

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Commonwealth Edison Company)	
)	
Petition for the Establishment of Performance)	Docket No. 22-0067
Metrics under Section 16-108.18(e) of the)	
Public Utilities Act)	

**BRIEF ON EXCEPTIONS OF THE STAFF OF
THE ILLINOIS COMMERCE COMMISSION**

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Table of Contents

I.	Introduction.....	1
II.	Summary of Exceptions.....	2
III.	Exceptions	2
	A. Exception 1 – If the Commission Allows ComEd to Exclude Major Event Days, it Should Allow a Maximum of Five Exclusions Per Year.....	2
	B. Exception 2 – The Commission Should Revise ALJPO’s Proposed Conditions for Major Event Days.	6
	C. Exception 3 – Minor Correction.....	8
	D. Exception 4 – The Commission Should Clarify its Conclusion Regarding Staff’s Peak Load Reduction Recommendations.....	9
IV.	Conclusion.....	10

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NOW COMES the Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned counsel, pursuant to Section 200.800 of the Illinois Commerce Commission’s Rules of Practice (83 Ill. Adm. Code 200.800) and the direction of the Administrative Law Judges (“ALJs”), and respectfully submits its Brief on Exceptions in the above-captioned matter.

I. Introduction

The Administrative Law Judges’ Proposed Order (“ALJPO”) was issued on August 19, 2022, following the conclusion of the evidentiary hearing held on June 16, 2022. In addition to Staff, the following parties filed Initial Briefs (“IBs”) and Reply Briefs (“RBs”) in this proceeding: Commonwealth Edison Company (“ComEd”); the People of the State of Illinois by Attorney General Kwame Raoul (“AG”); the Citizens Utility Board and the Environmental Defense Fund (together “CUB/EDF”); the Illinois Industrial Energy Consumers (“IIEC”); Advanced Energy Economy (“AEE”);¹ Natural Resources Defense Council (“NRDC”); the Joint Solar Parties (“JSP”); the Environmental Law & Policy Center

¹ AEE filed an IB but did not file an RB.

and Vote Solar (together “ELPC/VS”); and Community Organizing and Family Issues (“COFI”).

II. Summary of Exceptions

Staff takes limited exceptions to the ALJPO, only proposing exceptions or clarifications to portions of the conclusions in the following sections: 1) Reliability and Resilience; and 2) Peak Load.

III. Exceptions

A. Exception 1 – If the Commission Allows ComEd to Exclude Major Event Days, it Should Allow a Maximum of Five Exclusions Per Year.

Argument

Staff testified at length in this proceeding that it would be inappropriate to allow ComEd to exclude an unlimited amount of Major Event Days (“MEDs”) when calculating its reliability performance under Performance Metrics 1 and 2. In its Initial and Reply Briefs, Staff recommended that ComEd’s performance be measured comprehensively, including all interruption data for a given year, without excluding any MEDs. (Staff IB, 20-36; Staff RB, 14-18.) As an alternative, Staff recommended that ComEd be limited to excluding up to five MEDs per year. (Staff IB, 33-35.) The ALJPO adopted this alternative, but raised the number of allowable MEDs to six. (ALJPO, 102.)

The ALJPO provides two justifications for allowing ComEd to exclude up to six MEDs per year from the calculation of SAIDI: (1) “data on ComEd’s MEDs in its service territory;” and (2) “ComEd’s argument that the number of MEDs are increasing over time.” Id. Neither of these reasons is supported by the record evidence. The ALJPO does not explain or identify which of ComEd’s data it is referring to or how that data supports an exclusion of up to six MEDs per year, versus the five MEDs specifically discussed by

Staff. Further, it is not clear that the number of MEDs experienced by ComEd's system are "increasing over time," as the ALJPO concludes. ComEd states that, from 2017-2021, its system experienced an average of 9.0 MEDs per year. (ComEd Ex. 19.0, 12.) While that 5-year average is higher than the average from 2012-2016 of 6.6 MEDs per year, it is lower than the average from 2007-2011 of 12.6 MEDs per year. Id. Thus, the data ComEd provided shows that the number of MEDs has fluctuated somewhat in recent years. Despite fluctuations, ComEd has not established any clear trend, nor has it explained how weather conditions or other uncontrollable factors have contributed to any trends in MED frequency in recent decades. ComEd has also failed to demonstrate what impact the substantial investments it has made to its distribution grid have had on the frequency or severity of MEDs. Therefore, the record does not support the ALJPO's conclusion that there is an upward trend that supports a decision to allow ComEd to exclude up to six MEDs per year.

