

BEFORE THE
ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company)
)
) No. 22-0067
)
Petition for the Establishment)
Of Performance Metrics Under)
Section 16-108.18(e) of the)
Public Utilities Act)
)
Springfield, Illinois)
September 15, 2022)

Met, pursuant to Notice at 9:00 a.m.

Before:

Carrie Zalewski, Chairperson

Michael Carrigan, Commissioner
D. Ethan Kimbrel, Commissioner
Ann McCabe, Commissioner

BRIDGES COURT REPORTING, by
Jennifer L. Crowe, CSR
License No. 084-003786

1 CHAIRPERSON ZALEWSKI: Good morning. I
2 have 9:00, so I'm going to go ahead and get
3 started.

4 Pursuant to Section 200.850 of the
5 Commission's administrative rules, I now convene
6 the oral argument before the Illinois Commerce
7 Commission in docket no. 22-0067. This is ComEd
8 Illinois Company's petition for approval of
9 performance and tracking metrics.

10 Commissioners Kimbrel, Carrigan and McCabe
11 are with me in Springfield. We have a quorum.

12 The oral argument for this case was noticed
13 for today, September 15 at 9 a.m., and to be hosted
14 in person at the Commission's Springfield office.
15 We really appreciate everyone's effort making it
16 here to appear before us in person.

17 As notice has indicated in our notice of
18 oral argument, the scope of today's presentation is
19 limited to the following issues: a) Commission's
20 authority to approve penalty-only metrics;

21 b) Cost-benefit tests in Section 16.108.18
22 (e)(2)(F);

1 3) DER Interconnection and Utilization of
2 Value (or DERIUUV) metric and associated tracking
3 metrics proposed by the Joint Solar Parties, ELPC,
4 and Vote Solar (or Solar Intervenors);

5 d) Commission approval or rejection of
6 Performance Metric 1;

7 e) Commission approval or rejection of
8 Performance Metric 2;

9 f) Commission approval or rejection of
10 Performance Metric 3;

11 And g) Commission approval or rejection of
12 Tracking Metrics 10 through 19 proposed by the
13 Solar Intervenors.

14 As stated in our notice, in addition to,
15 the parties should be prepared to answer any
16 questions regarding any part of the record or
17 pertinent law.

18 The parties were requested to notify the
19 Commission of their intent to present oral argument
20 and of the names of the attorneys presenting as
21 well as any exhibits that they wish to use during
22 the oral argument. Each party will have ten

1 minutes for their argument. The parties may divide
2 their allotted time between initial presentation
3 and rebuttal.

4 As advised by the Commission's Office of
5 General Counsel, we will have the petitioner in
6 this docket, ComEd, go first and also present
7 surrebuttal if they desire. So please let us know
8 before you begin to, how much time you plan to
9 reserve.

10 Ashley at the end will be serving as our
11 timekeeper in an attempt to give presenters a
12 warning before the time expires.

13 Based on the request for oral argument and
14 as advised by the Commission's general counsel
15 office, the order of the parties presenting will be
16 the following: First, ComEd represented by Emma
17 Salustro;

18 Second, Attorney General's office
19 represented by Charles Murphy and Grant Snyder;

20 Third, Environmental Law and Policy Center,
21 or ELPC Vote Solar represented by Brad Klein;

22 Fourth, Joint Solar Parties represented by

1 Nikhil Vijaykar;

2 Five, excuse me, Citizens Utility Board
3 represented by Julie Soderna;

4 Six, Commission staff represented by Ray
5 Kolton, Jerry Jefferson and Marcy Sherrill.

6 We also have Edward Fitzhenry representing
7 IIEC, and IIEC indicated to the Commission it will
8 not be presenting argument but is available for
9 Commission's questions.

10 And I will just add that if you are
11 participating remotely, please turn on your camera
12 when speaking.

13 So with that out of the way, we will now
14 turn to our oral argument. First we are going to
15 hear from Emma Salustro representing ComEd.

16 Ms. Salustro, you are allotted ten minutes.
17 How much time would you like to reserve for
18 rebuttal and surrebuttal?

19 MS. SALUSTRO: Good morning. I would like
20 to reserve four minutes for rebuttal and two
21 minutes for surrebuttal.

22 CHAIRPERSON ZALEWSKI: Put four minutes on

1 direct, and then if you could, for the first round,
2 state and spell your name, and then we will start
3 the clock, then you may begin.

4 Just to make sure, it looks like your mic
5 is on. Just for everyone, the green light means it
6 is on. Just make sure the light is lit. Even if
7 you can't hear yourself, it is for the purpose of
8 those listening in virtually.

9 MS. SALUSTRO: Thank you. Emma Salustro,
10 S-A-L-U-S-T R-O, appearing on behalf of ComEd.

11 Good morning. We are here today because
12 the AG and the solar parties hope to convince the
13 Commission to adopt their rejected alternative
14 metrics and concepts, but the Commission should
15 uphold the proposed order on these points.

16 Let me provide some helpful context to
17 consider today. This proceeding was enhanced
18 through a high degree of collaboration and
19 cooperation amongst all parties. All of the
20 performance metrics adopted in the proposed order
21 are very different and, in some cases, completely
22 different than what ComEd proposed in its January

1 20th petition. At every step of the proceeding,
2 including the briefs on exception, ComEd
3 thoughtfully considered staff and intervenors'
4 feedback and added or adopted or modified or even
5 completely replaced our performance metrics with
6 others' proposals and ideas. This includes ideas
7 provided by the AG and solar parties which, for
8 example, are reflected in the final peak load and
9 affordability performance metrics and in various
10 tracking metrics.

11 Section 16-108.18(d)(2) requires
12 performance metrics to have fully formed metrics
13 designs and be within the utility's control to
14 achieve yet still challenging. They must be
15 stretch goals.

16 If ComEd did not adopt or incorporate a
17 party's alternative metric or concept, it is
18 because it could not. The concept was not in
19 compliance with the statute; it did not have fully
20 formed metrics designs; it was not achievable,
21 controllable or implementable; it was redundant or
22 inferior to ComEd's proposed metric; or all of the

1 above.

2 That is the case with the alternative
3 proposals by the AG and the solar parties. For
4 example, the solar parties proposed a DER metric
5 which they call part 2 of their -- and I apologize,
6 I have been pronouncing it DERIUV metric, but I
7 think they pronounce it differently. That is
8 simply not a metric. It does not have goals,
9 targets or an incentive penalty structure as
10 required by the statute. It does also not require
11 any specific action by ComEd and is not in ComEd's
12 control.

13 It is also completely dependant on how
14 value is assigned to DERs as NWAs, non-wire
15 alternatives, but NWAs have not yet been defined
16 nor have they been assigned a value, nor has the
17 method of determining savings been defined. All of
18 that will be done in later proceedings,
19 specifically the value of DER investigation
20 proceeding under Section 16-107.6(e) which does not
21 even start until late June 2023. That value is
22 essential for this metric to be fully formed.

1 The AG will speak about its alternative
2 reliability metrics, but its proposals are also
3 fatally flawed. They are asymmetrical,
4 penalty-only metrics which are not permitted by
5 statute.

6 After undertaking a complete review of the
7 voluminous record, the ALJs recognized these same
8 flaws and correctly rejected the AG's and solar
9 parties' proposals as well as CUB's alternative
10 reliability metric.

11 The proposed order reflects the parties'
12 give and take throughout this case. It adopts
13 eight performance metrics, all of which reflect
14 input from staff and the parties finding that they,
15 in accordance with the statute, have all required
16 design elements and are fair and achievable yet
17 challenging. These are stretch goals. ComEd's
18 success is by no means guaranteed for any of the
19 metrics. The proposed order subject to ComEd's
20 exceptions should stand. Thank you.

21 CHAIRPERSON ZALEWSKI: Thank you,
22 Counselor. I do want to ask you a question.

1 Looking at metric 3 and metric 1, my question is
2 will achieving metric 3 have any impact on the
3 ability to achieve the metrics set out in 1, and if
4 so, how do you avoid double counting?

5 MS. SALUSTRO: Well, let me -- I think
6 there are two questions there, so let me take the
7 first one which is the ability for metric 3 to help
8 achieve metric 1. It absolutely will help, we call
9 it unlock the ability to achieve metric 1.

10 If you recall, the statute requires
11 performance metrics to concern reliability,
12 resiliency as well as power, power quality. So
13 metric 3 is really specifically focused on power
14 quality in terms of voltage and kind of
15 intermittent interruptions.

16 So what we hope to do with metric 3 is that
17 we establish a really comprehensive improved power
18 quality across the system. This will then enhance
19 and help us achieve metric 1 because it will allow
20 us to avoid outages simply put or restore them
21 quicker because metric 3 really is about system
22 visibility. How well are all the things talking to

1 each other on the grid? How well can we see what
2 is happening in one part of the grid and the other
3 part of the grid? All these things are really
4 important when there is an outage so we can restore
5 power quickly.

6 Now, your second question about double
7 counting, that -- let me phrase that perhaps
8 differently. So it is not so much about double
9 counting. Of course, the Commission is -- I am
10 sorry, ComEd, the utility, is able to recover a
11 return on its rate base, on its investments.
12 That's -- under the law we are permitted to do
13 that. If we are able to achieve the performance
14 metrics here, some of which will be achieved
15 through investment, some of which will be achieved
16 through -- like metric 3 will also be achieved
17 through engineering design enhancements and other
18 system design enhancements which are not investment
19 specific. Then we have the ability to earn an
20 incentive. We also, though, have the risk of not
21 achieving metric 3, and then we will earn a
22 penalty.

1 So it is not so much double counting, it is
2 just simply the situation where if there are
3 investments that are found to be prudent and
4 reasonable later, they can earn a rate-based rate
5 of return. Some of those investments might be used
6 in the achievement of a performance metric, and
7 then we, of course, under the statute can earn a
8 return, but we might also earn a penalty. So there
9 are two separate concepts.

