledges that Staff requests that the Commission clarify whether the ESSs are a demand response program suitable for ComEd to use to achieve the PLR Metric. Staff Ex. 32.0 at 2, 5–6. ComEd does not object to Staff's request. ComEd Ex. 56.0 at 19.

ComEd recognizes that JNGO witness Nelson asked ComEd to provide certain additional information regarding the Storage Program JNGO Ex. 10.0 at 4. ComEd notes that it rejected his request because ComEd already provided that information in Rebuttal testimony. *See* ComEd Ex. 29.0 at 81-86 (describing ComEd's NWA plans); ComEd Ex. 50.06 at 110 (discussing grid benefits of batteries); ComEd Ex. 35.0 at 30 (discussing the Storage Program evaluation, timeline, and load reduction capability projections); ComEd Ex. 56.0 at 20 (summary).

ComEd observes no party opposes the Storage Program in their Initial Brief, except for JSP. According to ComEd, JSP argues that the Storage Program is not sufficiently developed for Commission approval. JSP contends the Storage Program has not yet been thoroughly designed, but that is a necessity and a virtue. ComEd explains that the Storage Program will leverage an ESS that is procured through a competitive RFP. Because the results of the ESSs RFP are not yet known, the particulars of the Storage Program cannot and should not be set in detail at this time. Moreover, ComEd believes that developing some of the terms and conditions of the Storage Program may require working with third-party ESSs owners if, as JSP evidently would prefer, the RFP results in ESSs owned by third parties, and not ComEd. ComEd Ex. 35.0 at 28.

ComEd contends JSP's objection to the possibility of utility ownership of ESSs (JSP IB at 10), is irrelevant and lacks merit. ComEd explains that when the Commission found that "DERs, such as battery energy storage, and solar plus storage" shall be included in the PLR metric, the Commission did not specify or prejudge ownership. *See* Docket No. 22-0067, Order at 134. Moreover, ComEd argues the Commission already has found that ComEd-owned battery energy storage system ("BESS") projects are prudent and reasonable, and that they were properly functionalized as distribution grid assets. ComEd Ex. 50.0 at 21.

Finally, ComEd notes Staff asks the Commission to clarify when storage qualifies for the PLR program stack. ComEd claims that it does not object to that request.

2024 RFI

ComEd states that the remaining essential new feature of its PLR Performance Metric implementation plan is its planned 2024 RFI. The 2024 RFI will enable interested parties to provide detailed descriptions of new proposed programs (including expected costs and benefits) and allow ComEd to consider all proposals holistically and in the context of the existing program stack. ComEd Ex. 56.0 at 7. ComEd suggests it will assess programs based on a variety of factors including, but not limited to, cost-effectiveness, duplication of concepts, "double stacking" of incentives/rebates, and potential customer benefits. *Id*. at 7. ComEd maintains it will also seek program ideas that are innovative and focus on a range of resources and customer types. *Id*. at 7. ComEd believes programs will be selected and offered as soon as 2025. *Id*. at 7. The RFI process has not been fully developed, and ComEd is open to further discussions with interested parties about the RFI. *Id*. at 7. Specifically, ComEd explains that it will engage stakeholders at two key points during the 2024 RFI process; once after the proposals have been submitted and reviewed and once to discuss the program design for selected proposals. JNGO Cross Ex. 1.0 at 1.

ComEd explains the 2024 RFI is the result of several parties' suggestions (including Staff and JNGO) that ComEd consider new ideas and stakeholder input when developing new PLR programs for the program stack. As such, ComEd's planned 2024 RFI reflects consideration of a number of inputs from Staff and stakeholders before and during this docket. For example, ComEd explains that it considered Staff witness Brightwell's recommendations that the Commission should not order ComEd to adopt additional specific programs for 2024-2025 in this docket, but that ComEd should be required to explore stakeholder proposals for 2026 and 2027. Staff Ex. 32.0 at 6; ComEd Ex. 56.0 at 5-6. ComEd concludes that the 2024 RFI will do so.

ComEd states that JNGO witness Nelson expresses some concern about the Commission's role in relation to the 2024 RFI (JNGO Ex. 10.0 at 41), but that concern is misplaced. ComEd explains that under the performance metric structure, with the Commission already having established the PLR Performance Metric and the eligible program stack categories, ComEd has and should have the lead role in deciding how best to achieve the PLR and other performance metrics, including how best to incorporate stakeholder ideas. *E.g.,* ComEd Ex. 56.0 at 6. The Commission very likely will review new programs through a tariff review, and it will review them through the annual performance metric performance evaluations and the program cost reviews and reconciliations. ComEd Ex. 56.0 at 6-8; 220 ILCS 5/16-108.18(f).

ComEd claims that only EDF's Initial Brief complains about the 2024 RFI and argues that ComEd has not identified all the factors that it would consider when implementing a program identified in the 2024 RFI. EDF IB at 86. ComEd contends that is not an argument against the 2024 RFI but rather an unwarranted concern about use of RFI results. Further, ComEd contends, EDF ignores that: (1) the 2024 RFI reflects consideration of a number of inputs from Staff and stakeholders before and during this docket; (2) the 2024 RFI process has not been fully developed, and ComEd is open to further discussions with interested parties about the RFI; and (3) ComEd will engage stakeholders at two key points during the 2024 RFI: once after the proposals have been submitted and reviewed and once to discuss the program design for selected proposals. JNGO Cross Ex. 1.0 at 1.

The Program Stack's Projected Load Reduction Capabilities

The Commission's Order on Rehearing in the performance metrics docket created a PLR performance metric that provides incentives for ComEd to incrementally increase its load reduction capability in 2024-2027. *See* Docket No. 22-0067, Order on Rehearing at 29-30 (establishing the penalty, deadband, and incentive structure of the PLR Performance Metric). ComEd contends that its PLR plan forecasts and targets 50 MW of incremental annual (year over year) load reduction capability in 2024-2027 as shown in Table 4 of ComEd witness Borggren's rebuttal testimony. ComEd Ex. 35.0 at 8, 11-14. ComEd explains that level falls within the "deadband" of the metric, *i.e.*, above the penalty level and below the reward level each year.

ComEd notes it plans to achieve 50 MW of annual increases in load reduction capability through the programs provided in Table 3 of ComEd witness Borggren's rebuttal testimony. Note that the projections do not estimate the possible results of the 2024 RFI.

ComEd maintains that its projections of the load reduction capabilities of the initial program stack are not contested except to a limited degree by ICCP witness Hill. Mr. Hill claims that ComEd's target of 50 MW annual increases in load reduction capability prioritizes ComEd's interests and is too limited. ICCP Ex. 2.0 at 3. Mr. Hill also asserts that ComEd's existing PTS program can be grown and ComEd can achieve 150 MW annual load reduction capability increases. *Id*. at 3-4.; EDF IB at 10, 81-83, 84, 86-87, 93, 103. ComEd argues that ICCP witness Hill is mistaken about the PTS program. ComEd maintains that it has designed its program stack to meet the PLR Metric, while providing for potential enhancement through the 2024 RFI. ComEd does and will seek to manage its programs in a manner that is efficient and that promotes customer value. ComEd explains it will, over time, evaluate program performance and consider adjustments to balance customer enrollments, program costs, and benefits. ComEd Ex. 56.0 at 7. In addition, ComEd claims that its analysis shows that it is not possible to reasonably achieve 150 MW incremental load reduction capability annually in a cost-effective manner that would benefit customers. ComEd Ex. 35.0 at 15; ComEd Ex. 56.0 at 9. With respect to the PTS program, in particular, data suggests that the program will struggle to grow in the future. ComEd Ex. 56.0 at 9. ComEd adds that in recent years, the PTS program has exhibited increasing customer acquisition costs and decreasing customer enrollment response rates. *Id*. at 9-10. ComEd concludes that expanding the PTS program will be difficult and therefore does not rely on PTS expansion to achieve the PLR Metric. *Id*. at 10.

ComEd observes that EDF argues for the benefits of PLR above 50 MW (EDF IB at 84) but ignores practical considerations such as feasibility and costs with targeting load reduction capabilities above 50 MW. ComEd points out that EDF also invokes a small Michigan utility, a utility that is not relevant to ComEd's program. *See id.* at 83-84. EDF suggests that ComEd might be screening PLR measures compared to "traditional supply-side investments" (*Id*. at 84-85), but the evidence cited in the footnote does not show ComEd has done any such thing, including in developing its PLR Performance Metric plan. ComEd explains EDF's hypothesis is refuted by the Storage Program and the underlying Distribution ESS RFP.

ComEd recognizes that JNGO witness Nelson questions whether the PLR program must result in "actual load reductions" rather than "load reduction 'capabilities." JNGO Ex. 10.0 at 27–29. JNGO witness Nelson inaccurately assumes that there is a disparity between peak load reduction capability and actual demonstrated load reduction. ComEd Ex. 56.0 at 11. ComEd contends that request reflects a general lack of recognition of how the programs work and how they create value for customers and the electric system as a whole. ComEd states its PLR program stack is designed to increase the overall capability of ComEd to reduce load, including at peak. *Id.* at 11. To demonstrate this load reduction capability, ComEd will call test events, which will lead to actual load reduction to reduce load by a given amount (MW) if necessary for grid emergencies or other grid need or value. ComEd Ex. 35.0 at 8. ComEd argues that there is no disparity. ComEd reasons that its approach is consistent with the ComEd Multi-Year Performance and Tracking Metrics Plan – Revised, which was circulated among the performance metrics docket parties (including several members of JNGO), prior to filing in Docket No. 22-0067 on May 31, 2023. ComEd Ex. 56.0 at 10–11.

As ComEd notes, ComEd, Staff, and intervenors have worked together to refine and shape ComEd's revised PLR Metric implementation plan. ComEd explains that it then addressed the remaining Staff and intervenor proposals, some of which are unnecessary, but most of which can and should be considered in the 2024 RFI, as reflected in the earlier discussion of the 2024 RFI. ComEd observes several intervenor proposals have not been addressed in those parties' Initial Briefs. With respect to those proposals, ComEd points to the applicable portions of its Initial Brief and the referenced underlying record and requests the right to respond further if needed and appropriate.

Response to Staff Proposal

According to ComEd, Staff witness Brightwell does not object to ComEd's plans, including the three new programs, for 2024 and 2025. However, ComEd acknowledges that he recommends that ComEd be required to explore stakeholder proposals for 2026 and 2027 and suggests that the Commission should hold workshops related to stakeholder ideas. Staff Ex. 32.0 at 6-7.

ComEd states that it agrees with Staff witness Brightwell that stakeholder proposals for later years should be considered, which is precisely why ComEd has proposed the 2024 RFI, which allows for stakeholder input, rendering additional workshops redundant. Moreover, ComEd points out that it is already required to host workshops in 2025 as part of the process for developing the next performance and tracking metrics plans in 2027 under Section 16-108.18(e) of the Act. ComEd adds that it is also concerned that these workshops also would be redundant to varying degrees with the prior performance metrics docket, the instant docket, and the annual Rider PIM ("Performance Incentive Metrics") performance evaluation proceedings that begin in 2025. ComEd Ex. 35.0 at 31; ComEd Ex. 56.0 at 8-9. As a result, ComEd concludes the Commission should reject witness Brightwell's proposal to hold additional workshops on PLR programs.

Response to ICCP's Proposal

ComEd claims that CUB/EDF and ICCP witness Hill recommends an unspecified collaboration process leading to new compliance filing requirements to be imposed on ComEd, including a requirement to show and support compliance costs. CUB/EDF Ex. 1.0 at 5, 30-31; ICCP Ex. 2.0 at 7.

ComEd contends that proposal should be rejected. As ComEd notes, an additional collaboration process will overlap with the 2024 RFI and the other processes previously mentioned. However, ComEd recognizes that it's also unclear what topics and recommendations Mr. Hill's proposed report would cover. ComEd explains that there will be opportunities for interested parties to review and analyze ComEd's performance under the PLR Performance Metric, including during the annual Rider PIM performance evaluation proceeding. ComEd Ex. 56.0 at 10. In addition, ComEd claims that the Commission will review associated costs in the annual rate case reconciliation proceedings for prudence and reasonableness. Therefore, ComEd believes that any new compliance report would be redundant and unnecessary. *Id*. at 10. ComEd notes that witness Borggren pointed out many of these issues in rebuttal testimony to which ICCP witness Hill did not respond. *See* ComEd Ex. 35.0 at 31.

Response to JSP's Proposals

According to ComEd, JSP recommend that VPP and community solar plus storage ("CS+S") programs should be considered for inclusion in PLR Performance Metric implementation. JSP Ex. 4.0 at 5. ComEd notes that JSP argue at some length for the benefits or potential benefits of its VPP proposal, claim that the proposal is "fully formed," and argue that the proposal falls within the program stack approved by the Commission. JSP IB at 11-16. JSP then does the same thing regarding its CS+S proposal. *Id.* at 16-19.

ComEd argues that the Commission need not act on those JSP recommendations in this proceeding. ComEd notes that it agrees with JSP that VPP and CS+S proposals should be considered for inclusion, but the best mechanism to consider them is the 2024 RFI. ComEd Ex. 35.0 at 37; ComEd Ex. 56.0 at 21. ComEd acknowledges that Staff witness Rearden agrees. Staff Ex. 25.0 at 6. ComEd explains that JSP witness Lucas has asserted that ComEd is trying to "kick" the VPP and CS+S proposals to the Commission investigation of DER values under Section 16-107.6(e) of the Act. 220 ILCS 5/16.107.6(e); JSP Ex. 4.0 at 2. ComEd contends that is incorrect, although it is correct that the proposals may be considered there. ComEd Ex. 56.0 at 22. ComEd notes JSP witness Lucas characterizes the 2024 RFI as a procurement process and recommends a tariff approach. JSP Ex. 4.0 at 7. ComEd argues that is an incorrect characterization of the 2024 RFI but explains that it agrees that any eventual VPP or CS+S program would work through a tariff. ComEd Ex. 56.0 at 22.

While ComEd states that the Commission should not be asked now to set an incentive level for a potential future VPP or CS+S program, ComEd also notes that JSP's suggested VPP and CS+S incentive level of $275/kW (JSP Ex. 1.0 at 5, 12, 21, 25) is based on different market conditions that prevail here and is excessive. ComEd points out that Staff witness Brightwell notes, "it is difficult to defend" JSP's proposed $275,000/MW incentive when ComEd's PJM capacity market cleared only $34.13/MW-day ($12,457/MW-year) in 2023. Staff Ex. 32.0 at 7. For comparison to the JSP proposed $275/kW (JSP Ex. 1.0 at 5), ComEd has proposed approximately $64/kW for the BYOD program and approximately $12/kW for MLR. ComEd Ex. 56.0 at 23.

ComEd observes that Staff and JNGO have different views on those topics. Staff suggests that ComEd should explore the intervenor proposals, notes that JSP's proposed VPP and CS+S incentives are highly excessive, and urges the Commission to defer consideration of JSP's CS+S proposal until the parties can work to resolve issues of community solar compensation in the DER value investigation under Section 16-107.6. Staff IB at 135-138. ComEd notes that JNGO urges ComEd to pursue a VPP program, to discuss the program with stakeholders, and to file a VPP proposal in 2024. JNGO IB at 44-46.

ComEd concludes that the short and only practical answer is that JSP's VPP and CS+S ideas should be submitted and reviewed in ComEd's 2024 RFI. ComEd agrees that VPP and CS+S proposals show promise and should be considered, but Staff is also right that they should not be mandated at this time and instead should be discussed further by ComEd, JSP, and other stakeholders. ComEd contends that its 2024 RFI provides for a holistic and efficient process that can lead to complementary, not conflicting, programs, and might lead to program launches as early as 2025. ComEd observes that JSP themselves recognize that the programs should be reviewed together to confirm that they complement, and do not compete with, each other, although JSP believes that is the case with their proposals. *See* JSP IB at 9. ComEd respectfully suggests that Staff's idea of workshops regarding proposals that might be launched in 2026 or 2027 would be an inferior and slower process than the 2024 RFI.

Response to JNGO's Proposals

According to ComEd, the JNGO suggest that, in 2023, ComEd should conduct an RFP to obtain 50 MW of incremental demand reduction in 2024. JNGO Ex. 3.0 at 47-48. JNGO also initially suggested that ComEd should adopt a pay-for-performance demand response program for 2024, although JNGO later agreed with ComEd that adoption for 2024 was impractical. *Id*. at 48-50; JNGO Ex. 10.0 at 39.

ComEd states both concepts have promise, but neither proposal should be ordered in this docket as proposed. ComEd claims it is adopting JNGO's RFP recommendation but with necessary modifications. Relying only on the RFP for 2024, as JNGO witness Nelson suggested, will not work as a matter of timing. ComEd explains that its initial program stack, in contrast, has been designed to achieve 50 MW of incremental load reduction in 2024. Also, the BYOD and MLR programs involve RFPs that already have begun and the 2024 RFI can consider proposals for additional RFPs. ComEd Ex. 35.0 at 34-35.

The same timing problem applies to JNGO's pay-for-performance demand response proposal, which also could be considered in the 2024 RFI. *Id.* at 35; ComEd Ex. 56.0 at 23-24. JNGO witness Nelson describes the 2024 RFI as a "missed opportunity", by which he appears to have meant development of JSP's VPP idea and investigation of JNGO's pay-for-performance demand response proposal should begin now. *See* JNGO Ex. 10.0 at 39. ComEd argues that JNGO witness Nelson's view is incorrect. The 2024 RFI is timely, and it is the best way to consider those proposals and other proposals together and to perform adequate review. ComEd Ex. 56.0 at 24.

Response to JNGO/EDF's Proposal

Finally, according to ComEd, JNGO/EDF suggest that ComEd adopt a "valley-filling" demand response program, *i.e*., a program that incentivizes energy usage from storage during low demand periods. JNGO/EDF Ex. 6.0 at 42-43.

ComEd states that it appreciates JNGO/EDF witness Nock's suggestion but recommends that it is not adopted. ComEd explains that incentivizing increased load during low demand periods is not the same thing as increasing load reduction capability. *See* ComEd Ex. 35.0 at 35-36. ComEd notes a program designed to increase load would be contrary to the statutory goal of the performance metric, enhancing peak load reduction. *See* 220 ILCS 5/16-108.18(b) (definition of demand response) and (e)(2)(A)(ii) ("Peak load reductions attributable to demand response programs"). Furthermore, according to ComEd, JNGO/EDF's proposal does not fit in the permitted categories of Commission-approved PLR programs, even if the proposal were to involve storage or other DERs, nor in the other three categories. *See* Docket No. 22-0067, Order at 133-134. ComEd adds Dr. Nock did not file rebuttal testimony.

b. Staff's Position

Proposed CS+S

Staff states the Commission should defer decisions on the CS+S program until the parties can work to resolve issues through the investigation into compensation for these types of proposals in the Section 16-107.6(e) "Value of DER" investigation. Staff notes JSP recommended that ComEd provide a CS+S program, explaining that a Community Solar facility would discharge their batteries daily between 4:00 PM and 8:00 PM to provide additional peak load reduction and firm solar output. JSP Ex. 1.0 at 4. CS+S operators would receive a tariffed payment for the added benefit at a level sufficient to drive strong adoption of CS+S facilities, taking into account existing storage rebates mandated by P.A. 102-0662. *Id.*

Staff believes this issue should be considered further in the DER evaluation investigation. Staff Ex. 25.0 at 6. Staff notes that balancing compensation for CS+S services with their benefits is complicated by the various revenue streams available to CS+S providers and it is not clear how this incremental benefit would affect the relationship between total benefits of the facilities versus their compensation. *Id*.

Proposed Energy Storage

Staff notes both ComEd and JSP witnesses propose energy storage systems to facilitate meeting the Company's PLR Performance Metric goals. Staff states that while energy storage is considered an integral part of decarbonizing the electricity grid, what is being proposed is more akin to a peak supply substitution program than a PLR program. The Act states that the PLR Metric should address "peak load reductions attributable to demand response programs" (220 ILCS 5/16-108.18(e)(2)(A)(ii)) and further defines "demand response" as "measures that decrease peak electricity demand or shift demand away from peak to off-peak periods." 220 ILCS 5/16-108.18(b). However, in the ComEd performance metric docket final Order the Commission "…agree[d] with the Solar Intervenors that other DERS, such as battery energy storage, and solar plus storage, shall be included in this metric." Docket No. 22-0067, Order at 134. Because load is seemingly not being reduced by the proposed energy storage system programs, and achieving the PLR Performance Metric could mean almost $5 million additional for ComEd annually, Staff recommends that the Commission clarify whether these energy storage program proposals qualify as a programs eligible for meeting the PLR Performance Metric goals to avoid any confusion on this issue during the annual adjustment dockets. Staff Ex. 32.0 at 5-6.)

Proposed VPP

Staff does not agree that JSP's VPP proposal, or battery storage in general, meets the requirements of the Act or the Commission's Order in Docket No. 22-0067 regarding PLR. JSP argue that the VPP will be evaluated by a third-party evaluator and only savings determined by the evaluator will count towards ComEd's PLR Performance Metric. JSP IB at 18. JSP further argue that CS+S programs either offset customer load or reduce the perception of system-wide demand with distribution-level export. *Id.* at 19.

Staff contends that what JSP calls a reduced perception of system-wide demand or offset of customer load is exactly what Staff referred to as a Peak Supply substitution program. Staff Ex. 32.0 at 5. Customer load is not decreasing; JSP acknowledged “VPP does not technically shift demand.” JSP IB at 15. Load supply from battery storage is being proposed as a substitute for transmission-level supply of peak load. Staff does not believe that the statute or the Commission’s Order in the performance metric docket supports battery storage as program which should count toward achievement of ComEd’s PLR Performance Metric. Section 16-108.18(e)(2)(A)(ii) states the performance metric should address “Peak load reductions attributable to demand response programs.” Section 16-108.18(b) defines “demand response” as “measures that decrease peak electricity demand or shift demand from peak to off-peak periods.” VPP does not reduce or shift demand but rather provides a new way of meeting demand, substitutes energy storage systems for traditional supply. Energy storage systems are an alternative form of peak supply, they change nothing from a consumer demand perspective. JSP’s arguments cement the concept that demand is not being reduced; demand is only being offset or its perception is being disguised with an alternative form of supply.

Staff states that unless the Commission clarifies that the ESS do not meet the definition of a PLR program, Staff does not object to any of the proposals made by various intervenors because the Commission will have determined that these programs help ComEd meet its PLR Performance Metric goals. Since the performance metrics go into effect in less than six months, Staff recommends that the Commission allows ComEd to implement the first two years (2024 and 2025) of its PLR plan as proposed by the Company. For the latter two years (2026 and 2027) Staff recommends the Commission order ComEd to explore the various proposals made by intervenors and adopt the programs that will help the Company to meet or exceed its goals, while considering the costs of the programs. Staff does not recommend the Commission order adoption of any specific program in this docket. Rather, the Commission should approve concepts for further exploration or reject concepts as not eligible for further consideration. A series of workshops, similar to the collaboration proposed by CUB/EDF, would likely be beneficial to developing least cost alternatives for implementation of any of the concepts approved by the Commission for exploration, to meet the Company’s current PLR goals and to better inform the reasonableness of new goals in the next performance metric docket. *Id.* at 6-7.

Although Staff does not object to any proposed PLR programs (subject to clarification on energy storage proposals counting toward PLR goals), Staff recommends an incentive substantially less than the $275/kW proposed by JSP for the VPP program. Staff explains a $275/kW incentive is equivalent to a price of $275,000/MW. Given that the ComEd zone of the PJM capacity market cleared at $68.96/MW-day or ($25,140/MW-year) in 2022 and $34.13/MW-day ($12,457/ MW-year) in 2023, it is difficult to defend $275,000/MW as a cost-effective alternative to the capacity markets. Staff states that should the Commission order a VPP program, Staff recommends an incentive substantially lower than $275/kW. Staff Ex. 32.0 at 7.

c. BOMA’s Position

Proposed MLR

BOMA states that the adoption of a robust commercial demand program that provides compensation to system owners for their performance during utility-selected periods will allow ComEd to meet its commitment to reduce peak load and maintain system reliability. BOMA Ex. 2.0 at 7. BOMA supports the MLR program, including draft Rider MLR, proposed by ComEd in its rebuttal testimony as a directionally beneficial proposal that will, generally, support distribution grid stability using proven demand response approaches. BOMA Ex. 2.3 at 5. BOMA further proposed certain elements that it believed would be beneficial to include and prioritize as part of ComEd's proposed MLR program. ComEd Exs. 35.0 at 24-27, 35.02. BOMA notes ComEd agreed with some of BOMA's proposed elements and not others. *See* ComEd Ex. 56 at 14-17.

Specifically, ComEd agreed with BOMA that Rider MLR should contain language indicating that participation in the MLR program will not preclude a customer's participation in parallel programs offered by PJM. *Id.* BOMA explained that doing so will provide clarity to customers regarding eligibility and encourage participation. BOMA notes it appears that ComEd also agrees with BOMA's proposal that Rider MLR contain language regarding how review and assessment of the MLR program will occur in light of anticipated wholesale market changes resulting from FERC Order 2222. BOMA Ex. 2.3 at 6. BOMA states this will ensure a transparent process if ComEd proposes to make any changes to the MLR program as a result of changes in wholesale market rules under FERC Order 2222. BOMA states that both of these modifications will provide greater clarity to ComEd customers about eligibility for and encourage participation in the MLR program. BOMA Ex. 2.3 at 6. ComEd also agrees that Rider MLR should be modified to specify how program participant performance will be monitored and reported through a credible performance tracking and reporting mechanism. BOMA Ex. 2.3 at 8; ComEd Ex. 56 at 17. BOMA explains this will ensure continuity of participation and consistency in performance by program participants.

Finally, BOMA notes that ComEd agrees that the pricing methodology for the MLR program, as it relates to customers enrolling in the program directly through ComEd, should start by guaranteeing participants a compensation rate of at least the PJM capacity rate, with flexibility to set different rates based on dispatchability, volume, seasonality and system needs. *Id*. at 16. While ComEd suggests that flexibility would exist to set rates higher or lower, BOMA witness Pruitt explains it would only make sense for ComEd's pricing methodology to set compensation rates at or above PJM rates initially and in the future for two main reasons.

First, the adoption of beneficial electrification, deployment of Evs, and installation of significant variable output resources increases the likelihood that utilization of local demand response resource under the rider would be more than utilization of demand response resources under the PJM capacity market. Secondly, the supply pool of local demand response in the ComEd region is likely proportionately smaller than the pool of generation plus demand response capacity that bids into the PJM capacity auctions. BOMA adds that a proportionately lower supply volume would indicate that prices for local demand response supply to meet the needs of the program should be higher than those realized in the broader regional PJM auction process. BOMA Ex. 2.3 at 6-7. Thus, BOMA explains that the MLR program should include a pricing methodology that guarantees a compensation level of at least the PJM capacity rate, but that it may be set higher based on dispatchability, volume, seasonality, and system needs. BOMA contends that including this methodology will help promote participation by providing participants with transparency and certainty in pricing. *Id.*

BOMA further advocates for Rider MLR to specify that the customized MLR Agreement (i.e. the contract that ComEd will use to memorialize customer obligations and revenue options under the MLR program) contain the following minimum contract elements: (1) Location specific rates – compensation under a MLR Agreement should be based on the relative value of additional capacity in different portions of the ComEd service area in which the participant is located; (2) Volumetric specific rates – compensation under a MLR Agreement should reflect the relative size of demand response capacity offered; (3) Seasonal time-of-use rates – compensation under a MLR Agreement should reflect the seasonal time of day dispatching characteristics of the participant; (4) Penalties – any penalties under a MLR Agreement should be reduced when only partial demand response capacity is delivered; (5) Identification of a minimum, maximum, and average number of calls to perform under an annual schedule; and (6) Identification of the contract duration and with a preference for incumbent program participants (i.e. those who are already participants) in subsequent program periods to further incentivize early participation in the program and meet program participation goals as quickly as possible. BOMA Ex. 2.3 at 8. BOMA notes ComEd has said it will "consider BOMA's recommended terms when developing MLR Agreements, but they are too specific for inclusion in Rider MLR." ComEd Ex. 56 at 16. In response, BOMA explains that nothing prevents ComEd from including, and the Commission from ordering, greater specificity within ComEd's proposed rider. BOMA notes that inclusion of these basic elements for the MLR Agreements in the rider will help ensure important baseline elements are included in MLR Agreements and will provide uniformity and transparency in ComEd's agreements with MLR program participants. BOMA Ex. 2.3 at 7. BOMA states this will help ensure fair treatment among participating customers.

BOMA further contends that the MLR program would benefit from a pilot program to allow for experimentation and adjustments to the program that may only be possible when operating outside of a standard contract framework. Providing for some portion of capacity in the program to be used as a pilot program during the first two to three years of implementation will allow for a simple version of the program to be rolled out immediately, while allowing the opportunity to test the effectiveness of locationally specific demand response, and the effectiveness and value of different demand response sources (e.g. load shedding, backup power, and battery storage). It will also allow ComEd and stakeholders to determine whether the program may have other ancillary benefits and how best to deliver those benefits through the MLR program. BOMA Ex. 2.3 at 8-9.

BOMA concludes that the Commission should approve ComEd's MLR program proposal with the additional elements proposed by BOMA. In the alternative, it is BOMA's position that the Commission's final Order should provide that the elements agreed upon between ComEd and BOMA in this proceeding be included in the MLR program, including Rider MLR, and should further order ComEd to engage in discussions with stakeholders, by the first quarter of 2024, regarding pricing, to develop standard terms and elements for inclusion its MLR Agreements, and to further discuss whether ComEd and its customers might benefit from an MLR pilot program.

d. ICCP's Position

ICCP support the adoption of the modifications to ComEd's Grid Plan recommended by ICCP witness Hill, which are designed to ensure the Company's Grid Plan satisfies the Act's requirement that it be designed to achieve the Commission-approved PLR Performance Metric. *See* ICCP Ex. 1.0 at 5-20; ICCP Ex. 2.0 at 2-4. ICCP adopt the positions and arguments set forth on this subject in EDF's Initial Brief.

e. EDF's Position

EDF notes Section 16-105.17(f)(1)(B) requires a Grid Plan to "achieve the metrics approved by the Commission pursuant to Section 16-108.18." 220 ILCS 5/16-105.17(f)(1)(B). The Grid Plan must include a "detailed plan for achieving the applicable metrics that were approved by the Commission" under Section 108.18(e), including but not limited to "current and projected flexible resources, including resource type, size (in MW and MWh), location and environmental impact, as well as anticipated needs that can be met using flexible resources…to meet the applicable metrics that were approved by the Commission for the utility pursuant to [Section 108.18(e)]." 220 ILCS 5/16-105.17(f)(2)(J)(ii); *see also*, 220 ILCS 5/16-105.17(f)(2)(H)(iii). Finally, the plan must "support existing Illinois policy goals promoting the long-term growth of energy efficiency, demand response, and investments in renewable energy resources." 220 ILCS 5/16-105.17(d)(9). "Demand response," as it relates to peak load reduction, is defined as "measures that decrease peak electricity demand or shift demand from peak to off-peak periods." *Compare* 220 ILCS 5/16-105.17(b); *with* 220 ILCS 5/108.18(b) *and* 220 ILCS 5/108.18(e)(2)(A)(ii).

In Docket No. 22-0067, the Commission approved a set of performance tracking metrics for ComEd. ICCP Ex. 1.0 at 8. For the PLR Metric, 50 MW was the target for ComEd to avoid penalties; it was not the target that the Commission set as a "desirable and achievable" target for the State of Illinois and ComEd's system. CUB/EDF Ex. 1.0 at 9. EDF contends ComEd witness Mondello appears to admit in direct testimony that "[t]he total annual target for this metric is the achievement of 150 MW of load reduction performance…." ComEd Ex. 8.0 at 10. In rebuttal testimony, ComEd witness Borggren backtracks that assertion, saying that while she is not an attorney, it is her understanding that ComEd is allowed to achieve any level of PLR performance above or below a baseline level. ComEd Ex. 35.0 at 15. Regardless, it is ComEd's unilateral decision to endeavor to achieve only 50 MW of PLR per year, and not more, and it bases its decision on a stubborn insistence that it is not possible to achieve 150 MW of PLR per year, notwithstanding the Commission's clear order to the contrary. *Id.* EDF states ComEd's Grid Plan is not sufficient to deliver the PLR consistent with the goals of Section 16-105.17(d) or the Commission's Order in Docket No. 22-0067, and the Commission should therefore modify the Grid Plan as set forth below.

EDF states that as originally filed, ComEd's Grid Plan did not provide sufficient detail on its plan for meeting PLR requirements. ICCP Ex. 1.0 at 3-4; ICCP Ex. 2.0 at 2. EDF notes that ComEd witness Borggren, through rebuttal and surrebuttal testimony, made improvements, including an initial roadmap and program plans for the four-year period (2024-2027), specified budget and planned savings for the existing program stack along with two new programs (a bring your own device program and mandatory load reduction program) planned for implementation in 2024, and for a battery storage system program planned for 2026. ICCP Ex. 2.0 at 2. ComEd also indicated that it plans to issue an RFI to solicit information from third party providers on further program ideas for 2024. *Id*. at 2.

EDF contends that even with these improvements, the Commission should still order ComEd to amend its Grid Plan. EDF's primary concern with ComEd's PLR proposal is that it is designed to achieve only 50 MW of incremental PLR savings. ComEd's rebuttal testimony reinforces ComEd's intention to attain limited PLR savings. ICCP Ex. 2.0 at 3. ComEd's proposal prematurely, and unduly, undermines the ability for ComEd to pursue initiatives and solution providers to provide cost-effective savings from existing and new PLR programs. *Id.* at 3. Comparing ComEd's proposal to the achievements of Consumers Energy in Michigan, for example, Consumers Energy has achieved an average level of 90 MW PLR from a system with roughly one-third of peak load of ComEd's. *Id.* at 4; ICCP Ex. 1.0 at 9-10, Table 1. EDF contends this strongly suggests that there are cost-effective opportunities for more than 50 MW of PLR and that ComEd's plan is unduly self-limiting. ICCP Ex. 2.0 at 4.

EDF maintains P.A. 102-0662 requires a Grid Plan to maximize the benefits of the State's renewable energy goals, climate and environmental goals, and programs and policies. 220 ILCS 16-105.17(d)(1). It does not permit a Grid Plan that maximizes benefits to ComEd. By filing a Grid Plan targeting 50 MW of reductions, the minimum amount needed to avoid penalties under the Commission's order in Docket No. 22-0067, ComEd's Grid Plan is designed with benefits to ComEd at the top of mind. By failing to file a Grid Plan target more than 50 MW of reductions, which would continue to deliver benefits to ratepayers, even if ComEd does not begin sharing those benefits until it achieves 60 MW or more of reductions, ComEd's PLR program is not designed to "maximize" the State's clean energy, climate, and environmental goals.

EDF asserts the performance metric established by the Commission provides incentives for up to 150 MW of PLR, and clearly recognizes the customer and grid benefits for PLR reductions above 50 MW. *Id.* Failing to meet the Commission's 150 MW PLR target "would likely have adverse impacts on reliability, affordability, environmental sustainability, and resilience." ICCP Ex. 1.0 at 19. EDF adds PLR contributes to reliability by reducing both system peaks and local distribution peaks, enhancing the ability of existing generation capacity and/or the existing distribution system to meet customer needs. *Id.* at 6. PLR contributes to affordability by reducing capacity needs, thus lowering distribution and wholesale costs. *Id.* at 6-7. PLR contributes to Illinois' environmental goals by reducing the need to run some fossil fuel-fired plants, not only at the time of system or local peak demand, but also in other hours of the year. *Id.* at 5-9. And PLR contributes to improved resilience by, for example, weatherizing buildings and slowing heat loss or gain during power outages. *Id.* at 7. EDF notes evidence suggests that ComEd might be inappropriately screening PLR measures compared to traditional supply-side investments. EDF contends it therefore appears that ComEd is prioritizing its own interests over the interests of its customers and the interest of the State of Illinois in achieving its PLR goals. *Id.* at 3.

EDF adds the Commission has already decided that a PLR target of 150 MW of annual peak load reduction, with penalties for peak load reduction of under 50 MW and incentives for peak load reductions above 60 MW, is realistic and achievable. Docket No. 22-0067, Order on Rehearing at 29.

For the above reasons, EDF asks the Commission to amend ComEd's Grid Plan with respect to its PLR proposals, as set forth below.

EDF requests the Commission order ComEd to take advantage of its existing initiatives and expand on them as a means of increasing PLR savings. ICCP Ex. 2.0 at 3-4. EDF states Table 3 in Ms. Borggren's rebuttal testimony indicates that until 2027, the PTS program is expected to contribute the largest annual projected load reduction in the PLR program stack. *Id.* at 3-4; ComEd Ex. 35.0 at 13. EDF contends ComEd should therefore expand on those existing programs as a means of increasing PLR savings. *Id.* EDF asserts ComEd admits that "there is not a linear relationship to the total budget" from the number of participants in the PLR programs, and that ComEd can adjust these programs to balance customer enrollments, program costs, and benefits. ICCP Cross Ex. 1.0.

EDF also asks the Commission to order ComEd to maximize the level of cost-effective participation for its new bring-your-own-device and mandatory load reduction programs. ICCP Ex. 2.0 at 4. From ComEd's testimony and filings, it is not clear whether ComEd is limiting the projected savings and budgets of these new programs based on ComEd's commitment to only 50 MW of PLR. *Id.*

Finally, EDF asks the Commission to order ComEd to maximize the cost-effective saving opportunities identified in its proposed RFI. ICCP Ex. 2.0 at 4:71-77. For instance, ComEd stated in discovery that "[j]ust because an RFI response appears to be cost effective does not mean that ComEd will automatically implement that concept in the PLR program stack." ICCP Cross Ex. 2.0. ComEd does not identify all the factors that it would consider in implementing a program identified in its RFI process, only that "duplication of concepts, potential customer benefits, and innovation" would be considered. *Id.* These concepts are too amorphous and subjective to withstand Commission scrutiny and therefore underscore the importance of the Commission requiring a more formal benefit-cost approach.

In its Order on Rehearing in Docket No. 22-0067, the Commission decided that "[t]he definition of performance targets for basis points awards or penalties must further the objectives of the governing statute." Docket No. 22-0067, Order at 28. The objectives of P.A. 102-0662 are to maximize consumer, environmental, economic, and community benefits over a ten-year horizon; the goal is *not* to minimize ComEd's financial risks over a four-year horizon. 220 ILCS 5/16-105.17(f)(5). The Commission agreed with CUB and EDF in that docket that requiring ComEd to expand its efforts, grow its PLR portfolio to include new customer classes and new program types, expand its marketing and outreach, and integrate new technology types, is exactly the type of effort envisioned by P.A. 102-0662. Docket No. 22-0067, Order at 28-29.

There are many ways for ComEd to expand upon its current plan. For example, the VPP proposed by JNGO is exactly the type of innovative approach contemplated by Section 16-108.18 and by the Commission's Order in Docket No. 22-0067. Alternatively, ComEd could pursue peak-shifting, instead of mere peak-shaving, PLR efforts, as proposed by JNGO/EDF witness Nock. JNGO/EDF Ex. 6.0 at 5 (recommending valley-filling demand response programs to reduce energy poverty in households that under consume energy); *id.* at 44 (explaining connection between "dual benefits of energy poverty reduction, valley filling during low demand times, and peak load reduction."). According to EDF, ComEd is wrong as a matter of law when it says that valley-filling as suggested by Dr. Nock is not related to PLR. Valley-filling, to the extent it refers to incentivizing higher usage during periods of low system demand by shifting usage away from periods of high system demand, falls squarely within the definition of "demand response" under Section 16-108.18(b). The PLR Metric is designed simply to incentive "peak load reductions attributable to *demand response* programs." 220 ILCS 5/16-108.18(e)(2)(A)(ii) (emphasis added).

In sum, EDF conclude that the Commission should order ComEd to amend its Grid Plan to maximize the levels of cost-effective PLR that it can attain, up to the annual PLR Metric of 150 MW. ICCP Ex. 2.0 at 4. The Commission should also require ComEd to make compliance filings coinciding with its annual MYRP performance assessments demonstrating that it is satisfying these requirements and providing justification for costs associated with compliance. ICCP Ex. 2.0 at 7. Doing so can maximize the benefits of ComEd's current and future PLR program stack, deliver those benefits to its customers and the grid, and require ComEd to meaningfully pursue Illinois' PLR goals.

f. JSP's Position

<u>ComEd's Proposals</u>

According to JSP, by and large, they do not object to ComEd's PLR proposals. While JSP argue that the Commission has the authority and has extensive record evidence before it to justify approval of JSP's VPP and CS+S programs, JSP do not seek to supplant or replace existing ComEd programs. JSP argue that PLR benefits all customers (and ComEd through its performance metrics) and that JSP's programs generally complement — rather than directly compete with — ComEd's proposed programs.

That said, JSP clarify that ComEd's Storage Program in support of its PLR Metric is not sufficiently developed for the Commission to approve it. JSP point to the testimony of JSP witness Lucas, which explained that ComEd conceded that "the Company's [Storage Program] – by its own admission – is little more than a placeholder" (JSP Ex. 4.0 at 8), noting that ComEd witness Borggren testified that "The new Storage [P]rogram has not yet been thoroughly designed." ComEd Ex. 35.0 at 19. JSP further point to JSP witness Lucas' contrast of JSP's own PLR proposals — which ComEd witness Borggren criticized as subject to "incomplete and rushed review" (ComEd Ex. 35.0 at 37) — and the greater detail of other ComEd PLR proposals with ComEd's storage proposal. *see* JSP Ex. 4.0 at 7-8.

JSP note that one area where ComEd's failure to provide detail should be fatal to approval of the ComEd energy storage program is as it relates to ComEd ownership of BESS assets. JSP in the strongest terms oppose ComEd ownership of distributed energy resources including BESS, which then compete with distributed energy resources owned private industry and customers. JSP note that while ComEd describes the BESS as distribution assets, ComEd is planning to use them to reduce peak load. *See, e.g.*, ComEd Ex. 35.0 at 29-30. According to JSP, the use ComEd describes may address distribution issues but is surely a generation function as well — and one that competes with services privately-owned distributed energy resources including BESS could provide.

JSP appreciated that ComEd backed down from their initial position that ComEd was going to own and operate BESS to a position where ComEd now says it is not sure whether it will or will not own participating BESS. However, JSP complain that even ComEd's proposed "competitive" bidding is incomplete and missing key details that make it appear anti-competitive:

> ComEd expects to use a competitive bid process to identify the most effective solution for the grid need. If the results indicate a ComEd-owned ESS is the least-cost solution, then ComEd should implement that solution. Conversely, if the results indicate a third-party owned ESS is the least-cost solution, then ComEd should work with that third-party to implement that solution.

ComEd Ex. 35.0 at 28. According to JSP, noticeably absent is any Commission oversight of the bidding process, including if ComEd seeks to set aside competitive bids for its own self-build option. JSP argue that the Commission has previously held that when ComEd is seeking to abandon competitive procurement of distributed energy resources for a self-build option — even within a ComEd-owned microgrid — there must be Commission oversight. *See Commonwealth Edison Co*., Docket No. 17-0331, Order at 17 (Feb. 28, 2018). In this case, JSP conclude, ComEd's use of storage is indistinguishable from the procurement results in the Bronzeville microgrid docket.

JSP state that they have an open mind about the energy storage program, but the lack of information — particularly, though not exclusively, as it relates to ComEd ownership of BESS — means the Commission has insufficient information to adopt it in the present docket. JSP expect that upon submission of a more fully-formed proposal, interested stakeholders such as JSP could more fully litigate issues including ComEd ownership, how competitive procurements might work, and other issues of general interest.

JSP's VPP Proposal

JSP recommend that the Commission direct ComEd to file a tariff for a VPP program for solar+storage sited behind a customer's meter. JSP believe that their VPP program would incentivize behavior by owners of behind-the-meter solar+storage that benefits all ratepayers while the program meets key PLR obligations for the MYIGP and ComEd's PLR Performance Metric.

According to JSP, the essence of a VPP program is that it incentivizes customers to operate their solar+storage system in a way that maximizes benefits to all ratepayers, primarily by lowering ComEd's systemwide capacity peak load contribution ("PLC") and transmission network service peak load ("NSPL") obligations and by reducing (through offset or export) the amount of energy during system peak hours that must be procured through wholesale markets. *See, e.g*., JSP Ex. 1.0 at 11. In addition, JSP continue, the specific VPP program proposed would count toward ComEd's PLR Performance Metric. JSP contend that such a program is beneficial to all stakeholders and thus JSP urge

ComEd to direct ComEd to file a VPP tariff consistent with JSP's proposed terms and conditions.

JSP proposed a VPP program modeled on the ConnectedSolutions program in several east-coast states. JSP support a VPP program as outlined by JSP witness Lucas. JSP Ex. 1.0 at 5-6.

Critically, JSP note, JSP witness Lucas testified that with only the current net metering and Smart Inverter Rebate (including for storage) structures currently in place, there is not sufficient incentive to deploy behind-the-meter solar+storage in a way that reduces ComEd-wide capacity and transmission allocation (as well as wholesale energy purchase). *See* JSP Ex. 1.0 at 10. JSP contend that a VPP program is designed to compensate individual customers to deploy their solar+storage in a way that benefits all ratepayers in the ComEd service territory but that current structures do not adequately compensate. *See* JSP Ex. 1.0 at 11-12.

JSP witness Lucas testified that the proposed VPP program would help ComEd meet its PLR Performance Metric. *See* JSP Ex. 1.0 at 13-14. Specifically, JSP argue that those statutory goals and obligations include that ComEd's MYIGP must:

- "propose distribution system investment programs, policies, and plans designed to optimize achievement of the objectives set forth in subsection (d) [which makes multiple references to DERs] and achieve the metrics approved by the Commission in [ICC Docket No. 22-0067.]" 220 ILCS 5/16-105.17(f)(1); and

- "enable greater customer engagement, empowerment, and options for energy services." 220 ILCS 5/16-105.17(d)(2).

JSP argue that their proposed VPP would satisfy both obligations.

JSP allege that no party provided alternative terms and conditions to JSP's proposed VPP program other than compensation levels — JNGO supported a ConnectedSolutions-style VPP (JNGO IB at 45-46) and Staff stated its non-objection to programs including JSP's VPP other than compensation. *See* Staff IB at 137. According to JSP, ComEd stated that JSP's VPP proposal "should be considered for inclusion." *See* ComEd IB at 181. Because there are no alternative terms and conditions to consider, JSP argue that Commission should approve the substance of JSP's recommended VPP.

JSP state that as far as the proposed compensation, JSP recommended $275/kW as a starting point based on ConnectedSolutions to compensate customers and encourage participation followed by a Commission-determined value. *See* JSP Ex. 1.0 at 12. JSP note that Staff and ComEd criticize that interim amount based on capacity prices alone, but they ignore there are other benefits that deserve compensation including transmission allocation reduction, peak energy provision, and the value of reducing demand on the highest-polluting generation facilities that typically deploy at peak. *See* JSP Ex. 1.0 at 23. According to JSP, because Staff and ComEd only analyze one component — capacity — their analysis is incomplete and should be rejected for the initial price. Over the longer term, of course, the Commission will determine the pricing and ensure that participating customers are compensated commensurate with the benefits they are generating.

JSP continue that while ComEd did not criticize the terms and conditions proposed by JSP, ComEd nonetheless sought to delay implementation of JSP's VPP program. According to JSP, ComEd recommended that the VPP program be considered by the 2024 RFI — although ComEd provided no justification for why a fully formed proposal in the present docket should be ignored by the Commission and subject to a ComEd process outside of a docketed proceeding. *See* JSP Ex. 4.0 at 5-6 (responding to ComEd recommendation that approval of VPP be deferred). JSP argue that ComEd's position is further undermined by its concession that VPP should be offered as a tariffed service — JSP counter that it is thus unclear why ComEd would oppose the Commission approving the program and directing a ComEd tariff and instead going through an RFI process.

JSP state that they have provided a fully-formed proposal based on a long-standing program (ConnectedSolutions) that has been operating successfully in several states. According to JSP, because the Commission's authority to include the PLR achieved by JSP's VPP program as part of ComEd's PLR Metric and because JSP have demonstrated the need, value, and benefits of the VPP program, the Commission should approve it in this docket. JSP conclude that the Commission should thus direct ComEd to file a tariff — whether in the upcoming revenue-neutral rate design docket required by Section 16-105.5(c)(1) or in a separate proceeding — consistent with JSP's proposal described by JSP witness Lucas.

Regarding Commission authority to approve such a program, JSP contend that the Commission has clear authority to order the VPP program recommended by JSP. According to JSP, only Staff appears to have addressed the Commission's authority: "Staff recommends that the Commission clarify whether these energy storage program proposals qualify as a programs eligible for meeting the [PLR] performance metric goals to avoid any confusion on this issue during the annual adjustment dockets." Staff IB at 137. JSP agree that the Commission should clarify — specifically that the Commission should clarify (for the reasons explained in JSP' Initial Brief) that the PLR achieved by the VPP program proposed by JSP would in fact count toward ComEd's PLR Performance Metric.

JSP request that the Commission provide an important clarification of its Order in Docket No. 22-0067, in which the Commission approved ComEd's performance metrics. Currently, according to JSP, the resources taking part in JSP's VPP proposal are not eligible to participate in the PJM demand response program and FERC Order 2222 implementation — which will allow DER including solar+storage to participate more directly in wholesale markets — is delayed until at least 2026. *See* JSP Ex. 4.0 at 12; JSP Ex. 1.0 at 15. JSP contend that the Commission's Order in Docket No. 22-0067 should be clarified to confirm that solar+storage-based demand response need not participate in the PJM demand response program. JSP argue that the Commission should clarify that — consistent with the Amendatory Order — participation in the PJM demand response program is not required for solar+storage programs like VPP so long as (like JSP' proposal here) the impact on resource adequacy and impact on PLC and NSPL is measurable.

JSP's CS+S Proposal

JSP argue that their CS+S program is designed to compensate community solar paired with storage to deploy generation to the grid at the times where solar generation alone tends to generate less but production has extremely high value to the grid during hours that set ComEd-wide capacity and transmission obligations. *See* JSP Ex. 4.0 at 9-11, JSP Ex. 1.0 at 31-32. JSP aver that CS+S is similar to the VPP program in that the program is designed to compensate for deployment of storage-paired assets at times the grid (and all ratepayers) gain the most benefit in a way that current tariffs and incentives do not (*see id*.) — but unlike VPP, CS+S involves systems directly connected to ComEd's grid rather than behind a customer's meter.

JSP witness Lucas' testimony describes the proposed CS+S program. JSP Ex. 1.0 at 34. JSP highlight that JSP witness Lucas explained at length why the current compensation for CS+S — including net metering and the Smart Inverter Rebate (both for the solar and storage) — does not adequately compensate the value provided by community solar+storage deploying during "events." *See* JSP Ex. 4.0 at 9-11. In addition, JSP explain that Mr. Lucas established that the upcoming value-of-solar proceeding pursuant to Section 16-107.6 of the Act — which primarily addresses distribution costs — is not adequate to address the measurable wholesale reductions from JSP's proposed CS+S. *See* JSP Ex. 4.0 at 11.

According to JSP, no party in Initial Briefs explicitly criticized the proposed terms and conditions of JSP's CS+S program, but both Staff and ComEd proposed to defer discussions to either the 2024 RFI process (ComEd) or the Value of DER proceeding (Staff). *See* ComEd IB at 181; Staff IB at 136. JSP retort that there is no merit to the proposals to delay consideration of the CS+S program by either ComEd or Staff. JSP counter that both ComEd and (relying on ComEd) Staff raise concerns that the CS+S program compensation would overlap with existing revenue streams. JSP argue that JSP witness Lucas explained at great length why subscriber bill crediting under Sections 16-107.5(l)(3) and 16-107.6(c) of the Act do not compensate community solar paired with storage for the benefits of maintaining output through the 4 p.m.-8 p.m. hours. *See, e.g.*, JSP Ex. 4.0 at 8-11; JSP Ex. 1.0 at 31-35. In any event, JSP continue, JSP recommend that the CS+S tariff have a compensation level set by the Commission, so ComEd and Staff cannot possibly suggest there is overlap when there is no value currently set and any value would necessarily take into account existing compensation for the same service.

JSP contend that they have provided a fully-formed program with clear parameters for deployment and measurement, as well as a framework for setting compensation and ample evidence that the proposed CS+S program compensates ratepayer-beneficial behavior that is not currently incentivized or compensated. JSP continue that because the Commission's authority to include the results of JSP's CS+S program as part of ComEd's PLR Metric and because JSP have demonstrated the need, value, and benefits of the CS+S program, the Commission should approve it in this docket. JSP conclude that the Commission should thus direct ComEd to file a tariff — whether in the upcoming revenue-neutral rate design docket required by Section 16-105.5(c)(1) or in a separate proceeding — consistent with JSP's proposal described by JSP witness Lucas.

JSP argue that the Commission has clear authority to order the CS+S program. According to JSP, no party appears to have challenged the Commission's authority to count PLR achieved from CS+S toward ComEd's PLR Performance Metric, while Staff appears to recommend clarification by the Commission that the peak reductions of programs like CS+S do count toward ComEd's PLR Performance Metric. JSP thus recommend the Commission make the requested clarification.

JSP conclude that the Commission should provide an important clarification of its Order in Docket No. 22-0067. JSP aver that currently, CS+S is not eligible to participate in the PJM demand response program and FERC Order 2222 implementation — which will allow DER including solar+storage to participate more directly in wholesale markets — is delayed until at least 2026. *See* JSP Ex. 4.0 at 12; JSP Ex. 1.0 at 15. JSP request that the final Order in Docket No. 22-0067 should be clarified to confirm that solar+storage-based demand response need not participate in the PJM demand response program. JSP request that the Commission clarify that — consistent with the Amendatory Order — participation in the PJM demand response program is not required for solar+storage programs like VPP so long as (like JSP's proposal here) the impact on resource adequacy and impact on PLC and NSPL is measurable.

g. JNGO's Position

JNGO support some elements of ComEd's proposed PLR Performance Metric, but also recommend that ComEd develop a technology-neutral VPP program that would enable ComEd to achieve its PLR targets in future years. A VPP program using a "pay for performance" mechanism, such as Massachusetts' "ConnectedSolutions" program, would allow customers to "bring their own devices" such as smart thermostats, solar plus storage, and electric vehicles to help reduce ComEd's peak load. JNGO Ex. 3.0 at 49. This would be consistent with P.A. 102-0662's intent and the Commission's Order in ComEd's performance metrics docket.

JNGO therefore strongly urge the Commission and the Company to devote significant attention to developing a VPP program through the 2024 RFI process. ComEd states that the RFI process "has not been fully developed," but that the Company is open to further discussions with stakeholders to ensure a successful process. ComEd IB at 175. JNGO assert that the Commission should hold ComEd to this commitment in its Order in this docket. The Commission should also confirm the Company's clarification that it intends to demonstrate compliance with its PLR Metric through called events "which will lead to actual load reduction" and not merely load reduction "capability." ComEd IB at 179.

h. Commission Analysis and Conclusion

ComEd states that according to its revised plan, it intends to rely on three existing demand response programs (PTS, AC Cycling, and RRTP) and three new load reduction programs (BYOD, MLR, and the Storage program) to meet its PLR Performance Metric. ComEd expects to add additional programs following the 2024 RFI process. ComEd explains its revised PLR Performance Metric plan reflects and adopts certain inputs and proposed modifications from Staff and intervenors.

The Commission is unable to approve ComEd's revised PLR plan as proposed without an approved Grid Plan, as discussed in Section V.A. No party objected to the retention of the three existing programs other than to suggest ComEd should plan and forecast higher levels of PLR capabilities. The Commission finds that the record supports the finding that the plans and forecasts for the three existing demand response programs are reasonable and prudent, and continue to meet the goals and requirements established under P.A. 102-0662.

As the Commission previously noted, the Company shall retain control of the metric as it evaluates the rollout and performance of certain programs, with the flexibility to add new programs to the program stack throughout the MYRP. *See* Docket No. 22-0067, Order at 134. The Commission adds the implementation of new programs shall be subject to Commission review and approval of related tariffs. In Docket No. 22-0067, the Commission confirmed that programs designed around the use of BESSs are permissible when considering PLR programs. *Id.* The Commission again confirms that the use of battery storage programs may be utilized to curtail or "reduce" the amount of load that is on the grid at any given time, further contributing to the goal of PLR. The Commission adds that in the event VPP and CS+S are later added to the program stack, contributing to the increase of ComEd's PLR capacity, then such contributions should be treated as counting toward the achievement of ComEd's PLR metric.

The Commission agrees with JSP that it would be improper for the utility to engage in the ownership of BESSs, as it relates to meeting the PLR metric. The record lacks specific explanation as to how BESSs, if owned by ComEd, will be utilized and how it will interact and/or compete with other third party BESSs who participate in the PLR metric. Moreover, although the Commission previously found that ComEd-owned BESSs are prudent and reasonable for the function of a distribution grid asset, it is not convinced it should be used for the achievement of its own PLR metric.

The Commission notes several parties recommend modifications to the Company's new demand response programs or introduce new programs altogether. Nothing in the record suggests the BYOD, MLR and Storage programs are contrary to law. The Company sufficiently explained, and the Commission appreciates, ComEd's intention to conduct an RFI process in 2024 to identify additional or alternative means to increase its load capability. The Commission encourages ComEd seeking additional programs to meet its performance metrics.

The Commission agrees with JSP that VPPs and CS+S should be considered for inclusion in the PLR framework and could contribute to ComEd's achievement of the PLR metric. However, as discussed in Section V. A., the Commission is unable to direct the establishment of such a program until it finds the Company has submitted a Grid Plan compliant with the Act. VPP and CS+S programs should be pursued and submitted for Commission review in the Company's refiled Grid Plan.

3. Interconnection

a. ComEd's Position

ComEd's notes its plan to meet the Interconnection Timeliness Performance Metric, which is outlined in the Grid Plan, should be approved. ComEd Ex. 5.01 2nd Corr.

at 220-221. ComEd explains that the Interconnection Timeliness Performance Metric is designed to demonstrate ComEd's performance in reducing the time it takes to approve customer interconnection requests. ComEd Ex. 5.01 2nd Corr. at 220; ComEd Ex. 8.0 at 8. ComEd contends that its Grid Plan complies with Section 16-105.17(f)(2) because it provides a detailed plan to achieve the Interconnection Timeliness Performance Metric. *See* 220 ILCS 5/16-105.17(f)(2).

As the Grid Plan and supporting testimony articulates, ComEd's plans for meeting the Interconnection Timeliness Performance Metric include continuing to build on the already significant enhancements that ComEd has made to its processes and IT systems, to further reduce the time to approve interconnection requests. ComEd Ex. 5.01 2nd Corr. at 221; ComEd Ex. 8.0 at 8-9. ComEd states that it will also evaluate potential opportunities at both the individual task level and process level to identify those opportunities that provide the most optimal benefits. ComEd Ex. 5.01 2nd Corr. at 223. ComEd further explains that such opportunities include, but are not limited to, automation of manual tasks within the application tracking platform, reduction in process hand-offs, improvements to existing task-level tracking mechanisms, and updates to form and fields to address emerging DER technologies. ComEd Ex. 5.01 2nd Corr. at 221. Ongoing feedback from interconnection customers and developers will be considered as one of the inputs to these evaluations and decisions. ComEd Ex. 5.01 2nd Corr. at 221. ComEd recognizes that no party opposed ComEd's plan to achieve the Interconnection Timeliness Performance Metric. While JSP proposes some modifications to ComEd's plan, ComEd asserts it does not suggest that ComEd's plan to achieve the Interconnection Timeliness Performance Metric should not be approved.

ComEd observes that JSP suggests two modifications to ComEd's plan, both of which are supposedly designed to "streamline" the Level 1 interconnection process. *See* JSP IB at 20. ComEd contends both modifications are contrary to existing Commission Rules, without legal justification, and would not materially improve interconnection timeliness. Therefore, ComEd concludes, they should not be adopted in this docket. ComEd notes that Staff agrees the JSP proposals should not be approved. *See* Staff IB at 138-139.

First, ComEd observes that JSP suggests that for Level 1 systems taking the smart inverter rebate under ComEd Rider DG Rebate, ComEd would not undertake hosting capacity-related screens in the Level 1 process, such as minimum load. JSP IB at 20-23. As ComEd and Staff have pointed out, ComEd must comply with Parts 466 and 467 of the Commission Rules (the "Interconnection Rules"), (83 Ill. Adm. Code Sections 466, 467), which require a review of Level 1 interconnection requests against certain reliability screens. ComEd Ex. 29.0 at 86-87; Staff IB at 139-140. ComEd observes that JSP also requests that the Commission direct ComEd to file tariff revisions to implement a volt-watt program, and propose technical curtailment standards, consumer protections (regarding upgrade timing), and a waiver pursuant to Rule 466.30 of minimum load screens. Staff IB at 23. ComEd contends that JSP does not cite any legal authority pursuant to which the Commission could direct ComEd to offer the program sought by JSP, and no such authority exists. *See* 220 ILCS 5/16-103(3) ("The Commission shall not require an electric utility to offer any tariffed service other than the services required by this section, and shall not require an electric utility to offer any competitive service."); *see also Citizens Util.*

Bd. v. Ill. Commerce Comm'n, 2016 IL App (1st) 152936. ComEd adds nor is it reasonable (or legally acceptable) for the Commission to initiate a waiver petition of its own rules, or direct ComEd to do so.

ComEd argues JSP's second proposed modification, whereby ComEd would allow certain installers to operate Level 1 systems following inspection by local inspectors, instead of waiting on the Certificate of Completion from ComEd to operate Rider DG Rebate (JSP IB at 20, 23-25), is contrary to the Interconnection Rules, and thus must be rejected. ComEd Ex. 29.0 at 86. ComEd explains that the Interconnection Rules require ComEd to review each interconnection request to determine whether interconnection of the proposed DER facility will cause any adverse system impacts, and to determine the appropriate interconnection facilities and distribution upgrades required to mitigate those impacts. ComEd states that this analysis must be done prior to a proposed DER facility being approved for interconnection. *Id.* at 86-87. ComEd explains that these steps are required, in large part, for safety reasons. *Id.* at 86-87.

ComEd argues that the Commission should not adopt programs that contravene existing Commission Rules, especially those that were designed with public safety in mind. *See Id.* at 86-88. ComEd notes that Staff agrees, noting that "[i]t is prudent for ComEd to insist that interconnections comply with the relevant codes." Staff IB at 140. According to ComEd, JSP acknowledges that its proposed modification is in contradiction to the Interconnection Rules and recommends that the Commission approve a waiver. JSP IB at 25. ComEd observes JSP have made no effort to file for such a waiver, and it is not reasonable (or legally acceptable) for the Commission to initiate a waiver petition of its own rules, or direct ComEd to do so.

b. Staff's Position

Staff contends the Commission should defer decisions about Level 1 DERs at this time and instead direct the parties to address these issues in the ongoing valuation of DER investigation. JSP and JNGO offered several proposals, which will be addressed in turn.

Staff notes JSP advocates three procedural changes to interconnection. First, JSP call for both volt-var and volt-watt to be activated for all Level 1 DERs, contending this will eliminate the need for minimum load screening on radial distribution networks and consequently, reduce the cost to interconnect Level 1 DERs by reducing the need for upgrades. JSP Ex. 2.0 at 4-5. Further, JSP argues that DERMS is not a good substitute for the volt-watt inverter setting because limits to curtailment are unclear. *Id.* at 12. ComEd replied that DERMS provides more information about grid DER operations, while the volt-watt setting provides information only about individual DERs. Thus, volt-watt cannot aid overall grid stability. ComEd Ex. 29.0 at 77-78.

Second, JSP claims ComEd "may also choose in cases when overload of existing utility infrastructure is a significant concern to specify that the Level 1 DER operate within self-consumption mode during identified hours of infrastructure overload." JSP Ex. 2.0 at 5.

Third, JSP point to procedures in Hawaii that allow all systems to start operating after smart inverter functions are set and after the final inspection by the county permitting department. JSP also note that, in Arizona, non-export facilities can begin operations upon receiving approval from the "Authority Having Jurisdiction" and may apply for interconnection when attempting to export power to the grid. JSP recommend that ComEd allow for this procedure if ComEd can certify the installer. JSP Ex. 2.0 at 6-7.

Staff notes ComEd urges rejection of these latter two proposals, pointing out that Parts 466 and 467 determine the screens that it must follow in the interconnection process. In particular, ComEd notes that the interconnection applicant is required to notify the utility when the facility is complete and has passed inspection. ComEd Ex. 29.0 at 86-87.

Staff argues it is prudent for ComEd to insist that interconnections comply with the relevant codes. Staff agrees ComEd is required to implement the screens for DER interconnections and cannot ignore the minimum load screen. The rule also mandates that ComEd receive a Certificate of Completion before allowing the DER to operate. However, ComEd can initiate alternative inverter settings without amending Part 466 or filing a tariff amendment, since inverter settings are contained in an information sheet of ComEd's tariffs, DG Rebate Required Smart Inverter Settings, 1st Revised Informational Sheet No. 49. Inverter settings that differ from the default settings cannot be changed without agreement of the DER owner. Staff Ex. 25.0 at 8-9.

Staff adds JSP also propose a method to aid in determining where to invest in hosting capacity and calls on ComEd to use interconnection studies to identify substations and feeders that need upgrades. JSP Ex. 3.0 at 9, 10. In particular, every time ComEd estimates interconnection costs greater than $0.75/WAC for a substation ($0.20/W for upgrades on the feeder), JSP suggests the substation be automatically put into ComEd's queue of assets to be upgraded under its MYIGP. Further, the upgrades should add at least 20 MW of hosting capacity, or other value depending on ComEd's standard or preferred substation upgrade designs. *Id.* at 9. JSP recognize this may not be the only way to determine where to invest in hosting capacity but recommends it as a supplement to ComEd's planning process. JSP Ex. 3.0, 9.

ComEd does not reject this proposal outright. Instead, ComEd generally commits to improving hosting capacity, identifying the ultimate impact of the costs of upgrades, and DER integration into the grid in a collaborative manner. ComEd Ex. 29.0 at 71.

Staff states JSP's recommendation can, at best, supplement ComEd's planning. It could be one factor ComEd might use to focus its infrastructure spending, but it raises issues about the allocation of costs between ratepayers and DER suppliers. Staff Ex. 25.0 at 10. If hosting capacity is increased by 20 MW to accommodate more DER installations, unless other programs are set up, those costs will be solely borne by ratepayers. An alternative arrangement would need to be established to allocate a portion of those upgrade costs to DER facilities that are installed after capacity is increased. As a result, the JSP's proposal to change investment planning requires investigation and discussion to ensure that ratepayers are not unfairly burdened, and thus, Staff cannot agree to this proposed change. *Id.*

Staff notes JNGO also offers two flexible interconnection strategies. "The first use case is using smart inverter functionality on smaller systems (e.g., below 2 MVA) as a substitute for direct utility control." JNGO Ex. 3.0 at 32. "The volt-watt function allows smart inverters to monitor the voltage on their local area of the grid. If that voltage increases beyond a threshold under specified conditions, the inverter will autonomously reduce the amount of power the DER sends to the grid, helping to prevent poor power quality and violation of grid constraints." *Id.* at 33. This inverter setting can "autonomously curtail a small portion of DER export," and because smart inverters are already manufactured with built-in volt-watt capability, using the volt-watt method of autonomous curtailment requires no additional utility investments, thereby making this extremely cost-effective. *Id.* at 34.

As a result, JNGO recommend that ComEd begin to take volt-watt into account in its planning criteria, similar to what occurs in California. California's Rule 21, which describes the interconnection, operating, and metering requirements for generation facilities to be connected to a California utility's distribution system, uses volt-watt, and is meant to "curtail systems in rare circumstances, acting as a backstop for avoiding power quality and reliability issues in high DER penetration areas." *Id.* at 34-35.

JNGO's second use case is a discussion of Active Network Management ("ANM") that implements DERMS, which allows ComEd to curtail export from participating DERs under certain conditions, such as backflow to the transmission system. *Id.* at 35. According to JNGO, this improves overall system utilization and hosting capacity where it is deployed. *Id.* at 35. JNGO proposes a separate stakeholder process to discuss DERMS investments where ComEd intends to control large DER using DERMS. *Id.* at 36-38.

ComEd responds to JNGO's proposals by noting that DERMS is not directly substitutable for the volt—watt inverter setting. ComEd Ex. 29.0 at 77-78. Instead, ComEd commits to a future collaborative processes. *Id.* at 71.

Staff contends it is vital to establish that the changes are operationally appropriate and based on sound engineering principles. Staff notes there are several collaborative processes embedded in P.A. 102-0662 that can provide forums for exploring and establishing such improvements in interconnection policy. Staff does not support the proposal to start another stakeholder process solely for the DERMS issues. Staff Ex. 25.0 at 13.

Therefore, as noted above, most of Staff's recommendations with respect to DER interconnection and management amount to deferring important decisions to the ongoing investigation, where the issues can be explored in depth and in which the Commission has flexibility to make decisions.

Digital Platform

JNGO states that market participants will be continuously siting and interconnecting projects as well as submitting NWA proposals to meet grid needs and that stakeholders will need to regularly work with the utilities on improving the planning process over time. JNGO argue that these objectives require stakeholders to easily access and analyze large amounts of different types of data. JNGO state that the disparate locations of information sources, as well as the different formats and methods for accessing the data, create significant barriers to stakeholder enabling DERs.

JNGO argue that stakeholders should have access to a dedicated digital platform that provides secure and readily accessible system data from across ComEd's distribution system and that this data could be made available via digital, standardized format such that large amounts of data can be easily digested and analyzed in a repeatable manner. JNGO Ex. 10.0 at 43- 44. The JNGOs propose that the Commission open an independent, statewide investigation into the value of establishing a dedicated digital platform to provide Illinois' stakeholders with access to an integrated set of customer, system, market, and DER data. *Id.* at 43.

While Staff does not dispute the value of exploring the possibility of creating a single consolidated digital platform for the various types of data JNGO is describing, Staff is concerned that it may lead to a duplication of efforts if an additional investigation is launched for this particular purpose. In particular, the sharing and access to customer data is currently the subject of the Data Access Working Group described in Section VII.B.2. The other types of data described by the JNGOs ("system, market and DER data") arguably fall into the topic areas of the Interconnection Working Group. Thus, as an alternative to ordering a new investigation, the Commission should consider ordering the utilities and stakeholders to explore a single consolidated digital platform in the existing forums such as the Data Access Working Group for the customer data and the Interconnection Working Group for the system, market, and DER data.

c. JSP's Position

According to JSP, Level 1 interconnections—smaller systems typically of the scale that one might find on a residential rooftop—are designed to be expedited and standardized, but bottlenecks still exist in the interconnection process impacting customers, developers, and ComEd. JSP make two proposals to make the process more efficient and help ComEd meet its interconnection performance metric. (*See* JSP Ex. 2.0 at 2:25-3:38.)

JSP state that Level 1 interconnections are for smaller systems—typically, though not exclusively, systems behind a customer's meter—that have expedited interconnection treatment under Part 466 of the Commission's rules. *See* 83 Ill. Adm. Code Sections 466.80(a) (qualifications for Level 1 review), 466.90 (process for Level 1 review).) JSP argues its proposed modifications to ComEd's MYIGP would reduce the time and resources required for Level 1 review, enhancing the customer and solar developer experience while helping ComEd meet its interconnection performance metric. *See* JSP Ex. 2.0 at 2-3. Specifically, JSP state that they proposed two new programs:

- Volt-watt. For Level 1 systems taking the smart inverter rebate under ComEd Rider DG Rebate, in exchange for the associated inverters using the volt-watt setting according to parameters to be developed, ComEd would not undertake hosting capacity-related screens in the Level 1 process such as minimum load. *See* JSP Ex. 2.0 at 4.
- Certified Installer. ComEd would create a new program under which installers meeting certain criteria to be developed would be able to operate Level 1 systems following inspection by local inspectors, instead of waiting on the Certificate of Completion from ComEd to operate. *See* JSP Ex. 2.0 at 7.

With regard to both programs, JSP urge the Commission to approve a program as detailed by JSP in the present docket. However, in the case of the volt-watt proposal and to the extent that the Commission determines it necessary for the certified ComEd DG installer proposal, JSP provide that it does not object to follow-up dockets to address outstanding technical issues (in the case of volt-watt) and waivers of interconnection rules (in the case of both).

Volt-Watt

JSP cite to the testimony of JSP witness Rymsha, who proposed that any Level 1 system that takes the Smart Inverter Rebate pursuant to Rider DG Rebate should activate the volt-watt setting on their smart inverter. JSP highlight JSP witness Rymsha's explanation that using the volt-watt smart inverter setting allows ComEd to curtail the systems when their continued production might impact grid safety or reliability. (*See, e.g.*, JSP Ex. 2.0 at 9-10. In other words, JSP continues that a Level 1 system could connect on a distribution asset that was "otherwise full" and thus would require an upgrade. JSP Ex. 2.0 at 5. According to JSP, Mr. Rymsha further explained that the volt-watt setting is a middle ground between active utility control over Level 1 systems and ensuring that system conditions—the type that minimum load screens are intended to model—are automatically and safely mitigated without immediate distribution upgrades. *See id.* at 10-11. Thus, JSP conclude, not only could ComEd defer upgrades that would otherwise be required prior to interconnecting a Level 1 system, but it could avoid Level 1 screens such as the screen in Section 466.90(a)(1). (*See* 83 Ill. Adm. Code § 466.90(a)(1).)

JSP spotlight Mr. Rymsha's explanation that other jurisdictions (including Hawaii) have successfully implemented a volt-watt smart inverter setting as a way to delay or defer distribution system upgrades otherwise caused by Level 1 systems. *See* JSP Ex. 2.0 at 6. JSP cite to Mr. Rymsha's specific statements that use of volt-watt as a mitigation is particularly effective in Hawaii and Illinois could learn from (and thus avoid) initial challenges encountered in Hawaii to get to the point where it is today. *See id.* at 6. While Illinois has been a leader in use of smart inverter settings, JSP avers that ComEd will not be the first utility to use volt-watt and will have a successful program to learn from and adapt.

JSP argue that by engaging the volt-watt setting and both deferring system upgrades and avoiding the need for certain Level 1 screens, Mr. Rymsha explained that he expects:

> [U]tility interconnection, planning, and operations functions for Level 1 DERs, utilizing smart inverter functions and capabilities will transform the customer experience, enable more efficient utility processes, lower costs of future upgrades, maximize existing hosting capacity, and enable MYIGP upgrade deferral based on DER operations at the grid edge and not solely based on conservative modeling results.

JSP Ex. 2.0 at 10. JSP highlight that Mr. Rymsha testified that "the benefit to the interconnecting customer is a more efficient and expedited interconnection process to enable their DER operation, as well as being a good steward of the grid enabling future customers like themselves to readily interconnect clean renewable DERs." JSP Ex. 2.0 at 12. JSP argue that because the costs for Level 1 interconnection are statutorily capped (*see* 220 ILCS 5/16-107.5(h-5)(3)), deferrals in utility upgrade costs benefit all ratepayers and not just the interconnection customer.

JSP argue that such a result meets the statutory requirement that the MYIGP be designed to "reduce grid congestion, minimize the time and expense associated with interconnection, and increase the capacity of the distribution grid to host increasing levels of distributed energy resources . . . ." (220 ILCS 5/16-105.17(d)(5).) In addition, JSP contend that their volt-watt proposal helps meet ComEd's interconnection metric designed to incentivize ComEd to save time on connecting distributed energy resources, which Mr. Rymsha expects for impacted Level 1 systems given the reduced screens and deferred or reduced need for distribution upgrades. *See* Docket No. 22-0067, Order at 186 (September 27, 2022). JSP conclude that their volt-watt proposal clearly meets the statutory goals of the MYIGP and assists ComEd in reaching its performance metric goals.

JSP argue that in order to implement Mr. Rymsha's proposal, three additional steps must take place. First, JSP contend, ComEd must create operational parameters for curtailment under volt-watt so market participants can set expectations for customers. Second, JSP further contend, the Commission should approve consumer protections designed to ensure that ComEd does not defer upgrades to an extent that curtailments become too frequent and thus eroding the value of the distributed energy resource to the customer—a balance for the Commission to evaluate. *See* JSP Ex. 2.0 at 17. Third, JSP submit, the Commission must approve a waiver under Section 466.30 to allow Level 1 projects using volt-watt to avoid minimum load screens. *See* JSP Ex. 5.0 at 2. According to JSP, the first two of these requirements are highly technical in nature and have nearly exclusively been addressed by JSP, while the third may require a separate proceeding.

JSP clarify that due to these implementation items, JSP respectfully request that the Commission direct in this docket for ComEd to file tariff revisions to implement a volt-watt program as described above and propose technical curtailment standards, consumer protections (regarding upgrade timing), and a waiver pursuant to 466.30 of minimum load screens. While JSP believe that this docket is appropriate to fully approve JSP' volt-watt program, an additional proceeding with proposed tariffs will give the Commission a separate docket to consider the technical issues without relitigating the core of the volt-watt program.

<u>*Certified ComEd DG Installer*</u>

With regard to certified installers, JSP point to JSP witness Rymsha's proposal that "certified ComEd DG installers" demonstrating requisite capability be allowed to authorize operation of Level 1 distributed energy resources following Authority Having Jurisdiction ("AHJ") inspection rather than waiting for ComEd to issue a Certificate of Completion. *See* JSP Ex. 2.0 at 7. According to JSP, the certified ComEd DG installer would provide ComEd with evidence of smart inverter settings and provide information including images of the installation. *See id.* at 14. JSP argue that this program would only be available to systems also utilizing JSP's volt-watt proposal and would require specified operational settings if ComEd would have had to upgrade its distribution system but is deferring due to the volt-watt program. *See id.* at 14.

JSP contend that their certified ComEd DG installer proposal benefits interconnection customers, ComEd, and solar developers. JSP posit that all three benefit for the same reason: the proposal will "substantially reduce the time for interconnecting Level 1 DERs because there are fewer steps that require ComEd action" between the AHJ inspection and permission to operate associated with not waiting for a Certificate of Completion. *See* JSP Ex. 2.0 at 16. For ComEd in particular, JSP contend the increased speed assists ComEd's performance under its Interconnection Performance Metric, which rewards ComEd for reducing the time required to interconnect, especially given the volumes of Level 1 installations. *See id.* at 16.

According to JSP, ComEd explained in the MYIGP itself and the direct testimony of ComEd witness Mondello that ComEd is moving toward automation reducing "handoffs," and addressing emerging distributed energy resource technologies. *See* JSP Ex. 2.0 at 15. JSP respond that the proposed certified ComEd DG installer proposal would at minimum be consistent with those goals because it reduces the back-and-forth (handoffs) between the interconnection customer and ComEd, addresses potential grid conditions through automation (requiring volt-watt), and utilizes new technologies (smart inverter functions). *See, e.g.*, JSP Ex. 2.0 at 16.

In rebuttal testimony, JSP notes, ComEd witness Mondello raised concerns that a Certificate of Completion must be issued by ComEd before a system has permission to operate under Part 466. *See* ComEd Ex. 29.0 at 87. According to JSP, Ms. Mondello also conceded, however, that eliminating the Certificate of Completion requirement would save ten business days. *See id*. at 88. JSP provide that on the request of ComEd, JSP, any other party, or on its own motion, the Commission may grant a waiver of any portion of Part 466, which of course includes the requirements that a Certificate of Completion be issued before permission to operate. *See* 83 Ill. Adm. Code Section 466.30(a). JSP believes that its proposal could easily meet the requirements for the waiver because: (1) the Certificate of Completion is not a statutorily mandated prerequisite to operation, (2) there is good cause because of its enhancement of the customer experience and benefit to ComEd's interconnection metric, and (3) it is neither unreasonable nor burdensome, and reduces any perceived burdens. *See* 83 Ill. Adm. Code Section 466.30(a)(1)-(3).)

Responses to Other Parties

JSP begin that as an initial matter, ComEd completely mischaracterizes the record by stating there were no Staff/Intervenor proposals regarding how ComEd was to meet its interconnection metrics. At minimum, JSP respond that Mr. Rymsha put forward two proposals related to volt-watt smart meter settings and certified ComEd DER installers for Level 1 systems. JSP continue that JSP witness Rymsha specifically identified the proposal as addressing ComEd's interconnection metric and justified at length how his specific proposals would assist ComEd in achieving their interconnection metric targets. *See, e.g.*, JSP Ex. 2.0 at 3, 15-16.

While JSP state that they are unsure why ComEd decided to ignore JSP witness Rymsha's proposals, ComEd by the same token does not provide in their Initial Brief any basis for the Commission to reject JSP's proposals. JSP conclude that as a result, the Commission should adopt both JSP proposals.

According to JSP, Staff argues against the volt-watt and certified ComEd DER installer proposals, but the Commission should reject Staff's arguments. JSP highlight that JSP witness Rymsha and JSP's Initial Brief responded to Staff's concerns about compliance with Part 466 as written, noting that the Commission can grant a waiver, whether in this docket or a separate docket under 83 Ill. Adm. Code 466.30. *See* JSP Corr. IB at 23, 24-25; JSP Ex. 5.0 at 3.

JSP note that Staff also raises concerns about compliance with electrical codes, but under JSP witness Rymsha's proposal, the certified ComEd DER installer would still have to pass inspection from the Authority Having Jurisdiction (or "AHJ") and certified ComEd DER status would only be available for installers who have demonstrated proficiency. *See* JSP Ex. 7. JSP contend that these facts—combined with the fact that ComEd does not require a witness test in all cases (*see* JSP Ex. 5.0 at 3)—make clear that the certified ComEd DER installer status would not, contrary to Staff's contention, undermine compliance with the National Electric Code or other relevant safety standards.

While JSP believe the Commission has sufficient evidence in the record in the present docket to approve JSP' proposal, including a waiver, JSP would also support the Commission approving the necessary waiver in a follow-on or separate docket.

d. Commission Analysis and Conclusion

ComEd contends its Interconnection Timeliness Performance Metric complies with the Act as it is designed to measure ComEd's performance in reducing the time it takes to approve customer interconnection requests. ComEd adds it will continue to build on the enhancements it has made to its processes and IT systems and evaluate potential opportunities at both the individual task and process levels to identify opportunities that provide the most optimal benefits.

No party opposes ComEd's proposal. However, JSP propose two additional new programs that will modify and streamline the Level 1 connections: the Volt-watt and Certified Installer programs. JSP explain these programs are designed to expedite Level 1 interconnections for smaller systems.

The Commission agrees with ComEd and Staff and declines to adopt JSP's modifications. As noted by JSP, several additional steps must first occur before its recommended programs may be implemented. Some of the additional steps mentioned include the Commission approval and waiver of certain rules and requirements under Parts 466 and 467. The approval of these steps cannot be guaranteed or secured through this docketed proceeding. The Commission recommends that the parties collaborate to consider JSP's recommendations regarding additional enhancements to the Level 1 interconnection process for possible inclusion in the Company's refiled Grid Plan, per Section V.A of this Order.

4. Supplier Diversity

ComEd argues that its Grid Plan provides a detailed plan for achieving the Supplier Diversity Performance Metric approved by the Commission in Docket No. 22-0067. *See* ComEd Ex. 5.01 2nd Corr. at 217-220; *see also Commonwealth Edison Co.*, Docket No. 22-0067, Order at 149-150 (Sept. 27, 2022); ComEd IB at 185; *see also* ComEd Ex. 5.01 2nd Corr. at 217-220. ComEd notes no party has challenged its plan and no party has contested its plans to meet the Supplier Diversity Metric. Therefore, ComEd concludes, the Commission should approve its plan as proposed.

ComEd adds the ComEd Customer Service Performance Metric for 2024-2028 aims to increase the percentage of diverse supplier spend during 2024-2028. *See* ComEd Ex. 11.0 at 25. ComEd contends that it plans to meet the Supplier Diversity Performance Metric through multiple work streams including, but not limited to, engaging qualified diverse suppliers directly, communication with internal and external stakeholders, and identifying possible high-impact commitments in P.A. 102-0662-related spend categories. ComEd Ex. 11.0 at 27; *see also* ComEd Ex. 5.01 2nd Corr. at 217-220. For example, according to ComEd, the ComEd Customer Service Performance Metric for 2024-2028 aims to increase the percentage of diverse supplier spend during 2024-2028. *See* ComEd Ex. 11.0 at 25. To meet these new challenges, ComEd explains that it plans to utilize internal processes to address areas of spending that have not met performance metric targets, refine internal reporting, and prioritize and identify opportunities for new diversity-certified suppliers. *Id*. ComEd recognizes that no party suggested modifications or alternative proposals to ComEd's plan to meet the Supplier Diversity performance metric.

The Commission notes no party offered modifications or other proposals related to ComEd's plan to achieve its Supplier Diversity performance metric. finds agrees that ComEd's Grid Plan provides a detailed plan for achieving the Supplier Diversity Performance Metric. This plan will increase the percentage of diverse suppliers through multiple workstreams. Because no party challenges this aspect of the Grid Plan, the Commission approves ComEd's plan for achieving the Supplier Diversity Performance Metric.

The Commission recognizes that no party offered modifications or other proposals related to ComEd's plan to achieve its Supplier Diversity performance metric. The Commission finds ComEd's plan is reasonable, sufficiently meets the goals and requirements of P.A. 102-0662, and is approved as proposed.

5. Customer Service

ComEd states that its Grid Plan provides a plan for achieving the Customer Service Performance Metric approved by the Commission in Docket No. 22-0067. *See* ComEd Ex. 5.01 2nd Corr. at 213; *see* Docket No. 22-0067, Order at 207. No party challenges ComEd's plan. Therefore, ComEd requests the Commission approve its plan as proposed.

ComEd adds the ComEd Customer Service Performance Metric for 2024-2027 "measures the percentage of customer contacts resolved on the first contact" and is generally referred to as the First Contact Resolution Performance Metric. ComEd Ex. 5.01 2nd Corr. at 221; *see also* 220 ILCS 5/16-108.18(e)(2)(A)(vi); Docket No. 22-0067, Order at 207. To achieve the First Contact Resolution Performance Metric, ComEd will employ enhanced and targeted strategies to improve Call Center CSR service to customers and improve their ability to adequately respond to customer calls. ComEd Ex. 5.01 2nd Corr. at 222; ComEd Ex. 10.0 at 45. ComEd points out that this will include call-back options when calls are waiting in queue to permit customers greater flexibility while they await the opportunity to speak to a CSR; and implementation of an enhanced technology platform that will include investments to improve digital and self-service options. ComEd Ex. 5.01 2nd Corr. at 222; ComEd Ex. 33.01 at 46. According to ComEd, it is expected that improved self-service options will greatly empower customers by giving them the option to choose how they transact with ComEd, will implement a new customer system with greater reliability, resilience and security features, and increase the likelihood that customer needs will be addressed expeditiously and on the first contact. ComEd Ex. 5.01 2nd Corr. at 222. ComEd understands there are no Staff or Intervenor modifications or proposals related to ComEd's plan to achieve the Customer Service Performance Metric.

The Commission recognizes that no party offered modifications or other proposals related to ComEd's plan to achieve its Customer Service performance metric. The Commission finds ComEd's plan is reasonable, sufficiently meets the goals and requirements of P.A. 102-0662, and is approved as proposed.

6. Affordability

a. ComEd's Position

ComEd argues that its Grid Plan provides a plan for achieving the Affordability Performance Metric approved by the Commission in Docket No. 22-0067. *See* ComEd Ex. 5.01 2nd Corr. at 220-21; *see also* Docket No. 22-0067, Order at 156-168. ComEd contends that while JNGO/EDF imprudently questions ComEd's overall affordability strategy (which is discussed in more detail below), no party directly challenges ComEd's plan to achieve the Affordability Performance Metric, and therefore, the Commission should approve it.

ComEd notes that in Docket No. 22-0067, the Commission approved the Affordability metric agreed to by ComEd, Community Organizing and Family Issues ("COFI"), Staff, CUB/EDF, and the AG, that will "target[] achievement of an aggregated 10% reduction in residential disconnections over the 2024-2028 period in the top 20 zip codes with the highest historical disconnection rates from 2017 through 2019." ComEd Ex. 33.01 at 43; *see also* 220 ILCS 5/16-108.18(e)(2)(A)(iv); Docket No. 22-0067, Order at 156-168. To achieve the Performance Metric, ComEd states that it intends to take a holistic approach to achieve the reduction in disconnections by connecting *all* residential customers with available assistance and educating customers on their options to manage and reduce their energy use. For example, ComEd contends that it will implement the waivers of deposits and late payment charges for eligible customers. ComEd will also educate customers about, and connect them with, available financial assistance programs. For instance, according to ComEd, it intends to increase customer enrollment in its Supplemental Arrearage Reduction Program ("SARP"), which gives participating customers a monthly arrearage credit provided that monthly bills are paid timely. ComEd Ex. 33.01 at 44. In addition, ComEd states that its proposed automated and interim DPP and fee-free kiosks directly target low-income and unbanked customers, respectively, who may need additional support or time to pay their bill and thus avoid disconnection. *See* ComEd Ex. 33.01 at 43-44; ComEd Ex. 54.0 at 11, 16-18; s*ee also* Section V.C.6.c.i-ii, above.

ComEd observes that ICCP, the only party to comment on this topic, raises several arguments in the corresponding section of their Initial Brief; however, none of those arguments are related directly to ComEd's specific plan to achieve the Affordability Performance Metric itself and they are instead addressed in Section V.B (Affordability, Community, and Environmental Benefits).

Moreover, ComEd notes JNGO/EDF's criticism of ComEd's plans to achieve its Affordability Performance Metric demonstrates a fundamental misunderstanding of ComEd's plans and should be disregarded. Specifically, ComEd states, JNGO/EDF witness Chan recommends that ComEd adopt a "more comprehensive approach" to grid planning that includes, but is not limited to, the 20 zip codes that have the highest historic disconnection rates. JNGO/EDF Ex. 5.0 at 25. ComEd argues this mistakes apples for oranges. ComEd's approach to grid planning is, by its nature, "comprehensive" and includes, but is in no way limited to, the 20 zip codes. *See generally* ComEd Ex. 26.0. ComEd states its plans to achieve the Affordability Performance Metric are based on plans to achieve a reduction in customer disconnections by educating and connecting customers to available assistance, and does not rely on specific changes in grid planning, ComEd contends. *See* ComEd Ex. 5.01 2nd CORR at 213.

JNGO/EDF witness Chan's criticism that ComEd's Plan does not offer a discussion on affordability programs, energy efficiency efforts, or modifications to its disconnection implantation practices is also incorrect. JNGO/EDF Ex. 5.0 at 23. According to ComEd, its Grid Plan and supportive testimony provides extensive discussions of available customer assistance programs (*see* ComEd Ex. 5.01 2nd Corr. at 249-250; ComEd Ex. 33.0 at 8-9, 20- 22), and related energy efficiency efforts (*see* ComEd Ex. 5.01 2nd Corr. at 216-217; ComEd Ex. 35.0 at 38-40). ComEd espouses that its testimony also outlines its offer to modify its disconnection practices by implementing the automated DPP and interim manual disconnection protection processes, which expressly aim to avoid disconnection for those customers who are applying for LIHEAP and PIPP financial assistance. *See* ComEd Ex. 33.01 at 43-44; ComEd Ex. 33.0 at 10; ComEd Ex. 54.0 at 6; *see also* Section V.C.6.c.ii ("Disconnection Protection Project"), above.

ComEd observes that JNGO/EDF witness Chan also proposes that ComEd "extends a moratorium on disconnections" until the full implementation of ComEd's DPP. JNGO/EDF Ex. 11.0 at 13-14. However, as explained by ComEd, such a moratorium on disconnections would be in direct contravention of Illinois law and would be significantly more costly than ComEd's proposed interim program.

b. ICCP's Position

ICCP state their position is presented under Section V.B.8. above.

c. JNGO's Position

JNGO state JNGO/EDF witness Chan highlights the significant work that will be necessary for ComEd and its stakeholders to comprehensively address equity in disconnections. For example, JNGO/EDF witness Chan conducted a regression analysis demonstrating that there is a strong correlation between an area's BIPOC population and the rate that ComEd involuntarily disconnects customers from the grid. JNGO/EDF contend this should serve as a wake-up call for ComEd and the Commission. As JNGO/EDF conclude, ComEd's MYIGP cannot reasonably meet P.A. 102-0662's equity standards without deploying a comprehensive set of approaches to address inequities in the most basic access to electricity services that are stripped away by involuntary disconnection.

d. Commission Analysis and Conclusion

The Commission is concerned with the Company's Grid Plan as it relates to customer affordability, as required by P.A. 102-0662. The Commission finds ComEd's Grid Plan does not comply with 220 ILCS 5/16-105.17(d)(11). *See* Section V.B.8.h. of this Order. The Commission encourages ComEd to engage with stakeholders and the community in developing an equitable disconnection approach for its customers. ComEd is encouraged to reexamine its programs that will support its Affordability Performance Metric, using its analysis of the Grid Plan's impact on all customers, when preparing to refile its Grid Plan. *Id.* Therefore, per the Commission's decision in Section V. A., the Commission is unable to approve programs until it finds the Company has submitted a Grid Plan that is compliant with the Act.

VI. UTILITY INTEROPERABILITY PLAN (SECTION 16-105.17(f)(2)(L))

A. ComEd's Position

ComEd states Section 4.3.4 of the Grid Plan describes ComEd's interoperability plan, which is defined as a system design in which current and planned components work together and exchange information and data. ComEd Ex 5.01 2nd Corr. at 144-145. According to ComEd, its interoperability plan includes system-to-device protocols to mandate the manner in which different systems interact for purposes of visibility and control; device-to-device requirements to address how remote systems communicate with each other; communications mechanisms to maintain connectivity; system-to-system protocols to allow real time exchange of data, and business-to-business requirements to facilitate DER and other third-party owned resources. ComEd Ex. 5.01 2nd Corr. at 144-145; *see also* ComEd Ex. 53.01 at 146-147. ComEd's cybersecurity team conducts detailed reviews of interoperability through the Architecture Engagement Form review process, during which the team makes recommendations as to the industry-accepted protocols to be used, ComEd explains. ComEd Ex. 53.01 at 144. ComEd believes that interoperability is critical when multiple devices, some customer owned, are connected to the grid. ComEd Ex. 53.01 at 145. ComEd's interoperability plan will facilitate the use of DERs and other third-party devices critical to meeting the goals of P.A. 102-0662. ComEd notes that no party has disputed the adequacy of ComEd's interoperability plan.

B. Staff's Position

Staff reviewed the Company's MYIGP with respect to this statutory requirement and did not have concerns; therefore, Staff did not offer specific testimony on it. Staff Ex. 16.01; Staff Ex. 1.0 at 3-4.

C. Commission Analysis and Conclusion

The Commission recognizes that ComEd's Interoperability Plan is uncontested and agrees that the Grid Plan should facilitate the use of DERs and other third-party devices critical to meeting the goals of P.A. 102-0662. However, for the reasons stated in Section V.A above, the Commission is unable to approve ComEd's Interoperability Plan at this time.

VII. OTHER ISSUES

A. Uncontested Issues Storm Waiver

Staff recommends the Commission direct ComEd to stop issuing documents to customers that state or imply anything regarding ComEd's liability for storm-related outages absent a finding from the Commission in a proceeding specific to that storm event. Staff Ex. 5.0 at 38. Staff also requests that the Commission direct ComEd to file a monthly summary report to the Chief Clerk, pursuant to 83 Ill. Adm. Code 411, with copies to the Director of the Safety and Reliability Division and the Director of the Consumers Service Division or their successors associated with all outages subject to Section 16-125(e) or (f) of the Act. *Id*.

In surrebuttal testimony, ComEd agreed to modify its standard denial letter that is sent to customers following a qualifying service interruption. ComEd Ex. 45.0 at 23; ComEd Ex. 45.01. Staff agrees the modifications address the concerns initially raised by Staff. ComEd Ex. 45.02. ComEd also agreed to submit quarterly reports to the Commission on claims related to outages, power surges or other fluctuations affecting more than 30,000 customers. ComEd Ex. 45.0 at 23. Staff agrees that the quarterly reports submitted by ComEd will address the concerns Staff initially identified. ComEd Ex. 45.02.

The Commission finds that the Storm Waiver is an uncontested issue that has been resolved between ComEd and Staff. ComEd modified its standard denial letter and Staff agreed to the revised language. The Commission approves ComEd and Staff's agreed-upon quarterly storm reporting and directs ComEd to implement such reporting with the first quarterly reporting period beginning on January 1, 2024.

1. Contingency

Staff recommends that the Commission: (1) approve a total adjustment of $225 million for ratemaking purposes to resolve the issue of contingency in this proceeding, and (2) direct the Company to work with Staff and interested stakeholders to determine how Grid Plan project uncertainty should be quantified and addressed in future MYRPs. ComEd agreed to Staff's adjustment and request to work with Staff and stakeholders to address contingency in future proceedings to narrow the issues in this proceeding and will remove all contingency amounts from its Grid Plan request for inclusion in rate base. ComEd Cross Ex. 1.0 at 190. The amount of contingency removed is approximately $181 million for 2024 to 2027 and approximately $45 million for 2023, which is the average contingency for the years 2024 to 2027 included in the 2024 average rate base, per ComEd. *Id*. ComEd and Staff agreed on this amount and agreed upon calculations to make the revenue requirement impacts of the contingency adjustment. ComEd Cross Ex. 1.0 at 193 (ComEd-Staff 18.02_Attachment 1).

ComEd explains that the total amount of contingency will be removed only from approved projects in appropriate amounts for each ITN. ComEd commits to provide specification of the adjustments made to remove ITN contingency amounts in the first quarterly MYRP Report. *See* 220 ILCS 5/16-108.18(f). This report should provide information for the 2025 through 2027 ITN budgets in addition to the 2024 budgets so as to comprehensively account for the contingency adjustment.