In contrast, Staff's alternative proposal – which would allow ComEd to exclude up to five MEDs per year – is supported by three independent reasons, each of which is well established in the evidentiary record.

First, in three of the past fifteen years, the fewest number of MEDs ComEd's system experienced was five. (ComEd Ex. 19.0, 12.) During this same period ComEd has invested heavily – more than \$2.5 billion – to improve the performance of its system, including reliability-related and smart grid-related investments like storm hardening. (AG Ex. 1.0 at 12; Staff Ex. 3.0, Attach. B.) ComEd has touted that "overall reliability has improved 68 percent" since 2011. (Staff Ex. 3.0, Attach. B.) In a June 28, 2022, press release, ComEd stated that "over the last 12 months, [ComEd] delivered its most reliable

service on record.” (Staff IB, 26.) Given this substantial investment, and ComEd’s own reports of dramatic reliability improvements, it is reasonable to expect that ComEd’s system will be able to withstand typical operating conditions, including storms, and to limit ComEd to excluding five MEDs going forward.

Second, the SAIDI data presented in ComEd’s Surrebuttal Testimony shows that excluding just five MEDs also significantly reduces the variability in the SAIDI scores over that period, compared to SAIDI calculated with no MEDs excluded. (ComEd Ex. 19.0, 18.) Over the past 10 years, if no MEDs are excluded from calculations, ComEd’s annual SAIDI ranged from 335.0 to 75.0. Id. Thus, ComEd argues that including all MEDs in its SAIDI calculations will introduce “weather-driven volatility in the [SAIDI] results that will make it difficult to get a clear picture of . . . ComEd’s reliability performance.” Id. at 25. ComEd’s data also shows, however, that when up to five MEDs are excluded in each year, the range of ComEd’s SAIDI performance shrinks dramatically, to 91.2 to 44.7. Id. at 18. Therefore, a limit of five MEDs excluded per year would encourage ComEd to take steps to minimize the impacts of grid stress on its customers, and reduce those impacts below their current levels, while also addressing ComEd’s concern regarding the “extreme effect that MEDs have on reliability calculations.” (Staff IB, 33-35.)

Third, excluding five MEDs is consistent with a compromise achieved between Staff and Ameren Illinois Company (“Ameren”) in that company’s performance metrics docket. Ameren Illinois Company d/b/a Ameren Illinois, Petition for Approval of Performance and Tracking Metrics, ICC Docket No. 22-0063, Ameren Initial Brief, 29 (“...per its compromise with Staff, the Company proposes to exclude five...[MEDs] from the annual performance calculation...[.]”). ComEd acknowledged this agreement in its

testimony and briefs, and the ALJPO recognized it as well. (ComEd Ex. 19.0, 13; ComEd RB, 23, 25-26; ALJPO, 102.) Allowing the same number of MEDs to be excluded from both utilities' SAIDI calculations would create consistency across the state and allow all stakeholders to more easily compare each utility's performance under their respective performance metrics. ComEd argued that benchmarking against other utilities is valuable in helping ComEd set reasonable goals and draw meaningful comparisons to other utilities. (ComEd Ex. 5.0, 13; ComEd Ex. 19.0, 20.)

This recommendation is also consistent with the Institute of Electrical and Electronics Engineers ("IEEE") guidance that ComEd has cited throughout this proceeding. The IEEE Guide states, "it is likely that reliability data from different utilities will be compared by utility management, public utility commissions, and other interested parties. A fair MED classification would classify, on average, the same number of MEDs per year for different utilities." (ComEd Ex. 5.01, 44.) This suggests that it is most "fair" to allow ComEd and Ameren the same number of MED exclusions.

