STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	**:**	
	:	**11-0435**
Proposed tariff language pertaining to the purchase of uncollectible receivables pursuant to Section 16-118(e) of the Public Utilities Act.	**:**	

ORDER

By the Commission:

I. The Procedural History of this Docket

On April 22, 2011, Commonwealth Edison Company ("ComEd") filed the following tariffs: Ill. C. C. No. 10, 3rd Revised Sheet No. 203, 4th Revised Sheet No. 210, Original Sheet No. 412, Original Sheet No. 413, Original Sheet No. 414, Original Sheet No. 415, and Original Sheet No. 416, hereinafter referred to as "Filed Rate Schedule Sheets" in which it proposed tariff language pertaining to the purchase of uncollectible receivables pursuant to Section 16-118(e) of the Public Utilities Act, its Rider POU - Purchase of Uncollectibles ("Rider POU"), to be effective on June 6, 2011. (*See,* 220 ILCS 5/16-118(e)). Pursuant to this statute, ComEd is required to devise a program, through which, an alternative retail electric supplier (a "RES") may sell up two monthly billing periods of certain uncollectible accounts. (*Id.*).

On May 18, 2011, this Commission found good cause to suspend the proposed tariff language for a period of 105 days beginning with June 6, 2011, to and including September 18, 2011, and to open this investigatory proceeding. On September 8, 2011, this Commission extended the period of suspension to and including March 18, 2012. On August 25, 2012, leave to intervene was granted to BlueStar Energy Services, Inc. ("BlueStar").

On August 15, 2011, ComEd filed the direct testimony of Robert Garcia and supporting exhibits. On October 4, 2011 Commission Staff filed the responsive direct testimony of Christy Pound and Theresa Ebrey. ComEd filed the rebuttal testimony of Mr. Garcia and a supporting exhibit on November 1. Staff filed the rebuttal testimony of Ms. Ebrey on November 29, 2011. ComEd filed the surrebuttal testimony of Mr. Garcia and supporting exhibits on December 13, 2011.

On December 16, 2011, "BlueStar filed a Pre-trial Memorandum setting forth its legal position. On December 21, 2011, Staff and ComEd filed responses to BlueStar's Pretrial Memorandum.

At the hearing that convened on December 22, 2011 The Administrative Law Judge (the "ALJ") granted Staff's and ComEd's unopposed motions to admit their prefiled testimony and associated exhibits into evidence. All parties agreed that no further evidence or posttrial briefing was necessary in this proceeding. The parties further agreed that the case would proceed by having ComEd submit a draft proposed order to the ALJ after Staff reviewed it, and that BlueStar would respond by submitting a mark-up of that draft which reflected the positions taken in its pre-trial memorandum. The ALJ issued an Administrative Law Judge's Proposed Order (an "ALJPO") on February 3, 2012. Only ComEd filed a Brief on Exceptions and that Brief was filed on February 10, 2012. BlueStar filed a Reply Brief on Exceptions on February 15, 2012.

II. Substantive Issues

A. The Parties' Testimony

1. ComEd's Direct Testimony

ComEd witness Mr. Garcia testified that the primary purpose of ComEd's filing is to implement Section 16-118(c) of the Public Utilities Act (the "PUA"). (220 ILCS 5/16-118(c)). Pursuant to this statute, ComEd is required to provide a new tariffed service whereby a retail electric supplier may, at its option, sell to ComEd up to two (2) monthly billing periods of its uncollectible receivables for the electric power and energy supply service it provided, either to a residential retail customer, or to another retail customer with demands for electricity that are less than four hundred kilowatts (400 kW). ComEd then pays this supplier a discount rate, which is, statutorily, to be based upon both the costs that it incurs in setting up and administering the program and also on its historic bad debt risk. ComEd reflects those charges on the bills of the uncollectible customers in question. According to Mr. Garcia, Rider POU establishes the discount rate and establishes a rate mechanism that provides for the allocation and recovery of the administrative costs that ComEd will incur to provide service under the rider. He also described related tariff terms and conditions. (ComEd Ex. 1 at 4-6).

Mr. Garcia further testified that, under Rider POU, retail electric suppliers may sell uncollectible supply charges for power and energy for those residential retail customers and non-residential retail customers that have a non-coincident peak demand of less than 400 kilowatts. However, retail customers that are supplied by a retail electric supplier taking service under Rider PORCB - Purchase of Receivables with Consolidated Billing ("Rider PORCB") are excluded from Rider POU. (*Id.*).

Mr. Garcia stated that Rider POU establishes a two-part discount rate applicable to the supply uncollectible account that it purchases from retail electric suppliers, which incorporates the following: (1) a percentage reduction for the recovery of uncollectible costs associated with the purchased uncollectible which is based on ComEd's historic bad debt rate; and (2) a fixed, $29.18 per-account charge which is supposed to represent recovery of the start-up and administrative costs that are associated with ComEd's purchase of uncollectible accounts. (*Id.* at 6).