The AG supports the agreement between Staff and ComEd and the Commission understands this matter is uncontested. However, for the reasons described in V.A above, the Commission declines to approve the agreement between Staff and ComEd at this time.

B. Contested Issues

1. Connecting Customers with Assistance & Customer Outreach

a. ComEd's Position

ComEd states that its Grid Plan and supporting testimony detail a holistic approach to customer education and outreach and include multiple assistance programs, a variety of informational points of contact, and modernized policies designed to be responsive to stakeholder and community member feedback. ComEd concludes that the plan should therefore be approved.

ComEd contends that, in accordance with Section 16-105.17(d)(4), ComEd's Grid Plan is designed to "enable greater customer engagement, empowerment, and options for energy services." 220 ILCS 5/16-105.17(d)(4). ComEd states that it employs a number of methods to reach and engage in broad customer engagement and empowerment to reach as many customers as possible including, but not limited to, telephone and web-based applications, person-to-person assistance via ComEd's customer service call center, and in-person touchpoints throughout the year. ComEd Ex. 33.01 at 6-9; ComEd Ex. 5.01 2nd Corr. at 226-228. Through these channels, ComEd explains, customers are educated about their options and empowered to seek out assistance regarding payment processing; starting, stopping, or transferring their electric service; and financial and energy management assistance. *Id*. More specifically, ComEd's efforts to identify customers in need, and reach out to those customers, is described in detail in the rebuttal and surrebuttal testimonies of ComEd witness Chu, as noted by ComEd. *See generally* ComEd Ex. 33.0; ComEd Ex. 54.0.

ComEd notes that those parties that provided comments on this topic in Initial Briefs are generally supportive of ComEd's efforts to connect customers with assistance and its customer outreach. ComEd recognizes that, while no witness or intervenor raises a direct challenge to ComEd's overall plan for customer outreach and engagement, JNGO/EDF witness Nock recommends that ComEd utilize smart meter data to better identify customers in need. JNGO/EDF Ex. 6.0 at 45-48. ComEd also contends that LVEJO witness Pino and EDF witness Watson assert factually incorrect information about ComEd's outreach efforts. As ComEd explains, none of these commentaries offer sufficient justification for disapproval of ComEd's plans to connect customers with assistance and for customer outreach, and do not warrant modifications to the Grid Plan.

(i) Identifying Customers in Need of Assistance

ComEd notes that, presently, ComEd identifies customers who may be in need of financial assistance based on data regarding the customer's arrearage and risk ranking score. ComEd Ex. 33.0 at 13. "ComEd utilizes both the customer's low-income status in its systems and publicly available information on average median income by zip code to distribute informational materials regarding available assistance." ComEd Ex. 33.0 at 13. Once a customer is identified as likely being in need of assistance, ComEd points out that the customer is targeted to directly receive information regarding assistance options. ComEd Ex. 33.0 at 256-262; ComEd Ex. 54.0 at 17. ComEd further explains that same data may be used to determine the locations for ComEd's community fairs and events, which provide customers with the option of engaging directly with ComEd and learning more about receiving financial assistance. ComEd Ex. 33.0 at 13-14.

ComEd acknowledges that EDF, JNGO, and LVEJO provided comments and suggested new approaches to help ComEd identify and connect customers with assistance. ComEd notes that most of these comments are addressed in other sections of its Reply Brief, as subsequently summarized in this Order: LVEJO's recommendations about data collected at the census block level are discussed in Section VIII.B.2, and EDF's support for JNGO/EDF witness Nock's recommendation to pinpoint customers who may need assistance based upon their energy usage patterns is also discussed in Section VIII.B.2. ComEd states, therefore, that only EDF makes several comments in its Initial Brief that require a response.

ComEd states that, in its Initial Brief, EDF insinuates ComEd's practice is to disconnect customers who struggle to pay for their electric service, rather than trying to connect them to available financial assistance. ComEd contends there is no record evidence to support such an inflammatory assertion. In fact, ComEd argues, EDF ignores the ample evidence in the record to the contrary regarding the many programs and efforts ComEd makes to inform customers of available assistance programs to help them avoid disconnection. *See, e.g.*, ComEd Ex. 33.0 at 7-8. ComEd provides, for example, in 2022, ComEd's collaboration with LAAs and the DCEO resulted in more than 200,000 customers receiving more than $100 million in LIHEAP, PIPP, Utility Disconnection Avoidance Program ("UDAP"), and Supplemental Arrearage Reduction Program ("SARP") assistance. ComEd Ex. 33.0 at 7-8. ComEd states its 2022 EE programs helped customers save more than 11 million megawatt hours of electricity which equates to near $1.4 million in customer bill savings. ComEd Ex. 33.0 at 8. ComEd points out its Grid Plan and supportive testimony describe the new customer assistance programs ComEd has developed, including Catch Up and Save (arrearage reduction assistance is bundled with EE products), the Credit Empowerment Program Pilot (credit management services are bundled with in-home EE device), the DPP, and the bill payment kiosks. ComEd Ex. 33.0 at 20-21. ComEd contends these existing and proposed programs help ComEd customers decrease or completely eliminate arrearages, avoid disconnection, and implement more efficient energy and energy management practices. ComEd therefore concludes that EDF's suggestion that ComEd is singularly focused on disconnecting customers must be rejected as contrary to the record evidence.

ComEd adds it is intrigued by JNGO/EDF witness Nock's proposal for utilizing smart meter data to identify customers who may be in need of assistance, but also recognizes the inherent challenges with this approach. *See* JNGO/EDF Ex. 6.0 at 45-48. First, ComEd maintains, witness Nock's recommendation requires that ComEd analyze data at the census block level rather than the zip code level – a task that ComEd is unable to currently carry out without significant and expensive IT or software upgrades. ComEd Ex. 33.0 at 15. Second, ComEd reasons, witness Nock's recommendation calls for the collection of data regarding disconnections, late payments, and customer arrears. ComEd states it already collects this data, at the zip code level, in accordance with its obligations under the law. *See* ComEd Ex. 24.0 Corr. at 15. Any additional data collection in this regard would be duplicative and unnecessary – a position ComEd acknowledges is supported by Staff. *See* Staff Ex. 34.0 at 9. ComEd notes that it plans to engage in further discussions with witness Nock to explore how her approach could potentially be implemented in the future. ComEd Ex. 33.0 at 15.

ComEd adds that, in briefing, JNGO agreed with ComEd these proposals could be handled as a part of the Commission's Data Access Working Group; conversely, EDF wrongfully asserts that ComEd failed to meaningfully engage with the recommendations.

(ii) Outreach Efforts

ComEd argues that it undertakes a variety of outreach efforts to reach as many customers as possible. ComEd states its outreach channels include its Annual Commission Satisfaction Survey, Customer Service Representative Call Center, multiple e-channels (such as ComEd's website and social media), and an assortment of in-person touchpoints (such as community fairs, in-person consultation at the community fairs, community leader forums, and the Community Energy Assistance Ambassador Program). *See* ComEd Ex. 5.01 2nd Corr. at 226-228; ComEd Ex. 33.01 at 6-9, 21; ComEd Ex. 33.0 at 7-8, 16, 18, 22; ComEd Ex. 34.01 at 38.

Further, ComEd contends EDF's recommendation that ComEd "pursue closer relationships with state and local utility assistance programs" wholly ignores the record evidence about ComEd's extensive collaboration and partnership with LAAs, DCEO, Chatham Business Association, the City, the Illinois Department of Human Services, and various vendors to connect customers with assistance, like LIHEAP, UDAP, and Emergency Rental Assistance Program, and provide wraparound services at community fairs. *See* ComEd Ex. 33.0 at 8.

Specifically, regarding low-income customers, once those customers are identified, ComEd explains that it directly targets those customers and their neighborhoods as a target area for distribution of information regarding financial assistance and for potential settings for community events. ComEd Ex. 33.0 at 13-14. For example, ComEd points out that it routinely distributes brochures, in both English and Spanish, to low-income customers regarding the LIHEAP program, deferred payment options, and waivers of deposits and late payment charges. *Id*.; *see also* ComEd Ex. 33.04; ComEd Ex. 33.05; ComEd Ex. 33.06. ComEd also notes that it sends direct letters and emails to customers identified as potentially in need of assistance informing them of their options for deferred payment arrangements, the beginning of LIHEAP enrollment season, and other bill assistance options. *See* ComEd Ex. 33.03.

ComEd claims it will continue those efforts during the Grid Plan period and also plans to expand and/or launch new customer outreach and assistance efforts, such as implementation of the DPP, installment of the bill payment kiosks, the launch of ComEd's new Credit Empowerment Programs, the expansion of the Fresh Start (expanding network to include more community providers) and the Catch Up and Save (adding home energy assessments to efficiency bundles offered to customers), and the growth of the CEAA program that will expand its reach to additional communities in 2024-2027. *See* ComEd Ex. 33.0 at 20-23.

ComEd notes that, initially, LVEJO asserted that ComEd does not make its customer communications available in languages other than English. LVEJO Ex. 2.0 at 4-5. ComEd maintains that the record demonstrates this is incorrect. ComEd points out that it ensures that "its website, customer-facing documents, emails, and automated phone options [are] available in the most common primary languages spoken by our customers." ComEd Ex. 54.0 at 13-14; *see also* ComEd Exs. 33.03, 33.06, 54.01, 54.02, 54.03, 54.04, 54.05, 54.06, 54.07. ComEd argues the recommendation by LVEJO witness Pino that ComEd allow each individual customer to select the language in which they would like to receive notices and important information should be rejected (*see* LVEJO Ex. 2.0 at 5) since it is not practical or reasonable to make every possible language available given the additional cost associated with a particular language option in relation to the number of customers that would actually utilize that language. ComEd Ex. 54.0 at 13. ComEd points out that, in response to ComEd's intent to expand website language offerings to include Polish and Mandarin, LVEJO "fully supports the inclusion of materials in languages beyond English and Spanish." LVEJO IB at 13; ComEd Ex. 54.0 at 14. In line with LVEJO's recommendation, ComEd will continue to consider expanding language offerings by balancing the demand for a particular language with the cost of broadly implementing that language across ComEd's website, materials, and touchpoints. ComEd Ex. 54.0 at 13.

Finally, ComEd argues, EDF witness Watson's concerns that ComEd's outreach is too limited in scope is not supported by the record. *See* EDF Ex. 9.0 at 2-3. As ComEd explains, ComEd's outreach efforts largely target "those customers who are likely to directly benefit" from the customer education and marketed programs (e.g., low-income customers). ComEd Ex. 54.0 at 17. ComEd notes that it also encourages community leaders and intervenors to participate in its quarterly community leader meetings and welcomes further discussion beyond this proceeding to determine additional methods for sharing awareness of ComEd events and assistance. ComEd Ex. 54.0 at 18. ComEd contends that it works diligently to capture and engage with as many of its customers as possible and it will make efforts to ensure that such engagement continues to grow and improve.

b. Staff's Position

Staff asserts that the Commission should reject JNGO's recommendations related to the use of smart meter data in this MYIGP docket due to the level of technicalities, complexity, and potential legal issues involved. Staff Ex. 34.0 at 3. Rather Staff recommends that the Commission direct parties to discuss JNGO's recommendations in the Commission's Data Access Working Group. Staff Ex. 34.0 at 8.

Staff agrees with JNGO that smart meter data is important; however, Staff recommends the Commission consider standards set by the General Assembly related to customer data privacy as well as the Commission's prior decisions related to balancing the interests of customer data privacy against the benefits of more fully utilizing smart meter data. Staff Ex. 34.0 at 6-7. The General Assembly set standards and put in place safeguards to ensure customers personal information, such as daily data, is protected, as expressed in Section 16-108.6(c). 220 ILCS 5/16-108.6(c).

ComEd, JNGO, and Staff agree that JNGO's recommendation related to the use of smart meter data to track energy consumption abnormalities, energy burden, and energy limiting behavior should be addressed in the Commission's Data Access Working Group. Staff recommends that JNGO participate in the Commission's Data Access Working Group and recommends that the Commission direct ComEd to continue discussions related to the recommendations of JNGO with JNGO or as a participant in the Data Access Working Group. Staff Ex. 34.0 at 8. ComEd expressed willingness to collaborate with JNGO outside this proceeding, and accordingly, Staff asserts this issue is uncontested. ComEd Ex. 33.0 at 15.

JNGO recommend the Commission direct the Commission's Data Access Working Group to discuss Dr. Nock's recommendations and to report back to the Commission with specific ideas for implementing the smart meter data within a reasonable time frame. Staff does not oppose JNGO's participation in the working group to address the data privacy issues inherent in the JNGO's proposal but opposes directing the Data Access Working Group to take any particular action before the issue is discussed in that forum. Thus, Staff continues to recommend that JNGO participate in the Data Access Working Group and work with the Company and interested Stakeholders to address JNGO witness Nock's proposal.

(i) Identifying Customers in Need of Assistance

While LVEJO supports the efforts and commitment of the Company towards customer assistance and outreach, LVEJO and JNGO believe that the Company can best identify customers in need of assistance by collecting specific data at the census block level instead of zip code. LVEJO states, "[t]he extra granularity of using census blocks helps to better describe EIEC areas [and is] the preferred standard for EJ mapping and EJ community identification. Both the Environmental Protection Agency ("EPA") and IPA use census blocks, rather than zip codes, for their own EJ community identification." LVEJO IB at 13. LVEJO suggests that the Company should not use census reporting for any topics but for reporting on investment in EIEC areas. LVEJO Ex. 2.0 at 3.

Staff reiterates that collection of data at the census block level will be repetitive of ComEd's current reporting standards. However, Staff recommends that ComEd work with the LVEJO and JNGO to get a detailed and comprehensive understanding of this issue and develop targeted and effective solutions that will be beneficial to its customers including the EIECs. Staff Ex. 34.0 at 9.

(ii) Outreach Efforts

Staff notes that EDF believes ComEd's outreach programs lack awareness and customer engagement and recommends that "customer service should initiate sharing opportunities requiring expert knowledge in assessing the customer's eligibility." EDF Ex. 9.0 at 4. EDF expresses openness to future collaboration with ComEd on these issues. *Id*. In addition, LVEJO recommends ComEd allow customers to choose the language in which notices and information from the Company are provided. LVEJO Ex. 2.0 at 5.

In response to EDF and LVEJO, ComEd states that its outreach efforts are targeted towards low-income customers, i.e., customers who are likely to benefit from its programs. Furthermore, ComEd disagrees with LVEJO's assessment that ComEd does not make customer communications available in languages other than English and disagrees with the recommendation to allow each customer to select the language in which they receive notifications because the Company will incur additional costs to implement LVEJO's proposal. *Id*. However, the Company is open to further discussions with intervenors and stakeholders on awareness and customer assistance and welcomes their participation in its quarterly community leader meetings, outside of this proceeding. *Id*.

Staff recommends the Commission direct ComEd to work with interested stakeholders after the conclusion of this docket on ways the Company can use its various programs to identify customers in need of assistance and enhance customer engagement.

c. LVEJO's Position

LVEJO generally supports the commitments and programs ComEd has proposed regarding customer assistance and outreach. LVEJO fully supports the inclusion of materials in languages beyond English and Spanish and encourages ComEd to continue expanding the offered languages for print resources.

Regarding the identification of customers needing assistance, ComEd has repeatedly declined to follow the suggestion of multiple parties and collect specific data at the census block level rather than by zip code. LVEJO wetness Pino described the need for this level of data clearly: "The extra granularity of using census blocks helps to better describe EIEC areas [and is] the preferred standard for EJ mapping and EJ community identification. Both the EPA and IPA use census blocks, rather than zip codes, for their own EJ community identification." LVEJO Ex. 2.0 at 3. LVEJO explains that this does not need to be applied to all topics or areas of ComEd's service territory and can be combined with templates from existing online portals to prevent reports from becoming too unwieldly.

d. EDF's Position

EDF supports JNGO's request to direct the Commission's Data Access Working Group to review Dr. Nock's recommendations and to report back to the Commission within a reasonable time with specific ideas and steps for implementation. ComEd appears to commit to engaging in further discussions with Dr. Nock on these proposals. EDF therefore asks the Commission to include in its order a directive to the Data Access Working Group to review Dr. Nock's recommendations, and to require ComEd to engage in further discussions with Dr. Nock on these proposals.

e. JNGO's Position

ComEd states that it is "intrigued" by Dr. Nock's proposal for utilizing smart meter data to identify customers who may need assistance, but that it is unwilling to analyze its data at the more granular census block group level that Dr. Nock and JNGO witness Kenworthy recommend. JNGO assert that ComEd's concerns about the supposed cost and difficulty of gathering census block group data as opposed to zip code data rings hollow considering the alarming disconnection data highlighted in the testimony of Dr. Chan. As noted by JNGO witness Kenworthy, Ameren agreed to provide reliability data at a Census Block Group level in response to JNGO recommendations in Docket No. 22-

0487. JNGO state that there is no reason that Ameren can provide data at an appropriate level of granularity, but ComEd cannot. ComEd even admits that it "has not developed a cost estimate" for census block group reporting, only that "it is reasonable to anticipate" that there may be more expense. ComEd has not supported its position with credible evidence. JNGO therefore repeat their call for the Commission to direct ComEd to (1) develop a plan to evaluate equity across multiple dimensions of utility performance (e.g., power quality, customer service, affordability, safety, hosting capacity), (2) conduct this analysis at a sufficiently detailed level of geographic granularity, such as the census block group level, and (3) use the results of that analysis to inform the Company's investment and planning decision-making processes in its next Grid Plan. JNGO also request that the Commission direct the Data Access Working Group to discuss Dr. Nock's broader recommendations for using AMI data to identify vulnerable customers and report back to the Commission within a reasonable time with specific ideas for implementation.

f. Commission Analysis and Conclusion

Section 16-105.17(d)(4) requires ComEd to "enable greater customer engagement, empowerment, and options for energy services." 220 ILCS 5/16-105.17(d)(4). EDF, JNGO, and LVEJO provided comments and new approaches to help ComEd identify and connect customers with assistance. These issues are addressed in Sections V.B.2. Pursuant to the Commission's decision in Section V.A, the Commission finds that the Grid Plan does not comply with the requirements of the Act.

LVEJO initially raised a concern that ComEd did not provide materials in languages other than English and Spanish. The record shows that ComEd has expanded its language options and will continue to do so in the future.

To the extent there is any insinuation that ComEd's focus is on disconnection rather than customer engagement or assistance, the record indicates otherwise.

ComEd, Staff, JNGO, and EDF appear to all agree that JNGO witness Nock's recommendations related to identifying customers in need of assistance using AMI smart meter data, disconnection practices, and data collection and reporting are more appropriately addressed in the Commission's Data Access Working Group. The Commission agrees that the Commission's Data Access Working Group is the appropriate forum to discuss Dr. Nock's recommendations wherein the Company can identify and refine specific ideas for implementing the smart meter data within a reasonable time frame. The Commission directs ComEd to include commitments to engage in the Data Access Working Group and a detailed plan consistent with Section V.B.9 to engage interested stakeholders to leverage its various programs to identify customers in need of assistance and enhance customer engagement.

2. Data Transparency and Access

a. ComEd's Position

ComEd explains that the concepts of data transparency and access are fundamental in Section 16-105.17 of the Act, and throughout this proceeding, several parties including Staff made recommendations as to how ComEd should present and provide data. While ComEd fully supports the goal of data transparency, ComEd reasons, it also agrees with Staff witness Moradeyo that ComEd must be mindful of gathering, storing, and sharing customer data. ComEd Ex. 45.0 at 10; Staff Ex. 34.0 at 4-6. That balance informs all of ComEd's positions regarding data access and transparency in this proceeding.

ComEd acknowledges that many of the parties focused on additional reporting to provide transparency around ComEd's commitments to bring the benefits of grid modernization to EIECs in ComEd's service territory. *See* JNGO/EDF Ex. 11.0 at 15; Staff Ex. 8.0 at 6; LVEJO Ex. 1.0 REV at 4. ComEd recognizes that other parties focus on providing more access to utility and customer data. *See, e.g.*, EDF Ex. 10.0 at 5; JNGO Ex. 10.0 at 43; BOMA Ex. 2.0 at 6-7; City Ex. 1.0 at 28.

ComEd disagrees with the proposals from BOMA and the City that would require ComEd to change its existing Anonymous Data Service. ComEd explains that the existing Data Access Working Group is the best venue for dialog on that issue. ComEd notes that Staff agrees and recommends the Commission direct ComEd and BOMA to discuss solutions for large energy consumers that allow access to real time energy consumption and system demand at the Data Access Working Group meetings.

ComEd opposes collecting and reporting data at the census block level as proposed by the City and EDF. ComEd explains that it currently collects and reports data regarding 22 topics related to monthly and annual credit and collections, broken down into the roughly 500 zip codes in ComEd's service territory, as required by the Commission and the Act. *See, e.g.*, 220 ILCS 5/8-201.10(b); *see also* ComEd Ex. 45.0 at 13-14. There are approximately 6,500 census blocks in ComEd's service territory, meaning that adoption of this proposal would require ComEd to produce 13 times as much detail. *Id*. As ComEd witness Chu testified, this would likely require significant changes to ComEd's business processes and may involve expensive IT or software upgrades. *See* ComEd Ex. 33.0 at 15.

ComEd also explains that EDF's request for additional data should be rejected as largely duplicative of existing reports. For example, EDF advocates for data access and transparency to permit customers and individuals with the opportunity to "solve disparities resulting from the energy system." EDF IB at 23, 75. Specially, EDF requests a report on energy burden, energy limiting behavior, energy insecurity, energy poverty, and to continue reporting data on the number of involuntary disconnections for non-payment, number of households behind on bills, and number of customers participating in assistance programs. However, this list is largely redundant of the monthly reports that ComEd currently submits to the Commission pursuant to Section 8-201.10(b). *See* Staff Ex. 34.0 at 8-9.

ComEd states that it agrees that data transparency and access is a critical issue for customers, but ComEd believes that a new, separate investigation into these data access issues in the MYRP proceeding would be duplicative of ongoing efforts at the Commission to address them, including the Commission's Data Access Working Group. For example, ComEd does not oppose participating in discussions about a data platform and data sharing as JNGO recommended. JNGO Ex. 10.0 at 43. In fact, ComEd supports Staff's recommendation that ideas like the digital platform for data sharing should be discussed in the Data Access Working Group. On a similar front, EDF urge ComEd to adopt several recommendations related to the use of AMI data, data transparency, and data reporting in the context of residential disconnections made by JNGO/EDF witness Nock. ComEd, Staff, and (notably) JNGO agree that this Grid Plan proceeding is not the proper forum to discuss JNGO/EDF witness Nock's ideas related to disconnection given the legal and practical complexities of her recommendations, and instead agree that the ideas would be addressed in the Commission's Data Access Working Group. ComEd Ex. 24.0 Corr. at 15; ComEd Ex. 45.0 at 10-11, 13-14; Staff Ex. 34.0 at 4-10. ComEd recommends the Commission reject the numerous proposals in this matter and instead bring such issues to the ongoing Data Access Working Group to address these important policy issues.

b. Staff's Position

Staff agrees that using individual customer usage data to gain an accurate understanding of energy deficits, vulnerability in communities, and energy limiting behavior is important and deserves further discussion. Staff Ex. 36.0 at 5. However, accessing and sharing such customer data is also governed by the Act (*e.g.*, 220 ILCS 5/16-122) and prior Commission Orders. For example, the parameters of ComEd's Anonymous Data Service stem directly from the Commission's Order in Docket No. 13-0506. *Id*.

Similar to ComEd's recommendation, Staff recommends that the Commission not order ComEd to change its existing Anonymous Data Service in this docket or require ComEd to publish and/or report additional customer usage data without a broader discussion. The recently launched customer Data Access Working Group initiative appears to be the best venue to discuss changes and additions to ComEd's Anonymous Data Service or other data access options. *Id*. at 5-6. As for JNGO/EDF's suggestion that ComEd should include both high energy burden and households that limit energy consumption in their targets for energy efficiency upgrades, Staff recommends that those be brought up in the Illinois Energy Efficiency Stakeholder Advisory Group ("SAG"). *Id*. at 6.

Staff notes that BOMA requests that the Commission "order ComEd to engage in direct discussions with [BOMA] (and other commercial and industrial rate class stakeholders who may be interested) to develop a plan for increased data access," and requests the Commission "order that the parties provide an update to the Commission regarding progress on reaching an agreement on that plan within six months after the final Order in this proceeding (and every three months after that until the parties reach agreement on a final plan." BOMA IB at 9. Staff is not opposed to such a directive from the Commission in this docket but recommends that the Commission avoid creating duplicative efforts. To address this concern, Staff recommends the Commission direct ComEd and BOMA to use the Data Access Working Group as the venue in which to develop the plan envisioned by BOMA. As an alternative, the Commission could order BOMA and ComEd to develop such a plan outside the Data Access Working Group but only if other interested stakeholders are invited to join those discussions.

c. BOMA's Position

BOMA's position is that data transparency and access for customers is one key to efficient and reliable operation of the grid. BOMA Ex. 2.0 at 6-7; ComEd Ex. 24.0 at 20. BOMA understands that ComEd is generally supportive of greater data access for customers but would like additional opportunity to work through procedures and technical issues, as well as any impacted tariffs. ComEd Ex. 24.0 at 20. BOMA is appreciative of this concern, but also notes that continued discussions are no assurance that ComEd will make progress towards providing customers with greater data access and transparency. Accordingly, BOMA's states it is important for any process for continued discussions to be effective at reaching finalization and resolution of the data access and transparency issues raised in this docket. BOMA notes it is willing to continue to engage directly with ComEd to discuss greater data access, it believes that the goal of making progress on the issue would be best served through the Commission ordering a framework and timeline for those discussions. Accordingly, BOMA's position is that the Commission should order ComEd to engage in direct discussions with BOMA (and other Commercial and Industrial rate class stakeholders who may be interested) to develop a plan for increased data access. The Commission should further order that the parties provide an update to the Commission regarding progress on reaching an agreement on that plan within six months after the final Order in this proceeding (and every three months after that until the parties reach agreement on a final plan).

BOMA explains that facilitating access to data, particularly for large energy consumers, can help further a variety of MYIGP goals, including "optimizing utilization of electricity grid assets and resources to minimize total system costs," enabling greater customer engagement and empowerment, allowing for a more open and transparent planning process for future grid plans, and facilitating demand response. 220 ILCS 5/16-105.17(d). The benefits of data sharing include reducing overall energy consumption, reducing peak load, deploying distributed energy resources, and maximizing the value of demand response. *Id*.; BOMA Ex. 2.3 at 5. For large energy customers like BOMA member buildings, data sharing allows for better management of a range of diagnostic, operating and planning activities that enhance their ability to operate safely, sustainability, and cost effectively, and to make informed choices regarding grid usage. *Id*.

BOMA posits is that access to data is an important tool for customers, particularly large non-residential customers like BOMA members. Consistent with the stated goals of the MYIGP, the Commission's Order should ensure there is a process in place requiring ComEd to work directly with BOMA, and other interested commercial and industrial stakeholders, on a plan for greater data access within a specified timeframe.

d. City's Position

The City explains that "[i]t is important for stakeholders to better understand what disparities exist, what practices perpetuate those differences, and how these differences impact communities." City Ex. 2.0 at 8. To help fulfill these objectives, the City supports the recommendations of JNGO witnesses Nock and Kenworthy that ComEd collect and report on customer data at the census block level. JNGO Ex. 6.0 at 25; JNGO Ex. 8.0 at 13; 16. The City also supports the recommendations set forth by JNGO witnesses Kenworthy and Tan for ComEd to adopt a regression analysis process and interpret its reliability data at the census block group level. JNGO Ex. 7.0 at 3; JNGO Ex. 8.0 at 4, 17; JGNO Ex. 12.0 at 4.

e. EDF's Position

According to EDF, transparency is the greatest tool and foremost requirement in P.A. 102-0662's grid planning process. 220 ILCS 5/16-105.17(d)(6). Planning processes therefore must "maximize the sharing of information…." 220 ILCS 5/16-105.17a)(4). It is the policy of the State of Illinois to promote transparent system planning. 220 ILCS 5/16-105.17(a). Transparency is "an essential tool" to ensure utility accountability. 220 ILCS 5/16-105.17(a)(3). Without transparency, utility investments may not always serve customers' best interests, promote expansion of clean DERs, or advance equity and environmental justice. 220 ILCS 5/16-105.17(d)(5).

EDF states that the Commission's decision in Docket No. 13-0506 appropriately identified the customer privacy protections contained in Sections 16-122 and 16-108.6; but the Commission has not yet determined how the provisions in Section 16-105.17, requiring "maximum" sharing of information, fits into the picture. Section 16-122(a) governs release of specific customer information, while Sections 122(b)-(c) authorize release of generic information concerning usage, load share curve and other general characteristics. Similarly, Section 108.6 requires an AMI Plan to secure privacy of personal information, meaning name, address, telephone number, and other personally identifying information, as well as information about the customer's electric usage. Section 16-108.6 also states in relevant part that some of the value of AMI is "collection and distribution of information to customers and other parties…." 220 ILCS 5/16-108.6(a). Section 16-108.6 expressly contemplates third parties receiving anonymized information from AMI data for non-commercial purposes. 220 ILCS 5/16-108.6(d).

Sections16-122(b)-(c) and 16-108.6 allow some level of sharing of generic customer information to third parties. It is similarly clear that Sections 16-122 and 16-108.6 prohibit sharing personal information. It is therefore equally clear that Section 16-105.17(a)(4) requires "maximum" sharing of anonymized, non-personal information to engage in an open and transparent grid planning process.

Data, including AMI data, are necessary to achieve P.A. 102-0662's equity and affordability goals. Equity analyses provide information on energy use abnormalities, service gaps in vulnerable communities, and how rate changes will impact the ability of vulnerable households to keep their homes at a safe and comfortable temperature. JNGO/EDF 6.0 at 39. The first step is to introduce a tiered system, JNGO/EDF Ex. 6.04, to identify the households with the highest risk of heat-related illness and death. JNGO/EDF Ex. 6.0 at 39-40. The data should be analyzed at the household or census block level to provide an accurate level of disparity, meaning energy limiting behavior and energy deficit, analysis. *Id*. at 40. Granular data is necessary to build equity-focused strategies facilitate energy efficiency investments in vulnerable households. *Id*. at 2-7.

EDF further states that data and transparency are important to delivering equitable results. EDF Ex. 10.0 at 5. Making data publicly available is always important and useful in holding powerful entities accountable and assessing the fairness of their services. EDF Ex. 3.0 at 8. Future grid cases and performance and tracking mechanism cases will provide the Commission with the opportunity to identify new tracking and performance metrics. EDF Ex. 10.0 at 5. Collecting data now and making it available to stakeholders will ensure that the Commission, ComEd, and stakeholders are sufficiently informed and have the opportunity to make meaningful suggestions on future tracking and performance metrics. *Id*. Collecting data will also provide the opportunity to have meaningful, informal conversation with ComEd to address disparities outside of grid case procedures. *Id*.

Communities can benefit when utilities like ComEd make data more accessible and transparent. EDF Ex. 3.0 at 3-4. ComEd should have data portals, like the City's, where people can directly download data various formats or access data. EDF Ex. 3.0 at 4. With that data, local organizations and journalists can identify and solve issues. *Id*. at 50. One example of useful data is aggregating how much electricity each geographic area uses and how much residents of the area pay per month as a group. By slicing geographic data in many ways, for example by zip code, house district, or ward, journalists and community organizations could figure out the percentage of income each area pays for electricity, which is a common metric, even if it not the best metric. EDF Ex. 3.0 at 8-9. People could also use reliability data and information on where the utility is spending money to develop the grid. *Id*. at 9. Workforce metrics would also be useful, like identifying where contractors are being hired, to see how many are local and to see if marginalized groups are valued and included professionally. *Id*. at 9.

EDF contends that the Commission must reject ComEd's assertion, made without support, that analyzing data at the census block level rather than the zip code level would require "significant and expensive IT or software upgrades." ComEd IB at 193. ComEd admits it has not conducted a cost estimate. ComEd merely asserts – again without support – that it "it is reasonable to anticipate" incremental IT capital costs and ongoing O&M. *Id* at 207.

EDF supports Staff's proposal to explore Dr. Nock's ideas in the Data Access Working Group. Staff IB at 152. In addition to Staff's recommendation to direct ComEd to continue discussions there, EDF asks ComEd to specify the data that ComEd gathers on customers and to be prepared to discuss how that data is stored and protected, and to identify what data is personal data for purposes of Section 16-108.6.

While EDF supports this idea, it also asks the Commission to acknowledge the impact of Dr. Nock's proposal on affordability, equity, and energy efficiency goals under ComEd's grid plan. Accordingly, EDF asks the Commission to include specific findings in its order that using data to identify high energy burden households and households exhibiting energy limiting behavior are exactly the type of uses of data contemplated by P.A. 102-0662's open, transparent, equity-focused grid planning framework.

f. JNGO's Position

JNGO witness Nelson recommends that the Commission look to other leading states to identify best practices for data access to achieve P.A. 102-0662's DER deployment and grid planning goals. Mr. Nelson recommends the New York Integrated Energy Data Resource ("IEDR") which serves as an independent statewide, centralized data platform consolidating customer, system, and other types of data from across New York's utilities.

ComEd agrees that data transparency and access are "a critical issue for customers," but argues that the Commission should reject intervenors' proposals on this topic and instead "bring such issues to the ongoing Data Access Working Group." ComEd

IB at 196. JNGO are willing to accept ComEd's recommendation to discuss this topic further within the Commission's Data Access Working Group so long as: (1) consideration of this "critical issue" is focused and time-bound, and (2) the discussions culminate in a rulemaking process that satisfies Section 16-105.17(f)(2)(K), which requires the Commission to "establish rules determining data or methods for Solution Sourcing Opportunities." 220 ILCS 5/16-105.17(f)(2)(K). Alternatively, the Commission could formalize the development of a digital data platform through a subsequent implementation plan docket, as contemplated by 220 ILCS 5/16-105.17(f)(6). One way or the other, the Commission must begin developing new tools and procedures to ensure that stakeholders have access to sufficient electric system data to meet P.A. 102-0662's grid planning objectives.

g. Commission Analysis and Conclusion

The Commission finds that the ongoing Data Access Working Group is the appropriate forum to discuss and collaborate on data access issues raised in this docket. The Commission recommends parties discuss the proposals related to data access offered in this docket during Data Access Working Group meetings. In particular, the Commission finds that further granularity of EDF's recommendation to collect data at the census block level should be explored as zip code level reporting can mute income disparities. The Commission is open to alternative reporting and data collection options. The Commission appreciates ComEd's agreement to continue participating in the Data Access Working Group and anticipates thoughtful proposals and solutions will develop from the continued collaboration.

The Commission disagrees with the proposals from BOMA to require ComEd to change its existing Anonymous Data Service in this docket. The existing Data Access Working Group is the best venue for dialog on that issue. ComEd and BOMA should discuss solutions for large energy consumers that allow access to real time energy consumption and system demand in the Data Access Working Group meetings.

The Commission agrees with JNGO's recommendation that the parties explore pathways to an independent statewide investigation into the value of establishing a dedicated digital platform to provide the Commission, market participants, and stakeholders with access to an integrated set of customer, system, market, and DER data. The Commission finds that the proposed digital platform should first be discussed informally with stakeholders in an attempt to reach consensus.

Parties are encouraged to continue collaborating through the Data Access Working Group despite this Grid Plan's rejection. The Commission would appreciate updates on the working group's progress and directs Staff to prepare a progress report discussing: (1) areas where consensus has been reached; (2) any issues that remain unresolved and any proposals related to such issues; and (3) any recommended actions by the Commission or a party. Staff shall submit this progress report to the Commission within one year of this Order.

Pursuant to the Commission's decision in Section V.A, the Commission finds that the Grid Plan does not comply with the requirements of the Act. ComEd is directed to include its commitment to explore areas of consensus within its refiled Grid Plan and engage with interested stakeholders in workshops on sharing of available data. The

Commission further directs ComEd to include in the Company's refiled Grid Plan a list of issues raised by parties and a commitment to transparently collaborate with parties in the Data Access Working Group, consistent with Section V.B.9. The Commission reminds parties, as discussed throughout this Order, that commitment to future stakeholder engagement processes does not constitute compliance with the Act.

3. Solar Programs & Education

a. ComEd's Position

ComEd observes that City witness Woods recommended that the Grid Plan incorporate an initiative on solar adoption in EIECs and multi-family housing, but she did not propose any details. City Ex. 1.0 at 25-27; EDF Ex. 3.0 at 5. As such, ComEd argues, the Grid Plan should not be modified in response to her testimony.

According to ComEd, City witness Woods provides that the City has fielded complaints that "multifamily housing residents do not receive the same value for on-site net metered energy as single family home residents with similar on-site generation." City Ex. 1.0 at 26. Nonetheless, ComEd notes, other than indicating that multi-family community solar is encompassed within ComEd's community supply tariff and that witness Woods uses the word 'parity' to "ensure that this issue is studied and addressed as part of the initiative," witness Woods provides no other details or recommended specific action to be taken by ComEd. *Id*. ComEd acknowledges that EDF witness O'Donnell and City witness Woods recommend that ComEd prioritize providing individual rooftop solar options to low-income customers and renters (EDF Ex. 10.0 at 3; City Ex. 2.0 at 11), but that is not feasible. ComEd notes that the City suggests this initiative would "begin with a forum for [ComEd] to listen to concerns regarding the issue, followed by co-creation of metrics to measure success of the initiative." City IB at 19.

ComEd further explains that its Grid Plan includes information and plans relating to rooftop and community solar, including: information on statutory incentives; how various types of solar are factored into demand forecasts; customer education and the provision of functional tools to help customers better evaluate and understand their options; modernizing infrastructure and using models to better enable rooftop solar and community solar; ComEd's paying for community solar credits on behalf of customers and managing the identification and enrollment of subscribers to projects; the Give-A-Ray program; assisting C&I customers that consume over 500 kW with, among other things, integration of community solar and utility-scale distributed generation; and interconnection of residential, commercial, and community solar. *See, e.g.*, ComEd Ex. 5.01 2nd Corr. at 16, 31, 33, 34, 39, 148, 177, 194, 224, 227, 247, 249, 683, 689.

ComEd also states that it provides its customers with extensive education about solar energy and information about available solar programs and plans to continue its efforts during the Grid Plan period. For example, ComEd states that it hosts a comprehensive source of solar education through its Green Power Connection website (comed.com/solar). ComEd Ex. 33.0 at 26. ComEd contends that it also engages in solar education through the distribution of marketing and communications campaigns that include bill inserts, direct mail and targeted emails. *See* ComEd Ex. 33.10. ComEd adds that it often partners with community organizations and attends events where ComEd often hosts a booth to spread awareness of solar benefits and technology. ComEd Ex.

54.0 at 21. Additionally, ComEd states it provides solar education to school age students and adults during tours of its training facilities. ComEd Ex. 54.0 at 21. Moreover, to the extent that there are venues where community organizers, stakeholders, or interested parties would like ComEd to appear and share solar education, including at libraries or after school programs, ComEd notes that its website permits those individuals to request a speaker from ComEd to do so. ComEd Ex. 54.0 at 21.

Nonetheless, ComEd maintains that it remains open to collaboration and further discussion regarding ways to improve outreach and education regarding solar programming. However, as ComEd concludes, none of EDF's proposals call for or warrant a modification to ComEd's solar programming and education or ComEd's Grid or Rate Plans. Therefore, ComEd contends the Commission should approve ComEd's Plans without modification.

ComEd further contends the Commission must reject the City's claim that inclusion of this initiative in the Grid Plan is required for ComEd to meet the requirements of P.A. 102-0662. ComEd notes that the City's Initial Brief makes unsupported assertions that ComEd's failure to incorporate the City's idea in its Grid Plan means that the Grid Plan fails to meet statutory requirements relating to supporting the achievement of emissions reduction and reasonably incorporating input from parties. But ComEd also points out that the City's assertions are unexplained, supported by no citation to any evidence, and incorrect. The Grid Plan reflects consideration of stakeholder inputs from, among other things, the Grid Plan Workshops; and contains numerous existing and new or enhanced initiatives that reduce or support the reduction of carbon emissions. *See, e.g*., ComEd Ex. 5.01 2nd Corr. at 20-22, 125, 163, 177, 192, 211, 216-217, 220-221.

Finally, ComEd contends the City's proposal for new metrics is legally unsound given the Commission already has established ComEd's performance and tracking metrics, which are part of the Grid Plan as required by P.A. 102-0662. ComEd notes the next performance metrics workshops and proceeding will be in 2025 and 2026, respectively. 220 ILCS 5/16-108.18(e); Docket No. 22-0067, Order, Amendatory Order (May 18, 2023); ComEd Ex. 5.01 2nd Corr. at 212-222. ComEd states there is no legal or evidentiary basis for directing ComEd to add to the Grid Plan a new initiative that lacks details or order the creation of undefined metrics. ComEd contends Commission decisions in a contested case must be based on the evidence in the record. 220 ILCS 5/10-103; 220 ILCS 5/10-201(e)(iv)(A).

ComEd concludes that the Grid Plan need not and should not be modified based on the City's concept.

b. Staff's Position

The City recommends the Commission direct ComEd to incorporate the Multi-Family Community Solar Parity Initiative as part of its Grid Plan, and the City claims that, absent such direction, the Company's Grid Plan fails to meet Sections 16-105.17(d)(8) and 16-105.17(f)(5)(B) of the Act. Staff believes the Company's Grid Plan satisfies Sections 16-105.17(d)(8) and 16-105.17(f)(5)(B) of the Act but, Staff supports the Commission directing ComEd to meet with the City to define what specific areas of support (*e.g*., technical expertise, customer outreach, education) the Company can provide for the Climate Action Plan and include findings to the Commission in the Annual

MYIGP Report. The 2022 Chicago Climate Action Plan (City Ex. 1.02) has approximately $41 million budget for decarbonization, but it is unclear how much of that amount would be applicable to multi-family versus industrial/library buildings. One concern Staff has is the potential for stranded investments in nonviable locations. Staff explains that meeting to focus on the City's specific plans and targeted locations should answer the question on the level and type of utility assistance needed to increase solar technology adoption.

c. EDF's Position

To develop individual rooftop installations, EDF recommends that ComEd focus on marketing and messaging. EDF Ex. 10.0 at 3-4. To make its programs and resources more easily understood and accessible, ComEd should demonstrate that it values diversity and culturally competent messaging by hiring professional services from diverse small business within its communities and go beyond relying on free advice and feedback from nonprofits. *Id*. at 4. This is just one way that ComEd can support efforts to bring benefits to EIECs and support a more equitable electric system generally. *Id*. at 5.

d. City's Position

The City submits that a Multi-Family Community Solar Parity Initiative is an essential component of the Grid Plan. The City maintains that access to community solar opportunities can be limited. The City cites EDF witness Adesope's testimony that "[m]any people, especially in low-income and middle-income and Black and Brown communities, are not able to access rooftop solar. Solar installation is costly and requires that you own a roof, which excludes [those] who rent." EDF Ex. 7.0 at 3. The City states that when asked whether ComEd or its consultants had performed any studies or analysis regarding barriers to solar adoption in EIECs for the development of the Grid Plan, the Company responded no. City Ex. 1.06. The City notes that community solar can enable access to clean energy resources without requiring citizens to pay for the equipment themselves. EDF Ex. 7.0 at 3.

In response to ComEd's assertion that "there is no disputed issue for the Commission to determine regarding ComEd's proposed Grid Plan (ComEd Ex. 5.01 2nd Corr.) or the [MYRP] in relation to the subject of ComEd's support of rooftop and community solar programs" (ComEd IB at 197), the City explains its expert's request that the "Commission require that the [Multi-Family Community Solar Parity Initiative] be incorporated as part of the Grid Plan." City Ex. 1.0 at 27. The City maintains that this initiative squarely fits within the parameters of the Grid Plan, citing many instances in the Grid Plan where ComEd plays a convening role to address a particular area of concern. *See, e.g*., ComEd Ex. 5.01 2nd Corr. at 228 ("ComEd participates in forums to engage with customers and gather feedback to better understand expectations and serve their needs."); *id*. at 688 (quarterly roundtables of community leaders); *id*. at 227 (periodic forums with solar developers and community stakeholders).

Here, the City explains that such a role is important to address the energy burden that many City residents experience. The City's expert presented analysis on the energy burden that disproportionately impacts City residents. City Ex. 1.0 at 19, fig. 3. The City states that a key tool to address this energy burden is through community wealth creation. The City's Climate Action Plan found that "better access to affordable and reliable energy" and "community wealth creation through the solar energy and battery storage economies" were among the priorities identified by Chicagoans. *Id*. at 25 (*citing* City Ex. 1.02 at 32). The City maintains that achieving the goal of community wealth creation cannot be fulfilled without an understanding of barriers to community solar programs, particularly for those City residents who live in multi-family housing.

The City argues that there is no dispute in this proceeding that there are barriers to joining multi-family community solar programs. The City's expert testified that she has "fielded concerns that multifamily housing residents do not receive the same value for on-site net metered energy as single family home residents with similar on-site generation." *Id*. at 26. ComEd witness Borggren acknowledges that "the economics of a multi-family community solar program are challenging, and there needs to be a broad conversation about how to reduce barriers to joining these programs." ComEd Ex. 35.0 at 44-45. She also details ComEd's work "to advance legislation to make it easier for low-income customers to join community solar programs." Id. at 44. The City also notes Ms. Borggren's statement that "ComEd will continue to do all we can in terms of education and outreach." *Id*. at 45.

In response to ComEd's criticism that the City's proposal lacks detail, the City asserts that ComEd misses the fundamental point of the initiative. As the City's expert explained, it works with community leaders to co-design and implement strategies that address EIECs' needs and shared vision for the future. City Ex. 1.0 at 13. At this stage, the City was not presuming to assert what those needs are, only that this issue should be addressed to bring to fruition the Climate Action Plan's finding on the importance of community wealth creation. The City explained that its expert specifically detailed a convening role for ComEd to bring together key stakeholders such as the IPA, Department of Commerce and Economic Opportunity, and other community-based organizations working in EIECs. City Ex. 2.0 at 12. Ms. Woods also stated that "ComEd could play an important leadership role by hosting regular, consumer-centered, educational sessions on this topic." *Id*. at 12.

For these reasons, the City urges the Commission to direct ComEd to incorporate a multi-family community solar parity initiative as part of the Grid Plan.

e. Commission Analysis and Conclusion

The Commission agrees that the Company's Grid Plan satisfies Sections 16-105.17(d)(8) and 16-105.17(f)(5)(B) of the Act if the Company meets with the City as proposed by Staff. However, pursuant to the Commission's decision in Section V.A, the Commission finds that the Grid Plan does not comply with the requirements of the Act. The Commission agrees with Staff's concern that there is the potential for stranded investments in nonviable locations if the City and ComEd do not coordinate their investments and initiatives. Staff explains, and the Commission agrees, that meeting to focus on the City's specific plans and targeted locations should answer the question on the level and type of utility assistance needed to increase solar technology adoption.

The Commission notes that ComEd has agreed to collaborate with EDF to provide further outreach and education surrounding solar. The Commission directs ComEd to address the City's and EDF's concerns, consistent with Section V.B.9, in the Company's refiled Grid Plan. The Company has a duty under Section 16-105.17(d)(8) to provide opportunities for public participation.

4. Meter Collar Adapters

a. ComEd's Position

ComEd argues that the Commission should approve ComEd's Meter Collar Adapter ("MCA") plan, as modified in rebuttal testimony and further clarified in surrebuttal testimony.

ComEd explains, National Electric Code-compliant, UL™-approved MCAs are devices that can be located between the utility's meter and the customer's electric panel and facilitate the deployment of certain kinds of DERs and EV chargers often with less wiring work than otherwise would be required. JSP Ex. 1.0 at 4. The meter, ComEd notes, is plugged into the MCA, which in turn is connected with the socket on the customer's premises. Certain DERs can be connected to the MCA. *Id*. at 35-36. ComEd further explains that the MCA may function as a shutoff mechanism in certain configurations. *Id*. at 36.

ComEd observes JSP witness Lucas recommended that ComEd allow MCAs for residential and small commercial customers, and he suggested that ComEd create a process for approving or disapproving a manufacturer's MCA within 60 days of the manufacturer submitting a request for approval, with certain other details. *Id*. at 4, 7, 35-39.

ComEd states that it agrees with JSP that MCAs have potential benefits for residential and small commercial customers. ComEd Ex. 35.0 at 36. However, as ComEd witness Borggren explained, ComEd must conduct a technical assessment of MCAs before deciding whether to adopt a permanent approval process and the specifics of that process. ComEd Ex. 35.0 at 2, 36-37; ComEd Ex. 56.0 at 25.

ComEd states that it must perform an evaluation (i.e., a technical assessment) of MCAs, as any equipment that is installed on the ComEd system must be evaluated through ComEd's equipment approval processes and procedures to ensure the safety of the public, ComEd personnel, and the reliability of the system. According to ComEd, it has complied with JSP witness Nelson's request for more specificity regarding the technical assessment. JSP Ex. 4.0 at 13. ComEd states it also plans to conduct additional discussions with interested stakeholders about the assessment process. *See* ComEd Ex. 35.0 at 2, 36-37; ComEd Ex. 56.0 at 25-26.

ComEd points out that both Staff and JSP appear to support the concept of ComEd performing a technical assessment of the MCAs. Staff Ex. 16.0 at 10-11; JSP Ex. 4.0 at 12-13. ComEd maintains, however, that confusion about the details of the MCA technical assessments emerge in Initial Briefs. ComEd states that Staff appears to misunderstand JSP's testimony when it suggests, for the first time in its Initial Brief, that there should be two technical assessments, one for utility-owned MCAs and one for customer and third-party owned MCAs. ComEd contends this is inconsistent with Staff testimony that supported ComEd's proposal of a technical assessment that includes both customer-owned and utility-owned MCAs. ComEd Ex. 56.0 at 24; Staff Ex. 16.0 at 10-11. ComEd concludes that the Commission should find that only one assessment is necessary and supported by the record.

ComEd points out there is also disagreement on the two timelines; in both cases, ComEd contends the Commission should adopt ComEd's recommendations, which are the only ones supported by the record evidence. ComEd states that, first, no party proposed a deadline in testimony by which time ComEd must complete the MCA assessment. ComEd notes that Staff's Initial Brief for the first time proposes that the Commission direct ComEd to conduct the assessment within 90 days after the final Order in this docket or any relevant Order on Rehearing. Similarly, ComEd notes that JSP for the first time proposes in its Initial Brief that ComEd should start conducting assessments within 60 days after the final Order in this docket without any explanation or citation to the record. ComEd contends that the record evidence does not support the assertion that the assessment can or should be constrained to be completed in a fixed number of days, such as 60 or 90 days. Instead, ComEd explains, the Commission should adopt ComEd's proposed 150-day deadline, which was proposed by a witness who has experience overseeing the development and execution of programs and technologies that ComEd offers to help customers manage their energy use. *See* ComEd Ex. 18.0 at 2.

ComEd states the Commission should also confirm that when ComEd approves MCA equipment submitted by manufacturers, ComEd should be able to approve the MCA equipment for use by customers, third parties, and the utility. ComEd points out that JSP's Initial Brief asks the Commission to "clarify" – meaning impose a restriction – that ComEd, in approving MCA equipment, is approving ownership and use by customers or third parties but not by the utility. JSP IB at 26-27. ComEd notes that JSP's Initial Brief suggests the rationale for that proposal is JSP's witness testimony that MCAs tend to be owned by customers and that MCAs on the customer side of the meter that connect to customer or third-party owned systems should not be utility-owned assets. ComEd alleges, however, that JSP provide no legal or factual basis for prohibiting ComEd from owning MCA equipment. ComEd therefore contends that any such request to make such a finding should be rejected.

b. Staff's Position

Staff, JSP, and ComEd appear to agree on the potential benefits MCAs provide. Staff explains that the point of contention is the timing of approval, the evaluation process of the devices, and the ownership of the devices. Staff asserts that the Commission should direct ComEd to work collaboratively with JSP and other stakeholders to work through implementation issues and conduct its technical assessment within 90 days of the final Order, or Order on Rehearing if this issue is implicated by rehearing, and prior to introducing MCAs into its system.

Staff believes that MCAs could be beneficial to the future of clean energy. JSP do not agree with ComEd's focus on utility-owned MCAs and instead feels ComEd should approve MCAs that meet industry standard for safety and reliability and do not interfere with or impair the communications or metering functionality of the Company's advance metering infrastructure. JSP Ex. 4.0 at 14. In surrebuttal testimony, ComEd provided further details about what to expect from its proposed technical assessment and provides a timeline of 150 days to evaluate and approve MCA equipment in response to concerns levied by JSP. ComEd Ex. 56.0 at 26.

Staff understands ComEd's concerns about introducing this new technology into its system and believes it should have an opportunity to evaluate MCAs prior to introducing them into its system. Staff Ex. 16.0 at 11. Staff points out that there are other jurisdictions that have introduced MCAs. There is also the opportunity to work with JSP and other interested intervenors on their deployment. Staff agrees with JSP that the focus during this process should remain on customer-owned and third-party owned MCAs. Staff also agrees with JSP that the evaluation of utility-owned MCAs may be unnecessary and should be independent of the evaluation and implementation of customer-owned MCAs. The Commission should direct ComEd to work with JSP and other interested intervenors on streamlining their technical assessment and approving MCAs submitted within 90 days.

c. JSP's Position

JSP argue that the Commission should approve their proposal to create a pathway for ComEd to review and approve individual meter collar models for use by customers. According to JSP, MCAs move the "electrical connection away from the home's main electric panel, [so] installers [of distributed energy resources] can at a minimum bypass complex wiring and in some cases entirely avoid the need for an electric panel upgrade." JSP Ex. 1.0 at 36. JSP aver that this shift can save thousands in DER installation fees and cut down installation time to as low as 30 minutes as well as support more sophisticated monitoring software. *See id.* at 36-37. JSP highlight that JSP witness Lucas testified that according to studies conducted in other service territories (including New York, Florida, and Maryland) there are identified savings in the vicinity of $400-1,500 per installation. *See id.* at 38.

According to JSP, the MYIGP must "be designed to . . . support efforts to bring the benefits of grid modernization and clean energy, including, but not limited to, deployment of distributed energy resources, to all retail customers . . . ." 220 ILCS 5/16-105.17(d)(3). JSP provide that in support of this goal and related to improving timelines for interconnection of DERs, JSP proposed that the Commission direct ComEd to review MCA equipment to allow customer- or third party-owned and operated MCAs to connect to ComEd's meters. *See* JSP Ex. 1.0 at 39. JSP posit that by substantially reducing the time and expense to interconnect small systems, MCAs meet the statutory and support the Interconnection performance metric.

JSP witness Lucas recommended that the Commission adopt a process for ComEd to approve individual MCA models for use by customers or third parties. *Id*. Mr. Lucas proposed that a 60-day approval process focus on meeting standards and minimum functionality necessary for safe operation — which should be a straightforward process given that MCAs can be UL-listed in confirmation with the National Electric Code and other utilities similarly approve meter collar models. *See id.* at 38-39.

JSP note that their proposal entails ownership of the MCA by the customer or a third-party — not ComEd. JSP refer to the testimony from Mr. Lucas stating:

> It is unclear why Company would contemplate owning MCAs for systems it does not own. On customer-owned or third-party owned systems, these devices are connected on the customer side of the utility's meter; they no more deserve to

> be utility-owned assets than the electrical service panel inside the customer's premise does.

JSP Ex. 4.0 at 14; *see also* JSP Ex. 1.0 at 36. JSP urge the Commission to clarify in its order that in approving MCA models, ComEd is approving for ownership and use by the customer or a third party — not ComEd.

JSP contend that ComEd agreed to review particular models of MCAs but requested 150 days to conduct their review. According to JSP, ComEd did not propose in its Initial Brief to study ComEd-owned MCAs, so JSP assume that ComEd has abandoned its proposal — although to the extent that ComEd did not, ComEd does not appear to provide any support in its Initial Brief to do so.

JSP highlight that Staff proposes that as a compromise that ComEd be allowed 90 days to review MCAs and that ComEd and JSP collaborate about the scope of review. According to JSP, they are always willing to collaborate with other parties that seek to discuss issues in good faith and thus support good-faith collaboration with ComEd. While JSP believe that 60 days is more than sufficient for a ComEd review of particular MCA models, JSP note a 90-day review is far preferable to the 150 days proposed by ComEd.

JSP urge the Commission to approve JSP's MCA proposal and order ComEd to begin their 60-day reviews within 60 days following the final Order in this docket.

d. Commission Analysis and Conclusion

With respect to customer or third-party owned MCAs, the Commission notes that there does not seem to be any dispute regarding their benefits or that ComEd should allow customers to install them. The only dispute seems to be the timeframe for the Company to review and approve models for customer or third-party installation. For this review, the Commission agrees with ComEd's proposed timeframe and urges ComEd to complete its review of MCAs submitted for approval within 150 days after submission. MCAs may be submitted to ComEd beginning 90 days after the final Order or an order on rehearing if MCAs are addressed on rehearing. The Commission encourages ComEd to collaborate in good faith with stakeholders, including JSP, during the 60 days prior to the first date when MCAs may be submitted.

For ComEd owned and installed MCAs, the record is not as clear. It is not even clear that the Commission must reach a decision in this docket regarding ComEd's use of MCAs. Thus, if Staff or any party determines that a Commission decision is needed regarding utility-owned MCAs, that can be submitted to the Commission in a separate filing for resolution.

5. EE Portfolio/Weatherization

a. ComEd's Position

ComEd argues that the Commission should reject the proposals by Staff, JNGO, and EDF to change ComEd's EE program portfolio and the current and future Energy Efficiency and Demand Response plans ("EE Plans"), which are approved by the Commission and governed by Section 8-103B(f). 220 ILCS 5/8-103B(f). Staff, JNGO, and EDF present commentary and proposals on those topics, but to address those subjects here would be improper and there is no need or good reason to do so, ComEd contends.

ComEd explains that Section 8-103B(f) of the Act governs the process for Commission review and approval or modification of ComEd's EE Plans. ComEd notes that Section 8-103B(f) directs a four-year cycle for utility filing and Commission establishment of the EE Plans. ComEd points out that in 2021, as required by Section 8-103B(f)(2), ComEd filed its proposed EE Plan for 2022-2025, and the Commission approved the plan as modified in Docket No. 21-0155. *Commonwealth Edison Co*., Docket No. 21-0155, Order (June 24, 2021), Order on Reopening (May 12, 2022). In 2025, as required by Section 8-103B(f)(3), ComEd will file its proposed plan for 2026-2029, and the Commission will review and establish that plan.

ComEd argues that there is no basis for reading Section 16-108.18 of the Act on "performance-based ratemaking," and, in particular the provisions regarding the multiyear rate plans, as a second vehicle for modifying or establishing an EE Plan. ComEd observes that Section 8-103B contains references to "multi-year plan[s]", but all references are to the multi-year EE Plans, not to multi-year distribution grid and rate plans. *See, e.g*., 220 ILCS 5/8-103B(a), (a-5). ComEd further contends that none of those provisions authorizes revisions to, or establishing portions of, an EE Plan in a multi-year distribution rate case. ComEd adds that Section 8-103B does not refer to multi-year rate cases or to Section 16-108.18. Similarly, ComEd notes that Section 16-108.18's MYRP provisions do not refer to EE plans or to Section 8-103B. To read Section 16-108.18 to be a second mechanism for modifying or establishing an EE Plan would put Section 16-108.18 in conflict with the exclusive mechanism established by Section 8-103 B, ComEd argues. ComEd reasons that they must be kept separate in keeping with the Illinois general principles of statutory construction that different sections of the same statute should be read to avoid an inconsistency and should be construed together with the rest of the statute to produce a harmonious whole that gives each provision meaning, when reasonably possible. *See, e.g., Bd. of Ed. v. Moore*, 2021 IL 125785, ¶ 40.

ComEd contends that, in any event, there also is no need or good reason for the Commission to entertain EE program portfolio proposals in this docket. ComEd observes that several witnesses make various recommendations that ComEd develop or offer certain demand response and EE portfolios and programs. *See, e.g*., Staff Ex. 13.0 at 35 (proposing that ComEd should have a portfolio of demand response initiatives, such as air conditioner cycling programs and rebates for energy-efficient equipment and appliances); JNGO/EDF Ex. 6.0 at 41-42; EDF Ex. 2.0 at 11 (recommending that ComEd provide EE investments and weatherization to low-income households). ComEd notes that it already has such portfolios and programs, which are governed by Section 8-103B. *E.g*., ComEd Ex. 35.0 at 38-41.

ComEd notes that Staff witness Brightwell agrees with ComEd that weatherization is an EE issue and that intervenor proposals related to weatherization are more appropriately addressed in ComEd's EE dockets. Staff Ex. 32.0 at 4-5.

Accordingly, ComEd concludes that the Commission in this docket should not entertain proposed changes to ComEd's EE program portfolio and the processes for establishing that portfolio governed by Section 8-103B(f) of the Act, and the same is true of weatherization proposals.

Finally, ComEd notes that EDF suggested the Commission should initiate a separate proceeding to discuss its witnesses' weatherization and EE proposals. However, ComEd explains that ComEd and Staff disagree, and instead recommend that any proposals regarding the EE program portfolio and weatherization be addressed in ComEd's EE dockets.

b. Staff's Position

Staff agrees with ComEd's position that weatherization and workforce development would more appropriately be addressed in ComEd's EE dockets as this is an EE issue. Therefore, Staff recommends that the Commission defer any policy positions until weatherization can be considered in the context of all the other issues of the Company's EE plan during the next EE plan docket. Staff Ex. 32.0 at 4-5.

c. EDF's Position

As addressed in Section V.B.6, EDF asserts that ComEd improperly ignores evidence presented by EDF and others on ways weatherization and other EE measures can contribute to P.A. 102-0662's EE, affordability, equity, and environmental goals. According to EDF, the Commission must firmly reject ComEd's unsupportable assertion that discussion of EE is somehow "improper" in grid cases, as P.A. 102-0662's plain language specifically requires evaluation of the ways in which a grid plan meets Illinois' energy efficiency goals. 220 ILCS 5/16-105.17(d)(9).

d. Commission Analysis and Conclusion

Section 16-105.17(d)(9) of the Act states that the Grid Plan must "support existing Illinois policy goals promoting the long-term growth of energy efficiency, demand response, and investments in renewable energy resources." 220 ILCS 5/16-105.17(d)(9). The proposals regarding weatherization and EE are appropriately addressed in ComEd's EE Plan proceedings. ComEd is directed to address stakeholder concerns and proposals in its Energy Efficiency Plan proceedings.

6. EEUP/Pay as You Save

a. ComEd's Position

ComEd argues that the Commission should not intervene in the ongoing stakeholder process for development of the Equitable Energy Upgrade Program ("EEUP"), as proposed by JNGO/EDF witness Nock. JNGO/EDF Ex. 6.0 at 41, *et seq*.

ComEd observes that JNGO/EDF witness Nock suggests consideration of an energy efficiency upgrade program that might be modeled on the Pay As You Save ("PAYS") program. *Id.* ComEd contends that the Commission should not entertain proposals regarding a potential EE upgrade program, including a program modeled on PAYS. First, ComEd notes that JNGO/EDF witness Nock fails to identify a need or a good reason for pursuing the proposal in this docket. ComEd Ex. 35.0 at 41; ComEd Ex. 56.0 at 30. Second, ComEd, Staff, and a host of other stakeholders are about one year into a collaborative Commission-led workshop on the EEUP, which is partially modeled on the PAYS program, that is required by Section 16-111.10 of the Act. ComEd Ex. 35.0

at 41; 220 ILCS 5/16-111.10. ComEd posits that entertaining here a separate energy upgrade program idea modeled on PAYS would be inconsistent with Section 16-111.10, inconsistent with the statutory interpretation principles discussed in Section VII.B.5, above, a highly duplicative effort, and, if it were to lead to different results, could be problematic in terms of costs and confusion for the utility and customers.

Finally, ComEd points out that Staff witness Moradeyo agrees that JNGO/EDF witness Nock's proposal should not be addressed in this docket. Staff Ex. 34.0 at 10. ComEd notes that ComEd and Staff agree that, if JNGO/EDF wish to pursue their recommendation relating to EE updates and the PAYS model, then JNGO/EDF should do so in the ongoing EEUP workshops organized by Staff. Staff IB at 156-157.

b. Staff's Position

Staff recommends JNGO pursue the recommendation regarding the adoption of the PAYS model in the Commission workshops on the EEUP because discussions surrounding the PAYS system are ongoing as part of the workshops, making them a more suitable platform for addressing the PAYS model. *Id.* Staff recommends the Commission reject JNGO's proposal related to the PAYS model and encourages JNGO to participate in the EEUP workshops. Staff IB at 157-158.

c. Commission Analysis and Conclusion

The Commission recognizes this issue is currently being discussed in the Commission's ongoing EEUP workshops and is not ripe for consideration. Moreover, the Commission notes JNGO did not brief this issue and deduces JNGO no longer wishes to pursue its proposal. Therefore, the concerns expressed by ComEd and Staff need not be addressed at this time.

7. Non-Residential Meter Changeout

a. ComEd's Position

ComEd states there is no remaining dispute between ComEd and Staff regarding ComEd's proposal to shift away from its current eight-hour replacement cycle for non-residential AMI meters and to move to a fully randomized sampling schedule. ComEd claims that, pending Commission approval in Docket No. 23-0474, ComEd will adjust the revenue requirement to reflect any savings associated with the shift to a randomized sampling schedule for non-residential meter replacements. Staff witness Lounsberry concurs with this approach, and ComEd concludes that it should be approved by the Commission. *See* ComEd Cross Ex. 1.0 at 157. ComEd states it anticipates that the Commission will issue an order in Docket No. 23-0474 before December 2023. As such, ComEd plans to remove the avoided meter purchase costs from its compliance filing and states that ComEd has updated its revenue requirement accordingly. *See* Appendix A to ComEd's RB, Schedule 1.02 at. 13 for 2024-2027, Adjustments to Operating Income at 2 for 2024, and Adjustments to Rate Base at 5 for 2024-2027.

It is ComEd's expectation that a shift to a randomized sampling schedule will result in avoided meter purchases costs in the amount of approximately $3.4 million annually ($13.6 million over Grid Plan period). ComEd Ex. 54.0 at 27; Staff IB at 157-158. ComEd explains that O&M expenses (*e.g.,* labor) would not be reduced; and instead would be reallocated to "reduce service backlogs, such as non-compliant services and business installations." *Id*. at 27. ComEd notes that Staff witness Lounsberry concurs with ComEd's estimated savings. *See* ComEd Cross Ex. 1.0 at 157. ComEd adds that the projected avoided costs are wholly contingent on Commission approval of ComEd's petition for waiver and that matter has not yet been resolved.

b. Staff's Position

Staff and the Company agree as to the reduction in capital expenditures that ComEd will experience if the requested meter waiver is approved by the Commission, with the projected reductions being $3,344,966 in 2024; $3,429,957 in 2025; $3,517,210 in 2026; and $3,606,683 in 2027. ComEd Cross Ex. 1.0 Pub. at 157.

While Staff and ComEd agree on the amount of savings, Staff and ComEd disagree as when and how the savings from the potential meter waiver program requested in Docket No. 23-0474 should be addressed in the MYRP. Staff proposes to include them now, whereas ComEd wishes to wait to account for the savings in a compliance filing, after the Commission issues a ruling in the meter waiver docket. The Commission should accept Staff's recommendation to account for the projected annual savings associated with approval of ComEd's petition in Docket No. 23-0474 in this proceeding because it will help smooth rate impacts and promote administrative efficiency. Staff IB at 157-158.

c. Commission Analysis and Conclusion

ComEd's proposal to shift away from its current eight-hour replacement cycle for non-residential AMI meters and to move to a fully randomized sampling is no longer contested. The Company and Staff agree to the reduction in capital expenditures that ComEd will experience from ComEd's meter waiver in Docket No. 23-0474. The Commission approved the Company's waiver in Docket No. 23-0474 on September 28, 2023; therefore Staff's adjustment should be reflected in ComEd's refiled Grid Plan.

The Commission also agrees with Staff's proposal to reflect the avoided costs in the final revenue requirement. Staff Ex. 5.0 at 39. ComEd states it agrees to adjust the revenue requirement to reflect these avoided costs. ComEd IB at 204-05; ComEd Cross Ex. 1.0; Staff IB at 157-58. However, for the reasons described in Section V.A above, the Commission directs this proposal to be addressed in the refiled Grid Plan.

8. Dedicated Staff Member for City of Chicago Climate Action Plan

a. City's Position

The City urges the Commission to grant its request for additional ComEd staff specifically dedicated to coordinating the Climate Action Plan's objectives with the Grid Plan. The City cites ComEd's acknowledgement that success of the Grid Plan "will require the human, financial, and technical resources to support that innovation and investment." ComEd IB at 2. The City also notes ComEd's statement that "[a]s an electric delivery utility, ComEd's role in the transition to a decarbonized economy is primarily one of support." *Id*. at 26. The City explains that this is precisely its ask here — human support to help coordinate ComEd's Grid Plan with the City's Climate Action Plan. The City specifically requests one ComEd staff person with the appropriate level of technical expertise who can serve as the point of contact to facilitate coordination with the City across all of its departments and sister agencies. City Ex. 1.0 at 24.

The City argues that ComEd concedes the relevance and importance of the Climate Action Plan in this case. *See* ComEd Ex. 7.03 at 29. The City states that achieving those targets demands more than just an academic assessment. The City explains that the Climate Action Plan is enshrined in the Municipal Code of Chicago, which directs "the City's Chief Sustainability Officer and the Office of Climate and Environmental Equity to guide all City departments and sister agencies to achieve the results of the Climate Action Plan." City IB at 20 (*citing* City Ex. 1.0 at 7). The City notes that there are several City departments and sister agencies, including the City Colleges of Chicago, Chicago Public Schools, CTA, and Office of Emergency Management and Communications, among many others, who are required to achieve the results of the Climate Action Plan. City Ex. 1.0 at 4-5.

The City states that even a cursory review of the Grid Plan demonstrates that implementation will require significant coordination and numerous touchpoints with the City. For example, ComEd states it "will work with the City Colleges of Chicago to develop more expansive clean energy and electrification focused training and support on the South side of Chicago…." ComEd Ex. 5.01 2nd Corr. at 195. ComEd also acknowledges that public transportation resiliency requires coordination with the CTA's efforts to electrify bus fleets. *Id*. at 207. Implementation of ComEd's PSCFA will require coordination with the Chicago Public Schools. *Id*. at 192. As the City's expert made clear, the success of these programs will require dedicated time and resources from both the City and ComEd. City Ex. 1.0 at 24-25.

The City cites CTA's argument that "ComEd's Grid Plan is equally non-responsive to the CTA's electrification of its 1,800 diesel buses and the electrical upgrades needed at the CTA's seven bus garages." CTA IB at 9-10. CTA further explains that "[i]n response to CTA Data Request 4.01 (CTA Ex. 1.04) as to whether the Grid Plan included the addition of the charging facilities, ComEd responded it did not 'explicitly consider' individual plans of customers. ComEd asserts that 'information pertaining to investment impacts for particular classes of customers is not relevant and is outside the scope of these proceedings.'" *Id*. at 10 (*citing* CTA Ex. 3.01). The City maintains that this has implications for the goals set forth in the Climate Action Plan, which incorporates a key strategy of enabling zero-emission transit and fleets. City Ex. 1.02 at 85.

The City adds that the paradigm shift ushered in by P.A. 102-0662 demands that the Commission think differently about its traditional approaches to grid planning and rate making. The City explains that ComEd's simplistic view of the City's request — that it is not one appropriately addressed in a rate case — ignores P.A. 102-0662's requirement to holistically plan for the changing grid. 220 ILCS 5/16-105.17(f)(4)(H). Moreover, as the Commission has previously found, the test year full-time equivalent level "should be derived from objective observations of what the Company anticipates its workforce will need to address in the test year and beyond." *N. Ill. Gas Co. d/b/a Nicor Gas Co*., Docket No. 18-1775, Order at 78-79 (Oct. 2, 2019). Thus, the City maintains that specifying that one ComEd point person with the appropriate level of technical expertise who will coordinate with the City across all of its departments and sister agencies should be part of the workload the Company anticipates its workforce will need to address in 2024-2027.

The City avers that the final two arguments ComEd offers against this position fail under scrutiny. First, in response to ComEd's assertion that "it is not clear how this request would be appropriately implemented" (ComEd IB at 206), the City maintains that this is already resolved by the record evidence in this case. As the City's expert testified, "[t]he City Office of Emergency Management and Communications ("OEMC") has a dedicated ComEd staff member. This arrangement has been very helpful to coordinate an efficient, coordinated response for residents and businesses in emergency situations." City Ex. 2.0 at 11. As Ms. Woods testified, "ComEd has offered no explanation as to why it can embed a Staff person in OEMC but cannot commit a dedicated Staff person to assist with achieving the objectives in the 2022 Climate Action Plan." *Id*. at 11.

Second, in response to ComEd's claims that other municipalities may also have an "interest in emerging technologies and practices to achieve climate goals" (ComEd IB at 206), the City states that this is no reason to deny its requested relief here. Here, the City has offered several reasons why this position is necessary, including the complexity of the climate crisis, the level of coordination needed across the City's departments and sister agencies, and the need for collaboration between the City and its electric utility. City Ex. 1.0 at 25. Furthermore, the City highlights that ignoring the City's request here would mean ignoring nearly 1/3 of the 9 million residents served by ComEd. City Ex. 1.02; ComEd Ex. 5.01 2nd CORR at 9.

The City emphasizes that its Climate Action Plan details what is at stake if we do not effectively address the climate crisis. The City urges the Commission to rise to the challenge of what is needed to address the climate crisis and grant its request on this issue.

b. ComEd's Position

ComEd contends that the Commission should deny the request of the City to require ComEd to dedicate staff to working with the City on the objectives set forth in the City's Climate Action Plan. City Ex. 1.0 at 3, 23-24. ComEd further contends the City's claims that a dedicated staff member is required for ComEd to meet the requirements of P.A. 102-0662 are not supported by the law and should be rejected. As ComEd explains, P.A. 102-0662 requires ComEd to support the achievement of the "emissions reductions required to improve the health, safety, and prosperity of *all* Illinois residents," not just those that are covered by the City's Climate Action Plan. 220 ILCS 5/16-105.17(d)(8) (emphasis added). ComEd notes that the City is only one of 450 municipalities that ComEd serves. ComEd Ex. 45.0 at 24. While ComEd looks forward to collaborating with the City to achieve the City's objectives, ComEd states at this time it's not clear how this request would be appropriately implemented given it's ComEd's understanding that the City is not requesting non-standard service. ComEd Ex. 24.0 Corr. at 9. ComEd explains that this is particularly important for ComEd to understand since there are other municipalities ComEd serves that ComEd knows have an interest in emerging technologies and practices to achieve climate goals. *Id*. ComEd concludes that, while ComEd is committed to understanding more about the City's needs, such an issue is not one appropriately addressed in the context of the Grid and Rate Plans.

c. Staff's Position

The City recommends the Commission direct ComEd to dedicate a staff member to help coordinate with the City on the implementation of the Climate Action Plan. Staff has concerns with this recommendation. The dedication of ComEd staff without planned specific objectives (e.g., technical expertise, customer outreach, education) with respect to the City's Climate Action Plan seems to be premature at this time. Given the lack of sufficient information from ComEd, Staff finds it difficult to support this recommendation.

d. Commission Analysis and Conclusion

The Commission agrees with the concerns raised by ComEd and Staff. The Commission understands the City's Climate Action Plan involves coordination between ComEd, the City, and several sister agencies. The City's resources dedicated to Climate Action Plan provides ComEd with opportunities for ready engagement with representatives of its largest single consumer jurisdiction, as well as access to useful data and potential initiatives, especially in priority communities. While the Commission will not define ComEd's staffing, ComEd's Grid Plan should not ignore such empowerment opportunities. The Commission encourages the parties to collaborate on a means to address any specific needs while utilizing the wealth of expertise ComEd currently employs. However, for the reasons described in Section V.A above, the Commission declines to make a finding on the merits of this proposal at this time.

VIII. POST FINAL ORDER EVENTS

A. Reporting

1. Metrics Reporting

a. ComEd Position

ComEd observes that Staff and intervenors recommend that it implement an Equity Reporting Framework, which was developed by JNGO/EDF witness Pereira and Staff witness Jenkins in Ameren's Grid Plan docket, Docket Nos. 22-0487/23-0082 (Consol.). ComEd points out that it is not a party in that proceeding. ComEd argues that the Commission should reject the Equity Reporting Framework as it is unnecessary to support the efforts to bring 40% of the benefits of a clean energy transition to EIECs in ComEd's service territory.

ComEd notes that the majority of the proposed content for the Equity Reporting Framework report relates to performance and tracking metrics, approved by the Commission in Docket No. 22-0067 and incorporated into ComEd's Rider PIM - Performance Incentive Metrics ("Rider PIM"), which already involve numerous reporting and tracking requirements. While ComEd has no objection to sharing information on how its investments positively impact EIECs, a new reporting requirement that is largely, if not entirely, duplicative of other reporting requirements is not a good use of resources for ComEd, Staff, and interested stakeholders, ComEd contends. Notwithstanding the foregoing, ComEd states it is committed to engaging with Staff and interested stakeholders outside of this proceeding on the topic of reporting on benefits for EIECs and how existing reports may be leveraged.

ComEd also opposes Staff's recommended language for the final Order related to annual evaluation of the seven performance metrics approved in Docket No. 22-0067 because it is outside the scope of this proceeding. While ComEd is not opposed to these requirements, issuing orders regarding requirements from the separate performance and tracking metrics docket (Docket No. 22-0067) is not appropriate in this proceeding. Staff could have raised this request in that docket but did not do so. ComEd asserts that this recommendation should be disregarded.

b. Staff's Position

The Commission should approve Staff's proposed language concerning annual performance evaluation reports. Section 16-108.18(d)(11) states, "[t]he Commission shall establish requirements for annual performance evaluation reports to be submitted annually for performance metrics. Such reports shall include, but not be limited to, a description of the utility's performance under each metric and an identification of any extraordinary events that adversely affected the utility's performance." 220 ILCS 5/16-108.18(d)(11). Staff recognizes this is a requirement and recommends the Commission approve the Staff proposed provisions in its final Order in this proceeding regarding requirements for annual performance evaluation reporting. Staff Ex. 1.0 at 6. This reporting serves to satisfy Section 16-108.18(d)(11) and appears to be uncontested.

c. JNGO's Position

JNGO take issue with ComEd's characterization of Dr. Nock's recommendation to report data at the census block group level as "largely redundant" of ComEd's current reporting at the zip code level. ComEd IB at 206. Several JNGO witnesses have explained why census block group level data is much more helpful than zip code data to serve P.A. 102-0662's equity goals. It is not "largely redundant" for ComEd to provide less helpful zip code data. ComEd has not met its burden of supporting its position on data reporting with credible evidence in the record. JNGO argue that the Commission should direct ComEd to report equity data at the census block group level, as Ameren has agreed to do in Docket No. 22-0487.

d. LVEJO's Position

LVEJO witness Pino supports requiring ComEd to collect data at the census block level. LVEJO witness Pino stated: "The extra granularity of using census blocks helps to better describe EIEC areas [and is] the preferred standard for EJ mapping and EJ community identification. Both the EPA and IPA use census blocks, rather than zip codes for their own EJ community identification." LVEJO Ex. 2.0 at 3. LVEJO point out that this does not need to be applied to all topics or areas of ComEd's service territory and can be combined with templates from existing online portals to prevent reports from becoming too unwieldly.

e. EDF's Position

EDF states that ComEd admits it has not conducted a cost estimate of providing data on the census block level instead of the zip code level. ComEd IB at 207. It has therefore concluded, on its own, without a benefit-cost analysis, in direct contradiction of P.A. 102-0662's requirement to "maximize" the sharing of information, Section 16-

105.17(a)(4), and in direction contradiction to the multiple parties seeking data at the census block level, that it will not report data at the census block level.

EDF avers that reporting data at the zip code level mutes income disparities, which impedes proper calculation of energy limiting behavior, a key indicator of energy poverty. JNGO/EDF Ex. 6.0 at 27. Data access and transparency is important to allow local citizens, journalists, and community organizations to identify and solve disparities resulting from the energy system. EDF Ex. 3.0 at 3-4.

EDF notes that ComEd is alone in opposing the Equity Reporting Framework, arguing that the Equity Reporting Framework goes beyond the metrics reported in Docket No. 22-0067. The fact that some of the data is already collected and available makes it that much easier for ComEd to include or reference. Further, even if some of this information is included in other reports, EDF agree with LVEJO's observation that "having this information in an equity focused report will ensure this information is more accessible and transparent for stakeholder organizations that are primarily focused on equity issues." LVEJO IB at 4.

f. Commission Analysis and Conclusion

Pursuant to the Commission's decision in Section V. A., the Commission finds that the Grid Plan does not comply with the requirements of the Act. Specifically, ComEd's Grid Plan does not comply with the EIEC and EJ Community benefits requirements in Section 105.17(d)(3) (*see* Section V.B.1 of this Order). Therefore, the Commission directs ComEd to use the Staff/EDF Equity Reporting Framework Strawman Proposal ("Strawman") as a starting point and to propose a stakeholder engagement strategy to refine this Framework in the Company's refiled Grid Plan consistent with Section V.B.1.

The Commission notes that EDF's proposed data access issues are discussed above in Section VII.B.2, but reiterates that data access issues are appropriately addressed first in the Data Access Working Group.

Staff and ComEd agree the Company will submit the Annual MYIGP Report by April 1 of each year, beginning in 2025. No other party presented testimony on this matter and this issue is uncontested.

As far as changes to the annual reporting on performance metrics, the Commission agrees with ComEd that those issues were litigated and decided in Docket No. 22-0067. However, the Commission also notes that ComEd does not object substantively to Staff's proposal. Accordingly, in response to the requirements of Section 16-108.18(d)(11) and (f)(1), the Commission orders the Company to file annual performance evaluation report(s) to be submitted by February 15 in Docket No. 22-0063. Such reports shall include, but need not be limited to:

- Description of the utility's performance under each performance metric;
- Identification of any extraordinary events, as identified by the utility, that adversely affected the utility's performance;
- A brief description of all data supporting how the utility performed under each performance metric; and

- Staff and ComEd may agree to revise the categories of information provided in this performance evaluation report annually, no later than 120 days prior to the next February 15th report filing.

2. Consolidated Grid Plan Reporting

a. ComEd Position

ComEd states that the Commission should approve the additional Grid Plan reports developed and agreed to by ComEd and Staff. In response to Staff witness Jenkins's request for an annual report on Grid Plan activities ("MYIGP Report") by April 1st of each year in conjunction with the 4th Quarter Rate Plan Report required under Section 16-108.18(f)(5) of the Act, ComEd states that it has agreed to submit two reports after the end of each year: the MYIGP Report and the 4th Quarter Rate Plan Report. Staff Ex. 8.0 at 5-6; ComEd Ex. 24.0 Corr. at 10.

In response to Staff witness Rearden's recommendation that the annual MYIGP Report evaluate all projects for NWAs against objective criteria, ComEd posits that this recommendation is unnecessarily redundant because ComEd will already be tracking and reporting on NWAs to satisfy Tracking Metric 5, approved by the Commission in Docket No. 22-0067. ComEd Ex. 24.0 Corr. at 11. ComEd points out that it is currently developing a new benefit-cost analysis tool specifically for use with NWAs, which will allow ComEd to utilize a consistent methodology, assumptions, and allow for scenario analyses capturing uncertainty. ComEd Ex. 29.0 at 82. However, ComEd adds, evaluation of every investment for NWAs as recommended is beyond what is required by P.A. 102-0662 and generally impracticable.

In response to several parties - City witness Woods, EDF witness Adesope, JNGO witness Volkmann, and Staff witness Dhankher – ComEd notes that they recommend that ComEd report on how specific investments increase DER hosting capacity in the MYGIP Report. ComEd contends that it cannot provide this level of detail at this time, because ComEd is not aware of established standardized measures for assessing the impact of individual investments on DER hosting capacity. ComEd Ex. 24.0 Corr. at 12. However, ComEd adds, it is committed to working with Staff on appropriate methods of reporting this information. In line with that commitment, ComEd states that it will provide a discussion of how its investments generally support DER hosting capacity in its annual MYIGP Report. ComEd Ex. 24.0 Corr. at 11-12.

ComEd also observes that Staff witness Antonuk recommends ComEd include in its MYIGP Report DER and electrification forecasts under various scenarios. Staff Ex. 13.0 at 35-36. At this point in time, ComEd notes it is making investments in a new load and DER forecasting tool as outlined in the Grid Plan which will enhance its capability to develop a wide range of scenarios for distribution system planning, including load, DER, and electrification forecasts. ComEd Ex. 24.0 Corr. at 12; ComEd Ex. 29.0 at 86. ComEd witness Mondello testified that the new forecasting tool "will allow ComEd to capture the impact of uncertain variables more effectively on planning outcomes including required investments." ComEd 29.0 at 86. According to ComEd, once the forecasting tool is finished, ComEd will work with Staff and stakeholders to evaluate the need for additional forecasting scenarios. ComEd Ex. 24.0 Corr. at 12. However, it is simply too premature to contemplate including additional forecasting scenarios at this time, ComEd adds.

Therefore, ComEd concludes that the Commission should not require that ComEd provide these reporting requests for the reasons provided.

b. Staff's Position

Staff recommends the Commission approve annual consolidated reporting of MYIGP related activities and budget and other performance outcomes as proposed by Staff. The Annual MYIGP Report should be submitted by April 1st of each year, beginning in 2025, to the Directors of the Commission's Integrated Distribution Planning Division, Safety & Reliability Division, and Financial Analysis Division and filed in the Company's MYIGP docket for which the reporting year approval pertains (e.g., the MYIGP Reports summarizing 2024 performance would be filed in Docket Nos. 22-0486/22-0055 (Consol.)). Staff Ex. 8.0 at 5. This Annual MYIGP Report should provide specific, public facing information on the implementation of MYIGP activities; promote course corrections when progress does not match expectations; promote transparency and accountability for ratepayers' investment; provide a platform to holistically assess costs and benefits as the MYIGP develops; and help ensure that lessons learned can be used to inform improvements in the current MYIGP as well as future MYIGP updates. *Id*. Staff and ComEd agree the Company will submit the Annual MYIGP Report by April 1st of each year, beginning in 2025.

Staff further recommends that the Commission direct ComEd to report, in the Annual MYIGP Report, on the hosting capacity increases resulting from expenditures under the MYIGP, traced to a specific project or investment to the maximum extent possible. Staff Ex. 27.0 at 11. ComEd rejected the recommendation to provide annual reports of hosting capacity increases in the Annual MYIGP Report, stating that specific investments cannot be tied to a specific hosting capacity calculation, but indicated the Company is open to continuing discussion with Staff and stakeholders in existing forums, such as the Interconnection Working Group, as to how ComEd's investments impact hosting capacity.

ComEd also states that it cannot provide this level of detail at this time, because it is not aware of established standardized measures for assessing the impact of individual investments on DER hosting capacity. Staff disagrees. The lack of specific information concerning how much MYIGP investments increase hosting capacity undermines transparency, which is one of P.A. 102-0662's core objectives. *See* ILCS 220 ILCS 5/16-105.17(a). The lack of information concerning increased hosting capacity benefits precludes an evaluation of the effectiveness of any such investment with regard to improved hosting capacity and calls into question the need for and benefits of the MYIGP investments purported to enhance hosting capacity. Staff Ex. 11.0 at 9. Furthermore, this information should be included in the Annual MYIGP Report as it will better enable the Commission to quantify and review hosting capacity increases. *Id*. at 10. Providing hosting capacity increases in the Annual MYIGP Report would foster greater accountability, transparency, and serve to demonstrate how increases in hosting capacity enables DER penetration and advances P.A. 102-0662's goals.

c. JNGO's Position

JNGO agree with Staff's recommendations regarding Consolidated Grid Plan Reporting. The Commission should memorialize ComEd's commitment to work with Staff in its final Order and direct ComEd to file a progress report within one year.

d. City's Position

The City fully supports Staff's request that ComEd "work with Staff and interested stakeholders to come up with an agreed methodology to quantify the hosting capacity increases from specific investments and then start including the impacts in the Annual MYIGP Report and future MYIGP filings." Staff IB at 160. For these reasons, the City asks the Commission to direct ComEd to report, in the annual MYIGP Report, on the hosting capacity increases resulting from expenditures under the MYIGP, traced to a specific project or investment to the maximum extent possible.

e. EDF's Position

EDF appreciates ComEd's commitment to working with Staff on appropriate methods of reporting DER hosting capacity. EDF asks the Commission to order ComEd to also work with other stakeholders, including Mr. Adesope and Blacks in Green.

f. Commission Analysis and Conclusion

The Commission generally supports the agreed-upon reporting requirements. Therefore, the Commission agrees with the Rate Plan reporting requirement. However, because this Grid Plan is rejected (*see* Section V.A), ComEd need not begin filing annual MYIGP reports until a Grid Plan is ultimately approved.

3. Budget Variances of IT Projects

ComEd agreed with Staff to report on IT projects with a budget of $2 million or more when there is a variance of 10% or greater in the difference between the original budgeted amount and the actual spend amount based on the budget set at the beginning of each project. Staff agreed with ComEd that it should not be required to provide specific data fields in the report as Staff and ComEd have committed to working together to determine the appropriate data fields for inclusion in the variance reports. ComEd Ex. 45.0 at 19; ComEd Ex. 45.02; Staff Ex. 22.0 at 2.

The Commission notes that this issue is uncontested between ComEd and Staff. The Commission agrees with the commitment to work together to determine the appropriate reporting structure.

B. Benefits Workshops

1. ComEd's Position

ComEd observes that parties devote a significant amount of discussion in testimony to the question of whether certain investments, categories of investments, or the Grid Plan as a whole are "cost beneficial." As discussed in Section V.B.4, above, ComEd argues that its Grid Plan is cost-effective, in accordance with the relevant statutory requirements. *See* 220 ILCS 5/16-105.17(d)(1), (d)(7). However, ComEd adds, given the focus in this docket on attempts to standardize the approach to evaluating benefits and costs of future Grid Plans, ComEd proposes to engage in discussions with stakeholders regarding the categories of benefits and costs that should be considered, the method of calculating those benefits and costs, the proceedings to which those calculations are relevant, and other questions. ComEd Ex. 26.0 at 59-60; ComEd Ex. 47.0 at 5. ComEd also suggests that, after those discussions among stakeholders, the Commission consider opening a proceeding to formalize the approach to benefit-cost analysis and address these issues. ComEd Ex. 26.0 at 60.

ComEd states that the parties appear to agree that this process would be valuable, although there is some difference of opinion as to the purpose of the workshops. ComEd recommends that the forums be used to evaluate whether and how to standardize the approach to evaluating costs and benefits in future Grid Plans, including the categories of costs and benefits that should be considered, the method(s) of calculating those benefits and costs, and the proceedings to which those calculations are relevant. ComEd concludes that the Commission should adopt ComEd's suggested scope, which is supported by EDF and generally aligns with suggestions by Staff and JNGO.

ComEd notes that JNGO similarly recommend stakeholder workshops concerning the methodology for quantifying and tracking benefits to EIECs, but states that its support is offered "on the condition that the Commission expressly adopts the [JNGO] framework as a starting point." JNGO IB at 49. ComEd states it is not clear where JNGO stands if that framework is not adopted. ComEd disagrees that express adoption of the JNGO framework is appropriate or helpful because that framework was developed for Ameren, in another docket to which ComEd and several intervenors in this proceeding are not a party. *See* JNGO/EDF Ex. 11.01. ComEd points out that JNGO did not modify the framework at all to account for differences between ComEd and Ameren, despite JNGO witness Volkmann's recognition that the utilities may require different approaches. *See* JNGO Ex. 9.0 REV at 4. As a result, ComEd concludes that the Commission should not require this particular framework to be the starting point for stakeholder discussions.

ComEd states that Staff agrees and recommends that ComEd should "review" the JNGO framework to "build upon that framework, or provide a new one." Staff IB at 19. ComEd agrees that this is a sensible way to account for differences in approach between the utilities.

Separately, ComEd notes Staff also recommends that ComEd be directed to "work with Ameren to host benefit-cost analysis workshops" including the following topics: (i) benefit-cost analysis for performance metrics and the Grid Plan; (ii) inclusion of environmental costs and benefits for Grid Plan investments; (iii) "[c]haracterization of discretionary smart grid expenditures"; and (iv) "Staff and stakeholder feedback on joint-benefit-cost analysis methodology from ComEd and Ameren". Staff IB at 162. ComEd states this list of objectives suffers from several problems, and therefore should not be adopted by the Commission. Nevertheless, ComEd is willing and ready to participate in discussions with stakeholders on the topic of benefit-cost analysis.

First, ComEd states that Staff's list of objectives is too prescriptive because it appears to limit the applicability of the benefit-cost analysis to the performance metrics and multi-year integrated grid planning processes. Id. at 162. ComEd recommends that the Commission not limit - at the outset - the types of proceedings and investments in which a benefit-cost methodology may be relevant.

Second, ComEd states it is not clear what Staff intends to cover in the objective "[c]haracterization of discretionary smart grid expansion expenditures." *Id*. at 162. ComEd is not aware that Staff has taken the position that any Grid Plan investments are "discretionary," and is not aware of Staff testimony demonstrating that this is an issue that should be addressed. As a result, ComEd states, this proposal appears unsupported in the record.

Third, ComEd states it is not clear what Staff intends by a joint benefits-cost analysis methodology from ComEd and Ameren. ComEd is not aware of Staff testimony proposing a jointly-developed benefits-cost analysis methodology. ComEd maintains the Commission should not direct the utilities to develop a joint methodology at the conclusion of the workshops, or even direct the utilities to propose a joint methodology at the outset of workshops. As explained in ComEd and JNGO testimony, the differences between the two utilities may require different approaches, such that separate workshops regarding benefit-cost analysis are likely to be more productive. JNGO Ex. 9.0 REV at 4; ComEd Ex. 47.0 at 12. ComEd states that a requirement that the utilities develop a joint methodology would not allow for distinctions between the utilities, even though the differences are meaningful.

ComEd concludes that the Commission should adopt ComEd's proposal to host or lead stakeholder workshops evaluating whether and how to standardize the approach to evaluating costs and benefits in future Grid Plans, including the categories of costs and benefits that should be considered, the method(s) of calculating those benefits and costs, and the proceedings to which those calculations are relevant. The output of those workshops will support the analysis of the portion of benefits experienced by customers in EIECs, such that a separate workshop process on that issue is not necessary.

2. Staff's Position

Staff recommends the Commission direct ComEd to participate in utility-run stakeholder meetings to identify the proportion of benefits from programs, policies and initiatives proposed in its MYIGP that will go to ratepayers in EIEC, EJ, and low-income communities. The subject meetings should address JNGO's recommendations to consider improving equity quality attributes (i.e., distribution, assessment granularity, and dimensions). Staff Ex. 24.0 at 11-12; JNGO/EDF Ex. 11.01.

Staff recommends ComEd be directed to work with Ameren to host benefit-cost analysis workshops to include discussions regarding the following topics:

- benefits-cost analysis for Performance Metrics and the MYIGP pursuant to Section 16-108.18(f)(1) and Section 16-105.17(d)(7);
- inclusion of environmental costs and benefits for MYIGP system investments.
- characterization of discretionary smart grid expansion expenditures;
- Staff and stakeholder feedback on a joint benefits-cost analysis methodology from ComEd and Ameren.

In response, ComEd proposed "to engage in discussions with stakeholders regarding the categories of benefits and costs that should be considered, the method of calculating those benefits and costs, the proceedings to which those calculations are relevant, and other questions." ComEd IB at 211. After these discussions, ComEd suggests that the "Commission consider opening a proceeding to formalize the approach to benefit-cost analysis and address these issues." ComEd IB at 211. Staff generally agrees with these points of discussion with a few exceptions but notes that the Company failed to address the specific requests made by Staff as to what should be addressed in these workshops for the Company to satisfy Section 16-105.17(d)(7). The proposed purpose of these workshops is to address topics related to benefits-cost analysis for system investments in the current MYIGP as well as future MYIGP.

Staff recommends ComEd collaborate with Ameren to develop an equity reporting strawman proposal. JNGO/EDF Ex. 11.01. Ameren proposed to hold a series of workshop meetings to improve transparency with stakeholders on Benefit Requirements; and the Staff supports this recommendation provided that the meetings are utility-led. Staff expects that these workshops will result in the identification of additional benefits identified from the perspective of interest to the customer. Staff Ex. 24.0 at 20. As a starting point to assist the Company in providing the necessary clarification on benefits which will be supported by MYIGP activities, Staff recommends these workshops be focused to address how MYIGP programs, projects and activities can provide measurable benefits to EIEC, EJ, and low-income communities. Staff Ex. 24.0 at 20-21.

ComEd opposes Staff's recommendation to participate in utility-run stakeholder meetings with Ameren to identify the proportion of benefits from programs, policies and initiatives proposed in its MYIGP that will go to ratepayers in EIEC, EJ, and low-income communities opting instead to make a commitment to engage Staff and intervenors outside of this proceeding on this matter. However, given the importance of having a statewide approach on the methodology for quantifying and tracking benefits in EIEC, EJ, and low-income communities, the Commission should approve Staff's recommendation and direct ComEd to work with Ameren in utility-run stakeholder meetings on benefits. Staff recommends that the Commission also allow ComEd to identify areas of deviation from a shared approach, where appropriate. Staff recognizes that ComEd and Ameren have very different service areas. Staff does not take a position at this time about whether a single or several proceedings are necessary, but rather, calls for a single set of workshops led by the utilities on BCA together. The Commission should reject any proposal that would otherwise require separate workshops for Ameren and ComEd on BCA, as this would be an inefficient use of the time and efforts of Staff and stakeholders in understanding and addressing similar issues.