10 CHAIRPERSON ZALEWSKI: Okay. But I know
11 what I'm thinking of double counting. I just want
12 to make sure that I do think you answered my
13 question, but what I was specifically talking about
14 is metric 1 versus metric 3, and you answered that.
15 You talked about how there might be different
16 approaches. Sure there could be an interaction,
17 but there is also an aspect of double counting of
18 rate basing things. So something in metric 3, you
19 talked about engineering enhancements that may not
20 necessarily be rate based.

21 But so what I -- because I will likely ask
22 this question a couple of times, and I know when

1 I'm asking about double counting, I am looking
2 between metric 1 and 3 noting that --

3 MS. SALUSTRO: Mm-hmm.

4 CHAIRPERSON ZALEWSKI: -- you can argue
5 there is triple dipping with rate basing as well.

6 But I do think you answered my question.
7 So thank you for that.

8 And then I want to hear a bit about the
9 uneven distribution, and I want to know if you
10 think that an uneven distribution of metric points
11 would better incentivize ComEd to pursue projects
12 it might not otherwise do?

13 MS. SALUSTRO: That's an interesting
14 question. You might recall when we began this
15 case, we had proposed a total of 60 basis points
16 and then later on 40 basis points, and the
17 allocation that we recommended for the metrics were
18 different. There is some metrics where we thought,
19 frankly, that there might be more of a benefit for
20 customers and for the environment and health and
21 safety than others, and so we recommended that
22 those receive a higher number of penalty or, well,

1 of incentive and penalties of this symmetrical
2 structure.

3 Throughout this case, though, there are
4 parties who have espoused the theory there is
5 simply not enough information at this point to
6 figure out if there is a weighting, you know, if
7 one really does have more net benefits than another
8 metric.

9 So at the end of the day, that's why we
10 have reached a compromise position with staff where
11 the majority of the metrics we suggest are awarded
12 five basis points for penalties and incentives.
13 Peak load is the exception. That one we are able
14 to determine with a little bit more clarity at
15 least the quantitative benefits based on forecasted
16 capacity prices. So that one we recommend as
17 capped as two basis points.

18 But to your question, I think it is almost
19 a little too early in this proceeding, well, what
20 will probably be a series of proceedings to figure
21 out that weighting between the metrics. It is
22 difficult right now. We don't have a methodology

1 yet to determine the net benefits, and even when we
2 do, it is definitely going to be more of an art
3 than a science because there is so many
4 qualitative, nonquantifiable benefits that the
5 Commission also has to consider.

6 COMMISSIONER McCABE: Can I follow up? So
7 putting aside the total number of basis points, any
8 additional thoughts on whether the basis points per
9 metric category have to be the same or could they
10 be uneven?

11 MS. SALUSTRO: I think they -- the statute
12 does not say they have to be the same. It does not
13 say that it can't -- that it must be the same
14 either. So I think it is up to the Commission's
15 discretion to determine the weighting of the
16 various metrics.

17 Again, we had gone into this case thinking
18 there might be a way, an art to awarding more or
19 allocating more basis points to one metric rather
20 than the other, but certainly it is difficult to do
21 that right now which is why we agree with staff
22 that for most of the metrics, five basis points

1 would be appropriate.

2 CHAIRPERSON ZALEWSKI: Any other questions?

3 COMMISSIONER McCABE: One more. In PLR,
4 the load reduction metric, could storage be
5 incorporated into your renewable and DER part of
6 the metric?

7 MS. SALUSTRO: That is a very good
8 question. So the way that the final PLR metric,
9 peak load reduction metric, was set up -- and just
10 to clarify, after the briefs on exception were
11 filed, we did work with staff to try to find a
12 middle ground in that metric design, but if you
13 recall, there are four parts of the stack. So four
14 types of programs that will be evaluated to
15 determine what the peak load or what the load
16 reduction is.

17 So the first two are existing programs.
18 Those are the peak time savings and the AC cycling.
19 The third is solar programs, I believe, is how we
20 phrased it, solar programs that are directly -- an
21 independent evaluator decides that they are the
22 direct result of our actions in the metric, and

1 then the third is, I am sorry, the fourth is EE and
2 DR programs that are not captured by the
3 traditional EEDR portfolio under 108(b).

4 So with storage, that is an interesting
5 question. I think there might be an opportunity,
6 but I, I think I would have to look at it closer in
7 terms of how the final net, the final design stack
8 was created. But what we do anticipate is that we
9 will have to create new types of programs to be
10 able to achieve this metric.

11 COMMISSIONER McCABE: Okay.

12 CHAIRPERSON ZALEWSKI: Any other questions?

13 (No response.)

14 CHAIRPERSON ZALEWSKI: No. Okay. Thank
15 you very much.

16 MS. SALUSTRO: Thank you.

17 CHAIRPERSON ZALEWSKI: We will now move
18 onto the Attorney General. We have Charles Murphy
19 and Grant Snyder representing the AG. You have ten
20 minutes allotted. How would you like to divvy up
21 your time?

22 MR. MURPHY: We would like to reserve two

1 minutes for rebuttal, please.

2 CHAIRPERSON ZALEWSKI: An eight minute
3 time. And then if you want to go ahead and state
4 and spell your name and then begin.

5 MR. MURPHY: Charles Murphy, M-U-R-P-H-Y.

6 MR. SNYDER: Grant Snyder, S-N-Y-D-E R.

7 MR. MURPHY: Good morning, Chair Zalewski
8 and Commissioners.

9 The People request that the Commission
10 recognize that the Public Utilities Act permits the
11 Commission to approve penalty-only performance
12 incentive mechanisms, or PIMs, so long as the
13 overall performance incentive mechanism structure
14 contains an equal number of penalties and reward.s

15 The Commission should also reject all three
16 of ComEd's proposed reliability PIMs and adopt the
17 reliability PIMs proposed by the People.

18 Starting with the issue of whether the act
19 permits the Commission to approve penalty-only
20 PIMs, Subsection (e)(2)(B) of the performance
21 metric section of the act permits the Commission to
22 approve metrics that contain rewards or penalties

1 or both so long as the total potential incentives
2 are symmetrical. This language explicitly grants
3 the Commission the discretion to determine the
4 number of basis points it assigns to each PIM.

5 For example, one PIM may be penalty only so
6 long as a corresponding number of basis point
7 rewards are provided through either a reward-only
8 PIM or a higher number of rewards than penalties
9 over multiple PIMs.

10 The proposed order contains a legal error
11 on this issue because it cites the wrong section of
12 the law and would improperly restrict the
13 Commission's discretion in reviewing utility
14 programs.

15 The section cited in the PO, Subsection
16 (e)(6)(A), governs the ComEd's filing requirements,
17 not the Commission's approval process, and states
18 that a utility's petition must contain a
19 symmetrical basis point increase or decrease for
20 each PIM. That's in the utility's petition.

21 The only reference to the Commission's
22 authority within the section notes that the

1 Commission has the authority to approve or modify
2 the company's proposals. If the Commission finds
3 that the company's proposed PIMs do not meet the
4 requirements of the act, it may modify these PIMs
5 including altering the company's proposed basis
6 point allocation.

7 The Commission's discretion under
8 Subsection (e)(2)(B) to approve PIMs with rewards
9 or penalties or both cannot be negated by a
10 separate section which governs the company's filing
11 requirements. The PO would have the Commission
12 arbitrarily restrict the broad discretion that the
13 General Assembly granted to the Commission in
14 violation of the plain language of the Act.

15 So for these reasons, the People
16 respectfully request the Commission correctly or
17 correct the PO's errors and state in its final
18 order that the act permits the Commission to
19 approve individual PIMs that contain rewards or
20 penalties or both so long as the overall PIM
21 structure is symmetrical.

22 Turning to ComEd's proposed reliability

1 PIMs, the Act requires that ComEd propose at least
2 one PIM to improve reliability resilience in its
3 system. ComEd proposed three PIMs in this
4 category. That's incentive metrics 1, 2 and 3.

5 Starting with incentive metrics 1 and 2,
6 ComEd proposed to improve its system-wide SAIDI
7 score for incentive metric 1 and its SAIDI score in
8 environmental justice and equity eligible
9 investment communities or EJ R3 communities through
10 incentive metric 2.

11 SAIDI is an aggregate score that measures
12 ComEd's outage frequency and duration across its
13 approximately 3.7 million customers. Because of
14 the aggregate nature of this score, the actual
15 experience of customers in the least reliable areas
16 of ComEd's service territory can be lost.

17 For example, ComEd SAIDI's score already
18 ranks near the top among peer utilities, but from
19 2013 to 2020, the average number of customers who
20 experience more than 18 hours of total interruption
21 duration or more than six hours, or more than six
22 outages over multiple years, the percentages of

1 customers ranged significantly from, varied
2 significantly from their Chicago operating zone to
3 their southern operating zones with the other zones
4 falling in between. This amounts to a difference
5 of, I believe, up to 3,000 customers between
6 Chicago and the southern zone.

7 ComEd -- oh, find my place. Sorry about
8 that. If the Commission permits ComEd to measure
9 reliability based on an aggregate score, ComEd will
10 be rewarded for its overall improvements while
11 thousands of customers could continue to experience
12 persistent and prolonged outages year after year.

13 In place of ComEd's proposal, the People
14 request that the Commission adopt two reliability
15 PIMs based on minimum service standards similar to
16 those standards that ComEd was required to meet
17 under the Energy Infrastructure Modernization Act,
18 or EIMA. Under these metrics, which we detail for
19 the commissioners on AG Ex. 1, the Commission would
20 penalize ComEd if it exceeds a certain number of
21 customers who experience prolonged and repeated
22 outages over several years in both EJ and R3

1 communities and in each of ComEd's four operating
2 zones.

3 The People's metrics better achieve the
4 goals of the act and align utility and rate payer
5 interest by reflecting actual customer experiences
6 compared to ComEd's proposed aggregate scores. The
7 People propose these PIMs on a penalty-only basis.
8 However, we maintain that these PIMs are preferable
9 to ComEd PIMs even if they are adopted on a
10 symmetrical basis.