Concerning the first element of the discount rate, Mr. Garcia stated that, after reasonable collection efforts are made from a customer, that customer is disconnected for non-payment in accordance with 83 Ill. Adm. Code Part 280, and after 30 days have elapsed, the customer account is deemed to be “written-off”. Once “written-off,” a customer account goes through another series of collection efforts for 90 days. The bad debt rate applied to Rider POU is based on ComEd’s historic recovery levels during this 90-day period. According to Mr. Garcia, this period is used because the statute requires that the “alternative retail electric supplier, or an electric utility other than the electric utility in whose service area the retail customer is located, has made reasonable collection efforts on that account.” In his opinion, using ComEd’s collection effort timeframe as a proxy to establish the appropriate age of the debt is reasonable in determining the time that the retail electric supplier would have to engage in reasonable collection efforts before requesting the utility to purchase an uncollectible account. (*Id.* at 7-8).

Mr. Garcia testified that ComEd is proposing one discount factor for all customer classes. This is because, due to the age of the debt, tracking the collection efforts on a class basis would be costly and cumbersome not only for ComEd, but also on the third-party collection agencies that ComEd uses to perform this service. According to Mr. Garcia, the collection rate of aged bad debt is so low that, to incur any additional administrative costs would result in the recovery of monies being negated by the cost of tracking the customer classes the collection, thereby exacerbating the bad debt rate. (*Id.* at 9).

With respect to POU receivables that are not recovered, Mr. Garcia testified that ComEd will recover those costs through its Rider UF - Uncollectible Factor (“Rider UF”). Similarly, any monies collected that are in excess of the price paid for the receivable under Rider POU will be credited back to Rider UF. Mr. Garcia stated that ComEd Exhibit 1.4 was prepared to illustrate the accounting entries that would be made with respect to Rider POU transactions. (*Id.* at 9-10).

Concerning the charge for start-up and administrative costs, he concluded Mr. Garcia testified that ComEd does not anticipate incurring any start-up costs for this program. Also, because of an expected low-volume use, ComEd is adopting a manual process for Rider POU at this time. With a manual process, ComEd will only incur operating and maintenance (“O&M”) expenses that are related to the processing of the receivable purchased and also the costs involved in placing a receivable into ComEd’s normal bill presentment and collection stream. Mr. Garcia averred that these expenses include the labor, postage and mailing that is involved in the processing, customer notification and billing of the supply charges. He additionally stated that, as a result of an update to the billing labor cost, ComEd revised the $29.06 reflected in its April 21, 2011, tariff filing to $29.18. Mr. Garcia further stated that revenues received from application of the $29.18 administrative charge will be recorded in Account 451 Miscellaneous Service Revenues, which will lead to a corresponding reduction of the distribution revenue requirement in ComEd’s next general rate case proceeding. (*Id.* at 10-11).

Mr. Garcia additionally testified that ComEd has not set a schedule for periodic updates of either the bad debt (0.0295) or the administrative charge ($29.18) portion of the proposed, two-part discount rate because ComEd believes that Rider POU will not be used enough to warrant the additional administrative burdens of recalculating and refiling changes to the discount rate annually. According to Mr. Garcia, ComEd does intend to revisit the discount rate as a part of future distribution rate case filings. However, ComEd has no objection to setting a schedule in the tariff to update the discount rate through an informational filing with Staff each May (with a June 1 effective date). Such updates should be based on the previous year's bad debt experience and known increases in administrative costs (*e.g.,* wage rates for employees that will be involved in the administration of Rider POU). (*Id.* at 12).

With respect to limitations, Mr. Garcia averred that Rider POU adopts the statutory limitations of service to customers with demands that are less than 400 kW. This Rider, Mr. Garcia continued, requires ComEd only to purchase up to two monthly billing periods of uncollectible accounts for each eligible account. He contended that, due to the uncertainty as to whether there would be much use of Rider POU, ComEd is imposing a limitation on the number of accounts for which it will purchase uncollectible receivable from a retail electric supplier. The limitation is 500 customer accounts annually (up to 1,000 monthly billing periods) with an additional limitation of 125 customer accounts quarterly (*e.g.,* up to 250 monthly billing periods). This limitation is meant to prevent Rider POU from outpacing ComEd's capacity regarding manual operations. Mr. Garcia stated that ComEd intends to closely-monitor the usage level of this service in an effort to avoid imposing this restriction. Also, monitoring the usage level of this service aids in the determination as to whether these restrictions need to be modified and whether the manual process needs to be revisited. (*Id.* at 13).

Mr. Garcia stated that ComEd will present the charges on a customer's bill, if the customer is an active ComEd customer. If the customer does not receive his/her or its bill from ComEd or that is purchased account is not in an active status, (*e.g.*, in a disconnected, finaled or written-off status), a separate statement from ComEd or ComEd's third-party agency may be used. Mr. Garcia further averred that, as part of the manual process, ComEd intends to provide a separate customer notification to describe the Rider POU charges that are associated with the change in the collecting party. (*Id.* at 14).