JNGO and EDF recommended that the Staff/JNGO framework (JNGO/EDF Ex. 11.01) be used as a starting point for further stakeholder meetings to refine and improve the methodology for quantifying and tracking benefits to EIECs. Staff's supports that approach.

3. JNGO's Position

Regarding benefits to EIECs, JNGO recommend that the Commission expressly adopt the Staff/JNGO strawman framework (JNGO/EDF Ex. 11.01) as a starting point for quantifying and tracking benefits that can be improved and modified over time.

Regarding cost-effectiveness, JNGO agree with ComEd that the Commission should consider opening a proceeding to standardize the approach to evaluating benefits and costs of future Grid Plans.

4. AG's Position

Recognizing that the issue of benefit-cost analysis was contested in certain ways in this proceeding, ComEd proposed "to engage in discussions with stakeholders regarding the categories of benefits and costs that should be considered, the method of calculating those benefits and costs, the proceedings to which those calculations are relevant, and other questions." ComEd IB at 211. ComEd also suggested that, after discussions among stakeholders, the Commission consider opening a proceeding to formalize the approach to benefit-cost analysis and address these issues. *Id*. The AG believes the goals and general outline proposed by the ComEd align with their proposal discussed in Section VII.H. of their Initial Brief, but it is lacking in definition.

The AG would be willing participants in discussions among stakeholders, and they endorse ComEd's suggestion for the Commission to open a proceeding to formalize the approach to benefit-cost analysis. However, the AG recommends that the Commission order such a proceeding to commence no later than July 1, 2024, in order to ensure adequate time to finalize the approach before the statutory workshops commence for the next Grid Plan.

The AG further recommends that any benefits workshops ordered by the Commission also be contingent upon the following conditions:

- That, to guide the discussions in the workshop, the Commission issue an order in this proceeding finding that cost-effectiveness under the Act requires the utility to conduct a risk-informed benefit-cost analysis on all discretionary investments, as discussed in Section V.B.4. above and in the AG's Initial Brief.
- That the Commission specify that all participants in the workshops have the ability to request information that is reasonable in scope and governed by the Commission's discovery rules set forth in 83 Ill. Adm. Code 200.335-350 to encourage transparency;
- That the statutory workshop process preceding the next Grid Plan commence no later than January 20, 2025;
- That the capital investments proposal required to be provided as part of the workshop process under Section 16-105.17(e)(5) be provided no later than January 20, 2025 and contain detailed and specific plans for projects and investments the Company is considering for inclusion in the Grid Plan, provided that the utility will not be bound to include any particular investment included in the capital investments proposal in the Grid Plan as ultimately filed; and
- The utility must apply the benefits framework established in the Benefits Workshop to the investments in both its capital investments proposal and, ultimately, the investments proposed in its next Grid Plan, and it must provide such analyses as well as the supporting data to stakeholders to evaluate the Company's application of the benefits framework.

With these additions, the AG would agree to abandon their separate request for a proposed post-docket proceeding discussed in Section VII.H. below.

5. EDF's Position

EDF supports proposals to hold post-order workshops to discuss the best criteria for evaluating utility efforts to support delivery of at least 40% of the benefits of grid investments to EIECs and low-income customers. EDF requests that the starting point for those workshops be the Equity Reporting Framework developed jointly by JNGO/EDF witness Pereira and Staff witness Jenkins. JNGO/EDF Ex. 11.01. EDF concurs with JNGO that the benefits workshops can be used to continue to refine and improve on the Equity Reporting Framework discussed in Sections V.B.1 and V.B.9.

6. Commission Analysis and Conclusion

As discussed in Sections V.A, V.B.4, and V.C.7.e, the Commission finds that the Grid Plan does not comply with the requirements of the Act. In those Sections, the Commission directed ComEd to refile the Grid Plan with statutorily required benefits and costs analyses. Following approval of a compliant Grid Plan, the Commission recognizes the initial methodologies used to determine whether the Grid Plan cost-effectively achieves statutory goals will improve over time. Future refinement will necessitate ComEd's transparent and good faith engagement on assessment of quantitative and qualitative benefits methodologies.

The Commission directs ComEd to include in the Company's refiled Grid Plan, its commitment to engage in discussions with interested stakeholders regarding the categories of benefits and costs that should be considered, the method of calculating those benefits and costs, the proceedings to which those calculations are relevant, and other questions, consistent with Sections V.B.1, V.B.4, V.B.9, and V.C.7.e. The EIEC benefits discussion should be included in the overall benefits workshops. The Commission notes the ComEd and Staff agreement that ComEd should review the JNGO framework to build upon that framework, or provide a new one. The Commission directs ComEd to use the Staff/JNGO framework as a starting point in the Company's refiled Grid Plan, to be refined further in the refiled Grid Plan proceeding and after a compliant Grid Plan is approved. The Commission recognizes that despite starting with this framework, ComEd may choose to develop a new framework, as required by the Section 16-105.17(d)(3). As part of the Company's refiled Grid Plan, ComEd is directed to identify or explain the methods by which it will identify at a minimum: 1) what specific benefits are being created, 2) the magnitude of those benefits, and 3) who is receiving those benefits.

As discussed in Section V.B.4, the Commission directs ComEd to commit in its refiled Grid Plan to participate in workshops with Ameren to increase efficiency and avoid redundancy for stakeholders on common issues. The Commission recognizes differences in service territory, customers, and operations compared to Ameren and understands that each utility will initially have its own cost-effectiveness methodologies.

The Commission notes that the AG makes specific proposals regarding discovery during the workshop process. It does not appear that any party objects and the Commission agrees that this could be beneficial.

The AG recommends that the workshops required by Section 16-108.18(g) before the next Grid Plan filing start no later than January 20, 2025 – a year before the next Grid Plan filing is due. Also, the AG asks that the capital investments proposal required as part of the workshop process be provided no later than January 20, 2025, and must contain detailed and specific plans for projects and investments the Company is considering for inclusion in the next Grid Plan. No party seems to dispute this, and the Commission agrees.

The AG asks that a specific finding be made by the Commission regarding the level of detail required for capital investment proposals. The information that must be supplied with the next MYIGP is addressed in Section VIII.G.

C. Valuation of DER

See Section V.C.7.e.

D. Interconnection Working Group

ComEd notes that it continues to participate in the ongoing Interconnection Working Group. ComEd states that it has agreed to work with stakeholders to discuss concepts such as Flexible Interconnection and DER Orchestration that cover different DER control scenarios, including DERMS, within the Interconnection Working Group. ComEd has also agreed with JNGO to begin evaluating dynamic hosting capacity in 2024.

The Commission acknowledges that ComEd continues to participate in the ongoing Interconnection Working Group. The Commission appreciates that ComEd continues to work with stakeholders on related concepts in that regard. This issue is uncontested.

E. Solution Sourcing Opportunities Rulemaking

Although ComEd argues that an SSO rulemaking is not necessary, the Commission finds the language of 16-105.17(f)(2)(K) clearly requires such a rulemaking, and requires active identification of new cost-effective (NWA or other) solutions that ensure compliant grid planning. Moreover, the Commission notes that Staff indicates it will be presenting the Commission with a report asking the Commission to direct Staff to initiate a rulemaking to establish rules for determining data and methods for an SSO rulemaking docket after this docket concludes. ComEd states that it is open to participating in any rulemaking (ComEd RB at 130); this issue is uncontested.

F. Locating Pilot Program

ComEd explains that a facility locate ("locate") provides property and facility owners with information on underground utility facilities near planned excavation and construction. ComEd Ex. 36.0 at 2. ComEd further explains that Joint Utility Locating Information for Excavators ("JULIE") is a program that receives and disseminates locate requests outside of Chicago to utilities so the utilities can respond and identify relevant underground facilities. Staff Ex. 12.0 at 4. Currently, ComEd states that it uses a third-party contractor, U.S. Infrastructure Company ("USIC"), to perform locates outside of Chicago. ComEd Ex. 36.0 at 2. In 2022, approximately 78% of all ComEd locate requests were performed by USIC in those areas outside of Chicago. *Id*. at 3.

ComEd observes that Staff witness Daniel requested that ComEd establish a pilot program to conduct 10% of requests submitted through JULIE in ComEd's service territory using in-house employees in lieu of USIC contractors. Staff Ex. 12.0 at 7-8.

In response to Staff's request, ComEd provided an implementation plan and estimation of the required resources. ComEd Ex. 36.0 at 8. Specifically, ComEd proposes that the pilot be conducted in Lake County, which represented approximately 10% of the JULIE tickets in 2022. *Id*. at 9. ComEd points out that Lake County is geographically diverse, has a high No Show rate (i.e., locates are not performed within the required timeframe), and has a high volatility in ticket volume throughout the year. *Id*. at 9. Therefore, Lake County is representative of performance challenges across ComEd's territory. ComEd will monitor the volume of tickets to determine if the pilot area needs to be adjusted. ComEd Ex. 57.0 at 2.

According to ComEd, the target date for full implementation of the pilot program is April 1, 2025, pending successful negotiations between ComEd and IBEW. ComEd Ex. 57.0 at 6. ComEd observes that Staff supports an extended ramp up period beyond April 1, 2025, if necessary. *Id*. at 6; *see also* ComEd Ex. 57.01. ComEd acknowledges that the pilot program will take up to 36 months to execute, including 12 to 24 months of "ramp up" and a minimum of 12 months of locating execution. ComEd Ex. 36.0 at 10. ComEd explains that the estimated costs to implement and conduct the pilot are $18,968,096. ComEd Ex. 57.0 at 4. Staff does not object to the pilot timeline or ComEd's cost estimates. Staff Ex. 28.0 at 5.

In addition to the pilot program, Staff recommends ComEd provide Staff with weekly reports of locate requests completed by the in-house locator pilot program, including JULIE number, address, city, date completed, locator name, and photographs with date and time stamps. Staff Ex. 12.0 Pub. at 8. If the Commission approves the in-house locator pilot program, Staff and ComEd have agreed to Staff's recommended reporting requirements, with modification that photographs including a date and time stamp and locator name(s) for any specific locate request will be provided if requested by Staff rather than as part of weekly reports. ComEd Ex. 57 Pub. at 9. Furthermore, Staff and ComEd have agreed to meet after the first six months of implementation to discuss the results overall and whether the frequency of reporting to Staff should be adjusted. ComEd Ex. 57.01 at 3.

ComEd and Staff's agreed-upon in-house locate pilot program is uncontested. The Commission recognizes that it takes time to negotiate collective bargaining agreements, hire and train employees, and properly implement new protocols, systems and reporting requirements for the pilot. The Commission urges ComEd to quickly implement the pilot program before the 2025 deadline. ComEd has included the costs of the pilot, approximately $18,968,096, in its rate base. The Commission finds that the proposed in-house locate pilot program and associated costs are reasonable, and they are hereby approved.

G. Information to Be Provided with Next MYIGP

1. ComEd Position

ComEd argues that the Commission should reject Staff's request to require certain information in the next (i.e., 2027) Grid Plan as premature and outside the scope of this proceeding. Specifically, ComEd observes that Staff continues to recommend that the Commission direct ComEd to provide, as part of its initial filing of its 2027 Grid Plan, additional information in a variety of categories. *See generally* Staff Ex. 7.01. ComEd explains that, while it appreciates the desire to get ahead of the next Grid Plan proceeding and start reviewing any information that might be available ahead of time, ComEd has already committed to reporting on a significant amount of information related to both the Rate Plan and the Grid Plan. Moreover, any information or planning related to ComEd's next Grid Plan falls outside the scope of this proceeding and is better discussed in the upcoming workshops that will start in 2025 for the next Grid Plan. 220 ILCS 5/16-105.17(g). ComEd continues to reiterate its commitment to work with Staff on this issue but does not believe it is appropriate to decide this matter in this docket. ComEd Ex. 24.0 Corr. at 14-15.

2. Staff's Position

Staff recommends that the Commission direct the Company to provide the information set forth in Staff Exhibit 7.01 as part of its initial filing in the Company's next MYIGP case. Staff Exhibit 7.01 lists the information requested and, for each item listed, explains why that information is sought. Staff seeks information about things such as how lessons learned from implementing the initial MYIGP informed the development of the next MYIGP, how increases in hosting capacity achieved under the initial MYIGP have informed the development of the next MYIGP, how new DER penetration under the initial MYIGP has impacted the Company's distribution grid, and how the Company has applied this information in the development of its next MYIGP, and how the initial MYIGP has impacted peak summer and winter electric demands.

The Commission should direct the Company to provide this information because doing so should enable the Commission to benefit from a more robust review of ComEd's next MYIGP because this parties will have the information from the beginning of the case and, thus, have more time to evaluate the information and perform related analyses. Also, the Commission should be proactive about capturing the benefits of the longer, four-year period the Company will have to develop its next MYIGP and the knowledge and experience the Company will have gained from implementing the initial MYIGP. There are potential benefits for the Company as well. Knowing that this information will be required will enable the Company to accumulate the information over the time of the initial MYIGP, review and analyze it, and use it to inform the development of its next MYIGP. Also, providing the information set forth in Staff Exhibit 7.01 with the initial filing may reduce some of the need for discovery because parties would have the information from the beginning of the case.

Staff's recommendation is not beyond the scope of this proceeding, as ComEd argues, for several reasons. First, the Company's next MYIGP must include any additional information the Commission requests prior to that case, including any information the Commission directs in this case should be included with the next filing. P.A. 102-0662 provides as follows:

> In order to ensure electric utilities' ability to meet the goals and objectives set forth in this Section, the Multi-Year Integrated Grid Plans must include, at minimum, the following information:
>
> (v) Any additional information requested by the Commission or determined through Commission rules.

220 ILCS 5/16-105.17(f)(2)(H)(v). Second, it is not unusual for the Commission, in one rate case, to direct ComEd to provide certain information in its next rate case. *See, e.g.*, Docket No. 10-0467, Docket No. 08-0532, Docket No. 08-0532. Staff is not asking the Commission to make any decisions in this proceeding about the next MYIGP. Rather, Staff is merely asking the Commission to direct the Company to include more information when it files the next MYIGP. That information would be considered in that next MYIGP, not this one. Staff Ex. 7.01 at 5.

For all these reasons, Staff states that the Commission should direct the Company to provide the information set forth on Staff Exhibit 7.01 as part of its initial filing in the Company's next MYIGP case.

3. JNGO's Position

JNGO agree with Staff that the Commission should direct the Company to provide the information set forth in Staff Exhibit 7.01 as part of its initial filing in the Company's next MYIGP case. This information will provide a stronger record for the Commission's review of ComEd's next Grid Plan.

4. City's Position

As the Commission transitions to a new ratemaking paradigm, it is important to assess how this new regime can be improved going forward. The City argues that adopting the reporting requirements specified by Staff witness Struck would help to address the information asymmetry issues identified in this case. *See, e.g.*, AG Ex. 1.0 at 15 (explaining that information asymmetry "refers to the fact that it is difficult for regulatory staff and stakeholders to know as much about a utility's grid, operations, and situation as the utility itself knows").

The City particularly highlights the importance of providing information pertaining to any new DERs interconnected under the 2024 Grid Plan. As the City's expert demonstrated, there is a lack of DER integration parity in Chicago versus ComEd's other operating regions. City Ex. 2.0 at 8. ComEd witness Mondello explains that "approximately 37% of the total estimated hosting capacity is concentrated in the Chicago region, whereas only 2% of the applications currently in the interconnection queue are located there (as of December 14, 2022). This suggests that there is a significant amount of available hosting capacity in the Chicago region that remains untapped." ComEd Ex. 29.0 at 75. More granular reporting would help the City understand this lack of parity.

5. Commission Analysis and Conclusion

Significant progress has been made in this record to clarify minimum information ComEd should provide in its 2026 Grid Plan filing. Staff's proposal supports additional information, The Commission agrees that providing this information without having to request it through the discovery process will ease Staff's review of the MYIGP. Staff Ex. 7.01. Importantly, as noted by Staff, the information sought will not necessarily dictate the content of the next MYIGP. Additionally, the Commission agrees that it is appropriate to allow discussions around how the information will be collected and reported. The outcome of this proceeding confirms the value of clear directions and data specificity at all stages of the planning process

H. Commission Proceeding before the next MYIGP (AG Proposal)

In its Initial Brief, the AG no longer appears to advocate for a new, immediate Commission proceeding, and instead offers recommendations about what a robust and transparent planning process should look like in workshops. This is addressed in Section VIII.B. Staff made a related recommendation that ComEd meet with Staff and stakeholders semi-annually to update them on the implementation progress of the initial MYIGP and to receive feedback during the pendency of the initial MYIGP. ComEd did not oppose this proposal. However, pursuant to the Commission's decision in Section V. A., the Commission finds that the Grid Plan does not comply with the requirements of the Act. ComEd is directed to include this agreement in its refiled Grid Plan.

I. Decarbonization Proceeding

1. ComEd Position

ComEd observes that the City recommends that the Commission initiate a process to evaluate the electrification potential in an EIEC. City Ex. 1.0 at 3, 30-32. ComEd notes that it is open to participating in any process the Commission initiates in the future regarding the transition to a decarbonized economy, (ComEd Ex. 21.0 at 9-10), and agrees that supporting a decarbonized economy will put greater emphasis and greater demands on the electric system, as reflected in the Grid Plan.

2. City's Position

In furtherance of its "commitment to delivering a grid prepared to serve as the foundation to support a decarbonized energy economy in an efficient, affordable, and equitable manner" (ComEd Ex. 1.0 at 8), ComEd offered a study undertaken by E3 outlining potential decarbonization pathways. ComEd Ex. 7.03.

One of the E3 Study findings is that "[b]uilding electrification is a critical component of achieving net-zero in Illinois, but the transition to electric buildings does not yet have the same level of policy support as the electric generation and transportation sectors." *Id*. at 60. The E3 Study also suggests a more detailed study on options to decarbonize the built environment within Illinois and a "Gas Transition Study" to consider new business models and opportunities to pursue targeted electrification to enable decommissioning of some gas infrastructure. *Id*.

The E3 Study's recommendation for a Gas Transition Study to "pursue targeted electrification and to enable decommissioning of some gas infrastructure" (*Id*.)

necessarily requires the participation and input of The Peoples Gas Light and Coke Company ("Peoples Gas"). As a first step, the City suggests that the Commission direct a process and timeline for the recommended Gas Transition Study, which should include an evaluation of the electrification potential in an EIEC. This process would allow for joint problem-solving and help to identify electrification barriers and opportunities. City Ex. 1.0 at 31. The objectives of the Climate Action Plan should be centered in any analysis and recommendations that are made as part of the proceeding. The City is encouraged that ComEd is open to participating in such a proceeding. Moreover, P.A. 102-0662 specifically contemplates subsequent implementation plan dockets and provides the Commission with authority to open such proceedings. 220 ILCS 5/16-105.17(f)(6). Because this proceeding is necessary to implement and understand the findings of the E3 Study, the City urges the Commission to take action on this issue.

The record in this case elucidates this point. While Peoples Gas, the gas utility that serves Chicago, has demonstrated a reluctance to embracing electrification as a decarbonization strategy (City Ex. 1.07), ComEd proposes to pursue programs such as its Public Schools Carbon Free Assessment (ComEd Ex. 5.01 2nd Corr. at 192) which aim to electrify schools' heating and transportation needs. The Commission needs to resolve the disconnect between these competing visions of the energy future. As explained by Ms. Woods, analyzing the energy system holistically will "ensure coordinated and efficient planning to protect consumers from unwarranted costs. Ensuring coordination between gas and electric utilities will be key." City Ex. 2.0 at 14. For these reasons, the City urges the Commission to open this proceeding.

3. Commission Analysis and Conclusion

The Commission takes the City's recommendation under advisement, as multiple utilities would be implicated. The Commission appreciates ComEd's commitment to participate in any future proceeding on this topic.

PART II - MULTI-YEAR RATE PLAN

IX. LEGAL STANDARD

P.A. 102-0662 provides that "[t]he Commission shall establish annual rates for each year of the [MYRP] that accurately reflect and are based only upon the utility's reasonable and prudent costs of service over the term of the plan, including the effect of all ratemaking adjustments consistent with Commission practice and law as determined by the Commission, provided that the costs are not being recovered elsewhere in rates." 220 ILCS 5/16-108.18(d)(4). The burden of proof is on the Company to "establish the prudence of investments and expenditures and to establish that such investments consistent with and reasonably necessary to meet the requirements of . . ." ComEd's first MYIGP. *Id*.

P.A. 102-0662 also specifies that the "cost of equity shall be approved by the Commission consistent with Commission practice and law" (220 ILCS 5/16-108.18(d)(3)(B)) and that the "revenue requirement shall reflect the utility's actual capital structure for the applicable calendar year, a year-end capital structure that includes a common equity ratio of up to and including 50% of the total capital structure shall be deemed prudent and reasonable, and a higher common equity ratio must be specifically approved by the Commission." 220 ILCS 5/16-108.18(d)(3)(C).

Section 16.108.18 of the Act states that an MYRP should be implemented through a tariff applicable to all delivery services customers and that the "Commission shall initiate and conduct an investigation of the tariff in a manner consistent with the provision of this paragraph…and the provision of Article IX of the Act, to the extent they do not conflict with this paragraph." 220 ILCS 5/16-108.18(d)(3).

Section 9-201 of the Act states in relevant part:

> If the Commission enters upon a hearing concerning the propriety of any proposed rate or other charge, classification, contract, practice, rule or regulation, the Commission shall establish the rates or other charges, classifications, contracts, practices, rules or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. In such hearing, the burden of proof to establish the justness and reasonableness of the proposed rates or other charges, classifications, contracts, practices, rules or regulations, in whole and in part, shall be upon the utility.

220 ILCS 5/9-201(c).

X. COMED'S MYRP

The Commission must establish rates for each year of the Multi-Year Rate Plan that "accurately reflect and are based only upon the utility's reasonable and prudent costs of service over the term of the [rate] plan, including the effect of all ratemaking adjustments consistent with Commission practice and law." 220 ILCS 5/16-108.18(d)(4). "[T]he burden of proof shall be on the electric utility to establish the prudence of investments and expenditures and to establish that such investments [are] consistent with and reasonably necessary to meet the Public Act 102-0662 requirements of the utility's first approved Multi-Year Integrated Grid Plan." *Id.* The Company is required to submit a 4-Year Investment Plan ("Investment Plan") that describes the planned distribution capital investments. *See* 220 ILCS 5/16-108.18(d)(2). The Commission finds that the Company's Investment Plan does not properly inform the Commission's determination of reasonableness and prudence of investments in the Rate Plan because the Investment Plan is intrinsically linked to the Grid Plan rejected by the Commission in this Order.

The Company's proposed Rate Plan is derived from its rejected Grid Plan, which makes it impossible for the Commission to determine which of the Company's costs can be approved and incorporated into rates. The Commission is unable to delineate between investments in the Company's Investment Plan and the MYIGP based on the record evidence submitted by the Company. The Commission's rejection of the Company's MYIGP requires the Commission to determine the total revenue requirement upon a largely deficient record.

The Commission's decision is further complicated by statutory deadlines. The Commission must approve or modify the Rate Plan by December 20, 2023. *See* 220 ILCS 16/5-108.18(d)(1). The Commission interprets Sections 16-108.5(h), 16-108.25, and 16-

108.18(d)(1) to mean once the Commission approves new rates, the current rates are no longer in effect. *See* 220 ILCS 5/16-108.5(h); 16-108.25; and 16-108.18(d)(1). The delivery service rates within this Rate Plan are intended to be effective starting January 1, 2024. *See* 220 ILCS 16/5-108.18(d)(1). The Company must file tariffs that conform with the approved Rate Plan and become effective by January 1, 2024.

Given the complexities of this docket, time constraints, and lack of disaggregated financial evidence, the Commission must adopt an alternative methodology to establish a rate base and revenue requirement for each test year that is reasonable and prudent. Until approval of a compliant Grid Plan, the Commission adopts the rate base approved in Docket No. 23-0345 of $13,756,402,000 and applies a rate of return for each year as described in Section X.V. of this Order. The 2022 approved rate base is being presented without modification regardless of the Commission's approved rate base adjustments in this proceeding for all four test years of the Rate Plan. The Commission adopts a rate of return on rate base of 6.571%, 6.595%, 6.665%. and 6.704%, respectively, for each of the four test years. This rate of return on rate base includes a return on equity ("ROE") of 8.905% and a capital structure described in Section X.V. of this Order.

The Commission further adopts an operating and maintenance expense based on the approved depreciation expense in Docket No. 23-0345 plus the non-rate base adjustments addressed below in this Order. Based on the 2022 approved rate base, approved rate of return on rate base, and approved non-rate base expenses, the Commission adopts an annual revenue requirement of $3,487,866,000 for test year 2024, $3,504,625,000 for test year 2025, $3,512,089,000 for test year 2026, and $3,543,540,000 for test year 2027, as reflected in the Appendices attached to this Order. The Commission finds this alternative methodology will ensure statutory deadlines are met while also addressing the practical and ratepayer ramifications created by the Company's deficient Grid Plan and record evidence. The Commission understands the limitations of the record in this case relating to Docket No. 23-0345; however, all parties and the Commission are bound by the December 20, 2023 deadline.

The Company's rate base will be revisited upon approval of the Company's refiled Multi-Year Grid Plan. The Company shall file a petition requesting a rate adjustment of its Multi-Year Rate Plan to align with the 4-year investment plan and annual capital budgets within the approved Grid Plan, consistent with the Act and as necessary to ensure rates remain just and reasonable. *See* 220 ILCS 5/16-108.18(d)(6). At that time, within its request, the Company shall demonstrate the prudence of investments and expenditures and establish that such investments are consistent with and reasonably necessary to meet the goals of the Company's first approved MYIGP.

Appendices A - D attached to this Order include the Revenue Requirement Schedules which include any operating expense adjustments adopted, as discussed in this Order, but does not include any rate base adjustments. Appendices A - D do not include 2023 Grid Plan spending. The revenue requirement schedules shall remain in effect until the approval of the MYIGP and the development of subsequent revenue requirements. For discussion on the specific adjustments, see Sections XI-XIX.

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XI. RATE BASE

A. Overview

The Act states that the MYRP approved by the Commission shall "[p]rovide for the recovery of the utility's forecasted rate base, based on the 4-year investment plan and the utility's Integrated Grid Plan." 220 ILCS 5/16-108.18(d)(3)(A). The Act further provides that the forecasted rate base "must include the utility's planned capital investments, with rates based on average annual plant investment, and investment-related costs, including income tax impacts, depreciation, and ratemaking adjustments and costs that are prudently incurred and reasonable in amount consistent with Commission practice and law." 220 ILCS 5/16-108.18(d)(3)(A).

ComEd argues that it provided substantial evidence to support the approval of its rate base, including its planned capital investments and investment-related costs, and that these costs are prudent and reasonable. Other parties argue that ComEd failed to establish that its proposed rate base is justified and recommend various adjustments.

B. Legal Standard

The Act provides that:

> The Multi-Year Rate Plan approved by the Commission shall …: (A) Provide for the recovery of the utility's forecasted rate base, based on the 4-year investment plan and the utility's Integrated Grid Plan. The forecasted rate base must include the utility's planned capital investments, with rates based on average annual plant investment, and investment-related costs, including income tax impacts, depreciation, and ratemaking adjustments and costs that are prudently incurred and reasonable in amount consistent with Commission practice and law. The process used to develop the forecasts must be iterative, rigorous, and lead to forecasts that reasonably represent the utility's investments during the forecasted period and ensure that the investments are projected to be used and useful during the annual investment period and least cost, consistent with the provisions of Articles VIII and IX of this Act.

220 ILCS 5/16-108.18(d)(3)(A).

The Act also specifies that, "the sole fact that a cost differs from that incurred in a prior period or that an investment is different from that described in the [MYIGP] shall not imply the imprudence or unreasonableness of that cost or investment" (although the "sole fact that an investment is the same or similar to that described in the [MYIGP] shall [also] not imply prudence and reasonableness of that investment"). 220 ILCS 5/16-108.18(d)(4).

C. Test Years

Section 16-108.18(c)(3) states that a utility's MYRP must:

> Provide for the recovery of the utility's forecasted rate base, based on the 4-year investment plan and the utility's Integrated Grid Plan. The forecasted rate base must include the utility's planned capital investments, with rates based on average annual plant investment, and investment-related costs, including income tax impacts, depreciation, and ratemaking adjustments and costs that are prudently incurred and reasonable in amount consistent with Commission practice and law. The process used to develop the forecasts must be iterative, rigorous, and lead to forecasts that reasonably represent the utility's investments during the forecasted period and ensure that the investments are projected to be used and useful during the annual investment period and least cost, consistent with the provisions of Articles VIII and IX of this Act.

220 ILCS 5/16-108.18(c)(3)(A).

Additionally, "[o]perating expenses for years after the first year of the Multi-Year Rate Plan may be estimated by the use of known and measurable changes, expense reductions associated with planned capital investments as appropriate, and reasonable and appropriate escalators, indices, or other metrics." 220 ILCS 5/16-108.18(c)(3)(E). Thus, a utility's cost of service and annual rates for the MYRP are determined using future test years. ComEd's MYRP test years are calendar years 2024, 2025, 2026, and 2027.

D. Uncontested Issues

1. Cash Working Capital

ComEd argues that its proposed cash working capital ("CWC") requirements are prudent and reasonable and should be approved by the Commission. ComEd explains that CWC is the amount of investor funding (cash or similar assets) necessary for ComEd to meet its day-to-day expenses and other cash flow obligations. ComEd Ex. 12.0 Corr. at 23; ComEd Ex. 15.0 at 3. ComEd contends it determined its appropriate amount of CWC based on a lead/lag study, which analyzes the timing of applicable cash inflows (revenues from customers received as payment for services provided) and outflows (expenses incurred by ComEd to provide services to its customers). ComEd Ex. 12.0 Corr. at 23; ComEd Ex. 15.0 at 4.

AG witness Selvaggio recommended that ComEd's negative 19.52 property lease lead day applied to calculate the CWC balance be set at zero. AG Ex. 6.00 at 5, 9. While ComEd asserts its calculations are reasonable and prudent, ComEd accepted the AG's recommendation in order to narrow the issues in this proceeding. ComEd Ex. 58.0 Corr. at 13.

ComEd states that, following this adjustment, ComEd's CWC calculations are uncontested. ComEd concludes that, based on ComEd's surrebuttal position, accounting for the adjustments reflected in ComEd Cross Ex. 1.0, ComEd's forecasted CWC requirements by year are $5,485,000 in 2024, $4,332,000 in 2025, $711,000 in 2026, and ($2,729,000) in 2027. ComEd RB, App. A at Sch. 1.07, p. 1, ln. 40, 2024 – 2027.

With ComEd's voluntary adjustment, CWC is no longer contested. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

2. Construction Work in Progress

While no party contests ComEd's construction work in progress ("CWIP") balances not accruing allowance for funds used during construction ("AFUDC"), the issue of whether CWIP not accruing AFUDC should be included in rate base is contested.

The contested portion of this issue is discussed below in Section XI.E.9 of this Order. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

3. Property Held for Future Use

ComEd claims that there is no property held for future use in ComEd's forecasted 2024-2027 rate base. ComEd Ex. 12.0 Corr. at 23.

This issue is uncontested. *See also* Section X.

4. Accumulated Deferred Income Taxes

Accumulated Deferred Income Taxes ("ADIT") reflects a temporary difference in time between when an expense (or revenue) is recognized in a company's financial and accounting records (i.e., its "books"), versus when the company recognizes that expense (or revenue) on its tax return. ComEd Ex. 12.0 Corr. at 25. ComEd states its proposed ADIT costs are prudent and reasonable, and should be approved by the Commission. ComEd's ADIT amounts are reflected in ComEd Ex. 58.01 at 2. Based on ComEd's surrebuttal position, accounting for the adjustments reflected in ComEd Cross Ex. 1.0, ComEd's forecasted combined ADIT and unamortized deficient or excess ADIT balances by year are $5,101,570,000 in 2024, $5,151,559,000 in 2025, $5,280,626,000 in 2026, and $5,452,689,000 in 2027.

Because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

5. Materials and Supplies

ComEd states that its forecasted materials and supplies expenses are based on an average of its forecasted year-end balances of materials and supplies less the associated accounts payable in rate base. ComEd asserts that these costs are prudent and reasonable, and should be approved by the Commission. ComEd's forecasted average balances of materials and supplies are reflected in ComEd Ex. 58.01 at 2.

These amounts are uncontested. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

6. Other Assets and Liabilities

ComEd explains that "other assets" is a category that represents costs ComEd has incurred but not yet recovered, and which increase rate base. ComEd Ex. 12.0 Corr. at 27. Where the amount has not yet been incurred, ComEd has forecast an amount in rate base and amortized that amount over the test years. *Id*. at 27-28. Two of ComEd's proposed regulatory assets, the Targeted Overhang Program ("TOP") regulatory asset and the Planning, Coordination and Implementation ("PCI") regulatory asset, are contested and are addressed in Section XI.E.11, below. ComEd states that the remainder of these assets and liabilities are uncontested, prudent and reasonable, and should be approved by the Commission. ComEd claims the amount will be reconciled to actual costs in the annual reconciliation proceeding for each year. *Id*. at 28. ComEd's other assets included in rate base are in three categories: (1) regulatory assets included in Schedule B-10; (2) deferred debits; and (3) unamortized balances of certain expenses in excess of $10 million. *Id*. at 28-29.

According to ComEd, the "other liabilities" category includes costs that ComEd has not yet incurred but has recovered in some amounts through delivery service charges and are a reduction to rate base. *Id*. at 34. ComEd states that these costs include, after adjustments, Operating Reserves, Asset Retirement Obligations, and Deferred Credits. *Id*. ComEd argues that the proposals in "other liabilities" are prudent and reasonable and should be approved by the Commission.

The Commission finds that this issue uncontested. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

7. Customer Deposits

ComEd notes that it provided evidence that it receives refundable deposits from certain customers, and that it reduced its forecasted 2024-2027 average rate base by the average of the year-end balances of forecasted customer deposits. Specifically, ComEd claims it provided unopposed testimony that the rate base is reduced annually for customer deposits. ComEd Ex. 12.0 Corr. at 35. ComEd argues that these costs are prudent and reasonable and should be approved by the Commission.

The customer deposits are uncontested. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

8. Customer Advances

ComEd contends that Customer advances represent refundable distribution system extension deposits that ComEd receives from customers under the terms of Rider DE – Distribution System Extensions to begin construction. ComEd Ex. 12.0 Corr. at 35. ComEd demonstrates that it has accounted for these customer advances in its delivery service rate base. *Id*. ComEd further demonstrates that it has reduced its forecasted average rate base for the average balances of the amounts in Schedules B-1, TY-1, and TY-4, and that the year-end balance was used to compute the amounts for "year test year." *Id*. ComEd explains that the average of the prior and current year balances was then deducted on Schedule B-1. *Id*. at 35-36. ComEd argues that its customer advances are uncontested, are prudent and reasonable, and should be approved by the Commission.

The customer advances are uncontested. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

9. Original Cost

ComEd claims it is not requesting an original cost finding in this proceeding. ComEd Ex. 12.0 Corr. at 36. Rather, ComEd contends, an original cost finding should be determined annually as part of the Annual Adjustment process within the Annual Performance Evaluation proceeding, given that ComEd's projected rate base continues to be valued at original cost. *Id*. Doing so would be consistent with ComEd's distribution formula rate update proceedings. *Id*.

ComEd also states that the Commission makes a separate original cost finding for certain assets that are recovered through Rider Energy Efficiency Pricing & Performance ("Rider EEPP"), Rider Purchased Electricity ("Rider PE"), and Rider Purchase of Receivables Combined Billing ("Rider PORCB"). *Id*. For these assets excluded from original cost, ComEd claims, the Commission will make separate original cost findings as stated in the Commission's Order in Docket No. 14-0312. *Id*.

The Commission recognizes that ComEd is not requesting an original cost finding in this proceeding and agrees that such a finding should be determined as part of the Annual Adjustment. The Commission will make separate original cost findings for Rider EEPP, Rider PE, and Rider PORCB. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

10. Director and Officers ("D&O") Insurance Expense Adjustment

D&O insurance does not have a capital component. The expense component is addressed in Section XII.C.20.f of this Order.

11. Adjustments to Rate Base

ComEd explains that the revenue requirements reflect adjustments to rate base. ComEd Ex. 12.0 Corr. at 44. Specifically, ComEd notes that it reduced its delivery service rate base for costs recovered through other tariffs. *Id*. ComEd further notes that it reduced its rate base for amounts disallowed in prior Commission rate proceedings for reasons other than timing, and for adjustments to rate base for unusual operating expenses greater than $10 million (e.g., for storm expenses). *Id*. at 44-45; ComEd Ex. 12.02 REV, Sch. B-2. ComEd recognizes that with the exception of certain regulatory assets discussed in Section XI.E.11, below, no party opposed ComEd's adjustment to rate base proposals described in (a) through (g) below. ComEd argues that the proposals are reasonable and prudent, and should be approved by the Commission.

a. Capital Costs Removed from Prior Cases

ComEd explains that it identifies capital costs removed from prior cases by removing from rate base the net book value (gross plant less accumulated depreciation and deferred income taxes) and from test year depreciation expense the effect of disallowances in prior ICC dockets. ComEd Ex. 12.0 Corr. at 45. ComEd lists the average net book value of the adjustments in ComEd Ex. 37.02 at 86, 89, 92, 95, ln. 22, col. B.

These adjustments are uncontested. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

b. Rider EEPP

ComEd demonstrates that the adjustment for Rider EEPP represents switches and streetlights placed in service since June 2008 that were formally recovered through ComEd's Energy Efficiency and Demand Response Adjustment Rider ("Rider EDA"). ComEd Ex. 12.0 Corr. at 45. ComEd explains that it calculates this adjustment by removing from rate base the net book value and the associated test year depreciation expense. *Id*. ComEd lists the average net book value of the adjustments in each test year. *Id*.

These adjustments for Rider EEPP are uncontested amounts. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

c. PORCB Software

ComEd explains that the adjustment for PORCB software represents removal of capitalized PORCB as established in Docket No. 14-0313. ComEd Ex. 12.0 Corr. at 46. ComEd states that it calculates this adjustment by removing from rate base the net book value and the associated test year depreciation expense. *Id*. ComEd demonstrates that the average net book value of the adjustments in each test year 2024 through 2027 is $0. *Id*.

However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

d. Incentive Compensation – Capital

ComEd points out that it identifies incentive compensation – capital costs by removing the jurisdictional portion of capitalized costs related to normalized retention awards, Cash Balance Pension Plan ("CBPP"), Exelon Corporate Retirement Plan ("ECRP"), and the net book value of performance awards from rate base along with the associated test year depreciation expense. ComEd Ex. 12.0 Corr. at 46-47. ComEd states that it excluded recovery of payroll tax related to disallowed incentive compensation, in compliance with the Commission's Order in Docket No. 13-0318. *Id*. at 47. To complete the calculation, ComEd explains, it then takes the total jurisdictional incentive excluded, multiplied by its payroll tax rate of 7.36%. *Id*. ComEd demonstrates that no payroll taxes are associated with the pension adjustment. *Id*. ComEd further explains that retention awards are also normalized over four years, meaning the current year is increased or decreased based on a 4-year average. *Id*.

However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

e. Supply Administration Software

ComEd explains that the adjustment for supply administration software represents removal of capitalized software assets recovered through Rider PE. *Id*. ComEd claims that it calculates this adjustment by removing from rate base the net book value and the associated test year amortization expense. *Id*. ComEd demonstrates that the average net book value of the adjustments in each test year 2024 through 2027 is $0. *Id*.

However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the

Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

f. Accrued Vacation Pay Adjustment

ComEd notes that it identifies the accrued vacation pay adjustment by jurisdictionally allocating the forecasted December year-end balances of both the deferred credit and the deferred debit balances for accrued vacation pay using the Wages and Salaries ("W&S") allocator. ComEd Ex. 12.0 Corr. at 47. ComEd points out that it specifically used its actual 2021 W&S allocation of 85.40% for the 2024 to 2027 Rate Plan forecast period. *Id*. ComEd explains that the W&S allocator over the 2017 to 2021 period has been stable, ranging from 85.11% to 85.94%. *Id*. at 48.

However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

g. Capitalized Pcard Costs

ComEd states that it identifies the Capitalized Pcard Adjustment by removing the jurisdictional portion of capitalized costs related to Pcards from rate base at the net book value (using the 2021 net plant allocator of 77.10% from Docket No. 22-0302), net of the associated taxes. ComEd Ex. 12.0 Corr. at 48.

However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

12. Functionalization of Assets

ComEd explains that the term "functionalization" refers to the division of ComEd's assets, expenses, miscellaneous revenues, and activities among the "production" (i.e., generation), "transmission," "distribution," and "customer" functions necessary to deliver electricity to end-use customers. ComEd Ex. 8.0 at 14. Because ComEd does not own any resources that produce or generate electricity, ComEd explains, the relevant focus of functionalization is the allocation of projects and investments among transmission, distribution, and customer functions. *Id*. ComEd reasons that the functionalization process is necessary to ensure that costs are properly established for Commission and FERC jurisdictional rates. *Id*. at 14-15.

ComEd contends that the separation of delivery assets and functions between distribution and transmission is governed by the "Seven Factor Test." *Id*. at 15. ComEd explains that the Seven Factor Test refers to seven indicators identified in FERC's Order No. 888, which determine which utility assets and expenses are local distribution and thus subject to state jurisdiction. *Id*. The investments, expenses, and activities included in the

2024-2027 revenue requirements are properly functionalized according to the Seven Factor Test. *Id*. at 18.

However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

E. Contested Issues

1. MYIGP Adjustments

a. ComEd's Position

ComEd contends that the parties' proposed adjustments to the Grid Plan will, if accepted by the Commission, impact the rate base value incorporated into the Rate Plan. ComEd's responses to individual party proposals are provided in the Grid Plan portion of the Order (Part I). ComEd states that it has accepted party proposals where it was possible and prudent to do so, but several proposed adjustments remain contested. ComEd argues that those contested adjustments should not be incorporated into either the Grid Plan or the Rate Plan.

b. AG's Position

The AG recommends the Commission order reductions to the Company's rate base through revisions to its Grid Plan totaling $129,486,000 in 2024, $392,205,000 in 2025, $687,745,000 in 2026 and $1,106,783,000 in 2027, as a result of the adjustments to proposed capital spending in the Grid Plan as well as other rate base adjustments.

c. ICCP's Position

ICCP's recommendation is to maintain ComEd's forecasted level of capital and O&M expense supporting system performance in 2023, and only increase it at the annual rate of inflation (2.1%) over the MYRP period. ICCP note the proposed inflation rate is based on the Blue Chip Economic Indicators GDP Chained Priced Index. The recommendation reduces the system performance capital expenditures over the MYRP period by $493 million, or 12.8%, and reduces system performance O&M expense over the MYRP period by $10 million, or 11.1%. ICCP Ex. 3.0 at 22.

d. Commission Analysis and Conclusion

See Section V.A. and Section X. above for the Commission's determination on this issue.

2. Pension Asset

Parties included argument in briefs under "Pension Asset" in rate base; however, ComEd is not requesting recovery of a Pension Asset in rate base but is rather requesting recovery of "Pension Asset Funding Cost" as an operating expense. This issue should and is now addressed under contested issues in Section XII.D.6.

3. Forecasted Annual Rate Base

ComEd observes that the Act requires that ComEd's Rate Plan include forecasted rate base "based on the 4-year investment plan and the utility's Integrated Grid Plan" and that the rate base must "include the utility's planned capital investments, with rates based on average annual plant investment, and investment-related costs, including income tax impacts, depreciation, and ratemaking adjustments and costs that are prudently incurred and reasonable in amount consistent with Commission practice and law." 220 ILCS 5/16-108.18(d)(3)(A). ComEd argues that it presented substantial testimony to support its rate base investments, as well as the reliability of its rate base forecasts. ComEd illustrates that the proposed test year average rate base amounts are comprised of ComEd's forecasted gross plant, less accumulated provisions for depreciation and amortization, plus certain additions to rate base, less certain subtractions from rate base. ComEd Ex. 12.0 Corr. at 4. ComEd observes that no party has contested the fact that ComEd's showing satisfies the Act's requirement that "[t]he process used to develop the forecasts must be iterative, rigorous, and lead to forecasts that reasonably represent the utility's investments during the forecasted period and ensure that the investments are projected to be used and useful during the annual investment period and least cost, consistent with the provisions of Articles VIII and IX of this Act." 220 ILCS 5/16-108.18(d)(3)(A). Based on ComEd's surrebuttal position, accounting for the adjustments reflected in ComEd Cross Ex. 1.0, ComEd lists its forecasted rate base for each of the test years as $15,360,422,000 in 2024, $16,402,856,000 in 2025, $17,362,099,000 in 2026 and $18,330,797,000 in 2027. ComEd RB, App. A at 4, ln. 24, col. (d), 2024 to 2027.

No other party addressed this issue in briefs. ComEd illustrated that the proposed test year average rate base amounts are comprised of ComEd's forecasted gross plant, less accumulated provisions for depreciation and amortization, plus certain additions to rate base, less certain subtractions from rate base. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

4. Distribution Plant

According to ComEd, distribution plant consists of assets used in distribution, such as land, poles, cable, transformers, and meters. ComEd Ex. 12.0 Corr. at 20. ComEd claims that it presented substantial testimony to support its distribution plant rate base for each of the test years. *See, e.g.*, ComEd Ex. 58.02. Based on ComEd's surrebuttal position, accounting for the adjustments reflected in ComEd Cross Ex. 1.0, ComEd's forecasted gross distribution plant included in rate base for each of the test years is $26,527,368,000 in 2024, $27,824,709,000 in 2025, $29,101,582,000 in 2026, and $30,428,861,000 in 2027. ComEd RB, App. A at 4, ln. 1, col. (d), 2024 to 2027.

No other party addressed this issue in briefs. ComEd presented testimony to support its distribution plant rate base for each of the test years. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

5. General Plant

ComEd explains general plant consists of assets that support the provision of distribution and customer service, such as office furniture, vehicles, and stores equipment. ComEd Ex. 12.0 Corr. at 20. ComEd argues that it presented substantial testimony to support its general plant rate base for each of the test years. *See, e.g.,* ComEd Ex. ComEd Ex. 58.02.

ComEd explains that intangible plant consists of assets in rate base that are not physical in nature, such as capitalized software. ComEd Ex. 12.0 Corr. at 20. ComEd states that it presented substantial testimony to support its intangible plant rate base for each of the test years. *See, e.g.,* ComEd Ex. 58.02.

ComEd contends that it presents its general and intangible plant rate base together. Based on ComEd's surrebuttal position, accounting for the adjustments reflected in ComEd Cross Ex. 1.0, ComEd's forecasted gross general and intangible plant included in rate base for each of the test years is $3,830,057,000 in 2024, $4,213,082,000 in 2025, $4,635,319,000 in 2026, and $5,090,102,000 in 2027, as ComEd illustrates. ComEd RB, App. A at 4, ln. 2, col. (d), 2024 to 2027.

No other party addressed this issue in briefs. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

6. Intangible Plant

See Section XI.E.8 of this Order.

7. Accumulated Provisions for Depreciation and Amortization

ComEd explains that its accumulated provisions for depreciation and amortization are a reduction to gross plant when determining the average rate base. Based on ComEd's surrebuttal position, accounting for the adjustments reflected in ComEd Cross Ex. 1.0, ComEd's forecasted accumulated provisions for depreciation and amortization for each of the test years is $9,551,351,000 in 2024, $10,113,580,000 in 2025, $10,718,054,000 in 2026, and $11,359,143,000 in 2027, as ComEd illustrates. ComEd RB, App. A at 4, lns. 3, 4, col. (d), 2024 to 2027.

No other party addressed this issue in briefs. ComEd supplied testimony demonstrating that its accumulated provisions for depreciation and amortization are a reduction to gross plant when determining the average rate base. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

8. Net Plant in Delivery Rate Base

ComEd contends that it provided substantial testimony in support of its forecasted net plant in delivery rate base. *See, e.g*., ComEd Ex. 58.02. Based on ComEd's surrebuttal position, accounting for the adjustments reflected in ComEd Cross Ex. 1.0, ComEd's forecasted net plant in delivery rate base for each of the test years is $20,806,074,000 in 2024, $21,924,212,000 in 2025, $23,018,847,000 in 2026 and $24,159,820,000 in 2027, as ComEd illustrates. ComEd RB, App. at 4, ln. 5, col. (d), 2024 to 2027.

No other party addressed this issue in briefs. ComEd provided testimony to support its forecasted net plant in delivery rate base. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

9. Construction Work in Progress ("CWIP") not accruing AFUDC

Consistent with the Commission's practice in ComEd's five most recent ComEd distribution formula rate cases, where CWIP not accruing AFUDC was properly included in the reconciliation revenue requirement, ComEd's forecasted CWIP not accruing AFUDC should be included in the test year revenue requirements, ComEd argues. ComEd Ex. 58.0 Corr. at 15-16; ComEd Ex. 58.10. ComEd explains that CWIP is the amount of money that has been spent on rate base that has not yet gone into service. For projects in excess of $25,000 with construction periods greater than 30 days, a carrying cost is calculated and added to the overall cost of the project, which is referred to as AFUDC. For projects that are $25,000 or less with construction periods of less than 30 days, AFUDC is not added to the project cost, but ComEd still incurs carrying costs on the average CWIP balances associated with those projects, as ComEd explains. Thus, ComEd states that it included forecasted CWIP not accruing AFUDC in the calculation of its 2024 to 2027 rate base. ComEd Ex. 12.0 Corr. at 22. ComEd used a two-year historical average of the ratio of CWIP not accruing AFUDC to the total distribution CWIP balance of 4.16% to forecast CWIP not accruing AFUDC.

ComEd observes that Walmart witness Kronauer opposes ComEd's proposed inclusion of CWIP not accruing AFUDC in rate base and suggests that it will result in customers paying for assets prior to receiving any benefits from those assets. Walmart Ex. 1.0 at 12-14. In witness Kronauer's view, if customers leave the system before those assets become operational, then the customers will have paid for an asset that provided no benefit to them, ComEd notes. ComEd also points out that Walmart witness Kronauer asserts that the inclusion of CWIP not accruing AFUDC in rate base is not necessary under the MYRP framework because the use of future test years ensures it will be able to include investments it expects to make during those years. *Id*. Walmart failed to address this issue in its Initial Brief, however, and therefore ComEd understands it to be uncontested.

Notably, ComEd explains that if these costs were not included in the approved MYRP revenue requirements but later included for recovery during the Annual Adjustment process, then it would adversely impact ComEd on its performance under the 105% test outlined in Section 16-108.18(f)(6)(A)(ii) of the Act. 220 ILLCS 5/16-108.18(f)(6)(A)(ii). Finally, ComEd argues that the Act allows for ComEd to include CWIP not accruing AFUDC in its rate base. Section 9-214(e) provides that "the Commission may include in the rate base of a public utility an amount for CWIP for a public utility's investment which is scheduled to be placed in service within 12 months of the date of the rate determination." 220 ILCS 5/9-214(e). ComEd notes that it incurs carrying costs associated with these CWIP balances that can be reasonably forecasted to occur during the MYRP period and they should be approved as part of its forecasted revenue requirements.

While Walmart witness Kronauer opposes inclusion of CWIP not accruing AFUDC in rate base, the Commission notes that Walmart specifically elected not to address this argument in briefs. Walmart IB at 2. No other party addressed this issue in briefs. The Commission agrees with ComEd's inclusion of CWIP not accruing AFUDC in its rate base. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

10. Proposals to Disallow 2023 Costs

Because 2023 plant additions and other costs are reflected in the MYIGP (2023-2027), but not in the MYRP (2024-2027), there is a question of how 2023 plant additions and other costs should be addressed in this proceeding. For purposes of the MYIGP, 2023 projected plant additions and costs are subject to review and Commission approval in this proceeding. ComEd and Staff agree that any proposed disallowances for 2023 operating expenses, 2023 investments or to otherwise adjust the 2023 revenue requirement is outside the scope of this proceeding and would be the subject of ComEd's 2024 Rider Delivery Service Pricing Reconciliation ("Rider DSPR") filing to reconcile 2023 costs. BOMA witness Pruitt originally recommended deferring 50% of the planned expenditures in planning years 2022 through 2024 in several project areas. BOMA Ex. 2.0 at 6. However, BOMA did not address this issue in briefs.

The Commission finds that any proposed disallowances of 2023 costs should be addressed in the Rider DSPR proceeding that ComEd will file on May 1, 2024.

11. Unusual Operating Expenses Greater than $10 Million

a. Targeted Overhang Program Regulatory Asset

(i) ComEd's Position

ComEd observes that the legislation establishing the formula rate structure and legislation establishing the MYRP structure set forth certain types of expenses to be amortized over a 5-year period and provide that the unamortized balance will be included in rate base. 220 ILCS 5/16-108.5(c)(4)(F); 220 ILCS 5/16-105.6(a). ComEd argues that this regulatory asset treatment is not discretionary, and the Act states that "[i]t is in the public interest to mitigate the customer bill impacts of large expenses incurred by electric utilities by directing that expenses exceeding the applicable threshold specified in this Section be amortized over the prescribed period" and that an electric utility "shall amortize, over a 5-year period, each charge or credit that exceeds [the threshold amount] and that relates to (1) a workforce reduction program's severance costs; (2) changes in accounting rules; (3) changes in law; (4) compliance with any Commission-initiated audit; and (5) a single storm or weather system, or other similar expense." 220 ILCS 5/16-105.6(a). For ComEd, the threshold amount is $10 million, it contends. 220 ILCS 5/16-105.6(b). According to ComEd, the Act explains the reason for this requirement, stating that "such amortization will levelize customer bill impacts and, in many instances, better align the period of cost recovery with the period over which customers receive the benefit of the expenditure." 220 ILCS 5/16-105.6(a).

In order to identify adjustments to rate base for unusual operating expenses greater than $10 million, ComEd states that it forecasted costs related to large operating expense items including storms, and other significant costs then reclassified them into regulatory assets and amortized them over five years. These regulatory assets, net of ADIT, are added to rate base, ComEd explains. According to ComEd, of the qualifying expenses that ComEd has determined must be recorded as regulatory assets and deferred pursuant to the Act, two are contested: the TOP regulatory asset and the PCI regulatory asset. ComEd argues that these expenses are prudent and reasonable, and meet the statutory requirements for regulatory asset treatment under the Act.

ComEd argues that it included in rate base the unamortized costs for the TOP and the Commission should approve the program and its treatment as a regulatory asset. ComEd notes that Staff contests the TOP itself, which is addressed in Section V.C.6.g.(i).

Should the Commission approve ComEd's TOP proposal – and it should – these costs would meet the criteria to trigger regulatory asset treatment under Section 16-105.6(a) of the Act, ComEd argues. 220 ILCS 5/16-105.6(a).

ComEd believes that TOP is expected to cost $105 million over six years, with an average annual spend of $17.5 million, totaling $71 million during the MYRP period. ComEd Ex. 5.01 2nd Corr. at 187; ComEd Ex. 12.0 Corr. at 33. ComEd explains that TOP is distinct from ComEd's routine cycle trim program, and in each year, expenditures on TOP will exceed the $10 million threshold requirement for regulatory asset treatment under Section 16-105.6(a)(5). ComEd Ex. 30.0 at 10-11. Based on prior Commission decisions, ComEd notes, the TOP vegetation management program qualifies as a "similar expense" under Section 16-105.6(a), and indeed, the Commission has previously approved vegetation management programs for regulatory asset treatment under the substantially similar statutory provision in the formula rate statute, which included the same categories as the instant provision, 220 ILCS 5/16-108.5(c)(4)(F). *See Commonwealth Edison Co*., Docket No. 18-0808, Order at 8 (Dec. 4, 2018). Pursuant to Section 16-105.6 of the Act, ComEd states that it is proposing that the costs for each year of TOP be given regulatory asset treatment and recovered over a five-year period. The unamortized balance related to these costs by year are forecast to be $0 in 2023, $10,400,000 in 2024, $27,000,000 in 2025, $33,200,000 in 2026 and $36,000,000 in 2027, as illustrated by ComEd. *See* ComEd 12.0 Corr. at 33.

ComEd notes that no party contested the regulatory asset recovery of TOP. ComEd argues that the Commission should approve ComEd's TOP as a standalone program, as discussed in Section V.C.6.g.i, above, and should approve regulatory asset treatment for program costs. ComEd contends that amortization of these large expenditures as a regulatory asset under Section 16-105.6 benefits customers by mitigating customer bill impacts and better aligning cost recovery with the period over which customers receive the benefit of the expenditure. 220 ILCS 5/16-105.6. Consistent with the Commission's treatment of the Emerald Ash Borer vegetation management program, the Commission should approve regulatory asset treatment of these costs.

(ii) ICCP's Position

ICCP support the adjustment recommended by Staff witness Lounsberry to remove from rate base ComEd's proposed capital expenditures for its TOP. *See* Staff Ex. 5.0 at 14-19.

(iii) Commission Analysis and Conclusion

The Commission agrees with Staff's adjustment to remove from rate base ComEd's proposed capital expenditures for the TOP in Section V.C.6.g.(i) of this Order. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

b. PCI Regulatory Asset

ComEd explains that the PCI regulatory asset includes costs associated with the processes ComEd undertook to comply with a number of unexpected new compliance obligations and significant undertakings required across many departments as ComEd began to implement the requirements of the new P.A. 102-0662 statute. In 2022, ComEd claims that it incurred $30,808,000 of costs related to PCI and the amount is being amortized over five years. ComEd Ex. 58.0 Corr. at 10-11; ComEd Ex. 58.09. The unamortized balance related to these expenses during the MYRP period is $28,072,000 at the beginning of 2024, $12,323,000 in 2025, and $6,162,000 in 2026, as illustrated by ComEd. *See* ComEd Ex. 58.02, Sch. C-26.

ComEd contends that the costs themselves are not at issue in this proceeding, since the 2022 costs related to PCI were incurred in 2022 and were recently addressed in ComEd's 2023 Rider DSPR proceeding (Docket No. 23-0345) where ComEd sought approval to record a regulatory asset pursuant to Section 16-108.5(c)(4)(F). However, regulatory asset treatment of these costs was contested in that proceeding. *See* Docket No. 23-0345. Regulatory asset treatment was approved for some costs. Notably the Commission's final Order made the following adjustment: "The Commission, therefore, adopts the AG's recommended adjustment, in part and removes $7,847,000 from rate base related to Payment Card Fees, and recurring costs paid to the Commission as detailed on Appendix A, Schedule 11." Docket No. 23-0345 final Order at 21. The reduction of the PCI regulatory asset was the result of the removal of $13,719,000 worth of costs originally included in the PCI regulatory asset. The annual amortization of the approved PCI regulatory asset is $3,417,800 as detailed on Schedule 9 of the Appendix to this Order.

12. Fleet and Fuel Costs

a. ComEd's Position

ComEd argues that the Commission should approve the capital expenses associated with supporting ComEd's fleet and fuel/diesel costs at the levels identified in the Grid Plan. ComEd explains that these investments are used to procure vehicles and equipment to maintain ComEd's fleet operations and are necessary for ComEd to perform its operations. ComEd Ex. 5.01 2nd Corr. at 210. ComEd notes that there is both a capital and operating expense component related to fleet and fuel costs. ComEd addresses this issue under Operating Expenses in Section XII.D.3 of this Order.

b. Staff's Position

In direct testimony, Staff noted that ComEd relied upon the average of July 2022 through December 2022 Energy Information Administration ("EIA") published outlook data to value its gasoline for its fleet fuel costs. Staff Ex. 5.0 at 9; Staff Ex. 5.02. Staff recommended that ComEd place reliance on a more up-to-date forecast for its gasoline valuation; Staff's adjustment values in direct testimony resulted from relying on the May 2023 EIA energy price forecasts. Staff Ex. 5.0 at 10.

ComEd responded by noting its fuel pricing was formulated using the most recent EIA information at the time ComEd developed its LRP. ComEd Ex. 29.0 at 173. ComEd also noted that fuel pricing is very volatile, and the pricing can change month to month. *Id*. Finally, ComEd indicated that its fleet department recommends staying with ComEd's original projection to manage volatility in fuel prices. *Id*.

In rebuttal testimony, Staff continued to recommend that ComEd rely on the most recent forecast available to value ComEd gasoline purchases. Staff Ex. 21.0 2nd Corr. at 5. Staff also noted that both ComEd and Staff are relying on the same pricing guide, EIA, but Staff contends the most recent forecast provide the most reasonable valuation for future years compared to the valuation ComEd conducted when it initially developed its forecast. *Id*. at 6. Using the July 2023 EIA pricing for gasoline results in the recommended reduction in ComEd's capital expenditures by $297,745 in 2024; $289,359 in 2025; $285,165 in 2026; and $285,165 in 2027. *Id*. at 6-7.

In surrebuttal testimony, ComEd replied that the volatility of fuel pricing requires ComEd to take a snapshot of the fuel prices during the budget setting cycle. ComEd Ex. 50.0 at 28. Once the budget is submitted, ComEd does not continually change the number based on swings in the market. *Id*. The budget and LRP are adjusted in the next yearly budget cycle to reflect the latest forecasts on the EIA website and no adjustment should be made until the next budget cycle. *Id*.

Staff disputes ComEd's arguments for several reasons. ComEd erroneously referenced Staff's position from its direct testimony rather than its rebuttal testimony as its final position. In rebuttal testimony, Staff clearly stated it had updated its adjustment based on the most recent EIA information available. This key distinction supports Staff's recommendation based on the most current market conditions, rather than those included when the Company arbitrarily took a snapshot.

Staff updated its recommendation based on the most current information available via the same pricing methodology that ComEd employed, namely the EIA pricing forecast. Staff's recommendation is supported by data that is nearly a full year more recent than ComEd's memorialized dated gas price. Therefore, the Commission should accept Staff's proposal to reduce ComEd's capital expenditures associated with fleet and fuel costs by $297,745 in 2024; $289,359 in 2025; $285,165 in 2026; and $285,165 in 2027 because it is the most recent, accurate, and reasonable projected value for future costs in the MYRP.

The purpose of this proceeding is to provide the framework for reasonable future costs for the rate plan years. Placing reliance on the most recent pricing from the EIA is more reasonable than memorializing a dated gas price and refusing to update it because it is part of the Company's budget setting cycle. Therefore, Staff argues that the Commission should accept Staff's proposal.

c. ICCP's Position

ICCP support the adjustment recommended by Staff witness Lounsberry to reduce ComEd's proposed O&M and capital expenditures associated with the purchase of gasoline used to power fleet vehicles and equipment. *See* Staff Ex. 5.0 at 9-11.

d. Commission Analysis and Conclusion

The Commission agrees with Staff's adjustment to fleet and fuel costs. Staff uses the same EIA pricing guide as ComEd, but with more current data. In this proceeding, the Commission is establishing the framework for reasonable future costs for the Rate Plan years. The Commission finds that the use of more current 2023 data provides a better and more reasonable indication of these future costs than the 2022 data relied on by ComEd.

However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

13. Diesel Fuel Adjustment

a. ComEd's Position

ComEd addresses this issue under Operating Expenses in Section XII.D.3 of this Order.

b. Staff's Position

In direct testimony, Staff noted that ComEd relied upon the average of July 2022 through December 2022 EIA published outlook data to value its diesel fuel. Staff Ex. 5.0 at 12; Staff Ex. 5.06. Staff recommended that ComEd place reliance on a more up to date forecast for its diesel fuel valuation and Staff's adjustment values in direct testimony resulted from relying on the May 2023 EIA energy price forecasts. Staff Ex. 5.0 at 13.

ComEd responded by noting its diesel fuel pricing was formulated using the most recent EIA information at the time ComEd developed its LRP. ComEd Ex. 29.0 at 173. ComEd also noted that fuel pricing is very volatile, and the pricing can change month to month. *Id*. Finally, ComEd indicated that its fleet department recommends staying with ComEd's original projection to manage volatility in fuel prices. *Id*. Despite this, ComEd details the general volatility of fuel pricing and attempts to justify its own moment-in-time pricing which it calls "a snapshot" of the fuel prices during the budget setting cycle. Id. Once the budget is submitted, ComEd does not continually change the number based on swings in the market.

In rebuttal testimony, Staff continued to recommend that ComEd rely on the most recent forecast available to value ComEd diesel fuel purchases. Staff Ex. 21.0 2nd Corr. at 8. Staff also noted that both ComEd and Staff are relying on the same pricing guide, EIA, but Staff contends the most recent forecast provide the most reasonable valuation for future years compared to the valuation ComEd conducted when it initially developed its forecast. *Id*. Using the July 2023 EIA pricing for diesel fuel results in the recommended reduction in ComEd's capital expenditures by $495,864 in 2024; $481,896 in 2025; $474,912 in 2026; and $474,912 in 2027. *Id*. at 8-9.

In surrebuttal testimony, ComEd replied that the volatility of fuel pricing requires ComEd to take a snapshot of the fuel prices during the budget setting cycle. ComEd Ex. 50.0 at 28. Once the budget is submitted, ComEd does not continually change the number based on swings in the market. *Id*. The budget and long-range plan are adjusted in the next yearly budget cycle to reflect the latest forecasts on the EIA website and no adjustment should be made until the next budget cycle. *Id*.

Staff disagrees with ComEd for several reasons. ComEd erroneously referenced Staff's position from its direct testimony rather than its rebuttal testimony as its final position. In rebuttal testimony, Staff clearly stated it had updated its adjustment based on the most recent EIA information available. This key distinction supports Staff's recommendation based on the most current market conditions, rather than those included when the Company arbitrarily took a snapshot.

The purpose of this proceeding is to provide the framework for reasonable future costs for the rate plan years. Placing reliance on the most recent pricing from the EIA is more reasonable than memorializing a dated fuel price and refusing to update it because it is part of the Company's budget setting cycle. Staff updated its recommendation based on the most current information available via the same pricing methodology that ComEd employed, namely the EIA pricing forecast Staff's recommendation is supported by data that is nearly a full year more recent than ComEd's memorialized dated gas price. Therefore, Staff argues the Commission should accept Staff's proposal to reduce ComEd's capital expenditures associated with the diesel fuel adjustment by $495,864 in 2024; $481,896 in 2025; $474,912 in 2026; and $474,912 in 2027.

c. ICCP's Position

ICCP support the adjustment recommended by Staff witness Lounsberry to reduce the O&M and capital expenditures ComEd proposes associated with diesel fuel purchases. *See* Staff Ex. 5.0 at 11-14.

d. Commission Analysis and Conclusion

Consistent with the Commission's decision for fleet and fuel costs, the Commission likewise agrees with Staff's proposal to reduce ComEd's capital expenditures associated with the diesel fuel adjustment. Staff uses the same pricing forecast as ComEd but with more recent data. The Commission finds that use of more current data provides a better and more reasonable indication of these future costs. However, because the Company failed to provide sufficient evidence in this docket on which to determine a rate base given the rejected Grid Plan, the Commission has determined that the rate base in this proceeding for all test years will be based on the Company's last-approved revenue requirement in Docket No. 23-0345, as discussed in Section X above. Therefore, the Commission declines to adopt these proposed changes to the Company's rate base.

XII. OPERATING EXPENSES

A. Overview

The Act requires the Rate Plan to provide for recovery of "reasonable projected operating expenses, giving effect to ratemaking adjustments, consistent with Commission practice and law under Article IX of [the Act]." 220 ILCS 5/16-108.18(d)(3)(E). The Act further states that "[o]perating expenses for years after the first year of the [MYRP] may be estimated by the use of known and measurable changes, expense reductions associated with planned capital investments as appropriate, and reasonable and appropriate escalators, indices, or other metrics." *Id*.

B. Test Years

See Section XI.C. of this Order.

C. Uncontested Issues

1. Total Operating Expense

ComEd states that it testified that its projected delivery service operating expenses consist of two broad expense categories: distribution-related and customer-related. ComEd Ex. 12.0 Corr. at 37. While certain of ComEd's forecasted operating expenses are contested, as discussed in Section XII.D, ComEd's calculation practices related to its total operating expenses are uncontested, according to ComEd. ComEd points out that aside from ComEd, no parties addressed the Total Operating Expenses in their Initial Briefs.

The Commission finds that ComEd categorized Total Operating Expense into distribution-related and customer-related expenses and that the calculation practices are uncontested. They are adopted.

2. Distribution O&M

According to ComEd, distribution O&M refers to expenses recorded in FERC Accounts 580 through 598, which directly relate to the distribution function. ComEd Ex. 12.0 Corr. at 37. However, ComEd notes that it manages its distribution O&M work by project, function, and/or type of activity and not by the FERC account into which costs are ultimately recorded. ComEd Ex. 9.0 2nd Corr. at 68. ComEd explains that distribution operation expenses are incurred for the normal day-to-day activities needed to maintain, operate, and monitor the system. *Id*. at 68. Approximately 40% of the distribution O&M expenses expected to be incurred during the Rate Plan period are classified into the overhead facilities, underground facilities, or substation categories, and the balance of expenses relates to functions such as supervision and engineering, maintenance of street lighting, meter inspections, and electrician repairs. *Id*. ComEd states that it provided evidence of its year by year forecasted Distribution O&M expenses after adjustments. ComEd RB, App.A at 1, ln. 5, col. (i), 2024 to 2027.

As shown on WPC-1a, ComEd states that it removed certain forecasted amounts for distribution-related employee PCard expenses in each test year, which are reflected on WPC-1m. ComEd Ex. 58.03 at 35, 37, 39 and 41. ComEd argues that its forecasted expenses were not opposed by any party, are reasonable and prudent, and the Commission should approve the expenses as proposed. ComEd points out that aside from ComEd, no parties addressed distribution O&M in their Initial Briefs.

The Commission approves ComEd's distribution O&M expenses as modified in this Order.

3. Customer-Related O&M

ComEd argues that its forecasted customer-related O&M expenses are unopposed and thus, should be approved. ComEd explains that customer-related O&M expenses include costs associated with customer-facing activities and programs including, but not limited to, customer service representatives who resolve billing disputes and handle customer acute needs, maintenance of ComEd's customer-facing e-channels (e.g., website, social media, interactive voice response system), marketing and low-income assistance tools, as well as activities related to metering and customer collections. ComEd Ex. 33.01 at 20-24. ComEd demonstrates that customer-related O&M expenses are expenses recorded in Accounts 901-910, which include the costs of maintaining and servicing customer accounts, e.g., meter reading, customer service, and billing and credit activities. ComEd states that it projects that customer accounts expenses total $216,060,000 in 2024, $197,954,000 in 2025, $201,075,000 in 2026 and $208,776,000 in 2027 and are recorded in Accounts 901-905. ComEd Ex. 58.01 at 1, ln. 6. In addition, Customer Service and Informational Expenses total $160,003,000 in 2024, $161,142,000 in 2025, $131,997,000 in 2026 and $134,146,000 in 2027 and are recorded in Accounts 907-910. *Id*. at 1, ln. 7.

ComEd states that it proposed an additional $1,520,000 in customer-related O&M expense associated with an interim manual process for the DPP in 2024. If the interim process is approved by the Commission, ComEd will incorporate it within its compliance filing, ComEd claims. ComEd Ex. 54.0 at 7; ComEd RB, App. A at 2, ln. 6, col. (i), 2024.

No other party addressed this issue in briefs. The Commission approves ComEd's customer-related O&M expense as modified in this Order.

4. Administrative and General Expense

ComEd explains that administrative and general expenses represent expenses ComEd incurs in providing delivery services to its retail customers. ComEd Ex. 12.0 Corr. at 39. These expenses, recorded in Accounts 920-935, include costs that generally represent a wide variety of corporate support and overhead costs that benefit or derive from more than one business function, ComEd states. *Id*. ComEd notes that major support areas include Human Resources, Finance, Legal, Supply Management, Information Technology, and Corporate Governance. *Id*. ComEd explains that other costs include employee pensions and benefits, health care for active and retired employees, rents, injuries and damages expenses, and regulatory expenses included in these accounts. *Id*. ComEd states it provided the amount of administrative and general expenses included in the revenue requirements by year. ComEd Ex. 58.01 at 1, ln. 9.

ComEd recognizes that several adjustments were made to ComEd's forecasted total jurisdictional administrative and general expense as shown on WPC-1a and Schedule C-1. ComEd Ex. 12.0 Corr. at 40. ComEd states that those adjustments include removal of costs related to a settlement with the City of Chicago, inclusion of certain charitable donations as allowed under Section 9-227 of the Act, exclusion of certain executive compensation costs, exclusion of certain general advertising expenses, and exclusion of costs recovered under other riders. *Id*. Administrative and general expense services are provided either internally by ComEd employees or by other service providers, including BSC and other contractors, ComEd explains. *Id*.

ComEd further explains that administrative and general expenses include costs for items such as salaries, pensions and benefits, office supplies and services and costs of services that ComEd received from Exelon BSC and other outside providers. ComEd Ex. 9.0 2nd Corr. at 71. These necessary expenses allow ComEd to provide low cost and efficient service to customers. *Id*.

ComEd demonstrates that the Rate Plan assumes that wages for non-union employees increase 3.0% each year for 2024 through 2027, and union employee wages (per existing union contracts) are stipulated to increase on average 2.5% each year for the same time period. ComEd Ex. 49.01 at 28-29. A 2.5% attrition rate is generally assumed for each department, according to ComEd. *Id*. at 29.

Non-labor costs that are not driven by specific projects but are instead overall general expenses incurred in the normal course of business (such as travel, entertainment, training, and subscriptions), are forecasted for Rate Plan purposes by evaluating the underlying drivers of those costs, ComEd states. *Id*. ComEd notes that it anticipates the level of non-labor costs to remain consistent with historical trends except for costs impacted by inflation and business activity (e.g., postage), and costs of discrete projects such as information technology investments. *Id*. ComEd states that it projects administrative, legal, and other services provided and billed to ComEd by BSC to increase by approximately 2.5%. *Id*.

ComEd argues that the proposed administrative and general expenses are reasonable and prudent, are uncontested, and should be approved by the Commission. Aside from ComEd, no parties addressed administrative and general expenses in their Initial Briefs.

The Commission approves ComEd's administrative and general expenses, as modified, for inclusion in its operating expenses.

5. Sales and Marketing Expense

ComEd argues that it demonstrated that no sales and marketing expenses are included in the revenue requirements. ComEd Ex. 12.0 Corr. at 40. ComEd points out that aside from ComEd, no parties addressed Sales and Marketing Expense in their Initial Briefs. As a result, the Commission understands this issue to be uncontested and the Commission finds that no sales and marketing expenses are included in the revenue requirements.

6. Depreciation and Amortization of Utility Plant

ComEd states that it established that its forecasted amount of depreciation and amortization expense of electric utility plant included in the revenue requirements by year, based on ComEd's surrebuttal position, accounting for the adjustments reflected in ComEd Cross Ex. 1.0, is $980,150,000 for 2024, $1,038,836,000 for 2025, $1,091,448,000 for 2026; and $1,130,797,000 for 2027. ComEd RB, App. A at 1, ln. 10, col. (i), 2024 to 2027; *see also* ComEd Ex. 58.01 at 1, ln. 10. ComEd argues that its proposed expenses are uncontested, are reasonable and prudent, and should be approved by the Commission. ComEd points out that aside from ComEd, no parties addressed Depreciation and Amortization of Utility Plan in their Initial Briefs.

The Commission has adopted the approved Rate Base from Docket No. 23-0345 for use until such time as Rate Base can be established with an approved MYIGP. Accordingly, the depreciation expense as approved in Docket No. 23-0345 shall be used in the revenue requirements until such time. For Test Year 2024 the Commission further adopts an annual revenue requirement of $3,487,866,000 and a return on rate base of 6.571%. For Test Year 2025 the Commission adopts a revenue requirement of $3,504,625,000 and a return on rate base of 6.595%. For Test Year 2026 the Commission adopts a revenue requirement of $3,512,089,000 and a return on rate base of 6.665%. For Test Year 2027 the Commission adopts a revenue requirement of $3,543,540,000 and a return on rate base of 6.704%.

7. Fleet and Fuel

This issue is contested and addressed in Section XII.D.3 of this Order.

8. Diesel Fuel Adjustment

This issue is contested and addressed in Section XII.D.4 of this Order.

9. Taxes other than Income

ComEd explains that taxes other than income taxes generally include real estate taxes, the Illinois Electricity Distribution Tax, payroll taxes, and several other taxes. ComEd Ex. 12.0 Corr. at 41. The forecast level of taxes other than income taxes is calculated in the same manner as determined for financial reporting and tax return purposes, except that the inputs used to calculate the forecast level of these taxes are based on forecasted data rather than actual results, as ComEd demonstrates. ComEd Ex. 49.01 at 30. ComEd states that it demonstrated that the amount of taxes other than income included in the revenue requirement by year is as $157,882,000 for 2024, $159,474,000 for 2025, $161,498,000 for 2026, and $163,624,000 for 2027. ComEd Ex. 12.0 Corr. at 41; ComEd Ex. 58.01 at 1, ln. 11.

ComEd argues that its forecast is uncontested, reasonable, and prudent, and should be approved by the Commission. ComEd contends that aside from ComEd, no parties addressed taxes other than income in their Initial Briefs.

The Commission approves ComEd's uncontested taxes other than income, as ComEd presents them.

10. Regulatory Asset Amortization and Other Expense Adjustments

ComEd states that its revenue requirements include amortization of regulatory assets. ComEd Ex. 12.0 Corr. at 41. As testified to and set forth in Schedules C-1, C-2, C-2.1, and C-26, ComEd's forecasted net amount of regulatory asset amortization and other expense adjustments by year is $44,366,000 for 2024, $10,364,000 for 2025, $9,845,000 for 2026, and ($9,000) for 2027. ComEd Ex. 12.0 Corr. at 41-42; ComEd Ex. 58.01 at 1, ln. 12.

While certain of the regulatory assets are contested, as addressed in Section XI.E.11, ComEd claims that its proposed amortization practices are uncontested. ComEd observes that aside from ComEd, no parties addressed the Regulatory Asset Amortization and Other Expense Adjustments in their Initial Briefs.

The Commission confirms that ComEd's revenue requirements include amortization of regulatory assets and agrees that this issue is uncontested. Therefore, the Commission approves ComEd's forecasted net amount of regulatory asset amortization and other expense adjustments as ComEd presents them.

11. Income Taxes

ComEd explains that its tax computations are provided in Schedule C-5, Jurisdictional Income Taxes, and provide a detailed view of federal and state, current, deferred, and investment tax credit amortization. ComEd Ex. 12.0 Corr. at 43.

The Commission confirms that ComEd's tax computations are provided in Schedule C-5, Jurisdictional Income Taxes, and provide a detailed view of federal and state, current, deferred, and investment tax credit amortization and the Commission concurs with these calculations. The final amount of income taxes approved in the revenue requirements applies these calculations to the approved level of operating revenues and are reflected in the Appendix to this Order.

12. Corporate Alternative Minimum Tax

ComEd explains that the Inflation Reduction Act ("IRA") implemented a new Corporate Alternative Minimum Tax ("CAMT") beginning in 2023 that imposes a 15% tax on adjusted financial statement income. ComEd Ex. 49.01 at 38. Corporations, including ComEd beginning in 2023, will pay the greater of 15% of adjusted financial statement income or their regular federal tax liability, according to ComEd. *Id*. ComEd argues that it is subject to the CAMT because it is a subsidiary of Exelon, which, as a "single employer group," must include all subsidiaries under the tax rules. *Id*. at 39. If Exelon exceeds a $1 billion threshold in average profits in the aggregate as a "single employer group," then each corporation that is part of that group is considered an "applicable corporation" separately subject to CAMT, according to ComEd. *Id*. at 39-40.

For income tax purposes, ComEd states, a current income tax liability and current income tax expense will be recorded for the CAMT liability but will be equally offset by recording a deferred tax asset and a reduction to deferred income tax expense to reflect the CAMT credit carryforward. ComEd Ex. 12.0 Corr. at 54. There is therefore no net incremental income tax expense associated with the CAMT, according to ComEd. *Id*.; ComEd Ex. 49.01 at 39. ComEd observes that the IRA entitles corporations to a tax credit equal to the amount by which the minimum tax liability exceeds the regular tax liability. ComEd Ex. 12.0 Corr. at 54. This amount can be carried forward indefinitely and used in future years when the regular tax liability exceeds the CAMT liability, but the credits are not permitted to be carried back to prior years, ComEd explains. *Id*.; ComEd Ex. 49.01 at 39. ComEd states that for income tax accounting purposes, a deferred tax asset is established for the minimum tax credit carryforward. ComEd Ex. 12.0 Corr. at 54. ComEd notes that it also proposes to include the deferred tax asset associated with the CAMT credit carryforward as an increase to rate base, similar to any other deferred tax asset for which there is a timing difference between book and tax impacts. *Id*.

ComEd argues that this proposal is appropriate because accelerated tax deductions related to utility property generate cash tax benefits that reduce the cost of capital. *Id*. Under the "normalization" method, for ratemaking purposes, rate base is adjusted downward to reflect the lower cost of capital attributable to accelerated tax benefits, ComEd explains. *Id*. The CAMT, ComEd demonstrates, has the effect of reducing the tax benefits associated with accelerated tax deductions such as tax repairs and certain other overhead capitalization adjustments. *Id*. The ADIT associated with tax repairs and other property related tax adjustments are included in rate base for ComEd as a downward adjustment, ComEd states. *Id*. at 55. Therefore, ComEd concludes, to reflect the appropriate cost of capital, the deferred tax asset with the CAMT should be included in rate base as an upward adjustment that offsets ADIT. *Id*. ComEd argues that its proposal is uncontested, reasonable, and prudent. ComEd points out that aside from ComEd, no parties addressed the Corporate Alternative Minimum Tax in their Initial Briefs.

This issue is uncontested and the Commission approves this portion of ComEd's operating expenses.

13. BSC Costs

ComEd's states that its revenue requirements contain costs incurred by or allocated to ComEd through BSC in a number of categories, including information technology, supply, finance, corporate governance, legal, and human resources. *Id*.; ComEd Ex. 49.01 at 32. This service company model is widely used throughout the electric utility industry, ComEd contends. ComEd Ex. 49.01 at 32. ComEd notes that these costs are included in the revenue requirement through their respective cost categories. ComEd Ex. 12.0 Corr. at 55.

ComEd explains that budgets are established each year for categories of BSC costs and the baseline levels or service are established, allowing ComEd to understand and prioritize the work and activities to be undertaken by BSC and their costs to be paid by ComEd. ComEd Ex. 49.01 at 36. Some costs are outsourced to third parties when it is more cost-effective or beneficial to do so, ComEd notes. *Id*. at 33. ComEd points out that it provides Staff with a number of reports throughout the year concerning BSC costs. *Id*. at 37.

ComEd believes it demonstrated that the BSC costs included in its revenue requirements are reasonable and prudent, as they allow ComEd to provide efficient and reliable delivery service, as well as benefit ComEd through leveraging economies of scale. *Id*. at 37-38. ComEd points out that aside from ComEd, no parties addressed BSC costs in their Initial Briefs.

The Commission confirms that ComEd's revenue requirements contain costs incurred by or allocated to ComEd through BSC in a number of categories, including information technology, supply, finance, corporate governance, legal, and human resources. These costs are uncontested and they are approved.

14. Incentive Compensation

ComEd notes that it offers its employees an Annual Incentive Program ("AIP"), a Key Manager and Executive Long Term Performance Program ("LTPP"), and an Executive Long Term Performance Cash Award Program ("LTPCAP"). ComEd Ex. 12.0 Corr. at 56. This compensation is set at levels necessary to remain competitive with comparable companies, and is part of the overall compensation package, ComEd explains. *Id*. ComEd demonstrates that it implements a "pay at risk" plan whereby a portion of each employee's pay is subject to achieving operational metrics specified in the incentive compensation plans, meaning ComEd employees are at risk of receiving less than a marketplace level of compensation if the metrics of the plan are not achieved. *Id*. ComEd claims that it included in its test year revenue requirements forecasted anticipated incentive compensation costs to be paid out if 100% of operational metrics are achieved by year. *Id*.

ComEd states that it determined its test year incentive forecast level beginning with a 2022 estimated target AIP paid out at 100% of the target level, and then growing it at 3.0% per year. *Id*. at 61. ComEd employees' actual performance related to these metrics will be addressed in the Annual Reconciliation for each year. *Id*.

ComEd explains that the AIP applies to all of ComEd's approximately 6,400 employees (as of December 2022). *Id*. at 58. Approximately 74% of ComEd's total headcount are in the Operations department, 17% are in the Customer Operations department, and the remaining 10% perform operations work but also serve in various operational support, management, and executive positions in other major departments and offices, ComEd notes. *Id*. at 60-61. ComEd contends that the 2022 AIP has nine operational metrics which each relate in various ways to the provision of adequate, reliable, and safe service at reasonable cost to customers. *Id*. at 58-60.

The AIP, as to each of its metrics, includes three levels, which impact compensation: (i) a threshold level that must be met in order for any payment to be made under the metric, resulting in a 50% payment of the target payment level; (ii) a target level which results in 100% payment; and (iii) a more rigorous distinguished level which could result in up to 200% payment of the target level, according to ComEd. *Id*. at 60. The AIP applies these metrics to all employees because it encourages each employee to work directly toward, or to support the work of other employees toward, achieving metric objectives, ComEd notes. *Id*.

ComEd claims that the specific incentive compensation plans applicable in the test years will be provided in ComEd's annual reconciliation proceedings, where the forecast amounts will be reconciled to actual costs each year.

ComEd states that it will offer long term incentive programs in the test years similar to past years, specifically the Executive and Key Manager LTPP and the Executive Long-Term Performance Share Award Program ("LTPSAP") for eligible key managers and executives. *Id*. at 61. ComEd believes these programs incentivize ComEd employees who play key roles in ComEd's business and whose retention is critical to long-term success in focusing on goals that support and enhance the customer experience. *Id*. The LTPP plans, which mirror the goals of the AIP, grant a cash award that vests over three years, ComEd explains. *Id*. at 61-62. ComEd notes that it has excluded 100% of LTPSAP-related costs vesting in the test years. *Id*. at 62. These values were uncontested.

The specific incentive compensation plans applicable in the test years will be provided in ComEd's annual reconciliation proceeding, where the forecast amounts will be reconciled to actual costs each year, ComEd states. ComEd argues that the forecasted costs for ComEd's long term incentive programs are reasonable and prudent.

These amounts for incentive compensation are uncontested, and they are approved.

15. Overhead Facilities Operations and Maintenance

ComEd claims that it serves nearly 11,500 square miles and over 4 million customers, requiring ComEd to inspect and maintain approximately 34,000 circuit miles of primary overhead distribution conductor, over 1.3 million distribution poles, and over 500,000 distribution transformers. ComEd Ex. 9.0 2nd Corr. at 69. In order to monitor and evaluate system conditions, ComEd states that it conducts a variety of periodic and targeted activities to maintain distribution circuits and other overhead equipment, including systemic overhead facility inspections, identifying equipment for repair or replacement, and inspecting, trimming, and clearing vegetation that may affect its overhead system. *Id*. at 68-69. ComEd notes that costs include labor to take parts of the overhead system out of service for maintenance or repair work and to restore the system once that maintenance and repair work has been completed. *Id*. at 69. The forecast costs are reasonable and prudent and should be approved by the Commission, ComEd argues. ComEd notes that aside from ComEd, no parties addressed the Overhead Facilities O&M in their testimony or Initial Briefs.

The Commission approves ComEd's uncontested overhead facilities O&M expenses for inclusion in its operating expenses.

16. Underground Facilities Operations and Maintenance

ComEd notes that just as with its overhead facilities, ComEd inspects and maintains over 32,000 circuit miles of underground cable and nearly 35,000 manholes across its approximately 11,500 square mile service territory. ComEd Ex. 9.0 2nd Corr. at 70. Underground facilities maintenance involves systemic and routine inspections of underground equipment, including equipment in manholes, network protectors, and switchgears, ComEd explains. *Id*. ComEd states that it also performs necessary repairs on vault roofs, mainline cable, primary Underground Residential Development cable, secondary cable, service cable faults, and other equipment located underground to restore service or system configuration. *Id*. ComEd argues that no party opposed ComEd's testimony regarding underground facilities O&M, the costs are reasonable and prudent, and the Commission should approve ComEd's proposal. ComEd explains that aside from ComEd, no parties addressed this issue in their Initial Briefs.

The Commission approves ComEd's uncontested underground facilities O&M expenses for inclusion in its operating expenses.

17. Substation Facilities Operations and Maintenance

ComEd states that it also inspects, repairs, and maintains the major components at over 800 ComEd-owned substations, including over 10,000 circuit breakers, nearly 3,000 transformers, nearly 800 direct current battery systems, plus capacitor installations, protective relays, station yards, disconnects and circuit switchers, busses, instrument transformers, metering equipment, substation buildings, fire protection systems, and communications and supervisory control and data acquisition systems. ComEd Ex. 9.0 2nd Corr. at 70. Maintenance procedures include visual inspections, thermography, sampling and analysis, testing and diagnostics, refilling, and various cleaning activities, ComEd explains. *Id*. at 70-71. ComEd argues that no party testified opposing ComEd's position on substation facilities O&M, the costs are reasonable and prudent, and the Commission should approve ComEd's proposal. ComEd provides that aside from ComEd, no parties addressed this issue in their Initial Briefs.

The Commission approves ComEd's uncontested substation facilities O&M expenses for inclusion in its operating expenses.

18. Administrative and General Expenses

See Section XII.C.4 of this Order.

19. Low-Income Assistance and Support Programs

ComEd claims that its Grid Plan and supporting testimony contains extensive information about financial assistance and energy efficiency programs designed to help customers manage their energy use, and in doing so, reduce their electric bill; and the Commission should approve their inclusion in ComEd's Rate Plan, without modification. ComEd Ex. 5.01 2nd Corr. at 249; ComEd Ex. 33.0 at 7-9, 11, 20-22. ComEd notes that it also proposes several additional programs, including the Fresh Start Services program, the Catch Up and Save Program, the Credit Empowerment Pilot Program, and the

Disconnection Protection Program. Together these programs will support low-income customers, and promote energy equity by addressing disconnections, arrearages, and late fees, ComEd argues. ComEd observes that no witness contests ComEd's low-income assistance programs, and the costs associated with these programs should be approved for inclusion in the Rate Plan.

The Commission approves ComEd's low-income assistance programs, and the costs associated with these programs for inclusion in the Rate Plan as may be modified in this Order.

20. Adjustments to Operating Expenses

a. Pension Funding Costs

ComEd states that it identifies the Pension Funding Costs adjustment by removing the jurisdictional portion (using the wages and salaries allocator of 85.4%) of the pension asset, net of the associated accumulated deferred income taxes, from the operating expenses at the weighted average cost of capital. ComEd Ex. 12.0 Corr. at 49. Based on ComEd's surrebuttal position, the net utility operating income value of the adjustments using the weighted average cost of capital reflecting Staff's costs of long-term debt that ComEd has agreed to for use in this proceeding, is $37,903,000 for 2024, $40,018,000 for 2025, $42,284,000 for 2026, and $45,618,000 for 2027. ComEd Ex. 49.0 at 19; ComEd RB, App. A at Sch. 1.08, ln. 7, 2024 to 2027 multiplied by (1 – tax rate).

ComEd contends that no party has contested its method of reflecting this return through an adjustment to operating expense. However, Staff proposes to disallow this expense. Staff Ex. 17.0, Sch. 17.09. Accordingly, this issue is contested and addressed in Section XII.D.6.

b. Removal of LTIC

ComEd points out that it removed the jurisdictional portion of the performance shares awarded in 2021 and 2022, net of the associated payroll and state and federal income taxes, from its operating expenses. ComEd Ex. 12.0 Corr. at 50. ComEd states that it identifies the removal of Long-term Incentive Compensation ("LTIC") by removing the Long-Term Performance Share Awards conferred in 2021 and 2022 that are paid out 50% in stock and 50% in cash to Exelon Executives. *Id*. Any performance shares in 2023 and onward will be based on operational metrics and will be paid out 100% in cash, ComEd explains. *Id*. ComEd calculates the net utility operating income value of the adjustments by year as $1,316,000 for 2024, $68,000 for 2025, $0 for 2026, and $0 for 2027. *Id*.

Aside from ComEd, no parties addressed the Removal of LTIC in their Initial Briefs, ComEd observes. As a result, ComEd understands this issue to be uncontested.

The Commission concurs with ComEd's methodology on this issue and approves the amounts as ComEd presents them.

c. Removal of Pension Expense Regarding Excluded AIP

ComEd notes that it identified the removal of Pension Expense regarding excluded AIP by removing the jurisdictional portion of the previously disallowed AIP in the Cash Balance Pension Plan ("CBPP") and Exelon Corporation Retirement Plan ("ECRP")

Service Annuity System, net of the associated state and federal income taxes, from operating expenses. ComEd Ex. 12.0 Corr. at 50. ComEd states that it calculates the net utility operating income value of the adjustments to be $11,000 each in year 2024 through 2027. *Id*. Aside from ComEd, no parties addressed the Removal of Pension Expense Regarding Excluded AIP in their Initial Briefs, ComEd points out. As a result, ComEd understands this issue to be uncontested.

The Commission concurs with ComEd's methodology and calculations on this issue and approves the amounts as ComEd presents them.

d. Adjustment to Perks and Awards

ComEd claims that it identified the Perks and Awards adjustment as the difference between the test year's forecasted value for retention awards and the four-year average for retention awards. *Id*. at 51. The jurisdictional portion of the adjustment, net of the associated payroll and state and federal income taxes, is removed from operating expenses, ComEd explains. *Id*. ComEd calculates the net utility operating income value of the adjustments by year as $26,000 for 2024, $28,000 for 2025, $28,000 for 2026, and $29,000 for 2027. *Id*. Aside from ComEd, no parties addressed the Adjustment to Perks and Awards in their Initial Briefs, ComEd notes. As a result, ComEd understands this issue to be uncontested.

The Commission concurs with ComEd's methodology and calculations on this issue and approves the amounts as ComEd presents them.

e. Tax Effects of Interest Synchronization

The tax effects of interest synchronization are accounted for on Schedule C-5.4, TY-1 through TY-4, which computes the federal and state income tax effects associated with rate base adjustments reflected on Schedule B-2, according to ComEd. ComEd Ex. 12.0 Corr. at 51. Based on ComEd's surrebuttal position, ComEd calculates the net utility operating income value of the adjustments by year as ($395,000) for 2024, ($493,000) for 2025, ($553,000) for 2026, and ($603,000) for 2027. ComEd Ex. 58.02, Sch. C-2, col. H, TY-1 to TY-4. Based on ComEd's surrebuttal position, accounting for the adjustments reflected in ComEd Cross Ex. 1.0, ComEd calculates the net utility operating income value of the adjustments by year as ($1,593,000) for 2024, ($1,744,000) for 2025, ($2,743,000) for 2026, and ($4,158,000) for 2027. ComEd RB, App. A at 12, col. (b), Sch. 1.01, lns. 6, 8. Aside from ComEd, no parties addressed the Tax Effects of Interest Synchronization in their Initial Briefs. As a result, ComEd understands this issue to be uncontested.

The Commission concurs with ComEd's methodology and approves the amounts as modified in this Order.

f. Reductions to Directors' and Officers' Liability Insurance Forecast

In response to a Staff data request, ComEd reduced its forecasted Directors' and Officers' ("D&O") liability insurance forecast to address potential impacts related to the Deferred Prosecution Agreement ("DPA"). ComEd Ex. 58.05 Corr. For test year 2024, ComEd removed $954,000 from the MYRP revenue requirement to address the potential DPA-related impacts in forecast 2024, ComEd explains. ComEd Ex. 58.0 Corr. at 19.

For the remaining test years, ComEd voluntarily adjusted its forecast costs to apply the forecasted growth rate to the reduced 2024 base year forecast. *Id*. Mathematically, ComEd notes that it is escalating 2022 actual D&O premium (which includes no DPA-related claims effect) by the average annual market rate projection of 5.94% for each year from 2023 to 2027, which more than corrects for any effect of the claims during the MYRP period. *Id*. at 20. ComEd's reduction to D&O expense, by year, is as follows, according to ComEd: $954,000 for 2024; $1,000,000 for 2025; $1,044,000 for 2026; and $1,077,000 for 2027. *Id*.

Staff recommends that the Commission approve Staff's adjustment to reduce D&O insurance expenses, which ComEd accepted. The City states that "[u]nder no circumstance should ComEd ratepayers be asked to pay any costs related to ComEd's bribery charge and the resulting [DPA]." City IB at 29 (internal quotations omitted) (citing City Ex. 2.0 at 5). ComEd states that its reduction of D&O expense ensures that ratepayers will not pay any increased costs associated with the DPA.

ComEd accepted Staff's adjustment to D&O liability insurance expenses. This matter is uncontested and the reductions to D&O liability insurance forecast shall be included in the Rate Plan.

D. Contested Issues

1. MYIGP Adjustments

a. ComEd's Position

ComEd contends that the parties' proposed adjustments to the Grid Plan will, if accepted by the Commission, impact the revenue requirement incorporated into the Rate Plan.

b. ICCP's Position

ICCP's recommendation is to maintain ComEd's forecasted level of capital and O&M expenses supporting System Performance in 2023, and only increase them at the annual rate of inflation (2.1%) over the MYRP period. ICCP state this recommendation reduces the Company's proposed System Performance capital expenditures over the MYRP period by $493 million, or 12.8%. ICCP note the recommendation also requires a reduction in System Performance O&M expense over the MYRP period of $10 million, or 11.1%. ICCP Ex. 3.0 at 22.

c. Commission Analysis and Conclusion

The Commission addresses the contested MYIGP adjustments in Section V of this Order relating to the Grid Plan. Operating expenses are adjusted according to the Commission's decisions regarding the Grid Plan and are reflected in the attached appendices.

2. Beneficial Electrification Programs and Related Costs

a. ComEd's Position

ComEd argues that its incremental BE Plan expenses for 2024-2027 should be approved for inclusion in the MYRP because ComEd provided the required information regarding the BE Plan costs. The information provided by ComEd for 2024-2027 is not contested, ComEd observes. Staff raised the allocation of BE Plan costs within 2023, but that is not part of the period for which rates are being set in the MYRP, and no change is warranted for 2023 in any event, ComEd argues.

