STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	No. 14-0312
Annual formula rate update and revenue	:	
requirement reconciliation under	:	
Section 16-108.5 of the Public Utilities Act	:	

BRIEF IN REPLY TO EXCEPTIONS

THE RETAIL ENERGY SUPPLY ASSOCIATION

I. INTRODUCTION

Pursuant to the Public Utilities Act (the "PUA"), 220 ILCS 5/10-111, and Section 200.830 of the Commission's Rules of Practice, 83 Ill. Admin. Code § 200.830, the Retail Energy Supply Association ("RESA")[1] submits this Brief in Reply to Exceptions to the Administrative Law Judges' Proposed Order ("Proposed Order" or "ALJPO").

A number of Parties presented evidence in this proceeding on the topic of customer care cost allocation. After carefully weighing the evidence, the Administrative Law Judges' Proposed Order ("ALJPO") correctly concluded that a portion of Commonwealth Edison Company's ("ComEd") customer care costs should be recovered through the default supply rate noting that "allowing ComEd to recover these

[1] RESA's members include AEP Energy, Inc.; Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc., Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. d/b/a IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

costs through distribution rates provides a subsidy to ComEd's supply rate."[2] The ALJPO's conclusion is especially compelling given that ARES are statutorily required to incur customer care costs—and recover such costs through their competitive supply prices.[3]

In their Briefs on Exceptions, both the Commission Staff ("Staff") and ComEd disagreed with the ALJPO's determination, taking the position that ComEd incurs *no costs* to provide its default supply customers with customer care service. Accordingly, they both advocate use of ComEd's Switching Study which would allocate no costs to the supply function.

As many of the members of RESA can attest to, there are significant costs required to provide customers care for retail electric service, including call center costs, employee time, IT costs and office space (to name just a few). And the default supply rate is not immune from these costs. The Commission in the previous ComEd formula rate case proceeding agreed, calling claims that ComEd does not incur customer care costs to support default rate "suspect."[4] Yet ComEd and Staff continue to make these unsupportable claims, despite the fact that the ALJPO specifically rejected use of the Switching Study:

> Having reviewed the evidence presented by all parties on the customer care costs issue, the Commission determines, consistent with Docket 13-0387, that some portion of ComEd's customer care costs must be allocated to ComEd's supply customers. Therefore, the Commission rejects the Switching Study, because it fails to account for the fact that a portion of ComEd's customer care costs are related to providing electric supply service to default supply customers.

[2] ALJPO at 101-102.
[3] 220 ILCS 5/16-123.
[4] Docket 13-0387, Order at 56

ALJPO, at 101

The ALJPO proposes allocating a very small amount of customer care costs to default supply service-- $11 million out of $374 million total customer care costs based on ComEd's updated Alternative Study, but without RESA's proposed modifications. As noted in RESA's Brief on Exceptions, the $11 million allocation is less than should be allocated to the default supply rate; rather $21 million should be allocated to default supply.[5] Certainly, however, there is no justification to allocate zero customer costs to the default supply rate, as argued by the Commission Staff and ComEd.

In their Briefs on Exceptions, Staff and ComEd raised no new arguments that were not already addressed by RESA in this proceeding and ultimately rejected by the ALJPO. For these reasons the Commission should reject the arguments made by ComEd and Staff and allocate $21 million of customer care costs to the default supply rate as supported by RESA's Brief on Exceptions. At a minimum, the Commission should affirm the ALJPO's recommendation to allocate $11 million in customer care costs to the default supply rate.

II. REPLY TO COMED'S AND STAFF'S EXCEPTIONS

ComEd and Staff make three primary objections to the ALJPO's decision to utilize ComEd's Alternative Study and, instead, adopt the Switching Study. None of these objections is a new argument.

[5] RESA Brief on Exceptions at 3

A. It is Not Relevant Whether Customer Care Costs Decline As Customer's Migrate Away from Default Supply – There Still is a Cost to Providing Default Supply With Customer Care.

Both ComEd and Staff argue that because it is not clear whether customer care costs decline as customers migrate away from default supply, then customers care should not be allocated to default supply.[6] First, as the ALJPO correctly notes ComEd's own study indicates that customer care costs do decline as customers migrate from default supply.[7] Second, the Commission already rejected this argument in its Order in Docket 13-0387:

> ComEd and Staff point out that as the number of delivery service customers has increased, its customer care costs have increased not declined. ComEd contends that this is proof that all customer care costs are properly delivery service costs. **The Commission is not entirely convinced. The increase in customer care costs and the concomitant increase in number of delivery services customers does not prove the total absence of costs for ComEd's supply customers.**

Order in Docket 13-0387, p. 56, emphasis added. But most importantly, regardless of whether customer care costs decline as customers migrate, customer care costs should be allocated to the default rate.

ComEd's and Staff's flawed argument is premised on a misunderstanding of the nature of fixed costs. As RESA points out in its Initial Brief this argument arbitrarily assumes that all shared (fixed) costs should be recovered by distribution customers, and supply customers should have to pay zero costs for those functions, even though supply and distribution service are equally dependent on those services.[8] This same arbitrary logic, however, could justify assigning all customer care costs to the supply

[6] ComEd Brief on Exceptions at 15; Staff Brief on Exceptions at 23-24
[7] As the ALJPO stated, "Allowing ComEd to recover these costs through distribution rates provides a subsidy to ComEd's supply rate." ALJPO at 101
[8] RESA Initial Brief at 12-13.

function and none to the distribution function.[9] A more reasonable approach is to simply allocate customer care fixed costs in proportion to the revenue ComEd receives from providing supply service and distribution service.