2. Staff's Direct Testimony

In her direct testimony, Staff witness Ms. Pound noted that ComEd intends to provide a separate customer notification to describe the Rider POU charges that are associated with the change in the collecting party. However, ComEd's Rider POU does not require any notification from the retail electric supplier to customers that are affected by POU. She averred that imposing such a requirement would be beneficial and would help reduce customer confusion. Ms. Pound explained that, pursuant to her change to ComEd's proposal, customers affected by POU will be dropped from the retail electric supplier, returned to ComEd bundled service, and then ComEd would send a letter stating that the former supplier sold the debt to ComEd. These same customers will also receive a bill from ComEd that includes ComEd's supply charges as well as retail electric supplier charges in an amount that will not be traceable back to the retail electric supplier's bill. She opined that any additional explanation to the customers about the many changes that will occur on their electric bills will help customers understand a somewhat complicated process. She stated that, since it is the retail electric supplier that is initiating an action that will result in numerous changes to the customer's electric bill, it is logical to expect the retail electric supplier to communicate this action to its customer. Therefore, Ms. Pound testified, based in part on input from ComEd in response to a data request, Staff proposes including the following on ComEd's Original Sheet 413:

Continuing Obligations.

RES Continuing Obligations

A RES taking service hereunder is obligated to:

7. <u>warrant that written notification has been sent to the affected retail customer that includes: (a) the retail account is returning to ComEd supply and the RES will no longer be the supplier on the account; (b) the RES is selling the uncollectible supply charges to the utility for collection purposes; and (c) the customer will receive an invoice, either through the retail customer's normal monthly billing or separate invoice, for the supply charges sold by the RES to the utility.</u>

(*See,* Staff Ex. 1.0 at 3-5).

In her direct testimony, Staff witness Ms. Ebrey discussed certain tariff language changes pertaining to annual updates of the POU discount rate and more detailed provisions for an annual report requirement. With respect to the tariff language regarding annual updates, Ms. Ebrey testified that ComEd proposed a two-part calculation for the discount rate – (1) a percentage for the recovery of uncollectible receivables based on ComEd's historic bad debt rate; and (2) a fixed charge per account for administrative costs. In her opinion, this type of recovery is consistent with the language in Section 16-118(e) of the Act. Nonetheless, she continued, because the statute states that the discount rate is to be based on historical bad debt expense, periodic updates to the rate are necessary. She noted that, in response to a Staff "data request," ComEd stated that it would not object to setting a schedule in the tariff to update the discount rate through an informational filing with Staff each May (with an effective June 1 effective date) or, in the event of a rate case. She stated further that, if the discount rate is updated annually based on the previous year's bad debt experience, additional updates at the time of a rate case would not be necessary. (Staff Ex. 2.0 at 2-3).

Concerning the $29.18 administrative and start-up cost factor, while Ms. Ebrey agreed that the Act allows for the collection of administrative costs related to POU, she is of the opinion that these costs should be incremental and not otherwise included in rates currently charged by ComEd. In response to a Staff data request, ComEd stated that the POU program charge is incremental because it is for a service that is not currently offered. However, she continued, ComEd also stated in the same response that the job positions related to this charge are persons in current positions at ComEd who will be taking on additional duties. Ms. Ebrey noted that there is no evidence that these same positions are not already included in the delivery rates set in the most recent ComEd rate case. ComEd further stated in that discovery response that, to avoid double-recovery, the revenue collected under the administrative portion of the discount rate will be accumulated and deducted from the distribution revenue requirement and recorded as miscellaneous revenue. However, she averred, no such adjustment was reflected in the revenue requirement of the most recent rate case. (*Id.* at 3-4).

In order to avoid double recovery, Ms. Ebrey testified that language should be included in tariff revisions that include the administrative costs that are not already included in other rates charged to the customers. She stated that language on ComEd's Original Sheet No. 414 should be revised as follows:

DUREC = HBDR ~~0.0295~~ x UREC – AC ~~$29.18~~

Where:

DUREC = Discounted Uncollectible Receivables, in dollars ($) rounded to the cent, equal to the amount the Company must remit to the RES for the uncollectible receivables sold by the RES to the Company pertaining to the electric power and energy supply service provided by the RES to the retail customer.

HBDR = Historic Bad Debt Rate, rounded to four decimal points, equal to the Company's historic bad debt rate for the previous calendar year for accounts written off for 90 days non-payment. The rate shall be updated annually through an informational filing with the Commission with supporting workpapers provided to the Manager of Accounting of the Commission by May 15 each year with a June 1 effective date.

UREC = Uncollectible Receivables, in $ rounded to the cent, equal to the amount the retail customer is in arrears for electric power and energy supply service provided to such retail customer by the RES for no more than two monthly billing periods.

AC = Administrative Costs, in $ rounded to the cent, equal to the cost of processing each account purchased from the RES. Such administrative costs will be determined initially in a rate proceeding when it can be determined that the costs are not included in other rates charged to the utility's customers. After the initial determination in a rate proceeding, the Company shall file annually to update the cost in an informational filing with the Commission with supporting workpapers provided to the Manager of Accounting of the Commission by May 15 each year with a June 1 effective date.

(Staff Ex. 2.0 at 4-5).