By way of background, ComEd explains that the Commission approved ComEd's BE Plan in *Commonwealth Edison Co*., Docket Nos. 22-0432/22-0442 (Consol.), Order (Mar. 23, 2023), applications for rehearing denied, Notice of Commission Action (May 4, 2023), clarified, Amendatory Order (May 8, 2023), appeals pending (Ill. App. Ct. 2nd Jud. Dist.). As relevant to this case, ComEd notes that the Commission rejected ComEd's proposal to recover BE Plan costs through a new rate that would be separate from ComEd's base delivery services rates and instead directed that "ComEd should recover [these] costs through base rates in its MYRP." Docket Nos. 22-0432/22-0442 (Consol.), Order at 221-222. As a result, ComEd explains, on March 31, 2023, the ALJs in this proceeding concerning ComEd's Grid Plan and Rate Plan directed ComEd to "make a filing addressing the [BE Plan]" in this docket on or before April 18, 2023. Notice of Continuance of Hearing and Notice of ALJs' Ruling (March 31, 2023) at 1. ComEd points out that it complied with that directive. ComEd notes that on April 18, 2023, ComEd filed the Supplemental Direct Testimony of three witnesses, which reflected the inclusion of approximately $30.2 million per year for BE Plan costs not already incorporated in the MYRP, according to ComEd. *E.g*., ComEd Ex. 18.0 at 5-7.

Then, on May 8, 2023, ComEd explains that the Commission issued an Amendatory Order in the BE Plan dockets, clarifying that, "the term budget means both the maximum amount ComEd can spend per year on the BE Plan implementation and the estimated amount of money reasonably anticipated to be necessary to fully implement the BE Plan, based on the evidence in the record and the goals and objectives of the EV Act." ComEd BE Plan, Amendatory Order at 2. ComEd points out that it complied with that directive as well. In ComEd's rebuttal testimony in this proceeding, ComEd reflected the significantly higher BE Plan expenditure levels required by the Commission's clarifying Amendatory Order in the BE Plan dockets, ComEd notes. ComEd Ex. 35.0 at 2-6; ComEd Ex. 37.0 Corr. at 1, 19-25; ComEd Exs. 37.01–37.04; ComEd Ex. 41.0 at 25, 27-34; ComEd Exs. 41.04–41.12. In sum, that Amendatory Order led to the inclusion in the MYRP of $111 million in each of 2024 and 2025, and $77 million in each of 2026 and 2027, of BE Plan costs not already incorporated into the MYRP. *E.g*., ComEd Ex. 35.0 at 4.

ComEd argues that the 2024-2027 BE Plan costs presented in ComEd's rebuttal testimony are not contested and should be approved for inclusion in the MYRP.

ComEd observes that Staff's rebuttal testimony raised a new topic relating to 2023. According to ComEd, Staff witness Poon proposed that BE Plan administrative costs for 2023 should be reduced from 38% to 25%, a reduction of $450,000, and that amount should be reallocated to residential and commercial and industrial customer incentives. Staff Ex. 19.0 at 11-13.

ComEd argues that the Commission need not and should not address Staff's proposal in this MYRP docket, and in any event the proposal is incorrect. First, ComEd notes, while ComEd's rebuttal for informational purposes provided information about BE Plan 2023 costs, those costs are not relevant to the MYRP test years of 2024-2027.

ComEd Ex. 56.0 at 4. Second, ComEd contends, under the Commission's final Order in the BE Plan dockets, any issues related to the 2023 BE Plan costs should be addressed in 2024 in ComEd's annual actual cost reconciliation proceeding under Rider DSPR, Ill. C. C. No. 10, 4th Rev. Sheet No. 588, *et seq*. ComEd Ex. 56.0 at 4; Docket Nos. 22-0432/22-0442 (Consol.), Order at 222. Finally, ComEd argues that Ms. Poon's recommendation relies on the incorrect assumption that administrative costs in 2023, the BE Plan start-up year, should match the average level of administrative costs in 2024-2027. The administrative costs will be higher in 2023 because of the extra work associated with the BE Plan startup, and the incentives will be at a lower level with only one incentive sub-program active in 2023, ComEd explains. Thus, the 38% administrative costs level is appropriate for 2023, as illustrated by ComEd. ComEd Ex. 56.0 at 4-5.

ComEd observes that Staff accepts the explanation that ComEd provided in surrebuttal testimony regarding ComEd's BE Plan 2023 Administrative Costs. In its Initial Brief, Staff states: "The Company's explanation for increased costs in 2023 is reasonable." Staff IB at 187. Therefore, ComEd states that specific issue is no longer contested.

In that same sentence, however, Staff raises a new issue, ComEd observes. ComEd recognizes that Staff "disagrees that administrative costs should continue to represent 25% of the incentive budget in the last year of the BE Plan in 2025, after administrative work will have already been done in 2023 to stand up the sub-programs." Staff IB at 187. ComEd observes that Staff asks the Commission to "direct the Company to limit its total administrative costs to no more that 25% of the total incentive budget over the BE Plan period for the years 2023 through 2025." Staff IB at 187-188. ComEd argues that the Commission should reject this new request for two reasons.

First, ComEd points out, this Grid Plan and Rate Plan proceeding is not the proper venue established by the legislature – through P.A. 102-0662 – to determine BE budgets, investments, and activities. And, ComEd observes, Staff agrees that "[t]he total spending level for ComEd's BE Plan was established in the BE Plan Docket; Staff does not seek to relitigate that issue." Staff IB at 188 n.16. Moreover, ComEd contends, at a status hearing in this case, all parties in the instant docket agreed that substantive issues regarding BE Plan activities and investments were properly addressed in the BE Plan docket, Docket Nos. 22-0432/22-0442 (Consol.) and are not appropriately raised in this docket. ComEd Ex. 35.0 at 6; Tr. at 135-139 (Apr. 20, 2023). According to ComEd, at that hearing, ComEd, Staff, and others all affirmatively stated that the only BE Plan-related issues properly addressed in this case are how BE costs are accounted for and reflected in rates, and that program and budget issues should not be relitigated here. *Id*. ComEd contends that no party voiced a contrary view, even after the ALJs called for additional or opposing viewpoints. *Id*. ComEd argues that Staff's new request, however, goes beyond accounting for and reflecting costs in rates. It is a substantive BE Plan budget proposal and is therefore outside the scope of this docket, ComEd contends.

Second, ComEd notes, this request is in conflict with the Order in that BE Plan docket, which explicitly provides for the opposite of Staff's request: the Commission already expressly determined that ComEd shall have budget flexibility. Docket Nos. 22-0432/22-0442 (Consol.), Order at 130-136. According to ComEd, the Commission approved that budget flexibility pursuant to a specific request from ComEd and after analyzing and incorporating many of the conditions that Staff proposed regarding that flexibility. *Id*. Notably, ComEd contends, none of those conditions involved a bright line rule for administrative costs as a percentage of the total incentive budget. *Id*. To be clear – as shown in the BE Plan budget information provided in this docket (which ComEd provided solely for the purpose of showing the accounting mechanisms that ComEd will use to reflect the BE Plan costs in rates) – ComEd does intend to spend approximately 25% of total incentive budgets on administrative costs over the course of the BE Plan, ComEd argues. ComEd Ex. 56.0 at 4. But the Commission did not expressly limit ComEd to that percentage in the BE Plan docket, and should not do so here at this time, ComEd notes. In addition, the annual reconciliation in this Rate Plan process will give the Commission the opportunity to ensure that ComEd does not imprudently and unreasonably overspend in 2024 and 2025 as compared to the amounts approved in the BE Plan docket, ComEd explains. Thus, ComEd concludes, Staff's new request is wholly unnecessary.

Since this Rate Plan docket is not a vehicle for modifying the Commission-approved BE Plan, the Commission must reject any requests to do so, ComEd reasons. Entertaining a separate and additional budget requirement here would be contrary to P.A. 102-0662's framework and inconsistent with the Commission's BE Plan Order, ComEd notes. It would be a highly duplicative and unfair effort (especially given the timing of the request), and, in this case would certainly lead to different results if ComEd were to comply with both the BE Plan Order and the final Order in this case.

Accordingly, ComEd argues, the Commission should approve the inclusion of ComEd's 2024-2027 BE Plan costs in the MYRP as presented in ComEd's rebuttal testimony. In ComEd's view, the Commission need not and should not address or approve Staff's proposal to reallocate $450,000 of BE Plan costs within 2023, ComEd concludes.

b. Staff's Position

The Commission should consider the allocation of BE costs within the overall framework of this proceeding. ComEd argues that the Commission need not and should not address Staff's proposal to re-allocate a portion of its BE administrative costs to its incentive programs because the 2023 costs are outside the scope of this proceeding. Staff agrees with ComEd that any 2023 disallowances in this proceeding should be considered in ComEd's Rider DSPR reconciliation proceeding. However, to be clear, Staff is not proposing a reduction to ComEd's overall BE budget. The total spending level was established in the BE docket, and Staff does not seek to relitigate that issue here.

ComEd argues that a larger percentage of administrative costs (almost 40%) of incentives was necessary in 2023, compared to 25% in 2024 and in 2025. ComEd states that because 2023 is the first year of its BE Plan, there is additional work needed in this year to stand up its incentive programs, so the administrative costs would be higher in this year. Staff finds this explanation reasonable; however, overall administrative costs as a percentage of incentives should be no more than 25% for the entire BE Plan period to reflect ComEd's final compliance filing and the Final and Amendatory Orders in the BE Plan docket. The Commission should direct ComEd to maintain its BE administrative costs at no more than 25% of the total budget for incentives for the duration of the inaugural BE Plan period for years 2023 through 2025.

In the Company's originally filed BE Plan in Docket Nos. 22-0432/0442 (Consol.), the Company's program-specific administration costs were estimated to be 15% of the total Residential and Commercial and Industrial ("C&I")/Public Sector incentive programs or $11.7 million per year. Docket Nos. 22-0432/22-0442 (Consol.), Staff Ex. 18.2, 1. Portfolio costs were estimated to be $8 million per year. Docket Nos. 22-0432/22-0442 (Consol.), ComEd Ex. 2.0, 4. Thus, the Company-proposed total program-specific administration costs and portfolio costs were approximately 20% of the original total annual budget of $100 million (sum of portfolio costs of $8 million plus program-specific administrative costs of $11.7 million divided by total original annual budget of $100 million). In the final Order in the BE Plan docket, the Commission denied the Company's proposed $8 million in portfolio costs because the Company had not provided detailed justification for this amount. Docket Nos. 22-0432/22-0442 (Consol.), Order at 89. In the Company's final compliance filing in the BE Plan docket, the Company estimated 25% of its sub-program costs would be allocated to administration and portfolio costs, with 15% going towards program-specific administration costs and the remaining 10% going to portfolio costs. Thus, the Company shifted its original separately identified portfolio budget, which the Commission had denied in its final Order, into the program-specific administrative costs, thereby maintaining approximately the same percentage of administration and portfolio costs in the final compliance filing as in its direct testimony filing in the BE Plan case.

The Commission approved an overall annual BE budget of $77 million for the BE Plan period from 2023 to 2025. Docket Nos. 22-0432/22-0442 (Consol.), Amendatory Order at 2; Staff Ex. 19 at 11. In rebuttal testimony in this proceeding, the Company presented the BE budget. From 2023 to 2025, the Company proposes to spend a total of $231 million, which averages $77 million per year, in accordance with the Commission's Amendatory Order. The Company also forecasts that administrative costs will be 25% of the total incentive budget. ComEd Ex. 37.0 Corr. at 20, 24; *see also* Staff Ex. 19 at 11-12.

In 2023, the BE Plan administration costs represent approximately 38% of the incentive costs. Staff Ex. 19 at 12. The Company explained in surrebuttal that "[w]hile ComEd forecasted 25% of its sub-program costs would be administrative over the entire course of the BE Plan . . .2023 is predominantly a start-up year with a greater share of administrative costs." ComEd Ex. 56.0 at 4. ComEd further states that in 2023, there is one sub-program offering incentives, while the Company works on standing up the others. The Company's explanation for increased costs in 2023 is reasonable, but Staff disagrees that administrative costs should continue to represent 25% of the incentive budget in the last year of the BE Plan in 2025, after administrative work will have already been done in 2023 to stand up the sub-programs. To reflect the Company's final compliance filing and the final Order and Amendatory Order in the BE Plan docket, the Commission should direct the Company to limit its total administrative costs to no more than 25% of the total incentive budget over the BE Plan period for the years 2023 through 2025.

If the Company spends $25 million on administrative costs in 2023 to stand up the sub-programs, $20 million on administrative costs in 2024, then it should spend no more than $4.5 million in administrative costs in 2025, to not exceed the overall 25% allocation of incentive costs to administrative costs.

c. Commission Analysis and Conclusion

Staff recommends that the Commission direct ComEd to limit its total administrative costs to no more than 25% of the total incentive budget over the BE Plan period for the years 2023 through 2025 to align with the Company's BE final Order compliance filing. *See* Docket Nos. 22-0432/0442 (Consol.).

Staff is correct that the final Order in the BE Plan docket denied the Company's proposed $8 million in portfolio costs because the Company had not provided detailed justification for this amount. *See id*., Order at 89. After denial, ComEd reallocated its portfolio budget into the program-specific administrative costs, thereby maintaining approximately the same percentage of administrative and portfolio costs in its final compliance filing as in its direct testimony filing. *See id.,* ComEd Ex. 1.01 Compared with ComEd BE Plan for Compliance Filing. The Commission agrees with Staff that the Company's compliance filing does not fully align with the intent of the BE Plan final Order.

ComEd's assertion that the costs of the BE Plan are not within the scope of this proceeding is incorrect. The Commission is statutorily directed to consider the BE Plan within multi-year proceedings. *See* 220 ILCS 5/16-105.17(f)(4) ("the Commission shall consider, comprehensively, the impact of all related plans, tariffs, programs, and policies on the [Multi-Year Integrated Grid] Plan and on each other, including . . . beneficial electrification programs"). The Company's Multi-Year Rate Plan is predicated on the Multi-Year Integrated Grid Plan and must sufficiently discuss each investment to prove justness and reasonableness. *See e.g.,* 220 ILCS 5/16-108.18(d)(2) (the Multi-Year Rate Plan "must be consistent with the Multi-Year Integrated Grid Plan . . . [and] shall provide sufficiently detailed information . . . including, at a minimum, a description of each investment"); 220 ILCS 5/16-108.18(d)(3)(A) (the Multi-Year Rate Plan shall "[p]rovide for a recovery of the utility's forecasted rate base, based on the 4-year investment plan and the utility's Integrated Grid Plan"). The Company must also provide information within the Multi-Year Rate Plan on any investment of $2 million or greater over the plan period. *See* 220 ILCS 5/15-108.18(d)(2). The record indicates the Company's BE Plan yearly allocation exceeds the $2 million investment threshold. The BE Plan is intrinsically linked to the Multi-Year Rate Plan and meets the statutory cost threshold; therefore, it must be considered by the Commission in this docket.

ComEd was given budget flexibility in the BE Plan docket. Unless restricted by the BE Plan final Order, ComEd can generally move funding between programs and years. The Commission did not authorize the Company to spend 25% of its budget administering the BE Plan. The Commission found ComEd did not "explain how the portfolio costs will be distinguished from the subprogram administrative expenses that are budgeted elsewhere." Docket Nos. 22-0432/22-0442 (Consol.), Order at 89. ComEd's compliance filing stated that "program-specific administration costs are estimated to be 15% of the sub-program budgets, and portfolio-level costs are estimated to be another 10%, for a total of 25% of sub-program budgets going to implementation costs." *Id.*, ComEd BE Plan Compliance Filing, May 25, 2023 at 42. The BE Plan final Order did not approve portfolio administrative costs; therefore, the 10% added by ComEd is not just or reasonable for purposes of the MYRP. Any funding used for BE Plan administration above 10% should be disallowed and addressed in either the Rider DSPR proceeding reconciling 2023 costs or the MYRP annual adjustment proceedings reconciling 2024 and 2025 costs. The Commission expects the approved BE Plan budget to be used on the approved sub-program activities that benefit customers.

The 2024-2027 BE Plan costs as presented by ComEd in rebuttal testimony are approved for inclusion in the MYRP. The annual MYRP reconciliations will give parties and the Commission the opportunity to review these costs.

3. Fleet and Fuel Costs

a. ComEd's Position

ComEd argues that the Commission should approve the expense supporting ComEd's fleet and fuel/diesel costs at the levels identified in the Grid Plan. ComEd explains that, in general, fleet and fuel expenses include those incurred to procure and maintain vehicles and equipment in support of ComEd's fleet operations. ComEd Ex. 5.01 2nd Corr. at 211. These expenses are necessary for ComEd to perform its operations. *Id*. The Commission should reject Staff's proposal to reduce the expense associated with fuel costs, as that proposal is not consistent with actual observed data, ComEd concludes.

ComEd notes that its forecasted fuel pricing used to inform the Grid Plan was formulated using the most current EIA information at the time ComEd developed its LRP. ComEd Ex. 29.0 at 173. ComEd observes that Staff has proposed an alternative method of pricing, which represents a moment in time price in May 2023 of $3.33 per gallon of gasoline, and $3.90 per gallon of diesel. Staff Ex. 5.0 at 10-11, 13-14.

Staff's moment-in-time methodology should be rejected, ComEd argues. It is well known that fuel pricing (including diesel fuel pricing) is volatile, and can change month to month, ComEd explains. ComEd Ex. 29.0 at 173. For example, ComEd demonstrates that at the time of filing ComEd's rebuttal testimony in June 2023, the price of fuel was 37 cents/gallon higher than the price referenced in Staff's recommendation. ComEd Ex. 29.0 at 173. The July 2023 price was seven cents/gallon higher, ComEd notes. ComEd Ex. 50.0 at 28. ComEd observes that Staff's moment-in-time methodology, uses a moment in time price in May 2023 of $3.33 per gallon of gasoline, and $3.90 per gallon of diesel. Staff Ex. 5.0 at 10-11, 13-14. ComEd argues that Staff fails to appreciate or squarely address the shortcomings of its alternative moment-in-time methodology, which ignores the inherent volatility in the fuel/diesel pricing market and seeks to set allowed fuel/diesel prices arbitrarily. ComEd Ex. 29.0 at 173; ComEd Ex. 50.0 at 28. Accordingly, Staff's moment-in-time methodology must be rejected, ComEd argues. ComEd adds that ICCP adopts Staff's recommendations regarding fleet and fuel/diesel pricing, and so their position must also be rejected.

ComEd contends that the volatility of fuel pricing requires ComEd to take a snapshot of the fuel prices during the budget setting cycle. ComEd Ex. 50.0 at 28. Once the budget is submitted, ComEd rightfully does not continually change the number based on swings in the market, it claims. ComEd Ex. 50.0 at 28. ComEd argues that Staff's proposal would ignore this inherent volatility in the market and set allowed fuel prices arbitrarily, rather than based on the most accurate data. For these reasons, ComEd asserts Staff's alternative proposal must be rejected.

b. Staff's Position

Staff argues that the Commission should accept Staff's proposal to reduce ComEd's O&M expenses associated with fleet and fuel costs by $121,615 in 2024; $130,001 in 2025; $134,195 in 2026; and $134,195 in 2027. ComEd stated that its forecasted fuel pricing used to inform the MYIGP was formulated using the most current EIA information at the time ComEd developed its LRP. Staff initially proposed an alternative method of pricing, which represents a moment in time price in May 2023 of $3.33 per gallon of gasoline, and $3.90 per gallon of diesel.

In direct testimony, Staff noted that ComEd relied upon the average from July 2022 through December 2022 EIA published outlook data to value its gasoline for its fleet fuel costs. Staff Ex. 5.0 at 9; Staff Ex. 5.02. Staff recommended that ComEd place reliance on a more up to date forecast for its gasoline valuation and Staff's adjustment values in direct testimony resulted from relying on the May 2023 EIA energy price forecasts. Staff Ex. 5.0 at 10.

ComEd responded by noting its fuel pricing was formulated using the most recent EIA information at the time ComEd developed its LRP. ComEd Ex. 29.0 at 173. ComEd also noted that fuel pricing is very volatile, and the pricing can change month to month. *Id*. Finally, ComEd indicated that its fleet department recommends staying with ComEd's original projection to manage volatility in fuel prices. *Id*.

In rebuttal testimony, Staff continued to recommend that ComEd rely on the most recent forecast available to value ComEd gasoline purchases. Staff Ex. 21.0 2nd Corr. at 5. Staff also noted that both ComEd and Staff are relying on the same pricing guide, EIA, but Staff contends the most recent forecast provide the most reasonable valuation for future years compared to the valuation ComEd conducted when it initially developed its forecast. *Id*. at 6. Using the July 2023 EIA pricing for gasoline results in the recommended reduction in ComEd's O&M expenses by $121,615 in 2024; $130,001 in 2025; $134,195 in 2026; and $134,195 in 2027. *Id*. at 6-7.

In surrebuttal testimony, ComEd replied that the volatility of fuel pricing requires ComEd to take a snapshot of the fuel prices during the budget setting cycle. ComEd Ex. 50.0 at 28. Once the budget is submitted, ComEd does not continually change the number based on swings in the market. *Id*. The budget and LRP are adjusted in the next yearly budget cycle to reflect the latest forecasts on the EIA website and no adjustment should be made until the next budget cycle. *Id*. ComEd argues that Staff's moment-in-time methodology should be rejected because fuel pricing is volatile and can change month to month. Despite this, ComEd details the general volatility of fuel pricing and attempts to justify its own moment-in-time pricing which it calls "a snapshot" of the fuel prices during the budget setting cycle. Once the budget is submitted, ComEd does not continually change the number based on swings in the market.

Staff disagrees with ComEd for several reasons. ComEd erroneously referenced Staff's position from its direct testimony rather than its rebuttal testimony as its final position. In rebuttal testimony, Staff clearly stated it had updated its adjustment based on the most recent EIA information available, namely the July 2023 EIA pricing. This key distinction supports Staff's recommendation based on the most current market conditions, rather than those included when the Company arbitrarily took a "snapshot". Staff updated its recommendation based on the most current information available via the same pricing methodology that ComEd employed, namely the EIA pricing forecast.

The purpose of this proceeding is to provide the framework for the most reasonable future costs for the rate plan years. Placing reliance on the most recent pricing from the EIA is more reasonable than memorializing a dated fuel price and refusing to update it because it is part of the Company's budget setting cycle. Staff's recommendation is supported by data that is nearly a full year more recent than ComEd's memorialized dated gas price. Therefore, Staff argues that the Commission should accept Staff's proposal to reduce ComEd's O&M expenses associated with fleet and fuel costs.

c. ICCP's Position

ICCP support Staff witness Lounsberry's adjustment to reduce ComEd's proposed O&M and capital expenditures associated with the purchase of gasoline used to power fleet vehicles and equipment. *See* Staff Ex. 5.0 at 9-11.

d. Commission Analysis and Conclusion

See Section XI.E.12.d of this Order. The Commission accepts Staff's adjustment to fleet and fuel costs. Accordingly, The Commission approves Staff's proposal to reduce ComEd's O&M expenses associated with fleet and fuel costs by $121,615 in 2024; $130,001 in 2025; $134,195 in 2026; and $134,195 in 2027.

4. Diesel Fuel Adjustment

a. ComEd's Position

ComEd addresses this issue within the discussion of fleet and fuel costs in Section XII.D.3 of this Order.

b. Staff's Position

The Commission should accept Staff's proposal to reduce ComEd's O&M expenses associated with the diesel fuel adjustment by $202,536 in 2024; $216,504 in 2025; $223,488 in 2026; and $223,488 in 2027. ComEd stated that its forecasted fuel pricing used to inform the MYIGP was formulated using the most current EIA information at the time ComEd developed its LRP. Staff proposed an alternative method of pricing, which represents a moment in time price in May 2023 of $3.33 per gallon of gasoline, and $3.90 per gallon of diesel.

In direct testimony, Staff noted that ComEd relied upon the average from July 2022 through December 2022 EIA published outlook data to value its diesel fuel. Staff Ex. 5.0 at 12; Staff Ex. 5.06. Staff recommended that ComEd place reliance on a more up to date forecast for its diesel fuel valuation and Staff's adjustment values in direct testimony resulted from relying on the May 2023 EIA energy price forecasts. Staff Ex. 5.0 at 13.

ComEd responded by noting its diesel fuel pricing was formulated using the most recent EIA information at the time ComEd developed its LRP. ComEd Ex. 29.0 at 173. ComEd also noted that fuel pricing is very volatile, and the pricing can change month to month. *Id*. Finally, ComEd indicated that its fleet department recommends staying with ComEd's original projection to manage volatility in fuel prices. *Id*.

In rebuttal testimony, Staff continued to recommend that ComEd rely on the most recent forecast available to value ComEd diesel fuel purchases. Staff Ex. 21.0 2nd Corr. at 8. Staff also noted that both ComEd and Staff are relying on the same pricing guide, EIA, but Staff contends the most recent forecast provide the most reasonable valuation for future years compared to the valuation ComEd conducted when it initially developed its forecast. *Id*. Using the July 2023 EIA pricing for diesel fuel results in the recommended reduction in ComEd's O&M expenses by $202,536 in 2024; $216,504 in 2025; $223,488 in 2026; and $223,488 in 2027. *Id*. at 8-9.

In surrebuttal testimony, ComEd replied that the volatility of fuel pricing requires ComEd to take a snapshot of the fuel prices during the budget setting cycle. ComEd Ex. 50.0 at 28. Once the budget is submitted, ComEd does not continually change the number based on swings in the market. *Id*. The budget and long-range plan are adjusted in the next yearly budget cycle to reflect the latest forecasts on the EIA website and no adjustment should be made until the next budget cycle. *Id*. ComEd argues that Staff's moment-in-time methodology should be rejected because fuel pricing is volatile and can change month to month. Despite this, ComEd details the general volatility of fuel pricing and attempts to justify its own moment-in-time pricing which it calls "a snapshot" of the fuel prices during the budget setting cycle. *Id*. Once the budget is submitted, ComEd does not continually change the number based on swings in the market. *Id*.

Staff disagrees with ComEd for several reasons. ComEd erroneously referenced Staff's position from its direct testimony rather than its rebuttal testimony as its final position. In rebuttal testimony, Staff clearly stated it had updated its adjustment based on the most recent EIA information available, namely the July 2023 EIA pricing. This key distinction supports Staff's recommendation based on the most current market conditions, rather than those included when the Company arbitrarily took a "snapshot". Staff updated its recommendation based on the most current information available via the same pricing methodology that ComEd employed, namely the EIA pricing forecast.

The purpose of this proceeding is to provide the framework for reasonable future costs for the rate plan years. Placing reliance on the most recent pricing from the EIA is more reasonable than memorializing a dated fuel price and refusing to update it because it is part of the Company's budget setting cycle. Staff's recommendation is supported by data that is nearly a full year more recent than ComEd's memorialized dated gas price. Therefore, the Commission should accept Staff's proposal to reduce ComEd's O&M expenses associated with diesel fuel.

c. ICCP's Position

ICCP support the adjustment recommended by Staff witness Lounsberry to reduce the O&M and capital expenditures ComEd proposes associated with diesel fuel purchases. *See* Staff Ex. 5.0 at 11-14.

d. Commission Analysis and Conclusion

See Section XI.E.13.d of this Order. The Commission accepts Staff's proposal to reduce ComEd's O&M expenses associated with the diesel fuel adjustment by $202,536 in 2024; $216,504 in 2025; $223,488 in 2026; and $223,488 in 2027.

5. Impact of Long-Range Plan 2.0

a. ComEd's Position

ComEd rejects the AG's proposal that ComEd update the balances for pension assumptions and AFUDC used in the LRP 2.0 to be used in the Rate Plan. ICCP also supports the AG's recommended adjustment to reflect the impact of significant known changes for year-end pension data and updated AFUDC data including the LRP 2.0 for 2024 to 2027. ComEd contends there is no need for the updated balances for pension assumptions and AFUDC used in LRP 2.0 to be used in the Rate Plan. As ComEd claims it established, the actual balances of pension and AFUDC will change between now and the beginning of test year 1, and would be different for each test year. ComEd Ex. 49.02 at 20. Updating these balances results in increased costs in the revenue requirement for 2024 and 2025, and increased costs in 2026 and 2027, and it is impossible to predict how close the year-end 2022 balances included in LRP 2.0 will be to the year-end balances before each test year, ComEd explains. *Id*. at 21. ComEd notes that these costs will ultimately be reconciled using the actual balances to ensure that customers pay the actual amount of ComEd's costs. ComEd argues that there is no reason to make this individual update when the "updated" costs will still not be the costs that actually impact customers' reconciled rates.

b. AG's Position

The AG explains that the MYRP is intended to establish the revenue the Company requires to fund its operations based on the forecasted costs for each year of the plan. ComEd developed an LRP that contained the costs for its capital and O&M plans for 2024 and projections for the subsequent years of the MYRP. AG Ex. 3.0 at 2. ComEd described its LRP as "including an overview of the planning process, the frequency and duration of the process, the roles and responsibilities within the process of ComEd personnel, and the ComEd departments involved," adding that it "is a five-year forward-looking financial and investment planning process, which is updated regularly to meet evolving system and customer needs." ComEd IB at 37 (citations omitted). LRP 2.0 is the second update of the plan and was completed in February 2023. AG Ex. 3.0 at 3. Shortly after filing the MYRP in January 2023, ComEd changed the forecasts for several items. According to AG witness Selvaggio, the Company's "updated data … includes 'significant known changes' for final year-end pension data and updated AFUDC data." *Id*. at 51-52.

The AG states that ComEd witness Graham, in response, simply suggested that known changes can be ignored — even if they would reduce the revenue requirements because of the reconciliation under Section 16-108.18(f)(6)(A). ComEd Ex. 28.0 at 19-20. The AG asserts that consumers should not be asked to pay more than ComEd forecasts cost to be, both to avoid unnecessarily driving up rates and to ensure that the 105% reconciliation factor is not distorted upward by inflated costs.

ComEd argues that the changes identified in LRP 2.0 should be ignored in setting ComEd's revenue requirement because "[u]pdating these balances results in increased costs in the revenue requirement for 2024 and 2025, and increased costs in 2026 and 2027." ComEd IB at 282. The AG contends that the Company's statement is incorrect.

Ms. Selvaggio reviewed the changes in LRP 2.0 and identified changes in pension data that reduce pension expense in 2024 and 2025 (and increase it in 2026 and 2027) and changes in pension and AFUDC that reduce rate base. AG Ex. 3.0 at 3. Mr. Effron presented the rate base impact as well as the expense adjustments which show consumers save about $10 million in 2024, and $2.7 million in 2027, with a cumulative savings of $22.3 million in revenue requirements. *See* AG Ex. 4.01, Sch. B-2, Sch. C-2, and C-3 (showing the effect on depreciation expense, the depreciation reserve, and ADIT).

Given the large increases ComEd requests in this MYRP, the AG asserts that there is no reason to ignore changes identified in the LRP 2.0 that can moderate the increases. According to the AG, while it is apparent that in the last year of the MYRP the pension expense increases, overall consumers save due to the effect of the rate base deductions.

ComEd also complains that "it is impossible to predict how close the year-end 2022 balances included in LRP 2.0 will be to the year-end balances before each [t]est [y]ear," and that actual costs will be subject to reconciliation in any event. ComEd IB at 282. But the AG argues that this can be said of any adjustment. The AG contends that this MYRP is based on predicted expenses for future test years that are all subject to reconciliation. The AG iterates that this does not mean that the Commission should ignore changes that the Company itself identified and that can relieve at least some of the impending rate case.

The AG notes that ComEd's argument to omit the effects of these known reductions to expense and rate base raise a further concern related to the cap on the reconciliation contained in the MYRP statute. Section 16-108.18(f)(6) limits the reconciliation charge to 105% of the revenue requirement in effect for the applicable year. 220 ILCS 5/16-108.18(f)(6). The AG argues that if known cost reductions are left in the forecasted revenue requirements, it then increases the baseline for the year and enlarges the 105% reconciliation cap that consumers may ultimately pay. The AG believes the Commission should use the best available evidence and adopt the changes resulting from LRP 2.0.

The AG indicates that the updated pension data ComEd identified in its LRP reduce operating expenses in 2024 and 2025 by $7.396 million and $2.087 million, respectively, and increase operating expenses in 2026 and 2027 by $1.135 million and $3.147 million, respectively. Accordingly, the cumulative impact of the capitalized updated pension costs and updated AFUDC costs reduces the 2024–2027 average plant/CWIP balances in rate base by $27.171 million, $41.557 million, $50.648 million, and $59.384 million, respectively. AG Ex. 6.0 at 5.

c. ICCP's Position

ICCP support the adjustment recommended by AG witness Selvaggio to reflect the impact of significant known changes for year-end pension data and updated AFUDC data including the LRP 2.0 for 2024 to 2027. *See* AG Ex. 6.0 at 2-5.

d. Commission Analysis and Conclusion

ComEd updated year-end pension and AFUDC data in LRP 2.0. The Commission finds it is not reasonable to ignore known uncontested changes to ComEd's forecast. The Commission approves the AG's recommended adjustment to reflect these updates.

6. Pension Asset Funding Cost

a. ComEd's Position

ComEd contends that the record evidence, and Commission practice under both Article IX and formula ratemaking, support the approval of a return on ComEd's Pension Asset. ComEd argues that there is no doubt that ComEd and its shareholders created a pension asset by making substantial contributions to the pension trust in 2005 and 2009, a fact the Commission has recognized. ComEd then made further shareholder-funded contributions every year during the formula rate period. ComEd argues that the effect of all these contributions is equally clear: the pension asset directly benefits customers through reduced pension expense. ComEd points out that it has saved customers nearly $1 billion dollars in just the time since formula rates were implemented and continues to save them money today. And, unlike other utilities whose pension asset proposals have been rejected, ComEd explains that it has established that its pension asset was funded by shareholder funds, as the Commission has also recognized. ComEd notes that ComEd and the AG agree that a return on this asset is appropriate, but ComEd proposes that this return should be calculated using the weighted average cost of capital while the AG recommends that it should earn a return equal to the cost of long-term debt. Staff, in contrast, argues that no return should be granted on ComEd's pension asset, even though the benefits to customers outweigh the cost in each test year because the expected earnings from the trust will exceed the cost of the return. ComEd explains that the Commission has long permitted a return on ComEd's pension asset based on the evidence, and argues that the evidence supports the continued approval of a return on this asset in this proceeding.

ComEd describes what a pension asset is and what ComEd seeks to recover, explaining that a pension asset is recorded under Generally Accepted Accounting Principles ("GAAP") when a company's cumulative pension contributions exceed its cumulative net periodic pension costs. ComEd Ex. 49.01 at 42. ComEd further explains that pension cost can be thought of as the expected change in the pension benefit obligation funded status over the next year; the minimum required contribution under applicable federal law and guidelines represents the amount by which the plan's funding liability is expected to increase in the upcoming year, plus an amount to "make up" any existing underfunding over a 7-year period, as specified in the Pension Protection Act. *Id*. at 42-43. ComEd states that it is prudent for companies to make not only the mandatory contributions as defined by the Employee Retirement Income Security Act and the Pension Protection Act, but also to make contributions in excess of these amounts.

Id. at 43. Making contributions in excess of these amounts has created a prepaid pension asset, ComEd explains. *Id*. ComEd observes that utilities that have a pension asset report this amount annually on their FERC Form 1. *Id*. at 43. ComEd points out that a pension asset differs from pension expense, because pension expense is a cost of service that is included in rates as an operating expense and recovered from customers and consists of the amount ComEd incurs in costs that can be thought of as the expected change in the pension benefit obligation funded status each year. By contrast, ComEd notes, a pension asset represents the cumulative pension contributions in excess of the cumulative pension costs. Here, ComEd states that it is proposing to use its actual pension asset balance given the law and the evidence. In the alternative, ComEd argues, should the Commission decline to use ComEd's actual pension asset balance, it could instead simply bring forward the balance that the Commission previously found to be a shareholder-funded pension asset, jurisdictionalized and adjusted for ADIT and additions made during the formula rate period. *Id*. at 47. That original value, ComEd explains, which was $907,476,044, represents the value of the pension asset as of December 31, 2009, which the Commission addressed in Docket No. 10-0467 and determined was created with shareholder funds. *Id*.

ComEd explains that the existence of a pension asset benefits customers directly through lower pension expense included in rates. For ComEd customers, in just the years since formula rates were introduced, customers have had Pension Expense reduced by nearly one billion dollars due to the impact of the returns on the assets in the pension trust. *Id*. at 45; *see also* ComEd Ex. 49.10. ComEd explains that the forecasted return on ComEd's pension asset for each test year, which will directly reduce customers' pension expense in those years, is $60.14 million in 2024, $67.38 million in 2025, $75.46 million in 2026, and $83.96 million in 2027. ComEd Ex. 49.10. In addition to these cost savings, ComEd points out that customers also benefit from the stability that results from having a levelized contribution strategy that helps minimize volatility of future period required pension contributions and increase the level of certainty that the pension trust can support the full level of benefit obligations. ComEd Ex. 49.01 at 45. ComEd observes that no party disputes that customers benefit from the pension asset.

ComEd details the history of ComEd's recovery of a return on pension asset and explains that it has consistently recovered some sort of return on its pension asset since the first general rate case after it first recorded a pension asset on its audited financial statements. *Id*. In that case, ComEd explains, the Commission considered ComEd's proposal to include in rate base its $853.9 million pension asset, which resulted in large part from an $803 million contribution of equity that Exelon made to ComEd in March 2005 to enable ComEd to "fully fund" its portion of the Exelon pension plan. *Commonwealth Edison Co*., Docket No. 05-0597, Order at 28 (Jul. 26, 2006). On rehearing, ComEd further explains, the Commission stated "it appears to the Commission that ComEd has incurred a cost and that customers have derived some benefit as a result of the pension contribution. Accordingly, as ComEd illustrates, the Commission is of the opinion that the issue on rehearing is how best ComEd should be authorized some cost recovery for this contribution" and ultimately approved a return equal to ComEd's cost of long-term debt. Docket No. 05-0597, Corrected Order on Rehearing at 28 (Dec. 20, 2006). In ComEd's 2007 rate case, ComEd points out that it did not include the $803 million pension contribution in rate base and instead included an annual debt return on the pension contribution, which was consistent with the approach approved in the 2005 rate case. *Commonwealth Edison Co*., Docket No. 07-0566, Amendatory Order at 1-2 (Nov. 3, 2008). ComEd notes that the Commission made no reduction to the pension asset amount presented by ComEd and approved a return equal to the cost of debt on the full amount. ComEd notes that in its 2010 rate case, ComEd's last traditional rate case before formula ratemaking took effect, the Commission recognized a pension asset balance that was funded by shareholders created with the 2005 contribution of $803 million from Exelon that had been addressed in these prior proceedings as well as an additional 2009 pension contribution of $104.5 million, which (on a jurisdictional basis) represented $92.5 million in additional pension asset. ComEd points out that in that case, with regard to the 2009 contribution, Staff "contend[ed] that ComEd should be compensated for its discretionary contribution to the extent of corresponding ratepayer benefit, defined as the jurisdictional portion of the reduced pension expense resulting from the discretionary contribution." *Commonwealth Edison Co*., Docket No. 10-0467, Order at 50 (May 24, 2011). According to ComEd, the Commission approved this treatment for the $92.5 million in additional pension asset. *Id*. at 51.

ComEd acknowledges Staff's argument that the MYRP statute requires that pension asset should be determined pursuant to traditional ratemaking principles under Article IX and based on past Commission practice, and states that permitting a return on ComEd's pension asset is not inconsistent with either Article IX ratemaking principles or past Commission practice. As described above, ComEd demonstrates that the Commission has approved a return on ComEd's pension asset under Article IX principles, and ComEd argues that its pension asset satisfies the test for recovery that the Commission has applied to other utilities. ComEd argues that the Commission's decision in this case should be based on the evidence – which proves the existence of the pension asset, establishes how it was funded, and defines the required return – and that respecting that evidence does not require the Commission to depart from traditional ratemaking principles.

ComEd argues that, unlike other utilities whose pension asset proposals have been rejected, it has established that its pension asset was funded by shareholder funds. ComEd observes that in determining whether utilities can record a pension asset, the Commission has focused on whether the claimed pension asset was created with shareholder funds. Under Illinois law, ComEd notes, a public utility may not receive a return on investment from ratepayers for ratepayer supplied funds. *City of Alton v. Ill. Commerce Comm'n*, 19 Ill. 2d 76, 85-6, 91 (1960); *DuPage Util. Co. v. Ill. Commerce Comm'n*, 47 Ill. 2d 550, 554 (1971); *see Bus. and Prof'l People for the Pub. Int. v. Ill. Commerce Comm'n*, 146 Ill. 2d 175, 258 (1991). ComEd states that while the Commission has addressed recoverability of a return on a pension asset on several occasions for other utilities, those utilities have been unable to show that the pension asset was created with anything other than ratepayer funds. *See, e.g., N. Ill. Gas Co.*, Docket No. 95-0219, Order at 9 (Apr. 3, 1996); *N. Shore Gas Co. and Peoples Gas Light & Coke Co.*, Docket Nos. 09-0166/09-0167 (Consol.), Order at 36 (Jan. 21, 2010).

ComEd explains that it has a pension asset that was created with shareholder funds, as the record evidence supports and as past Commission decisions and AG witness Effron's proposal recognizes. ComEd posits that since a public utility may not receive a return on investment from ratepayers for ratepayer supplied funds, the Commission's determination that a return on ComEd's pension asset was appropriate in ComEd's 2005, 2007, and 2010 rate cases recognized that ComEd's pension asset was funded by shareholder funds. ComEd explains that since the 2010 rate case, when the Commission last substantively addressed ComEd's pension asset, ComEd's pension expense has been reconciled to actual pension expense each year under the formula rate structure. ComEd Ex. 49.01 at 44. This means that ratepayers did not pay any additional funds that would represent an overpayment and contribute to the creation of the pension asset, ComEd states. *Id*. ComEd notes that AG witness Effron did not dispute ComEd's characterization that his proposal recognizes that ComEd has a shareholder-funded pension asset. ComEd Ex. 49.02 at 2, 19; AG Ex. 4.0 at 6. Moreover, ComEd notes that no party has disputed that the pension asset is funded by shareholders or alleged that it was funded by customers.

ComEd explains further that pension asset benefits customers, and the benefit to customers outweighs the cost of the return under either ComEd's proposal to use the weighted average cost of capital or the AG's recommendation to use the cost of long-term debt. ComEd Ex. 49.0 at 19. ComEd notes that in ComEd's 2005 rate case, the Commission evaluated the customer benefit of the pension asset, stating that "[t]he record shows that the contribution assisted in providing adequate funding for the retirement obligations to ComEd's workforce and that ComEd's customers saved $30.2 million as a result of the contribution. The Commission finds that these savings more than outweigh the $25.3 million cost [at the cost of long-term debt]." Docket No. 05-0597, Corrected Order on Rehearing at 28. Likewise, ComEd observes that in ComEd's 2010 rate case, Staff supported and the Commission ultimately approved a return on a portion of ComEd's pension contribution that was equal to its benefit to customers. Docket No. 10-0467, Order at 50-51, 96, 98. In this case, ComEd demonstrates that the forecasted return on ComEd's pension asset, which will directly reduce customers' pension expense in those years, is $60.14 million in 2024, $67.38 million in 2025, $75.46 million in 2026, and $83.96 million in 2027. ComEd Ex. 49.10. According to ComEd, the cost to customers of ComEd's proposal to apply the weighted average cost of capital to the pension asset is $53.015 million in 2024, $55.947 million in 2025, $59.143 million in 2026, and $63.807 million in 2027. ComEd Ex. 49.0 at 19. ComEd contends that under the AG's proposal to use the cost of long-term debt the cost to customers is $30.233 million in 2024, $31.996 million in 2025, $34.406 million in 2026, and $37.450 million in 2027. *Id*. at 19, n. 2. ComEd argues that the benefit to customers in each of the test years outweighs the cost significantly. ComEd argues that applying the weighted average cost of capital, as ComEd proposes, customers are forecasted to benefit between $7 million and $20 million per year. And under the AG's proposal, customers would benefit between $29 million and $46 million per year.

ComEd argues that applying the weighted average cost of capital to ComEd's pension asset accurately reflects how ComEd's pension asset was funded: with investor funds. ComEd Ex. 49.01 at 47. ComEd further argues that there is no basis to try to isolate funds from debt from ComEd's overall sources of capital. The Commission does not generally break out different assets and assign them different costs based on how the assets are financed, it utilizes the weighted average cost of capital to give a blended cost to all the assets funded by company capital, ComEd contends. *Id*. ComEd observes that

AG witness Effron "agree[s] that as a general matter it is not appropriate to attempt to trace different assets to different sources of capital." AG Ex. 2.0 at 11. Here, ComEd states, the weighted average cost of capital reflects the cost of funds used in general to finance the total operations of the utility, and already takes into account the idea that different assets are funded with different sources of capital. Therefore, ComEd argues, just as assets that were funded only by shareholder equity are not given a return at the rate of the ROE, the pension asset should not be given a return at the cost of long-term debt.

ComEd argues that Staff's argument that the pension asset somehow "diminishes" over time is not correct, and ComEd has provided evidence establishing that the asset has not diminished in the time since the Commission last substantively addressed it in ComEd's 2010 rate case. ComEd acknowledges that in ComEd's 2010 rate case the Commission determined that ComEd had not presented sufficient evidence to show that the regulatory debit associated with its pension asset did not diminish as the underlying debt matured, and reduced the return on ComEd's pension asset. Docket No. 10-0467, Order at 98. ComEd points out that the Commission did not conclude that ComEd had a regulatory debit that diminished, but concluded only that ComEd did not present sufficient evidence to show that it did not diminish. ComEd notes that the concept that a regulatory debit "diminishes" as the underlying debt matures is not applicable to the type of debt that ComEd holds. While the argument that debt diminishes is easily understandable, ComEd notes that its debt does not amortize over time. ComEd Ex. 49.0 at 21. ComEd explains that all of ComEd's long-term debt securities are what are known as "straight coupon" or "bullet" bonds and the principal of these bonds does not amortize over time; rather, ComEd pays interest periodically and the principal balance remains outstanding in its entirety until the maturity date, at which point it is either paid off or refinanced. *Id*. at 21. Further, ComEd argues that even if the principal of the debt was paid over time or upon maturity, that would not justify treating the pension asset or the associated regulatory debit as "diminished." *Id*. at 21. ComEd explains that if a borrower borrows money and pays it back, that debt has diminished. But if a borrower finances something with that money and pays it back, the debt diminishes and the borrower still retains the asset that was financed. *Id*. While the Commission determined that the equity infusion was financed by debt, if Exelon pays off the debt then ComEd does not lose the $803 million that was contributed to the pension trust, and customers do not lose the continued benefits resulting from that asset, according to ComEd. *Id*. at 21.

ComEd further argues that although ComEd was unable to show in the 2010 rate case that its Pension Asset had not diminished, the record evidence now shows that it has not. In the 2010 rate case, ComEd states that it explained that "the pension asset resulting from the 2005 contribution will not last in perpetuity. Rather, it will decrease each year by an amount equal to that year's pension accruals." Docket No. 10-0467, Order at 96. However, ComEd notes that in the time since that proceeding ComEd's pension expense has been subject to complete reconciliation, and ComEd has continued to make contributions. Because "[t]he general premise that a pension asset will decrease does not apply in a situation like ComEd's under formula rates, where pension expense was perfectly reconciled each year and ComEd continued to make regular pension contributions[,]" the shareholder-funded asset has remained, as ComEd explains.

ComEd Ex. 49.0 at 22. ComEd claims that this is shown in ComEd Ex. 49.10, which details the pension asset over the formula rate period.

b. Staff's Position

Staff states that ComEd seeks recovery of its prepaid jurisdictional pension asset net of ADIT. Staff argues that the Commission should deny any further recovery of the one-time contribution from 2005 and accept Staff's adjustments to remove such costs from the revenue requirements.

Staff argues that the Commission should deny a return on ComEd's pension asset, which ComEd included in each test year's operating expenses as "Pension Asset Funding Cost" calculated using the Company's weighted average cost of capital. Staff Ex. 17.0 at 4. The AG proposed including pension asset funding cost in operating expenses calculated using the Company's cost of long-term debt, similar to what was authorized under Section 16-108.5 of the Act established by the 2011 EIMA (which established formula rates.) AG Ex. 2.0 at 12-13. What ComEd and the AG fail to recognize is that formula rates specifically authorized the recovery of such costs. Formula rates are no longer in effect and the recovery of such costs is not specifically authorized by P.A. 102-0662 pursuant to which a MYRP is provided. The Commission is required to investigate the tariff filed to implement a utility's MYRP in a manner consistent with Section 16-108.18(d)(3) and the provisions of Article IX of the Act, 220 ILCS 5/9-101 *et seq*., to the extent they do not conflict with Section 16-108.18(d)(3). *See* 220 ILCS 5/16-108.18(d)(3). Article IX of the Act also does not specifically authorize recovery of a pension asset.

Under traditional Article IX ratemaking, the Commission has not allowed ComEd recovery of a prepaid pension asset. The Commission only allowed a diminishing debt-return on the one-time contribution of $803 million in 2005, which funded the prepaid pension asset at issue. Staff asserts that the Commission does not endorse the practice of pre-paid pension contributions to increase customer rates.

Under traditional Article IX ratemaking principles, the Commission has a long history of denying a return on a pension asset. *See Ameren Ill. Co. d/b/a Ameren Ill.*, Docket No. 20-0308, Order at 13 (Jan. 13, 2021); *N. Ill. Gas Co.*, Docket No. 17-0124, Order at 29 (Jan. 31, 2018); *Ill.-Am. Water Co*., Docket No. 16-0093, Order at 12-13 (Dec. 13, 2016); *MidAmerican Energy Co*., Docket No. 14-0066, Order at 12 (Nov. 6, 2014). Despite this, the Company argues that its proposal does not deviate from traditional Article IX ratemaking principles. ComEd Ex. 28.0 at 18. ComEd bases its argument on the Order on Rehearing in Docket No. 05-0597, in which the Commission allowed a debt of $25 million, which was ComEd's jurisdictional portion of the $803 million contribution less the associated ADIT, times the weighted average cost of debt. However, this was anomalous, and the Commission was very clear about the unique treatment for that one-time contribution.

> Accordingly, the Commission approves cost recovery of the Pension Asset under Alternative 3 that ComEd proposed on rehearing. *However, in doing so, the Commission does not sanction the prefunding of a utility pension plan as a mechanism to increase base rates*.

Docket No. 05-0597, Corr. Order on Rehearing at 28 (Dec. 20, 2006) (emphasis added). In the same Order, the Commission made clear that the debt return on the one-time contribution was not to be treated as precedential:

> The Commission bases its conclusion on this issue on the specific details of this proceeding, not to be construed as precedent for future proceedings concerning pension plan funding.

Id. In that docket, the Commission authorized a debt return using ComEd's proposed Alternative 3 in which hypothetical debt was issued and a return on the $803 million one-time contribution was allowed.

ComEd misinterprets the Commission's holding in Docket No. 05-0597 to suggest the Commission authorized a permanent source of funding based on the one-time contribution; ComEd argues that the regulatory asset does not diminish as the underlying debt matures. Staff argues that this is simply not true. The Commission never authorized the recovery of the one-time contribution. Rather, the Commission allowed a one-time return based on the hypothetical issuance of bonds that would be retired over time. While the underlying debt may not diminish, the amount to be recovered from customers does. Further, this one-time diminishing debt return is the only instance of the Commission allowing any kind of collection from customers for a prepaid pension asset for ComEd under traditional Article IX ratemaking. To argue that allowing a return on a prepaid pension asset is not a break from traditional Article IX ratemaking is disingenuous.

In Docket No. 10-0467, Staff proposed, and the Commission acknowledged, that the hypothetical debt issued in 2005 to fund the $803 million one-time contribution would diminish with the passage of time. Staff Ex. 17.0 at 6. In that proceeding, Staff calculated the diminished value of the regulatory debit as the hypothetical debt matured. The Commission accepted Staff's calculation and reduced the amount of return to be collected from customers.

> ComEd has not presented sufficient evidence to show that this regulatory debit has not diminished as the underlying debt matures. Further, Staff's reliance on ComEd's Rehearing Order in Docket No. 05-0597 to support its position reasonably applies what the Commission held in that Order.

Docket No. 10-0467, Order at 98.

ComEd argues that the borrowing does not diminish as the underlying debt matures. However, using Staff's calculations approved by the Commission in Docket No. 10-0467, the regulatory debit would be fully diminished before rates from this proceeding go into effect as the underlying debt matures. Staff Ex. 17.0 at 6.

Staff concludes that the Commission should deny any further recovery of the one-time contribution from 2005 and accept Staff's adjustments to remove such costs from the revenue requirements.

c. AG's Position

ComEd initially argues that the reduction in pension expense attributable to the growth in the pension fund due to ComEd's 2005 pension contribution justifies paying the Company a return on its 2005 contribution. ComEd argues that the savings exceed the weighted average cost of capital, which includes a 10.5–10.65% return to shareholders, so the Commission should not be concerned about charging consumers more than necessary for ComEd's contribution.

AG witness Effron suggested that ComEd receive no more than a long-term debt return on the pension asset; he based this on (1) Exelon's use of debt to fund the pension contribution in 2005 and (2) the Commission's history of allowing only a long term debt return, beginning in 2005. AG Ex. 2.0 at 10-11. He explained that:

> To fund the $2 billion pension contribution, Exelon issued $1.7 billion in debt in June 2005, of which $1.4 billion was used for the contribution. The remaining $600 million of the pension contribution was funded by tax benefits resulting from the contribution.

Id. In its Order on Rehearing in Docket No. 05-0597, the Commission considered three different alternatives for determining the appropriate cost of financing the pension asset and found Alternative 3 was proper, which used the cost of long-term debt to calculate the return on the pension asset because that pension asset was financed by long-term debt. AG Ex. 2.0 at 11-12. The AG argues that if the Commission were to reverse course and increase the return associated with the $803 million pension contribution to the weighted average cost of capital, it would then improperly increase charges to consumers, ranging from $23 million in 2024 to $26 million in 2027 (at ComEd's requested cost of capital) without any change in the original contribution. Notwithstanding ComEd's arguments about how it generally finances its operations, the AG avers that consumers should not be asked to provide a return to shareholders when the Commission previously found that only low-cost debt was used for this expense. Otherwise, the AG argues that the Commission would enable ComEd's parent company to leverage the low-cost debt used to fund the pension contribution to charge customers for more expensive equity related to that same pension contribution.

d. Commission Analysis and Conclusion

ComEd seeks a return on its pension asset, which ComEd included in each test year's operating expenses as "Pension Asset Funding Cost" calculated using the Company's weighted average cost of capital. As Staff correctly points out, these costs were specifically authorized under formula rates, which are no longer in effect. Nor are such costs specifically authorized by P.A. 102-0662. Rather, any return on a pension asset is reviewed pursuant to traditional Article IX ratemaking principles. Under traditional ratemaking principles, the Commission will not approve a return on pension asset unless the utility can prove the pension asset was funded by shareholder, not ratepayer, funds.

ComEd misconstrues the Commission's findings regarding a return on pension asset in ComEd's prior traditional Article IX rate cases. In Docket No. 05-0597 the Commission allowed a debt return on a one-time contribution based on a hypothetical debt. This was a diminishing debt, not a permanent source of funding, as the Commission later affirmed in Docket No. 10-0467. The Commission does not sanction the prefunding of a utility pension plan as a mechanism to increase base rates. As such, ComEd's projected excess contributions for the four years of the MYRP are not reasonable or prudent.

Pursuant to the methodology approved by the Commission in Docket No. 10-0467, Staff calculates that the regulatory debt would be fully diminished before rates from this proceeding go into effect as the underlying debt matures. Therefore, no further return is warranted.

ComEd also argues that it has made contributions in excess of its annual pension expense, which increases the pension asset. According to ComEd this is evidence that the pension asset is funded by shareholders. However, other than a broad assertion that these contributions must be shareholder funds, ComEd does not provide a specific source of the funds for the contributions. The burden is on ComEd to prove the source of the funds, which it has not done, therefore the Commission can only assume that the funds were provided through rates paid by ratepayers.

The Commission finds that any further recovery of the one-time contribution from 2005 is not reasonable and approves Staff's adjustments to remove such costs from the revenue requirements. As such, the appropriate calculation of any such return is moot.

XIII. OTHER EXPENSES

A. Rate Case Expense (Section 9-229)

1. ComEd's Position

ComEd observes that Section 9-229 of the Act provides that the utility may recover the just and reasonable amount expended "to compensate attorneys or technical experts to prepare and litigate a general rate case filing." 220 ILCS 5/9-229. In conformance with Section 9-229 of the Act and the Commission's rules concerning the recovery of rate case expense, ComEd explains that it presented evidence that its forecast Rate Case Expense of $7,231,200 is true and accurate, reasonable, and not duplicative. ComEd Ex. 37.0 Corr. at 52; *see* 83 Ill. Adm. Code 288. ComEd notes that this is the first multi-year rate plan filed by ComEd and it is the first time using multiple, forward-looking test years. ComEd asserts that the size of this rate case required significant help, both internally and externally from outside consultants. With the exception of the costs for three outside experts, discussed below, no party contested ComEd's rate case expense or its estimation and review processes.

ComEd states that it provided evidence to support the reasonableness of this estimate, including engagement letters and/or fee arrangements, billing guidelines for outside counsel, management model documents supporting ComEd's invoice review process, and invoices and supporting documentation regarding costs already incurred. ComEd Ex. 12.07 Corr.; ComEd Ex. 37.06. "ComEd employs controls to ensure that the services of its legal counsel and technical experts are: 1) just and reasonable for the Rate Plan rate case filing; 2) accurately tracked and recorded based on invoices from those individuals and organizations; and 3) not duplicative of any work performed by a utility employee." ComEd Ex. 12.0 Corr. at 100; *see also* ComEd Ex. 12.07 Corr.; ComEd Ex.

37.06. Moreover, ComEd notes that its evidence in support of its Rate Case Expense included the declarations of Kristin Munsch, Senior Associate General Counsel for ComEd, who is responsible for supervising the regulatory legal work for ComEd's Rate Plan. ComEd Ex. 12.07 Corr.; ComEd Ex. 37.06. ComEd notes that she provided her opinion, based on her background and substantial experience and review of relevant documentation, that ComEd's projected and actual rate case expenses are prudent and reasonable in amount. *Id*.

ComEd observes that the AG contests the estimated costs for three of ComEd's outside experts -- Dr. Susan Tierney, Dr. Karl McDermott, and Michael Adams. ComEd asserts these outside experts are very experienced, provided valuable insight that is not available within ComEd's existing workforce, and provided work product that supported the preparation and filing and litigation of this proceeding. ComEd contends there is no basis to reject the costs of these experts.

ComEd states Dr. Susan Tierney of the Analysis Group, whose services the AG proposes to disallow in full, was engaged to provide analysis related to ComEd's proposed investments. ComEd Ex. 12.07 Corr. at 6. ComEd notes that Dr. Tierney addressed substantive issues relevant to ComEd's Rate and Grid Plans within the broader context of P.A. 102-0662 and the transition to a decarbonized energy future in Illinois, including how states are approaching the equitable energy and electric service transition; how Illinois compares to its peers in statutory and regulatory frameworks; the relevance of distribution utilities like ComEd to the electrification efforts underway in Illinois and other states; and how the electric grid supports a transition to a decarbonized energy future. *See* ComEd Ex. 3.0; ComEd Ex. 23.0; ComEd Ex. 44.0. ComEd notes the AG takes issue with Dr. Tierney's testimony for not including specific analyses of ComEd's costs and projects. ComEd responds that Dr. Tierney's testimony provides valuable analysis to the Commission, and indeed Dr. Tierney directly responded to AG's own witnesses Alvarez and Stephens' suggestion that California's high retail electricity prices are the result of multi-year ratemaking as well as their other positions about capital spending and California-style risk based decision-making framework. ComEd Ex. 23.0 at 1-15 (responding to contentions of AG witnesses Alvarez and Stephens regarding multi-year ratemaking and risk-based decision-making frameworks). *See also, generally*, ComEd Ex. 44.0 (responding to rebuttal testimony of AG witnesses Alvarez and Stephens regarding multi-year ratemaking and risk-based decision-making frameworks). ComEd argues that Dr. Tierney's extensive work history in the industry informed her valuable analysis and provided a perspective that is not available within ComEd's existing workforce, and ComEd paid market rates for this analysis. ComEd Ex. 37.0 Corr. at 53. ComEd contends that AG witness Selvaggio wrongly states that Dr. Tierney did not analyze "ComEd's proposed investments that [sic] she was retained to provide," appearing to suggest that Dr. Tierney was retained to support specific investment projects, or ITNs. AG Ex. 6.0 at 10-11. However, specific investments are supported by numerous ComEd technical experts (*e.g.*, witnesses Blaise, Tyschenko, Decker, Mondello, Phil-Ebosie, etc.), and Dr. Tierney was not engaged to provide analysis duplicative of the analysis performed by ComEd witnesses, according to ComEd. ComEd Ex. 58.0 Corr. at 40. Instead, as she was retained to do, ComEd explains, Dr. Tierney reviewed the Rate and Grid Plans as an expert in the types of issues facing utilities, regulators, and stakeholders as they decarbonize. ComEd Ex. 58.0 Corr. at 40. ComEd argues that her testimony adds value in supporting ComEd's Rate Plan and Grid Plan in this proceeding, ComEd paid market rates for her services, and there is no basis to disallow these costs.

ComEd notes Dr. Karl McDermott, whose services the AG also proposes to disallow in full, has a wealth of expertise in economics and the energy industry. ComEd Ex. 37.0 Corr. at 53. ComEd explains that his experience as an economist and as a regulator informed his valuable analysis and provided a perspective that is not available within ComEd's existing workforce, and ComEd paid market rates for this analysis. *Id*. ComEd states the AG takes issue with Dr. McDermott's analysis for not including the economic effect of rate increases on ComEd's service territory, which the AG contends makes his testimony one-sided. ComEd responds that Dr. McDermott's testimony presented specific calculations regarding the impact of ComEd's proposed investments on the Illinois economy based on economic modeling. ComEd Ex. 27.0 at 13. ComEd points out that he concludes that ComEd's Grid Plan spending will have a positive economic impact of $23.5 billion and support almost 240,000 jobs in the state. ComEd Ex. 27.0 at 14. ComEd observes that while the AG contends that Dr. McDermott's conclusion was "common sense," AG witnesses Alvarez and Stephens make substantive arguments regarding Dr. McDermott's conclusion and whether it should be relied upon by the Commission. AG Ex. 6.0 at 12; AG Ex. 5.0 at 39-41. ComEd argues Dr. McDermott's testimony adds value in supporting ComEd's Rate Plan and Grid Plan in this proceeding and there is no basis to disallow these costs.

ComEd adds Michael Adams of Concentric Energy Advisors, whose services the AG also proposes to disallow in full, prepared ComEd's CWC study. ComEd observes that the AG proposes to disallow the entire cost of preparing the study because it contained errors that required ComEd to file errata. AG Ex. 3.0 at 11. ComEd contends that such a recommendation not only ignores the realities of preparing such a study but has no legal basis as a rationale to disallow costs. Due to the nature of the inputs to cash working capital, it is one of the last schedules finalized in the preparation of the filing and therefore can be subject to last-minute updates or corrections. ComEd further argues that the fact that errata filings were made to quickly correct inadvertent errors has nothing to do with the quality of the analysis (and ComEd made multiple errata filings in order to transparently communicate updates to as soon as the adjustments were known in light of the tight case schedule) and filing corrections by errata is common practice in rate case proceedings. ComEd Ex. 58.0 Corr. at 43-44. Further, ComEd contends that it is aware of no basis in law that would support the disallowance of an expert's costs, let alone the full cost of their services, because their testimony was corrected by errata. ComEd claims that the CWC study and its associated leads/lags are now uncontested, and if adopted will be used in this proceeding, in ComEd's DSPR proceedings, and in ComEd's Annual Adjustment process for the next several years until it is updated in the 2026 Annual Performance Evaluation which reconciles calendar year 2025. ComEd argues that the study is valuable and will continue to benefit ComEd and the Commission in future cases, ComEd paid market rates for Concentric's services, and there is no basis to disallow these costs.

ComEd concludes that the record evidence establishes that ComEd's forecast and incurred Rate Case Expense is prudent and reasonable, and satisfies the Commission's requirements for recovery. There is no basis for the complete disallowance of the three outside experts that the AG takes issue with, and ComEd requests that the Commission include a conclusion in its Order in this proceeding regarding the justness and reasonableness of ComEd's Rate Case Expense as required by Section 9-229 of the ACT, ComEd argues. 220 ILCS 5/9-229.

2. Staff's Position

Staff contends the Commission should adopt its proposed language regarding rate case expense. Section 9-229 of the Act requires the Commission to specifically address whether amount expended by a public utility to compensate attorneys or technical experts to prepare and litigate a general rate is just and reasonable in the Commission's final Order. 220 ILCS 5/9-229. Thus, assessing rate case expense is a ratemaking function. "Given the highly technical nature of calculating the costs incurred by a public utility," deference to the Commission is "especially appropriate in the area of fixing rates." *Ameren Ill. Co. v. Commerce Comm'n*, 2013 IL App (4th) 121008, 19, *citing Iowa-Ill. Gas & Elec. Co. v. Commerce Comm'n*, 19 Ill. 2d 436 at 442 (1960). Staff states ComEd's rate case expense forecast has been updated from the projected $6,123,000 to $7,231,200. ComEd Ex. 37.0 at 52. Staff found no reason to object to ComEd's updated rate case expense forecast. Staff Ex. 18.0 at 3. While Staff does not contest the reasonableness of the rate case expenses included by ComEd, Staff notes that the costs reflected in the record include only costs incurred to date; they may not be inclusive of costs associated with post-hearing briefing, oral arguments, rehearing or appeal. Staff recommended that the Order in this proceeding include the following Commission conclusion on rate case expense:

> The Commission has considered the costs expended by the Company to compensate attorneys and technical experts to prepare and litigate rate case proceedings and other costs including the Consumer Intervenor Compensation Fund Contribution and filing fees and assess that the amount included as rate case expense in the revenue requirements for each of the years 2024-2027 of $7,231,200 are just and reasonable pursuant to Section 9-229 of the Act.

Staff Ex. 18.0 at 3; ComEd Ex. 37.0 at 52.

Staff asserts that if the Commission, however, elects to make adjustments to rate case expense, those adjustments should also be considered in the Commission's statement that sets forth the amount of rate case expense included in the revenue requirement. Staff Ex. 3.0 at 3. Staff notes that Section 288.100 of the Commission's rules governing rate case expense comprises a detailed list of information that might be sought from a utility "to assist the Commission in assessing the justness and reasonableness of amounts paid to compensate all persons covered by Section 288.10." 83 Ill. Adm. Code 288.100(a).

Further, Section 288.110(a) states that the Commission may consider the reasons why multiple outside counsel, outside technical experts, utility affiliate counsel, or utility affiliate technical experts addressed the same issues. 83 Ill. Adm. Code 288.110(a)(7). Staff notes that, of the 23 witnesses who testified on behalf of ComEd in this proceeding, five were outside consultants, hired to assist with this proceeding. Staff contends that is more than 20%. *See* ComEd Exs. 66.0, 70.0, 82.0, 85.0, and 86.0. Additionally, no fewer than 16 attorneys entered appearances for ComEd. *see* e.g., Additional Appearance, June 15, 2023. Of this total, only four were outside counsel, yet $3.1 million of ComEd's $7.2 million in rate case expense is earmarked for hourly billing by a single law firm. ComEd Ex. 37.05. As ratepayers ultimately bear the burden of rate case expenses, ComEd should make efforts to minimize rate case expenses to the extent possible, remaining cognizant of the requirements of 83 Ill. Adm. Code Part 288.

In summary, Staff has identified no basis upon which to dispute ComEd's request, but acknowledges the discretion afforded the Commission in fixing this and other aspects of customer rates.

3. AG's Position

Among the expenses, the AG asserts there are three that the Commission should reject as not reasonable. Under Section 9-229(a) of the Act, the "Commission shall specifically assess the justness and reasonableness of any amount expended by a public utility to compensate attorneys or technical experts to prepare and litigate a general rate case filing. This issue shall be expressly addressed in the Commission's final order." 220 ILCS 5/9-229(a). Section 288.100(c) of the Commission's rules develops this requirement. 83 Ill. Adm. Code 288.100(c).

The AG cites to *People ex rel. Madigan v. Ill. Commerce. Comm'n,* where the appellate court stated that the requirements of Section 9-229 were a change in the law. *People ex rel. Madigan v. Ill. Commerce Comm'n,* 2011 IL App (1st) 101776. In that case, the court concluded that, "We construe this statutory language to require the Commission to 'expressly address' the basis for its findings. Section 9–229 mandates a more detailed finding than what is generally required of the Commission, otherwise the purpose of the legislative action to enact it was unnecessary." 2011 IL App (1st) 101776, 47. The court further found that the Commission erred by accepting documents "which simply listed the full amount of costs incurred without any breakdown or detail to show how that amount was reached," and pointed the Commission "to other cases involving an award of attorney fees, in which the party seeking attorney fees must specify (1) the services performed, (2) by whom they were performed, (3) the time expended, and (4) the hourly rate charged." *Id*. at 49, 51. The provisions of Section 288.100(c) and Section 288.110(b) mirror these requirements. See 83 Ill. Adm. Code 288.110(b) (9) (hourly rates of outside counsel and experts) and (10) (reasonableness of the time expended). The AG notes that the Rules also authorize the Commission to consider the "[n]ovelty, complexity, or difficulty of the issues," among other factors. 83 Ill. Adm. Code 288.110(b)(3).

Specifically, the AG argues that the Commission should reject the $150,000 cost for Dr. Susan Tierney, whose hourly charge is an extraordinary $920 per hour. AG Ex. 6.0 at 10. The AG states that Dr. Tierney did not analyze ComEd's proposed investments as she was contracted to do pursuant to the affidavit of Kristin Munsch, Senior Associate General Counsel for ComEd. ComEd Ex. 12.07 Corr. at 6. The record shows that while Dr. Tierney generally supported ComEd's petition and reviewed various investment reports, her testimony did not include specific analysis of ComEd's costs and projects.

For example, the AG points out that when asked to describe the delivery utility infrastructure needed to use new technologies, including EVs and other technologies considered by Dr. Tierney, and to identify the investment in ComEd's grid plan for the "cost of infrastructure needed to use those new technologies" referenced by Dr. Tierney, she responded that she "ha[d] not analyzed the specific delivery utility infrastructure needs that will be required to support EVs, or the cost of such specific infrastructure in ComEd's Grid Plan." AG Cross Ex. 1 at 37. Despite this response, the AG highlights that in her direct testimony, she uncritically supports the purported need for ComEd to spend the amounts identified in its Grid Plan. *See* ComEd Ex. 3.0 at 30. The AG indicates that her rebuttal testimony also reveals no analysis related to ComEd's proposed investments (which is produced by ComEd employees) and that she only responded to a footnote in AG's witnesses Alvarez and Stephens' testimony about the regulatory framework in California (whether multi-year rate plans contribute to high rates and the effect of fires on risk-informed decision making). The AG avers that the Commission should not charge consumers $920 per hour for testimony that does not address specific costs or substantively review the Company's expenditures. *See* AG Ex. 3.0 at 12-14; AG Ex. 6.0 at 10-11.

The AG further notes ComEd also requested $150,000 to pay former Commissioner Karl McDermott to provide testimony at $500 per hour. AG Ex. 3.0 at 14. The AG notes that while there was initially no description of the services he was to provide, he submitted rebuttal testimony that presented the results of an IMPLAN economic impact model and analysis. ComEd Ex. 27.0 at 4. However, the AG points out that his analysis did not include the economic effect of rate increases on the ComEd service territory, which makes it both incomplete and one-sided. They also note that his surrebuttal testimony was brief (5 pages). ComEd Ex. 48.0. According to the AG, it would be unreasonable to expect consumers to pay $150,000, at $500 per hour, for testimony that makes little more than the common-sense point that if ComEd spends more money, more jobs and economic activity will follow. In addition, the AG highlights that the IMPLAN analysis was not performed by Dr. McDermott, but by Concentric Energy Advisors, Inc. under his direction, which the AG argues raises questions about how many hours he reasonably could have spent, and the appropriate, reasonable hourly rate. AG Ex. 6.0 at 12-13. The AG requests that this expense be rejected.

The AG also requests that the Commission reject the $195,000 cost included for the cash working capital study done by Concentric. According to the AG, while ComEd witness Mudra defended the amount paid for the CWC study, the Commission should not require consumers to pay for a study in which the CWC balances were reduced by over $40 million or between 87%–109% in each year. In addition to showing evidence of a general lack of overall quality, the AG notes that CWC testimony required intervenor and Staff resources to correct it. AG Ex. 6.0 at 13. The AG requests that the Commission disallow $195,000 for this expense and reduce ComEd's rate case expense to reflect the excessive cost and hourly rates of Dr. Tierney and Dr. McDermott.

In its rebuttal testimony, ComEd responded to Ms. Selvaggio's recommendation, as discussed above, that the costs of three ComEd experts be removed from the rate case expense: Analysis Group, $150,000; KAM Strategies, $150,000; and Concentric Energy Advisors CWC testimony, $195,000. *See* ComEd IB at 282-286; ComEd Ex. 37.0

at 53-54. In ComEd Exhibit 37.06 at 3 and15, Ms. Munsch provided 153 pages of invoices and asserted that the challenged costs are "prudent and reasonable." *Id.* at Reb-KM-2. The invoices for Analysis Group included two pages of billing for $121,688.44; the invoices for the Brattle Group were limited to November and December 2022 and included only four pages, totaling $27,662.50; and there were two pages for KAM Strategies for December 2022 totaling $18,500. *Id*. at 1-2, 3-6, 143-144, respectively. By contrast, the invoices for Concentric Energy Advisors covered October 2022 through March 31, 2023, and itemized work performed, hours, and rates. *Id*. at 7-45. Detailed billing with itemized costs were submitted by Gannett Fleming and attorney billing included attorney hours, rates, and description of work, including work with witnesses. *Id*. at 46-68; 69-142;145-153.

The AG asserts that neither the Analysis Group nor KAM Strategies billing included hours spent, and that the Brattle Group's charges are clearly only partial and do not include any hours or charges for ComEd witness Frank Graves. Mr. Mudra stated that ComEd had spent $3,290,388 of its rate case expense as of May 31, 2023, referring to ComEd Ex. 37.06 as support. ComEd Ex. 37.0 at 52. The AG notes that this amount includes little of the $495,000 expert budget that Ms. Selvaggio questioned.

The AG highlights an invoice from the Analysis Group found at ComEd Ex. 37.06, Reb-KM-02. While Schedule C-10 states that the Analysis Group will be paid based on hourly billings, and the rates for Dr. Tierney and her support staff differ (see AG Ex. 3.0 at 12 (hourly rates range from $415 to $600)), the AG notes that this invoice contains a single line showing $121,688.44 in charges as a single hour for testimony for the ComEd 2023 MYRP. The AG contends that this invoice does not identify the total hours for this rate case or the individuals who performed the work. They argue that the invoice appears to only address costs before February 1, 2023, yet it covers more than 80% of the contract price. As this billing includes the highest hourly of any witness or attorney at $920 per hour, the AG argues that it is not reasonable to support this expense with a single-line invoice. The AG contends that Illinois case law requires more detail than what ComEd has provided for such costs to comply with Section 9-229. *See People ex rel. Madigan*, 2011 IL App (1st) 101776 at 50.

Similarly, the AG argues that the $18,500 charge for KAM Strategies as of December 22, 2022 lacks detail, identifying only one hour at $18,500. The AG directs the Commission to a bill from ComEd Ex. 37.06 at 144. While this invoice is dated December 22, 2022, the AG notes that Dr. McDermott did not submit direct testimony and that there is no description of the work provided to explain $18,500, which at $500 per hour equals 37 hours. The AG further states that there is no additional KAM Strategies billing in the record, which they believe should lead the Commission to remove the $150,000 from the rate case expense shown in the revised Schedule C-10, produced at ComEd Ex. 37.05.

The AG contends that, in addition to incomplete and unexplained billing, the Commission should find that Dr. McDermott's rebuttal and surrebuttal testimonies were of questionable relevance because they did not address whether any particular costs or investments were prudent and reasonable. The Commission's rate case rule provides that the Commission may consider the "relevance of the work products to the justness and reasonableness of the proposed utility rates." 83 Ill. Adm. Code 288.110(b)(4). The AG again argues that Dr. McDermott merely asserted the obvious principle that if billions of dollars are spent, jobs will be created, and if fewer billions were spent, fewer jobs would result. *See* ComEd Ex. 27.0 and 48.0. The AG adds that ComEd only discussed his testimony to defend including his charges in rates. *See* ComEd IB at 285. According to the AG, the record does not justify ComEd charging consumers $150,000 for KAM Strategies' contribution to this rate case.

Finally, Ms. Selvaggio questioned the reasonableness of the $195,000 Concentric Energy Advisors charged for Michael Adams for ComEd Exhibits 15.0 and 40.0, addressing its requested balance of Cash Working Capital. The detailed charges shown on ComEd Exhibit 37.06 at 7-45 show that Concentric included $61,297 in charges for Michael Adams. The AG argues that, in addition to lacking support for the full $195,000 it seeks to include in rates, the Commission should not require consumers to pay for a study that other parties demonstrated needed to be reduced by 87% to 109% in each year, and that required intervenor resources to correct. AG's IB at 106; AG Ex. 6.0 at 13.

The AG adds that in evaluating the rate case expense, the Commission may consider several factors, including the requisite skill required to perform services efficiently and *accurately*. *See* 83 Ill. Adm. Code 288.110(b)(4) and (5). The AG believes that a review of the evidence on CWC should result in the Commission concluding that it is not reasonable to charge customers for a proposed increase to rate base that turned out to be greatly over-stated and that was corrected three times due to discovery and analysis by Staff and intervenors. Parties should not have to spend limited resources to determine the correct CWC balance. *See* AG Ex. 3.0 at 4-10.

Ms. Selvaggio testified that the rate case expenses for three witnesses were overstated or otherwise unjustified. The AG presented the basis for these adjustments. AG IB at 104-106. The AG contends that ComEd failed to support its request for these costs, and that the evidence the Company relies upon does not meet the standards contained in Part 288 of the Commission Rules. The AG therefore requests the Commission remove $495,000 from the rate case expense as shown on AG Exhibit 4.1, C-2.

4. ICCP's Position

ICCP support the adjustment recommended by AG witness Selvaggio to disallow from recovery the following amounts from ComEd's proposed rate case expense: $150,000 for the Analysis Group for the testimony of Dr. Susan Tierney, $150,000 for KAM Strategies, LLC for consulting services provided by Dr. Karl A. McDermott, and $190,000 for Concentric for the development of CWC requirements, for a total disallowance of $490,000. *See* AG Ex. 3.0 at 11-15; AG Ex. 6.0 at 9-14.

5. Commission Analysis and Conclusion

Utilities may recover costs reasonably incurred to prepare and present a rate case. *See* 220 ILCS 5/9-229. Recoverable costs must be expressly determined by the Commission to be just and reasonable. *See id.*

ComEd asserts that it presented evidence in support of its claim that its forecast rate case expense of $7,231,200 is true and accurate, reasonable, and not duplicative. ComEd adds that these expenses were reasonably and prudently incurred to compensate outside counsel and non-attorney third party consultants and vendors. ComEd asserts the engagement letters and/or fee arrangements and detailed invoices entered into the record as ComEd Ex. 37.06 provide sufficient detail and documentation for actual rate case expenses paid to date.

Staff states the Commission may consider the reasons why multiple outside counsel, outside technical experts, utility affiliate counsel, or utility affiliate technical experts addressed the same issues. Staff acknowledges the discretion the Act affords the Commission in determining the just and reasonableness of rate case expense when recovered through customer rates. *See* 220 ILCS 5/9-229; and 83 Ill. Adm. Code 288.110(a)(7). Staff indicates it does not dispute ComEd's request.

The AG proposes a disallowance of costs related to three of ComEd's outside experts: Dr. Susan Tierney, Dr. Karl McDermott, and Michael Adams. Specifically, the AG requests adjustments of $150,000 for Dr. Tierney, $150,000 for Dr. McDermott, and $195,000 for Mr. Adams. The proposed adjustments reflect excessive costs and hourly rates for Dr. Tierney and Dr. McDermott. The AG's proposed adjustments also challenge the costs for Mr. Adams' CWC balance sheet testimony. ICCP supports the AG's proposed disallowance.

The Commission recognizes this is a very large and complex proceeding that addresses myriad projects and issues in a relatively short period of time. Retaining the assistance of various experts to assist in cases of first impression is warranted. However, upon review of the record evidence, the Commission is concerned by several aspects of the Company's rate case expense.

ComEd includes $150,000 each for Analysis Group and KAM Strategies in its revised Schedule C-10 but fails to provide requisite information for these costs to be recoverable. *See* ComEd Exhibit 37.02 at 373. To enable the express findings required by statute, Commission Rules prescribe disclosure of actual or estimated hourly rates for services, the number of hours worked, and a description of the services provided. *See* 83 Ill. Adm. Code 288.100(a). The Commission finds that the invoices submitted by Analysis Group on behalf of Dr. Tierney and by KAM Strategies on behalf of Dr. McDermott lack sufficient detail to inform a finding that the hourly rates, flat fees, and work documented are just and reasonable. *See* ComEd Ex. 37.06, Reb-KM-02 at 1-2, 143-144. The only invoices provided for these contracted services do not disclose the hours of work, the subject matter, the function performed, and whether the identified contractor performed the work, as the Commission's rules require. *See id.*

Invoices that simply describe the witness' contractual engagement ("Testimony work for ComEd 2023 MYRP") or document with nothing about the services performed ("For Services Rendered") are not sufficient descriptions to support a finding that single bills in the amount of $121,688.44 and $18,500.00, respectively, are just and reasonable. *See id*. The AG challenges the reasonableness of Dr. Tierney's hourly rate, especially since she did not specifically analyze ComEd's proposed investments and strategy. The invoices for Analysis Group and KAM Strategies do not meet the requirements of 83 Ill. Adm. Code 288.100 and do not support a just and reasonable finding. The Commission removes the total cost of the Analysis Group and KAM Strategies contracts from rate case expense, resulting in a $300,000 adjustment to ComEd's requested rate case expense.

Staff notes that, of the 23 witnesses who testified on behalf of ComEd in this proceeding, five (more than 20%) were outside consultants, hired to assist ComEd with its planning for ComEd infrastructure. *See* ComEd Exs. 66.0, 70.0, 82.0, 85.0, and 86.0. Additionally, no fewer than 16 attorneys entered appearances for ComEd. *See* e.g., Additional Appearance, June 15, 2023. Of this total, only four were outside counsel, yet $3.1 million of ComEd's $7.2 million in rate case expense is earmarked for hourly billing by a single law firm. ComEd Ex. 37.05. The Commission Rules require specific attention to "ensur[ing] that the work performed by all persons covered by Section 288.10 does not duplicate work performed by a public utility employee." *See* 83 Ill. Adm. Code 288.30(b)(3). Because the participation of the utility's staff attorneys and engineers may be more cost-efficient, delineation of work performed by specific outside consultants or attorneys is useful in guarding against excess costs and against duplication of work. The Commission finds that the Company did not sufficiently justify the expense of the identified consultants and outside counsel. *See* 83 Ill. Adm. Code 288.110(a)(7). In addition, the Company proposes identical cost estimates for each year of the multi-year plan. That is not a reasonable expectation, given the statutory limits on changes to an approved plan during its effective period. The Commission hereby reduces ComEd's rate case expense for outside counsel by 50% or $1.55 million, reflecting a recoverable expense the Commission finds to be just and reasonable.

The Commission rejects the AG's proposed adjustment for Mr. Adams. The CWC was prepared in accordance with Mr. Adam's expertise and the Company sufficiently explained that due to the nature of CWCs, they are typically subject to last-minute updates or corrections.

Should ComEd choose to recover rate case expense under Section 9-229 of the Act in future rate cases, the utility must provide relevant details, as Commission rules specify, including hourly rates, hours billed, and justification for inclusion for recovery. As these costs are ultimately paid for by ratepayers, the Company must demonstrate that its expenses reflect market hourly rates for relevant services, minimizing rate case expenses to the extent possible.

The Commission finds that the just and reasonable rate case expense supported by the record and included in the revenue requirements for years 2024-2027 is $5,381,200. The Commission finds that pursuant to Section 9-229 of the Act, this figure is just and reasonable, as it reflects a $1,850,000 downward adjustment to the 2024-2027 rate case expense. The Commission further notes invoices submitted after May 31, 2023 are subject to evaluation in future reconciliation proceedings.

B. Consumer Intervenor Compensation Fund Payment

1. ComEd's Position

ComEd notes that it is seeking to recover rate case expenses which will be amortized over a 4-year period from 2024 through 2027, including ComEd's anticipated $500,000 contribution in 2024 to the Consumer Intervenor Compensation Fund ("CICF"), per Section 9-229(b)(4) of the Act. ComEd Ex. 12.0 Corr. at 99; ComEd Ex. 12.06. ComEd observes that no party testified in opposition to this recovery. ComEd argues that its proposal regarding the CICF payment is reasonable and prudent and should be approved by the Commission.

2. Staff's Position

Staff states the Commission should adopt Staff's proposed language regarding the CICF payment. ComEd will be required to contribute to the CICF an amount equal to half of its costs to compensate attorneys and technical experts to prepare and litigate this rate case proceeding, not to exceed $500,000, at the time set forth in Section 9-229(b)(4). Staff Ex. 3.0 at 4. This amount is included in rate case expense, addressed in Section XIII.A., above. Staff proposed language for inclusion in the final Order addressing the CICF payment. Staff Ex. 3.0 at 4; Staff Ex. 18.0 at 3.

Staff adds ComEd accepted Staff's recommendation that the final Order in this proceeding express a Commission conclusion as noted in Staff Ex. 3.0 at 4 and Staff Ex. 18.0 at 3. Staff states no party objected to its recommendation.

3. EDF's Position

EDF notes P.A. 102-0662 established the CCICF for "Consumer Interest Representatives" that intervene in Commission proceedings to "increase public engagement, encourage additional transparency, expand the information available to the Commission, and improve decision-making." 220 ILCS 5/9-229.

EDF asserts procedural justice requires all stakeholders to participate in utility-specific proceedings. But these proceedings are dense, technical, and time-consuming, which presents challenges to those who wish to participate. *Id.* Traditionally, utilities, clean energy companies, large environmental groups, and consumer protection advocates have been the stakeholders with the resources to participate in these proceedings. *Id.* at 348-349. A frequent observation of utility rate proceedings is that:

> Proceedings tend to focus extensively on technical parameters, often with little consideration of what (and who) our energy system is for. To the extent that they do so, they eliminate most of the scope of issues that many grassroots groups representing energy users are interested and qualified to comment on and avoid the most fundamental questions around how our system should be regulated.

Id. at 353. EDF adds few states have attempted to resolve these problems but with P.A. 102-0662, Illinois is one of the few. In New York, for example, the Commission gathered the testimony of 100 residents, covering over 600 pages of testimony, "to capture a considerably deeper understanding of New Yorkers' lived experiences of energy poverty." *Id.* at 353-354.

EDF states as emphatically as it can, that it supports the use of the Consumer Intervenor Compensation Fund Payment provisions of P.A. 102-0662 to permit and encourage individuals and stakeholders who have not traditionally been able to intervene or participate in Commission proceedings to do so now and in the future. Using the CICF properly values the perspectives, experiences, knowledge, and training that community members bring to the Commission. The Commission's understanding of customer issues and the value of the Commission's decisions to customers will be enhanced by the participation of community members in these proceedings. EDF maintains the Commission should value that input accordingly.

4. Commission Analysis and Conclusion

The Commission affirms that ComEd is seeking to recover ComEd's anticipated $500,000 contribution in 2024 to the Intervenor Compensation Fund, per Section 9-229(b)(4) of the ACT. The Commission agrees with the parties that the CICF brings an invaluable and necessary perspective to these proceedings.

The Commission recognizes this issue is uncontested. Therefore, as proposed by Staff and the Commission, consistent with Section 9-229 of the Act, the Commission hereby orders the Company to make a payment of $500,000 to the CICF. The payment shall be made within the timeframe prescribed by Section 9-229. This amount represents the statutory cap for what the utility must contribute to the Consumer Intervenor Compensation Fund for this rate case proceeding.

C. Wages and Salaries Allocator Utilized in Rider PE

1. ComEd's Position

ComEd notes that it provided the necessary information regarding the value of the wages and salaries ("W&S") allocator to be used in the determination of rates under Rider PE. ComEd Ex. 12.0 Corr. at 47-48; WPA-5, p. 1. *See also* Docket No. 22-0302, WPA-5, p. 1. ComEd observes that Staff witness Au affirmed that ComEd provided the necessary data. Staff Ex. 3.0 at 5-7. ComEd further notes that Staff witness Au also agreed that the W&S allocator applicable to supply is 0.37% and had no objection to ComEd's calculation of the allocator. *Id.*; WPA-5, p. 1, line 9, column (E). ComEd states that it agrees with the language proposed by Staff witness Au, and no other party has contested the calculation or objected to the proposed language. Staff Ex. 3.0 at 6-7; Staff Ex. 18.0 at 4.

2. Staff's Position

Staff states the Commission should adopt Staff's proposed language regarding the W&S allocator. Staff recommended that a 0.37% W&S allocator be used in the determination of rates under Rider PE. Staff recommended that the language noted in Staff Ex.18.0 be included in the Order. Staff notes no party objected to its recommendation.

3. Commission Analysis and Conclusion

The Commission finds that the wages and salaries allocator applicable to supply of 0.37%, as calculated in this proceeding, should be used to develop charges determined and filed with the Commission under Rider PE and Rate Basic Electric Service – Energy Pricing ("Rate BES") to be effective beginning with the January 2024 monthly billing period. Subsequent calculations of the wages and salaries allocator applicable to supply made in subsequent ComEd Formula Rate Update proceedings must be applied in the corresponding subsequent determination and filing of charges under Rider PE and Rate BES.

The Commission recognizes that the W&S allocator to be used in the determination of rates under Rider PE is uncontested. The Commission finds that the W&S allocator is reasonable and prudent and is hereby approved as proposed.

XIV. REVENUES

A. Uncontested Issues

1. Gross Revenue Conversion Factor

ComEd observes that it provided unopposed testimony that its gross revenue conversion factor for each year of the Rate Plan is 1.3987. ComEd Ex. 12.0 Corr. at 63; ComEd Ex. 12.02 REV, Sch. A-2.1. ComEd argues that the Commission should approve this conversion factor as reasonable and prudent. Aside from ComEd, ComEd observes, no parties addressed this issue in their Initial Briefs.

This issue is uncontested and the Commission adopts ComEd's gross revenue conversion factor.

2. Miscellaneous Other Revenues

ComEd explains that the primary objective of forecasting Other Revenues is to establish the most realistic 2024 through 2027 forecast of total Other Revenues. ComEd notes that this will assist ComEd in determining the base delivery service rates and properly excluding the various sources of miscellaneous revenues that are expected to be received from other sources. Other revenues include amounts forecasted to be recorded in Account 450 – Forfeited Discounts, Account 451 – Miscellaneous Services Revenues, Account 454 – Rent from Electric Property, Account 456 – Other Electric Revenues, and Account 456.1 – Transmission of Electricity to Others and Other Revenue Adjustments. ComEd Ex. 12.0 Corr. at 44. ComEd explains that these amounts include: (i) late payment charges received in connection with late payment fees and earned finance charges; (ii) miscellaneous service revenues (e.g., return check charges and temporary service fees); (iii) rental payments for facilities recorded in distribution accounts and included in the distribution rate base (e.g., equipment and meter rentals, pole attachments, third party use of fiber optic cable and rent from affiliates); (iv) other Electric Revenues (fees earned from reimbursements for customer requested studies); (v) revenues associated with the transmission of electricity to others; and (vi) other adjustments. *Id*. at 44.

ComEd states that it testified that the forecasted jurisdictional Other Revenues over the Rate Plan period by year were as: $156,752,000 for 2024; $159,423,000 for 2025; $161,179,000 for 2026; and $161,719,000 for 2027. *Id*. at 43. These values are uncontested, according to ComEd. ComEd observes that, aside from ComEd, no parties addressed this issue in their Initial Briefs.

ComEd contends that it further noted in testimony that Other Revenues are deducted from the total revenue requirement for the purpose of establishing the base rate revenue requirements and delivery service rates. *Id*. ComEd explains that any future over- or under-collection of forecasted jurisdictional Other Revenues will be reconciled annually through ComEd's Rider RBA – Revenue Balancing Adjustment for calendar years 2024 through 2027 and applied to customer bills in 2026 through 2029. *Id*. at 43-44. With the exception of third-party pole attachment revenues, addressed in Section XIV.B.1 of this Order, ComEd's forecasts for miscellaneous Other Revenues are uncontested, reasonable and prudent, and should be approved by the Commission, ComEd argues.

These amounts are uncontested and are approved.

B. Contested Issues

1. Third-Party Pole Attachment Revenues

a. ComEd's Position

ComEd explains that third-party pole attachments include equipment owned by telephone, cable television, and fiber optic companies that utilize ComEd's poles. ComEd claims that it charges these third-party companies for the make ready work required to support the additional attachments on ComEd's equipment. The income from third-party pole attachments fluctuates by year and thus ComEd included a forecast for this revenue in its Rate Plan. *See* ComEd Ex. 37.0 Corr. at 29.

ComEd notes that its forecast of pole attachment revenues was developed by ComEd's Real Estate Department at a more detailed level than simple averages or linear trendlines as Staff and the AG alternatively propose. *See id*. at 29. For example, ComEd explains that assumptions for the pole attachment forecast include the following: (1) inventory charges are forecasted by taking the average of the first two years of the inventory program (2018 & 2019); (2) back rent is projected to continue as ComEd plans to extend its inventory project to identify unauthorized attachments for which back rent will be billed; (3) annual rent is based on a rolling three-year average; (4) late charges result from continuing the inventory program and the assumption is that the inventory and back rent will incur late charges at a declining rate of approximately 80% of prior year's value. *Id*. at 29-30. The current forecast is based on the approximate number of poles expected to be inventoried within each cycle, an approach that is most likely to estimate the most accurate forecast of future pole attachment revenues, ComEd notes. *Id*. at 30.

ComEd observes that the AG recommends changes to ComEd's forecasted pole attachments revenues after recognizing that the 2023-2027 forecast was below recent historical levels. ComEd claims that its actual pole attachment revenues were $20,324,000 in 2022 and are forecasted to be $14,790,000 per year from 2023 to 2027. *Id*. at 28. ComEd observes that AG witness Effron proposed to use a three-year historical average of pole attachment revenue from 2020 to 2022 for 2024 to 2027, which added approximately $4,112,000 per year, or $16,448,000 over four years, to ComEd's forecast. AG Ex. 2.0 at 8. The AG argues that ComEd's forecast is not accurate because looking at the average of the most recent three years of actual data pole attachment revenues amounted to approximately $4.1 million more per year than what ComEd projected. *See* AG Ex. 2.0 at 8.

ComEd argues that the Commission should not adopt this proposal and should find ComEd's revenue forecast to be reasonable and prudent. Using historical data to project forecasted future pole attachment revenues is not more accurate than ComEd's approach to establishing its own forecast, ComEd contends. ComEd maintains that, to establish its own forecast, "ComEd conducted an inventory assessment program of its third-party pole attachments from 2018 to 2022 which generated above average revenues for that time period, including back rent and late payment charges that are not anticipated to remain at historical levels. ... Therefore, simply extrapolating from a higher-than-normal three-year average from 2020-2022, would not account for these underlying facts and likely result in an inaccurate forecast of revenues." *Id*. (*citing* ComEd Ex. 37.0 Corr. at 29). "These facts were incorporated into the ComEd's detailed bottom-up forecast for Pole Attachment Revenues, which is included in WPC-23.1 – Pole Attachment Revenues." *Id*. Therefore, simply extrapolating from a higher-than-normal three-year average from 2020-2022, would not account for these facts and likely result in an inaccurate forecast of revenues, ComEd argues. *Id*. at 29. ComEd notes that the current forecast is based on the approximate number of poles expected to be inventoried within each cycle and ComEd determined that a flat forecast of $14,790,000 was appropriate for 2023 to 2027. *Id*. This approach is likely to estimate the most accurate forecast of future pole attachment revenues, ComEd explains. Thus, the Commission should find that ComEd's current forecast of third-party pole attachments is accurate, reliable, and based on the best information available to ComEd, ComEd argues.

ComEd observes that while ICCP also contests ComEd's forecasts, it merely supports Staff's adjustment and does not provide any substantive argument or analysis. However, ComEd notes that Staff no longer contests ComEd's proposed pole attachment revenue forecast, which makes ICCP's position on the topic unclear. *See* ComEd Cross Ex. 1.0 at 152.

ComEd contends that it plans to continue its inventory assessment program from 2023-2027; however, ComEd believes that most of the benefits have already been captured and that future revenue gains are likely to be lower than the 2018 to 2022 period. ComEd explains that these facts were incorporated into the ComEd's detailed bottom-up forecast for pole attachment revenues, which is included in WPC-23.1 – Pole Attachment Revenues. ComEd Ex. 37.03 at 62. ComEd explains that it determined that a flat forecast of $14,790,000 was appropriate for 2023 to 2027. ComEd observes that Staff agrees with ComEd's proposed pole attachment revenue forecast. *See* ComEd Cross Ex. 1.0 at 152. Notably, according to ComEd, if ComEd were to take the 3-year average of ComEd's actual annual rent, net of expenses, from 2020 to 2022, of $13.0 million and add ComEd's forecasted $2.0 million per year of back rent, late pay, and inventory charges for 2024 to 2027 then the AG's adjusted forecast would be approximately $15.0 million per year which is approximately equal to ComEd's forecast of $14.79 million per year. *See* ComEd Ex. 58.06, lns. 10, 12, col. (H).

b. Staff's Position

Staff no longer contests ComEd's projections for its third-party pole attachment revenues.