11 For these reasons, the People respectfully
12 request that ComEd -- that the Commission reject
13 ComEd's proposed incentive metrics 1 and 2 and
14 adopt the People's proposed PIMs as shown on AG Ex.
15 1.

16 Finally, turning to ComEd's other proposed
17 reliability PIMs, PIM, incentive metric 3. For
18 this PIM, ComEd proposed to increase its investment
19 in the percent of distribution sections visible.
20 The primary problem with this PIM is that it is
21 based on company spending rather than customer
22 experience or improvements to reliability.

1 Section (e)(2)(D) requires that the
2 Commission approve PIMs that measure outcomes and
3 actual rather than projected results where
4 possible. ComEd's goal for this PIM is based on
5 the amount it invests in its infrastructure rather
6 than the impacts these investments have on rate
7 payers.

8 This is clearly not what the General
9 Assembly intended when it required the PIMs to be
10 cost effective, based on actual results, structured
11 so that the benefits outweigh cost to rate payers,
12 ensure equity and affordability and hold utilities
13 publicly accountable.

14 If ComEd wants to propose specific
15 investments, it can do so in its multi-year grid
16 plan docket. I would also note that the multi-year
17 grid plan section of the act -- statute provides
18 additional protection for EJ and R3 communities by
19 requiring that 40% of all investments made under
20 the grid plan be made in these communities.

21 Advanced Energy Economy, CUB and
22 Environmental Defense Fund and Illinois Industrial

1 Energy Consumers also all requested to reject this
2 PIM for failing to measure actual results.

3 The Act only requires one PIM for each
4 category, not three. It is not necessary for the
5 Commission to approve incentive metric 3,
6 especially when it measures the company's spending
7 rather than customer impacts.

8 For these reasons, the People request that
9 the Commission reject ComEd's proposed incentive
10 metric 3 in its entirety.

11 In conclusion, the People request that the
12 Commission state in its final order that it may
13 approve penalty-only PIMs so long as the overall
14 PIM structure is symmetrical, reject ComEd's
15 proposed incentive metrics 1, 2 and 3 and approve
16 the People's proposed reliability PIMs based on
17 minimum service standards. Thank you.

18 CHAIRPERSON ZALEWSKI: Thank you for that.
19 I, I wanted to ask a question about EJ R3
20 communities. You talked about the 3,000 outages,
21 and I -- if you were making this point, I apologize
22 for missing it, but my question is how does ComEd's

1 system reliability track in EJ R3 communities
2 compared to non EJ R3, EJ R3 communities?

3 MR. MURPHY: So EJ and R3 communities are
4 determined through the, I believe it is through the
5 Illinois Power Agency and its contractors. There
6 is specific census blocks that are determined.

7 So I don't believe ComEd, you know, tracked
8 these prior to CEJA but is required to make
9 specific impacts in these communities through CEJA.

10 What I was referring to with the
11 differences between the operating zones, ComEd has
12 four operating zones throughout its system, one for
13 Chicago, one southern and then, you know,
14 throughout other areas of its system, and so under
15 EIMA, ComEd was required to track the, its minimum
16 service standards throughout these four operating
17 zones, and so those are where I was pulling those
18 numbers from. It is based on percentages, but then
19 we, you know, also know the number of customers
20 that are in those operating zones as well.

21 CHAIRPERSON ZALEWSKI: Does -- is it the
22 AG's position that SAIDI is able to track outages

1 in EJ R3 zones versus non EJ R3 zones?

2 MR. MURPHY: Yes, SAIDI can track the
3 aggregate outages for the -- so I believe the way
4 ComEd has it proposed is that, you know, metric 1
5 would improve its SAIDI score specifically system
6 wide, and, you know, metric 2 would track the
7 overall aggregate SAIDI score for EJ and R3. It is
8 just that they don't have anything specifically
9 reflecting the, you know, different operating
10 zones. At this point we don't know whether, you
11 know, the persistent and prolonged outages fall
12 within EJ and R3 communities or not.

13 CHAIRPERSON ZALEWSKI: Thank you. Any
14 questions?

15 (No response.)

16 CHAIRPERSON ZALEWSKI: Okay. Hearing
17 nothing, thank you very much.

18 MR. MURPHY: Thank you very much.

19 CHAIRPERSON ZALEWSKI: Moving onto ELPC.
20 Next we are going to hear from Brad Klein
21 representing ELPC and Vote Solar.

22 Mr. Klein -- wait until you are done. He

1 is getting his exhibit ready.

2 MR. KLEIN: This should look familiar.

3 Good morning.

4 CHAIRPERSON ZALEWSKI: Good morning,
5 Mr. Klein. How much time would you like to reserve
6 for rebuttal?

7 MR. KLEIN: I would like to reserve three
8 minutes for rebuttal, please.

9 CHAIRPERSON ZALEWSKI: Then if you want to
10 state and spell your name, and then you can
11 proceed.

12 MR. KLEIN: My name is Brad Klein. It is
13 K-L-E-I-N, and I represent ELPC and Vote Solar.

14 Good morning again, Commissioners. I'm
15 going to focus my presentation, as I did yesterday,
16 exclusively on issue 1B which is the statute's cost
17 benefit test and specifically the proposed order's
18 mistaken conclusion on page 68 that the statute
19 does not require cost benefit analysis.

20 This issue is similar to what I have
21 discussed with you yesterday afternoon except in
22 this case, the problem with the PO is even starker.

1 In the Ameren case I explained that the PO ignored
2 the cost of incentives in the cost benefit analysis
3 which led the PO to approve several unbalanced
4 incentives.

5 In this case, the PO fails to account for
6 costs at all. In fact, the PO concludes in
7 conflict with the plain language of the statute
8 produced here that the PBR statute, quote, does not
9 require a cost benefit analysis.

10 I will discuss how this fundamental flaw
11 undermines CEJA's customer-focused intent. Similar
12 to yesterday, my colleague, Nikhil Vijaykar, will
13 then explain how the solar intervenors alternate
14 DERIUV metric meets the statute's cost benefit
15 test, better reflects CEJA's intent and is the only
16 category 5 metric that can be approved on this
17 record.

18 So turning to my main point, the proposed
19 order erred when it determined at page 68 that the
20 statute does not require cost benefit analysis.
21 Plain language of the statute directly contradicts
22 the PO's conclusion. Indeed, the statute expressly

1 directs the Commission to develop a methodology to
2 calculate net benefits.

3 It further requires the Commission to use
4 that cost benefit methodology to, quote, set an
5 incentive level that ensures benefits exceed cost
6 for customers.

7 This is not optional. The statute uses the
8 word "shall." Note the first sentence in second
9 line, the Commission shall develop a methodology,
10 and then again in the last sentence, these factors
11 shall result in an incentive level that ensures
12 benefits exceed costs for customers. Thus, the
13 paragraph creates a mandatory duty for the
14 Commission to balance the level of incentives
15 awarded to utilities with the level of benefits
16 those incentives are expected to produce for
17 customers so that the Commission can ensure
18 benefits outweigh the costs.

19 In other words, if you give ComEd a \$5
20 million incentive, the record should support an
21 expected customer benefit of more than \$5 million.
22 That's the plain meaning of the statute.

1 But that is not what happened in this
2 docket. Instead, in several instances, the PO
3 approved incentive levels that far exceed the
4 expected customer benefits of a performance metric.

5 Take ComEd's proposed metric 7 for example.
6 Metric 7 attaches performance incentives to the
7 company's ability to reduce interconnection
8 processing times for DG systems by an average of 11
9 days. ComEd testified that improving
10 interconnection processing time would create about
11 \$335,000 of customer savings per year. That's
12 reflected here. In exchange for this benefit, the
13 PO approved a six basis point performance incentive
14 worth nearly \$5 million per year or nearly 20
15 million over the four-year rate plan reflected
16 here.

17 Several parties took exception to this
18 unbalanced metric, but the PO ignored their
19 arguments, and the Order never explains why it is
20 lawful or reasonable for customers to pay ComEd a
21 \$5 million incentive for \$335,000 worth of
22 benefits. That's a negative return on investment.

1 It is a bad deal for customers, and it violates the
2 statute.

3 The broader point here is that some metrics
4 simply create more customer benefits than others,
5 and the statute requires the Commission to take
6 that into account when deciding how many basis
7 points to award for each metric. Awarding the same
8 number of basis points to every metric makes no
9 sense when some metrics have significantly more
10 value for customers.

11 Secondly, and just as importantly, the
12 Commission must account for the cost of incentives
13 when evaluating the costs and benefits of a metric.
14 The PO does not do that. Again, using metric 7 as
15 an example, the PO simply states on page 183 that
16 improving interconnection speed should lead to some
17 customer benefit. Sure. We agree with that. But
18 that does not mean ComEd should earn \$5 million for
19 delivering \$335,000 of benefit. The statute
20 requires the Commission to balance incentive levels
21 with expected benefits, and there is no way to do
22 that if the Commission ignores the cost of the

1 incentive.

2 ComEd argues that incentives should not be
3 counted because metrics include both incentives and
4 penalties which effectively cancel each other out,
5 but this is faulty logic. If incentives and
6 penalties cancel each other out for the purpose of
7 a cost benefit analysis, then how can the
8 Commission ever choose an incentive level that
9 ensures benefits exceed costs for customers?

10 Under ComEd's logic, the analysis would
11 come out exactly the same whether the incentive
12 level is 10 bucks, \$10,000 or \$10 million. Every
13 possible incentive level you choose would be
14 directly offset by a symmetric penalty and would
15 net to 0. There would be no way for the Commission
16 to pick an incentive level that protects customers.
17 That does not make sense, and it is not what the
18 statute requires.

19 In closing, the proposed order's failure to
20 balance the costs and anticipated benefits of the
21 performance metrics proposed in this docket
22 threatens to undermine CEJA's customer-focused

1 goals. Adopting the PO's flawed approach would
2 invite utilities to propose shareholder incentives
3 that bear no relationship to customer benefits in
4 future multi-year rate plan filings.