Ms. Ebrey then testified that ComEd did not propose a provision for an annual report of POU activity. However, in response to a Staff "data request," ComEd stated that it had no objection to providing the statistical information that Staff sought. She recommended adding that the following language, consistent with her recommendation in the Ameren Illinois Company's Rider POU proceeding, to provide for an annual report:

> Annual Reports
>
> On or before April 15 each year, the Company shall prepare an annual report to the Manager of Accounting detailing activity under Rider POU that includes the following information detailed by RES:
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> a) Number of POU accounts from each RES;
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> b) Face value of POU accounts;
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> c) Total Amount Paid for POU accounts;
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> d) Amount collected from Customers on POU accounts;
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> e) Amount of POU accounts written off; and
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> f) Amounts collected on POU accounts previously written off.
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> In addition, the annual report should provide updated information for the write-off and collection detail that formed the basis for the discount rate stated in the POU Discount Rate Information Sheet accompanying the POU tariff provisions. Other information may be requested by the Commission to be included in the annual report as participation increases from that currently anticipated.

Finally, Ms. Ebrey agreed with ComEd witness Mr. Garcia regarding the appropriate journal entries to be made in connection with the POU program. (*Id.* at 5-6).

3. ComEd's Rebuttal Testimony

Mr. Garcia testified that ComEd supports Staff's proposal to require a retail electric supplier using POU to provide written notification to its customer that the unpaid debt is being returned to ComEd. He noted that this would help reduce customer confusion. He offered the following revisions in order to add greater clarity and to be more consistent with language used in ComEd's tariffs:

> 7. warrant that written notification has been sent to the affected retail customer informing such retail customer that (a) the provision of electric power and energy supply service by such RES to such retail customer is terminating; (b) such retail customer is being switched to receive electric power and energy supply from the Company; (c) such RES is selling to the Company for collection purposes its uncollected

> supply charges pertaining to the electric power and energy supply such RES provided to such retail customer; and (d) such uncollected supply charges are to be subsequently listed in such retail customer's monthly bill for electric service or in a separate invoice issued by the Company.

(ComEd Ex. 2.0 at 2).

With respect Ms Ebrey's annual report recommendation, Mr. Garcia testified that he agreed with all of the items except "f) Amounts collected on POU accounts previously written off". He averred that in response to a "data request," Staff stated that this information was needed to calculate the bad debt rate for Rider POU. However, according to Mr. Garcia, Staff was mistaken in this view. He testified that the separate amounts collected on POU accounts that were previously written off are not required to determine the bad debt portion of the Rider POU discount rate. Mr. Garcia stated that the statute states: "The discount rate shall be based on the electric utility's historical bad debt for receivables that are outstanding for a similar length of time and any reasonable start-up costs and administrative costs associated with the electric utility's purchase of receivables." He further opined that the bad debt rate proposed by ComEd, to which no party objected, comports with the statute because it is based on the historic bad debt for all of ComEd's receivables that are outstanding for a similar length of time, not just the subset of accounts that may be purchased under Rider POU. He opined that therefore, reporting this data is not needed for the purpose set forth by Staff. (*Id.* at 3-4).

Mr. Garcia then addressed Staff's proposed April 15th deadline for the submitting annual reports. He stated that the information required to support the annual reports is not available until after March 31$^{st.}$ After that, he continued, it would take at least two weeks for ComEd's Information Technology ("IT") staff to retrieve the information from ComEd's billing and IT systems. Consequently, he continued, the "raw data" that is needed for the annual report could not become available until about April 14 of each year. Mr. Garcia opined that Staff's proposed timing does not allow ComEd a reasonable amount of time to analyze the information and compile this report. Instead, ComEd proposed an April 30th deadline for the report. (*Id.* at 4-5).

Regarding cost recovery, Mr. Garcia opposes Staff's proposed tariff language requiring that "[s]uch administrative costs will be determined initially in a rate proceeding when it can be determined that the costs are not included in other rates charged to the utility's customers" and that annual updates to the charge will be made thereafter. Mr. Garcia opined that the administrative cost that are associated with the purchase of retail electric suppliers' receivables pursuant to Rider POU must be recovered from retail electric suppliers that use this service. He also testified that Staff's proposal to limit the charge to "incremental" administrative costs is "inconsistent" with the requirements of the governing statute. However, in his opinion, recently-enacted legislation sets forth a framework that concerns Staff's double-recovery concerns, rendering them moot. Specifically, Mr. Garcia explained that Public Act 97-0616, which was enacted into law on October 26, 2011, authorizes utilities that commit to expend at least $2.5 billion on system improvements and meet job creation targets to establish a so-called "performance-based formula rate." Under new subsection 16-108.5(c)(6) of this legislation, such rate mechanisms are required to:

> Provide for an annual reconciliation, with interest as described in subsection (d) of this Section, of the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its performance based formula rate tariff pursuant to subsection (c) of this Section, with what the revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date.

(*See,* 220 ILCS 5/16-108.5(c)(6)). Mr. Garcia testified that ComEd would file a performance-based formula rate tariff on November 8, 2011, and that, therefore, the reconciliation mechanism is expected to be in place by May 31, 2012. Pursuant to that mechanism, any revenues received from the application of the $29.18 charge, which would incur beginning in 2012 at the earliest, will be captured and used to offset revenue requirement dollar-for-dollar as part of the reconciliation for calendar year 2012, thereby eliminating the effects of regulatory lag and any perceived possibility for double-recovery. (*Id.* at 6-7).