In direct testimony, Staff expressed a concern with ComEd's projected revenue decrease for the period 2023-2027. Staff Ex. 5.0 at 30. Staff noted a trendline of historical revenue shows a clear increase in revenue versus ComEd's assumption of flat revenue at a $14,790,000 value, a value significantly lower than the last five years of ComEd's historical revenue values except for 2018. *Id*.

ComEd responded by noting it conducted an inventory assessment program from 2018 through 2022 which generated above average revenues for that period, including back rent and late payments that are not anticipated to remain at historical levels. ComEd Ex. 37.0 at 29. ComEd also noted it plans to continue its inventory assessment program from 2023 to 2027 but believes much of the benefits have already accrued, so future revenue gains are likely to be less. *Id*.

ComEd also noted that its 2024 to 2027 forecast includes approximately $2 million per year of revenue for expected future back rent, late charges, and inventory charges, to recognize the lower expected future revenue gains from this program in comparison to the approximately $4.9 million per year that was recovered, on average, during the 2018 – 2022 inventory program ($24.6 million/5 years = $4.9 million/year). ComEd Ex. 58.0 at 23; ComEd Ex. 58.06. ComEd further noted that its forecasted annual rent from 2024 to 2027 is approximately $12.7 million per year net of expenses, plus approximately $2 million per year of additional revenue from back rent, late pay and inventory charges from its second five-year inventory assessment program (2023-2027). ComEd Ex. 58.0 at 23-24; ComEd Ex. 58.06. Based on the above information, Staff is no longer recommending any adjustments to ComEd's projected third-party pole attachment revenues.

c. AG's Position

ComEd receives millions of dollars from various parties for use of its utility poles and that revenue is included in "other revenue" that reduces the amount of revenue that is collected in base rates. *See* ComEd Ex. 58.01 at 1, ln. 2. AG witness Effron found that ComEd estimated its pole attachment revenue using data from 2018 and 2019, and projected pole attachment revenues to be $14,790,000. AG Ex. 2.0 at 8. The record shows that pole attachment revenue after 2018 was significantly higher. *See* Staff Ex. 5.0 at 28.

In support of its low estimate for pole attachment revenues, the Company asserted that it "believes that most of the benefits have already been captured and that future revenue gains are likely to be lower than the 2018 to 2022 period." ComEd IB at 290. However, the AG argues that this "belief" is not consistent with recent inventories and has the effect of depressing the revenues that offset base rates. The AG contends that ComEd did not establish that the historical levels of back rent and late payment charges were abnormal and non-recurring and will decrease materially over the years of the MYRP.

Mr. Effron recommended that the Commission use the most recent data to set the pole attachment revenues for the MYRP. AG Ex. 2.0 at 7-8. Mr. Effron used the average of the most recent three years of actual data to arrive at $18,802,000 in pole attachment revenues, an amount $4,112,000 more than that projected by the Company. The AG asks the Commission to adopt Mr. Effron's recommendation and add $4,112,000 per year to ComEd's pole attachment revenues. *See* AG Ex. 4.1, Sch. C-1.

d. ICCP's Position

ICCP support Staff witness Lounsberry's adjustment to decrease ComEd's proposed revenue requirement to reflect the Company's understatement of revenue associated with third-party pole attachments. *See* Staff Ex. 5.0 at 25-30.

e. Commission Analysis and Conclusion

The record shows that ComEd provided information and analysis for its forecasted pole attachment revenues. ComEd provided additional information in surrebuttal testimony breaking down what portion of the historical revenue resulted from back rent and late payments versus normal revenue to support its forecast. ComEd also provided information on 2022 and 2023 monthly pole attachment revenues. The Commission notes Staff no longer supports an adjustment. ComEd's forecast methodology is reasonable. Based on the record, the Commission finds ComEd supported its position that the historical levels of back rent and late payment charges were abnormal and non-recurring. ComEd has sufficiently justified its forecasted revenues for third-party pole attachments, and they are approved.

XV. RATE OF RETURN

A. Capital Structure

1. ComEd's Position

ComEd argues that it has provided substantial evidence supporting its forecasted capital structure for each of the Test Years. ComEd states that these capital structures are reasonable, consistent with ComEd's present and actual planned capitalization, appropriate for ratemaking, and (if coupled with an appropriate rate of return) will allow ComEd to compete in the capital markets as necessary for its operations and to support its significant investment over the Rate Plan period. ComEd IB at 297. ComEd further argues that no party has established a basis for imputing a hypothetical capital structure, and that much of Staff and intervenors' arguments focus on the fact that ComEd's credit ratings were not negatively impacted by the formula rate structure. ComEd argues that these arguments not only fail to consider the economic conditions and financing needs the Company states that it will experience in the Test Years but also ignore the differences between the formula rate structure and the MYRP structure. ComEd argues that Staff and ICCP's recommendations are shortsighted, apply improper standards, and are not based on the actual conditions and financing needs ComEd anticipates in the Test Years. ComEd argues that the record evidence in this proceeding shows that ComEd's proposed capital structures are reasonable and prudent, required to support ComEd's operation and investments through the Rate Plan period, and should be adopted. ComEd IB at 297-302.

ComEd explains that under the multi-year rate planning structure, the Act directs that the revenue requirement "shall reflect the utility's actual capital structure for the applicable calendar year." 220 ILCS 5/16-108.18(d)(3)(C). ComEd states that the statute further provides a "safe harbor" for common equity ratios, stating that "[a] year-end capital structure that includes a common equity ratio of up to and including 50% of the total capital structure shall be deemed prudent and reasonable." *Id*.; ComEd IB at 300. But, ComEd argues, the statute does not preclude the approval of higher common equity ratios, stating only that "[a] higher common equity ratio must be specifically approved by the Commission." *Id*. ComEd further notes that the Commission has described the burden for setting aside a utility's actual capital structure, and "a hypothetical capital structure should only be used 'when the utility's actual capital structure is found to be unreasonable, imprudent or unduly affected by such circumstances as double leverage as so to unfairly burden the utility's customers.'" *People ex rel. Hartigan v. Ill. Commerce Comm'n*, 214 Ill. App. 3d 222, 228 (3rd Dist. 1991).

ComEd explains that it established that the capital structures proposed for the Test Years are consistent with sound financial practice, and the recommended capital structures reflect a degree of leverage that includes an appropriate level of risk while also maintaining a level of financial strength and integrity that investors view as sufficient for access to capital markets. ComEd Ex. 49.01 at 11. More specifically, ComEd explains, these capital structures appropriately balance the interests of: (i) customers to have reliable service at a reasonable cost, (ii) debt holders to be assured that their interest payments will be made as promised and their principal will be repaid at maturity, and (iii) equity investors to receive competitive dividends and earnings that justify their continued capital commitments. *Id*. ComEd maintains that management and treasury professionals evaluated ComEd's capital needs, its access to the credit markets, credit market costs, and ratings standards and determined that 50.58% common equity is a prudent and appropriate ratio of common equity for Test Year 1 (2024) that meets credit metrics and creates an appropriate amount of common equity to support ComEd's financial strength. *Id*. Likewise, ComEd argues that its forecasts and analysis of the data and information available about each of the Test Years supported a determination that the common equity ratios for Test Years 2, 3, and 4 of 50.81%, 51.03%, and 51.19%, respectively, are prudent, appropriate, and will maintain ComEd's financial strength. *Id*. Further, ComEd contends, these capital structures are based on ComEd's current actual capitalization, with adjustments for the anticipated and forecast changes that will occur before and during the Test Years. *Id*. at 8. That actual capital structure consists of slightly over 50% common equity, as ComEd explains. *Id*. at 9. ComEd notes that these capital structures also each exclude an amount of equity equal to the balance of goodwill recorded under GAAP and reported on ComEd's balance sheet and FERC Form 1, solely for the purposes of reducing the potential contested issues in this proceeding. *Id*. at 10.

ComEd argues that its proposed capital structures reflect the capital needs of ComEd's business (in particular the need to support the increasing level of investment over the Rate Plan period) and ComEd has provided sufficient evidence to support Commission approval under Section 16-108.18(d)(3)(C) of the Act. ComEd asserts that its requested common equity ratios are necessary to support ComEd's operations particularly in light of the incremental cash flow difficulties facing ComEd during the Rate Plan period. *Id*. at 12. ComEd argues that the increased investment required by P.A. 102-0662, coupled with negative impacts to cash flows resulting from the impacts of excess accumulated deferred income tax ("EDIT") acceleration and ComEd's proposed Phase-In, inflation, the risks inherent in the new P.A. 102-0662 reconciliation process, continued loss of bonus depreciation, and the 2022 updates to the corporate minimum tax, all require ComEd to have a slightly less leveraged capitalization to maintain beneficial credit metrics and concomitant access to the capital markets. ComEd Ex. 49.01 at 5, 12; ComEd Ex. 14.0 at 72-73. ComEd argues that imposing a 50% common equity cap, as Staff and intervenors recommend, will limit ComEd's ability to appropriately react to financial conditions and employ its well-established capitalization practices. ComEd Ex. 49.02 at 4.

ComEd observes that no party has contested ComEd's evidence about the factors affecting its financing needs in the future; they have merely argued that they are insufficient to justify the capital structures that ComEd proposes. ComEd explains that the proposed capital structures were determined using ComEd's well-established capitalization planning practices, the same financially prudent and reasonable practices that ComEd has used to establish Commission-approved capital structures in the past.

ComEd argues that they appropriately balance the interests of customers, debt holders, and equity investors to receive competitive dividends and earnings that justify their continued capital commitments. ComEd Ex. 49.01 at 8-9, 11. ComEd contends that Staff, ICCP, and PIRG all rely on backward-looking analyses to conclude that ComEd's proposed capital structures are not justified, rather than engaging with the actual financial needs ComEd expects to experience during the Test Years.

ComEd observes that neither Staff nor ICCP address the prudence standard. ComEd argues that the prudence standard is well-established and requires that ComEd exercise "that standard of care which a reasonable person would be expected to exercise under the same circumstances encountered by utility management at the time decisions had to be made." *Ill. Power Co. v. Ill. Commerce Comm'n*, 339 Ill. App. 3d 425, 428 (5th Dist. 2003) (*quoting Ill. Power Co. v. Ill. Commerce Comm'n*, 245 Ill. App. 3d 367, 371 (1993)). Here, ComEd contends, ComEd's management is faced with uncertainty and significant capital investment over the Rate Plan years, as well as significant cash flow headwinds. ComEd observes that the recommended common equity ratios represent reasonable forecasts of what capitalization will be required to support the business. ComEd states that no party has identified any imprudent managerial decisions or capitalization practices, they merely argue that a lower common equity ratio is better. ComEd notes that Staff states that "the Commission should approve no higher equity ratio than is necessary and reasonable to support ComEd's financial strength and maintain its investment grade credit rating." Staff IB at 204. ComEd posits that Staff's argument is essentially that the Commission must approve a common equity ratio that is no higher than the bare minimum to maintain ComEd's credit ratings, despite what prudent utility management expects will support the business in the Test Year. ComEd believes this approach is shortsighted, will leave ComEd open to more risk during the Rate Plan, and does not serve customer interests.

ComEd argues that Staff and ICCP incorrectly allege that the MYRP statute imposes a "substantial evidence" standard for approval of capital structures with common equity ratios in excess of 50%. Staff IB at 199; ICCP IB at 40. ComEd argues that the Commission should apply this provision of the Act as written, and not impose any additional burdens or tests that are not contained in the statutory language. ComEd explains that both parties support their "substantial evidence" argument by stating that the Commission found in Ameren's rate case, Docket No. 22-0297, that "approval of a common equity ratio greater than 50% must be supported by substantial evidence." ICCP IB at 40 (*citing Ameren Ill. Co.,* Docket No. 22-0297, Order at 42 (Dec. 1, 2022); *see also* Staff IB at 199. In that case, ComEd notes, the Commission was applying the formula rate statute which contained a safe harbor provision applicable only to Ameren which stated, "a participating electric utility's actual year-end capital structure that includes a common equity ratio, excluding goodwill, of up to and including 50% of the total capital structure shall be deemed reasonable and used to set rates." 220 ILCS 5/16-108.5(c)(2). Contrary to Staff's assertion, ComEd contends, the language in the formula rate statute and the MYRP statute regarding a safe harbor is not "identical." Staff IB at 200. ComEd points out that the MYRP statute contains this 50% safe harbor provision but goes on to specifically address approval of common equity ratios in excess of 50%, stating: "A higher common equity ratio must be specifically approved by the Commission." 220 ILCS 5/16-108.18(d)(3)(C). ComEd observes that there is nothing in the statute that suggests that any standard would apply other than the Commission's usual standard for determining whether a capital structure is reasonable and prudent. Further, ComEd states, it is unclear from the Commission's language in that proceeding whether the use of the phrase "substantial evidence" was intended to apply a different standard from the standard that the Commission has generally applied, or if the Commission merely intended to apply the same prudence and reasonableness review that is applied in non-formula rate case proceedings. ComEd posits that the statute does not characterize the 50% common equity ratio as a "threshold" or "cap" or anything of the sort, and the Commission should not apply it as such. Because this provision does not change the Commission's standards for approval applicable to a capital structure with more than 50% equity, ComEd argues that the Commission should evaluate the prudence and reasonableness of ComEd's proposed capital structures based on the well-established legal principles described above.

ComEd opines that Staff, ICCP, and PIRG disregard the record evidence and argue that ComEd has not provided sufficient evidence to justify its proposed capital structures. ComEd contends that they focus much of their argument on the fact that ComEd's credit ratings were not negatively impacted by the formula rate structure, which not only fails to consider the economic conditions and financing needs ComEd states that it will experience in the Test Years but also ignores the differences between the formula rate structure and the MYRP structure. Regardless of what standard is applied, ComEd argues that the record evidence in this proceeding shows that ComEd's proposed capital structures are reasonable and prudent, and necessary to support ComEd's operation and investments through the Rate Plan period. According to ComEd, the Commission should reject Staff, ICCP, and PIRG's recommendations, which are based on backward-looking comparisons, supported by flawed analyses, and fail to consider the actual conditions and capital structure that ComEd will operate under during the Rate Plan period.

ComEd observes that under either the Commission's traditional standard for approval of capital structures or the "substantial evidence" standard that Staff and ICCP try to apply, ComEd has provided sufficient evidence to establish that its capital structures are prudent and reasonable. ComEd argues that in setting a capital structure for ratemaking purposes, "the objective of the Commission is to balance the interests of investors and consumers." *Ill.-Am. Water Co*., Docket No. 22-0210, Order at 66 (Dec. 15, 2022). ComEd observes that the Commission has explained that "[g]enerally, a utility's actual capital structure is adopted unless it is found to be unreasonable, imprudent, or unfairly burdensome." *Id*. However, ComEd offers, "[i]f found to be unreasonable, imprudent, or unfairly burdensome, then an imputed capital structure may be adopted." *Id*.; *see also* 214 Ill. App. 3d at 228 ("a hypothetical capital structure should only be used 'when the utility's actual capital structure is found to be unreasonable, imprudent or unduly affected by such circumstances as double leverage as so to unfairly burden the utility's customers.'").

Additionally, ComEd contends that no party responded to ComEd's evidence regarding the turbulence in the markets that has highlighted the need for a strong financial position. ComEd explains that inflation remains heightened and additional interest rate increases are expected, and there is banking sector turmoil and continued political uncertainty related to the debt ceiling through the Rate Plan period, which are all market conditions that necessitate a strong financial position in order to ensure access to capital on favorable terms throughout the entire Rate Plan period. *Id*. at 8-9. Importantly, ComEd states, setting rates with a hypothetical capital structure using a hypothetical lower-than-forecast common equity ratio in this proceeding will cause ComEd to under-recover its actual costs of equity capital during the Annual Performance Evaluation proceedings because, per statute, the common equity ratio used in the reconciliation proceedings, which are forecasted to be higher, may not exceed that which is approved by the Commission in the MYRP, per Section 16.108.18(f)(6)(D). 220 ILCS 5/16.108.18(f)(6)(D). Here, no party has established that ComEd's actual capital structures for the Test Years are unreasonable or imprudent, ComEd concludes.

ComEd disputes Staff and ICCP's contentions that their recommendations would maintain ComEd's credit ratings. ComEd further states that the analyses Staff and ICCP perform in support of their recommendations, which are intended to approximate how the rating agencies calculate their ratings, are incomplete, contain substantial errors and should not be relied upon by the Commission. In particular, ComEd observes, these analyses only address the quantitative metrics, which make up less than half of the rating agencies' analysis. *Id*. at 10-11. ComEd explains that the qualitative portion of Moody's Investors Service ("Moody's") analysis takes into account a number of additional factors, including Consistency and Predictability of Regulation, Ability to Recover Costs and Earn Returns, and Sufficiency of Rates and Returns. *Id*. ComEd further explains that Staff and ICCP's analyses of rating agency actions do not include the impact of the parties' own recommendations or take into account how the rating agencies have described the MYRP framework.

ComEd observes that Staff cites to Moody's conclusion that the Rate Plan "should still produce transparent and predictable cash flow, but likely with less regulatory lag and improved profitability[]" but does not address the fact that the "improved profitability" Moody's references is related to the discontinuation of the formula rate ROE, which Staff proposes to continue. *Id*. at 201 (*citing* Staff Ex. 4.0 Rev. at 9). According to ComEd, Moody's states that "[t]he most important feature of the [performance-based ratemaking under P.A. 102-0662 is that it will have a four-year forward test year period as a part of a [MYRP] and an authorized [ROE] determined by the [Commission] under traditional regulatory methods rather than being indexed to 30-year treasury rates." ComEd Ex. 28.02 at 4. Likewise, ComEd points out that ICCP states that S&P identified regulatory provisions under P.A. 102-0662 that "reduce ComEd's investment risk going forward[,]" including "[P.A. 102-0662] increasing rate predictability and reducing regulatory lag through the four-year MYRP, and [P.A. 102-0662]'s annual reconciliation mechanism." *Id*. at 44. However, according to ComEd, ICCP does not address the ways that these provisions, which reduce risk as compared to a traditional utility ratemaking structure, are riskier than the cost recovery under the formula rate structure. ComEd explains that the four-year plan reduces regulatory lag, however the application of the 105% test may affect rate predictability, and P.A. 102-0662's annual reconciliation mechanism includes limitations on recovery that were not present under the formula rate structure. ComEd observes that Staff witness McNally's implied credit metric framework demonstrably overstates the credit metrics that would result from ComEd's current financial information, since applying this framework to ComEd's actual historical financial information results in an implied rating of A2, two notches above the result of Moody's actual result of Baa1.

ComEd Ex. 59.02 at 12-14. Therefore, ComEd concludes, the framework cannot be relied upon to accurately estimate the impact of his recommendations. *Id*. Further, Staff witness McNally and ICCP witness Gorman point only to ComEd's credit metrics as evidence of ComEd's financial strength, yet they ignore specific references that the rating agencies have made to anticipated returns under the MYRP, according to ComEd.

While the rating agencies were supportive of the formula rate structure as a full package, applying the formula ROE under the MYRP without the other aspects of the formula is a substantively different proposal, ComEd explains. And, ComEd observes, Staff witness McNally affirmatively states that he did not take the qualitative impact of his ROE recommendation into consideration, stating "Moody's does not indicate that an ROE based on the formula rate approach would result in a credit rating downgrade." Staff Ex. 20.0 at 8. ComEd explains, however, Moody's did state that the most important feature of the Rate Plan is the fact that the ROE will not be indexed to 30-year treasury rates, a feature which Staff proposes the Commission eliminate. ComEd Ex. 28.02 at 4. To accept Staff and ICCP's assertions that ComEd's credit ratings would not be negatively impacted by their recommendations, the Commission would need to ignore all what the rating agencies have actually said in favor of Staff and ICCP's faulty analyses that focus solely on quantitative metrics, ComEd concludes.

ComEd argues that Staff's allegation that ComEd's proposed capital structure would produce a rate of return that would violate Section 9-230 of the Act is unsupported. Section 9-230 precludes the Commission from considering any incremental risk or increased cost of capital resulting from the utility's affiliation with unregulated or non-utility companies. 220 ILCS 5/9-230. ComEd observes that Staff witness McNally based this contention only on the fact that ComEd and Exelon, which have significantly different operations, have a similar operating risk. Staff Ex. 4.0 Rev. at 11. ComEd notes that Staff witness McNally described, generally, investment relationships with parent companies in the utility industry. *Id*. ComEd contends that he provided no evidence to show that ComEd's capital structure has been impacted by its relationship with Exelon. ComEd observes that although Staff argues that "a utility subsidiary will often be motivated to maintain a higher equity ratio than it requires in order to increase the utility's allowed rate of return[,]" Staff IB at 205. Staff does not make any connection between that general statement and ComEd's capitalization. ComEd notes, as Staff has repeatedly pointed out, that during the entire formula rate period ComEd had a lower capital structure than what is proposed now, despite being affiliated with Exelon. ComEd argues that ComEd's capitalization is based on its experienced treasury professionals' forecasts of what capitalization will be required to support the business, and Staff's contentions to the contrary are not supported by any record evidence and should be rejected.

ComEd argues that Staff, ICCP, and PIRG all rely on backward-looking analyses, which are not appropriate for considering what ComEd's capitalization needs will be in the future. As ComEd notes, P.A. 102-0662 has directed substantial new investment, and the Grid Plan sets out a path to meeting the legislature's goals. ComEd maintains that this significant new investment, as well as the long-ranging commitments required of ComEd, will create different financial needs than ComEd experienced during the formula rate years. ComEd argues that it is not appropriate to disregard ComEd's evidence supporting its capitalization needs in the Test Years just because it is not the same as past years when ComEd operated under a different ratemaking structure and in different economic conditions. ComEd evaluates ICCP's bases for rejecting ComEd's capital structures and observes that witness Gorman's conclusion is based entirely on ComEd's capitalization under formula rates and the Commission's ratemaking treatment under the formula rate paradigm, which do not correlate to what ComEd will experience in 2024-2027, and nearly completely ignores the evidence regarding what ComEd will experience in those years. ICCP IB at 41 (*citing* ICCP Ex. 4.0 at 28-29). ComEd argues that ICCP ignores ComEd witness Levin's evidence regarding the need for the capital structures essentially entirely, and ignores ComEd witness Graves' explanation that Moody's has downgraded utilities due to cash flow concerns, including related to the Tax Cuts and Jobs Act of 2017 ("TCJA"), and goes on to say that Moody's "has continued to downgrade the ratings of utilities based in part on the negative effects of the TCJA on cash flows," and concern as well as "inflation, and increased capital expenditures underscores the importance of maintaining adequate cash flow metrics for the industry, as a whole, and ComEd, particularly" and that "based on the cash flow concerns raised by credit rating agencies for the industry as a whole and ComEd, in particular, it is reasonable to rely on a higher equity ratio than ComEd may have relied on in prior rate cases." ComEd Ex. 14.0 at 72-73. ComEd further argues that ICCP's argument that the uncertainties related to the longer time horizon of the plans and the risks inherent in the reconciliation process would not cut against ComEd are nonsensical, and that all of the risk of under-recovery as a result of the 105% test falls on ComEd, and there is no risk of over-recovery from customers.

ComEd argues that, contrary to Staff, ICCP, and PIRG's misplaced reliance on comparisons to holding company capital structures, ComEd's capitalization is comparable to other distribution operating utilities. ComEd observes that Staff puts forth the misleading argument that ComEd's proposed capital structures "include a significantly higher percentage of common equity than the capital structures of the proxy sample ComEd used to derive its ROE estimate (the "Proxy Group"), which had a three-year average common equity ratio of only 44.17% from 2020-2022." Staff IB at 202. As ComEd pointed out in testimony, the proxy groups used for ROE analysis are holding companies, and "the capitalization strategy of holding companies differs significantly from the capitalization strategy of a regulated distribution utility." ComEd Ex. 59.02 at 15. However, ComEd points out that ComEd witness Graves performed an analysis of his proxy group at the operating utility level (which is the more appropriate comparison) and determined that the average equity ratios for the utility operating companies of the Proxy Group over the prior two years range from 41.38% to 60.17%, with an average of 51.43%. ComEd Ex. 14.0 at 9. And, ComEd observes, Staff witness McNally identifies the average authorized equity ratio for electric distribution-only utilities for 2020 through 2022 as 50.06%, which is only slightly lower than ComEd's proposed common equity ratios. Staff Ex. 4.0 Rev. at 10. Further, ComEd notes, the definition of Debt and Equity employed by Standard & Poor's ("S&P") for the reported capital structures of these companies differs from the GAAP used in ratemaking, and therefore these ratios should not be used as a benchmark for setting rates. ComEd Ex. 59.02 at 15. ComEd points out that PIRG's capital structure recommendation is based on an analysis, which includes ComEd's Proxy Group and "a few other utility companies that [PIRG witness Bodmer] think[s] are important to evaluate[,]" that uses publicly-traded companies and suffers from the same shortcomings as Staff and ICCP's comparisons to holding company capital structures. PIRG Ex. 1.4 Corr. at 1.

ComEd concludes that the Commission should reject Staff, ICCP, and PIRG's backward-looking conclusions and instead look to the record evidence regarding what ComEd's financing needs will actually be during the years that the MYRP will be in effect, when it will need to support significant investment and attract capital while operating under a materially different reconciliation and cost recovery framework.

2. Staff's Position

Staff recommends the Commission approve capital structures containing 50.00% common equity. Staff explains that its recommended capital structures appropriately balance investor and consumer interests while allowing the utility to maintain and support its credit, allowing it to raise needed capital to run its business.

The ratemaking process under the Act, i.e., "the fixing of 'just and reasonable rates,' involves a balancing of the investor interests and the consumer interests…. [I]t is important that there be enough revenue not only for operating expenses but also for the capital costs of the business." *Fed. Power Comm'n v. Hope Nat. Gas Co*., 320 U.S. 591, 603 (1944) ("*Hope*"). A reasonable rate is one that permits a utility to earn a sufficient return that assures confidence in the financial soundness of the utility; allows that utility to maintain and support its credit; and allows it to raise needed capital to run its business. *Bluefield Waterworks & Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679, 692 (1923) ("*Bluefield*").

An optimal capital structure both minimizes the cost of capital and maintains a utility's financial integrity. Staff Ex. 4.0 Rev. at 4. Unfortunately, determining whether a capital structure is optimal is difficult to do with complete precision because: (1) the cost of capital is a continuous function of the capital structure, rendering its precise measurement along each segment of the range of possible capital structures problematic; (2) the optimal capital structure is a function of operating risk, which is dynamic; and (3) the relative costs of the different types of capital vary with dynamic market conditions. Consequently, one should determine whether the capital structure is consistent with the financial strength necessary to access the capital markets under most economic conditions, and if so, whether the cost of that financial strength is reasonable. *Id*. at 4-5.

Staff opines that the Company's proposed capital structure contains an excessive amount of common equity. Staff Ex. 4.0 Rev. at 5. Section 16-108.18(d)(3)(C) of the Act provides in relevant part that "a year-end capital structure that includes a common equity ratio, excluding goodwill, of up to and including 50% of the total capital structure shall be deemed reasonable. A higher common equity ratio must be specifically approved by the Commission." 220 ILCS 5/16-108.18(d)(3)(C). In approving the imputed 50% common equity ratio recommended by Staff in Ameren's last formula rate proceeding, Docket No. 22-0297, the Commission found that Section 16-108.5(c)(2) of the Act requires that any level of common equity greater than 50% must be approved as prudent and reasonable by the Commission and must be supported by substantial evidence. *See* Docket No. 22-0297, Order at 41-42. Here, the Company has failed to meet its burden. Hence, Staff proposes to impute 2024-2027 capital structures for ComEd containing 50% common equity in accordance with the threshold established in Section 16-108.18(d)(3)(C) of the Act. Staff Ex. 4.0 Rev. at 5.

ComEd's argument appears to suggest that its capital structure proposals benefit from a presumption of reasonableness that must be disproved before the Commission can approve a competing recommendation. However, Section 9-201 places the burden of proof on the utility to establish that rates are just and reasonable. 220 ILCS 5/9-201. As such, the utility bears the burden of proving the reasonableness of the "values it places on the components of the revenue requirement," including that the "reported capital structure reflects capital costs reasonably necessary for the provision of services." *Citizens Util. Bd. v. Ill. Commerce Comm'n*, 276 Ill. App. 3d 730, 746 (1st Dist. 1995). In other words, the onus is on the Company to demonstrate that a capital structure with an equity ratio greater than 50% is prudent and reasonable; and another party does not have the burden to prove the Company's proposal is unreasonable.

Staff points out that the Company also asserts that its proposed capital structures "are based on actual capitalization that will support the business in the Test Years." ComEd IB at 297. Staff clarifies that the Company's proposals are not actual, but mere conjecture. Regardless, the purpose of this proceeding is not to predict what the Company's actual capital structure will be at some future dates but to determine what capital structure is prudent and reasonable for ratemaking purposes. Staff Ex. 20.0 at 5; *see Commonwealth Edison Co.*, Docket No. 05-0597, Order at 125 (July 26, 2006) ("The capital structure for ratemaking purposes… may differ from the capital structure reported for operations.").

Staff notes that ComEd has operated its electric distribution business under an FRP since 2011, when the FRP was originally established as part of the EIMA. *See generally* 220 ILCS 5/16-108.5. During that period, ComEd's authorized rates under the FRP reflected capital structures with common equity ratios ranging from 42.55% to 49.45%, with an average of 46.57%. Staff Ex. 4.0 Rev. at 6-7. Staff asserts that the FRP has had a positive impact on ComEd's credit ratings. *Id*. at 7. This is evidenced by the fact that ComEd's credit ratings from Moody's and S&P have been upgraded several times since the implementation of formula rates. Prior to the implementation of the FRP, ComEd was rated Baa3 by Moody's and BBB by S&P. Moody's upgraded ComEd's rating to Baa2 in March 2012, to Baa1 in January 2014, and to A3 in July 2017. S&P upgraded ComEd's rating to BBB+ in March 2019 and to A in November 2019. Currently, ComEd is rated A3 by Moody's and BBB+ by S&P. Moody's currently assigns a stable outlook to its credit rating for ComEd, while S&P currently assign a positive outlook to its credit rating for ComEd. In summary, ComEd's credit rating from Moody's has improved three notches since formula rates began, while ComEd's S&P rating has improved two notches (U.S Attorney's Office bribery charges notwithstanding). *Id*. at 7-8.

According to Staff, those rating upgrades demonstrate that both Moody's and S&P have viewed the FRP positively. Staff Ex. 4.0 Rev. at 8. Specifically, Moody's states, "the [Future Energy Jobs Act] is a significant credit positive," and refers to the FRP's formulaic rate making structure as "a material credit strength." *Id*. In fact, Moody's further stated that ComEd's rating could be upgraded even farther "if the FRP is established permanently." *Id*.

Staff states that both Moody's and S&P agree that the MYRP will further reduce the Company's risk. Staff Ex. 4.0 Rev. at 9. While the FRP enhanced the certainty of cash flows, the MYRP goes further in alleviating the likelihood of the utility facing financial difficulties. *Id*. Staff explains that the MYRP's use of forward-looking test years reduces regulatory lag relative to the use of historic test years in the FRP and enhances rate predictability. *Id*. Accordingly, Moody's states, "The multi-year plan process, similar to the formulaic rate regulation, should still produce transparent and predictable cash flow, but likely with less regulatory lag and improved profitability." *Id*. Similarly, S&P states, "[w]e anticipate that ComEd will operate under a [multi-year rate plan] with forward test periods which would enhance rate predictability and reduce regulatory lag." *Id*.

Despite this greater certainty and timeliness of cash flows, the Company proposes to increase its equity ratio above the levels that enabled it to not only maintain but improve its financial health and attract capital for over 10 years under the FRP. Staff Ex. 4.0 Rev. at 9-10. Staff notes that the Company's proposed capital structures include a significantly higher percentage of common equity than the capital structures of the Proxy Group ComEd used to derive its ROE estimate, which had a three-year average common equity ratio of only 44.17% from 2020-2022. All else equal, it is inappropriate to apply the higher cost of equity derived from a sample with a relatively lower percentage of common equity, implying higher risk, to a capital structure with a much higher percentage of common equity, implying lower risk. To do so, Staff asserts, would produce an overstated weighted average cost of capital. *Id*. at 10. In addition, the Company's proposed forecasted capital structures include more equity than the capital structures authorized for electric distribution utilities in the U.S. over the last three years, which averaged only 50.06% from 2020 through 2022. *Id*.

In contrast, Staff's proposed common equity ratio of 50.00% is substantially higher than the Proxy Group's 44.17% three-year average common equity ratio and is nearly identical to the 50.06% common equity ratio authorized for U.S. electric distribution-only utilities, most of which do not operate under an MYRP. Given the greater certainty and timeliness of cash flows the MYRP will provide ComEd, this indicates that Staff's proposal is comparatively generous. Staff Ex. 4.0 Rev. at 13-14.

As an additional evaluation of the proposed capital structures, Staff compared the level of financial strength implied by the financial ratios of the Company to Moody's Benchmark Ratios for regulated electric and gas utilities. Staff Ex. 4.0 Rev. at 14. Although Moody's does not rigidly adhere to a formula for assigning credit ratings, Moody's publishes ratio ranges that may generally be seen at different rating levels for regulated electric utilities. *Id*. Moody's focuses on the following four ratios to assess the financial strength of gas and electric utilities: (1) Cash Flow from Operations Before Changes in Working Capital ("CFO pre-WC") interest coverage; (2) CFO pre-WC to total debt; (3) CFO pre-WC less dividends to total debt coverage; and (4) debt to capitalization. *Id.*

Staff presented benchmark ratios for ComEd, its corporate parent Exelon, and the Proxy Group, calculated for 2022 and as a three-year average from 2020 through 2022. Staff Ex. 4.0 Rev. at 14-15. The Moody's historical financial ratios calculated in Staff's analysis (i.e., the ratios for 2022 and for the 2020-2022 three-year average) both imply a credit rating of A2 for ComEd, which suggests a level of financial strength consistent with a credit rating that is higher than the Company's actual rating of A3. *Id*. at 15. The 2022 and three-year average Moody's financial ratios for Exelon imply credit ratings of Baa2 and Baa1, respectively, which suggests a level of financial strength consistent with a credit rating that is at or slightly better than Exelon's actual rating of Baa2. For the Proxy Group, the Moody's financial ratios imply credit ratings of Baa1/Baa2 for 2022 and Baa2 for 2020-2022. The Company has higher overall cash flow ratios and significantly lower debt ratios (both indicative of higher financial strength) than both Exelon and the Proxy Group over the three-year period. *Id.*

Finally, Staff compared the financial strength implicit in both the Company's and Staff's ratemaking proposals, including capital structures, for each year under the MYRP. Staff Ex. 4.0 Rev. at 16. Under Staff's proposals, which include 50.00% common equity, the ratios for 2024-2027 indicate a degree of financial strength that is consistent with, or even slightly higher than, the 2020-2022 benchmark ratios discussed above. Thus, Staff's proposals going forward under the MYRP indicate at least as high a degree of financial strength as ComEd has maintained up until now. In contrast, the Company's proposed capital structures, which contain common equity ratios higher than 50%, are stronger than necessary to maintain ComEd's financial strength. *Id*.

The Company claims that Staff's Moody's Benchmark Ratio analysis is flawed because it does not address the qualitative portion of Moody's rating analysis and contains errors that overstate ComEd's financial ratios. ComEd IB at 302. Staff argues that the Company's objections are not valid. Staff explains that its analysis reasonably assumes the qualitative factors - diversification, regulatory framework, and ability to recover costs/earn returns - will remain the same under the MYRP. Staff Ex. 20.0 at 6-7. Staff contends that the MYRP will have no effect on ComEd's diversification. Further, Moody's indicates no reason to expect a shift in its assessment of ComEd's regulatory framework, but does indicate that the MYRP will, if anything, improve ComEd's ability to recover costs/earn returns. *Id*. Therefore, it is reasonable to assume Moody's qualitative assessments will not change.

Furthermore, Staff notes that S&P assesses both ComEd's and Exelon's business risk as "Excellent." Staff Ex. 4.0 Rev. at 11. All else equal, companies with similar operating risk levels can maintain a given credit rating with a similar percentage of equity on their balance sheets. ComEd, however, proposes to increase its equity ratio for rate making in 2024-2027, even though its most recent three-year average common equity ratio is already much higher than its parent company's three-year average common equity ratio of only 43.19%. *Id.*

Staff explains that this is a very common arrangement in the relationships between holding companies and their operating company subsidiaries. Non-rate regulated corporations that own utility operating companies have an economic incentive to maintain relatively low equity ratios (i.e., high debt levels) at the holding company level while maintaining relatively high equity ratios (i.e., low debt levels) at the utility operating company level, because they can borrow at low rates at the holding company and in turn, invest that capital in the utility, where it will earn relatively high equity returns given the operating risk inherent in the utility operations. The utility, in such scenarios, despite being very low risk based solely on its standalone risk, may face a higher level of risk because of its parent's debt requirements. In this scenario, a utility subsidiary will often be motivated to maintain a higher equity ratio than it requires in order to increase the utility's allowed rate of return. Staff Ex. 4.0 Rev. at 11-12.

However, in Illinois, that increased cost of capital cannot lawfully be reflected in the utility's rates. More specifically, Section 9-230 of the Act states:

> In determining a reasonable rate of return upon which investment for any public utility in any proceeding to establish rates or charges, the Commission shall not include any … incremental risk, … [or] increased cost of capital … which is the direct or indirect result of the public utility's affiliation with unregulated or nonutility companies.

220 ILCS 5/9-230. According to Staff, approving ComEd's proposed capital structures for the MYRP would violate Section 9-230 of the Act. As the Appellate Court found, when a larger corporation owns a utility, the corporation is generally not motivated to establish the optimal, lowest-cost capital structure for the utility, but to instead use a capital structure with a greater percentage of equity than is optimal, thereby allowing the parent corporation to realize a greater return. In other words, the capital structure of the regulated utility can be manipulated to include excessive equity to inflate the rate of return. *Citizens Util. Bd.*, 276 Ill. App. 3d at 744-45. If ComEd's capital structure carries an excessive amount of equity, it benefits Exelon, its parent and sole shareholder, to the detriment of ComEd ratepayers, who would pay for that equity. Staff Ex. 4.0 Rev. at 12.

Staff states that ComEd's equity balance has increased mostly due to capital infusions from Exelon. Since the beginning of 2020, Exelon has provided ComEd with more than $2 billion in equity infusions. Staff Ex. 4.0 Rev. at 13. These cash infusions from Exelon directly increase the balance of common equity at ComEd. While there is nothing in the Act that limits Exelon's ability to give its regulated subsidiaries many millions of dollars to manage their capital structures, ComEd can only charge rates that reflect an equity ratio that is deemed reasonable for setting rates for a lower-risk electric distribution utility. As discussed above, there is no threat to the Company's financial condition or credit position to justify ComEd's increased equity ratios and the corresponding higher costs to ratepayers. *Id*. Therefore, Staff recommends that the Commission impute ComEd's capital structure to the 50% common equity ratio threshold deemed reasonable in Section 16-108.18(d)(3)(C) of the Act and in accordance with Section 9-230 of the Act.

In summary, the Company's proposed capital structures contain excessive amounts of common equity and are therefore unreasonable and unfairly costly to consumers. Staff opines that the Company has not offered the required evidence to warrant a common equity ratio greater than 50%. *See* 220 ILCS 5/16-108.18(d)(3)(C). ComEd has maintained an equity ratio below 50% for its electric distribution operations throughout the FRP period. Staff Ex. 4.0 Rev. at 6. ComEd's credit position, as indicated by its credit ratings, has only improved under the FRP paradigm. *Id*. at 7-8. Yet, instead of increasing leverage without negatively affecting the utility's credit ratings, which is possible under the MYRP due to the greater certainty and timeliness of cash flows it affords, ComEd requests an unjustified increase in its common equity ratio. *Id*. at 9. Hence, Staff recommends that the Commission approve Staff's imputed capital structure for ComEd containing 50% common equity for 2024-2027.

3. AG's Position

The AG asks the Commission to reject ComEd's request for a common equity ratio that exceeds the statutory allowance and exceeds reasonable and prudent expectations, and to set the Company's rates based on a common equity ratio of 50%. The AG explains that investors provide funds for ComEd to invest in its operations. Those investors include bondholders, who provide long- and short-term debt, and shareholders who provide equity. Ordinarily, the key differences between debt and equity are that (1) bondholders agree to a specific return on their investment, whereas shareholders receive a return based on the performance of the corporation, and (2) debt payments are generally tax deductible while dividend payments are not. Critically, debt costs less than equity. *Ameren Ill. v. Ill. Commerce Comm'n*, 2013 IL App (4th) 121008, ¶ 30. Because the cost of equity is substantially more than the cost of debt, a higher ratio of common equity to debt increases costs to consumers. *Id*. at ¶ 31.

The AG notes that this is ComEd's first docket under the MYRP process that replaced the formula rates law pursuant to Section 16-108.5 that was in place since 2012. As Staff witness McNally testified, throughout the formula rates period, ComEd's common equity ratio never exceeded 50% and in fact averaged 46.57%. Staff Ex. 4.0 Rev. at 6-7. The AG asserts that ComEd now seeks to steadily increase its common equity ratio to 51.19% in 2027, driving up costs to consumers who would be required to pay for more higher cost equity than lower cost debt. The AG argues that, while there is substantial evidence that a common equity ratio well below 50% would be reasonable for ComEd and consistent with investor expectations, the statute deems a 50% common equity ratio reasonable. 220 ILCS 5/16-108.18(d)(3)(C).

Although ComEd argues that the burden to set aside a utility's actual capital structure is a heavy one, citing *People ex rel. Hartigan v. Ill. Commerce Comm'n*, 214 Ill. App. 3d at 228, the AG asserts that the statute governing this proceeding is different from the law that applied to *People ex rel. Hartigan v. Ill. Commerce Comm'n*. Now the law "deems" as prudent and reasonable a common equity ratio of 50%-which is significantly higher than the hypothetical and actual common equity ratios considered in *People ex rel. Hartigan v. Ill. Commerce Comm'n*. 220 ILCS 5/16-108.18(d)(3)(C).

The AG states that in 2013, the court reviewed Ameren's capital structure under the predecessor of this section that included similar language but did not include the deemed 50% common equity ratio, holding that "[t]he plain language of the statute provides the Commission with the discretion to determine whether Ameren's proposed actual capital structure is prudent and reasonable." *Ameren Ill. v. Ill. Commerce Comm'n*, 2013 IL App (4th) 121008, ¶ 29. The court rejected Ameren's contention that the statutory language created a presumption of reasonableness. *Id*.

Similar to the situation presented by ComEd and Exelon, the court in the 2013 Ameren case noted that the utility's parent's common equity was less than Ameren's asserted actual common equity ratio. *Id*. ¶ 31. The court held that the Commission acted within its authority to adopt a common equity ratio lower than the parent's and the Company's asserted actual common equity ratio. *See Id*. ¶ 31. As pointed out by Staff witness McNally, ComEd's parent company had a significantly lower common equity ratio of only 43.19% in 2022 despite having similarly low operating risk. Staff Ex. 4.0 Rev. at

11. The law and the courts affirm the Commission's authority to limit the Company's capital structure to no more than the 50% deemed prudent and reasonable in the statute for the MYRP period.

ComEd adds that it should be allowed to increase its common equity ratio due to "incremental cash flow headwinds during the Rate Plan period." ComEd IB at 301. Apparently ComEd is arguing that because it proposes to spend excessive amounts for plant additions over the next four years, increasing its already elevated rate base by 33%, it needs a more costly (to consumers) capital structure. The AG avers that the Commission should reject this argument. The question of how much ComEd should be spending in the MYRP is currently being considered, and the Commission should not allow a level of spending that is so extraordinary that it pushes up the cost of capital without regard to other factors.

The Commission should reject ComEd's request for a common equity ratio that exceeds the statutory allowance and exceeds reasonable expectations, and set its rates based on a common equity ratio of 50%. As a result of reducing the common equity ratio to 50% the other components of ComEd's capital structure (short- and long-term debt and preferred stock) should be imputed as recommended by Staff witness McNally and ICCP witness Gorman. ICCP Ex. 4.0 at 37: Table 7; Staff Ex. 20.01.

4. PIRG's Position

PIRG witness Bodmer testified that "A greater proportion of debt in the capital [structure] lowers the revenue requirement. This is due to (1) the interest deduction for taxes; (2) the fact that computation of the allowed [ROE] will probably not change when the capital structure changes and (3) the lower interest rate than the allowed [ROE][.]" PIRG Ex. 1.0 Corr. at 70. PIRG witness Bodmer analyzed utility debt-to-capital ratios and noted that "many companies [] have debt to capital [ratios] above or near 60%" and that many of these companies have "investment grade bond ratings[.]" *Id*.

Accordingly, PIRG does not support ComEd's proposed common equity ratio. PIRG recommends the Commission adopt a capital structure supported by the record and the law. 220 ILCS 5/16-108.18(d)(3)(C). PIRG agrees with the AG's position.

5. ICCP's Position

ICCP request that the Commission adopt Mr. Gorman's recommended 50% common equity ratio, which achieves the careful balance of shareholder and consumer interests that the Act and established Commission practice require. The Commission should reject ComEd's proposed annually escalating common equity ratio ranging from 50.58% in 2024 to 51.20% in 2027, as there is not substantial record evidence to show even one equity ratio increase above 50% is necessary, let alone four of them.

In Ameren's most recent rate case, ICCP note that the Commission "reaffirmed that approval of a common equity ratio greater than 50% must be supported by substantial evidence." Docket No. 22-0297, Order at 42. There, the Commission found that the mere assertion that a higher common equity ratio was needed to address access to capital and maintain a credit rating of "Stable" was insufficient. Instead, the Commission found a 50% common equity ratio was reasonable for both investors and customers and supported Ameren's credit. ICCP note that the Commission issued Ameren and ComEd's

2022 electric rate case orders under the formula rate law, which has since expired, but P.A. 102-0662 applies the same 50% threshold language to this proceeding. 220 ILCS 5/18-108.18 (d)(3)(C).

ICCP read the same language to have the same meaning and therefore maintain that the Commission's interpretation of this statutory language as requiring substantial record evidence to adopt a ratemaking capital structure with an equity ratio greater than 50% applies to this proceeding.

ICCP request that the Commission approve ICCP witness Gorman's proposed 50% common equity ratio. ICCP Ex. 4.0 at 28. Mr. Gorman's recommended capital structure would allow the Company to maintain its current credit rating structure and access to capital and actually allows a greater equity ratio than under the Commission's most recent ruling on the Company's capital structure.

ICCP assert that ComEd failed to establish an evidentiary basis for approving a ratemaking capital structure with an equity ratio exceeding 50%. Mr. Gorman illustrated that ComEd has maintained an actual year-end capital structure with less than 50% common equity for each of the last 5 years. *See id*. at 30: Table 5. ComEd's year-end capital structure, which the Commission approved as the Company's ratemaking capital structure in the annual formula rates update, ranged from 47.53% to 49.45% in 2018-2022. *Id*. at 30. In support of increasing its equity ratio above 50%, ComEd witness Graves claimed the Company needed additional cashflow to offset the impacts of the TCJA, which went into effect in 2018. ComEd Ex. 14.0 at 72. This argument is puzzling, according to ICCP, considering the Company's actual capital structure remained much lower during the entire five-year period examined by Mr. Gorman while the TCJA was in place than what ComEd requests in this case. Yet ComEd failed to provide supporting evidence demonstrating that the Company's credit ratings, financial health, or ability to attract capital suffered at all as a result of TCJA and below-50% equity ratios over the last five years, or that anything has changed since then to necessitate a greater equity share. ICCP Ex. 4.0 at 32-33.

ICCP maintain that ComEd's financial metrics during this time period show that the Company's capital structures with equity ratios between 47% and 49.5% have been sufficient to maintain ComEd's bond rating every year since the TCJA went into effect. ComEd's funds from operations ("FFO") to debt ratio and earnings before interest, taxes, depreciation, and amortization ("EBITDA") to debt ratio consistently have been strong enough to support core metrics within S&P range for the Company's current bond rating. *Id*. at 33. With the exception of 2020 when the sudden onset of the COVID-19 pandemic disrupted business as usual, ComEd's FFO to debt ratio has been within or higher (stronger) than S&P's prescribed range, and the Company's debt to EBITDA ratio has gone from within the range to lower (stronger) than the range. *Id*. at 34. ICCP witness Gorman testified that these data show ComEd's financial health is improving. *See id.*

Mr. Gorman explained that qualitative metrics also support his conclusion that ComEd's current recent capital structures have supported the Company's financial needs. *Id*. at 34-35. S&P considers ComEd to be a very low risk rate-regulated utility with a constructive regulatory regime in Illinois. *Id*. at 35. Specifically, S&P cites ComEd's decoupling mechanisms, which shield the Company from weather and conservation efforts' impacts on customers usage, P.A. 102-0662 increasing rate predictability and reducing regulatory lag through the four-year MYRP, and P.A. 102-0662's annual reconciliation mechanism. All these regulatory provisions under P.A. 102-0662 reduce ComEd's investment risk moving forward, which Mr. Gorman noted supports lower financing costs. *Id*. ComEd's credit rating during this period has been stable. *Id*. The only downward movement in ComEd's credit outlook in the last five years has been an outlook downgrade in 2020 in response to bribery charges against Company executives, which should not be a basis for rewarding the Company with a ratemaking equity ratio bump. *See id*. Even so, ComEd's credit outlook improved to "Positive" by 2021 after its parent company, Exelon Corp., sold its nuclear merchant generation business. *Id*.

ICCP note that ComEd witness Graham claimed the Company requests proposed annual increases in equity ratio as a hedge against future uncertainty. ComEd Ex. 6.0 at 8, 10-13. ICCP also state that Ms. Graham provided no basis for ComEd's assumption that uncertainty cuts against the Company, except to simply assert it and move on. *See id*. ICCP argue that no evidence in the record supports an expectation that ComEd's equity needs are any likelier to increase than they are to decrease or remain stable over the next four years. Ms. Graham's bald assertion of a negative outlook for ComEd's financial health is contradicted by the Company's strong, stable financial metrics and P.A. 102-0662's several regulatory reforms that reduce ComEd's investment risk cited above.

ICCP note that ComEd claims it needs the proposed equity ratio hikes to afford cashflow impacts of P.A. 102-0662’s accelerated refund of EDIT. In response, ICCP state that nothing in the record proves that ComEd refunding the effected EDIT funds during the MYRP period, as P.A. 102-0662 requires, would have any meaningful impact on the Company’s cashflow, let alone an impact great enough to require increased reliance on equity. Further, any cashflow impact of this EDIT amortization change cannot be considered a justification for multiple increases over time. Pursuant to the Commission’s Order in Docket No. 21-0738, ComEd’s refund of EDIT began last year and will conclude at the end of 2025. *Ill. Commerce Comm’n v. Ameren Ill. Co., Commonwealth Edison Co*., Docket No. 21-0738, Order at 8 (July 7, 2022). Therefore, ICCP explain that the EDIT refund cashflow impacts, which ComEd claims are novel and need to be considered for the entire MYRP, have actually begun already and will only occur in the first half of the MYRP period. *See id*. Thus, this factor does not support the Company’s higher equity ratio in the last two years of the MYRP, which will be unaffected by the accelerated EDIT amortization.

ICCP disagree with the Company’s argument that its proposed rate increase phase-in impacts cashflow in such a way it requires four equity ratio hikes in four years. P.A. 102-0662 does not require a rate increase phase-in, but rather provides for the Company to propose its own for Commission approval, within certain limitations. *See* 220 ILCS 5/16-108.18(d)(13). The Company chose to propose to defer 35% of its 2024 revenue requirement, and offered no empirical basis for why it chose such a drastic approach. AG Ex. 2.0 at 17. ComEd’s proposal also would take advantage of P.A. 102-0662’s provision to treat the deferred revenues as regulatory asset and compensate the Company for lost cashflow by granting a carrying cost for the regulatory asset. ComEd Ex. 12.0 Corr. at 71-72 (*citing* 220 ILCS 5/16-108.18(d)(3)). ICCP explain that the rate phase-in negatively impacts cashflow in 2024 but then increases cashflow in later years as the Company recovers these deferred revenues, plus a carrying cost.

The Company also claims P.A. 102-0662 requires it to accelerate capital investment and therefore ComEd needs a higher equity ratio to attract sufficient capital to fund these investments. According to ICCP, this contention finds no support in the Act or in the record. IICP argues that ComEd's proposed Grid Plan provides little to no rationale for increasing reliability-related capital expenditures beyond the already-exorbitant spending levels ratepayers endured under EIMA, adjusted for inflation.

ICCP argue that ComEd resorts to circular reasoning: that the Commission should approve the Company's requested capital structure because it reflects what ComEd plans to do. Here, ComEd seeks to reduce the Commission's role to simply confirming the nature of the Company's requested capital structure, taking ComEd at its word that the related costs are necessary, and rubber-stamping it. The Commission's obligation under the Act is to approve ratemaking capital structures no more costly to ratepayers than necessary to support the Company's credit, finances, and access to capital, assuming economical management by ComEd. If the Commission finds, as it should, that ComEd's requested capital structure is more costly than necessary and rejects it for ratemaking purposes, the Company can adjust its plans accordingly.

For all these reasons, the record does not support any of ComEd's four requested equity ratio hikes. ICCP Ex. 4.0 at 36. Instead, ICCP propose the more reasonable capital structure Mr. Gorman recommended. *See id*. at 37. This capital structure reduces ComEd's proposed revenue requirement by approximately $9.4 million in 2024, $13.9 million in 2025, $18.6 million in 2026, and $23.1 million in 2027, totaling $65 million. ICCP Ex. 1.0 at 5: Table GRM-2.

6. Commission Analysis and Conclusion

The Act is clear that, in each year of the MYRP, determination of the revenue requirement requires an examination of ComEd's actual year-end capital structure. If the actual year-end common equity ratio is 50% or less, it is deemed just and reasonable. A common equity ratio above 50% must be specifically approved by the Commission in this proceeding. 220 ILCS 16-108.18(d)(3)(C). The burden is on ComEd to show that the Commission should approve a common equity ratio in excess of 50%. ComEd has not convinced the Commission, under any standard, that a higher common equity ratio should be approved or that it would result in just and reasonable rates as required by Section 9-201 of the Act. 220 ILCS 5/9-201.

First, the Commission notes that the Company's actual common equity ratio since 2012 - the beginning of formula rates - has averaged 46.57%. Staff Ex. 4.0 Rev. at 6. This is confirmed by ICCP witness Gorman who testified that ComEd has maintained an actual year-end capital structure with less than 50% common equity for each of the last 5 years. *See* ICCP Ex. 4.0 at 29-30. Under the MYRP, ComEd's risk will be less, or at the very least, the same as under FRP. As discussed further below regarding ComEd's ROE, the Commission does not find that the MYRP will increase ComEd's risk.

Moreover, Staff witness McNally found that the Proxy Group used by ComEd witness Graves in ComEd Exhibit 14.0 had an average common equity ratio of only

44.17% over the years 2020-2022. Staff Ex. 4.0 Rev. at 10. In addition, the Commission finds it telling that the 50.06% common equity ratio of U.S. electric distribution-only utilities is only slightly above the 50% deemed reasonable by the statute and Staff informs the Commission that very few of these utilities have a rate structure like the MYRP. Given the risk lowering features of the MYRP, the Commission finds these comparisons support a finding that a common equity ratio above 50% should not be approved.

Also, the Commission finds compelling Mr. McNally's testimony that, using the rating agencies' assessment of ComEd's financial strength, a 50% common equity ratio does not diminish ComEd's financial strength. Thus, a higher common equity ratio is not needed to improve ComEd's access to capital. Staff Ex. 4.0 Rev. at 14-16. As Staff explains, the MYRP will give the Company even greater certainty of cash flows than the FRP, further reducing the Company's risk. Staff Ex. 4.0 Rev. at 9, 42. Specifically, the MYRP's use of forward-looking test years reduces regulatory lag and increases certainty of recovery relative to the use of historic test years, as used in the FRP. *Id*. at 9. Additionally, the Commission notes that ComEd has not offered evidence to overcome Staff's assessment that both Moody's and S&P agree that the MYRP will further enhance ComEd's credit quality, citing improvements in rate predictability and regulatory lag. Staff Ex. 4.0 Rev. at 9. For these reasons, the Commission does not find, as suggested by ComEd, that the Company's risk will increase under the MYRP or that a higher common equity ratio is justified.

Finally, the Act prohibits ComEd's affiliation with its unregulated parent company from increasing the cost of capital approved by the Commission. 220 ILCS 5/9-230. A higher common equity ratio increases a utility's cost of capital, and the record here demonstrates that Exelon has provided ComEd more than $2 billion in equity infusion since 2020. Staff Ex. 4.0 Rev. at 13. Any excess common equity in the capital structure benefits Exelon, ComEd's sole shareholder, to the detriment of ComEd's ratepayers. The Commission can only approve rates that are reasonable, and the Company is entitled only to a return sufficient to maintain its financial integrity and attract capital on reasonable terms. *See Bluefield*, 262 U.S. at 693; *Hope*, 320 U.S. at 603. Consistent with this basic principle, the Commission will not approve a common equity ratio greater than 50% because it is not necessary to support ComEd's financial strength nor to maintain its investment grade credit rating. ComEd's proposed capital structures are not approved.

The Commission approves a capital structure that includes a common equity ratio that is the lower of 50% or the Company's actual common equity ratio, excluding goodwill, to be used to calculate the revenue requirement in each year of the MYRP. However, because actual year-end data for the rate years is not available until after each rate year, the Company will use a 50% common equity ratio, excluding goodwill, for the initial setting of rates for each of the rate years. The percentage of short-term debt in the capital structure for the initial rate setting will be the percentage in the Company's capital structure proposal for each test year. The long-term debt ratio for the initial rate setting will be calculated by subtracting the 50% common equity ratio and the Company's proposed percent of short-term debt from 100%. Staff Ex. 4.0 Rev. at 5-6.

Subsequently, during each Annual Adjustment, the capital structure will be updated to reflect the lower of 50% or the Company's actual equity ratio for the test year, excluding goodwill. The amount of short-term and long-term debt will be the actual percent of both types of capital in the capital structure if the equity ratio is 50% or less. If the Company's actual capital structure contains greater than 50% equity, the actual percentage of short-term debt in the capital structure will be the percentage in the Company's actual capital structure. The long-term debt ratio will be calculated by subtracting the 50% common equity ratio and the actual percent of short-term debt from 100%.

B. Cost of Short-term Debt

ComEd calculated its proposed cost of short-term debt for each Test Year by taking the average monthly forward 1-month US LIBOR rate from Chatham Financial, a third party global financial risk management firm, as of September 30, 2022, plus an adjustment based on historical data showing the spread for ComEd's actual commercial paper borrowing rate over the actual 1-month US LIBOR rate. ComEd Ex. 13.0 at 5. Staff and ICCP adopt ComEd's proposed cost of short-term debt for each of the Test Years, and no other party addressed ComEd's cost of short-term debt. Staff Ex. 4.0 Rev. at 17; ICCP Ex. 1.1. Therefore, the following costs of short-term debt are uncontested: 2024 - 4.20%; 2025 - 3.85%; 2026 - 3.75%; and 2027 - 3.65%.

In addition, no party contests ComEd's proposal to account for credit facility costs associated with ComEd's commercial paper program through a 0.01% addition to the overall rate of return in each of the Test Years. *See* ComEd Ex. 13.0 at 6.

The Commission approves the following costs of short-term debt: 2024 - 4.20%; 2025 - 3.85%; 2026 - 3.75%; and 2027 - 3.65%. Also, the Commission finds the Company's proposal to account for credit facility costs associated with its commercial paper program to be reasonable.

C. Cost of Long-term Debt

ComEd calculated its initial proposed cost of long-term debt for each Test Year by combining existing debt issuances that will be outstanding during the Test Year (and existing debt that will retire and need to be refinanced) with future debt issuances that are anticipated to be outstanding for all or part of the Test Year, and calculating the forecasted cost of long-term debt by combining forward U.S. Treasury rates, an estimated credit spread, and estimated debt issuance costs. ComEd Ex. 13.0 at 3-4. This forecasting methodology utilizes reliable forecasts, appropriately considers the factors that will impact ComEd's cost of long-term debt in the Test Years and has been consistently used by ComEd to determine forecast debt costs. *Id*. at 4.

For the sake of reducing contested issues, Staff witness McNally accepted ComEd's use of forward U.S. Treasury bond rate estimates and proposes using a spread of 156 basis points to estimate the interest rate for ComEd's future issuance in 2024-2027 rather than the 184-basis point spread used by ComEd. Staff Ex. 20.0 at 3. While ComEd maintains that the credit spreads used in the original filing were appropriate, in the interest of narrowing the issues in this proceeding ComEd agrees to Staff witness McNally's proposed interest rates for these future debt issuances. ComEd Ex. 59.0 at 3. No other party contests ComEd's proposed long-term debt costs, and the following costs of long-term debt are uncontested: 2024 – 4.22%; 2025 – 4.27%; 2026 – 4.41%; and 2027 – 4.49%.

The Commission finds the cost of long-term debt proposed by Staff witness McNally and accepted by the Company to be reasonable. Accordingly, the following costs of long-term debt are adopted: 4.22% for 2024, 4.27% for 2025, 4.41% for 2026, and 4.49% for 2027.

D. Return on Equity

1. ComEd's Position

ComEd states that there is a substantial record of evidence in this proceeding regarding what ComEd's appropriate ROE is for the Test Years and, consistent with Commission practice, the Commission should consider all of this evidence in order to set an ROE that approximates the actual ROE for ComEd. A fair consideration of all the evidence, ComEd argues, shows that the cost of equity range recommended by ComEd witness Graves - between 10.00% and 11.00% - appropriately considers all the data available and results in an ROE that is sufficient to support ComEd during the Rate Plan period. And the result of Staff witness McNally's analysis, 10.07%, falls within this range of reasonable results. ComEd argues that the other parties' recommendations for ComEd's ROE do not satisfy the applicable legal and ratemaking standards. ComEd further argues that these recommendations either have no basis in law, such as Staff's proposal to use the now-inoperative formula rate ROE calculation, or are not based on financial data that is specific to ComEd or the conditions expected in the rate plan period, which is inconsistent with the Commission's ratemaking practice and fails to accurately estimate the cost of equity for the period when rates will be in effect.

ComEd observes that the multi-year rate planning structure, Section 16-108.18(d)(3)(B) of the Act, directs that "[t]he cost of equity shall be approved by the Commission consistent with Commission practice and law." 220 ILCS 5/16-108.18(d)(3)(B). ComEd points out that the Commission practice and law that governs this analysis is well-established. ComEd notes that the Commission stated that "[t]hese classic and enduring pronouncements were set out by the United States Supreme Court in [the] *Bluefield* … and *Hope* … cases" and "[t]he authorized [ROE] 'should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.'" Docket Nos. 09-0166/09-0167 (Consol.), Order at 89-90 (citations omitted).

ComEd argues that just as the legal standard applicable to a utility's cost of equity is well established, the Commission has a well-established history of determining the ROE for non-formula utilities by weighing the evidence and determining the appropriate return to satisfy these constitutional principles. ComEd observes that the Commission described a "bedrock principle" of setting the return by stating that "[t]raditionally, the Commission evaluates the employment of financial models that quantify the likely cost of attracting capital investment during the times that the rates will be in effect." *Id*. at 123. ComEd claims that it is not aware of any non-formula rate proceeding where the Commission did not utilize economic analysis to determine the appropriate ROE for the utility.

ComEd argues that there is substantial evidence in the record applying financial models to determine the cost of common equity during the Rate Plan. In particular, ComEd points out that it has provided ample evidence based on financial models to support rates of return ranging from 10.50% to 10.65% that satisfy this constitutional principle, ICCP presented an analysis supporting a range of reasonable results of 9.20%-9.60% with a recommended 9.40% ROE for ComEd, and Staff's witness provided an expert analysis concluding that the investor-required rate of return for the proxy group is 10.07%. ComEd Ex. 14.0 at 3; Staff Ex. 4.0 Rev. at 39; ICCP Ex. 4.0 at 75. Nevertheless, ComEd observes that Staff proposes that the Commission should ignore this record evidence and set ComEd's ROE using the formula established in the now-inoperative formula rate statute. ComEd argues that while the returns on equity set under the formula rate structure were approved consistent with the law, that law is no longer in effect. 220 ILCS 5/16-108.5(c)(3). ComEd further argues that because the MYRP structure does not provide for a formula ROE, the Commission should apply the traditional ROE evaluation methods it has relied on for decades.

Importantly, ComEd adds, there is no dispute that ComEd is entitled to a return that satisfies the *Hope* and *Bluefield* standards. Under those standards, ComEd notes, ComEd's authorized ROE "should be commensurate with returns on investments in other enterprises having corresponding risks" and "should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital." Docket Nos. 09-0166/09-0167 (Consol.), Order at 90. However, ComEd contends, Staff and the intervenors seem to confuse the requirement that the return be commensurate with other enterprises with similar risks, instead focusing on whether the return would support ComEd's credit ratings or what the revenue requirement impact of that result would be. But, ComEd observes, the *Hope* and *Bluefield* standards are not something that the Commission can set aside, and an ROE that is not commensurate with returns on investments in other enterprises having corresponding risks does not comply with the law.

Financial Analyses

ComEd summarized the results of the three parties that provided analyses of what ComEd's actual cost of common equity will be in the Test Years: ComEd, Staff, and ICCP. ComEd observes that PIRG witness Bodmer presents an analysis incorporating financial models, but ComEd argues that he uses inputs that are contrary to regulatory practice and his resulting estimates "are all transparently implausibly low, almost comparable to long term bond returns and far below anything any regulatory jurisdiction is allowing anywhere in the US." ComEd Ex. 39.0 Corr. at 6. Therefore, ComEd argues, the results of Mr. Bodmer's analyses (which range from 6.4% to 6.5%) are outliers based on unreliable analysis and should not be considered by the Commission. PIRG Ex. 1.0 at 23. ComEd states that the ComEd, Staff, and ICCP witnesses' expert analyses utilized well-established economic models, many that have been endorsed and repeatedly used by the Commission, and inputs and adjustments that are accepted in regulatory finance.

ComEd explains the expert analysis and detailed quantitative analysis that the experts presented in this proceeding, including the following models: the discounted cash flow ("DCF") model and a variant, the non-constant DCF ("NCDCF") model; the capital asset pricing model ("CAPM") and empirical CAPM ("ECAPM"); the Bond Yield Plus Risk premium analysis; and another form of risk premium model. ComEd observes that these models all use different approaches to identify companies' ROE, and the witnesses use these models to determine the ROE for a Proxy Group of comparable companies that are publicly-traded. ComEd notes that Staff witness McNally explains that the DCF model "is generally employed to determine appropriate stock prices given a specified discount rate. For utility rate setting, we reverse the process to determine the return investors require given the current stock price." Staff Ex. 4.0 Rev. at 22. ComEd notes that the NCDCF model utilizes different stages of dividend growth rather than the constant dividend growth used in the DCF. ComEd observes that McNally further explains that the CAPM "is based on the theory that the market-required rate of return for a given security equals the risk-free rate of return plus a risk premium," where the "risk premium represents the additional return investors expect in exchange for assuming the risk inherent in an investment" associated with that security. *Id*. at 29. ComEd explains that the ECAPM is a form of "CAPM [that] addresses the tendency of the 'traditional' CAPM to underestimate the return on equity for companies with low Beta coefficients such as regulated utilities." ComEd Ex. 14.0 at 49. ComEd further explains that the Bond Yield Risk Premium model estimates "the return expectations of investors based on the current and past ROE awards of electric utilities across the country." *Id*. at 54. ComEd observes that while all these models have value, they are all also subject to limiting assumptions or other methodological constraints, and consequently, many well-regarded finance texts recommended using multiple approaches when estimating the ROE. *Id*. at 35-36.

ComEd notes that while it disagrees with certain inputs and has methodological disagreements with Staff and ICCP, most significantly the fact that they limit the analytical approaches in their analyses, these recommendations are based on well-accepted financial models.

ComEd witness Graves, an independent consultant with over 40 years of experience consulting on utility planning problems and regulatory finance, provides an analysis utilizing the DCF, CAPM, ECAPM, and risk premium models. ComEd Ex. 14.0 at 2. ComEd contends that he also takes into consideration some specific features of ComEd's situation over the coming four years and how these features compare to other utilities, including: (1) the MYRP; (2) ComEd's planned capital expenditure requirements; and (3) the regulatory environment in which ComEd operates. *Id*. at 2-3. ComEd explains that this analysis results in a range of DCF results between 8.02% and 11.13%, a range of CAPM results between 10.34% and 11.62%, a range of ECAPM results between 10.95% and 11.91%, and a range of Risk Premium results between 10.21% and 10.28%. *Id*. at 3. From these results, ComEd witness Graves determines that the relevant range is from 10.00% to 11.00%, within which the midpoint of 10.50% is reasonable for 2024, the first year of the Rate Plan. *Id*. at 3. He also supports moderate step-up increases in the ROE over the Rate Plan period to address the incremental risk associated with possible changes in market conditions during the four-year rate plan that could affect its cost of capital, such as potentially increasing interest rates and higher inflation, according to ComEd. *Id*. at 3.

ComEd observes that Staff witness McNally, a Senior Financial Analyst with the Commission with over 20 years of experience testifying before the Commission on a variety of financial issues, provided an analysis measuring the investor-required rate of return on common equity for the Proxy Group using the DCF, NCDCF, and risk premium models. Staff Ex. 4.0 Rev. at 21. ComEd explains that his analysis results in a DCF result of 9.23% and a CAPM result of 10.87%. *Id*. at 40. ComEd notes that he also considers the current 5.07% rate of return "on less risky A-rated utility long-term debt." *Id*. at 39 (citation omitted). According to ComEd, based on this analysis, he concludes that "the investor-required rate of return on common equity is 10.07% for the Proxy Group." *Id*.

ComEd observes that ICCP witness Gorman, who has 40 years of experience in utility finance and financial consulting, provided an analysis measuring the investor-required rate of return on common equity for the Proxy Group using a variety of DCF, NCDCF, CAPM, and Risk Premium models. ComEd explains that his analysis results in a DCF result of 9.20%, a CAPM result of 9.60%, and a risk premium result of 9.50%. ICCP Ex. 4.0 at 75. ComEd notes that he determines that a reasonable range is 9.20% to 9.60%, and his 9.40% recommendation falls at the approximate midpoint of that range. *Id*.

ComEd believes these analyses provide the Commission with a substantial record of evidence regarding ComEd's appropriate ROE for the Test Years. Consistent with Commission practice, ComEd argues, it should consider all of this evidence in order to set an ROE that approximates the actual ROE for ComEd.

Response to Staff

Formula Rate ROE

ComEd observes that although Staff "presents a market-based ROE that represents the investor-required ROE for an electric utility[,]" it then disregards this analysis completely in order to recommend that the Commission continue to use the ROE formula that has been used under the now-sunset formula rate statute. Staff IB at 210. According to ComEd, this is based solely on Staff's conclusion that the MYRP framework "is more like the FRP than traditional ratemaking or the ratemaking processes that apply to the Proxy Group." Staff IB at 210-211. ComEd observes that Staff spends seven pages of its brief describing the financial analysis that Staff witness McNally performed to determine the 10.07% ROE for the Proxy Group but does not take any of that analysis into consideration in its recommendation. ComEd observes that Staff merely provides conclusory statements regarding ComEd's risk not being comparable to the proxy group, and the other parties supporting the application of a formula ROE do not provide any cognizable argument that applying the formula ROE will satisfy the *Hope* and *Bluefield* standards.

ComEd argues that not only does Staff's proposal to employ the formula ROE calculation fail to estimate the investor-required rate of return, as traditional ratemaking principles require, it has no basis in the law. Under the formula rate, the statute provided that the revenue requirement formula shall "[i]nclude a cost of equity, which shall be calculated as the sum of the following:" and provided the inputs as the calendar year average of the monthly average yields of 30-year U.S. Treasury bonds and 580 basis points. 220 ILCS 5/16-108.5(c)(3). In contrast, ComEd contends that the MYRP statute states that "[t]he cost of equity shall be approved by the Commission consistent with Commission practice and law." 220 ILCS 5/16-108.18(d)(3)(B). As described above, ComEd observes that when tasked with determining the ROE the Commission has a well-established and longstanding practice of evaluating and approving a cost of equity based on financial analysis estimating the actual investor-required rate of return. ComEd notes that while the AG states that “[n]owhere in Illinois law is the Commission prohibited from using the same formula ROE[,]” the well-established federal and Illinois standards require that ComEd’s ROE be commensurate with other investments with similar risk, and applying the formula ROE that is pegged to Treasury Bond returns does not meet that standard. AG IB at 123. ComEd notes that neither Staff nor the AG provide any legal basis for the Commission to apply a statute that is no longer in force, and ComEd is aware of none.

ComEd argues that the rules of statutory interpretation do not permit a reading of the multi-year rate statute that permits an application of the now-inoperative formula ROE calculation. First, ComEd contends, the ROE provision in the multi-year rate statute is clear and unambiguous, and the Commission does not need to resort to statutory interpretation to determine what it says. *In re D.F*., 208 Ill. 2d 223, 228 (2003). ComEd states that the ROE provision in the multi-year rate statute is clear and ambiguous. ComEd notes that it requires the Commission to establish a cost of equity “consistent with Commission practice and law.” 220 ILCS 5/16-108.18(d)(3)(B). In turn, ComEd observes, Commission practice and law is to calculate an ROE using financial models that approximate the market return. ComEd argues that this statutory language must be given effect, without resort to other aids in interpretation. ComEd further argues that if the Commission were to proceed with a statutory interpretation analysis - which ComEd argues that it need not do - the legislature’s intent is obvious. ComEd contends that the legislature intended to entirely supplant the previous formula rate structure, including its method of setting the ROE. “The primary rule of statutory construction is to ascertain and give effect to the legislature’s intent,” and it is hard to conceive of any clearer evidence of the legislature's intent to discontinue the formula rate ROE calculation than the fact that it does not appear in the MYRP statute, ComEd evinces. *Sheffler v. Commonwealth Edison Co*., 399 Ill. App. 3d 51, 75 (1st Dist. 2010) (citations omitted); *see also* 220 ILCS 5/16-108.18. ComEd observes that Section 16-108.18 of the Act is entitled “Performance-based ratemaking” and it sets forth the overarching MYRP process. 220 ILCS 5/16-108.18. ComEd notes that this legislation was promulgated as the performance-based formula rate was scheduled to sunset, and expressly states that “[i]f an electric utility had a performance-based formula rate in effect under Section 16-108.5 as of December 31, 2020, then the utility may” propose an MYRP. 220 ILCS 5/16-108.18(d)(1). The legislature was aware of the termination of the formula rate structure and intended the MYRP to be applicable to formerly-formula rate regulated utilities, ComEd argues.

ComEd points out that the legislature could have replicated the formula rate ROE calculation in the MYRP statute but declined to do so. That legislative decision binds the Commission, ComEd argues. “Under the guise of construction, [the Commission] may not supply omissions, remedy defects, annex new provisions, substitute different provisions, add exceptions, limitations, or conditions, or otherwise change the law so as to depart from the plain meaning of language employed in the statute.” *People v. Grant,* 2022 IL 126824, ¶ 25 (citations omitted). Nor, under the guise of construction, ComEd argues, may the Commission “‘correct’ a perceived error or oversight by the legislature.” *Id*. (*citing People v. Pullen*, 192 Ill. 2d 36, 42 (2000)). Because the legislature declined to extend the formula ROE calculation, the Commission is foreclosed from extending it on the legislature's behalf, ComEd contends.

ComEd adds that while Staff contends that "[a]ny cost of equity estimated using traditional ROE models based on samples of [non-MYRP] higher-risk companies will produce excessive ROEs that do not account for the lower relative risk of ComEd[,]" Staff makes no attempt to actually quantify that difference in risk or adjust its analysis to appropriately account for these differences. Staff IB at 221 (*citing* Staff Ex. 4.0 Rev. at 44). ComEd argues that this is inconsistent with Staff's general practice. ComEd explains that in other proceedings where Staff determined that the utility had a different level of risk than the Proxy Group, Staff did not throw out the analysis, but instead applied a risk adjustment to reflect the difference in risk, according to ComEd. *See generally, e.g., Ameren Ill. Co.*, Docket No. 15-0142; *Liberty Utils.*, Docket No. 16-0401; Docket No. 17-0124. ComEd notes that Staff, when discussing riders, recognizes "the Commission's consistent recognition that the authorized return on equity must correlate to risk borne by the utility." Staff IB at 226. But here Staff does not make any attempt to correlate its recommendation to ComEd's risk, nor to ComEd's anticipated cost of capital in the Test Years. ComEd observes that Staff even acknowledges that it has not recommended an ROE tailored to the facts in the case, stating "[i]n the absence of some novel calculation or ROE estimate that ensures an adequate rate of return and provides a reasonable cost of capital under MYRP, the FRP formula provides a reasonable return for ComEd's investors without requiring customers to over-pay for an ROE based on an unrepresentative proxy sample." Staff IB at 227. Analyzing ComEd's actual risk for the Rate Plan does not require a "novel calculation," just a financial analysis that takes these factors into account, ComEd contends. Instead, according to ComEd, Staff recommends disregarding the applicable legal standards and the record evidence in favor of employing a statute that is no longer in effect.

Likewise, ComEd observes that ICCP, Walmart, and JNGO, who also encourage the Commission to approve the formula ROE, do not provide any basis for the Commission to do so. These parties, along with the City of Chicago (who does not offer a specific recommendation), argue generally that ComEd's proposed ROE is too high or has not been justified, according to ComEd. ComEd argues that these arguments all fail to recognize that the purpose of the *Hope* and *Bluefield* standards is to provide a sufficient ROE for the utility to attract capital in order to operate. ComEd contends that failure to meet these legal standards does not only reduce the return on investment, it impairs the utility's ability to attract capital and, as Staff acknowledges, "[u]ltimately, the utility's inability to raise sufficient capital would impair service quality." Staff Ex. 4.0 Rev. at 3. With the requirements of P.A. 102-0662 and the investments laid out in the Grid Plan, ComEd must be able to attract capital to support its significant investment over the Rate Plan period, ComEd contends. Failure to approve an ROE that satisfies the *Hope* and *Bluefield* standards will undermine ComEd's ability to implement these plans and support its operations, ComEd argues.

According to ComEd, in discarding the 10.07% ROE for the Proxy Group, Staff states that the Proxy Group "serves only as a surrogate for ComEd" and cites to the principle that there is "no proscription against the use of informed judgment in arriving at a final rate of return recommendation in a given case." Staff IB at 217 (*citing* Staff Ex. 4.0

Rev. at 40); *N. Ill. Gas Co.*, Docket No. 04-0779, Order at 88 (Sept. 20, 2005). ComEd agrees but notes that in that case the Commission stated that "[a]s Staff correctly points out, the application of financial models and the analyst's informed judgment are both required in a cost of equity analysis" and the informed judgment at issue was the Staff witness' adjustment to the results of his financial model analysis to account for differences in risk. Docket No. 04-0779, Order at 86. According to ComEd, in contrast to Staff's recommendation here, which disregards the results of the financial models entirely, the Commission reiterated the importance of financial analysis, stating that "[b]ecause cost of common equity measurement techniques necessarily employ proxies for investor expectations, judgment is necessary to evaluate the results of such analyses. The rate of return analyst should attempt to replicate the thinking of investors, in developing their expectations regarding the growth in dividends." *Id*. at 86-87.

Bond Alternate

ComEd further observes that Staff also proposes an alternative ROE of 7.05%, which represents the midpoint of the return on investment for low-risk bonds for March 2023 and the 2022 formula rate for ComEd. Staff IB at 226. According to ComEd, this proposal is based solely on Staff's argument that "the Commission has not hesitated to adjust the authorized ROE downward to reflect the reduced risk associated with reconciliation mechanisms that provide for guaranteed cost recovery" and the suggestion that the Commission could "consider MYRP as essentially a rider due to the reduced regulatory lag." *Id*. First, ComEd asserts that the argument that the Rate Plan can be likened to a mechanism that provides for "guaranteed cost recovery" is incorrect. *Id*. ComEd contends that Staff acknowledges that the Rate Plan costs "remain subject to a prudence review" but does not acknowledge that even prudent costs could be disallowed due to the 105% cap. *Id*. Further, according to ComEd, Staff cites to a handful of reconciliation riders that receive a lower return than the weighted average cost of capital but does not address the fact that some reconciliations do receive a return equal to the utility's overall weighted average cost of capital, including the reconciliation of under/over collections under the formula rate and MYRP structures. And Staff does not provide any basis for the argument that the Commission could disregard either the *Hope* and *Bluefield* standards or the Rate Plan statute and treat the entire MYRP as a rider, ComEd contends. This proposal should be rejected, ComEd argues.

Annual Update

ComEd argues that there is no provision of law that authorizes the Commission to approve an ROE that reconciles during the Rate Plan period. ComEd observes that Staff proposes that the Commission should implement an "ROE estimate of 8.91%, to be updated annually through the MYRP process." Staff Ex. 4.0 Rev. at 20. ComEd believes that this recommendation would function the way the formula rate ROE functions and be reconciled to reflect the actual treasury return for the Test Year. While the ROE under the MYRP may be adjusted upward or downward based on ComEd's ability to achieve various performance metrics, that adjustment is provided for in the statute, according to ComEd. 220 ILCS 5/16-108.18(e)(2)(B). ComEd observes that there are no other provisions permitting adjustment of the ROE in reconciliation, and the rules of statutory interpretation preclude such a reading. As ComEd witness Levin explained, a predetermined ROE is important because ComEd is locked into the MYRP until another rate case is filed, and a reconciling ROE during the Rate Plan “does not provide the stability that ComEd requires to support its substantial Grid Plan investment.” ComEd Ex. 49.0 at 15. ComEd explains that the ROE is not one of the components of the Rate Plan that the statute permits be modified in reconciliation, and Staff’s proposal to base the initial ROE on 2022 data is not appropriate.

ComEd notes that the MYRP statute only permits adjustment of the Rate Plan ROE based on the achievement of performance metrics, and the rules of statutory interpretation preclude a reading that reconciliation of the ROE is permitted. According to ComEd, the AG also questions the Commission’s ability to approve a reconciling ROE, stating that “the reconciliation provision of the MYRP statute provides that the ROE used in the reconciliation will be ‘the cost of equity approved in the multi-year rate plan.’” AG IB at 123 (*citing* 220 ILCS 5/16-108.18(f)(6)(C)).

ComEd explains that because the annual adjustment is contrary to the language of the statute, it is crucial that the Commission not accept Staff’s proposal to set the initial ROE for ComEd based on 2022 data. To be clear, ComEd contends, the Commission should not accept Staff’s recommendation to apply the formula ROE in this proceeding at all, but in particular the Commission should not include in ComEd’s rates an ROE that is out of date, provably inaccurate, and forecast to only become more out of line with actual returns as each year passes.

Response to Walmart and PIRG

ComEd argues that Walmart and PIRG’s recommendations likewise do not satisfy the MYRP statute because they are not consistent with Commission practice. Their recommendations purport to address ComEd’s actual cost of equity but fail to address the actual circumstances ComEd will experience in the Test Years, ComEd contends. ComEd observes that the Commission has previously rejected experts’ analyses because they do not appropriately consider the specifics of the utility. *See, e.g., N. Ill. Gas Co. d/b/a Nicor Gas Co.*, Docket. No. 21-0098, Order at 70 (Nov. 18, 2021). ComEd contends that Walmart presents an analysis that is based solely on backward-looking historical data (and comparisons that downwardly bias his average), and PIRG presents a number of analyses that do not have a basis in regulatory practice. *See* Walmart Ex. 1.0; PIRG Ex. 1.0 Corr.; *see also* ComEd Ex. 39.0 Corr.

ComEd observes that PIRG recommends an ROE of 6.5%, which the AG also supports. If awarded, ComEd argues, this ROE would be not only be lower than any return that was awarded to a formula rate utility but also lower than any ROE awarded in the five decades covered by Staff’s Rate Case History Report. ComEd explains that PIRG argues that this ROE that is appropriate because of a “final, practical set of justifications” related to the conduct resulting in the deferred prosecution agreement. PIRG IB at 22. ComEd argues that this justification is not supported by law, is not consistent with the fact that the General Assembly directly addressed the deferred prosecution agreement conduct in other provisions of P.A. 102-0662 (*see, e.g*., 220 ILCS 5/4-604.5), and would hamper ComEd’s ability to provide service and implement the Grid Plan. ComEd contends that PIRG incorrectly characterizes the Commission-approved ROE as a reward rather than what it is - the recovery of the cost of capital that ComEd requires in order to support its operations. PIRG states that “[t]o be sure, the *Hope-*

Bluefield analysis allows the Commission to consider the totality of the circumstances in assessing whether the ROE will 'lead to just and reasonable rates' for customers." PIRG IB at 22. ComEd observes that there is nothing in either *Hope* or *Bluefield* that supports granting a below-market ROE based on management conduct. In fact, ComEd notes, the cases say just the opposite: that "the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks" and that "[r]ates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service are unjust, unreasonable and confiscatory, and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment." *Hope*, 320 U.S. at 603; *Bluefield*, 262 U.S. at 690. ComEd argues that there is no exception for when the "totality of the circumstances" permits the regulatory body to approve a return that is not sufficient to satisfy these standards. PIRG IB at 22. Importantly, ComEd highlights, PIRG cites to no Illinois law to support its contention that in setting an ROE the Commission can set a lower return in response to actions of utility management. ComEd observes that while the other states that Illinois PIRG cites to may permit regulators to exercise punitive ratemaking, in Illinois "[r]egulators have a duty to protect investors in utilities." *Citizens Util. Bd. v. Ill. Commerce Comm'n*, 276 Ill. App. 3d at 744.

<u>*Response to the AG*</u>

ComEd observes that the AG's secondary recommendation that the Commission approve an 8.91% ROE without Staff's proposed reconciliation, would result in the Commission approving an ROE for 2024-2027 based on historical data from 2022. According to ComEd, not only is this severed from the actual conditions that ComEd will operate in during the Rate plan, but it would lead to the absurd result that the Commission base ComEd's ROE on what the treasury markets were doing a year ago, data that will be five years old by the end of the Rate Plan period. ComEd further observes that the Commission described a "bedrock principle" of setting the return by stating that "[t]raditionally, the Commission evaluates the employment of financial models that quantify the likely cost of attracting capital investment during the times that the rates will be in effect." Docket Nos. 09-0166/09-0167 (Consol.), Order at 123. Freezing ComEd's ROE in 2022 is clearly at odds with this bedrock principle, ComEd argues.

ComEd notes that the factual evidence shows that the 2022 formula ROE of 8.91% is already far below current market conditions and is forecast to become more out of step through the Rate Plan period. According to ComEd, even operating within the confines of the formula ROE calculation, which the Commission should not apply here, using updated data shows that the 8.91% is not consistent with current conditions. ComEd contends that utilizing the 12-month average of the monthly average yields of 30-year U.S. Treasury bonds for through July 2023 (the last full month before the evidentiary hearing), which Staff witness McNally does not object to, results in an ROE calculation of 9.55%, which is 64 basis points higher than the 2022 result. ComEd Ex. 49.06; ComEd Ex. 49.08. And looking to forecast data to fill in the rest of the 2023, the result is a 9.68% ROE, 77 basis points higher than 2023, according to ComEd. ComEd Ex. 49.06. ComEd explains that these are not isolated values, they reflect the current rising trend in interest rates. Further, ComEd argues, these market trends are also reflected in Staff witness McNally's analysis of a market-based ROE for the Proxy Group, which shows a 10.07%

ROE. Staff Ex. 4.0 Rev. at 39. According to ComEd, Staff witness McNally recognizes, "since interest rates are currently above the average for the [FRP] period and Mr. Graves expects they will rise further, continuing the 580 basis point spread provided by the FRP formula under higher interest rates would be even more beneficial to ComEd going forward." Staff Ex. 20.0 at 13. ComEd explains that this shows that freezing the ROE at 2022 rates will result in ROEs that are even further below actual costs of capital, since they will be tied to data before the Rate Plan period at a time when interest rates are already higher and expected to rise more while the Rate Plan is in effect. ComEd notes that if the Commission seeks to take the result of the formula rate structure into account, merely as a data point amongst other data points informing the cost of capital, it should not consider the outdated 8.91% figure at all.

ComEd's Risk

ComEd acknowledges that in order to appropriately estimate investor-required return for the Test Years, the approved ROE must reflect ComEd's risk in each of the Test Years. ComEd maintains that it has provided ample evidence establishing that the multi-year rate structure results in increased risk as compared to the formula rate structure. ComEd witness Graves presented a detailed analysis of how certain features of the multi-year rate structure, like the 105% test, as well as the uncertainty and longer time horizon, increase the risk to ComEd. Further, ComEd witness Graves analyzed ComEd's regulatory, business, and financial risks relative to the proxy group of comparable companies, as well as the implications of those risks, and concluded that ComEd's relative risk supported an estimate at the midpoint of his range of recommendations. ComEd's risk of not recovering its costs is higher under the MYRP, ComEd argues. ComEd Ex. 39.0 Corr. at 16-24. Under the formula rate structure, ComEd received exact reconciliation to its actual costs, subject only to a prudence and reasonableness review, ComEd explains. ComEd notes that under the MYRP structure, "the Commission may not allow recovery of actual costs that are more than 105% of the approved revenue requirement" absent a Commission proceeding to adjust the revenue requirement. 220 ILCS 5/16-108.18(f)(6)(A)(i). Failure to consider this key difference, as well as the likelihood of staying within the 105% boundary or the risk of the costs not exempted from the 105% test, is a failure to consider the actual risk ComEd will experience under the Rate Plan, ComEd argues.

Further, ComEd argues that certain arguments presented by parties in this proceeding increase the risk related to the 105% test. ComEd observes that where parties suggest that certain forecasts should be reduced, such as the inflation caps proposed in some cost categories, or because they assert there is insufficient evidence today to support projects nearly five years in the future, adoption of these recommendations will artificially lower ComEd's approved revenue requirements and result in costs that are forecast and expected today nevertheless impacting the 105% test when they are incurred. ComEd Ex. 60.0 at 4-5. Further, ComEd explains, absent approval of ComEd's year-end to average rate base adjustment, a portion of the variability permitted under the 105% would be absorbed by the difference between year-end and average rate base. ComEd Ex. 58.0 Corr. at 32-33. Not only do the parties not address the increased risk resulting from these differences in reconciliation, Staff witness McNally completely ignores the fact that the 105% cap exists, ComEd notes. For example, he states that ComEd is not comparable to the Proxy Group companies because of the "fully forecasted revenue requirement with guaranteed recovery ComEd will have under the MYRP." Staff Ex. 20.0 at 13. ComEd contends that the revenue requirement reconciliation under the Rate Plan, which is limited by the 105% cap, cannot be considered guaranteed recovery. ComEd notes that there are also additional under-recovery risks inherent in the Rate Plan that would not be an issue under the formula rate structure. For example, ComEd argues, there is a significant exposure to the rate base of the Rate Plan years falling far below actual productive assets in service based on certain proposals in this proceeding, as described above, and the ability for the capital structure common equity ratio to ratchet down in reconciliation but not up introduces additional risks. ComEd Ex. 60.0 at 4-5.

ComEd observes that while Staff witness McNally claims that he bases his recommendation on ComEd's risk, he does not perform a detailed analysis of ComEd's risk or engage with the ways in which the MYRP structure differs from the formula rate structure. ComEd explains that he merely asserts that the MYRP is less risky than the formula rate structure. There is substantial evidence that this is not the case, ComEd argues. ComEd observes that Staff witness McNally does not address the fact that while the Test Year revenue requirements are based on forecasted data, the forecasts are static and will be years out of date before they are in effect, ComEd contends. ComEd further argues that ComEd argues that Staff uses circular logic to support its recommendation to implement the formula rate ROE. According to ComEd, Staff states that ComEd's risk is lower under the Rate Plan because it "will give the Company even greater certainty of cash flows than the FRP, further reducing the Company's risk[,]" and cites to Moody's and S&P's statements that they "expect the MYRP to reduce regulatory lag, improve profitability, and enhance rate predictability relative to the FRP." Staff IB at 219-20. However, ComEd points out, these rating agency conclusions are based on the assumption that ComEd will receive a market-based ROE under the Rate Plan. ComEd observes that Staff does not acknowledge that the Rate Plan that the rating agencies opined on - one in which ComEd was granted a market-rate ROE - is fundamentally not the same as what Staff proposes here. ComEd contends that Staff proposes that ComEd be granted a below-market ROE and still be subject to the risk-increasing factor of the 105% test. Even worse, according to ComEd, Staff proposes adjustments that will artificially lower the approved revenue requirements and increase the likelihood of under-recovery due to the 105% cap and proposes that ComEd not be permitted to recover a return based on its actual capitalization.

ComEd witness Graves provided evidence that the four-year nature of the plan supports the approval of moderate step-up increases in the ROE over the years of the Rate Plan. ComEd Ex. 14.0 at 3. These increases are appropriate to address the incremental risk associated with possible changes in market conditions during the four-year rate plan that could affect ComEd's cost of capital -- but for which ComEd will not be allowed to adjust, such as potentially increasing interest rates, and higher inflation, ComEd argues. *Id*.

2. Staff's Position

Staff notes that the Company requests ROEs of 10.50%, 10.55%, 10.60%, and 10.65% for ComEd's electric distribution operations in 2024, 2025, 2026, and 2027, respectively. ComEd Ex. 14.0, 3 at 59. Staff also notes that ICCP state that the Company's requested ROE is significantly overstated and recommends a 9.40% ROE. ICCP Ex. 4.0 at 75, 81. Walmart recommends that the Commission authorize an ROE no higher than 9.14%. Walmart Ex. 1.0 at 4. Walmart's analysis illustrates the significant impact of ComEd's proposed increase in the authorized ROE on the revenue increase requested in each year of the MYRP. *Id*. at 10-11, 12-13.

The U.S. Supreme Court has opined on how a regulatory body, such as the Commission, should evaluate the reasonableness of a utility's authorized ROE. Authorized ROEs must meet the following objectives: (1) be consistent with other businesses which experience comparable risk; (2) support credit quality and ensure access to capital; and (3) lead to just and reasonable rates for consumers. *See Bluefield*, 262 U.S. at 692-93; *Hope*, 320 U.S. at 603. Simply stated, a company's ROE should allow it to attract equity capital on reasonable terms so that the company is able to provide safe, reliable service at just and reasonable rates. *Aqua Ill., Inc*., Docket No. 17-0259, Order at 41 (Mar. 7, 2018).

Staff's ROE Recommendation

Staff recommends an 8.91% cost of common equity, determined by using the formula from the FRP for determining the authorized return on equity in this proceeding. Staff Ex. 4.0 Rev. at 20-21, 39-50. The FRP cost of equity, found in Section 16-108.5(c)(3) of the Act, is calculated as the sum of:

> the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication; and 580 basis points.

220 ILCS 5/16-108.5(c)(3). Staff also recommends that the Company's cost of equity be updated annually to reflect the change, if any, in treasury bond yields. Here, using the same formula, Staff's recommendation of 8.91% represents the monthly average U.S. Treasury Bond yield for 2022, 3.11%, plus 580 basis points. Staff Ex. 4.0 Rev. at 20-21.

Staff's analysis indicates that ComEd's electric distribution operations have carried significantly less risk under the FRP, and will continue to do so under the MYRP, than it otherwise would under traditional ratemaking, making the analyses and comparisons Staff usually employs in determining an ROE in traditional ratemaking inapplicable to ComEd as it enters the four-year MYRP period. Importantly, the Company's financial ratios have remained strong and the Company's credit ratings have maintained a stable outlook under the formula rate regime, indicating that the FRP formula ROEs were more than adequate to maintain the Company's credit ratings throughout the FRP period. Hence, the FRP formula for ROE has adequately compensated utility investors for the risk they bear under FRP ratemaking. Employing the FRP formula here provides certainty that ComEd will continue to earn investor-required returns and consumers will pay no more than necessary for those returns. As such, for ComEd's initial MYRP, Staff recommends an ROE derived from the FRP formula of 8.91%, which is to be updated each year through the MYRP annual adjustment process. Staff Ex. 4.0 Rev. at 20-21; Staff Ex. 20.0 at 10-11.

Response to ComEd

Section 16-108.18(d)(3)(B) states that "the cost of equity shall be approved… consistent with Commission practice and law." 220 ILCS 5/16-108.18(d)(3)(B). The Company asserts that "Staff's recommendation to employ the now inoperative formula ROE has no basis in law" because the formula is not expressly stated in Section 16-108.18(d)(3)(B). ComEd IB at 307. The Company insists that Section 16-108.18(d)(3)(B) does not permit use of the ROE formula because "Commission practice and law is to calculate an ROE using financial models that approximate the market return." *Id*. at 308. Staff states that the Company cites no authority for either proposition.

Staff argues that a full examination of the Commission's task in this proceeding reveals that Staff's recommendation is based in and consistent with the law related to setting an appropriate ROE. "Under the Act, all rates and charges by public utilities… must be 'just and reasonable.'" *People ex rel. Madigan v. Ill. Commerce Comm'n*, 2015 IL 116005, ¶ 6; 220 ILCS 5/9-101. When determining what constitutes "just and reasonable," the Commission must "balanc[e] the right of the utility's investors to a fair [return on equity] against the right of the public that it pay no more than the reasonable value of the utility's services." *Camelot Utils., Inc. v. Ill. Commerce Comm'n*, 51 Ill. App. 3d 5, 8-9 (3d Dist. 1977). To strike this balance between competing interests, the authorized ROE must meet the standards of *Bluefield* and *Hope*. A company's ROE should allow it to attract equity capital on reasonable terms so that the company is able to provide safe, reliable service at just and reasonable rates. Docket No. 17-0259, Order at 41.