5 CEJA intended performance-based rates to
6 benefit customers, not just provide a new
7 opportunity for utilities to earn revenue at
8 customers' expense.

9 For all of these reasons, ELPC and Vote
10 Solar respectfully urge the Commission to correct
11 the PO's flawed approach and reevaluate ComEd's
12 proposed metrics to ensure each that one of them
13 results in an incentive level that ensures benefits
14 exceed costs for customers as required by the law.
15 Thank you.

16 CHAIRPERSON ZALEWSKI: Thank you,
17 Mr. Klein. I appreciate your remarks. I'm going
18 to zoom out. I asked this question of ComEd, I'm
19 going to ask it of you as well, about the uneven
20 distribution and whether ELPC believes that the
21 uneven distribution of metrics would better
22 incentivize ComEd to pursue and do projects it

1 might not otherwise do.

2 MR. KLEIN: I do agree with that. I
3 believe that the statute should be interpreted --
4 there is no restriction that, in the statute to the
5 Commission approving incentive levels that vary
6 between metrics, and I think preserving the
7 Commission's discretion to do just that will take
8 care of two issues. One, it will appropriately
9 motivate the company to put effort behind the
10 performance incentives that, at the most, benefit
11 the customers, and it will also allow the
12 Commission to do its job required by statute to
13 pick an incentive level that ensures benefits
14 exceed costs for customers. It will take care of
15 both of those problems.

16 It is my understanding that ComEd does,
17 agrees with the legal interpretation that the
18 statute would enable the Commission to choose
19 incentive levels for metrics independently, and I
20 think it was, you know, just a decision in the
21 proposed order to set them consistently across, not
22 that it was legally required but that was just a

1 matter of choice that the PO made.

2 So I would encourage, I would encourage the
3 Commission to look carefully at that and adjust
4 those incentive levels appropriately and most
5 importantly so that, you know, the benefits exceeds
6 costs.

7 CHAIRPERSON ZALEWSKI: Thank you. I was
8 wondering if you could speak to Ann McCabe's, to
9 Commissioner McCabe's question about incorporating
10 storage into the peak load reduction? Thoughts on
11 that?

12 MR. KLEIN: It is a good question. It goes
13 to -- I can't answer the specifics of the peak load
14 reduction metric and how exactly storage would be
15 incorporated, but I think it is exactly the type,
16 the question we should be thinking about as we are
17 entering this new era in which CEJA, CEJA and
18 federal policy is going to accelerate the
19 deployment of storage across the system, and we
20 need to be thinking about setting up the incentive
21 frameworks here to use those technologies to their
22 capability to deliver customer benefit on the grid.

1 That's exactly what we were trying to accomplish
2 with the DERIUV metric.

3 The ELPC, Vote Solar and solar parties feel
4 that that metric is more technology agnostic in it
5 is looking at the value that distributed energy
6 resources can provide on the distribution system
7 and provide shared savings opportunities to the
8 extent that solar can be deployed alongside storage
9 and alongside other technologies, and we can
10 demonstrate through the grid plans that that will
11 have value for customers, and that can be
12 quantified. Then our metric would enable ComEd to
13 share in those savings. It would align ComEd's
14 interest to maximize those savings of solar, of
15 battery storage, of other technologies that will
16 help the grid operate more efficiently and deliver
17 savings to customers.

18 And by doing that, I think we address,
19 Commissioner McCabe, your question that we are not
20 neglecting these technologies, we are not -- we are
21 taking advantage of this opportunity as we are --
22 as policy is driving more, more of these

1 technologies onto the grid. We want to be able to
2 take advantage of those for all Illinois customers,
3 not just those that are hosting solar and storage
4 on site. By doing this metric, we are enabling all
5 customers to share in those benefits and also
6 aligning the utilities' financial interest in
7 deploying programs that will maximize the
8 capabilities of those technologies, not just to
9 benefit the site host but to benefit the grid at
10 large.

11 CHAIRPERSON ZALEWSKI: Any questions?

12 (No response.)

13 CHAIRPERSON ZALEWSKI: Thank you.

14 MR. KLEIN: Thank you.

15 CHAIRPERSON ZALEWSKI: Joint solar parties?

16 We have Nikhil Vijaykar representing joint solar
17 parties. Mr. Vijaykar, how much time would you
18 like to reserve for rebuttal?

19 MR. VIJAYKAR: I would like to reserve a
20 minute for rebuttal, Chairman Zalewski.

21 CHAIRPERSON ZALEWSKI: If you could state
22 and spell your name?

1 MR. VIJAYKAR: Yeah, absolutely. Nikhil
2 Vijaykar. N-I-K-H-I-L, V-I-J-A-Y-K-A-R.

3 Good morning, Chair Zalewski,
4 Commissioners. Again, my name is Nikhil Vijaykar,
5 and I represent the joint solar parties in this
6 proceeding.

7 As you know in this proceeding, the joint
8 solar parties, ELPC and Vote Solar have jointly
9 proposed a metric called DERIUV. You have heard
10 plenty about it by now. The metric encourages
11 ComEd to not only interconnect solar and batteries
12 more efficiently but to use those resources in ways
13 that save ratepayers money.

14 I won't repeat all the details of the
15 metric again, I will just note three highlights as
16 a refresher.

17 First, the metric has two components, an
18 interconnection component and a utilization for
19 value component. Taken together, these components
20 provide ComEd symmetrical incentives and penalties.

21 Second, the utilization for value component
22 of the metric is structured as a shared savings

1 mechanism. That means ComEd earns 25% of the
2 savings that it delivers to customers. The
3 ratepayers keep remaining the 75%.

4 Third, because of the shared savings
5 structure, the metric guarantees net benefits to
6 customers as my colleague, Brad Klein, described
7 whether ComEd performs well and delivers a lot of
8 savings through DER utilization or ComEd performs
9 poorly and delivers no savings at all. Like I said
10 yesterday, this is a no-regrets proposal for the
11 utility.

12 Now, the PO rejects the DERIUUV metric, and
13 the PO's conclusion on the metric is based on one
14 fundamental misunderstanding of the record and one
15 fundamental misunderstanding of the law, each of
16 which I will clarify this morning.

17 Turning to my first point, the PO's
18 fundamental misunderstanding of the record. The PO
19 states that the two components of the DERIUUV
20 metric, quote, unfairly require the company to
21 excel in two separate categories to earn an
22 incentive.

1 That is not correct. Under our proposal,
2 if the company does a great job of interconnecting
3 solar and batteries but does not do such a great
4 job OF using those resources to provide ratepayer
5 value, it will earn a modest incentive. It would
6 not be penalized.

7 If ComEd does poorly on interconnecting
8 solar and batteries but does a great job OF using
9 those resources to provide ratepayer value, it may
10 still earn an incentive.

11 The idea that the DERIUV metric somehow
12 requires ComEd to excel at many different things is
13 simply not correct.

14 Further, the idea that the DERIUV metric is
15 somehow unfair to the company respectfully cannot
16 be reconciled with the actual mechanics of our
17 proposal. Even if the company cannot figure out
18 how to drive ratepayer savings by utilizing solar
19 and batteries, our metric would not penalize ComEd
20 for that failure recognizing that this is a new
21 role for Illinois utilities which makes this a
22 no-regrets proposal not just for ComEd's customers

1 but for ComEd itself.

2 In other words, Commissioners, the DERIUV
3 metric is a modest first step that encourages the
4 company to integrate and use solar and batteries in
5 innovative ways.

6 And for your reference, Commissioners, the
7 mechanics of the DERIUV metric are all spelled out
8 in detail in the rebuttal testimony of our witness
9 and the ELPC Vote Solar witness and in the shared
10 exhibit to that rebuttal testimony, JSP Ex. 2.4.

11 Turning now to my second point, the PO's
12 fundamental misunderstanding of the law. Now, the
13 PO expresses some concerns that the DERIUV metric
14 relies on an input from an upcoming grid planning
15 and additive services proceeding and states that, I
16 quote, no party has identified a legal basis for
17 which the Commission may adopt a metric that is
18 dependant on variables defined in a separate
19 proceeding following this docket.

20 Commissioners, I said this yesterday and I
21 will say it again to be clear. All the structural
22 parts the Commission needs in order to approve

1 DERIUV incentives and penalties, data collection
2 methods, baselines, they're all in the record of
3 this proceeding. Respectfully where ComEd counsel
4 suggested this morning these structural elements
5 like incentives and penalties are missing from the
6 record, she is simply wrong.

7 The only thing left the upcoming ICC
8 proceeding is, again, the total ratepayer savings
9 number. And again, this makes good sense. We know
10 that total ratepayer savings number will come from
11 those proceedings because CEJA requires the
12 utilities to identify total ratepayer savings from
13 DER utilization in those proceedings, and that
14 number can only come from upcoming ICC proceedings
15 because we don't have historic data here. This is
16 new.

17 You can construct a metric for
18 affordability, for reliability or customer service
19 based on historic data. Those are traditional
20 utility responsibilities. The data is out there.
21 Utilizing solar and batteries to drive ratepayer
22 savings, that's a new responsibility for Illinois

1 utilities, and that's why we must use inputs from
2 the grid planning and additive services proceeding.
3 I will add that this is exactly what the Act calls
4 for.

5 Now, Section (f)(2)(K) of the grid planning
6 statute directs the utilities to include in the
7 grid plans they will file in January, I quote, a
8 plan for achieving the applicable metrics that were
9 approved by the Commission for the utility pursuant
10 to Subsection (e) of Section 16-108.18 of the Act.
11 Section (f)(1)(B) of the grid planning statute
12 includes very similar language.

13 These implementation plans the utilities
14 are required to file by law, they will produce that
15 total ratepayer savings number.

16 So returning to the PO's conclusion that
17 there is no legal basis for the DERIUV metric to
18 rely on a variable defined in a future proceeding,
19 that's simply not correct.