Mr. Garcia averred that, since the POU is not a service that is currently being provided, the costs associated to administer it are new costs to ComEd. Also, according to Mr. Garcia, the most that ComEd could recover under Rider POU in light of the proposed limitation on the number of accounts, for which, ComEd will purchase uncollectible receivables per year is under $15,000. He further stated that, putting aside the changes brought about by Public Act 97-0616, there are still several problems with Staff's proposal to delay determination of the charge for administrative costs until the next rate case. (ComEd Ex. 2.0 at 7-9).

According to Mr. Garcia, to not set a charge for the provision of service to retail electric suppliers that use Rider POU until the next rate case would be inconsistent with traditional ratemaking principles, namely the principle of cost causation. He additionally opined that Staff's proposal would produce no additional revenue to offset the revenue requirement in the next rate case proceeding, which means all customers would bear the cost of this service until the rate case after the next rate case proceeding. He additionally averred that, to not set the appropriate charges when the service becomes available will give rise to claims of "rate shock" by any retail electric supplier that uses this service in a future rate case proceeding, which will lead, allegedly, to calls for a phase-in of the charge and the setting of the charge below cost and which will only further delay the appropriate allocation of costs to the cost causers and extend the socialization of these costs.

Finally, Mr. Garcia asserted that Staff's proposal is internally inconsistent, as it calls for annual updates to the charge for administrative costs subsequent to the next rate case proceeding, in which, the charge would be initially set. According to Mr. Garcia, this would seem to be the very same issue of concern to Staff in this proceeding – that is, setting the administrative charge outside of a rate case. (*Id.* at 9).

Regarding the bad debt portion of the discount rate, Mr. Garcia testified that ComEd does not oppose Staff's proposal for the annual updating of the bad debt portion of the discount rate based on ComEd's previous year's experience. ComEd further concurs with the requirements that are reflected in Staff's proposed tariff language. Mr. Garcia offered the following revisions for purposes of adding greater clarity and to be more consistent with language used in ComEd's tariffs:

> HRR = Historic Recovery Rate, in decimal format rounded to the ten thousandths, equal to the ratio of (a) the net collected amount pertaining to amounts billed for electric service that had been identified as uncollectible after being in arrears for at least ninety (90) days during the previous calendar year, with such total uncollectible amounts prior to such collection described herein as gross charge-offs, to (b) such gross charge-offs. Such HRR is updated annually with an effective date of June 1. Each year such updated HRR must be submitted by the Company to the ICC in an informational filing no later than May 15. Any such informational filing must be accompanied by supporting work papers and documentation, and such supporting information must be provided to the Manager of Accounting of the ICC Staff. Any such informational filing of an updated HRR submitted after May 15, but prior to its June 1 effective date, is acceptable only if such informational filing corrects an error or errors from a timely filed HRR. Any other such informational filing made of an updated HRR after May 15 but prior to its June 1 effective date is acceptable only if such informational filing is made in accordance with the special permission request provisions of Section 9-201(a) of the Act.

(ComEd Ex. 2.0 at 10).

4. Staff's Rebuttal Testimony

In her rebuttal, Ms. Ebrey testified that ComEd was in agreement with three of the proposals she made in direct testimony with some revision:

> 1) ComEd agreed to provide the "data" in items a) through e) that she proposed to be included in the Annual Report for Rider POU.
>
> 2) ComEd does not oppose the annual updating of the bad debt portion of the discount rate based on previous year's experience.
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> 3) ComEd concurred in theory with her proposed tariff changes regarding the definition of the historic bad debt rate, proposing different language. In the interest of narrowing the issues, Ms. Ebrey indicated that she did not take issue with language proposed by Mr. Garcia.

(Staff Ex. 3.0 at 1). Regarding ComEd's position that there is no need to report on the amounts that are collected on POU accounts that were previously written off, Ms. Ebrey agreed with Mr. Garcia's understanding that this piece of information is not necessary for the calculation of the historic bad debt calculation, but stated that the statistical data would be of interest to the Commission. She also noted that this information will be included in the annual report to be submitted by Ameren. She maintained that, to enable consistent analysis by the Commission for the two companies, the information required from both Companies should be the same. (*Id.* at 2-3).

With respect to ComEd's proposed submission date of April 30th for its annual report, Ms. Ebrey questioned ComEd's claim that the information required to support the annual report is not available until after March 31st each year. She noted that ILCC Form 21 is due to be filed with the Commission on March 31st each year. She concluded that any "raw data" that is needed for the annual report for POU activity would be available before that date. Because the requested information is statistical in nature, it was unclear to her what type of analysis ComEd would perform between the date of filing the ILCC Form 21 on March 31st and providing the Annual Report. She pointed out that the recent Commission order approving the Ameren POU requires the annual report to be submitted on April 15th. For consistency among the utilities, Ms. Ebrey opined that the same submission date should be approved for ComEd. (*Id.* at 4).

Concerning the issue of incremental cost, Ms. Ebrey stated that Mr. Garcia confused incremental tasks with incremental costs when asserting that any incremental work would result in incremental costs. She noted that, in response to a Staff "data request," ComEd stated that no decision to hire new staff to perform the incremental activities related to Rider POU has been made and that it would be pure speculation to guess whether the current billing clerk would be working more hours or receive an increase in hourly pay as a result of taking on the additional duties related to Rider POU. (Staff Ex. 3.0 at 4-5).

