

not violate the Commission's Integrated Distribution Company rules, 83 Ill. Admin. Code Part 452.

On April 8, 2019, ComEd filed a petition seeking a Declaratory Ruling from the Commission as to whether certain provisions of 83 Ill. Admin. Code Part 452, Standards of Conduct and Functional Separation, are applicable to ComEd's plan to allow its CSRs to discuss the Price to Compare ("PTC") with its customers, who are also customers of RESs. Specifically, ComEd requested that the "Commission declare that the communications detailed in paragraph 13 of this Petition are the type of 'legitimate consumer education effort' expressly authorized by the Commission's Rules". (ComEd Petition, p. 7)

On April 26, 2019, RESA filed its Verified Response to ComEd's petition as did the following other parties: the Illinois Competitive Energy Association ("ICEA"), the Citizens Utility Board ("CUB"), and the Illinois Attorney General ("AG"). RESA herewith replies to those responses.

ICEA

ICEA states that it does not oppose ComEd's petition because "ICEA has no objections to the Commission finding that the actions proposed in Paragraph 13 of ComEd's Petition are a 'legitimate consumer education effort'". (ICEA Response, p. 1) ICEA goes on to state that while it has some concerns with the potential for ComEd's CSRs to take actions inconsistent with Paragraph 13, this docket "is not the appropriate venue for addressing these concerns". (*Id.*) RESA also has concerns with ComEd's CSRs taking actions inconsistent with Paragraph 13, actions that could violate 83 Ill. Admin. Code Part 452. As stated in RESA's Response, the fundamental problem with ComEd's petition is that the communications between ComEd's CSRs and the customers of RESs are not detailed in paragraph 13 of ComEd's petition.

Paragraph 13 states that “ComEd proposes to direct CSRs to discuss the PTC with customers”. (*Id.*, p. 5) ComEd then provides some examples of what such discussions may entail, including informing customers of “frequently asked questions which may be helpful to discuss with ARES”. However, ComEd has not provided a list of Frequently Asked Questions and responses, nor has it provided a script that CSRs would follow in discussions regarding the PTC. Finally, ComEd has not explained how it will train and oversee several hundred CSRs to handle PTC discussions with customers of RESs to provide only unbiased factual PTC information and thereby avoid a violation of Part 452 by promoting ComEd’s product or disparaging the products of RESs.

CUB and AG

Both CUB and the AG support ComEd’s petition. They are willing to take the position that undefined, unexplained conversations between RES customers and any of ComEd’s hundreds of CSRs will constitute a legitimate consumer education effort. They may be right. It is certainly possible that the discussions between ComEd’s CSRs and RES customers may constitute a legitimate consumer education effort. It is also possible that the discussions between those CSRs and RES customers may promote, advertise or market ComEd’s supply service to RES customers and/or disparage the products of RESs in violation of Part 452 of the Commission’s rules. This new practice opens the door to CSRs opining about competitive suppliers. RESA is aware of situations when utility company CSRs have made negative comments about competitive suppliers to dissuade them from switching. The ComEd proposal has the potential to exacerbate the situation. In sum, it is not possible to know whether such unexplained discussions violate the Commission’s rules unless and until ComEd provides greater information

as to the scope and content of those discussions, including the provision of Frequently Asked Questions, scripts and training materials. It is also critical for ComEd to explain how it will maintain close oversight of CSR behavior, e.g. whether there will be reporting to the Commission, an audit, etc.. Finally, RESA notes the hypocritical nature of the positions of CUB and the AG. Both claim, without support, that customers are misled by RES agents and that, therefore, customers need to receive education about the PTC by ComEd's CSRs. Moreover, the AG specifically wants those CSRs to calculate a price per kilowatt hour if it is not apparent on the bill. However, neither CUB nor AG has a concern that comparing ComEd's default price to a RES' price is not a valid comparison as ARES prices may reflect additional value and/or benefits that does not exist in the plain vanilla utility default service. For example, the customer's product may be a renewable energy product, it may be an offer bundled with substantial conservation measures, it may be a fixed price product offering price certainty, or it may be bundled with rebates or other incentives (a \$100 rebate for a customer using 10,000 kWh would amount to a one cent per therm reduction in the real price of the electric supply). ComEd's CSRs do not know the nature of the RES product and, therefore, rather than being educational, their conversations may be misleading.

WHEREFORE, for the foregoing reasons, the Retail Energy Supply Association requests that the Commission deny Commonwealth Edison Company's request for a declaratory ruling that its plan to have its Customer Service Representatives discuss the PTC does not violate the Commission's Integrated Distribution Company rules unless and until it provides sufficient detail regarding the scope and content of those discussions.

Dated: May 2, 2019

Respectfully submitted,

Retail Energy Supply Association

By: /s/GERARD T. FOX
Gerard T. Fox

Law Offices of Gerard T. Fox
203 N. LaSalle Street
Suite 2100
Chicago, IL 60601
(312) 909-5583
gerardtfox@gerardtfoxlawoffices.com

NOTICE OF FILING

Please take note that on May 2, 2019, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Verified Reply of the Retail Energy Supply Association in this proceeding.

/s/GERARD T. FOX
Gerard T. Fox

CERTIFICATE OF SERVICE

I, Gerard T. Fox, certify that I caused to be served copies of the foregoing Verified Reply of the Retail Energy Supply Association upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for the instant docket via electronic delivery on May 2, 2019.

/s/ GERARD T. FOX
Gerard T. Fox

VERIFICATION

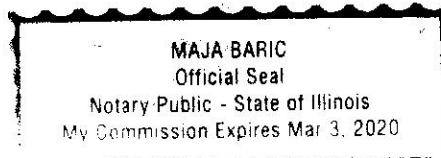
Gerard T. Fox, being first duly sworn, on oath deposes and says that he is an attorney for the Retail Energy Supply Association, that he has read the foregoing Verified Reply of the Retail Energy Supply Association, that he knows of the contents thereof, and that the same is true to the best of his knowledge, information, and belief.

Gerard T. Fox

/s/Gerard T. Fox
Gerard T. Fox

Subscribed and sworn to me
2nd day of May, 2019

Maja Baric
NOTARY PUBLIC



*My commission expires March 3, 2020
State of Illinois, County of Will.*