20 Now, Commissioners, ComEd's counsel this
21 morning makes much of the uncertainty around
22 ComEd's control and its ability to achieve that

1 total ratepayer savings number, and I appreciate
2 those concerns. This is new. But to be clear, the
3 only uncertainty for ComEd is how good of a job
4 will we do at using solar and batteries to benefit
5 our customers. Again, if they don't deliver a
6 single dollar of ratepayer savings through DER
7 utilization, the utilization for value component of
8 our metric does not penalize ComEd or cost
9 ratepayers. There is no downside here. This is a
10 no-regrets proposal.

11 Commissioners, I will end by reiterating
12 why not approving the DERIUUV metric would be a
13 significant lost opportunity. Solar and batteries
14 are going to become a lot more common in Illinois
15 following CEJA. We all know that. But these
16 resources are not just good for customers who
17 install them, they can be good for all ratepayers.

18 And as I have explained, there are ICC
19 proceedings right around the corner in which ComEd
20 will be required to demonstrate how it is using
21 solar and batteries and other resources to benefit
22 ratepayers.

1 Now, we can do those upcoming proceedings
2 the hard way or the easy way like I said yesterday.
3 The hard way would be for ComEd and the parties to
4 go into those proceedings arguing over whether
5 ComEd is using DER in a way that gives its
6 ratepayers a fair slice of a small pie. The easy
7 way is for the Commission to align Ameren's
8 incentives with those of its customers and make
9 that pie bigger.

10 Commissioners, this, in our view, again, is
11 precisely the point of performance-based
12 regulation. It is to drive utilities to innovate
13 and perform in areas where cost of service
14 regulation does not create an obvious business
15 proposition. It is not to reward utilities in
16 areas where they already make money.

17 We, therefore, request that the Commission
18 approve our proposed DERIUV metric and the
19 associated suite of tracking metric proposals.
20 Thank you.

21 CHAIRPERSON ZALEWSKI: Thank you,
22 Mr. Vijaykar. Is there any questions?

1 (No response.)

2 CHAIRPERSON ZALEWSKI: No questions. Thank
3 you.

4 MR. VIJAYKAR: Thank you.

5 CHAIRPERSON ZALEWSKI: Next we have CUB,
6 Julie Soderna who is dialing in virtually.

7 MS. SODERNA: Chairman, can you hear me and
8 see me?

9 CHAIRPERSON ZALEWSKI: Yes, we can hear and
10 see you. Ms. Soderna, how much time would you like
11 to reserve for rebuttal?

12 MS. SODERNA: Two minutes, please.

13 CHAIRPERSON ZALEWSKI: Two minutes. Okay.

14 MS. SODERNA: Thank you.

15 CHAIRPERSON ZALEWSKI: Then if you would
16 like to state and spell your name. Hopefully you
17 can see Ashley in the corner. She will be holding
18 up signs counting down your time. Thanks.

19 MS. SODERNA: Thank you. Yes. Good
20 morning, Chairman and Commissioners. My name is
21 Julie Soderna, S-O-D-E-R-N-A, and I will be
22 representing the Citizens Utility Board and the

1 Environmental Defense Fund today.

2 First I want to start by extending my
3 sincere appreciation for allowing me to participate
4 remotely today.

5 I will start with a few overarching
6 comments in the context and legal framework of this
7 docket, and then I will be addressing metrics 1, 2
8 and 3, the reliability and resiliency metrics.

9 The metrics established in this proceeding
10 are an integral component in the new
11 performance-based rate making framework under the
12 Climate and Equitable Jobs Act or CEJA assuming
13 ComEd elects to file a multi-year rate plan in
14 January.

15 Performance metrics use financial
16 incentives to encourage utility performance on
17 CEJA's objectives of equitable, affordable
18 decarbonization. The explicitly stated intent of
19 CEJA is to catalyze transformative change both in
20 the process of rate making as well as in the
21 policies adopted pursuant to the performance-based
22 ratemaking, or PBR, framework.

1 Among the important changes required by the
2 new rate making structure, the General Assembly
3 explained that it is important to address concerns
4 that past performance incentive measures under the
5 formula rate structure may have resulted in excess
6 utility spending and guaranteed profits without
7 meaningful improvements in customer experience,
8 rate affordability or equity. In creating the new
9 PBR framework, the legislature noted that targeted
10 incentives should align utility customer, community
11 and environmental goals.

12 CEJA is clear the metric should not reward
13 a business as usual approach or actions that the
14 company already would be incentivized to take in
15 the absence of the metrics. CEJA explicitly
16 requires transformative change, and this, the
17 metrics adopted by the proposed order largely
18 failed to do.

19 CEJA also makes clear that it is the
20 outcome the metrics must measure, not the means by
21 which those outcomes are achieved. In this way
22 CEJA did not intend to be overly prescriptive in

1 terms of the measures the utilities can take to
2 achieve the required outcomes.

3 And CEJA further requires that a minimum of
4 40% of the benefits of multi-year integrated grid
5 plans accrue to Environmental Justice, or EJ, and
6 Equity Income Eligible Communities, EIEC as I will
7 refer to them as, and the metrics approved in this
8 proceeding create the incentive structure to
9 effectuate the delivery of those benefits.

10 The metrics adopted by the proposed order,
11 however, do not establish a framework that will
12 deliver these benefits and are neither robust nor
13 ambitious enough to enable the transformative
14 change CEJA contemplates.

15 I will first address metric no. 1, the
16 first reliability and resiliency metric proposed by
17 ComEd. The proposed order accepts this metric as
18 modified but lacks any analysis of this metric's
19 compliance with the legislative mandate of
20 reliability improvements, particularly for EJ and
21 EIEC communities. CEJA requires that each metric
22 relate to the -- related to the reliability shall

1 be implemented to ensure equitable benefits. Since
2 neither the proposed order nor ComEd nor any other
3 party has shown that this metric satisfies this
4 mandate, the metric cannot be accepted as proposed.

5 While no party argues against ComEd working
6 to limit the frequency and duration of outages, the
7 issue here is whether and, if so, how ComEd can and
8 should be incentivized and rewarded through this
9 particular performance metric.

10 The plain language of the law indicates
11 ComEd should not continue to be rewarded for the
12 same type of system-wide reliability performance as
13 it did under the EIMA.

14 Furthermore, the framework adopted by the
15 proposed order makes it possible for ComEd to
16 achieve only one or the other of its proposed
17 performance metrics, 1 or 2. Therefore, it is
18 possible for ComEd to approve system-wide SAIDI,
19 the duration of outages, but not SAIDI in EIECs and
20 still earn an incentive payment.

21 Moving to metric 2, the reliability and
22 resiliency in EIECs. The metric adopted by the

1 proposed order is meant to measure reliability in
2 EIECs but measures duration of outages in EJ and R3
3 communities, EIEC communities in the aggregate and
4 therefore does not sufficiently address the
5 disparities in reliability that EIECs have
6 experienced.

7 Without intentional prioritization of EIECs
8 and comparison of EIECs and their non EIEC
9 counterparts to analyze differences in their levels
10 of service reliability and resiliency by
11 geographical location, the resulting metric cannot
12 be said to particularly benefit EIECs. The path to
13 equitable benefits for disadvantaged communities
14 must be intentional and not accidental.

15 ComEd's proposed metric 2 is inferior to
16 CUB/EDF's reliability and resiliency in vulnerable
17 communities metric, or RRVC, despite purportedly
18 aiming to achieve the same overall objective. One
19 key difference between ComEd's metric 2 and CUB
20 EDF's RRVC is that ComEd's metric measures
21 reliability in EIECs in the aggregate rather than
22 comparing reliability in EIECs to their

1 geographically similar non EIEC neighbors.

2 While ComEd's metric 2 incentivizes overall
3 improvement in EIECs, by considering these
4 communities in the aggregate and in isolation from
5 similarly situated non EIECs, it does nothing to
6 close the reliability gap detailed in CUB/EDF
7 witness Barbeau's testimony. ComEd's metric 2 may
8 result in some improvements, but it fails to
9 provide the statutorily required attention to
10 equity.

11 To demonstrate the inequities in
12 reliability Mr. Barbeau analyzed outage date for
13 the City of Chicago which has a large percentage of
14 the service territory's EIEC census blocks, but
15 also contains a significant population of non
16 EIECs. The results demonstrate alarmingly higher
17 outages in frequency, number and duration for EIEC
18 groups.

19 CUB/EDF's RRVC metric measures longer
20 duration events as well as the number of customers
21 experiencing multiple interruptions in a year.
22 This is especially important for EIECs which

1 experience other burdens that make experiencing and
2 recovering from interruptions more difficult than
3 for many customers living in non EIECs.

4 The SAIDI index measures the average
5 duration of outages. It does not track frequency
6 of outages or the ratio of individual customers
7 experiencing four or more interruptions per year or
8 the ratio of individual customers experiencing at
9 least one 12-hour interruption per year, each of
10 which is measured in four indices in the RRVC
11 metric proposed by CUB/EDF. These are particularly
12 important measures for EIECs which are least able
13 to tolerate such outages safely and comfortably.

14 In order to ensure equitable reliability
15 benefits for EIECs, the Commission should reject
16 the proposed order's adoption of ComEd's metric 2
17 and should instead adopt CUB/EDF's far superior
18 RRVC metric.

19 Moving onto system visibility metric 3, the
20 proposed order argues that because the metric is
21 technology agnostic, the mere fact that ComEd may
22 be required to make capital investments to achieve

1 the metric does not require rejecting the proposal.

2 This argument misses the point. No party
3 argued that if ComEd makes capital investments to
4 achieve a metric, it must be rejected. Rather the
5 issues here are two-fold. One, whether the metric
6 primarily incentivizes spending rather than an
7 outcome, and two, whether the metric is necessary
8 or even reasonable to incentivize an outcome that
9 the company would not take but for the metric.

10 The answers to these questions are simple,
11 and every intervenor who commented on this metric
12 agreed. The metric primarily incentivizes
13 spending, and the company would take the actions
14 incentivized whether or not the metric exists.
15 Therefore, it is plain and reasonable and should be
16 rejected in its entirety. Thank you.