She averred that ComEd presented no evidence of incremental, or added costs, in this docket. However, she stated that she was not recommending that no administrative costs should be recovered from the retail electric suppliers pursuant to Rider POU. Rather, she continued, her concern was only that there should not be double-recovery of costs from both delivery service ratepayers and from the retail electric suppliers who would be selling uncollectible receivables to ComEd. (*Id.* at 5).

Ms. Ebrey acknowledged that the new formula rate methodology described by Mr. Garcia could provide for the revenues collected from the retail electric suppliers for the administrative costs that are associated with POU to decrease the resulting revenue requirement; however, she still had a concern. She testified that, based on her understanding of the timeline provided by ComEd for the formula based rates, the reconciliation of actual 2012 costs and revenues will not be reflected in rates charged to the ratepayers until January 2014. Due to this lag in reflecting actual costs and revenues in the base delivery rates in the future, she recommended that the amounts of administrative costs that are recovered through the discount rate must be reported in the annual report of Rider POU activity. Ms. Ebrey stated that the annual tracking and reporting of the administrative costs that are recovered through Rider POU would help prevent these revenues from being overlooked in the future formula rate filings. To that end, she recommended that the Commission include an ordering paragraph in the Final Order in this proceeding to direct the treatment of the service fees charged to the retail electric suppliers for the recovery of administrative costs in and future formula rate filings – specifically:

> It is also ordered that the administrative costs recovered through the discount rate be recorded in account 451 Miscellaneous Service

> Revenues and that these revenues be reflected as a reduction to the revenue requirement approved in base rates established for the years 2012 and following.

(*Id.* at 6-7).

5. ComEd's Surrebuttal Testimony

In his surrebuttal testimony, Mr. Garcia averred that all outstanding issues in contention have been resolved. Specifically, with respect to the proposed changes to Rider POU, as was delineated in Staff's rebuttal testimony, he stated that ComEd accepts with some modification in proposed tariff language the following: (1) all of Staff's proposed data reporting requirements for the annual report, specifically item f) and new item g); (2) the proposed April 15th deadline for the submission of the annual report; and (3) Staff's proposal that ComEd shall update the administrative costs annually as part of the informational filing. He also stated that Staff's proposed ordering paragraph regarding the treatment of administrative fees charged for each POU purchased and recorded as Miscellaneous Service Revenues through the performance-based formula rate mechanism is acceptable to ComEd. (Com Ed Ex. 3.0 at 2-4).

Included with Mr. Garcia's testimony was ComEd's Exhibit 3.2, a redlined version of the proposed revisions to Rider POU that are acceptable to ComEd considering Staff's recommendations. Mr. Garcia averred that this draft captures all of Staff's proposed revisions, and only rephrases the proposed language and moves placement of this language, in order to be consistent with the structure and language used in similar tariffs. He also testified that this redlined version incorporates the retail electric supplier notification requirements that were proposed by Staff witnesses Ms. Pound.

In her affidavit, Staff Exhibit 4.0, Ms. Ebrey indicated that she had reviewed the tariff revisions offered by ComEd in its Exhibit 3.2 and found the language acceptable.

B. BlueStar's Memorandum

1. BlueStar's Position

In its Pre-hearing Memorandum, BlueStar took the position that was articulated by Ms. Ebrey in her direct testimony that there is no evidence that any incremental administrative costs would be incurred by ComEd in the provision of Rider POU service and that the $29.18 portion of its discount rate should be disallowed. BlueStar argued that three factors militate in its favor:

> ComEd's proposed discounted uncollectible receivables calculation will undermine the purposes of the governing statute, by making it highly unlikely that any retail electric suppler that is eligible to participate in the POU program will actually do so. Given that the discount rate ComEd will apply to the purchase of the uncollectible receivables is .0295 and the proposed per account assessment is $29.18 (meaning that sale of a $1000 uncollectible would net the retail electric supplier $0.32), it would only make sense for a retail electric supplier to sell its uncollectible

> receivables to ComEd that total in excess of $1000. However, BlueStar argued, the law governing the POU program limits retail electric suppliers to selling to ComEd y only “2 billing cycles’ worth of uncollectible receivables” for service provided to “residential retail customers and to non-residential retail customers with a non-coincident peak demand of less than 400 kilowatts.” Bluestar concluded that two billing cycles for such small customers will rarely, if ever, total more than $1000. Thus, if ComEd’s proposed discounted uncollectible receivable calculation is adopted, there will be extremely limited, or, there will be no retail electric supplier participation in ComEd’s POU program, thereby eviscerating the statute’s purpose.
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> BlueStar further contended that the proposed Rider POU already provides protection for ComEd against the unlikely scenario of significant additional costs. According to BlueStar, ComEd acknowledged in its testimony that it “does not expect Rider POU to be used extensively.” Nonetheless, BlueStar continued, under Rider POU, ComEd proposes that it will initially be required to purchase, at the most, 500 customer accounts annually from a retail electic supplier. BlueStar opined that this limitation provides more than enough protection to ComEd against the unlikely scenario of significant participation in the POU program and any associated incremental or additional costs.
>
> Finally, BlueStar asserted that Ameren’s Rider POU does not include a deduction of administrative costs.