The Commission's decisions must be based on the record presented in a case. The Public Utilities Act states that "[i]n all proceedings . . . any finding, decision, or order made by the Commission shall be based exclusively on the record." 220 ILCS 5/10-103; Apple Canyon Lake Prop. Owners' Ass'n v. Ill. Commerce Comm'n, 2013 IL App. (3d) 100832, ¶40 (Mar. 5, 2013) ("[T]he Commission must base its factual findings on the evidence and on matters officially noticed."). Similarly, the Illinois Administrative Procedure Act states that "[f]indings of fact shall be based exclusively on the record and on matters officially noticed." 5 ILCS 100/10-3. Here, the record supports Staff's alternative recommendation that a maximum of five MEDs be excluded from ComEd's

SAIDI calculations under Performance Metrics 1 and 2. The Commission should therefore modify the ALJPO's conclusion to fully adopt Staff's alternative recommendation.

Proposed Modification
(ALJPO, 102.)

...

The Commission finds that both ComEd and Staff make meritorious arguments in favor of their respective positions, but neither is so persuasive as to convince the Commission to completely discount the arguments raised by the other. As such, a compromise that will address the concerns raised by both parties is appropriate. The Commission recognizes ComEd's concerns that allowing all MEDs may result in a metric that is not reasonably within ComEd's control. The Commission finds, however, that ComEd's proposal of excluding nine MEDs is not sufficiently aspirational or transformative; nine is simply the average number of MEDs ComEd has experienced in the past five years. Staff supports, as an alternative to including all MEDs, an exclusion of up to 5 MEDs. Staff states its alternative proposal would result in a higher baseline while still reducing the variability in SAIDI scores. The Commission notes that Staff's alternative proposal in this docket mirrors Staff's final position in the pending Ameren performance metrics docket, Docket No. 22-0063. ~~However, While the Commission notes that Ameren and ComEd have different service territories, Considering the data on ComEd's MEDs in its service territory, and ComEd's argument that the number of MEDs are increasing over time, the Commission finds that an extra exclusion day should be allotted over Staff's alternative proposal in this docket,~~ the Commission concludes that Staff's alternative proposal is supported by the record and results in a metric that is challenging but attainable. 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. The Commission finds ComEd may exclude up to ~~six~~five MEDs in its SAIDI calculations.

B. Exception 2 – The Commission Should Revise ALJPO's Proposed Conditions for Major Event Days.

Argument

Staff supports the ALJPO's conclusions regarding the need for conditions limiting what may be excluded as one of the five MEDs. Staff also supports the Commission's reasoning that these conditions are necessary to address shortcomings in IEEE's

definition of a MED, which does not limit MEDs to events that are outside of a utility's control. (See Staff IB, 27-29.) Staff recommends that the Commission revise the ALJPO's proposed conditions, however, to eliminate Condition 3 to avoid any confusion regarding whether planned interruptions should be included in ComEd's SAIDI calculations under Performance Metrics 1 and 2.

The ALJPO's Condition 1 states clearly that "MEDs must result from outages that result from an event outside of the Company's control, such as an extreme weather event or terrorist or cyber-attack on the system." (ALJPO, 102.) This aligns with ComEd's testimony that MEDs are "usually weather-related" but can also be caused by "cyber or terrorism attack." (ComEd Ex. 19.0, 10.) The ALJPO's Condition 3 excludes a subset of potential interruptions, those caused by a "planned event within the Company's control, such as maintenance activities on a non-storm day." (ALJPO, 102.) Staff does not believe Condition 3 is necessary. ComEd proposed from its direct testimony that it would exclude planned interruptions. (ComEd Ex. 12.01, 2.) Staff did not object to that exclusion. (See Staff Ex. 11.0, 30.) The Commission's existing rules direct utilities to exclude certain intentional interruptions, including because of hazardous conditions, requests by law enforcement or other government agencies, or for repair, maintenance, or reinforcement. 83 Ill. Admin. Code 411.20. Therefore, to avoid any confusion about whether planned interruptions should be included in SAIDI calculations, Staff recommends that the Commission delete Condition 3 from its Final Order.

Proposed Modification
(ALJPO, 102.)