17 CHAIRPERSON ZALEWSKI: Thank you. Are
18 there any questions for CUB?

19 (No response.)

20 CHAIRPERSON ZALEWSKI: Thank you, Ms.
21 Soderna.

22 Next we are moving onto staff, and I want

1 to note that I said the wrong members from staff
2 will be presenting today. My notes were incorrect.
3 So today from staff we have Marcy Sherrill and
4 Monica Singh who are both virtual. I see Ms.
5 Sherrill. I don't have my glasses on. I don't
6 know if I see Ms. Singh. You are both there.
7 Okay.

8 Ms. Sherrill, you are allotted ten minutes.
9 How much time would you like to reserve for
10 rebuttal?

11 MS. SHERRILL: We'd like to reserve two
12 minutes.

13 CHAIRPERSON ZALEWSKI: Okay. If you can
14 state and spell your name for the record for both
15 of you, and then you can proceed.

16 MS. SHERRILL: Sure. My first is Marcy
17 with a Y and my last name is Sherrill,
18 S-H-E-R-R-I-L-L.

19 MS. SINGH: My first name is Monica,
20 M-O-N-I-C-A, last name is Singh, S-I-N-G-H.

21 CHAIRPERSON ZALEWSKI: You can proceed.
22 Thank you.

1 MS. SHERRILL: Thank you. Good morning,
2 Madam Chairman and Commissioners. My name is Marcy
3 Sherrill, and together with my co-counsel, Monica
4 Singh, I represent commission staff in this case.
5 Thank you for this opportunity and especially thank
6 you for enabling us to participate remotely.

7 As you are well aware, this is an
8 incredibly complex docket, and in the interest of
9 time Ms. Singh and I will address three specific
10 issues that we think are particularly impacted.

11 Specifically I will first address the
12 legality of a penalty-only metric. Second, I will
13 highlight the basis point structure supported by
14 staff, and third, Ms. Singh will address the cost
15 benefit analysis for ComEd's performance metric
16 plan.

17 First there is the question of whether the
18 Commission has the authority to approve
19 penalty-only metrics. It is staff's position that
20 the statute is abundantly clear on this point.
21 Section 16-108.18 says the proposed metric must
22 have an associated performance adjustment, and that

1 adjustment, quote, shall be a symmetrical basis
2 point increase or decrease the utility's cost
3 (unintelligible).

4 It is the rule of statutory construction
5 that all provisions are to be given effect. The
6 only way to do that in this proceeding is to
7 interpret the two potentially conflicting
8 provisions of the statute to mean that each metric
9 must be symmetrical because, by definition, that
10 would mean the plan is symmetrical overall.

11 The AG's interpretation, which allows
12 metrics to be penalty only so long as the plan is
13 symmetrical in total, requires the Commission to
14 ignore one provision of the statute in favor of the
15 other.

16 Moreover, and respectfully, even if the
17 Attorney General's interpretation is correct and
18 the Commission can approve penalty-only metrics so
19 long as the total incentive structure is
20 symmetrical, that argument is not relevant in this
21 docket.

22 Rather, the question of whether the

1 Commission can impose penalty-only metrics is
2 essentially an academic exercise in this proceeding
3 because neither the AG nor any other party has
4 advanced a performance metrics scheme that includes
5 penalty-only metrics and which is symmetrical
6 overall.

7 Accordingly, and as the company noted in
8 its reply brief on exceptions, the AG's question
9 basically amounts to a request for an advisory
10 opinion. It is not something on which the
11 Commission needs to reach a decision in this
12 proceeding, and the Commission may well be served
13 to decline to rule on this issue in this docket and
14 instead withhold judgment on this question until
15 such time in a future docket a performance metric
16 scheme that actually requires the Commission to
17 decide the issue is presented.

18 Staff asks the Commission to approve the
19 metrics set forth in the proposed order with the
20 modifications proposed by staff in the brief on
21 exceptions. If it does so, it need not reach a
22 decision on whether it can authorize a penalty-only

1 metric.

2 Second, staff urges the Commission to
3 approve the compromise basis point structure
4 proposed and agreed to by staff of the company.
5 Under the performance-based rate making paradigm,
6 basis point incentives assigned to the various
7 performance metrics. Even those performance
8 metrics that require infrastructure are not
9 intended to replace or duplicate return on equity
10 that is based into base rates. Rather, they are
11 intended to incentivize the utility to invest in
12 ways that further the goals of CEJA.

13 The compromise supported by staff resolved
14 almost all of the issues between staff and the
15 company and results in a regulatory scheme that is
16 aspirational and challenging but ultimately
17 achievable and which balances the risks and rewards
18 available to ratepayers and shareholders.

19 Staff asks the Commission to approve
20 performance metrics totaling 37 basis points. This
21 amount includes 32 basis points on which staff and
22 the company agree, mainly 5 basis points for each

1 of six metrics and 2 basis points for the
2 (unintelligible) production metric. Staff also
3 asks the Commission to assign 5 basis points to the
4 supplier diversity metric, and I yield the
5 remainder of my time to my co-counsel.

6 MS. SINGH: Good morning, Madam Chairman
7 and Commissioners. As Ms. Sherrill mentioned, I
8 will be addressing the cost benefit analysis for
9 ComEd's performance metrics plan.

10 In this docket it was inherently difficult
11 to calculate net benefits of future performance
12 metrics in order to determine their reasonableness.
13 The cost and benefits are unknown as the metrics
14 have not yet been put into practice. Staff
15 addressed this issue by considering for each metric
16 whether the anticipated future benefits, both
17 financial and societal, are reasonably expected to
18 outweigh the expected cost.

19 Throughout this docket, staff witnesses
20 proposed various adjustments or modifications to
21 the company's proposed metrics to ensure that any
22 metrics supported by staff properly considered the

1 cost and benefits in order to achieve a balance
2 between the two.

3 Put another way, for staff to support a
4 metric, staff considered whether the record
5 evidence supports the conclusion that the benefits
6 derived from each metric will be equal to or
7 greater than the cost to achieve that metric. In
8 making these calculations, staff uses the value of
9 a basis point increase in ROE as a proxy for the
10 actual costs as those are not yet known.

11 For performance metrics which staff
12 disagreed with the company and did not support,
13 staff's position is that the benefits derived from
14 the metric do not justify the cost to achieve the
15 metric and so suggested modification to achieve a
16 balance between cost and benefits.

17 For example, in performance metric 4, peak
18 load reduction, staff recommended modifications
19 because the anticipated benefits of decreasing peak
20 load did not justify the financial rewards
21 associated with achieving that decrease.

22 Staff's position is that the Commission

1 should adopt the conclusion of the ALJ PO that the
2 Commission need not approve a net benefit
3 methodology but instead should consider whether
4 each performance metric is cost beneficial.

5 Staff recommended changes to the peak load
6 metric as previously proposed penalty and reward
7 structure provided no realistic probability that
8 the company would ever face a penalty for not
9 achieving its reduction goals.

10 Per agreement with ComEd, staff recommends
11 the Commission lower both the target and the basis
12 points associated with the peak load reduction
13 metric so that the goal is more likely to be
14 attainable for the company and beneficial to
15 ratepayers. This will make the metric meaningful
16 and achievable while minimizing the risk to both
17 the company and to ratepayers, making the benefits
18 worth the cost.

19 Accordingly, the Commission should adopt
20 the ALJ PO, ALJ PO's conclusion, excuse me, to
21 evenly allocating basis points with staff's
22 modifications to the peak load metric.

1 If there are no questions, we reserve our
2 remaining time. Thank you.

3 CHAIRPERSON ZALEWSKI: Thank you. I would
4 have a question, and either of you can answer. It
5 is a question I have asked other parties. Looking
6 at metric 1 and metric 3, the question is will
7 achieving metric 3 impact metric 1, and if so, how
8 do we avoid double counting?

9 MS. SHERRILL: Commissioners, I understand
10 your question. The issue is are they going to be
11 able to recover that twice, and I think, I think
12 that really points to the dynamic nature of, of
13 this CEJA implementation.

14 It is important to note this docket does
15 not approve any particular program or forms of cost
16 recovery, it only establishes what the performance
17 goals are going to be. After a final order, the
18 utility is still going to have to determine how
19 best to implement programs and how to meet those
20 goals, and they're ultimately going to have to show
21 that their costs are prudent and reasonable.

22 And as we look to the next series of

1 dockets which are already underway, the beneficial
2 electrification plan and the multi-year grid plan,
3 cost recovery is going to be a major issue in those
4 dockets for the very reason you, you are pointing
5 out. Parties are going to have to ensure that any
6 rate recovery mechanism approved eliminates that
7 potential for double recovery.

8 So I don't mean at all to diminish the
9 importance of the question that you are asking, but
10 I'm going to suggest that that's not something that
11 is necessarily in play at this docket. It is
12 something that's going to become an issue in the
13 dockets that are to follow.

14 CHAIRPERSON ZALEWSKI: Okay. That's my
15 question. Anyone else?

16 COMMISSIONER McCABE: On the issue of a
17 cost benefit methodology, are you saying that will
18 be resolved in the years to come through
19 reconciliation and knowing more?

20 MS. SHERRILL: Do you have an answer,
21 Monica?

22 MS. SINGH: Yes. Thank you for your

1 question, Commissioner. Regarding cost benefit
2 analysis, staff's position is that we should take
3 into account the financial and societal benefits at
4 this point. However, in future dockets we will
5 have additional information. As both my co-counsel
6 and I mentioned, the newness of the material in
7 this docket presents an inherent challenge in
8 calculating the cost and benefits. However, we can
9 take into account the financial and societal
10 advantages.

11 MS. SHERRILL: If I could just add to what
12 my co-counsel said. I think one of the really
13 interesting challenges in these dockets is that the
14 Commission is required to consider a benefit cost
15 methodology in a docket that actually is not
16 presenting programs or costs.