Staff opines that its recommendation does just that. Staff explains that the ROE formula has provided a return on equity sufficient to sustain, and improve, ComEd's financial health. In turn, the Company's rates are no higher than necessary to compensate investors. In other words, the formula produces the ROE to which ComEd is entitled and, in part, assists the Commission in approving just and reasonable rates for the MYRP. Thus, employing the FRP ROE formula here satisfies constitutional and statutory requirements.

Additionally, Staff maintains that Section 16-108.18(d)(3)(B) does not restrict the Commission's discretion to determine an appropriate ROE in the manner ComEd suggests. *See* 2015 IL 116005, ¶ 23 (noting the Commission's broad discretion when fixing rates because determining rates requires sound business judgment based on an ability to interpret evidence and expertise). "Where statutory provisions are clear and unambiguous, the plain language as written must be given effect, without reading into it exceptions, limitations, or conditions that the legislature did not express." *N. Moraine Wastewater Reclamation Dist. v. Ill. Commerce Comm'n & Rockwell Utils.*, 392 Ill. App. 3d 542, 557 (2nd Dist. 2009). Here, the General Assembly could not have been clearer: the authorized ROE must be "consistent with Commission practice and law." 220 ILCS 5/16-108.18(d)(3)(B). ComEd's reading, however, requires the ROE to be consistent with Commission practice and law, to the extent that the Commission considers only those financial models used to estimate ROE in a traditional rate case under Article IX of the Act. Simply put, accepting the Company's argument reads into the statute an additional, unwarranted restriction on the Commission's discretion to set an appropriate ROE. Staff asserts it is the Company's argument, not Staff's, that contravenes the plain language of the statute.

Relatedly, the Company argues that "the Commission has a well-established and longstanding practice of approving a cost of equity for non-formula utilities based on financial analysis estimating the actual investor required rate of return." ComEd IB at 308. But P.A. 102-0662 does not mandate an ROE calculated with only those financial models previously employed in a traditional rate case. Moreover, as explained by Staff, the ROE formula appropriately estimates the return that an investor would require for a company like ComEd.

ComEd's argument also overlooks that "[t]he power to make rates, of necessity, requires the use of pragmatic adjustments which may be called for by the particular circumstances." *Amax Zinc Co. v. Ill. Commerce Comm'n*, 124 Ill. App. 3d 4, 12 (5th Dist. 1984); *see, Citizens Utility Bd. v. Ill. Commerce Comm'n*, 291 Ill. App. 3d 300, 307 (1st Dist. 1997) ("the Commission has the authority to address each situation before it despite how the Commission may have previously addressed a similar situation."); *Peoples Gas Light & Coke Co. v. Ill. Commerce Comm'n*, 175 Ill. App. 3d 39, 51 (1st Dist. 1988) ("Commission orders are not *res judicata*."). Staff asserts that the Commission has consistently deviated from financial models when necessary to set an appropriate ROE. *See* Staff IB at 223-27. The Commission has authorized a downward adjustment when often-used financial models do not produce an ROE consistent with the risk carried by a utility. *Id*.

Further, the Commission's practice is to authorize an ROE consistent with the standard set by *Hope* and *Bluefield*. Staff argues the FRP formula ROE was consistent with Commission practice while ComEd operated under formula rates; employing it here continues this practice. Conversely, the Company asks the Commission to consider as its practice methods that have not been used to estimate the appropriate ROE for ComEd's electric distribution operations for over a decade and which result in an overinflated estimate when applied in the context of this MYRP. Therefore, the Company's approach cannot be considered the "Commission's… longstanding practice" in this proceeding.

ComEd next contends that the General Assembly "intended to entirely supplant the previous formula rate structure, including its method of setting the ROE" and that, "because the General Assembly declined to extend the formula ROE calculation, the Commission is foreclosed from" using it here. ComEd IB at 308-309. Staff suggests that ComEd confuses the prior mandatory use of the formula rate update ("FRU") ROE with Staff's proposal here to consider the formula in the context of a separate ratemaking paradigm as an equation that most accurately estimates the required ROE. When ComEd chose to participate in the FRP, it accepted a lower ROE, in part, for increased certainty of cost recovery. *See generally*, 220 ILCS 5/16-108.5. Although Staff considered the certainty of cost recovery, among other things, when assessing ComEd's risk under the MYRP, Staff is not suggesting that ComEd is mandatorily subject to the ROE formula as part of this new ratemaking paradigm. Rather, after thorough analysis, Staff determined that the FRP ROE formula represented the most appropriate method for calculating ComEd's ROE. As argued by Staff, the formula is the only appropriate method recommended in this proceeding because it accounts for the benefits presented to

ComEd by the MYRP. As such, Staff argues that EIMA's sunset eliminated a regulatory scheme under which the Commission previously set electric distribution rates, but that does not prohibit the Commission from employing the FRP ROE formula here.

Finally, the Company contends that Section 16-108.18(f)(6) does not permit adjustment of the ROE during the annual reconciliation process, other than for the ability to achieve various performance metrics. Section 16-108.18(f)(6) provides that determination of ComEd's actual revenue requirement for the applicable calendar year is based, in part, on "the cost of equity approved in the [MYRP]." 220 ILCS 5/16-108.18(f)(6)(C). Staff responds, however, that nothing in the statute requires the Commission to set in this proceeding the ROE for the years 2024-2027. Equally as important, nothing precludes the Commission from authorizing an ROE calculated annually using a formula that ensures a proper balance between investor and ratepayer interests. Recalculating the ROE annually according to the FRP formula avoids present speculation about what the expected return could be at some future time and allows the Commission to set in real-time a firm ROE that best approximates the Company's actual cost of equity.

ComEd's Risk

Staff explains that the FRP under which ComEd currently operates is less risky for ComEd than traditional ratemaking for a number of reasons. Chief among them is the fact that, unlike traditional ratemaking, the FRP ensures that the costs and revenues of the prior year are fully recovered through annual reconciliations, or "true-ups," which reduces regulatory lag, thereby further ensuring the utility will earn the authorized rate of return. Staff Ex. 4.0 Rev. at 42-43. Because of such mechanisms, both S&P and Moody's found the FRP to be a significant credit positive, each upgrading ComEd multiple times under the FRP. In fact, Moody's stated that ComEd's rating could be upgraded even further "if the FRP is established permanently." *Id*. at 7-8.

As Staff further explained, the MYRP will give the Company even greater certainty of cash flows than the FRP, further reducing the Company's risk. Staff Ex. 4.0 Rev. at 43. Specifically, the MYRP's use of forward-looking test years reduces regulatory lag and increases certainty of recovery relative to the use of historic test years, as used in the FRP. *Id*. at 9. In addition, unlike FRP, under which the return on equity could only be adjusted downward for failure to achieve certain performance metrics, the ROE under the MYRP may be adjusted upward or downward based on ComEd's ability to achieve various performance metrics. *Id*. at 41-42. Moreover, Staff's credit ratio analysis demonstrated that Staff's recommendations under the MYRP indicate a degree of financial strength the same as, or slightly higher than, ComEd's current credit strength. *Id*. at 9. Again, both Moody's and S&P agree with Staff's assessment that MYRP will further enhance ComEd's credit quality, citing improvements in rate predictability and regulatory lag. *Id*.

Somewhat contrarily, the Company argues that the MYRP increases ComEd's risk relative to the FRP, noting the 105% cap on guaranteed cost recoveries under the MYRP. However, the 105% cap on recovery would not likely affect ComEd's overall risk profile for several reasons. First, the revenue requirement will be fully forecasted to reflect increases in expenditures throughout the MYRP period, based largely on the Company's own forecasts. Second, Section 16-108.18 of the Act exempts from the 105% cap eight of the most “volatile and fluctuating variables” that could lead to variances from the approved revenue requirement. Third, the MYRP will still permit the Company to exceed that revenue requirement by up to 5% each year. Fourth, the Company has general latitude over its ultimate expenditures, so exceeding the 105% cap is largely under its control. On top of all that, as the Company acknowledges, Section 16-108.18(d)(15) allows the Commission to adjust the revenue requirement to permit recovery beyond the 105% cap at the Company’s request. Staff Ex. 20.0 at 15; ComEd IB at 310-311.

Staff points out that a fully forecasted revenue requirement with guaranteed recovery represents a significant difference between the MYRP under which ComEd will operate and the traditional ratemaking under which much of the Proxy Group operates, rendering the ROE for the Proxy Group unsuitable for application in this MYRP proceeding. Staff Ex. 4.0 Rev. at 20; Staff Ex. 20.0 at 13. Staff argues that the Company’s own analysis supports Staff's position. According to the Company, more than 40% of the Proxy Group operating companies have no operations in jurisdictions with any sort of forecasted test years; more than 40% of the Proxy Group operating companies have no non-volumetric risk-reducing features of any sort; and nearly 1/3 of the Proxy Group operating companies have no form of special capital cost recovery mechanism such as trackers, riders, or formula rates in place. Staff Ex. 20.0 at 14; ComEd Ex. 39.0 Corr. at 7, 14. In fact, none of the companies in the Proxy Group have MYRPs with all the benefits ComEd will enjoy in the coming years.

ComEd also argues that the MYRP is riskier than the FRP because of an alleged downward-only “ratchet” for the equity ratio in reconciliation. ComEd IB at 312. However, the downward-only ratchet that the Company alleges does not exist. A downward-only ratchet on the capital structure would suggest that the equity ratio can only get lower, which is not the case. Staff explains that under the MYRP ComEd benefits from certainty that its actual capital structure will, by law, be deemed prudent and reasonable as long as the equity ratio is under 50%. That was not true for ComEd under the FRP. Thus, in Staff’s opinion, the risk under MYRP is reduced relative to the FRP. Staff Ex. 20.0 at 15-16.

Staff states that ComEd has maintained its ability to satisfy its growing capital needs throughout the FRP period despite having lower authorized ROEs than other U.S. electric distribution utilities due to the relatively low U.S. Treasury bond yields during that period. In fact, the Company’s credit ratings have improved since the FRP began, which has improved the Company’s access to low-cost capital. Further, as noted above, several factors will work to reduce ComEd’s risk under MYRP. Moreover, since interest rates are currently above the average for the FRP period (and the Company expects they will rise further), continuing use of the FRP ROE formula (along with a higher common equity ratio than ever authorized under the FRP) would be even more beneficial to ComEd going forward. Staff Ex. 20.0 at 12-13. For all the foregoing reasons, the Commission should reject the Company’s ROE proposal as excessive and, instead, adopt Staff’s recommendation for the continued application of the FRP ROE formula, producing an 8.91% cost of common equity.

Staff’s Financial Analysis

Staff measured the investor-required rate of return on common equity for electric distribution operations with the constant growth DCF, the NCDCF, and risk premium models. Staff Ex. 4.0 Rev. at 21. Staff applied the models to the same Proxy Group used in the Company's cost of equity analysis. *Id*. However, Staff explained that the risk of the Proxy Group is not directly comparable to ComEd's risk. The new MYRP paradigm, unlike traditional utility ratemaking, continues to support more timely cost recovery, further reduces regulatory lag, and enhances rate predictability relative to traditional revenue requirement ratemaking. *Id*. at 9. While Staff presents a market-based ROE that represents the investor-required ROE for an electric utility, Staff recommends the Commission continue to set the ROE for ComEd using the same ROE formula that has been used under the FRP. *Id*. at 21. This recommendation reflects Staff's conclusion that the MYRP model established by Section 16-108.18 of the Act is more like the FRP than traditional ratemaking or the ratemaking processes that apply to the Proxy Group.

DCF

To attract common equity capital, a utility must provide a rate of return on common equity sufficient to meet investors' requirements. Staff Ex. 4.0 Rev. at 22. DCF analysis establishes a rate of return directly from investor requirements. According to the DCF model, the market value of common stock equals the cumulative value of the expected stream of future dividends after each dividend is discounted by the investor-required rate of return. Since DCF analysis incorporates time-sensitive valuation factors, it must correctly reflect the timing of the dividend payments that stock prices embody. *Id*. The companies in Proxy Group pay dividends quarterly; therefore, Staff measured the annual required ROE on common equity by applying a quarterly constant growth DCF model and a quarterly NCDCF model. *Id*.

The constant growth DCF model assumes dividends will grow at a constant rate into perpetuity and the market value of common stock (i.e., stock price) equals the sum of the discounted value of each dividend. *Id*. at 23.

For its NCDCF analysis, Staff modeled three stages of dividend growth. Staff Ex. 4.0 Rev. at 24. The first, a near-term growth stage, is assumed to last five years. The second stage is a transitional growth period lasting from the end of the fifth year to the end of the tenth year. Finally, the third, or "steady-state," growth stage is assumed to begin after the tenth year and continue into perpetuity. An expected stream of dividends is estimated by applying these stages of growth to the current dividend. The discount rate that equates the present value of this expected stream of cash flows to a company's current stock price equals the market-required return on common equity. *Id*.

Determining the market-required rate of return with the DCF methodology requires a dividend growth rate that reflects the expectations of investors. Staff Ex. 4.0 Rev. at 23. Although the current market price of a security reflects aggregate investor expectations, market consensus expected growth rates cannot be measured directly. Therefore, Staff measured the market-consensus expected growth for the Proxy Group indirectly with 3- to 5-year growth rates forecasted by securities analysts and disseminated to investors by Zacks Investment Research ("Zacks") and S&P Global Market Intelligence ("Market Intelligence"). *Id*.

To estimate the growth rate parameter for the first stage of Staff's NCDCF analysis, which is assumed to last five years, Staff used the average of Zacks and Market Intelligence growth rate estimates, which were also used in its constant growth DCF analysis. Staff Ex. 4.0 Rev. at 24. The growth rate employed in the second stage, five-year transitional period, equals the average of the Zacks and Market Intelligence growth rates used for the first stage and the economy-wide, third stage growth rate. *Id*. For the third stage, which begins at the end of the tenth year, Staff calculated a nominal overall economic growth of 4.37% to estimate the long-term growth expectations of investors. *Id*. at 24-26; Staff Sch. 4.04.

The nominal overall economic growth rate is based, in part, on the Energy Information Administration's ("EIA") forecast of real gross domestic product ("GDP"). Staff Ex. 4.0 Rev. at 24. The long-term GDP growth rate is a reasonable estimate for the steady-state growth rate of the Proxy Group. Id. at 26. Ideally, company-specific steady-state growth rate estimates are preferable. However, such company-specific data is not available. Thus, while the long-term GDP growth rate might be biased upward for generally below average growth companies such as utilities, it is a reasonable proxy for the growth rate that investors could reasonably expect utilities to sustain over the over the long-term. *Id*.

Staff's DCF models utilize a current stock price reflecting all information that is available and relevant to the market; thus, it represents the market's assessment of the common stock's current value. Staff measured each company's current stock price with its closing market price from April 12, 2023. Staff Ex. 4.0 Rev. at 26; Staff Sch. 4.05. Staff explained that a current stock price reflects all information that is available and relevant to the market. Staff Ex. 4.0 Rev. at 26. Staff further explained that, when estimating the required return on common equity with the DCF model, one should measure the expected dividend yield and the corresponding expected growth rate concurrently. *Id*. at 26-27. Using a historical stock price along with current growth expectations reduces the accuracy of the estimated market-required rate of return on common equity. *Id*. at 27.

Staff applied the average expected growth rate to the current declared dividend rate from each Proxy Group utility to estimate the expected dividend rate. Staff Ex. 4.0 Rev. at 27. Since most utilities declare and pay the same dividend per share for four consecutive quarters before adjusting the rate, Staff assumed the current declared dividend rate will remain in effect for a minimum of four quarters and then adjust during the same quarter during which it changed in the preceding year. If the utility did not change its dividend during the last year, Staff assumed the rate would change during the next quarter. *Id*.

Based on Staff's DCF analyses for the Proxy Group, the constant growth DCF estimate is 9.82% and the NCDCF estimate is 8.48%. Staff Ex. 4.0 Rev. at 28. However, Staff eliminated the estimate for IDACORP Inc. from the constant growth DCF results because it is more than two standard deviations from the sample mean and there is no high-end estimate that far from the mean estimate to balance out this low-end outlier. *Id*. Thus, Staff's DCF estimate for the Proxy Group is 9.99%. Staff's overall DCF estimate of the required rate of return on common equity for the Proxy Group is based on the average of the constant growth DCF and NCDCF estimates, 9.23%. *Id*. Staff used an average of these two approaches to determine the ROE because the 6.06% average growth rate for the Proxy Group under Staff's constant growth DCF analysis is nearly 40% higher than the long-term economic growth rate of 4.37% and is unlikely to be sustainable over the long-term. *Id*. at 28-29. By including the results of the NCDCF, Staff's analysis avoids overstating the ROE. *Id*. at 29.

CAPM

The CAPM is a one-factor risk premium model that is based on the theory that the market-required rate of return for a given security equals the risk-free rate of return plus a company-specific risk premium. Staff Ex. 4.0 Rev. at 29. In the CAPM, the risk factor is market risk, which is risk that cannot be eliminated through portfolio diversification. *Id*. To implement the CAPM, one must estimate the risk-free rate of return, the expected rate of return on the market portfolio, and a security or portfolio-specific measure of market risk (i.e., beta). *Id*.

To estimate the risk-free rate of return, Staff examined the suitability of the yields on four-week U.S. Treasury bills and thirty-year U.S. Treasury bonds. Staff Ex. 4.0 Rev. at 30. Staff relied on the 4.19% yield on four-week U.S. Treasury bills, as of April 12, 2023, to estimate the risk-free rate of return. *Id*. at 32-33. Staff explained that the proxy for the nominal risk-free rate should contain no risk premium and reflect similar inflation and real risk-free rate expectations to the security being analyzed through the risk premium methodology. *Id*. at 30. The federal government's fiscal and monetary authority makes securities of the U.S. Treasury virtually free of default risk. *Id*. However, due to relatively long terms to maturity, U.S. Treasury bond yields also contain an interest rate risk premium that diminishes their usefulness as measures of the risk-free rate. *Id*. at 31. U.S. Treasury bill yields contain a smaller premium for interest rate risk. Thus, in terms of interest rate risk, U.S. Treasury bill yields more accurately measure the risk-free rate. *Id.* U.S. Treasury bonds currently yield 3.67%, while U.S. Treasury bills yield 4.19%. *Id*. at 32.

Although expectations for short and long-term real risk-free rates and inflation should equal over time, during finite time periods short and long-term expectations may differ. Staff Ex. 4.0 Rev. at 31. Therefore, an estimator of the long-term nominal risk-free rate should not be chosen mechanistically. Rather, the similarity in current short-term and long-term nominal risk-free rates should be evaluated. *Id*. at 31-32. Staff reviewed the EIA forecasts and the Survey of Professional Forecasters ("Survey"). *Id*. at 32-33. EIA and Survey forecasts of inflation and real GDP growth expectations imply a long-term, nominal risk-free rate between 4.2% and 4.3%. This suggests that, currently, the U.S. Treasury bill yield of 4.19% more closely approximates the long-term risk-free rate. Thus, Staff used the U.S Treasury bill yield to estimate the risk-free rate of return. *Id*. at 33.

Staff estimated the expected rate of return on the market by conducting a DCF analysis on the firms composing the S&P 500 Index as of March 31, 2023. Staff Ex. 4.0 Rev. at 34. Staff explains that the resulting company-specific estimates of the expected rate of return on common equity were then weighted according to market value. Using this methodology, Staff estimated that the expected return on the market equals 12.65%. *Id*.

Staff explained that beta measures risk in a portfolio context. Staff Ex. 4.0 Rev. at 34. When multiplied by the market risk premium, a security's beta produces a market risk premium specific to that security. Staff estimated beta for the Proxy Group using a combination of weekly betas (i.e., Value Line Investment Survey ("Value Line") betas) and monthly betas (i.e., Zacks betas and regression analysis betas). *Id*. at 34-36. Staff used multiple beta estimates for the Proxy Group because true betas are unobservable, forward-looking measures of investors' expectations of market risk. *Id*. at 37. Like all proxies, beta estimates are subject to measurement error. Thus, by using multiple approaches to estimate beta, Staff mitigates the effect of measurement error in its Proxy Group beta estimates. *Id*.

Since both the Zacks beta estimate and the regression beta estimate are calculated using monthly returns rather than weekly returns (as Value Line uses), Staff averaged the Zacks and regression betas to avoid over-weighting the monthly return-based betas. Staff Ex. 4.0 Rev. at 37. Staff averaged that result with the Value Line beta to obtain a single beta estimate for the Proxy Group. For the Proxy Group, the regression beta average is 0.71, the Zacks beta average is 0.70, and the Value Line beta average is 0.88. *Id*. at 37-38. The average of the Zacks and regression betas (i.e., the monthly betas) is 0.71. Averaging this monthly beta with the weekly Value Line beta (0.88) produces a beta for the Proxy Group of 0.79. *Id*. at 38.

Using the CAPM model and the inputs discussed above, the risk premium model employed by Staff estimates a required rate of return on common equity of 10.87%. *Id*; Staff Sch. 4.08.

Staff's Conclusion from Analysis

A thorough analysis of the required rate of return on common equity requires both the application of financial models and the analyst's informed judgment. Staff Ex. 4.0 Rev. at 39. An estimate of the required rate of return on common equity based solely on judgment is inappropriate. Nevertheless, because techniques to measure the required rate of return on common equity necessarily employ proxies for investor expectations, judgment remains necessary to evaluate the results of such analyses. Along with DCF, NCDCF, and CAPM analyses, Staff considered the observable 5.07% rate of return the market currently requires on less risky A-rated long-term utility debt. *Id*.

Based on Staff's analysis, the investor-required rate of return on common equity for the Proxy Group is 10.05%. Staff Ex. 4.0 Rev. at 40. Staff's ROE estimate for the Proxy Group is the simple average of the DCF estimate (9.23%) and CAPM estimate (10.87%). Still, the Proxy Group serves only as a surrogate for ComEd. *Id*. If the surrogate does not accurately reflect the risk level of the target company, then an adjustment should be made to align the cost with the associated risk. There is, of course, "no proscription against the use of informed judgment in arriving at a final rate of return recommendation in a given case." *N. Ill. Gas Co*., Docket No. 04-0779, Order at 88 (Sept. 20, 2005). Rather, the explanation for an adjustment to ROE "must be rational and aimed at serving both the ratepayer and the shareholder by setting a return sufficiently high that the utility can attract capital, but not so high that it earns an excessive return." *Id*.

Here, Staff's ROE estimate, using traditional ROE models, overstates the level of ComEd's risk. This is because Staff's analysis indicates that the risk carried by ComEd is appreciably lower than the overall risk of the Proxy Group. Staff Ex. 4.0 Rev. at 40.

Staff's Overall Recommendation

The risk of ComEd's electric distribution operations is not directly comparable to other electric distribution utilities due to the changes in the ratemaking process in Illinois. Staff Ex. 4.0 Rev. at 40. Under traditional ratemaking, no matter how much actual costs and revenues deviate from test year levels, base rates remain fixed until the regulator approves new rates in a future rate case. In a traditional rate case, nothing guarantees the actual rate of return will be earned; a company's actual return could be more or less than the Commission-authorized rate, depending upon how the utility's actual expenses, investments, and revenues compare to the expenses, investments, and revenues reflected in the Commission-authorized revenue requirement during each year until the conclusion of the utility's next rate proceeding. *Id*. at 40-41.

Given the reduction in risk attributable to the FRP from 2011-2022 and the further reduction in risk attributable to the MYRP going forward, the risk of ComEd's electric distribution operations is not directly comparable to other electric distribution utilities that do not operate under an MYRP. *Id*. at 42-43. As such, Staff does not recommend that the Commission use the cost of common equity for the Proxy Group to estimate ComEd's ROE for the electric distribution operations under the MYRP. *Id*. at 43. Instead, Staff recommends using the ROE formula from the FRP for determining the authorized return on equity in this proceeding.

In ComEd's formula rate update last year in Docket No. 22-0302, the ROE set by the FRP formula was 7.85% for the filing year, using an average monthly U.S. Treasury bond yield of 2.05%. Staff Ex. 4.0 Rev. at 43. While the ROE allowed under the FRP has been lower than the industry average, ComEd's electric distribution operations have lower risk than other electric-distribution utilities that are not allowed recovery of costs through annual adjustments. *Id*. In fact, the Commission acknowledged the reduced risk of operating under the FRP when it stated that, "[u]nder formula rates, Ameren operates in a lower risk environment than electric distribution utilities not operating within a formula rate framework." Docket No. 22-0297, Order at 42.

Adding the 580 basis points allowed in the formula rate to the average monthly U.S. Treasury bond yield for 2022 (i.e., 3.11%), results in an ROE for the Company of 8.91%. Staff Ex. 4.0 Rev. at 44. This represents a 106-basis point (i.e., 1.06%) increase over the 7.85% ROE currently authorized under the FRP and 15 basis points over the 8.76% average ROE authorized over the entire FRP period. *Id*.

In contrast, the Company is requesting an ROE for 2024 that is 265 basis points greater than the currently authorized FRP and 174 basis points over the average FRP ROE (and requesting still higher ROEs for 2025-2027). Viewed this way, Staff avers that the Company's proposed ROE for 2024, alone, is exceedingly high, in that it is well above what could be considered necessary for maintaining ComEd's financial health. This makes ComEd's requested year-over-year ROE increases even more unreasonable. Perhaps more importantly, Staff opines that accepting the Company's proposal would burden customers with higher rates that reflect an unreasonable cost of equity.

Staff opines that comparison to cost recovery riders further illustrates the reduced risk under which ComEd will operate during the four-year MYRP period. The Company has many cost recovery riders that allow for recovery of certain revenues or expenses outside of the Commission-authorized revenue requirement, whether that revenue requirement is established under traditional ratemaking processes, the FRP, or the MYRP. Staff Ex. 4.0 Rev. at 45. Staff explains that the rider cost recovery mechanisms allow for more timely and more certain cost recovery than traditional ratemaking, resulting in lower risk for utility investors because riders effectively transfer risk from the regulated utility to utility customers by requiring them to essentially guarantee the Commission-approved revenues or expenses. That is, rider mechanisms typically include an annual reconciliation mechanism that provides dollar-for-dollar recovery to the utility. Thus, the utility will not recover more or less than authorized by the Commission. Therefore, riders reduce overall risk borne by utilities relative to traditional ratemaking. *Id*.

When the Commission authorizes cost recovery riders for utilities, risk is transferred from the utilities to ratepayers. Staff Ex. 4.0 Rev. at 45. In such cases, the Commission has adopted downward risk adjustments to the ROE for rate base assets because ratepayers are essentially guaranteeing utility cash flows authorized for cost recovery through a rider with a true-up mechanism. *Id*. For example, in 2010, the Commission reduced the ROE for Ameren's gas and electric operations to reflect the lower risk faced by Ameren due to uncollectible riders. *See Cent. Ill. Light Co*., Docket Nos. 09-0306-09-0311 (Consol.), Order at 218-219 (Apr. 29, 2010).; *see also Commonwealth Edison Co.*, Docket No. 10-0138, Order at 44 (Dec. 15, 2010); *Cent. Ill. Light Co./Cent. Ill. Pub. Serv. Co./Ill. Power Co.*, Docket Nos. 08-0619/08-0620/08-0621 (Consol.), Order at 32 (Aug. 19, 2009).

These dockets demonstrate the Commission's consistent recognition that the authorized return on equity must correlate to risk borne by the utility, whether in a general rate case or as it relates to a cost recovery rider. Likewise, the Commission has not hesitated to adjust the authorized ROE downward to reflect the reduced risk associated with reconciliation mechanisms that provide for guaranteed cost recovery. Crucially, the MYRP shares some characteristics of a rider; most notably, the annual performance adjustment proceeding will provide more timely and certain cost recovery. Staff Ex. 4.0 Rev. at 48. In other words, Staff asserts that the true-up nearly guarantees that ComEd will recover its costs. Like cost recovery pursuant to a rider, the MYRP performance adjustment proceeding effectively shifts risk from the Company to ratepayers and, consequently, reduces the risk to investors and lowers the expected returns. *Id*.

If the Commission were to consider MYRP as essentially a rider due to the reduced regulatory lag, Staff suggests the weighted average cost of capital in the Company's most recent FRP case should be adjusted to reflect the reduced risk under the MYRP. Staff Ex. 4.0 Rev. at 48. The yields for 30-year high-quality corporate bonds were 5.18% as of March 2023, which represents the return on investment for low-risk bonds. The FRP 2022 ROE for ComEd is 8.91%. The midpoint between the two is 7.05%, which represents a 186-basis point adjustment from the cost of equity that will be authorized in the Company's current FRP case. *Id*. at 57. Using the midpoint recognizes that some level of risk remains with the utility because costs recovered through the MYRP remain subject to a prudence review, but that the future test years and reconciliation mechanisms that are key features of the MYRP ensure the Company will timely recover 100% of all its prudent investments under the MYRP. *See* 220 ILCS 5/108.18(f)(6).

In sum, Staff's market-based ROE analysis results of 10.05% for the Proxy Group are excessive since the Proxy Group has more risk than ComEd. Staff Ex. 4.0 Rev. at 49. As described above, FRP ratemaking is clearly less risky than traditional ratemaking, and the current consensus is that the MYRP will further reduce the Company's risk. However, it is impossible at this time to quantify the precise amount of risk that the MYRP transfers from ComEd to its ratepayers in comparison to the FRP. Nevertheless, for the reasons stated previously, Staff asserts that it is undisputable that the MYRP is more similar to the FRP than to traditional ratemaking. Furthermore, the FRP formula for ROE has adequately compensated utility investors for the risk they bear under FRP ratemaking, as evidenced by the Company's strong financial metrics. In the absence of some novel calculation or ROE estimate that ensures an adequate rate of return and provides a reasonable cost of capital under MYRP, the FRP formula provides a reasonable return for ComEd's investors without requiring customers to over-pay for an ROE based on an unrepresentative proxy sample. Simply put, utilizing the FRP formula for the MYRP ROE strikes the most appropriate balance between investors' required returns, which should be lower than those of other electric utilities not operating under an MYRP, and ComEd's customers, who ultimately bear the cost of those required returns. *Id*. As such, for ComEd's MYRP, Staff recommends an ROE derived from the FRP formula of 8.91%, which is to be updated each year through the MYRP annual adjustment process. *Id*. at 49-50.

For all the reasons discussed above and in Staff's testimony, the Commission should reject the Company's ROE proposals, which are unreasonably high when considering that its financial health has improved while operating with significantly lower authorized ROEs over the last decade. Conversely, Staff's recommendation, using the FRP formula, would allow ComEd to maintain its financial integrity while also protecting customers from unreasonable costs, consistent with the standards set forth in *Hope* and *Bluefield*. Thus, the Commission should approve an 8.91% ROE, updated each year of the MYRP through the annual adjustment process.

Based on Staff's proposed capital structures and the costs of the individual components discussed above, Staff's recommended rates of return on rate base for ComEd's electric distribution operations are 6.57% for 2024, 6.58% for 2025, 6.65% for 2026, and 6.69% for 2027. As explained, 8.91% is the appropriate ROE for the first year of ComEd's MYRP. The ROE should be updated to reflect the average monthly yields of 30-year U.S. Treasury bonds for each applicable calendar year through the annual MYRP reconciliation process.

3. AG's Position

The AG explains that utilities are infrastructure intensive industries and rely on both customer and investor supplied capital. Customer supplied capital is deducted from rate base because the utility does not have to pay investors for its use. In addition to ratepayer supplied funds, ComEd funds rate base with short- and long-term debt and shareholder equity. The cost of capital is ComEd's largest single expense, constituting from 28.5% to 31.3% of its requested revenue requirement during the MYRP period. ComEd requests

$1,144,404,000 in net operating income in 2024 increasing to $1,430,024,000 in 2027 to pay investors based on its proposed overall cost of capital (7.43% growing to 7.770% in 2027) that incorporates a return on equity of 10.50% increasing each year by 5 basis points, ComEd's proposed capital structure with more than 50% common equity, and ComEd's proposed growing rate base. ComEd Ex. 58.01 at 1, Line 20; ComEd Ex. 60.0 at 42. According to the AG, the annual increases over this rate plan are driven in large part by the requested increased payment to shareholders.

ROE is a key factor in any rate case. P.A. 102-0662 places the authority to set a fair return on equity with the Commission, stating: "The cost of equity shall be approved by the Commission consistent with Commission practice and law." 220 ILCS 5/16-108.18(d)(3)(B). This provides the Commission with substantial discretion to consider all the circumstances that affect the cost of equity and to adopt a reasonable ROE that balances ratepayer and shareholder interests.

As PIRG witness Bodmer stated: "The most basic problem with estimation of the cost of capital or returns available to investors is that nobody can observe the number. The cost of equity capital is not reported anywhere." PIRG Ex. 1.0 at 11. Instead, the Commission is required to determine a reasonable return on investment that is sufficient to enable the utility to access capital at reasonable rates. In the seminal case *Bluefield,* the Court said: "What annual rate will constitute just compensation depends upon many circumstances and must be determined by the exercise of a fair and enlightened judgment, having regard to all relevant facts." *Bluefield,* 262 U.S. at 690, 692. The standard established by the U.S. Supreme Court requires that the return on equity should be equal to similar businesses. *See id*. at 692-693. In *Duquesne*, the Court added that "an otherwise reasonable rate is not subject to constitutional attack by questioning the theoretical consistency of the method that produced it. 'It is not theory, but the impact of the rate order which counts.' The economic judgments required in rate proceedings are often hopelessly complex and do not admit of a single correct result." *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 314 (1989) (internal citations omitted).

As the Court stated in *Bluefield*, a key goal in setting a reasonable return on equity is "to maintain and support [the utility's] credit and enable it to raise the money necessary for the proper discharge of its public duties." *Bluefield,* 262 U.S. at 693. While various financial analyses were used by witnesses in this docket to estimate the return shareholders "require" to provide funds to the utility, the Commission should not ignore ComEd's recent actual experience in attracting capital.

Since the enactment of EIMA in 2011, ComEd's annual plant additions increased by 95%, with $10.7 billion of Distribution Capital Plant and another $2.0 billion allotted to distribution general and intangible plant. Grid Assessment at 23; *see also* AG Ex. 1.0 at 47: Fig. 4. Specifically, as shown on AG Exhibit 1.0, spending jumped in 2015 and remained elevated, with 2023 spending higher than any previous year despite the fact that ComEd's ROE, set by EIMA, dropped from 10.05% to 8.64% for reconciliation year 2015, to as low as 7.36% for the reconciliation year 2020 (and 7.85% in the last formula rate update entered in Docket No. 22-0302). Walmart Ex. 1.0 at 9-10. Despite these ROEs that are substantially lower than the ROEs requested by the Company, ComEd was able to invest more than $1 billion per year since 2016.

<u>ComEd's Risk</u>

The reduced risk associated with formula rates and the current MYRP, which both include a reconciliation to actual costs which effectively guarantees that ComEd's investors are fully paid the authorized return, is reflected in the difference between ComEd's recent ROEs and Illinois natural gas utility ROEs and other electric company ROEs shown in Walmart Ex. 1.0. at 15-16. The Commission allowed Illinois gas utilities ROEs that ranged from 9.05% for Peoples Gas and North Shore Gas to 9.87% for Ameren Gas, to 9.75% for Nicor Gas. *See Peoples Gas,* Docket 14-0224/0225 (Consol.), Order at 135 (Jan. 21, 2015); *Ameren Ill. Co.,* Docket No. 18-0463, Order at 12 (Nov. 1, 2018); Docket No. 21-0098, Order at 95. Walmart witness Kronauer reported that during the years 2019-2023 to date electric distribution utilities received an average ROE of 9.14% while all electric utilities (including those owning generation) saw a higher average return of 9.48%. *Id*. at 15-16. At the same time, ComEd was allowed 8.38% in 2019 and between 7.85% and 8.91% for the reconciliation years 2017, 2018, 2020, and 2021. *Id*. at 7-8.

Now that the Commission is considering an appropriate ROE under Section 16-108.18, the Commission should recognize that investors in Illinois electric utilities that are subject to the special ratemaking provisions of EIMA and of P.A. 102-0662 do not require the same high ROEs allowed Illinois gas and other electric utilities which are not beneficiaries of the same, special ratemaking and reconciliation provisions applicable to ComEd.

All cost of equity witnesses acknowledge that the risk associated with the utility is a key consideration in adopting an ROE. While ComEd witness Graves "found" that "ComEd is not materially different in risk from most" of his Proxy Group, ComEd Ex. 14.0 at 5, Staff witness McNally, IFCUP witness Gorman, and PIRG witness Bodmer all directly testified about the special regulatory environment that significantly reduces ComEd's financial risk.

The MYRP will give the Company even greater certainty of cash flows than the FRP, further reducing the Company's risk. The MYRP allows utilities to change revenues in future years to reflect the costs of new investments and other additional expenses. 220 ILCS 16-108.18(f)(6)(A). For example, the MYRP relies on multiple future test years, allowing the utility to fully forecast expenditures through 2027 and therefore accelerate recovery of capital costs, which reduces regulatory lag and gives the utility greater certainty of cost recovery relative to the FRP. In addition, the MYRP allows for the recovery of actual costs of up to 105% of the approved revenue requirement as well as cost overruns beyond the 105% cap for eight categories of excluded variables, including storms and interest rates, and other Commission-approved modifications. 220 ILCS 16-108.18(f)(6)(A)(i). Hence, the AG maintains, the cost of capital for the utility under the MYRP would decrease because of the reductions in regulatory lag and cost-recovery risk for the utility relative to the FRP. Further, the ROE under the MYRP may be adjusted upward or downward based on ComEd's ability to achieve various performance metrics. 220 ILCS 5/16-108.18(e)(2)(B); Staff Ex. 4.0 Rev. at 41-42.

As a result of the fact that ComEd is subject to a regulatory structure that removes the risk that investors will not receive their authorized returns, standard ROE analyses that rely on proxy groups of electric utilities which may include integrated utilities (generation and distribution), traditionally regulated utilities, and companies with unregulated operations, do not provide an appropriate reference for a fair and reasonable ROE for ComEd. Staff witness McNally stated: "comparing ComEd's risk to that of electric utility sample companies not operating under an MYRP is not useful" because those utilities do not benefit from the risk reducing effects of the MYRP. Staff Ex. 4.0 Rev. at 44; Staff Ex. 20.0 at 13-14.

In addition to the MYRP provisions, ComEd benefits from several rider cost recovery mechanisms that lower risk for utility investors because "riders effectively transfer risk from the regulated utility to its customers by requiring them to essentially guarantee" that the Commission-approved revenues or expenses will be recovered "dollar-for-dollar" with minimal regulatory delay. *Id*. at 45, 48; *see also* PIRG Ex. 1.0 Corr. at 46-47. The MYRP (and the formula rate predecessor), like rider recovery mechanisms, transfers risk from the utility to consumers by guaranteeing cost recovery, including the cost of capital, through the reconciliation of actual costs to revenues collected. In order to construct a fair Proxy Group to determine a fair and reasonable rate of return, the proxy group would have to match these risk reducing factors.

The key questions in selecting an ROE to be used in setting monopoly rates are whether the rate will enable the utility to access capital and relatedly, whether the rate is appropriate given the financial risk facing the utility. The Supreme Court has been clear that while a regulatory Commission must allow an ROE that is adequate "to maintain and support [the utility's] credit and enable it to raise the money necessary for the proper discharge of its public duties," *Bluefield*, 262 U.S. at 693, "[i]t is not theory, but the impact of the rate order which counts." *Duquesne*, 488 U.S. at 314. The Court accurately noted that these analyses "are often hopelessly complex and do not admit of a single correct result." *Id*. at 314. As discussed, P.A. 102-0662 repeatedly requires that utility rates be affordable and reflect the least cost to provide service. *E.g*., 220 ILCS 5/16-108.18(c)(4), (5). Further, these goals are paramount. The Illinois court has held that "if the rightful expectations of the investor are not compatible with those of the consuming public, it is the latter which must prevail." *Citizens Util. Bd. v. Ill. Commerce Comm'n*, 276 Ill.App.3d at 737 (*quoting Camelot*, 51 Ill. App. 3d at 10). In this docket, the Commission should not feel bound by financial analyses that produce anomalously high ROEs that are not consistent with actual experience, ComEd's significantly lower risk under Illinois law, financial theory, or recently-allowed ROEs. The Commission should put ratepayers first and only approve an ROE that reflects what investors actually require, based on recent experience and the lower utility and shareholder risk associated with the MYRP. The magnitude of the increases ComEd requests in this docket can be substantially moderated by a fair and reasonable ROE and capital structure.

P.A. 102-0662 grants the Commission considerable discretion to devise a fair return on equity, limited only by the need to be "consistent with Commission practice and law." 220 ILCS 5/15-108.18(d)(3)(B). The law recognizes that the bounds of an authorized ROE are broad. The Court has held that: "the commission 'must be free, within the limitations imposed by pertinent constitutional and statutory commands, to devise methods of regulation capable of equitably reconciling diverse and conflicting interests.' 390 U.S., at 767, 88 S.Ct., at 1360." *Duquesne*, 488 U.S. at 313-314 (*citing Permian*

Basin Area Rate Cases, 390 U.S. 747 (1968)). Ultimately, rates that do not jeopardize the financial integrity of the company, either by leaving it insufficient operating capital or by impeding its ability to raise future capital, or that are inadequate to compensate current equity holders for the risk associated with their investments, are not constitutionally infirm." *Duquesne*, 488 U.S. at 312.

Response to PIRG

The AG notes that PIRG witness Bodmer presented an analysis of the required cost of capital that corrected some of the anomalies and unrealistic assumptions included in the standard DCF and risk premium analyses. By assembling a Proxy Group that is closer to ComEd's risk profile and that coincidentally mirrors the Proxy Group ComEd's parent Exelon used in its own analysis of the Company's ROE in its asset impairment valuation study, and selecting the appropriate assumptions in his financial analyses, he identified a 6.5% required cost of equity.

While ComEd has been able to attract large amounts of capital at the ROEs based on the formula rate statute, the AG argues that at best the formula rate ROE provides a ceiling as to the required ROE. Mr. Bodmer's analysis produced CAPM and DCF results that were reasonably consistent, justifying a 6.5% ROE for ComEd. His testimony reflects a critical look at what the financial models truly represent, that there is substantial room below this ceiling to set an ROE that will meet investor expectations.

Response to Staff

In the alternative, the AG accepts Staff witness McNally's conclusion that a reasonable ROE for ComEd is 8.914%, which is based on the same formula applied to ComEd's ROE since 2011. Staff witness McNally incorporated ComEd's past access to capital at lower ROEs, its reduced risk under Illinois ratemaking, and the fact that ComEd's financial ratios and credit ratings have been strong in reaching his conclusion. Staff Ex. 20.0 at 10-11.

The Commission has been setting the allowed ROEs for both Ameren and ComEd under the formula found in Section 16-108.5(c)(3) of EIMA since 2012. During this period, while investment rates rose and fell, both utilities' rates were based on the sum of the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds and 580 basis points. According to the AG, that rate proved sufficient to attract billions of dollars a year in investment by both utilities and continues to be used for ongoing investments that are recovered, much like the MYRP costs, through annual charges that are reconciled every year. *See* 220 ILCS 5/8-103B(d)(2)(C)) (EE rider); 220 ILCS 5/16-107.6(h)(1) (distributed generation rebate rider); 220 ILCS 5/8-218(b) (utility-scale PV energy generation facilities rider).

P.A. 102-0662 broadly allows the Commission to base ComEd's MYRP ROE on the lower level of risk it presents and on the method that has allowed ComEd to practically double its plant additions over the last 10-12 years. The AG posits that nowhere in Illinois law is the Commission prohibited from using the same formula ROE it has successfully used over the past 10-12 years under a similar regulatory construct, and that it is currently authorized to apply to rider rates with cost recovery methods that, like the MYRP, contain reconciliations to actual costs, effectively guaranteeing investors the full authorized return on their money.

The AG notes that Staff witness McNally suggested that the Commission annually update ComEd's ROE through the MYRP process. Staff Ex. 4.0 Rev. at 249-50. However, the reconciliation provision of the MYRP statute provides that the ROE used in the reconciliation will be "the cost of equity approved in the [MYRP]." 220 ILCS 5/16-108.18(f)(6)(C). In addition to recovering "the cost of equity approved in the multi-year rate plan" in the reconciliation, the statute provides for increases or decreases to the approved ROE based on various performance metrics. 220 ILCS 5/16-108.18(f). In ComEd's petition for performance metrics, the Commission determined that ComEd could increase (or decrease) its ROE by 32 basis points. Docket No. 22-0067, Order at 35. The 32-basis point incentive and related performance metrics are "intended to better tie utility revenues to performance and customer benefits, accelerate progress on Illinois energy and other goals, ensure equity and affordability of rates for all customers, including low-income customers, and hold utilities publicly accountable." *Id*. at 8; 220 ILCS 5/16-108.18(e)(1). Pursuant to the MYRP statute, the AG argues, changes to the Company's ROE over the four-year MYRP are limited to reflecting the Company's achievement of the adopted performance metrics. The statute provides that the incentive shall be "reflected as basis points added to, or subtracted from, the utility's cost of equity. The metrics and incentives shall apply for the entire time period covered by a [MYRP]." 220 ILCS 5/16-108.18(e)(2)(B). This provides the necessary incentive to encourage utility achievement of metrics that align utility, ratepayer, and state goals through practices other than increasing its capital spending or return. A shifting ROE could dilute the effect of the performance metric incentives and undermine a key provision of P.A. 102-0662.

Response to ComEd

ComEd argues that the Commission cannot adopt Staff's approach to ROE because the General Assembly did not specifically continue the ROE calculation found in EIMA in the MYRP. It argues that the language of the new law "is clear and unambiguous" and that its lack of specification somehow requires the use of the financial analyses used in traditional ratemaking. ComEd IB at 308-309. However, the language of the new statute is far from prescriptive. The AG avers that it encompasses the full range of Commission discretion, reading in whole: The cost of equity shall be approved by the Commission consistent with Commission practice and law. 220 ILCS 5/16-108.18(d)(3)(B). This grants the Commission the authority to select an approach to determining the cost of equity to achieve the goals of the statute, within the bounds of the constitution and the law.

The broad discretion to determine the cost of equity is demonstrated by both State and federal court decisions. In *Citizens Utility Board v. Illinois Commerce Commission*, the Illinois Appellate Court affirmed a Commission order that determined the utility's ROE by averaging two "flawed proposals" found in the record. The appellants argued that the Commission impermissibly failed to remove the effect of two ROE adjustments the Commission itself had previously rejected. The Court affirmed the Commission decision anyway and said:

> the Commission has wide latitude to exercise its business judgment to implement pragmatic solutions by "filling gaps in the record." *Commonwealth Edison Co*., 405 Ill. App. 3d [389] at 402. Establishing a just and reasonable rate presents a question of sound business judgment, rather than the application of a legal formula, and must often be a tentative determination given that one cannot predict exact results. *Iowa-Illinois Gas & Electric Co. v. Illinois Commerce Comm'n*, 19 Ill. 2d 436, 442 (1960).

2018 IL App (1st) 170527, ¶ 32, 39. It cited multiple cases where the Commission imposed its own conclusions, modifying, averaging, or rejecting all or parts of expert recommendations. *Id*. at ¶ 42, fn. 7. The Court held that the Commission is entitled to deference so long as its decisions are supported by substantial evidence, do not exceed the Commission's statutory authority, and are constitutional. *Id*. at ¶ 28.

ComEd's argument that the Commission is limited to determining the cost of equity based on "traditional ratemaking principles" and financial analyses (ComEd IB at 307) ignores the scope of ratemaking discretion; the extensive disputes and flaws described in numerous rate orders and court opinions associated with these financial analyses; the major differences between the MYRP and traditional ratemaking; the lower risk ComEd faces compared to other electric utilities that are not subject to Illinois law; and ComEd's own recent experience attracting billions of dollars in capital at the ROE set by the statutory formula.

ComEd argues that "The legislature could have replicated the formula rate ROE calculation in the [MYRP] statute but declined to do so. That legislative decision binds the Commission." ComEd IB at 309. The Commission's discretion is not so limited. The statute neither specifies an approach to determining a fair ROE nor does it exclude any approaches. Further, the General Assembly knew that the Commission and Illinois electric utilities had substantial experience with the ROEs derived from the formula contained in EIMA. There is no reason to infer that the General Assembly meant to cut off that avenue of Commission experience and discretion, particularly given the substantial similarities between EIMA and the MYRP statute evident in the statute and recognized by rating agencies. *See, e.g.*, Section 16-108.5(c) and 16-108.18(d)(3) containing certain ratemaking provisions and Section 16-108.5(d) establishing the reconciliation process and Section 16-108.18(f)(6) establishing the MYRP reconciliation process. Staff Ex. 4.0 Rev. at 9. Rather than resolve the complex question of whether or not to continue using the formula ROE, the General Assembly left that to the Commission to resolve, based on the evidence before it.

As ComEd stated in its Initial Brief, ComEd witness Graves' DCF analysis produced an ROE range of 8.09% to 11.13%. ComEd IB at 306. Notably, the 8.91% ROE derived by Staff using the formula applied to the EIMA and other formula rates, falls comfortably within this range. The regulatory changes that guarantee that rates will be sufficient to provide investors with the authorized return through annual reconciliations and the use of future Test Years demonstrate the favorable or "constructive" regulatory environment that reduce shareholder risk and justify an ROE at the low end of the Company's DCF analysis. ComEd's history of attracting substantial amounts of capital since 2012 at the ROE based on 30-year U.S. Treasury bonds plus 580 basis points further demonstrates that investors have been satisfied by this level of return while consumers benefit from the lower ROE required by Illinois' investor-friendly regulatory laws. The Commission can and should continue this consumer benefit under the current MYRP.

In contrast to ComEd's DCF analysis that confirms that the ROE for lower risk utilities can drop to as low as 8.09% and still meet investor expectations, ComEd witness Graves' risk-based analyses (CAPM, ECAPM, and risk premium) produced a range of 10.21% to 11.91%. ComEd IB at 306. The AG suggests that the Commission should ask what drives the discrepancies between the DCF range and the risk premium ranges. The AG notes that PIRG witness Bodmer demonstrated that ComEd witness Graves used inputs that are not consistent with values generally used by financial analysts and that imply that ComEd's risk is equivalent to unregulated companies, including start-ups that begin with significant risk that moderates as they mature. *E.g*. PIRG Ex. 2.0 at 60.

The Commission has historically modified the ROE recommendations by utility, Staff, and intervenor witnesses. This need to modify expert recommendations is consistent with the Supreme Court's holding that: "It is not theory, but the impact of the rate order which counts." *Duquesne*, 488 U.S. at 314. The many variables included in a cost of equity analysis, and the multiple options available to the analyst in selecting those variables confirms that the "economic judgments required in rate proceedings are often hopelessly complex and do not admit of a single correct result." *Id*. The Commission is well-within its authority and discretion to resolve the complex question of ComEd's ROE during the MYRP by relying on the recently successful formula, which falls within the reasonable ranges of the expert recommendations. Correcting all of the errors and overstatements in ComEd's financial analyses results in an ROE of 6.5%.

Recommended Rate of Return on Rate Base

The AG supports the overall cost of capital estimate recommended by PIRG witness Bodmer which reflects an ROE of 6.5% in each year of the MYRP, or in the alternative, of Staff witness McNally which reflect an ROE of 8.914%. The AG further recommends a single ROE for the entire term of the MYRP, and supports the capital structure for each year, maintaining a 50% common equity ratio as determined by Staff.

4. PIRG's Position

PIRG notes that the Act provides that a regulated utility like ComEd may only recover through rates those costs to provide service which the utility proves are reasonable and prudent. 220 ILCS 5/9-101. This involves a balancing of investor and consumer interests. *Citizens Util. Bd.*, 276 Ill.App.3d at 746 ("the utility must show that … its rate of return on capital is the reasonable cost of the capital needed to provide the services."). The Commission's decision regarding the Company's allowed ROE must be supported by substantial evidence, that is, "evidence that a reasoning mind would accept as sufficient to support a particular conclusion." *Commonwealth Edison Co. v. Ill. Commerce Comm'n*, 405 Ill.App.3d 389, 398 (2d Dist. 2010).

The goal of this analysis is to set a rate of return that is just and reasonable, pursuant to *Bluefield* and *Hope*. Under these precedents, PIRG states, a utility may recover only what is sufficient to maintain its financial integrity and attract capital at reasonable terms, and the return must be equivalent to what investors could earn by investing in other companies of comparable risk. *Bluefield*, 262 U.S. at 692-92; *Hope*, 320 U.S. at 603. "The return should be … sufficient to assure confidence in the financial soundness of the utility and … adequate, under efficient and economical management, to maintain and supports its credit and enable it to raise the money necessary for the proper discharge of its public duties." *Bluefield*, 262 U.S. at 693.

However, the Illinois Supreme Court earlier established that a just and reasonable rate must be less than the value of the service to consumers. *State Pub. Util. Comm'n ex rel. City of Springfield v. Springfield Gas & Elec. Co.*, 291 Ill. 209, 216, 125 N.E. 891 (1919). In fact, in setting rates, PIRG maintains that ratepayers' interests should generally come first. *See Camelot*, 51 Ill.App.3d at 10. Thus, ComEd's rate of return must be set no higher than necessary to satisfy *Hope* and *Bluefield*—such profits are a privilege, not a right. *Bluefield*, 262 U.S. at 692-93.

Consistent with the testimony of PIRG witness Bodmer, PIRG recommends that the Commission adopt a 6.5% ROE for ComEd in this proceeding. Under PIRG's proposal, "incremental revenue deficiencies with a[n] [ROE] of 6.5%, exclusive of the effects of any phase-in, [would be] $411.8 million for 2024, $116.7 million for 2025, $141.6 million for 2026, and $111.2 million for 2027." AG Ex. 4.0 at 2.

While a 6.5% ROE may be below average for an electric utility, Walmart Ex. 1.0 at 15-16, PIRG argues that the record, Illinois law, current market conditions, and the Company's relatively limited risk fully support it. Conversely, ComEd's request for an ROE of 10.5% is unjustified. ComEd Ex. 60.0 at 2. It is well above the 9.14% national average for distribution-only electric utilities' ROE, Walmart Ex. 1.0 at 16, and far above what is supported by traditional models for calculating the cost of capital.

PIRG emphasizes that this proceeding is not the typical rate proceeding. Revenue uncertainty is a reality for most businesses and is especially problematic when large upfront investments are necessary to provide service. While utilities' rates are regulated, their revenue is traditionally uncertain because a portion of their rates are collected through volumetric charges on customer bills. Revenue may increase or decrease for a variety of reasons related to usage, because some bills may not be paid on time or at all, and because the number of customers can change during the year.

ComEd's Risk

There are different ways to reduce uncertainty in utility rates. According to PIRG, many states, including Illinois, have opted to reduce utility revenue uncertainty through a policy mechanism known as decoupling or a volume balancing adjustment ("VBA"). This mechanism is solely concerned with a utility's revenue and not the cost to provide service. An FRP is different from a VBA: VBAs guarantee revenues but not profits, because costs could be higher or lower than expected. FRPs guarantee profits by performing not only a revenue reconciliation, but a cost reconciliation, too. *Commonwealth Edison Co. v. Ill. Commerce Comm'n*, 2014 IL App (1st) 130302, ¶¶ 5, 8-17. While a VBA ensures a utility earns that predetermined revenue requirement, or close to it, an annual cost reconciliation recalculates the revenue requirement by reconciling the difference between projected and actual costs, and adding a carrying cost, equal to the Company's cost of capital, including the cost of equity. *People ex rel. Raoul v. Ill. Commerce Comm'n*, 2021 IL App (1st) 200366, ¶ 8. The difference between the actual revenue collected and the recalculated requirement, the reconciliation amount, is then added as a charge or credit on future bills. PIRG explains that with an annual cost reconciliation, if operating costs are up, the extra costs will be paid for by consumers later, with interest.

P.A. 102-0662 maintained the EIMA formula rate profit rate guarantee that has been so valuable to the Company, while providing that the utility can recover up to 105% of the Commission-approved revenue requirement from the MYRP. 220 ILCS 5/16-108.18(f)(6)(A)(i); ICCP Ex. 8.0 at 11. This may appear to protect consumers and force the Company to bear some risk of inefficient spending, but the protection is minimal. PIRG states that an extra 5% of its revenue requirement represents a massive amount of money for ComEd: 5% of its updated proposed 2024 revenue requirement is more than $200 million. ComEd Ex. 58.0 at 4. Additionally, ComEd is privy to loopholes for "volatile and fluctuating variables," making this cap all but meaningless, and shifting normal business and operational risks from the utility to ratepayers. 220 ILCS 5/16-108.18(f)(6)(A)(ii). Also, by performing this cost reconciliation annually, regulatory lag and cost disallowance risk are all but eliminated. Utilities are ensured to profit off the full value of all investments. *See* AG Ex. 1.0 at 11, 13-18.

This all matters to the ROE question for at least two reasons. First, it severely calls into question any claim that the Company's riskiness can reasonably be compared to companies competing in the marketplace or to many utilities operating under more traditional, restrictive regimes. Second, it suggests that the Company needs a far lower ROE than it claims in order to attract investors. PIRG Ex. 1.0 at 13, 17; PIRG Ex. 2.0 at 21-22. This suggestion is especially strong, given that ComEd has previously been able to - with its parent Exelon - raise enormous amounts of capital despite a lower ROE than requested here.

PIRG also raises a further set of justifications for a 6.5% ROE: ComEd's flagrant, continuous abuses of the public trust. To be sure, the *Hope-Bluefield* analysis allows the Commission to consider the totality of the circumstances in assessing whether the ROE will "lead to just and reasonable rates" for customers. What is considered "just" and "reasonable" may mean more than math alone - corporate mismanagement and wrongdoing are also fair game for the Commission's consideration. *See, e.g., Mountain Fuel Supply Co. v. Public Serv. Comm'n*, 861 P.2d 414, 427 (Mont. 1993); *In re Kauai Elec. Div. of Citizens Utils. Co*., 590 P.2d 524, 542 (Haw. 1978); *North Carolina ex rel. Utils. Comm'n v. General Tel. Co*., 208 S.E.2d 681, 686-88 (N.C. 1974); *In re General Tel. Co*., 37 P.U.R.4th 127 (Cal. Pub. Serv. Comm'n 1980).

PIRG asserts that there is no disputing that ComEd failed to respect this state's laws and citizens, reaping profits as the result of a bribery scheme. *Commonwealth Edison Co.*, 2020 ILL. PUC LEXIS 145, *65; *Ill. Commerce Comm'n v. Commonwealth Edison Co*., 2022 Ill. PUC LEXIS 526, *25-26. There is equally no disputing that, over the past decade, the Company has successfully leveraged its clout in the General Assembly to obtain favorable changes to the law. These changes have ensured ComEd: (i) carries close-to-zero risk of revenue non-recovery; and (ii) can spend on cascading capital investments virtually without limits, and for which it will also recover its costs and receive cascading profits. This can be fully framed as a matter of sub-standard management. In fact, this is the only thing in ComEd's profile that S&P believes to be a meaningful risk. PIRG Ex. 1.0 Corr. at 75. It can also be framed as a matter of disrespect for state law and consumers. However framed, PIRG avers that this conduct merits a lower ROE. While the Commission cannot set ComEd's ROE based on these considerations alone, PIRG argues, it can and should consider them as factors.

PIRG's ROE Analysis

Mr. Bodmer's analysis used two widely-used economic models to estimate the Company's cost of capital and recommend an ROE: the CAPM and the DCF. PIRG opine that these models' outputs support a 6.5% ROE for ComEd in this proceeding. Mr. Bodmer's testimony highlights that the Commission is charged here with doing more than simply picking an ROE figure—it must take care to scrutinize each element in the DCF and CAPM analyses to ensure that the final number is actually supported by substantial evidence. 220 ILCS 5/10-201(e) (Commission decisions must "allow an informed judicial review thereof"); *Ameren Ill. Co.*, 2015 IL App (4th) 140173, ¶ 36; *Citizens Util. Bd.*, 291 Ill. App. 3d at 308-09.

Proxy Group

For his CAPM and DCF analyses, Mr. Bodmer did not rely on the same group of proxy companies as Company witness Graves, Staff witness McNally, and ICCP witness Gorman. Instead, for his Proxy Group, Mr. Bodmer relied on the companies used by ComEd as part of an impairment study produced in discovery in this proceeding, which was prepared by the consultants Duff & Phelps and approved by Exelon's capital planning group. ComEd Resp. to City 1.24, Attach. 5. Among other things, the impairment study estimated ComEd's cost of capital. For the DCF model, Mr. Bodmer used the Proxy Group to compare other, similar companies' growth rates; for CAPM, the proxy companies were used as comparisons for beta. PIRG Ex. 1.0 Corr. at 63, 65-69; PIRG Ex. 1.7 Corr. at 1-4. However, Mr. Bodmer also used ComEd's preferred proxies to assess the growth rate as part of his DCF analysis. *See generally* PIRG Ex. 1.7 Corr. at 1-4.

There are several reasons for Mr. Bodmer's selection of an alternative proxy group, all justified. First and foremost, PIRG notes the Company's consultants used these very companies in performing an unbiased internal impairment study that Exelon approved of. PIRG Ex. 2.0 at 2; ComEd Resp. to City 1.24, Attach. 5. Second, the proxy companies used by ComEd's ROE witness, Mr. Graves, include "a sample of companies that own generation [assets] and have other risks that ComEd does not have[.]" PIRG Ex. 1.0 Corr. at 5. Third, too many of Mr. Graves' proxy companies also have too many non-regulated operations, such as Allete and NextEra, the latter of which has more non-regulated renewable energy investments than any other company in the country, as well as Edison International, a California company that once owned "vast projects around the world" but "is now subject to enormous liabilities from forest fires." PIRG Ex. 1.0 Corr. at 23.

Mr. Graves criticized Mr. Bodmer's decision to analyze a different group of proxy companies for his DCF analysis, though notably, using the companies identified in ComEd's own impairment study still produces a high-end cost of capital estimate of 6.62%, 12 basis points above Mr. Bodmer's proposal. PIRG Ex. 2.0 at 37. Also notable is that Mr. Graves failed to respond to Mr. Bodmer's points that NextEra and Edison International are inappropriate proxies (the former due to renewable energy assets and the later for its forest fire liabilities). Mr. Graves criticized some of Mr. Bodmer's selected companies for having natural gas operations, but this was true of seven of the companies in his own sample: Allete, Ameren, Alliant, Duke Energy, Xcel Energy, Eversource, and Northwestern. PIRG Ex. 2.0 at 42.

Mr. Graves also argued that ConEd, Southern Company, and WEC are inappropriate proxies because they do not derive "at least 70 percent of their operating income from regulated electric operations." ComEd Ex. 60.0 at 25. Yet, Mr. Graves' preferred proxy group includes NextEra, and a review of investor presentations of Mr. Bodmer's sample of companies shows that, even if some of those companies have some non-regulated operations, they are clearly promoting their regulated operations as revenue drivers. *See* PIRG Ex. 2.0 at 86; PIRG Ex. 1.3 Corr. at 11-28. Finally, Mr. Graves also criticizes Mr. Bodmer's use of companies from ComEd's own impairment study rather than identifying a separate sample. ComEd Ex. 39.0 Corr. at 384-95. PIRG points out that the impairment studies represent the Company's unbiased internal view of its own finances, as opposed to an "arbitrar[ily]" selected group of companies chosen for use in a rate proceeding to drive up estimates of beta (for CAPM) and the growth rate (for DCF). PIRG Ex. 1.0 Corr. at 48-49.

CAPM

Mr. Bodmer's CAPM analysis relied on the same formula as the other witnesses, Cost of Equity = Risk-Free Rate + Beta x Equity Market Risk Premium. His high-end CAPM estimate was 6.40%. PIRG Ex. 1.0 Corr. at 59. He further explained "Cost of Equity" is equivalent to the ROE that the Commission grants in this context, since the Commission must not grant a return greater than the cost of equity, less it give ComEd excess profits in derogation of *Hope* and *Bluefield*. PIRG Ex. 1.0 Corr. at 10. "Risk Free Rate" is the rate of return on a near zero default-risk investment with fixed interest rates, typically the yield on a Treasury bond. "Beta" is the measure of a company's risk as an investment. "Equity Market Risk Premium" ("EMRP") is the minimum premium required return to draw investor interests in stocks versus risk-free debt. PIRG explained Mr. Bodmer's inputs further:

- o Risk-Free Rate = 3.80%. This is the rate of return an investor is projected to expect from an asset that bears no risk. PIRG Ex. 1.0 Corr. at 55-56. Mr. Bodmer used the five-year Treasury Inflation Protected Securities rate to assure that the risk of changes in the rate of inflation do not bias the risk-free rate. He used a real rate of 1.55% and added the inflation rate of 2.16% projected by the Energy Information Administration over the course of the MYRP. PIRG Ex. 1.0 Corr. at 57-58; *see also* PIRG Ex. 2.0 at 29, n.14.
- o Beta = .5. This is the fundamental measure of a company's riskiness as an investment, with 1.0 representing a company as risky as the overall market. This figure aligns with the median beta of .43 of Mr. Bodmer's proxy group. PIRG Ex. 1.0 Corr. at 54. This figure also better aligns with the monthly betas of companies included in ComEd's own proxy group, all of which have tended to converge around .5 rather than 1.0. PIRG Ex. 1.6 Corr. at 12-18. Mr. Bodmer did not use

the so-called "Blume adjustment" to upwardly revise his beta estimate towards 1.0 because such an adjustment is not supported by an honest review of academic literature on corporate risk. PIRG Ex. 2.0 at 46-47, 60-72.

- o Equity Market Risk Premium = 5.2%. EMRP represents "the premium that investors need in order to invest in stocks[.]" PIRG Ex. 1.0 Corr. at 35. There are a variety of estimates used by practitioners all over the world for this figure, none of which approach the unreasonable 8.7% employed by ComEd. *Id*. at 36. A more typical range is between 4-5.2%. *Id*. at 36. This is because if the "EMRP is greater than the real growth in the economy, the investor share" of the economy will eventually swallow the rest of the economy whole. *Id*. at 38-39. Commonly used surveys of this EMRP figure support Mr. Bodmer's use of a 5.2% risk-free rate, rather than the 8.7% figure ComEd inappropriately fashions out of whole cloth. *Id*. at 41-44, 60; PIRG Ex. 2.0 at 25, 32-33.

Response to ComEd

In response to ComEd's CAPM model, PIRG asserts that Mr. Graves' beta estimate is completely unjustified, especially the long-term estimate. Consider that the beta of Microsoft is .91. PIRG Ex. 1.0 Corr. at 45. Mr. Graves is essentially claiming that investing in ComEd - a company with virtually no market risk, competition risk, and a host of other common risks for firms in the marketplace - is almost as risky as investing in Microsoft, which faces all such risks. Further, a review of the companies in Mr. Graves' Proxy Group shows that ComEd's beta estimates for the proxy companies are generally higher than that reported by Yahoo! Finance or computed for the proxies based on their weekly and monthly data. PIRG Ex. 1.0 Corr. at 47-48; PIRG Ex. 1.6 Corr. at 19-21. Especially given that ComEd itself discloses how low-risk of a company it and its parent are, ComEd Ex. 6.01 at 13, 23, 45, 55, 75, Mr. Graves' estimates of beta are demonstrably divorced from reality. PIRG maintains that they should not be considered as part of a CAPM-generated estimate.

Conversely, Mr. Graves criticizes Mr. Bodmer's beta calculation's use of monthly stock returns, rather than weekly. ComEd Ex. 39.0 Corr. at 31. However, Mr. Bodmer's direct testimony explained that this difference should not be meaningful, so long as one's CAPM methodology is otherwise reasonable. PIRG Ex. 2.0 at 47-48. Further, Mr. Bodmer's rebuttal testimony highlighted that: (i) the McKinsey-produced book Mr. Graves praises supports using monthly returns, not weekly, PIRG Ex. 2.0 at 49-50; and (ii) monthly returns are preferable for purposes of correcting the extreme swings that occurred during the start of the COVID-19 pandemic in early 2020. PIRG Ex. 2.0 at 50-60.

Mr. Graves also criticized Mr. Bodmer's refusal to use the "Blume adjustment" to beta as part of his CAPM calculations; but produces little evidence to support its usage. ComEd Ex. 60.0 at 35 n.112. In contrast, Mr. Bodmer's testimony provides a thorough, detailed explanation of the Blume adjustment, its history, and why it is inapposite to low-risk utilities like ComEd - the adjustment simply has "no theoretical or empirical basis in the utility context." PIRG Ex. 2.0 at 72. Going even further, in his rebuttal testimony, Mr. Bodmer re-ran Blume's analysis (made in the 1970s) for every company in Mr. Graves' preferred proxy group to demonstrate that this adjustment has no place in utility rate proceedings. PIRG Ex. 2.0 at 46-47, 60-72. Applying Blume's methodology to Mr. Graves' proxy companies and calculating beta using both weekly returns (as Mr. Graves prefers) and monthly returns (as Mr. Bodmer prefers), PIRG Ex. 2.0 at 49, Mr. Bodmer shows that utility company betas tend to coalesce around .5, if anywhere, and certainly not 1.0 as Mr. Graves believes. PIRG Ex. 1.0 Corr. at 54; PIRG Ex. 2.0 at 62-72. Neither Mr. Graves nor any other witness made a serious effort to rebut this analysis.

Mr. Graves' rebuttal testimony also argued that Mr. Bodmer's use of a 3.6% risk-free rate was unreasonably low and improperly relied on current Treasury bond data, rather than the 30-year yield. ComEd Ex. 39.0 Corr. at 30. However, "[c]urrent interest rates reflect the most recent estimates of future inflation" and "expectations of real forward interest rates." PIRG Ex. 2.0 at 29. Using interest rates that do not reflect current rates is contrary to the most fundamental notion of how efficient markets operate. PIRG Ex. 2.0 at 30. In addition, using such a long-term bond yield period tends to overstate inflation risk. PIRG Ex. 1.0 at 55-56. For this reason, using a long-term bond yield stretching decades beyond the period covered by the MYRP - as Mr. Graves does - results in overstating ComEd's cost of capital. PIRG Ex. 1.0 Corr. at 54-57.

PIRG notes that Mr. Graves also criticized Mr. Bodmer's CAPM analysis for using an EMRP he found to be unreasonably low, but failed to sufficiently explain why, especially given its alignment with the range of values used by ComEd's consultants (and endorsed by Exelon) in the impairment study. EMRP is not an unobservable figure; it is an estimate that reasonable people can disagree on, but Mr. Graves utterly fails to justify in his use of an 8.7% EMRP figure well outside of the normal range. PIRG notes that Mr. Bodmer's rebuttal testimony supplied not one or two, but eight separate estimates for EMRP in the United States as of January 2023. These estimates range from 4.21% (the average implied EMRP from 1960 to 2022) to 5.94% (the current implied premium based on the S&P 500 as of January 1, 2023). None approach 8.7%. Mr. Bodmer illustrated the effects of using the highest of these figures, 5.94%, and the commission may apply this - but no higher. PIRG Ex. 2.0 at 33-34. PIRG argues that consistent with Mr. Bodmer's testimony, the point here is not that 5% or 5.94% are inherently right, but that they are justifiable estimates within historical norms, in contrast to Mr. Graves' recommendation of 8.7%, which is not based on history or theory.

DCF

Mr. Bodmer's DCF analysis was fundamentally similar to ComEd's, but made appropriate, warranted adjustments to Mr. Graves' inputs and assumptions. PIRG Ex. 1.7 Corr. at 4-7. ComEd used a version of the DCF model in which dividends represent cash flow and assumed that investors' projected near-term growth rate over the next five years would be the same as the growth rate that continues indefinitely. Instead, Mr. Bodmer used an alternative DCF model that, while comparable to other parties' DCF models, used a reasonable assumption about long-term growth consistent with the way long-term growth rates are used by investment analysts, and used cash flow model that accounts for the rate of return. PIRG Ex. 1.0 Corr. at 66. His high-end cost of capital estimate using this DCF model was 6.60%. PIRG Ex. 1.0 Corr. at 69.

Mr. Bodmer's testimony emphasized several points about how the Commission should consider the parties' varying DCF estimates. First, the "derived cost of capital depends on how investment analysts make forecasts of equity cash flow" and PIRG argues that this is what matters under *Hope* and *Bluefield*, since the analysis requires considering in part what return will be sufficient to attract investors. PIRG Ex. 2.0 at 31, 38. Second, when "making forecasts of equity cash flow … it is essential to understand how cash flow is generated," which is "consistent with the use of implied growth rate multiplied by the retention ratio." *Id*. Third, utilizing a terminal growth rate and terminal ROE - capped at 2.5% and 10.5%, respectively - in the model are appropriate because they represent fair estimates of how investors realistically think about companies like ComEd. *See also generally* PIRG Ex.1.2 Corr., PIRG Ex. 1.7 Corr. The long-term growth rate is confirmed by ComEd itself, per its use of a 2% long-term growth rate in its impairment study. ComEd Resp. to City 1.24, Attach. 5.

Response to ComEd

A key difference in these two witnesses' application of the DCF model involves the assumption made concerning the growth over the long term, which stock analysts use in assessing the long-term growth rate. Mr. Bodmer's approach to DCF used a 2% terminal growth rate that includes a return factor and is "more consistent with the financial models that valuation analysts use … to project cash flow for utility companies." PIRG Ex. 1.0 Corr. at 65-69; *see also* PIRG Ex. 1.2 Corr.; PIRG Ex. 1.7 Corr. at 1-3. The reason Mr. Bodmer used a different long-term growth rate in the DCF analysis is that ComEd's methodology does "not pass muster of some basic logic, and [is] not consistent with the way analysts evaluate long-term growth." PIRG Ex. 1.0 Corr. at 64-65. Mr. Bodmer emphasizes that it is not useful to argue about what individual witnesses think could happen to growth and cash flow over the long run—it must be what investors use in their analyses, so that the cost of capital can be derived.

PIRG notes that Mr. Graves disagrees with Mr. Bodmer's assumption that ComEd will grow at a reasonable rate, rather than Mr. Graves' assumption that investors believe ComEd's near-term growth rate over the next half-decade will be 5.76-7.28% and last indefinitely. PIRG Ex. 1.0 Corr. at 6. Yet ComEd's own 2022 impairment report, which was approved by Exelon and described a DCF analysis, utilized an assumed long-term growth rate of just 2.0%. PIRG Ex. 1.0 Corr. at 64-67. Mr. Bodmer used an even higher 2.5% figure as part of his DCF analysis, which was based on a reasonable assessment of the "overall long-term U.S. economy and the electric utility industry … even if [ComEd's] distribution formula rate sunsets and is no longer in effect." PIRG Ex. 2.0 at 40-41.

Overall, PIRG argues that ComEd's DCF estimates here are not reasonable. They "do not pass muster of some basic logic" and "are not consistent with the way analysts evaluate long-term growth." PIRG Ex. 1.0 Corr. at 64-65. Instead, Mr. Graves used a significantly higher figure founded on the faulty "assumption that utility company earnings … can be much higher than population growth for an indefinite period." PIRG Ex. 1.0 Corr. at 65. ComEd's growth in the coming years will surely not swallow the rest of the economy whole, and its witness' criticisms of Mr. Bodmer's DCF terminal growth rate should be rejected.

<u>*Reasonableness*</u>

Use of Impairment Studies

Mr. Bodmer used impairment studies prepared by ComEd's consultant (and endorsed by the Exelon capital planning group) and produced in this proceeding, as a reference point for his own ROE estimates in the CAPM and DCF models. PIRG Ex. 2.0 at 13. The studies were created to assess the impairment of $2.6 billion of goodwill on ComEd's balance sheet, held in connection with the October 2000 PECO / Unicom merger. ComEd Ex. 60.0 at 24; ComEd Resp. to City 1.24, Attach. 5 at 1. The impairment study included a CAPM-derived cost of capital of 6.8%, an EMRP of 5.5%, a beta of .60, and a risk-free rate that updated to June 2023 would now be 3.5% if the analysis was done by the same company, Duff & Phelps. PIRG Ex. 2.0 at 9.

All of these figures come in well below the figures ComEd used to calculate its preferred ROE in this case. This is critical, PIRG avers, because the impairment study represents ComEd's internal, unvarnished view of its own value. The Company was highly incentivized to use accurate figures in its impairment study: if the study "overstated the cost of capital (resulting in a lower value of goodwill resulting in a … write-off) it may be subject to legal actions by investors," and conversely, if it understated the cost of capital, "the company would be subject to criticism it is inflating assets on its balance sheet." PIRG Ex. 2.0 at 13.

PIRG states that ComEd witness Graves attempts to distinguish this impairment study and argue it is not relevant, because: (1) the study is not "based on the business risks that the company faces during the Rate Plan"; and (2) relates to risks and market conditions from 20 years ago. ComEd Ex. 39.0 Corr. at 26. According to PIRG, both criticisms lack merit. First, the impairment study discusses the Rate Plan directly, is also focused on ComEd's financial future as it existed at the time of the study, and utilized a CAPM analysis. PIRG Ex. 2.0 at 9-10, 12; ComEd Resp. to City 1.24, Attach. 5 at 3-5, 8, 12-13. Second, the implication that the information in the impairment study is out of date is false, PIRG suggests, as the study is related to $2.6 billion in goodwill then on ComEd's balance sheet, based on market conditions as they existed at the time of the study. PIRG Ex. 2.0 at 11-12. It even says that ComEd "assessed [] company-specific and market considerations" that included stock prices, the effects of P.A. 102-0662 and the MYRP, and inflation. ComEd Resp. to Chicago 1.24, Attach. 5 at 3, 6.

Mr. Graves also argues that because the impairment study was prepared for a different purpose, its cost of capital estimate is not relevant here. ComEd Ex. 60.0 at 24. PIRG disagrees. ComEd hired a consultant who, as part of its job, had to estimate the Company's cost of capital; there is no different calculation done to make this estimate as part of a goodwill valuation versus this rate proceeding. The inputs are the same and the end result has the same meaning in either context. The only difference is, in preparing the impairment study, ComEd had every incentive to create an accurate assessment of its cost of capital, and in this case, ComEd has every incentive to do what is necessary to obtain profits.

Market-to-Book Ratio

PIRG also states that Mr. Bodmer did not use market-to-book as a direct means of estimating ComEd's cost of capital. Rather he used it to cross-check the reasonableness of his CAPM and DCF projections. PIRG Ex. 1.0 Corr. at 3. This is because, as Mr. Bodmer demonstrated in his direct testimony, when the market-to-book ratio is equal to 1.0, the ROE should equal the cost of capital assuming constant growth and returns. If the market-to-book ratio is above 1.0, the company is earning more than its cost of capital, in derogation of *Hope* and *Bluefield*. PIRG Ex. 1.0 Corr. at 4-5, 19-21; PIRG Ex. 1.2 Corr. at 4-6; PIRG Ex. 2.0 at 80-94.

A review of market-to-book ratios for comparable companies demonstrates that Mr. Bodmer's inputs, assumptions, and ultimate ROE recommendation are reasonable, and that ComEd will earn more than its cost of capital and have a market-to-book ratio of well above 1.0 if it is granted a 10.5% ROE. PIRG Ex. 1.3 Corr. at 3-11; PIRG Ex. 2.0 at 81. Conversely, Mr. Bodmer also looked at companies earning lower returns, including ConEd, and they generally had market-to-book ratios above 1.0 even with returns lower than ComEd asks for here. PIRG Ex. 1.0 Corr. at 23-24, 27-32; PIRG Ex. 1.3 Corr. at 1-11.

To the extent any of Mr. Bodmer's inputs and assumptions varied from past Commission orders in rate proceedings, PIRG notes that the Commission is inherently empowered to incorporate new evidence regarding the best approach to complex economic analyses, such as those involved in determining the ROE. *See Duquesne*, 488 U.S. at 314 ("It is not the theory, but the impact of the rate order which counts" as such analyses "are often hopelessly complex and do not admit of a single correct result."). If anything in Mr. Bodmer's approach to modeling ComEd's cost of capital can be considered novel, so long as it is supported by substantial evidence, PIRG asserts the Commission is in no way limited in its ability to use it and evolve its views around one of the most important topics in rate-setting. However, Mr. Bodmer's testimony clearly relies on the same type of cost of capital models as the other witnesses: CAPM and DCF. The fact that Mr. Bodmer relied on different assumptions for his numerical inputs into CAPM and DCF, informed by his decades of experience dealing with these issues from a regulatory and investment perspective, does not make them faulty.

The Company also argues that PIRG's recommendation must be rejected as inconsistent with Commission practice because it "fail[s] to address the actual circumstances ComEd will experience in the Test Years." ComEd IB at 309. This has nothing to do with whether Mr. Bodmer's methods are reliable, or whether his inputs, assumptions, and ROE recommendation are supported by substantial evidence. Moreover, the Company is wrong as a matter of law that the Commission cannot consider broader contextual information in setting a utility's ROE. *See Peoples Gas Light & Coke Co. and N. Shore Gas Co*., Docket Nos. 09-166/09-0167 (Consol.), Order at 123 (Jan. 21, 2010).

Even so, PIRG explains that Mr. Bodmer's testimony plainly addressed ComEd's specific circumstances, including its "financial stability," (*e.g.*, PIRG Ex. 1.0 Corr. at 13, 45, "business mix" (*e.g.*, PIRG Ex. 1.0 Corr. at 21, 27, 45, 46), "capital needs" and "investment plans," (*e.g.*, PIRG Ex. 2.0 at 6, 15-17), and "market conditions" (*e.g.*, PIRG

Ex. 2.0 at 11-12, 34-35. He also thoroughly discussed and relied on ComEd's impairment studies, which addressed these issues in detail. *E.g.*, PIRG Ex. 2.0 at 9-18. Mr. Bodmer addressed these issues sufficiently, and the Commission may still consider his testimony's recommendations regarding the best theoretical approach to calculating the cost of capital, whether or not it adopts his 6.5% recommendation.

PIRG recommends that the Commission adopt Mr. Bodmer's final recommendation of a 6.5% ROE which comes from averaging the high-end estimates generated by his CAPM (6.40%) and a DCF (6.60%) analyses. The final recommendation is confirmed by a market-to-book ratio analysis and a review of ComEd's own studies.

5. Walmart's Position

Walmart supports an ROE for ComEd of no higher than 9.14%, which is the national average for distribution-only utilities. An ROE of no higher than 9.14% still represents a substantial increase from the Company's currently authorized ROE of 7.85%, properly recognizes current market forces, and is relatively consistent with the ROE recommendations (or range of recommendations) of numerous other parties, including Staff and ICCP witness Gorman. By contrast, the Company's request for an ROE of 10.50% –265 basis point above its currently authorized ROE – with a 5-basis point increase during each year of the MYRP beginning in 2025, is in excess of the return required by investors, is unreasonable, and should be rejected. *See* ComEd Ex. 14.0 at 3.

Prior to passage of the P.A. 102-0662, ComEd's ROE was set based on a statutory formula set forth in 220 ILCS 5/16-108.5(c)(3). Staff's position is that the FRP remains in full force and effect and, therefore, recommends an ROE of 8.91%. Staff Ex. 4.0 Rev. at 20-21. By contrast, most other parties have utilized economic models like the DCF and CAPM to estimate ComEd's cost of capital. This case is the first opportunity for the Commission to decide what "consistent with Commission practice and law" means in the context of ComEd's requested ROE, including whether the formula ROE mechanism set forth in Section 16-108.5(c)(3) remains applicable. If the Commission determines that the FRP mechanism remains applicable, it should adopt the 8.91% ROE recommended by Staff witness McNally.

In response to ComEd, Walmart states that for the last decade, it has been the Commission's practice to set the Company's ROE using the formula set forth in the FRP. Walmart says it is hard to understand how setting the ROE for the MYRP using the FRP formula could ever be inconsistent with Commission practice within the meaning of Act. Provided the ROE set using the FRP formula also complies with the law - i.e., the ROE is "commensurate with returns on investments in other enterprises having corresponding risks…[and is] sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital" - then setting the ROE using the FRP formula would satisfy the Act's stated requirements. *See* Docket Nos. 09-0166/09-0167 (Consol.), Order at 89-90. The Company's arguments to the contrary are inconsistent with the plain language of the Act and should be disregarded.

Walmart notes that the parties' recommendations are widely divergent, spanning a 400-basis point spread from 6.50% to 10.50%. Walmart's recommended ROE of no higher than 9.14% – which falls in the middle of the various parties' recommendations – represents a middle ground.

Walmart witness Kronauer highlighted that the Company's 10.50% ROE would be grossly in excess of not only ComEd's currently authorized ROE of 7.85% but also the ROEs awarded to both ComEd and Ameren dating back several years. Walmart Ex. 1.0 at 8-9. Walmart is unaware of a single instance where a utility's ROE increased from year-to-year as substantially as ComEd proposes here with its 265 basis-point increase in its ROE.

Next, Mr. Kronauer also noted how inconsistent the Company's requested 10.50% ROE is with ROEs recently awarded by other state regulatory commissions to other electric utilities across the United States. *Id*. at 15. Between 2019 and May 18, 2023, Market Intelligence reported on 146 electric utility rate case ROEs authorized by state regulatory commissions for investor-owned utilities. *See* Walmart Ex. 1.0 at 15. For those 146 investor-owned electric utilities, which include both distribution-only and vertically integrated utilities, the average authorized ROE is 9.48%. *See id*. For distribution-only utilities, the average authorized ROE over that same timeframe is 9.14%. *See id*. at 16. In fact, if ComEd's proposed 10.50% ROE were adopted, it would be the highest authorized ROE awarded to any distribution-only utility at any time since 2019 by more than 50 basis points. *Id*. at 16. An ROE 136 basis points over the national average for distribution-only utilities is unsupportable, particularly in light of the risk-reducing mechanisms of the MYRP, which includes the use of future test years.

The use of forecasted future test years under the MYRP reduces ComEd's risk (and supports a much lower ROE than requested by the Company) because it has the effect of reducing regulatory lag and ensuring greater cost recovery. Walmart Ex. 1.0 at 4. Entities like S&P and Moody's have both looked favorably upon the MYRP. *See* Staff Ex. 4.0 Rev. at 42 at 9. The benefits of the forecasted future test years is also seen in the Company's requested revenue requirement as the Company admits it is a substantial reason for the requested rate increases sought in this case. *See* ComEd Ex. 4.0 Corr. at 10-11. This is a substantial change from the prior FRP framework where the Company's revenue requirements were set using historic test years. Walmart Ex. 1.0 at 11. Again, these factors support a lower ROE rather than the inflated 10.50% ROE requested by ComEd.

Finally, Mr. Kronauer highlighted the sheer magnitude of the Company's requested ROE by showing that but for the Company's requested ROE, customers would experience rate decreases in years 2026 and 2027 of the MYRP. Walmart Ex. 1.0 at 11. ComEd has failed to carry its burden to justify such a significant increase in the profit margin it proposes to return to its shareholders. Indeed, a rate increase solely to increase utility profit is an absurd outcome that demonstrates the unreasonableness of the Company's requested 10.50% ROE.

In response to ComEd's argument that Walmart witness Kronauer's recommendation was not based on factors specific to Comed, Walmart argues that it recommended an ROE of no higher than 9.14%, the average ROE awarded to distribution-only utilities across the U.S. during the period of 2019 through 2023. In reaching this recommendation, which would result in a substantial increase of 129 basis-points from ComEd's currently authorized ROE of 7.85%, Walmart witness Kronauer stated expressly that this recommendation was made in specific recognition of the "business risks faced by ComEd" over the term of the MYRP. Walmart Ex. 3.0 at 68-71. Balancing the risks to ComEd, and in declining to support an ROE any higher than 9.14%, Mr. Kronauer also identified numerous other factors specific to ComEd, including the ability to include CWIP in rate base and the use of forecasted test year, that operate as risk-reducing mechanisms for ComEd. Walmart Ex. 1.0 at 7. Walmart avers that its ROE recommendation considered factors, both positive and negative, specific to ComEd when making its 9.14% ROE recommendation.

Walmart further asserts that, if the Commission does not adopt Staff's recommendation to continue to use the FRP for setting ComEd's ROE for its MYRP, the Commission should reject the Company's requested ROE of 10.50% as well as its requested 5 basis point increases during each year of the MYRP and instead award an ROE no higher than 9.14%. The Company acknowledges that it conducted no quantitative analysis to support its year-over-year increase in ROE. *See* Walmart Cross Ex. 4.0. Indeed, while ComEd witness Graves identified a number of factors to support his requested 5 basis point increases, he further conceded that "[t]o the extent these factors improve going forward, the risk to equity investors would decrease, all else equal." *See* Walmart Cross Ex. 5.0. Quite simply, the Company has no evidence that risk increases or decreases over the term of the MYRP so as to warrant either an upward or downward change in the awarded ROE. An ROE of no higher than 9.14% is close to the ROE recommended by Staff, close to the range of ICCP witness Gorman, and is squarely in line with recent ROEs awarded nationally. A 9.14% ROE would also increase the Company's rate of return by nearly 130 basis points, a substantial increase from the 7.85% ROE that Company was awarded just last year. Walmart maintains that this strikes the appropriate balance between the needs of the Company's shareholders and its customers.

6. The City's Position

The City points out that ComEd's currently authorized ROE is 7.85%. *Commonwealth Edison Co.*, Docket No. 22-0302, Order at 29 (Nov. 17, 2022). In this proceeding, ComEd proposes substantial increases to its authorized ROE. Specifically, it proposes to calculate rates using ROEs of 10.50% in 2024, 10.55% in 2025, 10.60% in 2026, and 10.65% in 2027. ComEd Ex. 14.0 at 3. Applying P.A. 102-0662, *Bluefield* and *Hope*, the City argues that the Commission should find that ComEd has failed to support its proposals.

The experts who offered cost of equity testimony all agree that ComEd's proposal is unjust and unreasonable. These experts demonstrate significant flaws in ComEd witness Graves' DCF, CAPM, and RPM analyses. *See, e.g.*, PIRG Ex. 1.0 at 3; Staff Ex. 4.0 Rev. at 51; ICCP Ex. 4.0 at 81. There are risks to approving ComEd's excessive request, as noted by PIRG witness Bodmer: "[w]hen earning more than the cost of capital, it is natural that utility companies will want to over-invest to increase the market value of the company." PIRG Ex. 1.0 at 15.

Multiple comparative analyses demonstrate that ComEd's requested ROEs of 10.50% to 10.65% are excessive. Walmart witness Kronauer analyzed approved ROEs in Commission decisions dating from 2019-2023. He states that, in the eight dockets analyzed, the average ROE approved equals 8.13%. Walmart Ex. 1.0 at 14. When expanding this analysis to other utility commission decisions, the average ROE of the 146 electric utilities analyzed is 9.48%. Walmart Ex. 1.0 at 15; *see also* ICCP Ex. 4.0 at 7. As ICCP witness Gorman explained, these authorized ROEs have allowed utilities to "continue to have access to large amounts of external capital while still funding large capital programs." ICCP Ex. 4.0 at 14. PIRG witness Bodmer shows that "the cost of equity capital numbers from ComEd's own [five years of impairment studies] after adjusting for current risk-free rates vary from 6.66% to 8.56%." PIRG Ex. 2.0 at 14. These benchmarks all demonstrate the unreasonableness of ComEd's request.

The City states that Walmart witness Kronauer presented an analysis demonstrating the impact between the currently authorized 7.85% and ComEd's requested ROE for each year of the MYRP. As Mr. Kronauer explains, the revenue deficiencies claimed by ComEd are "overwhelmingly, if not entirely related to the requested ROE." Walmart Ex. 1.0 at 11. As Mr. Kronauer's analysis shows, granting ComEd's requested ROE would violate the Commission's obligation to "protect customers against bearing the cost of unreasonable returns through higher rates." Docket No. 20-0308, Order at 168.

According to the City, under P.A. 102-0662's new ratemaking paradigm, ComEd will enjoy enhanced rate predictability. As credit rating agencies and experts in this case have recognized, this framework mitigates the Company's cost recovery risk. This is a relevant circumstance that must be recognized as the Commission determines a just and reasonable ROE in this proceeding. *Bluefield*, 262 U.S. at 692. The City explains that the P.A. 102-0662 framework deviates significantly from traditional ratemaking. The Commission has previously found that an electric distribution utility operating under formula rates "operates in a lower risk environment than electric distribution utilities not operating within a formula rate framework." Docket No. 22-0297, Order at 42. In addition to the use of forward-looking test years which reduce any negative effects of regulatory lag, the P.A. 102-0662 framework contains additional features that further mitigate ComEd's cost recovery risk. Several credit rating agencies have specifically identified the lower cost recovery risk resulting from P.A. 102-0662.

The City further notes that ComEd asserts that PIRG witness Bodmer "uses inputs that are contrary to regulatory practice" and therefore should "not be considered by the Commission." ComEd IB at 304, n.30. This overly broad and vague critique of Mr. Bodmer's work should be viewed with scrutiny by the Commission. PIRG witness Bodmer raises important criticisms about the adjustments made to the beta input of the CAPM that should be considered by the Commission in order to protect ratepayers in this case. As the Commission rules on ComEd's inaugural Grid and Rate Plans, it should revisit traditionally applied assumptions to ensure they withstand the test of time. The Commission has previously recognized that "it must also consider the possibility that new evidence or research has been developed that should cause the Commission to deviate from past practices." *Cent. Ill. Light Co. d/b/a/ AmerenCILCO*, Docket No. 07-0585/07-0590 (Consol.), Order at 211 (Sept. 24, 2008).

Moreover, the City notes that numerous parties, with diverse interests, have expressed support for Staff's ROE of 8.91%. The City concurs with these parties and urges the Commission to adopt Staff's position.

As to the question of whether the ROE should be updated annually, the City concurs with the AG's read of the statute that "changes to the Company's ROE over the four-year MYRP are limited to reflecting the Company's achievement of the adopted performance metrics" and therefore the ROE should not be updated annually. AG IB at 124. A shifting ROE "could dilute the effect of the performance metric incentives, and undermine a key provision of [P.A. 102-0662]." *Id*.

Under the *Hope* and *Bluefield* standard, it is the "impact of the rate order which counts." *Hope*, 320 U.S. at 602. Here, multiple benchmarks further corroborate Staff's end result, demonstrating that the impact of its position is just and reasonable. First, the average of the ROE positions submitted in this case is 8.89%, within two basis points of Staff's position. *See* ComEd Ex. 39.0 at 4, fig. 1 (summarizing the recommended ROEs, including Graves at 10.50%, McNally at 8.91%, Gorman at 9.40%, Bodmer at 6.50%); *see also* Walmart Ex. 1.0 at 4:77-79 (showing Kronauer's position of 9.14%).

The result is further supported by a comparison to national averages, which the Commission has looked to in the past. Docket No. 18-1775, Order at 120 (noting that the awarded ROE is "consistent with the national average award"). Testimony by Walmart witness Kronauer shows that the national average of awarded ROEs is 9.14%, within twenty-three basis points of Staff's position. Walmart IB at 5 (*citing* Walmart Ex. 1.0 at 4). Here, a lower than average ROE is warranted given the unique regulatory environment of Illinois. *See, e.g.,* Walmart IB at 9; JNGO IB at 57; AG IB at 122; ICCP IB at 44.

In addition, ComEd's own testimony in this proceeding demonstrates that Staff's recommended 8.91% falls well within the range of reasonableness. Mr. Graves' full range of ROE results spans from 7.90% to 11.91%. *See* ComEd Ex. 14.0 at 6. Staff's recommendation is over 100 basis points higher than the 7.90% shown in Mr. Graves' chart. Setting aside the inflated CAPM results, Mr. Graves' summary of constant-growth DCF results further underscores the reasonableness of Staff's position.

Notably, Staff's recommendation exceeds all of the results in the "low" column, which Mr. Graves finds not to be appropriate. ComEd Ex. 39.0 at 43. All of these corroborating benchmarks further show that Staff's recommendation is just and reasonable and should be adopted by the Commission.

The City concludes that ComEd has not met its burden of proof to justify a 265 basis point increase to its ROE. Consistent with its obligation to "protect customers against bearing the cost of unreasonable returns through higher rates" (Docket No. 20-0308, Order at 168), the City urges the Commission to set a just and reasonable ROE in this proceeding significantly lower than the 10.50% requested by ComEd.

7. ICCP's Position

ICCP request that the Commission adopt Mr. Gorman's recommended 9.40% ROE, which achieves the careful balance of shareholder and consumer interests that the Act, established Commission practice, and Court precedent require. The Commission should reject ComEd's proposed ROE, which would escalate by 5 basis points each year from 10.50% in 2024 to 10.65% in 2027. ComEd Ex. 14.0 at 3. ComEd's requested ROE drastically overstates the Company's cost of capital and would impose exorbitant costs on ratepayers for no purpose other than to increase ComEd's profit margins. For the reasons stated below, Mr. Gorman's recommended 9.40% ROE would fully support ComEd's finances, credit, and ability to attract capital at a lesser cost to ratepayers and thus should be adopted.

Moreover, Section 9-201(c) of the Act obligates the Commission to set just and reasonable rates. 220 ILCS 5/9-201(c). The Act's stated purpose is to "prevent exorbitant rates and unjust discrimination and undue preferences in rates" and to protect consumers. *Springfield Gas & Elec. Co. v. Springfield*, 126 N.E. 739, 744 (1920). The ROE is to be set no higher than necessary to meet the standards in *Hope* and *Bluefield*. As *Hope* noted, "fixing just and reasonable rates involves a balancing of investor and consumer interests." *Hope*, 320 U.S. 591, 603.

Further, the General Assembly repeatedly referenced throughout P.A. 102-0662 the need for the Commission to emphasize rate affordability in every aspect of its review of an electric utility's proposed MYRP. 220 ILCS 5/16-108.18(a)(6). P.A. 102-0662 includes multiple mandates for the Commission to consider delivery rate affordability and the cost-effectiveness of proposed expenditures. *See, e.g*., 220 ILCS 5/16-108.19(a)(6), (6)(f), and (6)(h).