RESA has supported the Allocation Study and the Alternative Study that uses a methodology that allocates fixed customer care costs to the default supply rate based on the revenue ComEd receives from default supply customers. The Switching Study, which is supported by Staff and ComEd, would only account for variable costs required to provide customer care and thus only allocate costs if customer care costs decline as customers migrate away from default supply. However, fixed costs are the primary driver of customer care costs. Thus, it would be unreasonable for the ALJPO to utilize a Switching Study that simply ignores the fact that there are both fixed and variable costs required to support default supply service.

B. It is Not Relevant Whether ComEd is the POLR Provider – Customer Care Costs Should Still be Allocated to Default Supply.

ComEd and Staff also argue on their Briefs on Exceptions that because ComEd's supply service is a provider of last resort ("POLR") service, then supply customers should not have to pay for the customer care to support that service.[10] The Commission, however, has already rejected this argument in its Order in Docket 13-0387:

> Staff argues that as the default supplier, ComEd has an obligation to provide supply service no matter how few supply customers it has. It is entitled to collect customer care costs. **The Commission agrees that ComEd is entitled to collect its customer care costs and entitled to a profit over and above those costs, but pursuant to long established policy, costs are to be collected from the cost causers, who in this case may include supply customers.**

[9] *Id*.
[10] ComEd Brief on Exceptions at 16; Staff Brief on Exceptions at 25

Order in Docket 13-0387, p. 57, (emphasis added).

Again RESA has already addressed this argument multiple times throughout the proceeding. As RESA points out in its Initial Brief, RESA is not asking that ComEd be unable to recover the costs of providing POLR service; rather RESA is simply asking that the costs to support the POLR service be paid for by those customers that are taking that service—the same position taken by the Commission in its Order in Docket 13-0387, as quoted above.[11] The fact that ComEd is the POLR provider has no bearing on whether costs should be allocated to supply service.

C. The Last Man Standing Problem is a Red-Herring Argument.

In its Brief on Exceptions, Staff again raises the red-herring argument that allocating costs to the supply rate could somehow result in a limited number of remaining default supply customers paying a disproportionately high amount of customer care costs (aka "the last man standing problem").[12] First, as the ALJPO recognizes, the customer care allocation adopted by the ALJPO does not place an undue burden on default supply customers based on ComEd's current switching levels. The ALJPOs allocation represents approximately $.001 per KWH to supply customers at current switching levels. Even adopting the revised allocation methodology discussed in RESA's Brief on Exceptions, the allocation to default supply customers would amount to less than $.002 KWH to ComEd's default supply customers, which is a very small amount compared to what supply customers pay.

Irrespective of the costs currently allocated to the default supply rate, as RESA notes in its Initial Brief, in the Alternative Study ComEd utilized allocation factors that

[11] RESA Initial Brief at 10
[12] Staff Brief on Exceptions at 27

allocate customer care costs to the supply rate such that as customers migrate away from the default supply, customer care costs allocated to the default supply rate decline.[13] In its Brief on Exceptions RESA advocated streamlining the allocation factors used in the Alternative Study so that *all* of the customer care costs allocated to the supply rate are directly proportional to the amount of revenue ComEd recovers from default supply customers.[14] Under RESA's modified approach, there would be zero risk of the last man standing problem because if all customers migrate away from the default rate, the default rate would be allocated no customer care costs. Thus, Staff's argument in its Brief on Exceptions lends further support to granting RESA's Exceptions.

Finally, if the Commission is still concerned about the last man standing problem, as RESA witness White notes in his testimony, the Commission could implement a back-stop mechanism so that if the default supply allocation of customer care costs exceeds 10% of the Price to Compare, those costs could then become recoverable from all customers.[15] RESA does not necessarily believe this back-stop is necessary because 1) the ALJPO allocation is not even near the 10% threshold and 2) adopting the streamlined allocation factors supported by RESA would completely eliminate the last man standing problem. RESA merely points out a potential back-stop mechanism to illustrate that there are less restrictive means to protect against the last man standing problem than simply failing to allocate any customer care costs to default supply.

[13] RESA Post Hearing Brief at 10.
[14] RESA Brief on Exceptions at 4-6. RESA's streamlined methodology would still provide for portion of ComEd's customer care costs to be allocated 100% to the delivery function,
[15] RESA Exhibit 1.0 at 24

III. CONCLUSION

For the reasons state herein, RESA respectfully requests that the Commission deny the Exceptions made by ComEd and Staff that relate to the allocation of customer care costs. Further, RESA asks that the Commission allocate $21 million of customer care costs to the default supply rate as described in RESA's Brief on Exceptions. At a minimum, the Commission should accept the ALJPO's allocation of $11 million of customer care costs to the default supply rate based on ComEd's updated Alternative Study.

Respectfully submitted,

Retail Energy Supply Association

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NOTICE OF FILING

Please take note that on October 30, 2014, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Brief in Reply to Exceptions 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 Brief in Reply to Exceptions of the Retail Energy Supply Association upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for Ill. C. C. Docket 14-0312 via electronic delivery on October 30, 2014.

/s/ GERARD T. FOX

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