17 So for that reason, staff used the value of
18 a basis point for ComEd as roughly 8 -- sorry,
19 \$820,000 per year. We use that as a proxy for what
20 the benefits are going to be or, I am sorry, the
21 costs are going to be. And so we calculated for 5
22 basis points, and I apologize, I can't do this math

1 off the top of my head. But 5 times 820,000 is
2 roughly the cost of that, and then we looked at the
3 benefits that are estimated to be achieved. But,
4 again, those numbers are costimations because we
5 are looking at societal benefits that are not
6 quantifiable yet. We don't know exactly what the
7 costs are going to be or the benefits are going to
8 be, so it is an interesting challenge.

9 CHAIRPERSON ZALEWSKI: Any other questions
10 from staff?

11 (No response.)

12 CHAIRPERSON ZALEWSKI: Hearing none, thank
13 you. We will move onto rebuttals. ComEd. Ms.
14 Salustro, I have you down for four minutes. You
15 may proceed when you are ready.

16 MS. SALUSTRO: Thank you. There is a lot
17 of ground to cover, so I am going to try to check
18 off a few of them quickly, and we will see where we
19 are.

20 First I want to address some points that my
21 colleagues have made and provide some
22 clarification. The Chair, you asked about how our

1 performance for SAIDI compares in EJ R3 communities
2 versus other communities.

3 The concept of EJ R3, of course, is new
4 with CEJA, so we have not been tracking data over
5 the last many years. But what we do know is that
6 in 2021, the EJ R3 communities in Chicago fared
7 better in terms of SAIDI than every other
8 geographic area in our service territory. So this
9 is to say that they're kind of at a similar level
10 generally as other areas in our territory.

11 Checking through these, quickly, Chairman
12 McCabe, you had asked the question about storage in
13 the peak load reduction, and I have been thinking
14 about that since you asked it. Certainly nothing
15 definite, but I think the way we have constructed
16 the peak load reduction metric that encourages and
17 really requires us to have new DER, new solar
18 programs to be able to achieve that metric in the
19 future certainly lends the possibility of including
20 storage in the mix. Of course, storage and DER go
21 together at do storage and solar. So I imagine
22 there may be a possibility to have some kind of

1 storage-related program added to that program stack
2 in the future.

3 Third, I want to talk about -- the solar
4 parties talk about the value, the fact that the
5 only input for their alternative metric, their
6 DERIUV metric is this value of DER and how it is
7 okay if we need to wait for the Commission to
8 decide what that value is.

9 Let me just put the time frame in
10 perspective here. So that DER, the DER
11 investigation for value or investigation of DER
12 value, so, like I said, that does not start until
13 late June 2023. There is actually no statutory
14 time frame by which it has to end. So that could
15 be whenever. And then after that, the company has
16 up to eight months to file its tariff. So it is
17 not clear when we would know that input, and I
18 think that my, the, my colleague here really
19 downplays the value of that, of that value input.
20 It actually, the entire metric hinges on that.

21 We need to understand what the data is in
22 order to construct a metric. We need to know what

1 the background data is for goals and yearly
2 incentive targets and baselines. Until we know
3 that value, we can't really construct this metric.
4 They say that they have all of those elements now,
5 but, in fact, all they have is the baseline at \$0
6 because there is nothing else to go on.

7 I will note quickly for the record that I
8 agree with everything that staff, OGC mentioned
9 about symmetry, so I'm not going to spend my time
10 there.

11 Really quickly on cost benefit, this has
12 been a topic that we talk a lot about. Let's just
13 think really quickly about -- and we don't have the
14 board in front of us, but that paragraph, if you go
15 back later and take a good look at that language,
16 that language requires two things, and both things
17 are required by the Commission, not the utility.

18 The first thing it requires is that the
19 Commission develop a net benefit methodology.
20 It does not say when, it does not say in which
21 proceeding.

22 What ComEd did is we went ahead using

1 outside experts from Black & Veatch to develop that
2 methodology for each of our proposed metrics for
3 the Commission's consideration.

4 Then the paragraph continues to talk about,
5 okay, then the Commission has to look at all of
6 these quantitative and qualitative factors, and it
7 lists them all. And again, that's what we also
8 took that proposed methodology, we looked at all of
9 those qualitative and quantitative factors to
10 figure out kind of what the potential benefits are
11 for each of these metrics.

12 That last sentence that's highlighted,
13 which we don't have in front of us right now, it
14 says as long as the Commission does that and
15 considers the evidence, considers those different
16 factors, some of which can be quantified, some of
17 which can't be quantified, then you will have a
18 situation where there is going to be incentives at
19 the proper level.

20 So, again, I go back to the idea that this
21 is early. You are developing a methodology. You
22 do have to weigh all of these different factors,

1 which some of them can't be quantified, but as long
2 as you do that, then you have satisfied your
3 obligations under the statute. It does not require
4 precise costs right now. It does not require
5 precise analysis right now, just of the
6 methodology. Thank you.

7 COMMISSIONER McCABE: I will note for the
8 record it is Commissioner McCabe.

9 CHAIRPERSON ZALEWSKI: You talked a bit
10 about how outages fared in the EJ R3, but I was
11 wondering if you could talk more specifically to
12 what Ms. Soderna said about the granularity, how
13 the proposal has lack of granularity in the EJ R3
14 and how you are looking just at the aggregate. Can
15 you talk more about that?

16 MS. SALUSTRO: Sure, I would love to. So
17 if you recall, the metric statute requires us to
18 have at least one reliability and resiliency
19 metric, and it covers a lot of ground in the
20 statute. It says that it has to be both system
21 wide and locational. It also has to look at EJ R3
22 communities. It also has to look at power quality.

1 It is really impossible to do all of those
2 things in one metric which is why we have the three
3 metrics. The first is SAIDI system wide, the
4 second is EJ R3 SAIDI, the third, as we have talked
5 about before, is power quality.

6 So what we have done, and that's why I take
7 issue with what, what the AG had said before, is
8 that we have specifically carved out the metric,
9 metric no. 2, to focus just on EJ R3 communities
10 and the SAIDI performance. And what that does is
11 make sure that it has the same goals as over wide
12 system performance. We are still trying to improve
13 our performance by 15% over 10 years which is a
14 rather staggering task since we are already up at
15 the top of system performance. But we are making
16 sure that essentially no customer is left behind,
17 especially in these communities.

18 Now, CUB has pointed out that we don't
19 compare in the metric EJ R3 to non EJ R3. That's
20 what their proposal suggests. I note that that is
21 one way to go about it, but it is very difficult to
22 do. The CUB proposal does not specify how they

1 would distinguish communities geographically, which
2 is what they said their metric would do. They talk
3 about how they would compare EJ R3 to similarly
4 situated communities. That's never defined. I'm
5 not sure what that even means.

6 And that is simply, as we all know, not how
7 the grid works. We put up a pole, we put up a
8 wire, we put up a DA device, and that pole, that
9 wire, that DA device can serve all sorts of
10 different communities at the same time even, not
11 just EJ R3 or not just non EJ R3.

12 So what we have tried to do by having those
13 three metrics is make sure that we hit every point
14 that we are supposed to with fully formed metrics
15 as required by the statute.

16 CHAIRPERSON ZALEWSKI: Last call for
17 questions?

18 (No response.)

19 CHAIRPERSON ZALEWSKI: No. Okay. All
20 right. Thank you.

21 MS. SALUSTRO: Thank you.

22 CHAIRPERSON ZALEWSKI: Back to the Attorney

1 General. Two minutes.

2 MR. MURPHY: Thank you. So first I just
3 want to point out, I forgot to mention at the
4 beginning, that Grant Snyder, my colleague, is
5 sitting here with me. So he can answer any
6 questions about peak load or anything like that,
7 that any of the commissioners have.

8 Next I would like to turn to the discussion
9 about the penalty-only metrics that staff brought
10 up. Staff said the people did not show how
11 penalty-only metrics could be offset by
12 corresponding number of rewards.

13 I believe it was in our reply brief the
14 People showed this by suggesting that more rewards
15 than penalties be assigned to the affordability
16 metric in order to offset the People's proposed
17 penalty-only metrics.

18 However, as the joint solar parties have
19 shown today through their upside only DER metric,
20 there are myriad ways that penalties and rewards
21 can be assigned so there is an overall symmetrical
22 metric structure, but each metric in itself is not

1 necessarily symmetrical.

2 Staff also said that the statute supports
3 the notion that all metrics must be symmetrical.
4 Again, I would reiterate that one section of the
5 statute governs the Commission's requirements.
6 That's the one that talks about rewards or
7 penalties or both. The other governs the company's
8 filing requirements. That's the one that appears
9 to conflict, but at the same time, that section
10 says at the bottom the Commission may modify the
11 company's metrics which effectively calls back to
12 the section that governs the Commission.

13 Finally, we would just like to echo CUB
14 that the metrics must improve upon business as
15 usual, and a 1.5% improvement to an aggregate
16 score, we do not find, to be ambitious or improving
17 upon business as usual because it could still leave
18 thousands of customers behind whether that's in EJ
19 R3 communities or in other parts throughout ComEd's
20 operating zones. Thank you.

21 CHAIRPERSON ZALEWSKI: Any questions?

22 (No response.)

1 CHAIRPERSON ZALEWSKI: Thank you.

2 MR. MURPHY: Thank you.

3 CHAIRPERSON ZALEWSKI: ELPC?

4 MR. KLEIN: Sorry. My foot fell asleep,

5 CHAIRPERSON ZALEWSKI: Sorry. You have --

6 MR. KLEIN: Wake up for a second.

7 CHAIRPERSON ZALEWSKI: -- three minutes.

8 MR. KLEIN: Thank you. Just a couple of
9 quick points in response. First, ELPC and Vote
10 Solar support the AG's legal interpretation about
11 penalty-only metrics. We think that that analysis
12 is more persuasive for the reasons I mentioned
13 yesterday which include the canon that you look at
14 the specific language of the statute over general
15 and also that you reconcile statutory language
16 based on the overall context.