As a second issue, BlueStar argues that there is no statutory authority for the limitation on the number of POU receivables ComEd will purchase (125 per calendar quarter). Instead, the figure was one that was arrived at after workshop discussions. BlueStar requested that the Commission require ComEd to include tariff language establishing that this limitation must be re-evaluated each May in connection with the annual update of the discount rate.

2. Others’ Responses

Both Staff and ComEd filed responses to BlueStar’s Memorandum.

Staff reasserted the position it proffered in its rebuttal testimony, which was that Staff’s original concern about the $29.18 administrative costs is only that there should not be double recovery of costs from both delivery service ratepayers and also from the retail electric suppliers that would be selling uncollectible receivables to ComEd. Staff noted that its concern in that regard has been addressed by the reconciliation process associated with ComEd’s recent performance-based formula tariff filing, by the various measures that ComEd has agreed to in this proceeding, including appropriate tariff modifications and a specific ordering clause in this proceeding.

With regard to Blue Star’s argument regarding consistency with the Ameren tariff which does not provide for administrative cost recovery, Staff noted that the Public Utilities Act allows for recovery of administrative costs in Section 16-118(e). In testimony, Ameren stated that it does not anticipate any incremental costs for recovery under the POU program. However, Staff continued, Ameren's position that it will not have administrative costs for its POU program does not preclude ComEd from recovering its administrative costs due to POU.

With respect to BlueStar's proposed tariff language, Staff had no comment on the specific merits of the proposed language, but Staff did not object to the re-evaluation of the limitation each May.

In its response, ComEd echoed Staff's characterization of Staff's concern about cost and cost recovery, which is, that the only concern expressed by Staff was with the potential of double-recovery. Like Staff, ComEd argued that the provisions with respect to which it had come to an agreement with Staff address that concern.

ComEd further stated that, pursuant to the requirements of the law and traditional ratemaking, ComEd must recoup the administrative costs associated with provision of service under Rider POU from the retail electric supplier that uses this service. ComEd contended that the statutory provisions concerning POU provide that:

> The discount rate shall be based on the electric utility's historical bad debt for receivables that are outstanding for a similar length of time and any reasonable start-up costs and administrative costs associated with the electric utility's purchase of receivables.

(*See,* 220 ILCS 5/16-118(e)).

ComEd additionally argued that, in light of how the performance-based formula rate mechanism works – which led Staff to conclude that there was no concern about ComEd double-recovering its costs – if there is no charge to the retail electric supplier for administrative costs and Rider POU is used, there will be no revenues to offset the general revenue requirement. Then, the cost of providing this service will be borne by all of ComEd's retail customers through delivery service rates. It concluded that, not only would this violate Section 16-118, but it would also violate traditional ratemaking principle of allocating costs to the cost-causer. ComEd averred that BlueStar's assertion that ComEd's charge calculation will undermine the purposes of the statue is irrelevant, given the statutory directive to recover those costs from the retail electric supplier that requests this service.

ComEd further contended that BlueStar's argument that Rider POU already provides protection for ComEd against the unlikely scenario of significant additional costs in light of its proposal to be required to purchase, at most, 500 customer accounts annually from a retail electric supplier is speculative. Also, like Staff, ComEd argued that BlueStar's reliance on the agreed proposed order submitted in Ameren's POU has no bearing on what a just and reasonable rate would be under the facts of this case.

Finally, with respect to BlueStar's last request, ComEd asserted that, through its compliance filing, it will add language to the tariff indicating that, annually, and in connection with the adjustment of the discount rate, it will re-evaluate whether the quarterly and annual limitations on the number of POU receivable accounts purchased by ComEd should be adjusted or eliminated.

Analysis and Conclusions

The only issue in this docket is whether to impose the $29.18 per account charge for start-up and administrative costs. ComEd argues that it should recover $29.18 per account from retail electric suppliers, but, it has not made any attempt to present evidence indicating that this amount reflects the costs at issue, which are its start-up and administrative costs. In fact, according to Mr. Garcia, ComEd does not anticipate incurring any start-up costs. Also, according to Mr. Garcia, ComEd expects a "low-volume" use of Rider POU. We further note that Ameren anticipated no incremental (costs incurred for only this program) costs. Therefore, it seems highly unlikely that this $29.18 charge actually represents the costs at issue.

On the other hand, as ComEd points out, if no costs are recovered for the administrative and start-up costs of this program, all ratepayers will bear these costs. BlueStar has presented no evidence or argument establishing that the cost of a program that allows alternative retail electric suppliers to avoid part of the effect of a predictable business risk that some persons/entities will not be paying their bills should be borne by all ratepayers. Indeed, the general policy of cost-causation, and general fairness, would establish that ratepayers should not bear the cost of this program.

Therefore, at this time, some minimal charge should be imposed. We conclude that $5 per account shall be imposed, and, ComEd shall change its tariffs accordingly.

However, because the actual start-up and administrative costs of this program are not known, ComEd shall file a new tariff reflecting the actual start-up and administrative costs after the conclusion of the reconciliation of its 2012 performance-based formula rate pursuant to 220 ILCS 5/16-108.5(c)(6). Specifically, this tariff filing shall occur within two months from the date upon which this reconciliation proceeding becomes final. In this way, this Commission will have evidence as to what, if any, start-up costs ComEd will have incurred and what administrative costs ComEd will have incurred.