In evaluating relevant credit market trends as context for determining a reasonable ROE for ComEd, ICCP witness Gorman started by reviewing commission-authorized ROEs for electric and gas utilities across the country. ICCP Ex. 4.0 at 7-8:Fig. 1. Mr. Gorman observed that average authorized gas and electric utility ratemaking ROEs ranged from 9.39% to 9.78% from 2014 through 2022, and since 2020, these averages have remained at or below 9.50%. *Id*. at 7-8. Mr. Gorman's testimony illustrates a strong downward trend in average authorized ROEs since 2010. *Id*. at 8:Fig. 1.

Mr. Gorman's testimony further illustrates the upward trend in utility capital expenditures, showing just how effective utilities have been in attracting capital. *Id*. at 10:Fig. 2. This strong, stable upward trend in utility capital expenditures has driven, and is expected to continue to drive, shareholder value, making utility securities a strong, stable investment. *See id*. at 10. Robust rate base expenditure growth, fueling growth in shareholder profits, casts serious doubt on any utility company's claim to need an increased ratemaking equity ratio or return. To the contrary, ICCP opine that this data highlights the need for regulators to consider whether currently authorized equity ratios and returns are more costly to ratepayers than is necessary to support a utility's finances and should be reduced. *See id*. at 10.

ICCP further explain that regulated utility equity securities valuations have supported access to equity capital as well. *Id*. at 11-12. Mr. Gorman cited a long record of various valuation metrics tracked by Value Line demonstrating this point. *Id*. at 11-12. Further, averages of market-to-book ratios for the electric and gas utilities indicate that utilities have access to external capital markets under favorable conditions and at low costs. *Id*. at 12.

Market data also show utilities are especially stable investments. Utilities quarterly stock values have been much more consistent and less responsive to market shocks than the S&P 500 as a whole. *Id*. at 12-13. This finding is especially striking, ICCP state, in light of the fact that the S&P 500 is a diversified market index across dozens of sectors. That utilities stocks have been more stable than a diversified aggregate shows just how reliable an investment the sector is. Fittingly, regulated utilities have maintained investment grade credit strength and financial integrity for many years. *Id*. at 13.

Next, Mr. Gorman reviewed the impact of the Federal Reserve's actions on credit markets and related expectations. *Id*. at 15-21. Mr. Gorman cited Federal Reserve statements and consistent monetary policy actions that reflect and respond to macroeconomic indicators that are relatively strong across the board with the exception of ongoing, but softening more recently, concern about inflation. *Id*. at 15-17. The Federal Reserve has stated it does not anticipate cutting rates this year, but Blue Chip Financial Forecasts projects that inflation will return to the Federal Reserve's stated target level by the end of the third quarter of 2024. *Id*. at 17. Thus, while inflation risk is real and relevant, current market figures already reflect that reality, and the consensus expectation of independent economists is that inflation will abate, likely triggering Federal Reserve rate cuts, by the end of the first year of the MYRP period. *Id*. 30-year Treasury bond yield projections reflect this positive outlook into the intermediate to longer term. *Id*. at 19-21.

Mr. Gorman concluded his market overview with an analysis of market sentiments and utility industry outlook. Mr. Gorman found that one concern stood out consistently throughout the reports of S&P, Moody's, and Fitch Ratings: credit analysts are concerned about utility tariff rate affordability. *Id*. at 21-24. These independent analysts cite as the drivers of rate affordability concerns commodity costs, inflation, and recent interest rate hikes-which are not within ComEd's control-and rate base growth fueled by large capital expenditure programs, which is directly within ComEd's control and is a subject of much controversy in this proceeding. *See id*. at 21. In addition to being a central policy focus of P.A. 102-0662, rate affordability also raised concern among credit analysts because if customers struggle to pay their bills, that can negatively impact a utility's financial integrity and place pressure on its credit rating. *See id*.

Mr. Gorman then evaluated ComEd's investment risk specifically. ComEd's current corporate bond ratings from S&P and Moody's are BBB+ and A3, respectively. *Id*. at 25. The Company's outlook rating from S&P is "Positive;" and from Moody's it is "Stable." S&P found that it expects ComEd to meet its obligations under the Company's deferred prosecution agreement, that as a regulated utility ComEd has very low business risk, and that Illinois' regulatory framework for electric utilities under P.A. 102-0662 shields the Company from adverse weather and conservation impacts to revenue, enhances rate predictability, reduces regulatory lag, and limits ComEd's financial risk overall. *Id*. at 25-27. S&P also noted it considers ComEd highly unlikely to be sold, as the Company plays an integral role in Exelon's overall strategy and Exelon senior management has shown a strong long-term commitment to ComEd. *Id*. at 27. Taken together, ICCP opines that all these factors support Mr. Gorman's conclusion that the utility sector in general, and ComEd in particular, show especially strong financial health, credit stability, and ability to attract capital, while authorized ROEs have declined. It also supports Mr. Gorman's conclusion that the MYRP framework contributes even more to an already bright outlook for ComEd's ability to finance its capital projects at a reasonable cost to customers, provided the Company exhibits prudent management.

ICCP call to the Commission's attention that the MYRP regulatory framework includes several features that reduce ComEd's financial risk and support the Company's financial health, credit ratings, and ability to attract capital at a lower cost than would otherwise be necessary. ICCP Ex. 4.0 at 5-6. The MYRP framework reduces regulatory lag and provides rate certainty for four years instead of one, and annual reconciliation and decoupling provisions shield ComEd from cost recovery and investment risk. *Id*. at 6. S&P cited these features in finding that they expect the MYRP "may boost cash flow predictability" and declaring a positive bond rating outlook, potentially supporting a credit rating upgrade, for ComEd. *Id*.

In response to ComEd's argument that its risk is increased by P.A. 102-0662 providing "only" an allowance for recovery of 5% more than the Company's revenue requirement, ICCP maintains that this provision of P.A. 102-0662 is generous. ICCP explain that it allows ComEd to recover and retain more revenue from ratepayers than the Commission approved and makes the Company whole if it undercollects. *See* 220 ILCS 5/16-108.18(f)(6)(A)(i).

ICCP's ROE Analysis

ICCP request that the Commission approve the 9.40% return on common equity proposed by ICCP witness Gorman. Mr. Gorman's recommended ROE is, as U.S. Supreme Court precedent requires, "reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties." *Bluefield*, 262 U.S. at 693.

DCF

The first of several methodologies Mr. Gorman employs to estimate ComEd's cost of equity is the DCF model. ICCP Ex. 4.0. at 41-50. The DCF approach calculates a stock price by summing the present value of expected future cash flows, discounted at the investor's required rate of return or cost of capital. To ensure a robust analysis, Mr. Gorman applied three different forms of the DCF model: constant growth, sustainable growth, and multi-stage growth.

ICCP explain that the inputs for the constant growth DCF model are current stock price, expected dividend, and expected growth rate in dividends. *Id*. at 42. For stock price, Mr. Gorman used the average of the weekly high and low stock prices of the Proxy Group utilities over a 13-week period ending April 28, 2023. *Id*. at 43. Mr. Gorman found that a 13-week average was long enough to reduce susceptibility to transitory market price fluctuations and also recent enough to reflect current market expectations. *Id*.

Mr. Gorman's constant growth DCF model input for expected dividends was the proxy group's most recently paid quarterly dividends as reported in Value Line. *Id*. at 44. To estimate expected growth in dividends for the constant growth DCF model, Mr. Gorman relied on the mean of estimates of independent securities analysts. To calculate analyst consensus expected growth rate, Mr. Gorman calculated the mean of the most recent projections from Zacks, Market Intelligence, and Yahoo! Finance that were available at the end of the 13-week sample (on April 28, 2023). *Id*. Mr. Gorman weighted each of these analyst forecasts equally, as he saw no reason to treat any one of them as more or less credible than the others. This method yielded an average growth rate for the Proxy Group of 6.11%. *Id*. at 45.

Further, Mr. Gorman used a quarterly compounding adjustment, to reflect the Commission's past decisions, but he disagreed with this practice because it improperly inflates the estimated cost of equity. *Id*. at 42-43. Mr. Gorman explained that including the quarterly compounding adjustment in the authorized returns used to set rates allows investors to earn that quarterly compounding return twice. ComEd's revenue requirement is overstated as a result. As such, Mr. Gorman argues his constant growth DCF model overestimates ComEd's actual cost of equity. *Id*. at 43.

Taken together, the average and median returns of Mr. Gorman's constant growth DCF model for the proxy group over the 13-week timeframe yielded were 10.01% and 10.04%, respectively. However, the 6.11% growth rate the constant growth DCF model relied upon exceeds Mr. Gorman's estimate of a maximum long-term sustainable growth rate (4.00%), necessitating the use of DCF models with long-term adjusted growth rates to correct for this issue. *Id*. at 45-47.

To determine his maximum long-term sustainable growth rate, Mr. Gorman applied the findings of academic literature that "[o]n average over long periods of time, the growth rate is most accurately approximated by the long-term growth rate outlooks of the U.S. GDP." *Id*. at 48. Academic and market practitioner findings alike corroborated this finding. *Id*. at 52-57. Based on these findings, Mr. Gorman relied on the Blue Chip Economic Indicators five-year and ten-year forecast U.S. nominal GDP annual growth rate of 4.0%. *Id*. at 48.

Mr. Gorman then synthesized the short-term and long-term approaches into a multi-stage growth DCF model. *Id*. at 51-58. To bridge the gap between the two growth rate periods, Mr. Gorman used growth rates of 6.11% for the first 5 years (short-term) and 4.0% for year 11 and beyond, and he derived growth rates for years 6 through 10 by simply graphing the line between these two endpoints. Mr. Gorman's multi-stage DCF model produced average and median return on equity for the proxy group over the 13-week period of 8.37% and 8.36%, respectively. *Id*. at 58.

Based on the spread of DCF model results he evaluated, Mr. Gorman determined that the DCF approach supported an ROE within the range of 8.40% to 10.00%, with a midpoint of 9.20%. *Id*. at 58-59.

Risk Premium

The risk premium model is based on the premise that investors require a higher return to assume greater risk. Common equity investments have greater risk than bonds because bonds have more security of payment in bankruptcy proceedings than common equity and the coupon payments on bonds represent contractual obligations. In contrast, companies are not required to pay dividends or guarantee returns on common equity investments. Therefore, common equity securities are considered to be riskier than bond securities. *Id*. at 59-60.

This risk premium model is based on two estimates of an equity risk premium. *Id*. at 60. Mr. Gorman calculated his first risk premium as the difference between commission-approved ROEs across the country and contemporary U.S. Treasury bonds for each year from 1986 through 2022. *Id*. This produced an average risk premium of 5.71% across the entire period. *Id*. at 61. Using either the 5-year or 10-year rolling averages to smooth out outlier years yielded an average of 5.68%. *Id*. Mr. Gorman based his second risk premium on the difference between regulatory commission-approved ROEs and the yields of contemporary utility stocks that were rated "A" by Moody's, for the same timeframe. This method yielded an overall average of 4.35% and 5- and 10-year rolling averages of 4.33% and 4.32%, respectively. *Id*. at 60-61.

Mr. Gorman chose 1986 through 2022 because public utility stocks consistently traded at a premium to book value during that period, so as not to risk underestimation and the period is long enough for averages to mitigate the impact of extreme individual data points. *Id*. at 60. Mr. Gorman also compared utility bond yield spreads over Treasury bonds to the same metric for corporate bonds more generally and found that contemporary risk premiums largely align with long-term historical averages. *Id*. at 62-63.

Based on these analyses, Mr. Gorman found the risk premium model, applied to market data, supported an ROE between the results for Treasury bond yield spreads (9.4%) and for "A" rated bond yield spreads (9.6%), with a midpoint of 9.5%. *Id*. at 65-66.

CAPM

The CAPM applies the premise that the market-required ROE for a security is equal to the risk-free rate, plus a risk premium associated with the specific security. *Id*. at 66-67. The stock-specific risk term is referred to as a "beta" coefficient. *Id*. at 67. The beta represents the utility security's "non-diversifiable" risk, that is, the investment risk that cannot be diversified away when the security is held in a diversified portfolio. Non-diversifiable risks also are referred to "systematic" risks. They are market risks that transcend anything the utility's management can control. CAPM assumes the market will only compensate investors for these non-diversifiable risks that beta represents. *Id*.

Mr. Gorman estimated the market risk-free rate as the current 30-year Treasury bond yield (3.74%), which closely resembles Blue Chip Financial Forecasts' projected 30-year Treasury bond yield (3.70%). *Id*. at 68. Mr. Gorman relied on long-term Treasury bond yields because the backing of the full faith and credit of the U.S. government makes Treasury bonds an especially low-risk investment. However, Mr. Gorman noted that Treasury bond yields include risk premiums related to unanticipated future inflation and interest rates. In this regard, a Treasury bond yield is not a risk-free rate. *Id*. Risk premiums related to unanticipated inflation and interest rates reflect systematic market risks. Consequently, for companies with betas less than 1.0, Mr. Gorman cautions that using the Treasury bond yield as a proxy for the risk-free rate in the CAPM analysis can overstate the CAPM return. *Id*. at 68-69.

For his CAPM beta, Mr. Gorman looked first to the current average beta of his proxy group, 0.89. *Id*. at 69. Mr. Gorman found this beta to be historically elevated, as compared to the normalized historical beta estimate of 0.76 for his Proxy Group, which

Mr. Gorman's review of observable market data suggest reflects lingering impacts from the market disruption of the COVID-19 pandemic. Mr. Gorman corrected for this outlier data point by using instead a historically normalized beta of 0.76, which is still at the high end of historical average betas for his proxy group (roughly 0.65 to 0.75). *Id*. at 72. Company witness Graves objected to Mr. Gorman's beta normalization adjustment, but in doing so, Mr. Graves failed to substantively rebut any of Mr. Gorman's stated and well-supported bases for doing so. ICCP Ex. 8.0 at 16-17.

Mr. Gorman derived his two market risk premium estimates from: (1) a forward-looking projection; and (2) a long-term historical average. ICCP Ex. 4.0 at 72. He estimated the expected return on the S&P 500 by adding an expected inflation rate to the long-term historical arithmetic average real return on the market. Mr. Gorman explained that the real return on the market represents the achieved return above the rate of inflation. ICCP explains that the market risk premium is the difference between the 11.40% expected market return and Mr. Gorman's 3.70% risk-free rate estimate, or 7.70%, which Mr. Gorman referred to as a normalized market risk premium. *Id*.

Mr. Gorman also developed a current market risk premium based on the difference between the expected return on the market of 11.40% and the current 30-year Treasury yield of 3.74%, which came out to approximately 7.67%. *Id*. at 72-73. Mr. Gorman also calculated a historical estimate of the market risk premium by using data provided by Kroll, Inc. ("Kroll") in its 2023 SBBI Yearbook. *Id*. at 73. For 1926-2022, the Kroll study estimated that the average of the achieved total return on the S&P 500 was 12.0% and the total return on long term Treasury bonds was 5.6%, which indicated a market risk premium of 6.4%. The long-term government bond yield of 5.6% occurred during a period of inflation of approximately 3.0%, which he found to imply a real return on long-term government bonds of 2.6%. *Id*. ICCP stressed that because Kroll measured its market risk premiums over a 20-year Treasury bond and Mr. Gorman used 30-year Treasury bond yield spreads, the results of Mr. Gorman's CAPM analysis should be considered conservative (i.e., more generous to the utility) estimates for the cost of equity. *Id*. at 75.

Applying the normalized beta, projected risk-free rate, and projected market return Mr. Gorman derived as described above, his CAPM analysis produced an ROE of approximately 9.60%. *Id*. at 75-76.

Response to ComEd's ROE Analysis

ICCP notes that ComEd witness Graves recommends an ROE of 10.50% in 2024, escalating by 5 basis points each year until it reaches 10.65% in 2027. *See* ComEd Ex. 14.0 at 3. Mr. Graves arrived at this range by a series of unreasonable assumptions and methodological choices that consistently pushed his estimated ROE in the same direction: upward. A 10.50% to 10.65% ROE would be a boon to ComEd's shareholders, but the exorbitant financing cost it would impose on the Company's ratepayers greatly exceeds any reasonable estimate of the actual cost of equity and is unnecessary to support ComEd's credit and financial health.

In addition to finding no basis for ComEd's requested annual ROE escalation, Mr. Gorman testified that Mr. Graves' excessive ROE estimate owes to at least four factors: (1) a DCF result based on unsustainably high assumed growth rates; (2) a CAPM study based on inflated market risk premiums; (3) improper use of both an ECAPM and an adjusted beta together; and (4) CAPM and risk premium studies based on highly uncertain projected interest rates. ICCP Ex. 4.0 at 82. Mr. Graves' analysis supports Mr. Gorman's proposed 9.40% ROE once these methodological errors are corrected. *Id*. at 82-83.

ICCP also note that ComEd requests an incremental ROE adder of 5 basis points in each successive year of the MYRP, based on Company witness Graves' unfounded assumption that interest rates and inflation will increase during this period. As Mr. Gorman pointed out in testimony, this proposed adder is redundant because current market security valuations already include consideration for expected market uncertainty in the next few years. ICCP Ex. 4.0 at 4. Further, the consensus of credit market participants is that the use of an MYRP provides additional credit support compared to the status quo regulatory regime, mitigating the Company's cost recovery risk and eliminating any potential need for ComEd's requested incremental adder. If anything, the MYRP framework supports the application of an annual ROE decrement. The Commission should reject ComEd's requested annual ROE adder accordingly. *Id*.

DCF

ICCP explains that Mr. Graves' constant growth DCF model relied on current growth rates published by Yahoo! Finance and Zacks and individual growth rate projections by Value Line. *Id*. at 87. This approach yielded average and median growth rate estimates for his proxy group of approximately 5.83% and 5.81%, respectively. Mr. Gorman produced academic and market practitioner research showing that market projections cannot reasonably assume a growth rate significantly exceeding that of the economy in which the business operates. *Id*. at 88. For ComEd, this sustainable growth rate is 4.0%, the forecast growth rate of U.S. GDP. Using a multi-stage DCF model corrects for this unreasonable assumption. Mr. Gorman applied Mr. Graves' estimate of current growth rate as the short-term (years 1 to 5) growth rate, input the 4.0% U.S. GDP growth rate forecast as the long-term (beyond year 10) growth rate, and bridged the gap between these figures for the mid-term (years 6 to 10) linearly. *Id*. at 85. Thus, applying the same approach Mr. Gorman utilized but with Mr. Graves' current growth rate figures, yielded mean and median ROE results in the range of 8.20% to 8.60%, with a midpoint (8.40%) 100 basis points lower than Mr. Gorman's proposed ROE (9.40%). *See id.* at 85. What is more, even Mr. Graves's inflated DCF ROE estimate using an unreasonably high sustainable growth rate produced an ROE range of 9.33% to 9.65%, which includes Mr. Gorman's recommended 9.40%. *See* ICCP Ex. 8.0 at 4. ICCP speculates that this is why Mr. Graves excluded his DCF analysis in determining his ROE recommendation.

CAPM

ComEd witness Graves calculated his CAPM estimates using a proxy group average beta estimate of 0.87 from Bloomberg and a historical Value Line beta estimate of 0.73. *Id*. at 89. Taken together with his market risk premium range of 8.70% to 8.86%, current and near-term projected risk-free rates of 4.06%, and a long-term projected risk-free rate of 3.90%, Mr. Graves calculated high CAPM returns in the range of 10.35% to 11.62%. *Id*. ICCP state that the highest of Mr. Graves' CAPM estimates resulted from his use of Bloomberg's current 0.87 beta. *Id*.

Mr. Gorman highlighted two major flaws in ComEd's CAPM analysis. First, Mr. Graves' CAPM analysis assumed a sustainable market growth rate of 10.82%, which is nearly triple the 4.0% forecast growth of U.S. GDP. This unreasonably high assumed sustainable growth rate inflated Mr. Graves' CAPM estimate, significantly undermining the evidentiary weight of his analysis. *Id*. at 90-91. Second, Mr. Graves unreasonably relied on a projected risk-free rate based on the 30-year Treasury bond yield for 2024 to 2028. Long-term projections are highly uncertain and unlikely to reflect the MYRP period cost of capital and accordingly should not be relied upon. This figure also contradicts Mr. Graves' chosen long-term projected risk-free rate and current risk-free rate and, even more so, the current and projected 30-year Treasury bond yields Mr. Gorman incorporated into his analysis. *Id*. at 92

For all these reasons, a reasonable CAPM analysis should base market risk premium on current observable market bond yields. Mr. Gorman calculated that correcting Mr. Graves' CAPM to use a current and projected risk-free rate that reflects contemporary Treasury bond yields (3.70%) and Mr. Graves' historical Value Line beta of 0.73 rather than the outlier figure 0.87 produces an ROE estimate of approximately 9.32%. *Id*. at 93. ICCP point out that this result closely resembles Mr. Gorman's recommended ROE of 9.40%.

ECAPM

Mr. Graves also conducted an ECAPM analysis, which modifies the CAPM equation in an attempt to correct supposed deficiencies in the CAPM model. The significant problem with this choice is Mr. Graves also used an adjusted Bloomberg and Value Line beta in his analysis, inconsistent with Commission practice and academic research. ICCP Ex. 4.0 at 94, 97. The weighting adjustments applied in the ECAPM are mathematically the same as adjusting beta since the inputs are all multiplicative. *Id*. at 94-96. Thus, the end result of using the adjusted betas in the ECAPM is essentially an expected return line that has been flattened by two duplicative adjustments. *Id*. In addition to the obvious and biased flaws inherent in his analysis as being reason enough for this Commission to reject Mr. Graves' ECAPM analysis and its results, the Commission should look to its previous Order on the matter. *See Ill.-Am. Water Co*., Docket No. 11-0767, Order at 109 (Sept. 19, 2012).

Bond Yield Plus Risk Premium

ICCP further opines that ComEd witness Graves improperly based his Bond Yield Plus Risk Premium analysis on an assumed simplistic linear inverse relationship between equity risk premiums and interest rates without any regard for differences in investment risk. ICCP Ex. 4.0 at 98. However, while interest rates certainly are a relevant factor in assessing current market equity risk premiums, the risk premium ties more specifically to the market's perception of investment risk of debt and equity securities, and not simply changes in interest rates. *Id*. at 99-100. Further, Mr. Graves' reliance on long-term projected interest rates introduces a significant level of uncertainty and should be viewed with skepticism. *Id*. at 101. Correcting Mr. Graves' overly simplistic inverse relationship methodology and adding his average equity risk premium over Treasury bonds of 5.95% to an updated near-term projected Treasury yield of 3.70% published by independent economists, which again is almost identical to the current 30-year Treasury yield of

3.74%, produces an ROE estimate no higher than 9.75%. *Id*. This figure is much closer to Mr. Gorman's recommended 9.40% than it is to any of ComEd's four escalating proposed ROEs.

Risk Adjustment

In response to ComEd's proposed adder to ROE to reflect regulatory risk, capital expenditure requirements, and environmental risks, Mr. Gorman testifies that there is no need for such an adder, as the risks ComEd faces already are baked into the Company's credit ratings. ICCP Ex. 4.0 at 102. ComEd's credit ratings resemble those of the proxy group, demonstrating that analyses based on a review of the proxy group already reflect similar risks without a need for an arbitrary adjustment. Further, Mr. Graves' assertion that ComEd has a uniquely greater risk burden than the proxy group is based on an incomplete picture, wherein Mr. Graves emphasizes every risk ComEd faces while ignoring that proxy group utilities face the same risks and more, and ComEd enjoys several risk-mitigating regulatory benefits under the Act. *Id*. at 102-103.

In light of these factors, the Commission should reject ComEd's request for an overstated 10.50% to 10.65% escalating ROE in favor of Mr. Gorman's more reasonable recommended ROE of 9.40%. Mr. Gorman's recommendation is based on the most robust analysis and the most fair, evenhanded approach to divergent factors and market uncertainties. Mr. Gorman illustrated this point by correcting Mr. Graves' unreasonable methodological choices and giving weight to all of the resulting model estimates yields a range of 9.33% to 10.4%, with a midpoint estimate of approximately 9.55%, only 15 basis points higher than Mr. Gorman's recommended ROE. ICCP Ex. 8.0 at 4.

Response to Staff's ROE Analysis

ICCP witness Gorman opined that Staff witness McNally's approach, to utilize the same risk premium methodology that determined ComEd's ROE under the FRP, to be a reasonable alternative. ICCP Ex. 8.0 at 30. He testified that, "[he] considers a holistic approach incorporating multiple models to be more analytically sound and more resistive to the influence of outlier data points." *Id.* ICCP concur with Mr. Gorman's conclusion and encourage the Commission to consider Staff witness McNally's recommended approach to determining ComEd's ratemaking ROE alongside Mr. Gorman's.

ICCP add that while Mr. McNally's proposed approach to update ComEd's ROE annually for current market data via a formula approach is reasonable, fair to the Company and its ratepayers and investors, and further guards ComEd against financial downside risk, it raises a legal question of first impression for the Commission. The formula rates law required such an annual update, but it has since been replaced by P.A. 102-0662's MYRP framework. P.A. 102-0662 neither explicitly requires annual ROE updates nor clearly prohibits them. The Act provides both for the determination of four years of annual revenue requirements in this proceeding and also for revenue adjustments in annual reconciliation proceedings. *See* 220 ILCS 5/16-108.18(d)(3)-(4), (f), (h).

ICCP recognize that this proceeding presents a matter of first impression as to whether the Act provides for the MYRP to include annual updates to ROE via the corresponding reconciliation proceedings. If the Commission finds that the Act requires that the ROE to apply to each of the MYRP test years must be determined in the immediate proceeding, ICCP support the adoption of Staff's recommended 2024 Test Year ROE of 8.91% throughout the MYRP period.

ICCP also support Mr. Gorman's recommended ROE of 9.40% as reasonable. However, U.S. Supreme Court precedent and established Commission practice have made it clear that the Commission is to adopt an ROE no greater than necessary to support the Company's financial health and access to capital. Given both Staff's and Mr. Gorman's recommended ROEs are sufficient to support such a finding, ICCP recognize Staff's recommended 8.91% ROE as the least costly to ratepayers and therefore conclude that applicable law supports Staff's recommendation.

ICCP also offered a correction to Staff's traditional CAPM analysis. ICCP argues that since Staff's market return analysis includes all growth rates between -30% and 30%, it includes outlier high-end growth rates which overstate the market return. Because Staff's analysis includes more companies with high-end growth rate outliers than low-end growth rate outliers, the market return is skewed to the high side. ICCP recommend limiting the growth rates to two standard deviations around the mean growth rate of the population of companies, which is about 0% to 20%. ICCP Ex. 8.0 at 26. ICCP note that correcting Staff's market return to include on growth rates between 0% and 20% results in a market return of 11.48%.

For these reasons, ICCP support applying Staff's proposed 8.91% ROE for 2024 to the entirety of the MYRP period, and in the alternative, adopting Mr. Gorman's recommended ROE of 9.40%.

8. JNGO's Position

JNGO explain that until 2011, the Commission relied on a traditional cost-of-service approach to ratemaking for electric utilities. This approach put the risk arising from future contingencies—such as an unexpected increase in costs or a decline in sales—almost entirely on the utility. A utility's ROE compensated the company's investors for that risk. For many years, the Commission relied on a variety of financial models that sought to determine the ROE that would provide reasonable compensation for a utility's risk.

In 2011, the General Assembly enacted the EIMA, under which electric utilities could elect to establish ten-year FRPs, with annual true-ups to ensure that revenues covered costs. ComEd elected to do so, beginning in 2012. While reducing utilities' risks, the FRP under EIMA also established a new method for calculating the rate of return. Rather than rely on complex financial models, the Commission would set a utility's cost of equity equal to average 30-year Treasury yields plus 580 basis points. 220 ILCS 5/16-108.5(c)(3). The Commission could further apply penalties totaling a maximum of 38 basis points to this calculated rate based on the utility's success in meeting eight performance metrics set forth in EIMA. ComEd's ROE under its most recent FRP was 7.85%.

Similar to the FRP under EIMA, the four-year MYRP allows ComEd to conduct an annual true-up in which it reconciles revenues and costs. 220 ILCS 5/16-108.18(f)(6). As

Staff witness McNally explains, “the MYRP reconciliation process effectively shifts risk from the Company to ratepayers.” Staff Ex. 4.0 Rev. at 48.

In addition to the annual true-up process, P.A. 102-0662 directs the Commission to establish cost of equity incentives to “better tie utility revenues to performance and customer benefits, accelerate progress on Illinois energy and other goals, ensure equity and affordability of rates for all customers, including low-income customers, and hold utilities publicly accountable.” 220 ILCS 5/16-108.18(e)(1). These incentives may add up to a total of 60 basis points, 220 ILCS 5/16-108.18(e)(2)(B), and are part of a comprehensive “performance-based ratemaking framework,” 220 ILCS 5/16-108.18(c). That framework accomplishes nine different performance objectives, which include improving reliability, decarbonizing utility systems, and maintaining affordability for all customers. Within this framework, P.A. 102-0662 grants the Commission wide latitude to set the cost of equity for electric utilities “consistent with Commission practice and law.” 220 ILCS 5/16-108.18(d)(3)(B).

In requesting a 265-basis-point increase to its ROE, JNGO state that ComEd asks the Commission to do something it has not done at any time in the past 30 years. JNGO maintain the Commission has not approved an ROE increase of more than 100 basis points for ComEd at any time in the last 30 years. Nor has the Commission approved an ROE increase of more than 100 basis points for Ameren since that Company formed via a merger in the mid-nineties. The largest increase the Commission has approved for either company was 92 basis points, in ComEd’s 2001 rate case. The Company’s proposal in this case would nearly triple that figure. Likewise, the Commission has not approved an ROE of more than 10.5% since 2001. JNGO state that the higher Commission-approved rates in the 1990s and 2000s came at a time when treasury rates were much higher and electric utilities faced a far higher level of business risk than they do today. Recent reforms in the state have obviated the need for such high ROEs.

The high cost of the Company’s proposed ROE would make it more difficult for the Commission to achieve P.A. 102-0662’s objectives. For one thing, the proposed ROE would make rates less affordable for customers, undermining one of P.A. 102-0662’s central legislative purposes. Section 108.18(c)(5) states that the Commission’s performance-based ratemaking framework should “maintain the affordability of electric delivery services for all customers, including low-income customers.” 220 ILCS 5/16-108.18(c)(5). Similarly, Section 108.18(a)(8) explains that the Commission’s “comprehensive performance-based regulation framework” for large electric utilities should “efficiently achieve current and anticipated future energy needs of this State, while ensuring affordability for consumers.” 220 ILCS 5/16-108.18(a)(8).

Because it makes rates less affordable for customers, JNGO argue the proposed 265-basis-point increase to the ROE would also make it more difficult to meet P.A. 102-0662’s other objectives. Section 108.18(c)(2) requires performance-based ratemaking to “decarbonize utility systems at a pace that meets or exceeds State climate goals, while also ensuring the affordability of rates for all customers, including low-income customers.” 220 ILCS 5/16-108.18(c)(2). The Company maintains that meeting decarbonization goals will require costly investments in ComEd’s system in order to accommodate electric vehicles, distributed energy resources, and electrification. For example, ComEd witness Donnelly, in response to the AG’s contention that ComEd is overinvesting in its distribution system in the name of grid readiness and electrification, states that the Company is “committed to preparing the distribution grid for changes that are coming as a result of advancements in technology, changes in climate patterns and other threats to reliability, and decarbonization efforts.” ComEd Ex. 22 at 7. According to JNGO, an excessive ROE will increase the cost to ratepayers of any grid investments necessary to accommodate EV, DER, and electrification.

Moreover, ComEd’s proposed 265-basis-point increase would dwarf the performance incentives that constitute a key part of P.A. 102-0662’s ratemaking framework. Those incentives can total no more than 60 basis points in a given year. 220 ILCS 5/16-108.18(e)(2)(B). While the proposed increase would not necessarily render those incentives completely irrelevant, JNGO assert it would reduce their significance to ComEd and limit their effectiveness.

JNGO do not contend that the Commission should never approve any ROE increase under P.A. 102-0662. Rather, the utility proposing a substantial ROE increase should explain how the proposed ROE will further the objectives of P.A. 102-0662 and provide evidence supporting that position. For example, an electric utility could provide evidence that, absent a major ROE increase, it might have difficulty raising capital necessary for its planned investments under a MYRP. ComEd provides no such evidence; rather, JNGO argue, the record in this case supports a finding that ComEd’s financial position has remained strong at its current ROE of 7.85%.

ComEd supports its proposal to increase its ROE by 265 basis points with the very same financial analyses that ComEd used under the traditional ratemaking regime in the 2007 rate case, prior to the passage of EIMA and P.A. 102-0662, including DCF, CAPM, ECAPM, and the risk premium approach. ComEd witness Graves’ analyses produce a range of results spanning more than 400 basis points, from 7.9% on the low end to 11.91% on the high end. From this vast range of results, ComEd witness Graves picks 10.0%-11.0% as the “relevant range” because that range represents the models’ “area of overlap.” ComEd Ex. 14.0 at 7. He recommends the midpoint of that range, 10.5%, as ComEd’s proposed ROE. ComEd Ex. 14.0 at 8.

JNGO opine that ComEd does not provide persuasive evidence that the proposed 265-basis-point increase is necessary to maintain ComEd’s financial integrity. While ComEd witness Graves testifies on direct that the proposed 10.5% ROE “would enable ComEd to maintain its financial integrity,” ComEd Ex. 14 at 75, he does not explain why a more modest increase in the ROE would threaten the Company’s financial integrity or its ability to raise capital. Nor does he state that the current rate of 7.85% has caused or will cause the Company any financial problems.

Rather, JNGO assert, the record shows that ComEd’s financial position has improved under the FRP ROE methodology, remains stable under ComEd’s current rate of 7.85%, and should continue to remain stable under P.A. 102-0662. Staff witness McNally explains that ComEd’s credit ratings have steadily improved over the past decade, even as the Company’s ROE has remained below 9%. Staff Ex. 4.0 Rev. at 7-8. ComEd’s response to this evidence is both factually incorrect and inconsistent with its own approach to ROE. ComEd witness Graves testifies in rebuttal that “even if bond ratings have not become worse under formula rates, the lack of change is irrelevant to whether or not equity business risk is higher." ComEd Ex. 39 Corr. at 24. ComEd witness Graves is wrong; JNGO aver that changes in credit ratings are highly relevant to a company's overall risk. As Staff witness McNally explains, "credit ratings reflect the general financial health of a company. . .there is an inverse relationship between credit ratings and common equity costs." Staff Ex. 20.0 at 17. The Company's steadily improving credit ratings reflect that its general financial health has improved with recent ROEs and remains strong.

JNGO maintain that ComEd has failed to meet its burden to demonstrate that its proposed ROE increase is just and reasonable. Instead, the evidence on the record demonstrates that ComEd's financial position has been consistently strong under formula rates and will remain so under the MYRP.

JNGO explain that ComEd's approach to ROE may have been appropriate prior to the reforms of the past fifteen years. Before the passage of EIMA, electric utilities in Illinois were exposed to a multitude of risks and faced a real danger of revenue shortfalls from unexpected events. Likewise, before Illinois and other states began enacting reforms that created unique regulatory environments, it may have been easier to develop proxy groups of companies that faced similar risks. In that context, a utility might have been able to justify a large ROE increase based on a proxy group analysis and related financial models, even without providing any evidence that its current ROE is inadequate. But, JNGO argue, ComEd's proposal to increase its ROE by 265 basis points in this proceeding arises in a very different context. No evidence suggests that ComEd needs a 265-basis-point ROE increase to maintain its financial integrity. For this reason, JNGO recommend that the Commission adopt an ROE that is no higher than Staff's proposal. Maintaining ComEd's formula rate methodology would result in a rate of 8.91%, an increase of 106 basis points over the present rate. ComEd's ability to earn an additional 60 basis points in performance incentives (that were not available under EIMA) suggests that a base rate lower than EIMA's formula may be more reasonable.

To be clear, JNGO do not recommend that the Commission resurrect EIMA as a formal legal matter. Instead, they recommend that the Commission exercise its substantial discretion to set a just and reasonable rate based on the facts in the record. The record contains substantial evidence that Staff's proposed 8.91% rate would meet the standard for a just and reasonable return under *Hope* and *Bluefield*. Nothing in P.A. 102-0662 or any other statute prohibits the Commission from adopting a rate derived from the prior formula. Staff's proposal is therefore "consistent with Commission practice and law," as P.A. 102-0662 requires. 220 ILCS 5/16-108.18(d)(3)(B).

Lastly, JNGO note that P.A. 102-0662 provides the Commission with authority to adjust ComEd's ROE prior to its next MYRP should that become necessary. 220 ILCS 5/16-108.18(d)(15). Requiring ComEd to request additional ROE increases if necessary and supported by a strong factual record aligns with P.A. 102-0662's mandate that the Commission "maintain the affordability of electric delivery services for all customers, including low-income customers." 220 ILCS 5/16-108.18(c)(5). While ComEd can always pursue greater profits in future proceedings, JNGO point out that the Commission cannot reverse the cost to ratepayers of granting an unprecedented increase in the ROE in this proceeding.

9. Commission Analysis and Conclusion

In making an ROE determination, the Commission must consider competing interests. “An authorized ROE that is too low restricts the utility’s access to capital at a reasonable cost. Conversely, an ROE that is too high will result in rates that are neither just nor reasonable.” *N. Shore Gas Co*., Docket No. 20-0810, Order at 85 (Sept. 8, 2021) (*citing Bluefield*, 262 U.S. at 692; *Hope*, 320 U.S. at 603).

The Commission is presented with a wide range of proposed ROEs with a low end proposed by PIRG at 6.5%, which is also supported by the AG, to a high end proposed by the Company at 10.5% with annual increases. In the middle are: (1) Staff’s primary proposal at 8.91% (adjusted annually based on a formula rate methodology); (2) Staff’s alternate proposal of 7.05% (the midpoint of Staff’s 8.91% proposal and the 5.18% yield on 30-year high quality corporate bonds); (3) Staff’s 10.05% estimate (based on traditional ROE analyses); (4) Walmart at 9.14%; and (5) ICCP at 9.4%. Walmart and the AG do not conduct specific analyses using financial models. The Commission keeps the principles of *Hope* and *Bluefield* in mind when considering an appropriate ROE for ComEd.

Looking at the Company’s risk, ComEd suggests that the annual reconciliation that allows for recovery of its actual costs up to 105% of its approved revenue requirement contained in Section 16-108.18(f)(6)(A) will increase its risk. Importantly, the Company controls its actual costs and P.A. 102-0662 excludes from the 105% cap eight categories of volatile and fluctuating costs, including costs from storm and weather-related events, interest rate changes, and tax rate changes. Thus, the Commission finds ComEd’s argument regarding the 105% cap unconvincing. ComEd then makes the argument that the Commission should approve a higher ROE to offset any disallowances the Commission finds, as these would “artificially lower ComEd’s approved revenue requirements.” ComEd IB at 311-312. The Commission notes that this argument mischaracterizes Commission-ordered disallowances as revenue shortfalls. The Commission does not find ComEd’s claim that a higher ROE is necessary to offset disallowances credible.

As determined above in the Commission’s discussion of capital structure, a review of the evidence and the arguments of the parties shows that the Company’s risk under the MYRP will be lower than under both the FRP and traditional ratemaking. Indeed, it is most closely akin to the risk ComEd faces under its various riders. The Commission notes that ICCP points out that credit rating agency S&P specifically cited the P.A. 102-0662 framework as favorable to ComEd, stating "[w]ith the implementation of [P.A. 102-0662] starting in 2024, we anticipate that ComEd will operate under a MYRP with forward test periods which would enhance rate predictability and reduce regulatory lag." ICCP Ex. 4.0 at 26. S&P also stated that it "views the anticipated MYRP as a positive for financial measures due to enhanced rate predictability." *Id*. at 26. In addition, unlike the FRP, under which the ROE could only be adjusted downward for failure to achieve certain performance metrics, the return on equity under the MYRP may be adjusted upward or downward based on ComEd's ability to achieve various performance metrics. Staff Ex. 4.0(R) at 41-42.

With this in mind, the Commission turns to the question of whether Staff's recommendation to adopt the ROE calculated based on the EIMA formula rate is consistent with Section 16-108.18 of the Act, which directs the Commission in this initial MYRP to determine a "cost of equity . . . consistent with Commission practice and law." 220 ILCS 16-108.18(d)(3)(B). Pursuant to the formula rate law, which has since sunset, Section 16-108.5(c)(3), directs the Commission to:

> Include a cost of equity, which shall be calculated as the sum of the following: (A) the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication; and (B) 580 basis points.

220 ILCS 16-108.5(c)(3).

Staff concludes that the MYRP is more similar to the FRU than traditional ratemaking, because, like the FRU, the new MYRP paradigm will "accelerate recovery of capital costs, which reduces regulatory lag and gives the utility greater certainty of cost recovery relative to the FRP." Staff Ex. 4.0REV at 42. The Commission agrees that the MYRP does have those characteristics. The MYRP, however, does not mimic the FRU statutory construct in its directive to calculate ROE. Whether the MYRP is more like FRU than not, the Commission is bound by the language in Section 16-108.18 of the Act. The plain language of subsection (d)(3)(B) is to develop the cost of equity "consistent with Commission practice and law." Where statutory language is clear and unambiguous, the statute must be applied as written, and a court or agency may not "depart from the plain language of the statute by reading in any exceptions, limitations, or conditions that would frustrate the expressed intent of the legislature." *M.U. v. Team Ill. Hockey Club, Inc*., 2022 IL App (2d) 210568, ¶ 25.

There is, however, no clear definition of what constitutes "Commission practice" in P.A. 102-0662. While the Commission has generally adopted the use of certain cost of equity estimation models and approaches to applying such models, such as the use of sound financial market-based models and current market data, the details of its cost of equity determination practice has reasonably varied and evolved over time based on relevant factors presented in the record of each case. For example, the Commission at times used the non-constant growth DCF model in determining the authorized ROE and at other times it did not. (*See e.g.*, 09-0166/09-0167, consolidated, Order at 124-125 and Docket No. 23-0067 Order at 196 where the non-constant DCF model results were not considered and, in contrast, Docket Nos. 09-0306, et al., Order at 215-216 and Docket No. 23-0066 Order at 113-114, 135 where the non-constant growth DCF model's results were considered in determining the authorized ROE). Similarly, there are rate cases where the Commission averaged all or some parties' ROE results to determine the authorized ROE and other cases where Staff's ROE recommendations were fully adopted.

The Commission use of an average has also varied (See, e.g., Docket Nos. 11-0280 and 11-281, consolidated, Order at 139-140 where the Commission gave 1/3 weight to the utilities' proposed ROE, 1/3 weight to the Staff-proposed ROE, and 1/3 weight to the Intervenor's DCF-based ROE and gave no weight to the Intervenor's CAPM-based ROE estimate; Docket No. 11-0767, Order at 111-112 where the Commission gave ½ weight to the Staff and Intervenor's average constant growth and non-constant growth DCF ROE estimates and ½ weight to only Staff's CAPM-based ROE estimates; Docket No. 01-0423 Order at 131-132 where the Commission gave 100% weight to Staff's proposed ROE) Determining a fair and reasonable cost of common equity has not been a "one-size fits all" exercise applied by the Commission; in practice it is not composed of an immutable set of inputs and models. The Commission considers all pertinent record evidence to arrive at a fair and reasonable rate of return. The Commission observes the statute does not require nor prohibit the use of Section 16-108.5's cost of common equity approach or any other ROE model. It is also not disputed that the Section 16-108.5 cost of equity method was adopted by the Commission for ComEd pursuant to the requirements of the statute over the past 11 years.

The Commission has the broad discretion to determine just and reasonable rates, and by extension, the methods by which to determine the rate of return reflected in such rates. Accordingly, the Commission has: (1) the discretion to use or consider, in whole or in part, the cost of equity models and resulting estimates presented in the record, including Staff's proposal to use Section 16-108.5's annual average 30-year U.S. Treasury bond yield plus 580 basis points approach, and (2) the discretion to consider the appropriate inputs to apply to other cost of equity models presented in the record to determine a fair and reasonable rate of return.

Based on the evidence provided in this record, the Commission will rely upon the market-based financial models and application of such models that it has generally adopted, albeit with adjustments as explained in this Order. The Commission finds there is ample record evidence from the financial models it has preferred to use to determine a fair and reasonable rate of return. Accordingly, it will not rely on the cost of common equity approach provided in Section 16-108.5 at this time. In so doing, the Commission is not foreclosing the possibility that it may consider this approach in future rate proceedings, either in whole or in part, in determining a fair and reasonable rate of return for electric utilities opting to file under a multi-year rate plan.

Parties' ROE Proposals

As stated above, in estimating ROE, the Commission must consider not only the outputs of financial models, but whether the authorized ROE satisfies the standards set forth in *Bluefield* and *Hope*. Docket No. 16-0093, Order at 65. ComEd calculates its proposed ROE using a 17-company electric utility Proxy Group, and the Company applied the single-stage constant growth form of the DCF model, the bond-yield plus risk premium model, CAPM, and the ECAPM to this Utility Proxy Group.

Although Staff recommends an ROE of 8.91% based on the Section 16-108.5 formula rate ROE method, Staff also measured the investor-required rate of return on common equity for the electric distribution utilities with the constant growth DCF model, the non-constant growth DCF model (NCDCF), and CAPM for the same Proxy Group. The result of that traditional ROE analysis on the Proxy Group is an ROE of 10.05%. If the Commission agrees that the MYRP is less risky than formula rates, Staff offers an alternate proposal of 7.05% (the midpoint of Staff's 8.91% proposal and the 5.18% yield on 30-year high quality corporate bonds).

ICCP recommend an ROE of 9.40% using: (1) a DCF model using consensus analysts' growth rate forecasts; (2) a DCF model using sustainable growth rate estimates developed by ICCP's witness; (3) a multi-stage growth DCF model; (4) an RPM; and (5) a CAPM that was applied to the same Proxy Group with the exception of one company, American Electric Power Company.

PIRG recommends an ROE of 6.5% using DCF and CAPM analyses it applied to a sample of companies that was used in a ComEd goodwill impairment study with the exception of one company.

While the AG and Walmart made ROE recommendations, they do not present any traditional financial analysis to reach those conclusions.

Proxy Group

Staff uses ComEd's Proxy Group composed of 17 companies in its calculations, although Staff claims that the proxy companies do not have the same reduced risk due to ComEd's MYRP and increased certainty of recovery. ICCP relied on the same utility Proxy Group as ComEd with one exception. ICCP removed American Electric Power Company because it entered into an agreement to sell Kentucky Power Transmission. ICCP Ex. 4.0 at 39. ICCP point out that the Proxy Group has lower average corporate ratings than ComEd according to the credit rating agency Moody's. ICCP Ex. 4.0 at 39. PIRG uses the sample that ComEd relied upon in a goodwill impairment study, which appears to be composed of nine companies, but PIRG specifically excludes one company, PPL, due to "the very low earnings base and the very high growth rate." (PIRG Ex. 1.0 at 66-67).

The Commission notes that the purpose of the Proxy Group is to get as close a comparison to ComEd as possible, and the Company's Proxy Group met several screening criteria, one of which was eliminating companies that were a party to a merger or transformative transaction during the analytical period considered. Although ICCP eliminated a company from the sample because it agreed to sell a portion of that company, ICCP did not show that the agreed sale was transformative. PIRG discusses five ComEd impairment studies from 2018-2022 and it is unclear from which impairment study year the sample PIRG uses was obtained nor the screening criteria employed to develop said sample. The Commission finds ComEd's Proxy Group is a reasonable sample upon which to apply the various models.

Discounted Cash Flow Model (DCF)

The DCF model primarily relies on three types of inputs: the stock price, expected dividend growth rate, and the next dividends to be paid. The Commission notes that the DCF analysis establishes a rate of return directly from investor requirements. According to the DCF model, the market value of common stock equals the cumulative value of the expected stream of future dividends after each dividend is discounted by the investor-required rate of return. Since the DCF analysis incorporates time-sensitive valuation factors, it must correctly reflect the timing of the dividend payments that stock prices embody. ICCP and Staff use a constant growth DCF model that reflects quarterly dividend payments. The Company performed an annual constant growth DCF analysis that did not reflect the quarterly payment of dividends.

The constant growth DCF model uses a single growth rate that is assumed to be sustainable infinitely. Staff notes that the average constant growth rate input it used for the Proxy Group is 6.06% which is unsustainable as it is nearly 40% higher than the 4.37% expected long-term growth rate for the U.S. economy. To avoid overstating the ROE, Staff also employed the NCDCF model that assumes three stages of growth: a first stage of five years that uses the same growth rates in Staff's constant growth DCF model that relies on security analysts' 3- to 5-year earnings growth forecasts; a second stage, or transitional stage of five years that uses the average of the first and third stages' growth rates; and a third stage that uses the long-term growth forecast for the U.S. economy that is assumed to last into perpetuity. ICCP also use an NCDCF model which they refer to as a multi-stage growth DCF model that uses the same assumption of three stages of growth as in Staff's NCDCF.

Staff averages its constant growth DCF and NCDCF estimates for the Proxy Group. Staff's constant growth DCF estimate for the Proxy Group is 9.99%, and the NCDCF estimate is 8.48%. Staff's DCF estimate of the required rate of return on common equity for the Proxy Group is based on the average of the constant growth DCF and NCDCF estimates, or 9.23%.

ICCP uses two constant growth DCF analyses in addition to its multi-stage growth DCF analysis: one that uses securities analyst's earnings growth forecasts and one that uses growth rates developed by its witness using market-to-book ratios and earning retention ratios referred to as sustainable growth rates (or sustainable growth DCF). All of ICCP's DCF analyses use a 13-week average of the average weekly high and low stock prices of the Proxy Group companies. Each of the Company's DCF analyses use securities analyst's earnings growth forecasts. The Company conducted three variations of the constant growth DCF model that used the Proxy Group companies' average stock price over 30, 90, and 180 days. Both the Company and ICCP relied on inputs consistently rejected by the Commission. Specifically, both use outdated historical stock prices in their DCF analyses. *See*, e.g., Docket No. 11-0436 Order at 35-36. The sustainable growth DCF analysis has also been consistently rejected by the Commission. Docket No. 09-0306, et al. Order at 219; Docket No. 11-0767 Order at 108. It was not demonstrated how the sustainable growth rates developed by ICCP can accurately reflect investors' current growth expectations nor how they are superior to analyst earnings growth rate forecasts that the Commission has traditionally relied upon for the DCF model. Additionally, in using an annual DCF model, the Company's DCF analysis did not appropriately reflect the timing of the quarterly dividends paid out by the Proxy Group companies and will not be relied upon by the Commission. Docket No. 07-0585, et al. Order at 213-214. The Commission rejects the Company's and ICCP's DCF ROE proposals.

The Commission concurs with Staff that the growth rate it used for its constant growth DCF model is unsustainable into perpetuity as it is nearly 40% higher than the forecasted long-term growth for the economy. The measurement error from this significant difference would not be sufficiently addressed by averaging Staff's constant growth DCF estimate with its NCDCF. Faced with a similar situation in the past, including in a ComEd general rate case, the Commission decided to not rely upon the constant growth DCF model ROE estimate in determining the authorized ROE and will do so again here. The Commission adopts Staff's NCDCF ROE estimate of 8.48%. *See,* e.g., Docket No. 07-0566 at 98-99; Docket No. 09-0312 Order at 12-15; Docket No. 09-0319 Order at 94-95, 112-113; Docket No. 09-0306, et al. Order at 175-176, 219-220.

Risk Premium Model (RPM)

The Commission agrees with Staff that the Company's risk premium analyses improperly based the equity risk premium on historical data, which are not reasonable predictors of the current equity risk premium required by investors. The equity risk premium changes over time and there is no evidence that old equity risk premia from arbitrarily chosen periods reflect what investors currently require. Further, ComEd did not use observable 30-year U.S. Treasury bond and A-rated utility bond yields; instead, ComEd uses several forecasted interest rates. The Commission regularly relies on current, observable market interest rates rather than forecasted interest rates given the difficulty of accurately forecasting interest rates. Using forecasted interest rates can improperly inflate the estimated risk premium. The Commission has rejected the use of risk premium models in many prior rate decisions (*See*, e.g., Docket No. 23-0067, Order at 195-196; Docket No. 13-0192, Order at 165; Docket No. 11-0767 at 110) and rejects both ComEd's and ICCP's use of the RPM here. *See*, e.g., Docket No. 23-0067, Order at 195-196; Docket No. 13-0192, Order at 165; Docket No. 11-0767 at 110.

Capital Asset Pricing Model (CAPM)

ComEd, ICCP, and Staff all presented various CAPM analyses. The CAPM relies on three inputs: the risk-free rate, a beta, and a market risk premium (the market return minus the risk-free rate). The Commission accepts Staff's use of the spot (current) U.S. Treasury bill rate as the risk-free rate input in the CAPM. The Commission regularly relies on current, observable market interest rates rather than forecasted interest rates given the difficulty of accurately forecasting interest rates. ComEd's and ICCP's CAPM analyses rely upon forecasted U.S. Treasury bond yields to estimate the risk-free rate. The Commission finds that the use of forecasted interest rates is unnecessary because current interest rates already reflect investors' expectations for the future. ComEd's "current" CAPM uses the current 30-day average of the 30-year U.S. Treasury bond yield. As noted above, the Commission prefers the use of spot data and rejects ComEd's use of the current average of U.S. Treasury-bond yields as the risk-free rate.

To calculate beta, the Commission has generally relied upon an average of the beta estimates developed using 5-year monthly data (e.g., Staff's 5-year regression beta and Zacks beta) and weekly data (e.g., Value Line beta). The Commission has previously expressed its preference for CAPM analyses that use betas developed using data from a five-year period. *See e.g.,* Docket No. 13-0192, Order at 164-65; Docket No. 11-0282, Order at 123-25. The Commission has also historically favored the use of both weekly and monthly beta estimates because the use of multiple beta sources reduces measurement error from any individual estimate. Docket Nos. 09-0306/09-0311 (Consol.), Order at 213. However, the Commission observes that the record shows that the weekly beta estimates from both Value Line (used by ICCP and Staff) and Bloomberg (used by ComEd) are inordinately high compared to the two monthly beta estimates from

Zacks and Staff's regression beta. The Commission further observes that beta is a measure of risk and Staff demonstrated that the Proxy Group has a higher overall risk compared to ComEd. Moreover, as noted earlier in this Order, a review of the evidence and the arguments of the parties show that the Company's risk under the MYRP will be lower than under both the FRP and traditional ratemaking. To address the increased measurement error that would arise from the use of inordinately high weekly betas and to recognize the lower risk of ComEd relative to the Proxy Group, the Commission finds that in this instance it is more reasonable to use the average of monthly beta estimates published by Zacks and Staff's regression beta (i.e., 0.705) for determining ComEd's CAPM cost of equity estimate. Additionally, the Commission also rejects the use of historical betas, such as ComEd's 10-year average betas from 2013 through 2022, as there is no evidence that outdated betas reflect current investor expectations.

For the market risk premium (MRP) component of CAPM, the Commission has generally approved Staff's methodology for calculating a forward-looking market return (Rm) by performing a constant growth DCF analysis of the dividend-paying companies in the S&P 500 and subtracting a current estimate of the risk-free rate. *See*, e.g., Docket Nos. 09-0306, et al. Order at 177, 214; Docket No. 11-0767 Order at 92, 111. Staff's market risk premium in its CAPM analysis is derived from a market return of 12.65% (Staff Ex. 4.0R at 34), which the Commission observes is much higher than the published long-term expected market return by various financial institutions. *See*, ICCP Ex. 8, Table 2 at 23. Further, Staff's 12.65% Rm estimate is itself based on a growth rate of 10.36%, the average growth rate of companies that are paying dividends and had growth rates between -30% and 30%. *Id.* at 24. The Commission finds that the growth rates used by Staff to determine Rm includes outlier company growth rates which are either too high or too low to be sustainable and, thus, skew the results. Similar to Staff, the FERC calculates a forward-looking Rm by conducting a DCF analysis on dividend-paying companies of the S&P 500. Unlike Staff, however, the FERC's DCF analysis only includes companies with growth rates from 0% to 20%. *Id.* at 28. Applying the FERC's growth rate criteria to the data used by Staff to calculate Rm results in a revised Rm estimate of 11.48%. As shown in Figure 3 of Mr. Gorman's rebuttal testimony, applying the FERC's method to Staff's database eliminates the outliers and lowers the weighted growth rates of the companies included in the S&P 500 to 9.33% from 10.36%. *Id.* at 27. Adjusting Staff's market return analysis as described above results in a forward-looking market return estimate of 11.48% and subtracting Staff's risk-free rate of 4.19% from it results in an MRP of 7.29%. The Commission notes its approach here in calculating an MRP similar to FERC's method was also employed in recent Commission rate decisions. Docket No. 23-0067 Order at 196-197; Docket Nos. 23-0068 and 23-0069, consolidated, Order at 200-201.

Therefore, the Commission adopts a CAPM using Staff's risk-free rate of 4.19%, the average monthly beta of 0.705, and an MRP that is 7.29%, which results in a CAPM ROE estimate of 9.33%.

Empirical CAPM (ECAPM)

The ECAPM analysis modifies the traditional CAPM equation by including a risk premium weighted by the utility beta, and the overall market beta of 1.0. Staff and ICCP similarly criticize ComEd's use of an adjusted beta instead of a raw beta in its ECAPM as a duplicative adjustment that only serves to increase the resulting ROE estimate. As Staff points out, the Commission has historically disfavored the ECAPM for over two decades including in prior ComEd rate cases. *See,* e.g., Docket No. 22-0210, Order at 101-102; Docket No. 11-0767, Order at 109; Docket No. 01-0444 Order at 16-17. The Company has not provided any evidence to demonstrate that the Commission should deviate from its prior decisions, and the ECAPM is not considered here.

Annual Risk Adjustment

Because ComEd's risk will not increase under the MYRP, and most likely will decrease, the Commission does not adopt an annual upward risk adjustment adder as suggested by ComEd. The Commission notes that Walmart argues that ComEd conducted no quantitative analysis to supports its year-over-year increase in ROE and the Commission finds there is no basis to adopt ComEd's proposal. Based on the Commission's review of the record, it would be more appropriate to adjust the ROE downward given ComEd's reduced risk going forward under MYRP. Indeed, the Commission understands that Staff proposes continuation of the FRP method of determining the ROE due to Staff's analysis of ComEd's risk. The Commission agrees that the record does not support an annual upward risk adjustment. No party, however, proposes a specific downward ROE adjustment to reflect the lower risk under MYRP except for Staff who, in the alternative, proposed the midpoint of its formula rate-based 8.914% recommendation and the 5.18% yield on 30-year high quality corporate bonds, or 7.05%. The Commission is not relying on the FRP method for determining the authorized ROE, rendering Staff's alternative moot. Moreover, as discussed in the CAPM section above, the Commission's adjustment to the beta input is, in part, to recognize ComEd's lower risk under the MYRP. Therefore, no additional downward adjustment is needed. In future MYRP dockets, the Commission encourages parties to quantify a specific ROE adjustment to account for the lower risk of utilities under an MYRP compared to traditional ratemaking.

AG's Alternate ROE Recommendation

As discussed above, the Commission is not adopting Staff's ROE based on the formula rate. Therefore, it does not accept the AG's proposed application of Staff's formula rate calculation for all four years of the MYRP. The Commission points out that the AG's proposal effectively selects a number with a reasoned basis in 2022, then proposes it arbitrarily for years 2024-2027, instead of proposing the formula rate as a methodology like Staff does. For these additional reasons, the AG's proposal is not adopted.

PIRG's ROE Recommendation

PIRG recommends an ROE of 6.5%. Compared to the 5.78% current yield on BBB-rated utility debt cited by the Company, this implies an equity risk premium of only 72 basis points (i.e., less than one percent) is demanded by common equity investors to compensate them for the much higher risk they bear compared to debtholders. The Commission agrees with the Company that PIRG's ROE recommendation is unreasonably low, thus, the Commission does not give PIRG's ROE analyses any weight in its ROE determination.

Walmart's ROE Recommendation

Walmart proposes the Commission adopt an ROE that does not exceed 9.14%, the national average authorized electric ROE from 2019 through May 2023. Its recommendation is based on recent ROEs adopted by state regulatory commissions as well as an analysis of the revenue requirement reductions from adopting 9.14% instead of the Company's recommended ROEs for the MYRP. Walmart did not provide a market-based analysis consistent with Section 16-108.18(d)(3)(B). The Commission declines to adopt Walmart's proposed ROE. It is not reasonable, nor is it Commission practice, to base the authorized ROE on what other jurisdictions have authorized for their utilities as it is unknown to what extent those utilities are comparable in risk to ComEd nor what adjustments or settlements may be reflected in the authorized ROE for those utilities.

<u>*Conclusion*</u>

The Commission has consistently approved the use of DCF and CAPM models in determining the cost of common equity. As discussed in this Order, the Commission is adopting Staff's NCDCF estimate of 8.48% and the revised CAPM estimate of 9.33%, the average of which results in 8.905% and is hereby authorized as the ROE for each of the Company's four test years. The market-based financial models and adjustments underlying this ROE are consistent with Commission practice and law.

The Commission concurs with Staff's observation that MYRP affords ComEd less risk than traditional ratemaking or the FRP. Under an MYRP, ComEd will have the benefits of multiple future test years that reduce regulatory lag and annual revenue requirement reconciliations that provide greater certainty of its cash flows, among others. The Commission observes the last authorized ROE for ComEd under formula rates in Docket No. 22-0302 was 7.85% for the 2023 filing year. Additionally, the authorized ROE for the filing years 2017 through 2022 under formula rates were 8.64%, 8.40%, 8.69%, 8.91%, 8.38%, and 7.36%, respectively. The Commission further observes that credit rating agencies upgraded ComEd's credit rating multiple times while it was under formula rates. In authorizing an ROE of 8.905%, which lies in the lower end of the range of ROE proposals put forth in this case, the Commission recognizes the lower risk that ComEd bears under a MYRP compared to formula rates and to traditional ratemaking in terms of more risk that is transferred from the Company to its customers.

E. Rate of Return on Rate Base

Based on the findings in this Order concerning ComEd's capital structure and costs of debt and equity for the test year ended December 31, 2024, the Commission adopts a cost of long-term debt of 4.22%, a cost of short-term debt of 4.20%,a cost of common equity of 8.905%, and a line of credit fee of 0.009%. Utilizing a 50% common equity ratio, the Company's forecast short-term debt ratio of 0.04%, and a long-term debt ratio of 49.96%, the initial rate of return is 6.571%. The capital structure will be updated during the Annual Adjustment pursuant to Section 16-108.18(f) and consistent with the findings in this Order in Section XV.A.

<u>Test Year Ended December 31, 2024</u>

Type of Capital	Proportion of Total Capital	Cost	Weighted Cost of Capital
Long-Term Debt	49.96%	4.22%	2.108%
Short-Term Debt	0.04%	4.20%	0.002%
Common Stock	50.00%	8.905%	4.453%
Line of Credit Fees			0.009%
TOTAL	100.00%		6.571%

Based on the findings in this Order concerning ComEd's capital structure and costs of debt and equity for the test year ended December 31, 2025, the Commission adopts a cost of long-term debt of 4.27%, a cost of short-term debt of 3.85%, a cost of common equity of 8.905%, and a line of credit fee of 0.008%. Utilizing a 50% common equity ratio, the Company's forecast short-term debt ratio of 0.02%, and a long-term debt ratio of 49.98%, the initial rate of return is 6.595%. The capital structure will be updated during the Annual Adjustment pursuant to Section 16-108.18(f) and consistent with the findings in this Order in Section XV.A.

Test Year Ended December 31, 2025

Type of Capital	Proportion of Total Capital	Cost	Weighted Cost of Capital
Long-Term Debt	49.98%	4.27%	2.134%
Short-Term Debt	0.02%	3.85%	0.001%
Common Stock	50.00%	8.905%	4.453%
Line of Credit Fees			0.008%
TOTAL	100.00%		6.595%

Based on the findings in this Order concerning ComEd's capital structure and costs of debt and equity for the test year ended December 31, 2026, the Commission adopts a cost of long-term debt of 4.41%, a cost of short-term debt of 3.75%, a cost of common equity of 8.905%, and a line of credit fee of 0.008%. Utilizing a 50% common equity ratio, the Company's forecast short-term debt ratio of 0.03%, and a long-term debt ratio of 49.97%, the initial rate of return is 6.665%. The capital structure will be updated during the Annual Adjustment pursuant to Section 16-108.18(f) and consistent with the findings in this Order in Section XV.A.

Test Year Ended December 31, 2026

Type of Capital	Proportion of Total Capital	Cost	Weighted Cost of Capital
Long-Term Debt	49.97%	4.41%	2.204%
Short-Term Debt	0.03%	3.75%	0.001%
Common Stock	50.00%	8.905%	4.453%
Line of Credit Fees			0.008%
TOTAL	100.00%		6.665%

Based on the findings in this Order concerning ComEd's capital structure and costs of debt and equity for the test year ended December 31, 2027, the Commission adopts a cost of long-term debt of 4.49%, a cost of short-term debt of 3.65%, a cost of common equity of 8.905%, and a line of credit fee of 0.007%. Utilizing a 50% common equity ratio, the Company's forecast short-term debt ratio of 0.05%, and a long-term debt ratio of 49.95%, the initial rate of return is 6.704%. The capital structure will be updated during the Annual Adjustment pursuant to Section 16-108.18(f) and consistent with the findings in this Order in Section XV.A.

Test Year Ended December 31, 2027			
Type of Capital	Proportion of Total Capital	Cost	Weighted Cost of Capital
Long-Term Debt	49.95%	4.49%	2.243%
Short-Term Debt	0.05%	3.65%	0.002%
Common Stock	50.00%	8.905%	4.453%
Line of Credit Fees			0.007%
TOTAL	100.00%		6.704%

XVI. COST OF SERVICE AND RATE DESIGN

A. Updated Delivery Service Charges

Consistent with Section 16-105.5(b) of the Act, ComEd's proposed updated delivery service charges resulted from populating ComEd's most recent Commission-approved rate design model, determined in ComEd's 2022 Distribution FRU, Docket No. 22-0302, with the proposed revenue requirements in this case. ComEd demonstrates that it updated its 2024 to 2027 revenue requirements based on adjustments identified through the course of discovery and after consideration of Staff and Intervenor rebuttal testimony. ComEd Ex. 58.0 Corr. at 1. ComEd argues that the Commission should approve the resulting delivery service charges using the Embedded Cost of Service Study ("ECOSS") and rate design models in ComEd Exhibits 61.05 – 61.12, that provide for the recovery of ComEd's proposed revenue requirements during the MYRP period (2024-2027), subject to any Commission-ordered changes to those revenue requirements.

The Commission approves ComEd's updated delivery service charges using the ECOSS and rate design models proposed by ComEd, subject to any Commission-ordered changes to ComEd's revenue requirements as noted in this order.

B. Bill Impacts

1. ComEd's Position

ComEd claims that it presented the class rates of return at the delivery services charges approved by the Commission in Docket No. 22-0302, and the rates of return at the updated delivery services charges, which will be effective in each year of the MYRP, beginning in the January 2024 monthly billing period. ComEd Ex. 17.0 at 35-42; ComEd Ex. 17.23. ComEd also claims that it presented an analysis of the overall electric service bill impacts that may result from the application of the updated delivery services charges, showing bill comparisons for each year-over-year change from 2023 to 2027 and comparisons for the year over year change for 2025 to 2027 as compared to 2023. ComEd Ex. 61.0 at 21-28.

ComEd observes that only EDF provided comments in its Initial Brief on this topic. ComEd points out that, without providing any specific evidence or citing to any testimony, EDF states that it has potential concerns about the impact that rate design and cost allocation may have on affordability, and then asks "the Commission to keep residential and small commercial impacts … top of mind when deciding affordability issues." EDF IB at 99. ComEd contends that it is unclear what EDF is suggesting that the Commission do at this time. ComEd argues that, without any record evidence, the Commission should decline EDF's request; any issues that involve rate design, should not be addressed in this proceeding. ComEd IB at 315-316 and 330-331. ComEd notes that the upcoming Rate Design Investigation ("RDI") and/or stakeholder engagement related to the design, objectives, and mechanics of a rate that will lower the bills of low-income customers will likely be a better place for EDF to raise these concerns, and ComEd invites EDF to provide specific testimony, evidence, and suggestions at that time. ComEd IB at 337-338.

2. BOMA's Position

BOMA notes in its Initial Brief that the General Assembly made clear that P.A. 102-0662 is intended to promote job creation, clean energy and other goals while ensuring those goals "are met without adverse impacts on utility bill affordability." 50 ILCS 65/15-5. BOMA contends ComEd's MYIGP and MYRP proposals would result in unprecedented increases in rates for consumers.

3. EDF's Position

EDF states bill impacts must pass the ultimate litmus test for both the MYIGP and the MYRP. EDF notes that ComEd is proposing to increase its annual revenue requirement to $3.5 billion in 2024, and up to almost $4.5 billion in 2027. ComEd Ex. 37.0 Corr. at 4, Table 1. EDF states that alone is a staggering increase. Even worse would be if residential customers see an even higher percentage rate increase, depending on the rate design and cost allocations. *See* Section 16-105.5(b). EDF therefore implores the Commission to keep residential and small commercial bill impacts—as reflected in a total percentage rate increase for residential customers, not as a percentage revenue requirement increase across all customer classes—top of mind when deciding affordability issues.

4. Commission Analysis and Conclusion

ComEd presented the class rates of return at the delivery services charges approved by the Commission in Docket No. 22-0302, and the rates of return at the updated delivery services charges, which will be effective beginning in the January 2024 monthly billing period. ComEd Ex. 17.0 at 35-42; ComEd Ex. 7.23. ComEd also presented an analysis of the overall electric service bill impacts that may result from the application of the updated delivery services charges, showing bill comparisons for each year-over-year change from 2023 to 2027 and comparisons for the year over year change for 2025 to 2027 as compared to 2023. ComEd Ex. 61.0 at 21-28. The Commission directs ComEd to provide an updated analysis in its refiled Grid Plan.

The Commission adds that EDF and BOMA's concerns regarding bill impacts to specific customer classes will be discussed in Section XVI.E below.

C. Utility Specific Issues

1. Distribution System Loss Study

ComEd argues that the Commission should adopt ComEd's proposal to update Distribution Loss Factors ("DLFs") with future MYRP annual performance evaluation proceedings. ComEd observes that no party contested the proposal to determine the updated DLFs in this manner.

Historically, ComEd explains, it has updated the Distribution System Loss Study and the DLFs provided in ILL CC No. 10 Informational Sheet No. 33 during a delivery services FRU proceeding. ComEd Ex. 17.0 at 43. ComEd notes that the update would use the delivery class load profiles and ComEd zone usage from the prior year to determine the losses on the distribution system. *Id.* However, according to ComEd, the DLFs are not used in the determination of the MYRP period Delivery Service Charges, so ComEd did not forecast DLFs for the MYRP period. *Id.* Instead, ComEd proposes to update the DLFs with future MYRP annual performance evaluation proceedings. *Id.*

Specifically, beginning in 2025, ComEd proposes to include, in the annual performance evaluation proceeding under Rate MRPP, revised DLFs in Informational Sheet No. 33 to be applicable beginning the following January monthly billing period. ComEd Ex. 17.0 at 44. ComEd claims that subsequent filings of revised DLFs will be every other year thereafter. *Id.* Therefore, ComEd explains, the next filing would be in 2027 with updated DLFs effective beginning in January 2028. *Id.* In each filing, ComEd notes that it will include supportive testimony and workpapers similar to those that it previously provided in the DLF updates in the FRU proceedings. *Id.*; ComEd Ex. 17.28 (showing revisions to Rate RDS – Retail Delivery Service and Informational Sheet No. 33 in redline format).

ComEd states that it is proposing to update the DLFs in this manner so that ComEd can apply updated DLFs to supply charges and can ensure the costs to each delivery class are accurately reflected. ComEd Ex. 17.0 at 44. In recent updates, ComEd explains, the DLFs have stabilized with only small changes and updates every other year that will provide for the accurate application of DLFs. *Id.* For example, in the last four updates the system average DLFs effective beginning in 2020, 2021, 2022 and 2023 were 4.56%, 4.93%, 4.77% and 4.70%, respectively. *Id.* Therefore, ComEd argues, the Commission should adopt ComEd's proposal to update DLFs with future MYRP annual performance evaluation proceedings.

The Commission understands that ComEd is proposing to update the DLFs in such a way that ComEd can apply updated DLFs to supply charges and can ensure the costs to each delivery class are accurately reflected. The Commission notes no other party opposes this approach. Therefore, the Commission finds that ComEd's proposal is reasonable, and is adopted as proposed.

D. Contested Issues - ECOSS

1. Updated Embedded Cost of Service Study

a. ComEd's Position

ComEd argues that the Commission should adopt the ECOSS that it submitted in this proceeding. ComEd states that it is required by law to use the most recent Commission-approved rate design and cost allocation across customer classes in this case. Specifically, ComEd observes, Section 16-105.5(b) states: "If the electric utility makes the election described in this Section" to omit the rate design component of the [MYRP] filing, "then the filing shall be consistent with the rate design and cost allocation across customer classes approved in the Commission's most recent order regarding the electric utility's request for a general adjustment to its rates entered under Section 9-201, subsection (e) of Section 16-108.5, or Section 16-108.18 of this Act, as applicable." 220 ILCS 5/16-105.5(b). In compliance with this requirement, ComEd states that its ECOSS model uses the Commission-approved cost allocation methodologies to allocate the proposed revenue requirements among ComEd's delivery classes. ComEd Ex. 17.0 at 30. ComEd explains that the ECOSS model is the same model approved by the Commission recently in ComEd's 2022 delivery services FRU (Docket No. 22-0302), with certain inputs updated, as described below. ComEd Ex. 17.0 at 30-31. ComEd maintains that this should not be a controversial topic and that ComEd and the Commission must abide by the legal requirements set forth in P.A. 102-0662.

First, ComEd explains that it updated the following delivery class inputs with forecasted values for some or all of the delivery classes for the MYRP period: Coincident Peak demand allocators, Non-Coincident Peak demand allocators, kWhs, and number of customers. ComEd Ex. 17.0 at 31; ComEd Exs. 17.09, 17.10, 17.11 and 17.12. ComEd demonstrates that the changes to these allocators were necessary to comply with the Commission-approved phase out of the Watt-Hour delivery class in ComEd's last RDI proceeding and the replacement of mercury vapor and high pressure sodium fixtures with more efficient light emitting diode ("LED") fixtures. ComEd Ex. 17.0 at 24-30; *Commonwealth Edison Co*., Docket No. 20-0832, Order at 23-24 (May 27, 2021). ComEd explains that certain allocators related to metering costs and services costs are directly related to the number of customers, so the forecasted number of customers derivatively changed those allocators as well. ComEd Ex. 17.0 at 31-32; ComEd Exs. 17.09, 17.10, 17.11 and 17.12.

Second, ComEd states that it created a new allocator to assign BE Plan costs to customers in this MYRP proceeding. ComEd Ex. 20.0 at 2-5; ComEd Ex. 41.0 at 28-29. ComEd explains this update was necessary to comply with the final Order in ComEd's BE Plan docket. *Commonwealth Edison Co*., Docket Nos. 22-0432/22-0442 (Consol.), Order (Mar. 23, 2023). In that docket, ComEd explains, the Commission rejected ComEd's proposal to recover BE Plan costs through a separate rider, and instead directed ComEd to incorporate such costs into its MYRP in this docket. *Id.* at 221-222.

ComEd observes that CTA (individually) and CTA/Metra (jointly) ignore the Act's requirements and argue that ComEd should use a cost allocation methodology different from the previously Commission-approved ECOSS. CTA Ex. 1.0 at 11-12; CTA/Metra Joint Ex. 1.0 Corr. at 4–5. According to ComEd, they claim that it is not "sound ratemaking to allocate Grid Plan costs to classes without conducting any analysis as to whether those costs are incurred to provide service to the class and should be paid by any given rate class." CTA/Metra Joint Ex. 1.0 Corr. at 4-5. ComEd points out that, in their Initial Briefs, both the CTA and Metra take issue with ComEd's use of this legally required ECOSS. ComEd observes that the CTA goes as far as requesting that the Commission reject ComEd's MYRP entirely, based on the fact that ComEd has used this legally mandated ECOSS. CTA IB at 11-12. According to ComEd, Metra asks the Commission to alter the legally mandated ECOSS for the sole purpose of providing the RR Delivery Class with special treatment in this docket. Metra IB at 22-25. ComEd has explained at length why ComEd and the Commission must use the ECOSS that it submitted, and why CTA and Metra's positions on this issue are wrong. ComEd IB at 318-320.

ComEd contends, that without making any specific suggestions, CTA/Metra broadly claim that there could be cost allocation for some Grid Plan projects to the RR Delivery Class which may not benefit the RR Delivery Class. ComEd notes that its Commission-approved ECOSS, however, generally does not allocate specific project costs to each delivery class. ComEd Ex. 61.0 at 5. Most of the costs are allocated with the allocators provided in ComEd's ECOSS on Schedule 2b Allocation Factors. *Id.* ComEd notes that it also does not allocate costs based on benefits to each class, but instead generally uses the allocators in Schedule 2b. *Id.* at 5:81-87. ComEd highlights the fact that this Commission-approved ECOSS already incorporates specific Commission-approved adjustments that are unique to the RR Delivery Class. *See* ComEd Ex. 61.01 (CTA data request CTA 3.04, showing a reduction in costs allocated to the RR Delivery Class of approximately $1.9 million in 2024).

If, however, the RR Delivery Class is requesting additional reductions that would be unique to the RR Delivery Class, or a different allocation methodology to allocate specific Grid Plan costs away from the RR Delivery Class, the Commission cannot legally address those proposals here in this case. ComEd Ex. 61.0 at 6. Instead, ComEd contends, that pursuant to the plain language of the Act requiring ComEd to use the most recent Commission-approved ECOSS allocation methodologies in this MYRP filing, these types of proposals should be addressed in the RDI. 220 ILCS 5/16-105.5(b). Notably, as ComEd observes, Staff witness Jenkins does "not propose any specific actions be taken in response" to CTA's concerns at this time. Staff Ex. 24.0 at 16. Therefore, ComEd argues that the Commission should reject proposals to alter the ECOSS methodology used in this proceeding.

ComEd observes that CTA and Metra each raise one additional argument in their Initial Briefs that ComEd did not respond to in its Initial Brief. First, ComEd notes, CTA claims that it will experience a 50% increase in rates solely because of the "additional costs of the Grid Plan." CTA IB at 11. ComEd recognizes that it is true that ComEd's revenue requirement will increase by approximately 50% from 2022 to 2027, and CTA's percentage increase is in line with that overall change. *Commonwealth Edison Co.*, Docket No. 22-0302, Order at 29 (Nov. 17, 2022); ComEd Ex. 61.0 at 21; ComEd Ex. 61.19 at 33. But, ComEd points out, not all of that increase is due solely to the "additional costs of the Grid Plan." CTA IB at 11. ComEd contends there are many other factors that the parties have addressed in this proceeding and other P.A. 102-0662-related proceedings that will contribute to the overall increase. *See, e.g.,* ComEd Ex. 12.0 Corr. at 11-12; ComEd Ex. 24.02 Corr. at 10-11.

Second, ComEd observes that Metra erroneously claims that in the context of the ECOSS, "the Public Utilities Act is quite clear that it is perfectly appropriate for ComEd to request or the Commission to address the RR Class's request for revenue-neutral rate mitigation in this proceeding, and the Commission to grant it." Metra IB at 24. In support of this, Metra cites ComEd witness Mudra's rebuttal testimony, and claims that it conflicts with ComEd witness Leick's rebuttal testimony as it relates to this issue. Metra IB at 23-24. ComEd argues Metra is conflating two separate issues and appears to deliberately take ComEd witness Mudra's testimony out of context.

ComEd reasons that the portion of ComEd witness Mudra's testimony that Metra quotes is not talking about rate design and cost allocation issues generally, nor use of the existing ECOSS specifically. Rather, ComEd points out, witness Mudra's testimony is clearly discussing a rate phase-in plan pursuant to the specific requirements of 220 ILCS 5/16-108.18(d)(13) and (d)(14), in Section VII.D of his testimony, which is unmistakably titled: "Rate Phase-in Plan". ComEd Ex. 37.0 Corr. at 44-45. ComEd notes that topic is entirely separate from the issues discussed in Section XVI of these briefs regarding "Cost of Service and Rate Design," and is instead addressed in Section XVIII.A of these briefs regarding "Tariffs ... Rate Phase In." ComEd believes this was understood and agreed to by all parties (including Metra) when discussing the common outline for these briefs.

For the foregoing reasons, the Commission should reject the CTA and Metra's proposals to alter the ECOSS methodology used in this proceeding and should accept ComEd's proposed ECOSS as presented.

b. Staff's Position

Staff recommends the Commission reject Walmart's proposal to reduce interclass subsidies if the Commission awards a revenue requirement less than the amount requested by ComEd. Staff IB at 230. Staff notes revenue allocation and interclass subsidies are more appropriately addressed in the Company's next rate design proceeding in 2024. *Id.* Staff adds, no other party addressed the issue of interclass subsidies in briefs or testimony.

c. Walmart's Position

Walmart states it does not take a position on the Company's ECOSS and does not oppose the proposed revenue allocations *at the Company's proposed revenue* *requirement* because the Company's proposal moves all rate classes closer to their cost of service, *i.e.*, to an indexed rate of return ("IRR") of 1.0. Walmart Ex. 2.0 at 6, 10. However, in the event the Commission awards a revenue requirement *less than* requested by the Company, Walmart continues to request that the Commission allocate that reduced revenue requirement in a manner that also maintained an IRR of 1.0, thereby reducing and/or eliminating interclass subsidies. Walmart Ex. 4.0 at 3.

d. CTA/Metra's Position

CTA/Metra note the RR Delivery Class has only two members—Metra and the CTA. The RR Delivery Class is for the delivery of traction power to Metra's electric division and the CTA's rapid transit train system.

CTA/Metra state the Commission has previously directed that public interest considerations be taken into account in setting the RR Delivery Class rates. For example, in Docket No. 05-0597, the Commission's Order emphasizes that the public interest benefits of mass transit, the resultant environmental benefits, the need to encourage energy conservation and off-peak electricity usage, and the need to avoid rate shock to public transportation users are all important public policy considerations to be considered in setting the RR Delivery Class rates. *Commonwealth Edison Co.*, Docket No. 05-0597, Order at 189-190 (July 26, 2006).

CTA/Metra add that in subsequent cases, the Commission continued to take the public interest considerations into account in various ways in setting rates for the RR Delivery Class. Docket No. 07-0566, Order at 223 (Sept. 10, 2008); Docket No. 09-0263, Order at 43 (Oct. 14, 2009); Docket No. 10-0467 Order at 191 (May 24, 2011); Docket No. 13-0387, Order at 5 (December 18, 2013); Docket No. 17-0049, Order at 4-5. (July 26, 2017). CTA/Metra contend the evidence in this proceeding demonstrates that the RR Delivery Class members continue to provide significant economic, societal and environmental benefits. And given the goals and objectives of P.A. 102-0662, the Commission should find that the benefits provided by the RR Class members are entitled to even more weight and consideration in this proceeding.

CTA/Metra state the RR Delivery Class has provided testimony that its members will not benefit from any of the Grid Plan improvements. They therefore contend that the public policy considerations involved in setting RR Delivery Class rates, coupled with traditional ratemaking cost causation principles, require that the RR Delivery Class not be allocated any Grid Plan costs for purposes of establishing RR Delivery Class rates. CTA/Metra note that ComEd contends that the Commission cannot consider the RR Delivery Class' request because the Act requires that rates in this proceeding must be set using ComEd's ECOSS approved in ComEd's 2022 delivery services formula rate update proceeding, with certain inputs updated. *See* Docket No. 22-0302.

Subsection 16-108(d)(13) of the Act authorizes a utility to propose a rate phase-in plan where a MYRP involves a rate increase, and to recover its carrying costs associated with a rate deferral. But CTA/Metra asserts that section also states, "…Nothing in this paragraph is intended to limit the Commission's authority to mitigate the impact of rates caused by rate plans, or any other instance of a revenue neutral basis; nor shall it mitigate a utility's ability to make proposes to mitigate the impact of rates…" 220 ILCS 5/16.108.18(d)(13). CTA/Metra adds that immediately following that section, the Act states, “Notwithstanding the provisions of Section (13), the Commission may, on its own initiative, take revenue-neutral measures to relieve the impact of rate increases on customers. Such initiatives may be taken by the Commission in the first Multi-Year Rate Plan, subsequent multi-year plans, or in other instances described in this Act. *Id*. at 16-108.18(d)(14).

CTA/Metra conclude that put simply, ComEd is wrong. The Commission has express statutory authority to take revenue neutral measures to mitigate rate impacts and approve rates other than those generated by ComEd’s most recently approved ECOSS. Accordingly, we have examined the evidence concerning benefits of the Grid Plan to the RR Delivery Class and the CTA’s bus electrification plan and evaluated revenue neutral rate impact relief measures for the RR Delivery Class members in Section XVI.E.4. of this Order.

e. Commission Analysis and Conclusion

The Commission agrees with ComEd that Section 16-105.5(b) is clear. Because the Company elected to file its MYRP under Section 16-108.18 of the Act, the Company may omit the rate design component from its MYRP filing. Section 16-105.5(b) further states that the filing shall be consistent with the rate design and cost allocation across customer classes that were approved in the Commission's most recent order regarding the electric utility's request for a general adjustment to its rates.

As permitted under the Act, ComEd has not included a rate design component in its MYRP filing and intends to file a separate revenue-neutral rate design filing no later than May 27, 2024. *See.* ComEd Ex. 17.0 at 21. Therefore, the rate design and cost allocation approved by the Commission in ComEd’s 2022 deliver services FRU (Docket No. 22-0302), including the approved ECOSS model along with certain updated inputs, shall be applied in this instance. ComEd states that its proposed ECOSS model uses the Commission-approved cost allocation methodologies to allocate the proposed revenue requirements among ComEd’s delivery classes. ComEd Ex. 17.0 at 30. ComEd adds the ECOSS already incorporates and includes specific Commission-approved adjustments, which are unique to the RR Delivery Class. The Commission agrees that any additional proposed adjustments shall be addressed in the upcoming RDI. Therefore, ComEd’s ECOSS is adopted as proposed.

The Commission further notes that Walmart’s concern regarding interclass subsidies as it relates to the IRR is considered in Section XVI.D.2 below.

2. Index Rates of Return

a. ComEd’s Position

ComEd argues that the Commission should reject Walmart’s proposal to lower the revenue assigned to rate classes based on their IRR. ComEd explains that an IRR measures the rate of return for an individual delivery class as compared to the total system rate of return. ComEd Ex. 41.0 at 13-14. An IRR greater than 1.0 means that a customer class is paying rates in excess of ComEd’s costs to serve that class. *Id.* Conversely, ComEd illustrates that an IRR less than 1.0 means that a customer class is paying rates less than the costs incurred by ComEd to serve that class. *Id.* In other words, ComEd explains, rate classes with an IRR greater than 1.0 are subsidizing the classes with an IRR less than 1.0. *Id.*

ComEd explains that it calculated class-specific rates of return with data from its ECOSS. *See* ComEd Ex. 17.23. As ComEd witness Leick explains, using these rates of return, when the total net income amount is used, the IRRs equal 1.0 except for the RR Delivery Class, which has additional Commission-approved adjustments, according to ComEd. ComEd Ex. 41.0 at 16. ComEd observes that Walmart disagrees, and mistakenly believes – because Walmart is not using all of the available data – that the IRRs are not equal to 1.0. Walmart Ex. 2.0 at 8-9. ComEd recognizes that Walmart therefore recommends lowering the revenue assigned to the rate classes with IRRs that Walmart has calculated to be greater than 1.0 in 2024, if the Commission finds that ComEd's initially proposed revenue requirement should be reduced. ComEd Ex. 41.0 at 14; *see also* Walmart Ex. 2.0 at 10. ComEd maintains that the Commission should reject Walmart's request for two reasons.

First, as ComEd argues, Walmart's position is substantively incorrect. ComEd explain the inputs Walmart used to compute the errant IRRs include the adjustment to the revenue requirement for the phase-in reduction instead of the net income amount. ComEd Ex. 41.0 at 14-15; ComEd Ex. 17.23. Because of this, ComEd contends Walmart is laboring under the misimpression that 2024 includes IRRs that range from 1.04-1.05 for the Medium to Very Large Load Delivery Classes, which are the delivery classes in which a Walmart store would typically be classified, and 0.88-0.99 for the residential delivery classes. ComEd Ex. 41.0 at 15.

Second, Walmart's proposed revenue reduction allocation to specific delivery classes is not typically how the Commission would apply a reduction to the total revenue requirement. ComEd Ex. 41.0 at 14. For example, ComEd explains that if the Commission ordered a reduction for pole investments, the reduction would be spread across all delivery classes based upon each class's revenue allocation for distribution facilities. *Id.* at 14. Moreover, ComEd observes that Staff witness Bista agrees with ComEd and recommends that the Commission reject Walmart witness Perry's proposal. Staff Ex. 33.0 at 5. ComEd concludes that for these reasons, the Commission should reject Walmart's proposal regarding IRRs.

b. Staff's Position

Staff recommends, and ComEd agrees, that the Commission should reject Walmart's proposal (Walmart Ex. 2.0 at 3) to reduce interclass subsidies if the revenue requirement determined by the Commission for the 2024 MYRP year is less than the revenue requirement proposed by the Company for that year. Staff Ex. 33.0 at 2; ComEd Ex. 41.0 at 17. Staff explains changes to the interclass subsidies or IRR should not be based on ComEd's proposed revenue requirement as it has not been approved by the Commission and thus is not an accurate reflection of the Company's revenue requirement. Further, the process of revenue allocation and interclass subsidies is better addressed during the Company's next rate design proceeding in 2024. Staff Ex. 33.0 at 3-4.

c. Walmart

Walmart's position is noted in Section XVI.D.1.c above.

d. Commission Analysis and Conclusion

The Commission agrees with ComEd and Staff and rejects Walmart's proposal to further reduce the interclass subsidies in the event the Commission determines that the appropriate revenue requirement for the 2024 MYRP year is less than the revenue requirement proposed by the Company for that year. The inputs Walmart used to compute the IRRs include the adjustment to the revenue requirement for the phase-in reduction instead of the net income amount. A reduction to the total revenue requirement is spread across all delivery classes based upon each class's revenue allocation for distribution facilities. Walmart's proposal ignores this understanding. Therefore, ComEd's IRR is adopted as proposed.

3. Updated Billing Determinants and Revenue Forecasts

a. ComEd's Position

Billing Determinants

ComEd argues that the Commission should adopt ComEd's forecasted billing determinants and reject ICCP's proposal to increase those billing determinants. ComEd explains that billing determinants are the units on retail customer bills to charge for the delivery of electricity, and include the number of customers, number of meters, and measurement of kWh energy and kW demand provided. ComEd Ex. 17.0 at 23. ComEd illustrates that the forecasts of billing determinants in the MYRP are determined using several factors, including historical data collected from customer bills (i.e., billed sales (kWh), number of customers, and billed demand (kW)). *Id*. at 23. ComEd notes that it also uses additional information about major factors impacting billing determinants (such as economic activity due to the pandemic or changes in consumption from energy efficiency programs or distributed generation) to explain historical trends. *Id*. at 23. ComEd explains that it then uses forecasted future changes in these major factors to forecast billing determinants. *Id*. at 23. ComEd claims that Ex. 17.06 describes the methodology, inputs, and variables used to determine ComEd's forecasted billing determinants and ComEd Ex. 17.07 describes ComEd's 2024-2027 forecasted billing determinants. ComEd Ex. 17.0 at 24.

ComEd observes that ICCP take issue with ComEd's billing determinants and how they are forecasted in this proceeding, claiming that ComEd's residential kWhs used to set billing determinants are too low. ComEd Ex. 41.0 at 18. According to ComEd, ICCP witness Meyer recommends revising ComEd's residential billing determinants for 2024-2027 and suggests using a three-year average of usage per customer from 2020-2022. *Id*. at 18; ICCP Ex. 1.0 at 8. Using the three-year average usage per customer and ComEd's proposed yearly average customers, ICCP witness Meyer proposes to increase the test year Residential revenues by $41.4 million in 2024, $48.3 million in 2025, $52.1 million in 2026, and $52.9 million in 2027 (under present rates) and believes these increases in revenues lead to corresponding reductions in the revenue requirement increases for each year. ICCP Ex. 1.0 at 9. ComEd maintains that this proposal would increase the total residential kWhs by approximately 3.4% to 4.5%. ComEd Ex. 41.0 at 18.

ComEd argues that the Commission should reject ICCP witness Meyer's recommendation for seven reasons. First, ComEd contends that witness Meyer's claim that a multi-year average is an acceptable substitute for ComEd's forecasting model is inaccurate. ComEd Ex. 61.0 at 14. According to ComEd, taking a three or five-year average of historical usage per customer is not a forecast at all, nor is it equivalent to ComEd's robust econometric forecasting process, which determines sales (kWhs) as a function of weather and other drivers. ComEd Ex. 61.0 at 14. ComEd believes its load forecasting process is described in detail in ComEd Ex. 17.06 at 3-5, Section 1.1. For example, ComEd illustrates that future sales levels will not necessarily look like historical sales levels due to the evolving impacts of drivers like energy efficiency, solar, and electric vehicles, as well as changes in COVID-19 impacts (or lack thereof). *Id.* at 7-20, Section 2.5-2.8. ComEd contends a simple average over a very limited time period ignores how these drivers will change in the future. ComEd Ex. 61.0 at 14.

As part of his argument, ComEd contends, ICCP witness Meyer incorrectly asserts that ComEd Ex. 17.06 "does not provide a sufficiently detailed breakdown of how weather impacted the sales forecast [that ComEd] has proposed." ICCP Ex. 5.0 at 3. To the contrary, ComEd claims that ComEd Ex. 17.06 expressly states: "Forecasted weather is assumed to be normal and is based on a rolling 30-year average." ComEd Ex. 61.0 at 15; ComEd Ex. 17.06 at 6, Section 2.3. ComEd explains that this means that for the sales forecast, ComEd takes a 30-year average of historical weather data and uses that as an input into the forecast model, and by extension, that weather impacts the forecast by being an input into the forecast model in the form of a 30-year average. ComEd Ex. 17.06 at 6, Section 2.3.

ComEd observes that ICCP witness Meyer also claims that ComEd did not provide a breakdown of how weather impacted the sales forecast that he proposed. ICCP Ex. 5.0 at 3. ComEd contends that ICCP witness Meyer, however, did not actually provide a sales forecast, as ComEd points out. ComEd Ex. 61.0 at 15. ComEd observes that he provided a 3-year (and an alternative 5-year) average of non-weather normalized historical sales data. ComEd Ex. 61.0 at 15. As discussed above, and by way of contrast, ComEd claims that ComEd Ex. 17.06 at 2-5, Section 1.1, provides a description of ComEd's forecast process.

Second, ComEd contends that the values ICCP witness Meyer used to compute his recommended replacement for ComEd's forecasted residential kWhs are not based upon normal weather data. ComEd Ex. 41.0 at 20. ComEd explains weather normalization removes the impact of weather that is above or below normal. ComEd Ex. 61.0 at 16. According to ComEd, that provides ComEd with an appropriate comparison point of weather normalized historical sales in order to determine the appropriate kWh forecast. *Id.* ComEd has a robust and industry standard process to weather normalize sales that the Commission has previously approved. *Id.* With both a historical weather normalized period *and* a forecast of sales assuming normal weather, discussed above, Exelon's Load Forecasting Department ensures that ComEd's sales are at an appropriate level for setting billing determinants. *Id.* ComEd argues that in contrast, ICCP witness

Meyer's approach ignores weather normalization entirely, relying on non-weather normalized actuals as the basis for his average. *Id.*

Third, ComEd maintains that residential kWh sales are not increasing at the rate suggested by ICCP. ComEd claims that its switching report is available online and provides actual residential kWh sales from January through June 2023. ComEd compared those actual 2023 residential kWh sales to ComEd's forecast for 2023 in ComEd's schedule E-4(a)(1). ComEd states that the results show that 2023 to-date actual sales are more than 4% lower than the forecasted kWhs that would have been used to set the billing rates using the forecast. ComEd Ex. 61.0 at 17-18. ComEd claims that it has not determined all of the reasons for the variance, but weather may have contributed to a portion of the difference. *Id.* at 17, n.7. Nonetheless, ComEd contends that if the 2023 forecasted kWhs were adjusted by ICCP's recommended 3% - 4% increase, the total difference could be as high as 8%. *Id.* According to ComEd, this switching data, although it is admittedly only for six months and would not support a proper billing determinants forecast comparison because it uses non-weather normalized actual sales data, demonstrates that residential kWh sales are not increasing at the rate suggested by ICCP. *Id.*

Fourth, ComEd states that ICCP witness Meyer incorrectly assumes that ComEd must have identified observable growth in electric vehicles and correspondingly increased sales volumes, but failed to reflect that growth in ComEd's residential sales forecasts. ICCP Ex. 5.0 at 5; ComEd Ex. 61.0 at 18. To the contrary, ComEd contends, electric vehicles are included in ComEd's Billing Determinants Forecast Documentation. ComEd provided the electric vehicle assumptions used within the 2024-2027 forecast in ComEd Ex. 17.06 at 18-20, Section 2.8.3. And as shown in the entirety of that exhibit, residential total sales levels are expected to grow only slightly over the forecast period 2024-2027, because the kWh increase impact of electric vehicles is offset by energy efficiency and solar PV, which are also detailed in Section 2.5 and Sections 2.8.1-2.8.2, respectively. ComEd Ex. 61.0 at 18-19.