17 Second, we support CUB and EDF's RRVC or
18 reliability and resiliency in vulnerable
19 communities metric. That ELPC Vote Solar witness,
20 Will Kenworthy, testified in support of that
21 metric. He pointed out that it builds on trends
22 that are occurring in other states including

1 Minnesota and Michigan, and CEJA clearly intended
2 Illinois to be a leader, and we should be joining
3 those states in being a leader around these kinds
4 of reliability issues.

5 We also join our colleagues opposing
6 spending metrics like ComEd metric 3. Again, that
7 goes to the purpose of performance-based
8 regulation. Spending metrics are disfavored
9 precisely because they create the risk of double
10 counting, Chair, Madam Chair, that you pointed out.
11 You should be looking at outcomes, outcome metrics
12 because then you are not just rewarding the company
13 for spending money that they already have an
14 incentive to spend. Look at the outcome.

15 And then finally, responding to a couple of
16 points from Ms. Salustro about the DERIUV metric.
17 She made a point about the timing of the metric and
18 that these future proceedings have not begun. They
19 will begin soon. In the case of the grid planning
20 case, those dockets are open. We are working with
21 the utilities right now on the contents of those
22 plans, and they will be filed in January. They're

1 right around the corner.

2 The DER value investigation is due to
3 commence in July. So these are not far flung,
4 remote proceedings, they are around the corner, and
5 we account for that timing in the structure of our
6 metric. If you look at the appendix, it shows that
7 in the first year of the multi-year rate plan, that
8 metric is based solely on the interconnection
9 timeliness feature. Then it moves into the DER
10 utilization for value to combine. So we account
11 for that timing already.

12 And I will just say that, you know, going
13 back to my colleague's point, the easy way to do
14 this is to provide the motivation for ComEd to be
15 working together with all of the parties to go out
16 and get those savings. We think that the structure
17 of this metric of providing shared savings will
18 motivate ComEd and will help, you know, eliminate
19 delays in implementing this because we are all
20 going to be shooting for the same target. It will
21 avoid delays of our prior experience at the ICC.
22 We have had some very difficult cases over the past

1 few years including, you know, cases involving DER
2 value investigation under the prior CEJA statute.
3 This is a better way to do it.

4 And then finally, I will just wrap with one
5 last sentence. I think that Ms. Salustro, on the
6 last sentence of the statutory section mentioned on
7 cost benefit analysis, that language is very clear.
8 It does not say this should be determined some time
9 in the future or there is no timing on when the
10 Commission needs to balance cost and benefits. It
11 needs to happen now. The Commission shall ensure
12 that benefits exceed cost for customers. That's
13 mandatory. It needs to happen in this docket.
14 Thank you very much.

15 CHAIRPERSON ZALEWSKI: Thank you. Any
16 questions for Mr. Klein?

17 (No response.)

18 CHAIRPERSON ZALEWSKI: Okay. That is okay.
19 I think the answer is no, right? Okay. Thank you.

20 MR. KLEIN: Okay. Thank you.

21 CHAIRPERSON ZALEWSKI: Joint solar parties
22 with one minute. We will wait until you sit,

1 though. Sorry. When you start, we will start.

2 MR. VIJAYKAR: Okay. Commissioners, I
3 think I speak for everyone in this room when I say
4 that we recognize you have a tough balancing act
5 ahead of you.

6 Now, you have heard the utilities in this
7 proceeding, Ameren yesterday, ComEd today emphasize
8 that if the performance metrics adopted in this
9 proceeding are not achievable, are not fair, the
10 companies might not pursue a multi-year rate plan.
11 I think that's reasonable.

12 There is another side, though, to this
13 balancing act. If the Commission approves metrics
14 that incentivize the company to spend in areas
15 where it already has a clear business proposition,
16 you might get a multi-year rate plan filing. Won't
17 get a good deal for ratepayers. That is why we
18 request the Commission approve the DERIUV metric.
19 It is a modest metric that encourages the company
20 to innovate while benefiting ratepayers. That's a
21 good deal. Thank you.

22 CHAIRPERSON ZALEWSKI: Thanks. Anything

1 else?

2 (No response.)

3 CHAIRPERSON ZALEWSKI: Thank you. Then CUB
4 with two minutes.

5 MS. SODERNA: Thank you. In response to
6 Ms. Salustro's comments about the CUB/EDF proposed
7 reliability RRVC metric, it is just simply not
8 accurate to say that we have not identified the
9 geographic areas which we propose be compared
10 between EIECs and non EIECs. The proposal is fully
11 baked, and it is fully presented in CUB/EDF's Ex.
12 4.1 which is our revised alternative metrics plan.

13 Under our plan, ComEd is eligible for the
14 full performance bonus when the four sub indices
15 that I discussed earlier, which I will address in a
16 second, are each 19% better in EIECs than their
17 same county non EIECs by year. Now, the only
18 caveat to that is because of the significant
19 population difference between Cook County and other
20 counties, the metric also includes a provision that
21 allows for measurement within a designated
22 geographic area other than a county when a county

1 population exceeds 1 million which separates the
2 City of Chicago from Cook County.

3 And the reason, the really important reason
4 for making these distinctions is the analysis that
5 Mr. Barbeau conducted with regard to the granular
6 data in the City of Chicago. And that, I'm not
7 sure what, what data point Ms. Salustro was
8 referring to, but in the testimony of Mr. Barbeau,
9 he showed that -- his analysis showed that EIECs in
10 Chicago experienced outages 83% more frequently
11 than non EIECs. EIECs in Chicago had outages 140%
12 longer than non EIECs. EIECs in Chicago were 11.75
13 times more likely to have four or more outages in
14 that year as compared to non EIECs, and EIECs in
15 Chicago were 4.26 times more likely to have an
16 outage lasting more than 12 hours than non EIECs in
17 Chicago.

18 Now, that analysis looked at the four
19 indices which Mr. Barbeau suggests are critically
20 important to examining reliability and resiliency
21 in EIEC areas. It tracks frequency of outages --

22 CHAIRPERSON ZALEWSKI: Ms. Soderna, that is

1 time. I know it is hard to see. It is time.

2 MS. SODERNA: Okay. Thank you.

3 CHAIRPERSON ZALEWSKI: Any questions?

4 (No response.)

5 CHAIRPERSON ZALEWSKI: All right. Thank
6 you so much.

7 Then staff with two minutes.

8 MS. SHERRILL: I apologize. I was on mute.
9 Just quickly, Chairman, you asked about double
10 recovery and I think we addressed the issue, but
11 based on the questions you posed to some other
12 parties, we think there is another dimension to
13 that question that we also would like to address
14 which is does specifically achieving performance
15 metric 3 mean that performance metric 1 will be met
16 or vice versa so that essentially the company is
17 going to get two incentives for doing one thing.

18 We think inevitably there is going to be
19 some overlap in many of the metrics given that all
20 of them are going to be implemented in the context
21 of ComEd's overall operation. I think the question
22 is how much and whether that overlap and

1 correlation between them are acceptable, and
2 ultimately my answer is the same. I think it is
3 something that is going to be considered when the
4 actual costs are evaluated in a future metric, in a
5 future docket so that that type of double counting
6 does not occur either.

7 CHAIRPERSON ZALEWSKI: Okay. That
8 concludes your remarks?

9 MS. SHERRILL: We have nothing else.

10 CHAIRPERSON ZALEWSKI: All right.

11 MS. SHERRILL: Thank you.

12 CHAIRPERSON ZALEWSKI: Thank you. Then we
13 are going back to surrebuttal with two minutes.

14 MS. SALUSTRO: Thank you, Madam Chair. I'm
15 going to briefly touch on two things before trying
16 to wrap this up. The first is there is an awful
17 lot of discussion about our metric 3 being a
18 spending metric.

19 Let me just set that straight. There is
20 nothing in the record about spending metric.
21 Again, we were not able to provide any costs,
22 precise costs in our proceeding. So I'm not sure

1 why they believe that it is purely based on
2 spending.

3 Just to give you an idea, there are a bunch
4 of different things that we would like to achieve
5 with that metric about system visibility and how
6 the devices talk to each other. Again, to achieve
7 those, sure, there might be a device, a widget that
8 we use that goes to CapEx spending, but we are
9 also looking at things like work flow, process
10 optimization, design improvements, engineering.
11 These are not just investments. So it is unfair to
12 call this a spending metric.

13 With symmetry, I completely agree with,
14 with OGC about the or, sorry, not symmetry but with
15 the double counting question. I do want to come
16 back to that because that's come up a couple times.

17 I think it is important to remember that
18 there might be a investment that, if it is found to
19 be prudent and reasonable, it earns the rate base
20 return. That investment might somehow be
21 implicated in, let's say any of the reliability
22 metrics, but it only earns that rate of return one

1 time.

2 Then we have opportunities in each those
3 metrics to achieve the metrics and maybe earn an
4 incentive or earn a penalty. Again, those are not
5 the same thing. It is not accurate to call it
6 double or triple counting because they're just --
7 we are not counting the same thing towards an
8 adjustment on the rate of return in those
9 situations.

10 So with that said, I just, to wrap it up, I
11 don't need to tell the Commissioners that, that
12 this is a really important proceeding to get right.
13 What we decide or what is decided in the final
14 order will dictate our investments for years to
15 come. As people have mentioned, if we elect to
16 file a multi-year rate case in January, we
17 also have to file our grid plan in January which
18 will govern many years, and it is really important
19 for us to make sure that the metrics that we are
20 held responsible for trying to achieve or penalized
21 when we fail are achievable, are actionable, are
22 within our control and are measurable, and that's

1 why we believe that the proposed order subject to
2 ComEd's exceptions should stand. Thank you.

3 CHAIRPERSON ZALEWSKI: Thank you. Last
4 call for questions for any parties including IIEC?

5 (No response.)

6 CHAIRPERSON ZALEWSKI: All right. Seeing
7 none, okay, thank you, everyone. This concludes
8 our oral argument for today. We really, again,
9 appreciate everyone's time and taking time to
10 answer all of our questions. And if there is no
11 objection, the meeting is now adjourned.

12 (Whereupon the above matter was adjourned.)
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