At the same time, the charge for start-up costs and administrative costs will not be so high as to discourage use of this program when there is no evidence supporting this high charge. We note that, as BlueStar correctly points out, the charge proposed by ComEd is currently so high that it will discourage use of this program, which is contrary to the intent of the General Assembly when it enacted the laws that give rise to this program. It is also noteworthy that this charge is not supported with any evidence establishing its accuracy.

On Exceptions, ComEd contends that its witness, Mr. Garcia did testify that there would be administrative costs involved. It concludes that therefore the language above is not accurate. (ComEd Brief on Exceptions at 1-2). This statement is in fact correct. Mr. Garcia did testify that there would be administrative costs. However, he did not testify that the $29.18 reflects the projected amount for those costs. While Mr. Garcia did provide a projected breakdown of certain costs (*See,* ComEd Ex. 1.2) he did not state how he arrived at the facts in that breakdown (*e.g.,* the need for one supervisor, one billing clerk and one "analyst"). In short, the facts provided on this issue are insufficient as a matter of law, as they lack the requisite factual foundation. (*See, e.g., Fraley v. City of Elgin,* 251 Ill. App. 3d 72, 76-77, 621 N.E.2d 276 (2nd Dist. 1993)). Therefore, we did not consider ComEd Ex. 1.2.

We further note that because this is a new program with comparable Illinois programs, it really is not possible to state, with certainty, what the costs involved in administering this program will be. The fact that Ameren anticipated that no costs are involved in its program is not dispositive. However, it is some indicia that the costs involved in administering ComEd's program will not be high. Even Mr. Garcia stated that the use of this program will be "low volume," meaning that he anticipates that not many alternative suppliers will use this program.

In its Reply Brief on Exceptions, BlueStar points out that Staff witness Ms. Ebrey concluded that there is no evidence to support Mr. Garcia's supposition that $29.18 represents the amount of administrative costs that ComEd will incur per customer. (*See,* BlueStar Reply Brief on Exceptions at 2; Staff Ex. 3.0 at 5). As BlueStar notes, Ms. Ebrey's testimony is further indicia that this $29.18 figure will not correspond with the actual costs that ComEd will incur.

We further find that ComEd's agreement to add tariff language to the effect that it will annually re-evaluate its tariff limitation on the number of POU receivable accounts that it is required to purchase is reasonable.

Finally, we agree that ComEd's proposed tariff modification, as indicated in its Exhibit 3.2, to address Staff's concern that retail electric suppliers must notify their customers about an impending POU transaction affecting their accounts, is reasonable and it is approved.

III. 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, sale and distribution of electricity to the public in Illinois, and is a public utility within the meaning of Section 3-105 of the Public Utilities Act, and it is an electric utility as is defined in Section 16-102 of the Public Utilities Act;

(2) the Commission has subject-matter jurisdiction and jurisdiction over the parties;

(3) the findings of fact and conclusions of law set forth in the prefatory portion of this Order are supported by the evidence of record; they are hereby incorporated into these findings;

(4) the testimony and exhibits admitted into the record provide substantial evidence that Commonwealth Edison Company's tariff Rider POU - Purchase of Uncollectibles is just and reasonable and meets the requirements of Subsection 16-108(e) of the Public Utilities Act, subject to the conditions, modifications, and requirements that are articulated herein;

(5) Commonwealth Edison Company shall revise its tariffs, within three (3) days from the date upon which a final order issues in this docket, to reflect a change in the charge for start-up and administrative costs to be $5, instead of $29.18;

(6) Commonwealth Edison Company shall file a revised tariff, reflecting the actual start-up and administrative costs after the conclusion of the reconciliation of its 2012 performance-based formula rate pursuant to 220 ILCS 5/16-108.5(c)(6). This tariff filing shall occur within two months from the date upon which this reconciliation proceeding becomes final;

(7) The administrative costs recovered through the discount rate shall be recorded in account 451 Miscellaneous Service Revenues.

IT IS THEREFORE ORDERED by the Commission that Commonwealth Edison Company is authorized to make tariff changes, for immediate effect, to its Rider POU containing terms and provisions consistent with and reflective of the findings and determinations made in this Order and the suspension that is currently in effect as a result of the earlier orders in this proceeding will cease when those changes go into effect.

IT IS FURTHER ORDERED that all motions, petitions, objections and other matters in this proceeding that remain unresolved are hereby disposed of in a manner consistent with the conclusions herein.

IT IS FURTHER ORDERED that Commonwealth Edison Company shall revise its tariffs, within three (3) days from the date upon which a final order issues in this docket, to reflect a change in the charge for start-up and administrative costs to be $5, instead of $29.18.

IT IS FURTHER ORDERED that Commonwealth Edison Company shall file a revised tariff, reflecting the actual start-up and administrative costs after the conclusion of the reconciliation of its 2012 performance-based formula rate pursuant to 220 ILCS 5/16-108.5(c)(6). This tariff filing shall occur within two months from the date upon which this reconciliation proceeding becomes final.

IT IS FURTHER ORDERED that the administrative costs recovered through the discount rate shall be recorded in account 451 Miscellaneous Service Revenues.

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 7th day of March, 2012.

(SIGNED) DOUGLAS P. SCOTT

Chairman