Fifth, ComEd argues that increasing the residential kWh billing determinants will lower the dollar per kWh rates ($/kWh), which when applied to ComEd's weather-normalized load forecast, will lead to an under-recovery of the approved revenue requirements. ComEd Ex. 37.0 CORR at 37-38; ComEd Ex. 58.0 CORR at 34-35. According to ComEd, it is true that any over or under-recovery will flow through Rider RBA – Revenue Balancing Adjustment ("Rider RBA"), which reconciles the recovery of the allocated revenue requirement to what was collected when the rates determined with the forecasted billing determinants are applied. ComEd Ex. 41.0 at 21-22. However, ComEd contends that it is still important for the Commission to accurately establish the level of forecasted billing determinants in this proceeding to avoid the adverse consequences associated with the under-recovery of ComEd's base rate revenue requirements through rates, and to minimize the related future increases that would occur through Rider RBA to recover this shortfall. ComEd Ex. 37.0 Corr. at 37-38. Notably, ComEd explains that Rider RBA recovery will be delayed because the reconciliation occurs roughly two years later. ComEd Ex. 41.0 at 21-22. For example, the adjustment for the under-recovery that occurs in 2024 will be applied in January to December 2026.

Id. Therefore, ICCP's less accurate methodology risks unexpected bill impacts at later dates. *Id.*

Sixth, ComEd observes that ICCP states in their Initial Brief that ComEd's ECOSS "significantly understates the Company's residential revenues, which in turn overstates ComEd's revenue deficiency." ICCP IB at 70. ComEd notes ICCP admitted that it is not advocating for a decrease in ComEd's revenue requirement. ICCP Ex 5.0 at 6 (agreeing with ComEd witness Leick that there is no decrease in the overall revenue requirement resulting from ICCP's proposed residential revenue adjustment related to billing determinant). Instead, ComEd explains, the implications of increasing the residential (kWh) billing determinants as suggested by ICCP witness Meyer are: (1) to make the required revenue increase, also known as the revenue deficiency, appear lower than before the proposed adjustment due to the fact that the forecasted revenues at present rates have been increased; and (2) to lower ComEd's dollar per kWh rates ($/kWh), which when applied to ComEd's weather-normalized load forecast, will lead to an under-recovery of the approved revenue requirements that will be collected two years later through Rider RBA. ComEd Ex. 37.0 Corr. at 38; ComEd Ex. 58.0 Corr. at 34. As discussed in ComEd's Initial Brief, ComEd contends this would lead to an undesirable situation. ComEd IB at 326-327.

Finally, ICCP argue that ComEd has given "no adequate explanation" for the "assumed drastic decline in annual usage per customer" reflected in ComEd's forecast. ICCP IB at 72. ComEd argues that every aspect of this assertion is incorrect. ComEd explains that when weather normal billing determinants are considered for all years, ComEd has not actually projected a "drastic decline in annual usage per customer." *Id.* ComEd notes that it has projected a noticeable increase from 2022 to 2024, and then a drop in 2025 and 2026, followed by no change in 2027. *See* ComEd Ex. 17.07; and Sch. E-4(a)(1). In their Initial Brief, ICCP state that there is a "drastic decline" because their witness and their tables use actual kWh as a starting point, and compare those actual kWh to ComEd's weather normalized figures. ICCP IB at 70-72; ICCP Ex. 1.0 at 6-7; *see also* ComEd Ex. 41.0 at 18. Comparing actual kWh (apples) to weather normalized figures (oranges) may show a "drastic" decline or increase depending on the impact of deviations from normal weather, but ComEd argues that comparison is meaningless and misleading. Moreover, ComEd maintains that it has provided "an adequate explanation" for its projections in the form of extensive testimony and evidence supporting its forecasting process. *Compare* ICCP IB at 72, *with* ComEd IB at 322-327, and ComEd Ex. 17.06 (Commonwealth Edison Company Multi-Year Rate Plan 2024-2027 Billing Determinant Forecast Documentation).

ComEd observes that Staff agrees with ComEd on this issue. ComEd explains that Staff witness Sanders does not support ICCP witness Meyer's methodology because "ICCP's proposed adjustment does not reflect normal weather conditions or include load forecasting," and is therefore "not ideal." Staff Ex. 16.0 at 8. Additionally, he concludes: "given the use of Rider RBA to reconcile any over or under payment," Staff has "no major concerns with the Company's proposed billing determinants." *Id*. at 8; ComEd Ex. 61.0 at 20. According to ComEd, Staff notes that "[w]hile accurate billing determinants are important," ICCP's proposal is not "supported by enough data to replace the Company's forecast." Staff IB at 231.

For the reasons noted above, ComEd concludes the Commission should reject ICCP's proposed methodology for forecasting residential billing kWhs. While ComEd submitted data supporting its forecasted kWh deliveries, ICCP's proposed methodology is not supported by any evidence and is likely to be less accurate.

Revenue Forecasts

ComEd argues that the Commission should adopt ComEd's revenue forecasts and reject the AG's proposal to adjust those forecasted revenues. ComEd believes that the AG makes this proposal purely to shift the recovery period of ComEd's revenue requirement. AG Ex. 2.0 at 6-7. ComEd observes, AG witness Effron, in his direct testimony, proposed "to adjust the forecasted 2025 revenues to equal the average of the 2024 and 2026 revenues." AG Ex. 2.0 at 7. ComEd further observes that AG witness Effron, in rebuttal testimony, admitted this proposal was incomplete and proposed "to set the non-residential revenues under present rates in 2025 equal to the non-residential revenues under present rates in 2026." AG Ex. 4.0 at 4. ComEd notes that he went on to say that, "[c]onsistent with this proposed adjustment to 2025 revenues, the non-residential billing determinants in 2025 should be set equal to the non-residential billing determinants in 2026." *Id*.

First, as noted above, ComEd explains that its forecast is based upon the load forecasting methodologies described in ComEd Ex. 17.06, which ComEd considers to be the best, most accurate forecasts based upon normal weather conditions. ComEd Ex. 41.0 at 22. Indeed, ComEd observes that while AG witness Effron concludes that ComEd's forecasted residential revenues are not unreasonable, he nonetheless suggests that the Commission adjust nonresidential revenues "to smooth the revenue forecasts to moderate the fluctuations in revenues in 2025 and 2026." AG Ex. 2.0 at 6-7. ComEd contends, however, that AG witness Effron does not state that ComEd's forecasts are inaccurate, nor does he offer any evidence in support of such an assertion. ComEd Ex. 41.0 at 22-23.

Second, ComEd asserts that it has used the proper method to forecast 2025 revenues at present rates by multiplying the prior year's (2024) delivery service rates ($/kWh) by the forecasted 2025 billing determinants (kWh), which will appropriately compute the current year's (2025) revenues at present rates ($/kWh X kWh = $). ComEd Ex. 37.0 Corr. at 39-40; ComEd Ex. 58.0 Corr. at 35-38. In contrast, ComEd observes that AG witness Effron uses an unconventional and inappropriate method. His adjustment applies 2023 non-residential rates (and not 2024 non-residential rates in effect) to forecasted 2025 and 2026 billing determinants, effectively computing the change in revenue at 2023 rates due to the change in billing determinants from 2025 to 2026. ComEd posits that AG witness Effron would then presumably add this adjustment to ComEd's properly forecasted 2025 non-residential revenues at present rates. ComEd Ex. 58.0 Corr. at 36. ComEd contends this approach would lead to a mixed bag of 2023 and 2024 rates applied to different quantities of billing determinants and cannot be used to forecast 2025 revenues at present (2024) rates. ComEd Ex. 58.0 Corr. at 35-38.

Third, ComEd espouses that if the Commission artificially raises billing determinants, doing so will result in the application of different computed rates to customer bills to recover the assigned revenue requirement. *Id.* To the extent the forecasted billing units do not match the actuals, ComEd claims that it will then need to recover its Commission-approved revenue requirement under the provisions of Rider RBA. *Id. See also* ComEd Ex. 37.0 Corr. at 39-40.

Fourth, ComEd maintains that it is mathematically impossible for the Commission to adopt the AG's revised proposal in witness Effron's rebuttal testimony. As explained above, ComEd illustrates that the proper method to forecast billing determinants is expressed as the following formula: delivery service rates ($/kWh) X forecasted billing determinants (kWh) = revenues. ComEd Ex. 37.0 Corr. at 39-40; ComEd Ex. 58.0 Corr. at 35-38. ComEd notes that ComEd witness Leick explained: "[a] complete calculation would take the billing determinants times the present rates, and the present rates would be different in each year even if the nonresidential billing determinants were forced to be the same in each year – so the [revenue] values would not be identical values, as the AG is trying to force them to be." ComEd Ex. 61.0 at 13.

In conclusion, ComEd argues that the Commission should approve ComEd's forecasted billing determinants provided in ComEd Ex. 17.07 and supported by ComEd Ex. 17.06 for setting rates in the Rate Plan, and reject the AG's proposal to smooth revenue forecasts in 2025 as there is no evidence to support this unconventional revision to ComEd's nonresidential billing determinants or revenues.

b. Staff's Position

Staff states the Commission should reject the AG's and ICCP's proposed changes to billing determinants and residential revenues. Staff RB at 108; Staff Ex. 16.0 at 2.

Staff notes the AG's revised proposal, to set non-residential revenues under present rates in 2025 equal to the non-residential revenues under present rates in 2026 and non-residential billing determinants in 2025 equal to non-residential billing determinants in 2026, would result in an increase of $10,141,000 to 2025 revenues. AG Ex. 4.0 at 4. Similarly, ICCP's proposal to increase the average use per customer from 7,306.48, 7,261.22, 7,236.32, and 7,232.61 kWhs/customer for the years 2024, 2025, 2026, and 2027, respectively, to a three-year average of 7,588.81 each year of the MYRP, results in an increase to revenues of $41.4 million in 2024, $48.3 million in 2025, $52.1 million in 2026, and $52.9 million in 2027 to the Company's test year residential revenues. ICCP Ex. 1.0 at 8-9.

Staff further notes ICCP continues to urge the Commission to adjust ComEd's proposed customer usage to favor their three-year average usage per customer from 2020-2022 which is 7,588.81 kWh per customer. ICCP IB at 73. Their argument is that ComEd forecasts overall lower use by residential customers, based on an assumed drastic decline in annual usage per customer that plummets in 2024 to be the lowest level since 2017, and then continues decreasing annually through the end of the MYRP period. *Id.* at 72.

Staff agrees with ComEd's rationale for rejecting each proposal. While accurate billing determinants are important, neither intervenor's proposal is supported by enough data to replace the Company's forecast. At this time, considering how the recent years' historical billing determinants have been affected by COVID-19 response efforts, as well as the use of Rider RBA to reconcile any over or under payment, Staff has no major concerns with the Company's proposed billing determinants. Staff Ex. 16.0 at 8.

For these reasons, Staff maintains that the Commission should reject the AG and ICCP's proposed changes to billing determinants and residential revenues. Staff RB at 109; Staff Ex. 16.0 at 2.

c. AG's Position

The AG notes AG witness Effron identified an anomaly in ComEd's revenue forecast, which showed an inexplicable decrease in sales from 2024 to 2025. Specifically, ComEd showed an increase in large commercial & industrial sales in 2024, 2026, and 2027, including a "significant increase" from 2025-2026, but a *sales decrease* solely in 2025. AG Ex. 1.0 at 6-7. ComEd argued that the Commission should accept this anomalous forecast, which reduces 2025 revenues by $20 million—that other customers will make up—because it is based on its forecast method. ComEd IB at 328. The AG points out that ComEd offered no explanation for why the non-residential revenues in 2025 should decrease from 2024 and then bounce back to the previous level in 2026. The AG state that the effect of this mis-specification is that rates will be higher than necessary to make up for the lost sales. The AG thus ask the Commission to adjust the 2025 non-residential revenues and billing determinants to eliminate the unreasonable dip in large commercial and industrial sales in 2025, and to increase 2025 sales revenues by $10.141 million, as identified by Mr. Effron. *See* AG Ex. 4.1 at Sch. C-1, Fn. B.

The AG, in its BOE, contends ComEd's position incorrectly presents AG witness Effron's adjustment. The AG explains ComEd's position omits key elements of the AG adjustment and includes a description of a correction Mr. Effron made to complete his adjustment on rebuttal. The AG argues this interpretation should be disregarded as it unnecessarily distracts from the adjustment the AG actually proposed.

d. ICCP's Position

ICCP state ComEd's ECOSS significantly understates the Company's residential revenues, which in turn overstates ComEd's revenue deficiency. ICCP witness Meyer compared the revenue forecasts ComEd included in its MYRP filing to actual revenues the Company reported from 2017 through 2022. ICCP Ex. 1.0 at 5. ICCP note Mr. Meyer explained that the first step in determining ComEd's revenues for the Test Years is to forecast the number of customers ComEd will serve in each of these years. Therefore, Mr. Meyer compared ComEd's historical customer levels, as reported to the Commission, to the customer numbers ComEd proposes in this case. *Id.* at 6. ICCP took no issue with ComEd's forecasted customer count. *Id*. at 7. However, ICCP note Mr. Meyer concluded that ComEd's forecasted annual average use for the MYRP period was understated when compared to the actual historic average use per residential customer for 2017-2022. ICCP Ex. 1.0 at 7-8, Table GRM-4. ICCP note that despite its reasonable projection that customers will increase in each year of the MYRP, ComEd forecasts an overall *decrease* in use by residential customers, based on an assumed drastic decline in annual usage per customer. *Id.* at 8.

ICCP note the Table GRM-4 shows that ComEd's forecasted usage plummets in 2024 to 7,306.48 kWh per customer, which would be the lowest level since 2017, and then forecast per-customer usage drops to below the lowest level in recent history in 2025 and continues decreasing annual through the end of the MYRP period. *Id*. ICCP state while ComEd expects its residential customer base to grow each year, the Company projects such a steep decline in per-customer usage in each of the next four years as to result in a net decrease in total residential usage. *Id.* at 8. ICCP note the Company has given no adequate explanation for this decrease. Thus, ICCP urge the Commission to adopt Mr. Meyer's recommendation to adjust ComEd's annual residential usage per customer forecasts for the Test Years to conform to reasonable expectations based on the Company's recent historical data.

ICCP recommend that the Commission base residential usage per customer on the three-year average usage per customer from 2020-2022 which is 7,588.81 kWh per customer. *Id.* at 8. ICCP recommend the three-year average be used to determine residential sales, instead of looking at the most recent year (2022), because unlike the annual average customer levels, average annual use per customer has fluctuated with no clear trend since 2017. Therefore, ICCP believe a multi-year average is appropriate to mitigate the effect of single-year variations and normalize usage per customer for weather and other factors. *Id.* at 8-9; ICCP Ex. 5.0 at 3.

ICCP further object to ComEd's billing determinants forecast on the grounds that the Company's sales forecast has a compound annual growth rate (0.04%) significantly lower than its stated residential billed energy growth rate (0.1%), and ComEd provided no explanation for this discrepancy. ICCP RB at 32.

ICCP conclude that the Commission should increase ratemaking forecast residential revenues for each of the Test Years in this case (2024 through 2027) relative to ComEd's proposals, thereby decreasing the Company's incremental revenue requirement that needs to be recovered from ratepayers for each Test Year, by the following amounts: $41.4 million in 2024; $48.3 million in 2025; $52.1 million in 2026; and $52.9 million in 2027. *See id.* at 9.

e. Commission Analysis and Conclusion

ComEd states its method and use of billing determinants to forecast revenues for 2024-2027 is reasonable and should be approved. ComEd adds it has provided extensive testimony and evidence supporting its forecasting formula and inputs. ComEd explains that its forecast is based upon the load forecasting methodologies described in ComEd Ex. 17.06, which includes a 30-year average of normalized historical weather data and impacts from EVs, EE, and solar PV.

The AG and ICCP each propose a revised methodology of forecasting by way of changes to the billing determinates to address an unusually significant decrease in forecasted large commercial and industrial sales for 2025 and understated growth in residential revenues for years 2024-2027. ComEd and Staff both are opposed to these proposals. Staff, in its RBOE, recommends the Commission approve a customer usage of 7,306.48 kWh per customer for 2024-2027, which it states is consistent with its recommendation in the Ameren MYIGP.

ICCP unreasonably focuses on only one aspect of the methodology used to forecast revenue as justification for its approach and fails to consider all reasonable inputs and variables. The AG's proposal would result in a forecasting methodology that is inconsistent when applied across years 2024-2027. The Commission finds the Company's historical data based on statistical and econometric load models to be the most reasonable predictor of usage. Therefore, the Commission adopts Staff's recommendation to use the Company's estimated usage of 7,306.48 kWh for 2024 for all 4 years of the MYRP.

4. JNGO - Marginal Cost of Service Study

a. ComEd's Position

ComEd argues that the Commission should reject JNGO's request that the Commission order ComEd to conduct a marginal cost of service study ("MCOSS"). As a preliminary matter, ComEd observes that no party specifically asks ComEd to conduct a MCOSS in its next RDI, and ComEd does not intend to do so. ComEd Ex. 61.0 at 11. *See also* JNGO Ex. 3.0 at 26-28; and JNGO Ex. 1.0 at 19-27. Rather, ComEd further observes that JNGO believes that a MCOSS would identify marginal distribution capacity costs, which would aid the Commission in the development of locationally specific DER values associated with deferring the need to upgrade or replace distribution infrastructure. JNGO Ex. 10.0 at 13. In this proceeding, JNGO initially requested that ComEd discuss whether it intends to conduct a MCOSS analysis related to substations within the next 6 months to inform the Commission's distributed DER value investigation. JNGO Ex. 10.0 at 12. In rebuttal, ComEd notes, JNGO changed its position slightly, and now recommends that the Commission order ComEd to conduct a MCOSS immediately at the conclusion of the Grid Plan proceeding. *Id*. at 13.

ComEd observes that Staff agrees with ComEd and concludes "that the most practical approach is to determine which analysis should be conducted in and after those workshops related to the determination of the value of DERs." Staff IB at 231-232. For ease of reference, ComEd notes that JNGO addressed this issue in Section VIII.C. of their Initial Brief. JNGO IB at 49. ComEd notes, as JNGO admit (JNGO Ex. 10.0 at 13), this issue specifically relates to the value of DER, and therefore whether or not ComEd should conduct such an MCOSS should be addressed in workshops related to the determination of that value. ComEd Ex. 61.0 at 11-12. ComEd asserts the Commission has already commenced workshops on this topic. Therefore, ComEd contends no Commission action is necessary on this issue at this time.

b. Staff's Position

Staff notes it and ComEd agree that a MCOSS is an issue specifically related to the value of DER and should be addressed in the DER value workshops. Staff RB at 109; Staff IB at 231; ComEd IB at 330. JNGO clarifies that this proposal is directly related to Section 16-105.17(f)(2)(G), concluding that ComEd's Grid Plan does not satisfy P.A. 102-0662's requirement to produce data that the Commission can use to inform the DER Value Investigation. JNGO IB at 41-42. JNGO go on to argue ComEd's Grid Plan does not appear to include any specific discussion or evaluation of the places where DERs could provide value on its distribution system and recommends that the Commission direct ComEd to produce this data using a "marginal cost analysis" to calculate the long-run system-wide capacity value of adding incremental DERs to its distribution system, and file the results in this docket within one year of the Commission's final Order. Id. at 42.

Staff understands the concerns JNGO have brought forth, but believes this issue is best dealt with in and after the value of DER workshops. Staff RB at 109.

c. JNGO's Position

See JNGO's position noted in Section V.C.7.e.(iii) above.

d. Commission Analysis and Conclusion

As previously noted and considered in Section V.C.7.e.(iv) above, the Commission initiated workshops on June 29, 2023 to explore the value of DER. The Commission agrees with ComEd and Staff that the value of DER workshop and eventual proceeding is the proper venue for this discussion. Again, the Commission sees no reason why a marginal cost analysis should not be provided as soon as possible if it has not been done already.

E. Contested Issues – Rate Design

1. General Rate Design Concerns

a. ComEd's Position

ComEd argues that the Commission should reject all requests to change ComEd's rate design in this proceeding. As stated above, pursuant to ComEd's legal right to omit the rate design component from this case and separately file it later, and its election to do so, the proper forum to address rate design concerns is in ComEd's forthcoming RDI, ComEd contends. 220 ILCS 5/16-105.5(a). By law, ComEd asserts, this consolidated Grid Plan and MYRP proceeding is not the proper time or place to analyze these issues. Id. Despite this clear statutory language, ComEd observes that the CTA and Metra have expressed rate design concerns in this proceeding. CTA Ex. 1.0 at 11-12; CTA/Metra Joint Ex. 1.0 Corr. at 4-5.

As a preliminary matter, ComEd notes that Metra addressed various general rate design issues in Sections I.B. and I.D of its Initial Brief. ComEd's response to all of those arguments are noted in this section. In addition, in its Initial Brief, ComEd observes, EDF uses this General Rate Design Concerns section to ask the Commission to address reconnection fees. EDF IB at 99-100. ComEd notes that it addresses that request in Section V.C.6.c.ii of its Reply Brief (Proposed New Disconnection Protection Project).

ComEd believes that CTA and Metra's concerns are misplaced. According to ComEd, the purpose of ComEd's forthcoming RDI filing will be to assign the Commission-approved revenue requirement responsibilities among customer classes in a reasonable manner according to cost causation, while allowing ComEd the opportunity to recover its authorized revenue requirement. In that docket, the Commission will consider revenue neutral changes related to rate design and the CTA can present its cost causation analyses in that proceeding. 220 ILCS 5/16-105.5(c)(1).

ComEd responds to Metra's discussion of historical Commission decisions regarding cost allocation to the RR Delivery Class and notes that the Commission has historically recognized the environmental and societal benefits of the RR Delivery Class's services. ComEd explains that in 2007, the Commission determined that the RR Delivery Class should pay its full cost of service implemented through initially a gradual four-step process then later a ten-step process. Docket No. 07-0566, Order at 213; Docket No. 10-0467, Order at 257. ComEd asserts that CTA and Metra have not offered any evidence or engineering testimony in this case that would prove that they will not use investments related to ComEd's Grid Plan. ComEd also explains how the Grid Plan and rate case investments are not analogous to AMI investments that primarily benefited residential and small business customers. ComEd explains that while the RR Delivery Class does merit special treatment sometimes, those circumstances are exceedingly rare, and the CTA and Metra must support them with clear and convincing evidence. ComEd concludes that CTA and Metra's request to be excluded from all Grid Plan costs does not warrant such treatment.

ComEd responds to the CTA and Metra's criticism of ComEd's benefit-cost analyses related to the proposed investments. ComEd points out that Metra wants the RR Delivery Class to be relieved of their obligation to pay for the construction of special facilities but has not conducted its own benefit-cost analysis to determine whether those facilities are needed or whether it is fair for other customer classes to absorb the RR Delivery Class's costs.

ComEd notes that it also responds to Metra's discussion of historical Commission decisions regarding cost allocation to the RR Delivery Class, and Metra's incorrect assertion that "the Commission [should] direct that the [RR] Class be relieved of any obligation to pay for the costs of ComEd's Grid Plan pursuant to the Commission's authority in 220 ILCS 5/16-108.18(d)(14)," which is the subsection of P.A. 102-0662 addressing the Commission's authority to propose a rate phase-in plan.

Contrary to Metra's claims, ComEd argues, both the Commission and ComEd have historically recognized "the environmental and societal benefits of the [RR] Class's … services". *Compare* Metra IB at 6 (criticizing ComEd's alleged "struthious refusal to take into account" the RR Delivery Class's "environmental and societal benefits") *with e.g.*, Docket No. 10-0467, Order at 257 (reflecting ComEd's and the Commission's recognition of public interest considerations associated with RR Delivery Class). Because of those benefits, ComEd explains, the RR Delivery Class has received special treatment, separate and apart from all other delivery classes and customers, and historically has not paid its full cost of service.

ComEd observes that Metra cites two discreet examples where the Commission exempted the RR Class from cost allocation, neither of which fits the fact pattern in this case or supports their argument here. In the first example, the 2010 rate case, CTA and Metra provided extensive evidence concerning whether the RR Delivery Class took service at 4kV, and whether they should be allocated any costs related to 4kV assets. Docket No. 10-0467, Order at 185-188. According to ComEd, as Metra points out in its Initial Brief, the Commission concluded: "Based on the evidence provided, it is clear that the RR Class does not, and probably will never, take service at 4kV." *Id*. at 191. The Commission "direct[ed] ComEd to work with Metra and the CTA, and Staff if appropriate, to study, define, and delete from the costs assigned to the [RR] Class the costs that are associated with the 4 kV facilities that are not used to serve the [RR] Class." *Id*. But in doing so, ComEd observes, the Commission noted that "exclusion of certain asset costs for a particular group of customers could result in a distortion of the price that all customers must pay to benefit from the use of a utility." *Id*.

In addition, ComEd offers, in Docket No. 10-0467, CTA and Metra presented specific evidence – including testimony by engineers who had analyzed the RR Delivery Class facilities and ComEd's 4kV facilities – proving to the Commission that CTA and Metra did not use ComEd's 4kV facilities. *Id*. at 185-188. In other words, ComEd explains, CTA and Metra met their burden to prove that they would not or could not use the facilities at issue. In contrast, ComEd points out, CTA and Metra have not offered any evidence or engineering testimony in this case that would prove that they will not use investments related to ComEd's Grid Plan. ComEd observes that CTA and Metra have offered the testimony of four of witnesses in the instant proceeding, and none of those witnesses have represented themselves to be engineers, nor have they provided qualifications indicating the requisite level of engineering and grid planning expertise to opine on this issue. Instead, ComEd believes that CTA and Metra attempt to shift that burden to ComEd, essentially asking ComEd to show how every single investment will benefit each and every class. CTA and Metra have it backwards, ComEd claims. Using their methodology would almost certainly result in the distortion of price that the Commission warned against in Docket No. 10-0467, ComEd reasons. ComEd argues that the instant situation simply does not compare to the 4kV allocation at issue in the 2010 rate case. It does not warrant the extraordinary step of excluding the RR Delivery Class from Grid Plan asset costs, ComEd maintains.

For the second example, ComEd observes, Metra cites to Docket No. 09-0263. That case presented an issue akin to the 4kV facilities in the 2010 rate case. ComEd points out, CTA and Metra presented evidence showing that the AMI pilot at issue was "primarily to be applied to residential and small business customers," and that the RR Delivery Class had already installed its own advanced metering systems. *Commonwealth Edison Co.*, Docket No. 09-0263, Order at 38-39 (Oct. 14, 2009). It is not akin to the situation here, where the entirety of ComEd's Grid Plan and rate case investments are at issue and the RR Delivery Class seeks exclusion from any cost allocation, without any proof that they will not use ComEd's electric grid in any way, ComEd argues.

Moreover, ComEd maintains that Metra inexplicably and incorrectly refers to ComEd's 2017 RDI as "the last [RDI] proceeding" and thereby conspicuously omits the most recent Commission decision regarding the RR Delivery Class: ComEd's 2020 RDI. *Compare* Metra IB at 13 *with Commonwealth Edison Co*., Docket No. 20-0832, Order (May 27, 2021). In that 2020 RDI, ComEd explains, the Commission ordered ComEd to "take the next step – step four of ten – towards full revenue responsibility for the RR Class." Docket No. 20-0832, Order at 23. According to ComEd, in rejecting the RR Delivery Class's request for special treatment in that case, the Commission concluded:

> The COVID-19 pandemic has had an immense impact on all customers, not just the RR [Delivery] Class. The Commission agrees with Staff that should the next step towards full revenue responsibility be delayed for another three years until the next [RDI], the RR Class would get special consideration in the form of lower rates to the detriment of other customer classes.

Id. All of this history shows that while the RR Delivery Class does merit special treatment sometimes, those circumstances are exceedingly rare, and the CTA and Metra must support them with clear and convincing evidence, ComEd explains. ComEd argues that CTA and Metra's request to be excluded from all Grid Plan costs does not warrant such treatment.

In addition, ComEd observes that the statutory section that Metra cites in support of its request to be excluded from all Grid Plan costs concerns the Commission's ability to approve a rate phase-in plan that ComEd suggests, pursuant to 220 ILCS 5/16-108.18(d)(13), or a rate phase-in plan that the Commission develops on its own, pursuant to 220 ILCS 5/16-108.18 (d)(14). ComEd argues that section clearly does not impact rate design that is outside of a rate phase-in plan, and it does not provide the Commission with authority to disregard ComEd's statutory election to address rate design separately from this MYRP proceeding and to ignore cost causation and ECOSS principles entirely. 220 ILS 5/16-105.5(a).

Finally, according to ComEd, both CTA and Metra criticize ComEd's benefit-cost analysis related to ComEd's proposed investments. At the same time, particularly with regard to Rider DE – Distribution System Extensions ("Rider DE") and Rider NS – Nonstandard Services and Facilities ("Rider NS"), both CTA and Metra seek to be relieved of any obligations regarding paying for their own investments, ComEd observes. Indeed, ComEd believes that CTA and Metra seek to socialize all of those costs among ComEd's other customers. ComEd notes that this is particularly ironic given that Metra admits that ridership is down and forecasts that systemwide ridership will "only return to [about] 70% of pre-pandemic levels by the end of 2025, and even this figure is uncertain." Metra IB at 9. In other words, ComEd explains, Metra wants the RR Delivery Class to be relieved of their obligation to pay for the construction of special facilities, but has not conducted their own cost/benefit analysis to determine: (1) whether those facilities are even needed considering the decreased ridership; and/or (2) whether it is fair for other customer classes to absorb the RR Delivery Class's costs even though they too have been impacted by the COVID-19 pandemic.

In short, ComEd contends that its forthcoming RDI proceeding will allow parties the opportunity to recommend changes to ComEd delivery service cost allocation methodologies. ComEd Ex. 41.0 at 6-8.

b. EDF's Position

Allocating costs to the cost causer is one aspect of rate design. *E.g*., *Ameren Ill. Co. v. Ill. Commerce Comm'n*, 2012 IL App (4th) 100962, ¶ 151, 967 N.E.2d 298. Consistent with Section V.B.7, EDF asks the Commission to update its reconnection fees to reflect only the costs of disconnecting and reconnecting a customer (approximately $0.85 for customers with AMI and approximately $77.54 for customers without AMI).

c. CTA/Metra's Position

See Section XVI.D.1.e CTA/Metra assert the RR Delivery Class members will not benefit from ComEd's Grid Plan. Therefore, CTA/Metra conclude ComEd's proposal to raise the RR Class members rates to pay for the Grid Plan improvements should be rejected.

d. Commission Analysis and Conclusion

For the reasons noted in Section XVI.D.1.e above, the Commission agrees with ComEd that this proceeding is an improper venue in which to address any concerns related to the rate design. CTA, Metra, and other stakeholders will have the opportunity, and are encouraged, to present their positions on delivery service cost allocation and rate design methodologies in ComEd's forthcoming RDI proceeding.

2. Rider DE

a. ComEd's Position

ComEd argues that the Commission should reject all requests regarding Rider DE in this proceeding. ComEd contends that it established Rider DE to ensure that the construction of special facilities for a particular customer would result in additional revenue from that customer, reducing the risk that other customers would have to cover the costs of that extension if the customer does not deliver the forecasted electric loads the facilities were constructed to serve.

ComEd notes that BOMA seeks to reduce ComEd's New Business program capital budget of $1.75 billion because BOMA believes that ComEd already has the ability to recover a significant portion of these types of costs through Rider DE, and that ComEd therefore should recover a greater portion of these costs through Rider DE. ComEd Ex 41.0 at 7. But, according to ComEd, BOMA's understanding of how Rider DE works is incorrect: Rider DE is not designed to provide cost recovery to ComEd. ComEd explains that it is a financial mechanism to address certain limited standard service installation costs if a customer's electrical load does not reach the level the customer anticipated when it requested the service installation. ComEd Ex. 41.0 at 8.

According to ComEd, pursuant to Rider DE, if the ComEd costs of the distribution system extension exceed the greater of: (1) the standard extension amount of $250,000; or (2) the five-year expected delivery service revenue, the customer makes a deposit prior to the installation of the electrical service. *Id*. at 8. ComEd explains that if the customer achieves its forecasted load requirements that the distribution system extensions were sized for and constructed to serve, ComEd refunds the deposit. *Id*. ComEd claims that it refunds deposits annually based upon the delivery service revenue received from the customer over ten years and the refunds can be accelerated to 100% of the deposit if an average of 75% of the expected load is billed to the customer in the first five years. *Id*. at 8, n. 2. Finally, ComEd explains Rider DE does not apply when off-property distribution system extension costs are under $250,000. ComEd Ex. 41.0 at 8. Thus, according to ComEd, the goal of Rider DE is to ultimately refund any amounts collected pursuant to Rider DE, and Rider DE does not apply in all situations. ComEd asserts Rider DE is not akin to, and is simply not a substitute or supplement for, ComEd's New Business program capital budget.

ComEd observes that BOMA goes on to request that ComEd change the terms of Rider DE in this docket to allow new cost recovery mechanisms. ComEd Ex. 41.0 at 8-9; ComEd Ex. 41.02. ComEd states that it does not support this modification to Rider DE, and this is not the proper forum to litigate this issue. ComEd Ex. 41.0 at 11.

ComEd notes that although BOMA witness Pruitt offered testimony on this topic, BOMA failed to raise this issue in its Initial Brief. It would be inappropriate for a party who is the proponent of a topic to raise its arguments in support of that issue for the first time in a reply brief, ComEd argues. Therefore, ComEd concludes, the Commission should consider this issue to be abandoned by BOMA.

ComEd also argues, the Commission should reject proposals from CTA/Metra to modify Rider DE in this proceeding. ComEd observes that CTA and Metra continue to argue for the special treatment under Rider DE – a total exemption for CTA and Metra for line extensions and facilities used to provide charging of electric transit buses or electric trains – that they requested in the BE Plan docket, and that the Commission already rejected. CTA/Metra Joint Ex. 1.03 Corr. at 3; *Commonwealth Edison Co*., Docket Nos. 22-0432/22-0442 (consol.), Order at 246-251 (Mar. 23, 2023). ComEd observes that CTA/Metra suggest adding the following language to Rider DE:

> Notwithstanding anything to the contrary in this Rider DE, no deposit or letter of credit shall be required from any municipal corporation organized under the Metropolitan Transit Authority Act, 70 ILCS 3605 et seq. for any line extension by the Company or the design, installation or construction of facilities that are used to provide charging of electric transit buses or are extensions to service electric trains.

CTA/Metra Joint Ex. 1.03 Corr. at 3.

ComEd maintains that the Commission correctly rejected this modification in the BE Plan docket, noting the Rider DE deposit requirement reduces the risk that other customers would have to cover the costs of the construction of facilities for a particular customer. Docket Nos. 22-0432 and 22-0442 (consol.), Order at 246-251; ComEd Ex. 61.0 at 7. ComEd argues that the Commission should reject the same proposal here.

ComEd responds to arguments asserted by Metra related to Rider DE and a discussion of whether Metra pays its bills. ComEd clarifies that Rider DE does not concern unpaid bills for electric service, but rather it concerns distribution extension costs that may end up being socialized among all of ComEd's customers if anticipated load does not materialize to support those distribution extensions.

ComEd observes that CTA makes one new argument in its Initial Brief, that: "[n]o deposit should be required for make-ready infrastructure that furthers the goal of [P.A. 102-0662]." CTA IB at 12. ComEd argues that the Commission should reject this argument for two reasons. First, ComEd observes that CTA offers no evidentiary or legal support for this statement. That is because none exists. Second, this argument would apply to any infrastructure work that furthers the goals of P.A. 102-0662, not just CTA's work, ComEd notes. Taken to its logical conclusion, ComEd contends, CTA's argument would largely eviscerate the protections afforded by Rider DE that the Commission has embraced, namely the "Rider DE[] deposit requirement [that] reduces the risk that other customers would have to cover the costs of the construction of facilities for a particular customer." ComEd IB at 333-334; Docket Nos. 22-0432/22-0442 (Consol.), Order at 246-251; ComEd Ex. 61.0 at 7.

ComEd believes that Metra purports to make three new arguments in its Initial Brief that are also all equally unavailing. First, ComEd contends that Metra incorrectly claims – and without any explanation – that its proposed changes to Rider NS solve its problems with Rider DE. ComEd claims that it is not possible to intelligently respond to this unclear and unsupported statement. Second, ComEd observes that Metra states that it pays its bills. ComEd posits that may or may not be true – there is no evidence in the record on this topic – but in any case, it is irrelevant to the purpose of Rider DE. Rider DE does not concern unpaid bills for electric service. It concerns distribution extension costs that may end up being socialized among all of ComEd's customers if anticipated load does not materialize to support those distribution extensions, ComEd explains. Third, ComEd observes that Metra claims that "failure to pay a bill will be corrected in the annual reconciliation process." Metra IB at 26. Again, ComEd notes, Metra provides no support or explanation for this non-sequitur of a statement. ComEd posits that Metra may be conflating MYRP reconciliations with Rider UF – Uncollectible Factor proceedings, although from the limited argument and lack of any citation provided, it is impossible to tell. And, as explained previously, Rider DE is not about unpaid bills, so this argument is a non-starter, according to ComEd.

In summary, ComEd argues that CTA and Metra have not offered any compelling evidence or argument why the Commission should not once again reject this same proposal regarding modifying Rider DE here as it did in the BE Plan docket.

b. CTA/Metra's Position

CTA/Metra state that Rider DE requires customers to post a deposit to pay for the cost of non-standard capacity improvements. ComEd contends it needs Rider DE to "ensure" that it obtains additional revenues from equipment it adds to its system. ComEd has interpreted "standard service" not to include improvements above one line service. In other words, as the RR Delivery Class members upgrade or add traction power substations, the members must pay all costs associated with building lines to their facilities. For the CTA's bus electrification, this means that upgrading the capacity of their garages to charge electric buses would require a deposit. The EV Act requires utilities to prepare "beneficial electrification programs" to include "incentives and infrastructure tarted to vehicles used by transit agencies." 20 ILCS 627/45(a)(10)(5-6). The EV Act defines "make-ready infrastructure" as "the electrical and construction work necessary between the distribution circuit to the connection point of the charging equipment." 20 ILCS 627/45. In short, the deposits for make-ready costs are contrary to the EV Act and create an impediment to the purpose of the EV Act. In addition, by the very nature of the facilities being added, ComEd will receive new revenue and therefore does not need a deposit for the future revenue. CTA/Metra argue that this restriction should be eliminated. Accordingly, CTA/Metra urge the Commission to direct that Rider DE be revised as set forth in CTA/Metra Joint Ex. 1.03 Corr.

c. Commission Analysis and Conclusion

CTA and Metra request Rider DE be revised to allow for an exemption for line extensions and facilities used to provide charging of electric transit buses or electric trains. The Commission agrees with ComEd that these concerns were raised and adequately addressed by the Commission in its BE proceeding. Docket Nos. 22-0432/22-

0442 (Consol.), Order at 246-251. CTA and Metra have not proffered any additional evidence or arguments in support of their position, and the Commission declines to revisit the issue again here.

Moreover, for the reasons noted in Section XVI.D.1 above, any concerns regarding the rate design delivery service cost allocation and rate design methodologies shall be considered in ComEd's forthcoming RDI proceeding.

Additionally, the Commission notes BOMA did not brief this issue and deduces BOMA no longer wishes to pursue its proposals noted in its testimony. Therefore, the concerns expressed by ComEd as it relates to BOMAS's proposal asserted in its testimony need not be addressed at this time.

3. Rider NS

a. ComEd's Position

ComEd argues that the Commission should reject all requests regarding Rider NS in this proceeding. ComEd's Rider NS is the financial mechanism used to collect the costs associated with nonstandard customer requests or requirements, for example, larger or different services or facilities other than those considered standard.

BOMA takes issue with the operation of Rider NS, arguing that Rider NS lacks clarity and argues for an expansion of what ComEd offers as standard service, ComEd states. BOMA Ex. 2.0 at 10. At the same time, ComEd contends, BOMA seeks to shrink the facilities, equipment, or services that are currently subject to Rider NS. In support of this argument, ComEd observes that BOMA notes "certain equipment or services labeled as 'non-standard' in the past may be standard today." *Id*.

ComEd argues that BOMA's criticisms are unfounded. First, ComEd states that its General Terms and Conditions Sheet Nos. 155 and 156 clearly describe standard and non-standard services and facilities. Second, ComEd maintains that it already has a process for expansion of what ComEd offers as standard service. Specifically, non-standard distribution facilities or services can become standard if ComEd determines the facilities are now necessary to provide standard electric service, ComEd explains. ComEd Ex. 41.0 at 10. ComEd points out that this analysis requires a specific review involving the exercise of judgment by a ComEd engineer. *Id*. at 10. According to ComEd, an example may be if a customer increases their load requirements and the additional distribution facilities that previously would have been provided as non-standard at a lower load requirement will now be needed to meet the higher load requirements and will therefore become standard. *Id*.

Additionally, ComEd observes that BOMA's proposals for Rider DE and Rider NS appear to conflict with each other. ComEd illustrates that one proposal requires individual customers to pay more under Rider DE and the other proposal appears to require individual customers to pay less under Rider NS. ComEd Ex. 41.0 at 11. In other words, ComEd notes that BOMA's position on Rider DE seeks to use the rider to provide fewer facilities or services as standard and to raise deposits and/or keep more of the deposits to socialize less of the costs to all customers in order to lower ComEd's capital budget for new business installations. *Id*. To the contrary, ComEd believes that BOMA's position with respect to Rider NS seeks to take costs that are currently assigned to individual customers and instead socialize them among all of ComEd's retail customers. *Id*. ComEd contends that it does not support modifying Rider NS to provide more facilities and services as standard and, as noted in the Rider DE section, this docket is not the proper forum to litigate this issue.

On a procedural note, ComEd observes that, just like Rider DE above, although BOMA witness Pruitt offered testimony on this topic, BOMA failed to raise this issue in its Initial Brief. ComEd argues that it would be inappropriate for a party who is the proponent of a topic to raise its arguments in support of that issue for the first time in a reply brief. Therefore, the Commission should consider this issue to be abandoned by BOMA, ComEd concludes.

ComEd observes that, similar to Rider DE above, both CTA and Metra continue to raise the same issues regarding Rider NS in this proceeding that they raised in ComEd's BE Plan docket. Here, ComEd notes that CTA and Metra request a special exception to Rider NS providing that "charging of electric transit buses or extensions or additions to electric rail service shall not be subject to any non-standard service charges or fees under this Rider NS … and shall be considered standard service." ComEd IB at 336 (*citing* CTA/Metra Joint Ex. 1.03 CORR at 1-2). Specifically, ComEd states that CTA/Metra suggest adding the following language to Rider NS:

> Notwithstanding the previous paragraphs or any subsequent provisions of this Rider NS to the contrary, service provided to any municipal corporation organized under the Metropolitan Transit Authority Act, 70 ILCS 3605 et. seq. … for any line of extension by the Company or any design, installation, or construction for facilities that are used to provide charging of electric transit buses or extensions or additions to electric rail service shall not be subject to any non-standard service charges or fees under this Rider NS and such design, installation, or construction of such facilities shall be considered standard services . . .
>
> Notwithstanding anything to the contrary in this paragraph, the Company shall reserve without charge any municipal corporation organized under the Metropolitan Transit Authority Act, 70 ILCS 3605 et. seq. … distribution system capacity to provide for increased load that may be needed to provide charging of electric transit buses.

CTA/Metra Joint Ex. 1.03 Corr. at 1-2.

ComEd observes that this is another attempt by the RR Delivery Class to secure special treatment for itself, and to socialize its costs across other rate classes. ComEd concludes that CTA and Metra did not offer any compelling evidence or argument as to why the Commission should not reject this same proposal again to modify Rider NS here as it did in the BE Plan docket. CTA and Metra each make one additional statement in support of their position on Rider NS in Initial Briefs, ComEd notes.

First, ComEd observes, without providing a citation for the text it quotes, CTA states: "[i]n Docket Nos. 22-0432 and 22-0442, the Commission agreed that the CTA 'should be able to access make-ready funding from ComEd for infrastructure upgrades on both sides of the meter.' However, as ComEd explains, the Commission found in the BE case that ComEd's budget in that docket did not provide adequate funding." CTA IB at 12-13. CTA then claims that this "lack of funding may be overcome in this docket by modifying Rider NS." *Id*. ComEd observes that CTA offers no evidence or explanation showing how modifying the text of Rider NS in this docket will create the missing BE-related funding. And of course, modifying Rider NS will not actually make this happen, ComEd points out.

Second, according to ComEd, Metra asserts that because ComEd has proposed capacity expansion costs for entities like "public schools and EV owners" without requiring them to pay direct costs, the Commission should order ComEd to do the same for the RR Delivery Class. Metra IB at 26. Metra provides no citation or evidentiary support for this statement, so it is impossible to know exactly what Metra is referring to, ComEd explains. To the extent they are referring to BE Plan programs, those are not at issue in this proceeding, ComEd maintains.

In summary, ComEd contends that CTA and Metra have not offered any compelling evidence or argument. ComEd maintains that it does not agree with the CTA/Metra proposal in either procedure or substance: this is not the proper forum to address this issue and the proposed changes are substantively improper. ComEd maintains that it requests that the Commission reject this recommendation just as it did in the BE Plan docket. *See* Docket Nos. 22-0432/22-0442 (consol.), Order at 246-251.

b. CTA/Metra's Position

CTA/Metra states that given the societal and environmental benefits afforded by the RR Delivery Class members, and the capacity expansion costs that ComEd is proposing at no direct cost to others, including public schools and EV owners, it only makes sense to revise Rider NS as requested by the RR Delivery Class (*see* CTA/Metra Joint Ex. 1.03 Corr.) and relieve public transportation entities of the cost burden associated with provision of ComEd lines to support public transportation expansion. ComEd admitted that it could make an "engineering" judgment to override Rider NS but wants to retain its discretion. ComEd IB at 335. CTA/Metra assert this judgment has not worked in the past and there is no indication that P.A. 102-0662 has changed ComEd's procedures.

Moreover, contrary to ComEd's arguments that the CTA did not show a need for Rider NS, CTA witness Kate Tomford testified that the CTA Bus Electrification Plan to convert 1,800 diesel buses to electric means upgrading and modernizing its seven existing garages and heavy maintenance facilities, which are largely located in EJ and R3 communities. CTA Ex.1.00 at 7. CTA/Metra argue that a change in Rider NS is appropriate for upgraded service to the CTA's bus garages being converted to charge electric buses because such additions are "make-ready infrastructure" that P.A. 102-0662 requires to be covered by the utility. In addition, the CTA is extending its Red Line service by 5.5 miles, which requires additional service from ComEd. CTA Ex. 1.00 at 10.

Accordingly, CTA/Metra urge the Commission to direct that Rider NS be revised as set forth in CTA/Metra Joint Ex. 1.03 Corr.

c. Commission Analysis and Conclusion

CTA and Metra request Rider NS be revised to relieve public transportation entities from the cost burden associated with provision of ComEd lines to support public transportation expansion. The Commission agrees with ComEd that these concerns were raised and adequately addressed by the Commission in its BE docket. Docket Nos. 22-0432/22-0442 (consol.), Order at 246-251. CTA and Metra have not proffered any additional evidence or arguments in support of its position, and the Commission declines to revisit the issue again here.

Moreover, for the reasons noted in Section XVI.D.1.e above, any concerns regarding the rate design delivery service cost allocation and rate design methodologies shall be considered in ComEd's forthcoming RDI proceeding.

Additionally, the Commission notes BOMA did not brief this issue and deduces BOMA no longer wishes to pursue its proposals noted in its testimony. Therefore, the concerns expressed by ComEd as it relates to BOMAS's proposal asserted in its testimony need not be addressed at this time.

4. Specific Delivery Class Percentage Increases

a. ComEd's Position

ComEd does not believe that the Commission should, or needs to, take action on specific delivery class percentage increases as this time. BOMA witness Pruitt points out that the Watt-hour ("WH") Delivery Class's "Cumulative Cost Increase Between 2023 and 2027" is lower than the increase for the Large Load ("LL") Delivery Class (400 kW–1,000 kW). BOMA Ex. 2.0 at 9. According to ComEd, as ComEd witness Leick explained, "[w]hile every delivery class may not have the exact same percentage change when using a particular 'representative' customer's usage profile, the difference in the two percentages is not unexpected." ComEd Ex. 41.0 at 11:244 – 13:273; ComEd Ex. 61.0 at 9-10.

b. CTA/Metra's Position

CTA/Metra claim that the RR Delivery Class receive little or no benefit from ComEd's proposed Grid Plan improvements. CTA/Metra request that the Commission order that none of the Grid Plan costs should be allocated to the RR Delivery Class for rate-making purposes.

CTA/Metra assert that ComEd provided no testimony concerning the Grid Plan's benefits to the RR Delivery Class members. The only evidence in the record of potential benefits to the RR Delivery Class members is in ComEd data request responses admitted into evidence at the request of Metra and the CTA.

The CTA submitted a data request to ComEd which requested that ComEd identify the benefits of ComEd's various grid plan improvements. ComEd objected to the data request on the grounds that "information pertaining to investment impacts for particular classes of customers is not relevant and is outside the scope of this proceeding." CTA Ex. 1.03; *see also* CTA/Metra Joint Ex. 3.00. ComEd also objected on the grounds that it did not have the information readily available, if at all. *Id*. Without waiving these objections, ComEd pointed generally to System Maintenance Investments, which it said, "are intended to improve overall systems reliability and reduce the likelihood of outages, which benefits the [RR] Class's traction power," and to System Performance Investments, which "are intended to improve system operational flexibility, visibility, capability and resiliency which benefit the RR Delivery Class's traction power along with the resiliency of the overall system." *Id*. And when Metra asked ComEd to identify the benefits of other programs, ComEd flatly admitted that it had no analysis of the benefits of these programs to the RR Delivery Class. CTA/Metra Joint Ex. 6.06; CTA/Metra Joint Ex. 7.00; CTA/Metra Joint Ex. 9.00.

Metra's current Director of Electrical Maintenance for the Metra Electric District testified that he has supervised and/or performed work on Metra's electrical components in all of its Electric District substations for the last 35 years. Metra Ex. 2.0 at 1-3. Mr. Schafroth testified that Metra owns all but two of its substations, and Metra leases the remaining two substations from ComEd pursuant to a license agreement. *Id*. at 3. Mr. Schafroth also testified that Metra maintains all of its substations except one at an average annual maintenance cost of $1.04 million, which cost does not include the cost to replace major pieces of equipment that fail or have exceeded their useful life. *Id*. at 6. The Northeast Indiana Commuter Transportation District maintains the remaining substation pursuant to a contract with Metra. *Id*. at 4.

In Mr. Schafroth's 35 years, only one substation has ever had a problem with total outages due to failure on ComEd's system. *Id*. at 6. Metra remedied the problem at Metra's expense by adding a line to feed that substation from another Metra substation. Metra has not experienced a single total outage at that substation since it effected that remedy. *Id*.

CTA witness Tomford testified that the CTA owns, operates, and maintains its own transformers and other equipment. CTA Ex. 1.0 at 10. She noted that ComEd response to CTA Data Request 1.03, ComEd stated that "other than 'overall system reliability,' ComEd could not identify any specific projects that benefit the CTA." *Id*. at 10.

CTA/Metra witness Bachman also addressed similar issues. Mr. Bachman observed that: "When the CTA asked ComEd to describe the benefits to the RR [Delivery] Class for each planned investment in the Grid Plan, ComEd responded that 'information pertaining to investment impacts for particular classes of customers is not relevant and is outside the scope of these proceedings.'" CTA/Metra Joint Ex. 1.0 at 4. Mr. Bachman also noted that Mr. Schafroth's testimony reflected that Metra is not having any problem with outages, and that the CTA has advised him that the CTA also has no problems with traction power outages due to ComEd system failures. Mr. Bachman concluded:

> At this point, ComEd apparently has not performed a meaningful benefit-cost analysis, and has declined to identify what the benefits are to the [RR] Class of any specific proposed improvements or group of improvements. And the RR Class members are not experiencing outages that would justify grid improvements increasing the cost to serve the RR Class by over 50%. [In Exhibit 1.02 in Response to DR 2.01

> the increase is calculated at 52.11%] So insofar as the RR Class is concerned, I am not aware of any factual support in the record for allocation to the RR Class of the cost of any of the improvements in ComEd's Grid Plan.

Id. at 7.

CTA/METRA contends the RR Class witnesses' testimony is unrebutted. ComEd provided no testimony concerning benefits of the Grid Plan to the RR Class. Based on the evidence described above, the uncontroverted evidence in the record is that the RR Class members will not receive any meaningful benefit from any aspect of the Grid Plan.

Prior Commission Orders have concluded that where the RR Class receives no meaningful benefit from an improvement or series of improvements, given the societal and environmental benefits afforded by the RR Class and applying standard cost-causation principles, the RR Class should not be asked to pay for those improvements. Docket No. 10-0467, Order at 191; Docket No. 13-0387, Order at 5; Docket No. 09-0263, Order at 43.

In Docket No. 09-0263, the Commission directed ComEd to follow its prior directive and delete from the costs assigned to the RR Class costs of the pilot AMI meter program. The Commission's decision was based on cost causation principles and the public interest considerations associated with the RR Class.

In Docket Nos. 10-0467 and 13-0387, the Commission directed in its Orders that ComEd should delete from the costs assigned to the RR Class the costs of facilities used to supply voltages at less than 12kV. The Commission's decisions in these cases also were based both on cost causation principles because the RR Class takes power at 12 kV and does not use facilities supplying lesser voltages, and on the public interest considerations associated with the RR Class. Docket No. 10-0467, Order at 191; Docket No. 13-0387, Order at 5.

According to CTA/Metra, the same principles are involved in this case. CTA/Metra concludes that the RR Class will not benefit from the Grid Plan improvements, and thus should not be required to pay for them.

CTA/Metra note that ComEd is not required to file an RDI case until one year after the Commission issues a final Order in this case. Since the deadline for a final Order in this case is December 20, 2023, it appears that if the RR Class's argument has merit and is not addressed in this case, corrective rates would not take effect until 2026. CTA/Metra conclude that there is no good reason to wait until 2026 to relieve the RR Class of a massive rate increase to pay for programs from which it will not receive meaningful benefit.

c. Commission Analysis and Conclusion

As noted in Section XVI.D.1.e above, ComEd intends to file a separate revenue-neutral rate design filing no later than May 27, 2024. The Commission intends to thoroughly address all rate class concerns, including the RR, as it affects the rate design delivery service cost allocation and rate design methodologies at that time.

Moreover, the Commission notes BOMA did not brief this issue and therefore deduces BOMA no longer wishes to pursue its proposals noted in its testimony. Therefore, the concerns expressed by ComEd as it relates to BOMA's proposal asserted in its testimony need not be addressed at this time.

5. Low-Income Rate Design

a. ComEd's Position

ComEd states that it has a suite of programs to assist customers, and low-income customers in particular, but recognizes that more can be done to support its customers. In that vein, ComEd claims that it plans to submit a low-income rate plan in a separate future proceeding. ComEd Ex. 24.0 Corr. at 5. In preparation for that filing, ComEd states that it plans to engage with stakeholders on the particular objectives, design, and mechanics of a rate that will lower the bills of low-income customers. ComEd observes that no party contested that proposal in briefs. ComEd notes LVEJO supports the development of a low-income rate, either in this proceeding or a separate future one. ComEd observes Staff did not take a position on the issue.

Although several parties suggested that the low-income rate should have been presented in this proceeding, *see, e.g.*, LVEJO Ex. 1.0 REV at 6-7, ComEd maintains rate design is not an issue in this case. 220 ILCS 5/16-105.5. In addition, ComEd states that it expects that the process of designing a low-income rate will be smoother if the base rate is established in advance. ComEd Ex. 24.0 Corr. at 4-5. For example, ComEd reasons that issues such as the rate phase-in mechanism and disconnection protection program proposed in this case may be relevant in the design of a low-income rate.

b. LVEJO's Position

LVEJO supports the development of a low-income rate, either as a part of the current Rate Plan or a future rate design proceeding. Not only is there an immediate need for a low-income rate plan because of an increase in the cost-of-living affecting low-income households, but the increase in rates from the new grid can cause a devastating effect on some households' monthly budgets. Assurances should be given to low-income customers that they will be given all the resources and information necessary to get the lowest rates possible. Even including commitments from ComEd concerning a future low-income rate would be a positive step towards meeting the P.A. 102-0662's affordability goals.

c. EDF's Position

EDF states affordability for low-income customers is a top-level goal of P.A. 102-0662's grid and rate planning process. 220 ILCS 5/16-105.17(d)(11). LVEJO's request to implement a low-income rate directly relates to that goal. EDF therefore supports LVEJO's proposal to develop a low-income rate either as part of the current Rate Plan or a future rate design proceeding.

EDF raised additional concerns that the fees ComEd charges to reconnect customers do not match the actual costs of reconnecting customers. EDF Cross Ex. 2.0, 2.1 (showing charges of $9.84 to reconnect customers with AMI when it costs $0.00 to reconnect them and only $0.85 to disconnect).

EDF opposes ComEd's position that any discussion of rate design issues is categorically excluded from this and other rate plan cases where a utility opts to file a separate rate design case under Section 16-105.5. Failure to consider rate design policies holistically and comprehensively as it relates to grid planning and rate planning fails to heed the plain language and intent of Sections 16-105.17 and 16-108.18. EDF's concerns with ComEd's reconnection fees are directly related to affordability, as it appears to create a potential $1.5 million discrepancy between costs incurred and revenues collected, and results in a likely unnecessary $9.84 charge to customers already struggling with affordability. It is also directly related to EDF's concerns about ComEd's disconnection policies and the potential to expand ComEd's proposed disconnection program.

EDF asks the Commission to order ComEd to include a low-income rate in its next rate design proceeding, and to address the apparent discrepancy between the reconnection fees it charges customers and the costs it incurs to reconnect customers in its next rate design proceeding.

d. Commission Analysis and Conclusion

As noted in Section XVI.D.1.e above, ComEd intends to file both a revenue-neutral rate design filing, and a separate low-income discount rate proposal filing, no later than May 27, 2024. The Commission intends to thoroughly address all rate class concerns, including the proposed low-income discount rate, in those upcoming RDI proceedings. The purpose of a separate low-income RDI is to implement a low-income discount rate prior to January 2026. The parties expressed, and Commission agrees, that the low-income discount rate should be implemented as soon as possible.

Furthermore, as the Commission sees value in informal discussions regarding this topic, ComEd shall engage with stakeholders on the particular objectives, design, and mechanics of a discount rate that will lower the bills of low-income customers, prior to the filing of its RDI.

XVII. ANNUAL PERFORMANCE ADJUSTMENT PROCEEDINGS (SECTION 16-108.18(F))

A. Performance Adjustment

ComEd explains that the new performance-based ratemaking approach has several impacts on ComEd's annual revenue requirements including an annual Performance Adjustment. According to ComEd, the adjustment involves a 32 basis point increase or decrease to ComEd's cost of equity based on the extent ComEd achieves its annual performance metrics as described in Section 16-108.18(e)(6)(A)(v) of the Act and as outlined in ComEd's Rider PIM – Performance Incentive Metrics. 220 ILCS 5/16-108.18(e)(6)(A)(v); *Commonwealth Edison Co.*, Docket No. 22-0067, Compliance Filing (May 31, 2023) (Rider PIM – Performance Incentives Metrics). ComEd observes that Section 16-108.18(h) of the Act states that "[a]fter calculating the Performance Adjustment and Annual Adjustment, the Commission shall order the electric utility to collect the amount in excess of the revenue requirement from customers, or issue a refund to customers, as applicable, to be applied through a surcharge beginning with the next calendar year." 220 ILCS 5/16-108.18(h). ComEd witness Mudra explains in testimony that "[a]s established in Section 16-108.18(f) of the Act, the rates established in this Rate Plan will be adjusted in an [Annual Performance Evaluation] proceeding initiated on May 1 of each year following the initial year of the Rate Plan. The proceeding will evaluate ComEd's performance on its metrics targets, during the year just completed, as well as the appropriate Annual Adjustment, as defined in Section 16-108.18(f)(6). The Commission shall then determine the appropriate Performance Adjustment and Annual Adjustment to be applied through a surcharge or surcredit on customers' bills in the following calendar year, per Section 16-108.18(h) of the Act." ComEd Ex. 12.0 Corr. at 63-64.

ComEd witness Mudra further explains that "by March 20, 2025, ComEd will file its annual revenue balancing reconciliation report for calendar year 2024 and those charges or credits will be applied to customer bills from January 1, 2026, through December 31, 2026, at the same time any annual and performance adjustments are applied to customer bills." ComEd Ex. 37.0 Corr. at 43. Outside of ComEd's proposed agreement with the AG regarding the Rate Phase-In plan addressed at Section XVIII.A, below, all revenues and costs associated with the 2024 reconciliation period will be effectively reconciled by December 31, 2026.

The Commission notes all revenues and costs associated with the 2024 reconciliation period will be effectively reconciled by December 31, 2026. The Commission finds ComEd's Performance Adjustment plan is reasonable and prudent, and is hereby approved.

B. Computation of 105% Cap

1. ComEd's Position

Pursuant to Section 16-108.18(f)(6)(A)(i) of the Act, ComEd observes, "the Commission may not allow recovery of actual costs that are more than 105% of the approved revenue requirement […] except to the extent that the Commission approves a modification of the Multi-Year Rate Plan to permit such recovery." 220 ILCS 5/16-108.18(f)(6)(A)(i). ComEd states this effectively creates a 105% cost cap on the approved revenue requirement for ComEd's Rate Plan, absent a proceeding to obtain Commission approval. ComEd believes it may file a petition with the Commission requesting modification of the approved revenue requirements if it becomes clear, due to circumstances outside of its control, that prudent operating practices require ComEd to adjust the Rate Plan, and other parties are provided an opportunity to object and the Commission has 180 days to consider the request. *See* 220 ILCS 5/16-108.18(d)(15). Notably, ComEd maintains the statute identifies eight volatile and fluctuating items that should be excluded from the 105% computation.

ComEd explains that the eight volatile and fluctuating variables identified in the statute relate to: "(i) storms and weather-related events for which the utility provides sufficient evidence to demonstrate that such expenses were not foreseeable and not in control of the utility; (ii) new business; (iii) changes in interest rates; (iv) changes in taxes; (v) facility relocations; (vi) changes in pension or post-retirement benefits costs due to fluctuations in interest rates, market returns, or actuarial assumptions; (vii) amortization expenses related to costs; and (viii) changes in the timing of when an expenditure or investment is made such that it is accelerated to occur during the applicable year or deferred to occur in a subsequent year." 220 ILCS 5/16-108.18(f)(6)(A)(ii). ComEd illustrates the 105% of the Approved Revenue Requirement is determined by taking the total Approved Revenue Requirement for the applicable MYRP year and multiplying it by 105%, which equals 105% of the Approved Revenue Requirement.

For purposes of the 105% computation, ComEd states that it proposed making an adjustment to essentially convert year-end rate base to average rate base in order to compare "apples-to-apples" and accurately measure ComEd's performance by using the same measure that was used to set rates for purposes of calculating the 105% computation. ComEd Ex. 12.0 Corr. at 96. According to ComEd, as ComEd witness Mudra explains in testimony, "[s]ince the year-end rate-base related revenue requirement impacts associated with storms, new business, facility relocations, amortization, taxes, and timing have already been removed in the previous adjustments, the remaining difference between using year-end rate base in the actual revenue requirement and using average rate base in the approved revenue requirement, must be accounted for through a final, year-end to average rate base reconciliation adjustment for the purpose of the 105% test." ComEd Ex. 12.0 Corr. at 96.

ComEd observes that AG witness Effron disagrees with this proposal and asserts that, for the purpose of the 105% computation, the year-end to average rate base adjustment "would create more room for recovery of excesses of the actual elements of the revenue requirement over the forecasts of those elements, without breeching [sic] the 105% limitation." AG Ex. 2.0 at 15. The AG describes ComEd's proposed computation of the 105% cap as a "work-around," but ComEd disagrees with this characterization. AG IB at 126-127. ComEd argues that this characterization is incorrect because the adjustment that ComEd is proposing symmetrically adjusts for known differences between the statutorily determined measurement standards of 105% of the approved revenue requirement computed based on average rate base and the actual performance computed based on year-end rate base. ComEd Ex. 37.0 Corr. at 46. According to ComEd, as witness Mudra explained in his rebuttal testimony, "[w]ithout this adjustment … even if ComEd were to exactly match its forecasted levels of projected year-end rate base, the 105% computation would improperly over- or under- compute ComEd's true performance." *Id.* at 46. ComEd contends that it cannot physically install "average rate base" (but only installs actual rate base), and it is unfair to measure ComEd against an impossible standard. Accurately measuring ComEd's performance is the clear goal of the new performance-based ratemaking section of the Act, as promulgated through P.A. 102-0662. 220 ILCS 5/16-108.18(d). ComEd state that from a policy perspective, a year-end rate base target that meets the objectives of P.A. 102-0662 but then penalizes ComEd with potential disallowances under the 105% test for executing its plan perfectly and coming in exactly on target is illogical.

Contrary to AG witness Effron's claim, ComEd argues, there will be no recovery of "excesses" by calculating the year-end to average rate base reconciliation in order to properly compute performance on the 105% test because customers will *only* pay for the actual amount of rate base—no more and no less—approved by the Commission through the Annual Adjustment process. *See* AG Ex. 2.0 at 15. ComEd claims that its proposed year-end to average rate base reconciliation adjustment is simply used to "calibrate the scale" to zero so that an accurate measurement of performance can be computed.

According to ComEd, as ComEd witness Mudra explained, "[w]ithout this adjustment, even if ComEd's actual year-end rate base is exactly equal to its forecasted year-end rate base it would *appear* as if ComEd's costs were on average 1.1% above the approved revenue requirement, even when, on an average rate base basis, its performance would be equal to 100% of the approved revenue requirement." ComEd Ex. 58.0 CORR at 32-33 (emphasis in original).

ComEd argues that the Commission should reject the AG's arguments. *See* ComEd IB at 339-341. ComEd demonstrates that the rate base to average adjustment allows the reconciliation to be "apples to apples," and the statute prevents ComEd from recovering any more than its actual costs and revenue requirements. ComEd observes that the General Assembly has clearly established that (i) rates will be set based on average rate base per Section 16-108.18(d)(3)(A); (ii) that the actual revenue requirement shall be based on year-end rate base per Section 16-108.18(f)(6)(D); and (iii) that the Commission may not allow recovery of actual costs that are more than 105% of the approved revenue requirement per Section 16-108.18(f)(6)(A)(ii). According to ComEd, as ComEd witness Mudra explains, "[y]ear-end rate base will properly be used to reconcile costs, and—solely for the purpose of the 105% test—actual average rate base will be measured against the forecasted average rate base goal that was used to establish 105% of the approved revenue requirement. As a result, ComEd explains, performance will be accurately measured on the same basis as the established goal (*e.g.*, average rate base)." ComEd Ex. 58.0 CORR at 32. Moreover, ComEd observes that Staff has not opposed the year-end to average rate base reconciliation component of the 105% computation. ComEd IB at 342. ComEd agreed to provide an updated workpaper (WP 25 – 105% Computation Support) within its compliance filing. ComEd Ex. 37.0 CORR at 51. Thus, ComEd argues that the Commission should approve the year-end to average rate base reconciliation component of the 105% computation because performance must be measured on the same basis as the performance standard, using average rate base, in order to produce fair, accurate results for the 105% computation that are consistent with the statutory mandate.

2. AG's Position

The AG states the MYRP allows ComEd to determine an "annual adjustment" that is the difference between the revenue requirement approved for a given year of a MYRP and the actual revenue requirement for the year, subject to the Commission's review for reasonableness and prudence. 220 ILCS 5/16-108.18(f)(6)(A). ComEd is allowed to charge consumers up to 105% of its approved revenue requirement, after excluding eight cost categories. *Id*. at 16-108.18(f)(6)(A)(ii). In calculating the Company's rate base, the statute states that the Commission shall use "the year-end rate base." *Id*. at 16-108.18(f)(6)(B).

The AG notes that in setting rates under the MYRP, the statute specifies that "forecasted rate base must include the utility's planned capital investments, with rates based on average annual plant investment, … consistent with Commission practice and law." 220 ILCS 5/16-108.18(d)(3)(A). The AG notes that this requirement to use average annual plant investment is consistent with the Commission's practice and law, that measures average costs throughout a test year, and that uses average rate base to set rates to match the recovery of the return on rate base over the full year. AG Ex. 2.0 at

16. While the Commission utilized average rate base in the first formula rate docket, the AG states that the General Assembly changed the statute to expressly require the use of year-end rate base in setting both prospective and reconciliation rates. AG Ex. 2.0 at 16-17; *Commonwealth Edison Co. v. Ill. Commerce Comm'n,* 2014 IL App (1st) 122860 at 49; 220 ILCS 5/16-108.5(d)(1). The AG adds ComEd itself recognized what the "General Assembly had clearly established" by this section. ComEd IB at 342 ("General Assembly has clearly established that (i) *rates will be set based on average rate base* per Section 16-108.18(d)(3)(A); (ii) that the *actual revenue requirement shall be based on year-end rate base* per Section 16-108.18(f)(6)(D); and (iii) that the Commission may not allow recovery of actual costs that are more than 105% of the approved revenue requirement per Section 16-108.18(f)(6)(A)(ii)" (emphases added)).

The AG states that the General Assembly was explicit in requiring the use of average rate base in setting prospective rates in the MYRP, and the use of year-end rate base for the reconciliation adjustment. The AG argues that ComEd proposed to deviate from the statute by allowing it to convert its year-end rate base to average rate base for reconciliation purposes. ComEd Ex. 12.0 CORR at 97. The AG ask the Commission to reject ComEd's proposed "work-around" because it violates the statute. AG IB at 126–127, AG RB at 79–80. The AG contend there is nothing in the relevant law that would allow reversion to the average rate base for the purpose of the 105% test, and there is nothing in the criteria for the Commission's determination of the electric utility's actual revenue requirement for the applicable calendar year that would allow such reversion.

The AG notes ComEd states that Staff "has not opposed" the use of average rate base, citing its own witness' testimony. ComEd IB at 342. As can be seen from Staff's IB at 232 and from ComEd witness Mudra's testimony, the AG argue that Staff simply did not address the issue. The AG reminds the Commission that the absence of a Staff position on an issue is not an endorsement of ComEd's attempt to rewrite express statutory language.

Additionally, the AG notes that the Commission is concurrently reviewing Ameren Illinois's MYRP. In the interests of consistency, and recognizing that the Commission will have the Ameren docket before it at the same time that it is considering this docket, the AG request that the ALJs accept administrative notice of the fact that Ameren has not sought to make an adjustment back to the average rate base for the purpose of the 105% test. *See Ameren, Petition for Approval of a Multi-Year Rate Plan*, Docket Nos. 23-0082, 22-0487 (Consol.), Ameren IB at 401-405 (no proposal to change the year-end rate base calculation in the annual reconciliation).

Finally, in addition to asking the Commission to adopt a practice that violates the express direction in the statute by seeking to convert its year-end rate base to average rate base for purposes of the reconciliation, the AG points out that ComEd admitted that using year-end rate base compared to average rate base will result in a higher revenue requirement because the return will be computed on a higher value. ComEd Ex. 37.0 at 48. Rather than compare the higher year-end rate base revenue requirement to the average rate base, ComEd witness Mudra suggests that the Commission undo the effect of this statutory directive in order to enlarge the 105% limitation contained in the statute. See ComEd Ex. 12.0 Corr. at 96-98. The AG requests the Commission reject the complicated calculations Mr. Mudra suggests to achieve the goal of removing the year-end rate base requirement in the reconciliation section of the MYRP. The AG iterate that this is a change that only the General Assembly can make.

3. Commission Analysis and Conclusion

The Commission adopts the AG's proposal to use the year-end actual rate base for the purpose of determining the actual revenue requirement to be used in the 105% test for the reconciliation adjustment. The statute is specific that when setting rates under the MYRP, an average rate base must be used. This is historically consistent in rate cases with future test years. However, ComEd's proposal to convert year-end rate base to average rate base for purposes of the annual adjustment is not supported by Act. Moreover, it is clear that Section 16-108.18(f)(6) calls for the Commission to render a reasonable and prudence review of the *actual costs* incurred by ComEd during the applicable calendar year, and not average costs. For these reasons, ComEd's proposal is not adopted.

XVIII. TARIFFS

A. Rate Phase In

1. ComEd's Position

ComEd proposes adoption of a rate phase-in mechanism, as permitted by Section 16-108.18(d)(13) of the Act. 220 ILCS 5/16-108.18(d)(13). ComEd states that the proposed three-tranche phase-in proposal abides by the highly-detailed guidance set forth in Section 16-108.18(d)(13), and should be approved. *See* 220 ILCS 5/16-108.18(d)(13). ComEd observes that Section 16-108.18(d)(13) provides highly detailed guidance regarding the manner in which rates may be phased-in, and the recovery of associated carrying costs. *Id*. Over the course of the proceeding, ComEd recognizes that its proposal evolved, and in surrebuttal testimony, ComEd presented a proposal that resolved concerns identified by AG witness Effron. ComEd argues that its proposal is reasonable, abides by the statutory guidance, and should be approved.

ComEd observes that Section 16-108.18(d)(13) of the Act provides that a phase-in plan must "be implemented in no more than two steps, as follows: in the first step, at least 50% of the approved rate increase must be reflected in rates, and, in the second step, 100% of the rate increase must be reflected in rates." 220 ILCS 5/16-108.18(d)(13). "The second step's rates must take effect no later than 12 months after the first step's rates were placed into effect." 220 ILCS 5/16-108.18(d)(13). In addition, ComEd observes that Section 16-108.18(d)(13) of the Act requires that the "portion of the approved rate increase not implemented in the first step shall be recorded on the electric utility's books as a regulatory asset, and shall accrue carrying costs to ensure that the utility does not recover more or less than it otherwise would because of the deferral." *Id*. ComEd explains that those carrying costs are to be calculated according to the weighted average cost of capital and recovered "through a surcharge applied to retail customer bills that (i) begins no later than 12 months after the date on which the second step's rates went into effect and (ii) is applied over a period not to exceed 24 months." *Id*.

ComEd explains that the rate phase-in mechanism on which the AG and ComEd agree has been called the "Three Tranche Phase-In," and will smooth the effects of the transition between the previous formula ratemaking mechanism and multi-year ratemaking under Section 16-108.18 of the Act. 220 ILCS 5/16-108.18. That transition causes a three-year shift forward in test year operating and maintenance expenses used to set rates, and a two-year shift for rate base, depreciation, and amortization, ComEd points out. *See* ComEd Ex. 45.0 at 3. ComEd explains that these changes result in a revenue requirement step-up in 2024 that is greater than the revenue requirement increases over the remaining three years of the Rate Plan. *Id*. ComEd illustrates that the Three Tranche Phase-In mitigates the impact of this step-up on customers by deferring a portion (35%) of the revenue requirement from 2024 for recovery as part of the reconciliation of 2024 costs in 2026 – representing the first tranche of the phase-in. *Id*. at 4. A portion (10%) of the revenue requirement from 2025 will be deferred for recovery in 2027, representing the second tranche, and a portion (35%) of the revenue requirement from 2026 will be recovered in 2028, representing the third and final tranche, ComEd explains. *Id*.

ComEd argues that the Three Tranche Phase-In is preferable to the single-tranche phase-in proposal presented in ComEd's direct testimony, because the three-tranche methodology achieves a smoother transition in 2024. It is also preferable to the position advocated by Staff, which is that no phase-in mechanism should be adopted, ComEd asserts. *See* Staff Ex. 19.0 at 11. ComEd illustrates that the revenue requirement in 2024 will be significantly higher than in other years. ComEd Ex. 45.0 at 6. A phase-in mechanism would avoid that circumstance, and the Three Tranche Phase-In in particular results in the smoothest transition between rates in each year, ComEd asserts.

ComEd explains that the Three Tranche Phase-In proposal resolves the AG's concern regarding smoothing rate impacts over time. ComEd Ex. 45.0 at 5. In particular, ComEd states that it understood that the Three Tranche Phase-In proposal resolved the concern that led AG witness Effron to propose, in his direct testimony, an alternative rate phase-in plan pursuant to Section 16-108.18(d)(14). *See* AG Ex. 2.0 at 18; 220 ILCS 5/16-108.18(d)(14). However, the AG, in its Initial Brief, asserts that the Commission "should review the phase-in proposal with the option to adopt a phase-in without carrying charges (revenue neutral)," pursuant to Section 16-108.18(d)(14), ComEd notes. AG IB at 127-128; 220 ILCS 5/16-108.18(d)(14). ComEd argues that the Commission should not accept this suggestion, for at least two reasons.

First, ComEd argues, there is absolutely no record evidence in this proceeding to support a phase-in without carrying charges. ComEd observes that the AG's own proposal under Section 16-108.18(d)(14) included carrying charges, and AG witness Effron himself asserted that "[t]he deferral does not come for free. ComEd is authorized to recover carrying charges on the cumulative balance of deferrals from the time they are deferred until they are recovered." AG Ex. 2.0 at 19:413-415; 220 ILCS 5/16-108.18(d)(14). ComEd contends the Commission cannot adopt proposals – like this one – that are unsupported by record evidence.

Second, ComEd argues, the term "revenue neutral" does not allow the Commission to eliminate carrying charges, as the AG's Initial Brief suggests. On the contrary, ComEd contends, the well-understood principle of revenue neutrality means that the overall revenue requirement is not impacted. *See, e.g.*, AG Ex. 2.0 at 19. Any amount that is deferred for later recovery must be financed during the period of deferral, and that financing is a cost, according to ComEd. ComEd believes that forcing ComEd to finance the balance without a carrying charge is not "revenue-neutral," because it has an impact on ComEd's overall revenue requirement.

ComEd observes that Staff asserted that no phase-in should be adopted because, in Staff witness Poon's view, the value of the deferral is outweighed by the increase in total costs as a result of the carrying costs applied to the deferral. Staff Ex. 19.0 at 8. ComEd maintains that it disagrees with that evaluation. ComEd explains that there are significant benefits to customers of smoothing the ratemaking transition for customers. ComEd Ex. 45.0 at 7; *see also* AG Ex. 2.0 at 19 (advocating for a phase-in mechanism that would further smooth the impact on customers). ComEd observes that the Commission has historically recognized value in rate stability, and the avoidance of spikes in rates. Moreover, ComEd points out that Section 16-108.18(d)(13) of the Act represents the General Assembly's acknowledgement that the transition between ratemaking mechanisms could cause temporary but significant spikes in rates and evidences the General Assembly's recognition that the benefits to customers of smoothing a shift in rates outweigh any negative impact of the carrying charges applicable to the deferred amounts. 220 ILCS 5/16-108.18(d)(13). ComEd concludes that the Commission should reject the AG's proposal, which was offered for the first time in its Initial Brief, and is directly contrary to the law, to apply a phase-in mechanism without carrying charges.

Turning to Staff's arguments, ComEd observes that Staff's primary position is that the Commission should not adopt a phase-in plan at all, because the carrying costs associated with the deferral will ultimately be recovered from customers. ComEd notes that although Staff is correct that the carrying costs will be recovered from customers, there are significant benefits to customers of implementing a phase-in. *See* ComEd IB at 345 (*citing* ComEd Ex. 45.0 at 7); *see also* AG Ex. 2.0 at 19 ("advocating for a phase-in mechanism to smooth impacts on ratepayers"). ComEd argues that the fact that Section 16-108.18(d)(13) expressly requires carrying costs be applied to deferred phase-in amounts indicates that the General Assembly understood the benefits of a smooth transition and believed that the benefits outweigh any impact on ratepayers arising from the carrying costs. 220 ILCS 5/16-108.18(d)(13).

ComEd observes that, in the alternative, if the Commission chooses to adopt a phase-in proposal, Staff asserts that it should choose ComEd's original proposal, because that proposal will result in the lowest carrying costs. Staff Ex. 19.0 at 9, 11. As discussed in ComEd's Initial Brief, the Three-tranche Phase-In is preferable to a scenario with no phase-in, because the Three-tranche Phase-In best mitigates the impacts on customers of the transition between ratemaking constructs, ComEd points out.

Finally, ComEd observes that Staff asserts that the Commission could consider revenue neutral measures in a future RDI proceeding. ComEd concurs that it would be permissible to consider revenue-neutral measures in such a proceeding, but recommends that the Commission adopt a phase-in as part of this proceeding. ComEd notes that the evidence in this proceeding demonstrates that the revenue requirement increase in 2024 will be the most significant over the MYRP period. *See* ComEd Ex. 45.0 at 3, 6. But the upcoming RDI will likely not conclude before year-end 2024, and as a result, deferring a decision on a mitigation mechanism to that proceeding would mean that the Commission could not take action to mitigate the impact of the most significant change in revenue requirement, ComEd points out.

ComEd maintains that the Commission has discretion to approve the Three Tranche Phase-In proposal, which is supported by the AG and ComEd, and which will mitigate the impacts on customers of the transition between ratemaking constructs. That proposal should be adopted, ComEd argues.

2. Staff's Position

Staff asserts that the Commission should not adopt a rate phase-in plan in this docket because any benefits realized early in the MYRP period from deferring a portion of rate increases will result in significant additional cost for ratepayers to be recovered later in the MYRP period, as customers pay back all deferred rate increases with carrying charges. Staff Ex. 19.0 at 3, 11. Further, there is no evidence in the record that smoother rate increases from a rate phase-in plan will truly relieve the financial burden of higher rates on customers. Staff Ex. 19.0 at 8.

The statute does not mandate a rate phase-in plan, but the utility may propose one. 220 ILCS 5/16-108.18(d)(13). If a rate phase-in plan is approved, the portion of the rate increase that is deferred by the phase-in "shall be recorded on the electric utility's books as a regulatory asset, and shall accrue carrying costs" that "shall be recovered through a surcharge applied to retail customer bills…." *Id*.

Without a phase-in and using Staff's Initial Brief revenue requirements, rates would increase about 23.9%, 3.5%, 3.4%, and 2.8% in years 2024, 2025, 2026, and 2027, respectively. ComEd proposed two phase-in plans (one in direct testimony ("Original Proposal") and the other in surrebuttal (Three Tranche Phase-In). The Original Proposal would defer 35% of the 2024 rate increase to be recovered in 2026. ComEd Ex. 24.02 Corr. at 12. The Company explained that the Original Proposal would be a reasonable approach to smooth rate changes and to reduce the initial year-over-year rate increase. Staff Ex. 19.01 at 1. Applying ComEd's Original Proposal to Staff's Initial Brief revenue requirements, rates would increase 15.5%, 11.0%, and 10.8% in 2024, 2025, and 2026, respectively. Rates would decrease by 4.1% in 2027. In response to ComEd's Original Proposal, the AG referenced the Company's objectives of smoothing rate changes and reducing the initial year-over-year rate increase and proposed a rate phase-in plan that it believed would better achieve these objectives. AG Ex. 2.0 at 17-19. The AG proposed to defer 50% of the 2024 rate increase; half of that rate increase would be recovered in 2026, and the remainder with carrying charges would be recovered in 2027. AG Ex. 2.0 at 19; Staff Ex. 19.01 at 4; AG Ex. 2.1 at 2. Applying the AG's proposal to Staff's Initial Brief revenue requirements results in rate increases of approximately 12.0%, 14.6%, 8.0%, and 4.3% in 2024, 2025, 2026, and 2027, respectively.

Applying ComEd's Three Tranche Proposal to Staff's Initial Brief revenue requirements results in rate increases of approximately 15.5%, 10.7%, and 10.0% in 2024, 2025, and 2026, respectively. It would result in a decrease of 2.7% in 2027. Therefore, ComEd's Three Tranche Proposal would result in smoother rate changes than its Original Proposal, but less smooth than the AG's proposal.

Staff explains that implementing a rate phase-in plan to achieve more uniform rate increases over the MYRP comes at a cost (i.e., carrying charges) associated with the portion of the rate increase that is deferred. Although the AG's proposal would result in the smoothest increase in rates over the MYRP period, it also results in the highest amount of carrying charges. Using Staff's proposed Initial Brief revenue requirements and weighted average cost of capital, the AG proposal would result in carrying charges of $67.2 million, whereas the carrying charges would be $35.9 million under ComEd's Original Proposal and $44.4 million under its Three Tranche Phase-In proposal. Because Staff is recommending no rate phase-in plan at this time, and therefore no deferral of the rate increase, there are no carrying charges associated with Staff's recommendation.

If, however, the Commission decides that a rate phase-in plan is appropriate, the Commission should adopt a plan that results in the lowest carrying charges, which is ComEd's Original Proposal. Staff Ex. 19.0 at 9, 11. Limiting both the amount to be deferred and the period of recovery would reduce any issues customers may encounter in repaying the deferred balances in the later years of the MYRP. *Id*. at 9-10.

ComEd argues that Section 16-108.18(d)(13) provides evidence of "the General Assembly's recognition that the benefits of smoothing a shift in rates outweigh any negative impact of the carrying charges applicable to the deferred amounts." ComEd IB at 345. Staff disagrees with this interpretation; if the General Assembly thought benefits outweigh all the costs, it could have mandated a phase-in plan when there is a rate increase but it did not. Staff Ex. 19.0 at 9.

The AG argues that Section 16-108.18(d)(14) authorizes the Commission to adopt revenue-neutral measures to help relieve the impact of rate increases on customers, independent of any company requests. Pursuant to Section 16-108.18(d)(14), the AG requests that the Commission consider accepting ComEd's Three Tranche Phase-In proposal and excluding carrying charges from ratepayer recovery.

Staff asserts that the AG's arguments are misguided. "Revenue neutrality" is a concept applicable to rate design, which is not at issue in this proceeding. "A rate design is revenue neutral where the total revenue requirement remains the same and only the allocations among the customer classes may change." *REACT v. Ill. Commerce Comm'n*, 2015 IL App (2d) 140202, ¶4. This proceeding will determine ComEd's revenue requirements. Until the revenue requirements are established, there is nothing against which to gauge whether a proposal is revenue neutral; proposals must be measured against the revenue requirements, not rates. Moreover, the AG's proposal to eliminate carrying charges was introduced for the first time in its Initial Brief and should not be considered because it is not supported by, and in fact is contrary to, the record evidence. In both direct and rebuttal testimony, the AG proposed a phase-in plan that included carrying charges. AG Ex. 2.1, Sch. A, 3; AG Ex. 4.1, Sch. A, 3. Introducing a proposal to eliminate carrying charges altogether for the first time in briefs unfairly prejudices other parties that do not have an opportunity to respond.

While the AG's new proposal should not be considered, the AG's proposal from testimony, which includes carrying charges, is compliant under Section 16-108.18(d)(13) as a modification to ComEd's original rate phase-in proposal. Staff does not recommend this proposal, but it is supported by the record.

Finally, ComEd argues that rate phase-in plans approved by the Commission must not only comply with Section 16-108.18(d)(13), they must also comply with GAAP, and that the AG's proposal is not GAAP-compliant. ComEd Ex. 24.0 Corr. at 7; ComEd Ex. 37.0 Corr. at 41-44; ComEd Ex. 45.0 at 4; ComEd Ex. 58.0 Corr. at 33-34; ComEd Ex.

62.0, Section II. Staff disagrees. It is not clear that the AG's proposal would not comply with GAAP. More importantly, however, Staff does not believe GAAP should be used to limit the Commission's determination of the best course of action regarding phase-in plans.

The Commission should not approve a phase-in, but if the Commission decides that a rate phase-in plan is appropriate in this proceeding, the Commission should adopt a plan that results in the lowest carrying charges, which is ComEd's Original Proposal.

3. AG's Position

ComEd proposed a phase-in plan to reduce the rate shock associated with its requested 2024 revenue requirement. In its surrebuttal testimony, the Company modified its proposal in ComEd Exhibit 45.0 at 6. ComEd's proposal was under the section of the MYRP law that authorizes the utility to propose a phase-in that includes carrying costs. 220 ILCS 5/16-108.18(d)(13). As indicated by ComEd witness Perkins, AG witness Effron accepted the changes to the proposed phase-in contained in the Company's surrebuttal testimony.

The AG notes that the MYRP also authorizes the Commission to adopt a phase-in independent of the utility's request. Subsection (14) states that the Commission may, "on its own initiative, take revenue-neutral measures to relieve the impact of rate increases on customers." 220 ILCS 5/16-108.18(d)(14). Thus, the AG asks the Commission to review the phase-in proposal with the option to adopt a phase-in without carrying charges (revenue neutral) that better relieves the impact of the MYRP rate increases on consumers.

4. Commission Analysis and Conclusion

The Commission agrees with Staff that a rate phase-in plan does not sufficiently alleviate the increase in rates such that adopting a rate phase-in plan is worth paying the extra carrying costs. Staff asserts that any benefits realized early in the MYRP period from deferring a portion of rate increases will result in significant additional cost for ratepayers to be recovered later in the MYRP period. *See* Staff Ex. 19.0 at 8. The Commission notes that the rates approved in this Order without the MYIGP costs reduce the need for a rate phase in. *See* Section X. of this Order.

The Commission rejects the AG's late proposal to approve a phase-in without carrying charges, as that proposal is not supported by record evidence and is not consistent with the rate phase-in proposals under consideration in the record, which were proffered pursuant to Section 16-108.18(d)(13) of the Act.

The Commission does not adopt ComEd's proposed rate phase-in plan. Therefore, Rate MRPP must be modified consistent with this finding.

B. Multi-Year Rate Plan Pricing (Rate MRPP)

ComEd explains that Rate MRPP is ComEd's proposed tariff, outlining the protocols and calculations that will be used to adjust rates based on the results of the Annual Performance Evaluation proceedings during the course of the Rate Plan. ComEd Ex. 41.01. ComEd notes that the rates established in this Rate Plan will be adjusted in Annual Performance Evaluation proceedings.

ComEd recognizes that it proposed several revisions to Rate MRPP over the course of the proceeding and accepted a proposal by AG witness Selvaggio to change the language of Rate MRPP. *See* ComEd Ex. 41.0 at 4-5; *see also* AG Ex. 3.0 at 16. ComEd understands that the revisions to Rate MRPP resolved the AG's concerns, and no other party proposed revisions to Rate MRPP.

This issue is now uncontested and the Commission therefore approves ComEd's Rate MRPP as revised.

XIX. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

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

(2) the Commission has jurisdiction over the parties hereto and the subject matter herein;

(3) the recitals of fact and conclusions of law reached in the prefatory portion of this Order are supported by the evidence of record, and are hereby adopted as findings of fact and conclusions of law; the Appendices attached hereto provide supporting calculations;

(4) the test years for the determination of the rates herein found to be just and reasonable should be the 12 months ending December 31, 2024; December 31, 2025, December 31, 2026 and December 31, 2027; such test years are appropriate for purposes of this proceeding;

(5) for the test years 2024-2027, and for the purposes of this proceeding, the Company's rate base is as shown in Appendices A-D;

(6) the just and reasonable rate of return for test years 2024-2027 which Commonwealth Edison Company should be allowed to earn on its net original cost rate base is detailed in Section XV; this rate of return incorporates a return on common equity of 8.905%;

(7) the rate of return set forth in Finding (6) results in base rate operating revenues and net annual operating income as shown in Appendices A-D based on the test years approved herein;

(8) the Commission has considered the total costs of $5,381,200 expended by Commonwealth Edison Company to compensate attorneys and technical experts to prepare and litigate rate case proceedings, and other costs including the Consumer Intervenor Compensation Fund Contribution and filing fees, and assesses that the amounts included as rate case expense in the revenue requirements for each of the years 2024-2027 of $1,345,300 are just and reasonable pursuant to Section 9- 229 of the Act;

(9) the Commission, consistent with Section 9-229 of the Act, hereby orders Commonwealth Edison Company to make a payment of $500,000 to the

Consumer Intervenor Compensation Fund. The payment shall be made within the time frame prescribed by Section 9-229. This amount represents the statutory cap for what the utility must contribute to the Consumer Intervenor Compensation Fund for this rate case proceeding;

(10) Commonwealth Edison Company's rates that are presently in effect should be permanently canceled and annulled when the new rates go into effect;

(11) the specific rates proposed by Commonwealth Edison Company in its initial Multi-Year Rate Plan filing on January 17, 2023, do not reflect various determinations made in this Order;

(12) Commonwealth Edison Company should be authorized to implement its Multi-Year Rate Plan by placing into effect tariff sheets designed to produce annual base rate revenues as shown in Appendices A-D; such revenues will provide Commonwealth Edison Company with an opportunity to earn the rate of return set forth in Finding (6) above; based on the record in this proceeding, this return is just and reasonable;

(13) Rate MRPP is reasonable and should be approved as modified herein; Commonwealth Edison Company should file Rate MRPP at the conclusion of this docket as a compliance filing;

(14) the determinations regarding other subjects contained in the prefatory portion of this Order are just and reasonable for purposes of this proceeding; Commonwealth Edison Company's compliance filing shall incorporate such determinations to the extent applicable;

(15) new charges authorized by this Order shall become effective beginning with the first day of the January monthly billing period for 2024, consistent with the requirements set forth in Section 16-108.18 of the Act; Commonwealth Edison Company shall be allowed ten business days after the issuance of this Order to submit its compliance filing for informational purposes; the new tariff sheets and associated informational sheets authorized to be filed by this Order shall take effect the next business day after the date of filing, with updated charges listed on said tariff sheets, and associated monthly billing period; Commonwealth Edison Company shall provide supporting work papers to the Staff of the Commission concurrently with such informational compliance filing;

(16) post-docket processes and the reporting requirements set forth in this Order are reasonable and should be approved consistent with the Commission's conclusions;

(17) the Commission finds that the wages and salaries allocator applicable to supply of 0.37%, as calculated in this proceeding, should be used to develop charges determined and filed with the Commission under Rider PE and Rate BES to be effective beginning with the January 2024 monthly billing period. Subsequent calculations of the wages and salaries allocator applicable to supply made in subsequent Commonwealth Edison Company Formula Rate Update proceedings must be applied in the corresponding

subsequent determination and filing of charges under Rider PE and Rate BES;

(18) in response to the requirements of Section 16-108.18(d)(11) and (f)(1) the Commission orders Commonwealth Edison Company to file annual performance evaluation report(s) to be submitted by February 15, starting in 2025, in Docket No. 22-0067. Such reports shall include, but need not be limited to:

A. Description of the utility's performance under each performance metric;

B. Identification of any extraordinary events, as identified by the utility, that adversely affected the utility's performance;

C. A brief description of all data supporting how the utility performed under each performance metric; and

D. Staff and ComEd may agree to revise the categories of information provided in this performance evaluation report annually, no later than 120 days prior to the next February 15th report filing;

(19) Commonwealth Edison Company's Multi-Year Integrated Grid Plan does not comply with Section 16-105.17 of the Act and Commonwealth Edison Company is directed to file a revised Multi-Year Integrated Grid Plan in this docket within three (3) months of this Order; and

(20) the Multi-Year Rate Plan, as modified herein, complies with Section 16-108.18 of the Act and should be approved.

IT IS THEREFORE ORDERED that for the test years 2024-2027, and for the purposes of this proceeding, Commonwealth Edison Company's rate base is as shown in Appendices A-D.

IT IS FURTHER ORDERED that the just and reasonable rate of return which Commonwealth Edison Company shall be allowed to earn on its net original cost rate base is discussed in Section XV.D above; this rate of return incorporates a return on common equity of 8.905%.

IT IS FURTHER ORDERED that Commonwealth Edison Company shall make a payment of $500,000 to the Consumer Intervenor Compensation Fund. The payment shall be made within the time frame prescribed by Section 9-229. This amount represents the statutory cap for what the utility must contribute to the Consumer Intervenor Compensation Fund for this rate case proceeding.

IT IS FURTHER ORDERED that Commonwealth Edison Company's rates that are presently in effect are permanently canceled and annulled when the new rates go into effect.

IT IS FURTHER ORDERED that the specific rates proposed by Commonwealth Edison Company in its initial Multi-Year Rate Plan filing on January 17, 2023, do not reflect various determinations made in this Order.

IT IS FURTHER ORDERED that Commonwealth Edison Company is authorized to implement its Multi-Year Rate Plan by placing into effect tariff sheets designed to produce annual base rate revenues as shown in Appendices A-D; such revenues will provide Commonwealth Edison Company with an opportunity to earn the rate of return set forth in Finding (6) above; based on the record in this proceeding, this return is just and reasonable.

IT IS FURTHER ORDERED that Rate MRPP is reasonable and is approved as modified herein; Commonwealth Edison Company is directed to file Rate MRPP at the conclusion of this docket as a compliance filing.

IT IS FURTHER ORDERED that that Commonwealth Edison Company is authorized to file a compliance filing in accordance with Findings (14) and (15) and the prefatory part of this Order, applicable to service furnished on and after the effective date of said compliance filing, with updated charges to be effective with the first day of the January 2024 monthly billing period; work papers supporting the compliance filing shall be provided to the Staff of the Commission concurrently with the filing of said compliance filing.

IT IS FURTHER ORDERED post-docket processes and reporting requirements set forth in this Order are reasonable and are approved consistent with the Commission's conclusions.

IT IS FURTHER ORDERED that Commonwealth Edison Company's Multi-Year Integrated Grid Plan does not comply with Section 16-105.17 of the Act and is rejected.

IT IS FURTHER ORDERED that Commonwealth Edison Company shall re-file its Grid Plan in this docket within three (3) months of this Order.

IT IS FURTHER ORDERED that Commonwealth Edison Company's Multi-Year Rate Plan, as modified herein, complies with Section 16-108.18 of the Act and is approved.

IT IS FURTHER ORDERED that any motions, petitions, objections, and other matters in this proceeding that remain unresolved are disposed of consistent with the conclusions herein.

IT IS FURTHER ORDERED that pursuant to Section 10-113(a) of the Public Utilities Act and 83 Ill. Adm. Code 200.880, any application for rehearing shall be filed within 30 days after service of the Order on the party.

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

By Order of the Commission this 14th day of December, 2023.

(SIGNED) DOUGLAS P. SCOTT
Chairman

Commissioner Carrigan dissents.