Staff further criticizes use of the IEEE definition of MEDs because it does not distinguish between controllable (i.e. a mistake or oversight by ComEd) versus

uncontrollable interruptions. The Commission concurs with this criticism and therefore adopts the following conditions for what can be excluded as one of the five MEDs:

- (1) MEDs must result from outages that result from an event outside of the Company's control, such as an extreme weather event or terrorist or cyber-attack on the system.
- (2) In the case of MEDs resulting from extreme weather, conditions must exceed National Electrical Safety Code design criteria.
- ~~(3) MEDs may not result from a planned event within the Company's control, such as maintenance activities on a non-storm day.~~

C. Exception 3 – Minor Correction

Argument

In its conclusion regarding MEDs, the ALJPO includes a typo that suggests that ComEd is “allow[ed]” a certain number of MEDs per year. (ALJPO, 102.) This proceeding did not address what level of interruptions or number of MEDs ComEd is “allowed” under Illinois law or Commission rules. Rather, it concerns how ComEd should be incentivized to improve reliability performance, including how reliability statistics should be measured. The following correction should therefore be made to avoid any confusion regarding the impact of the Commission's order.

Proposed Modification (ALJPO, 102.)

The Commission recognizes ComEd's concerns that ~~allowing~~including all MEDs may result in a metric that is not reasonably within ComEd's control.

D. Exception 4 – The Commission Should Clarify its Conclusion Regarding Staff’s Peak Load Reduction Recommendations.

Argument

The final paragraph of the Commission Analysis and Conclusions regarding Peak Load Reductions states:

The Commission agrees with Staff and the AG that it is appropriate to make the Company’s goals incremental to prior year performance in this instance so that the Company remains consistently focused on achieving its targeted metric on an annual basis. The additional modifications by Staff to the AG’s proposal ensure the PLR metric continues to incentivize ComEd to generate PLR through the life of the metric. This measure proportionally balances the metric in a way that promotes aggressive utility action that is beneficial to ratepayers. Therefore, the Commission adopts ComEd’s proposed PLR performance metric as modified by Staff in its Initial and Reply Briefs.

(ALJPO, 131).

Staff does not take issue with the ALJPO’s conclusion. Staff recommends, however, that the Commission explicitly state what level of reductions correspond to which levels of rewards and penalties. In Dr. Brightwell’s rebuttal testimony, he provided analysis recommending a 315 MW annual reduction based on 5 or 6 basis points. (Staff Ex. 12.0, 11.) In its Initial Brief, Staff acknowledged an error in Dr. Brightwell’s analysis that was identified by ComEd witness Brian Kirchman. Staff proposed to approximately half the MW reduction to 15 MW per basis points as a compromise. (Staff IB, 42-43). For 6 basis points, this would mean about 150 MWs of reductions to receive the full incentive. Id. at 43.

In its Reply Brief, Staff commented on the AG’s proposal to base the penalties and incentives on incremental annual savings and provided an example based on 60 MWs of reductions needed to achieve the full incentive. (Staff RB, 21-24). The Commission used this example in the Proposed Order. (ALJPO, 120-121.) Accordingly, it appears that the

ALJPO adopts Staff's compromise proposal, but did not specifically adopt Staff's full penalty/incentive calculation. Based on the 15-basis point per MW break-even analysis, outlined above, Staff recommends that the Commission clearly state that 150 MWs of annual Peak Load Reductions are necessary for the Company to earn 6 basis points.

Proposed Modification
(ALJPO, 131.)

The Commission agrees with Staff and the AG that it is appropriate to make the Company's goals incremental to prior year performance in this instance so that the Company remains consistently focused on achieving its targeted metric on an annual basis. The additional modifications by Staff to the AG's proposal ensure the PLR metric continues to incentivize ComEd to generate PLR through the life of the metric. This measure proportionally balances the metric in a way that promotes aggressive utility action that is beneficial to ratepayers. Therefore, the Commission adopts ComEd's proposed PLR performance metric as modified by Staff in its Initial and Reply Briefs. ComEd is required to achieve 150 MWs of incremental reductions each year in order to earn the full 6 basis point incentive.

IV. Conclusion

Staff respectfully requests the Illinois Commerce Commission approve its recommendations in this docket.

Respectfully submitted,

/s/

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