STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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

DRAFT ORDER AND POSITION STATEMENT OF THE JOINT SOLAR PARTIES, ENVIRONMENTAL LAW AND POLICY CENTER AND VOTE SOLAR

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I. INTRODUCTION AND SUMMARY

II. BACKGROUND AND CONTEXT

On September 15, 2021, the Illinois General Assembly enacted Public Act 102-0662, commonly referred to as CEJA. CEJA is a transformative statute which establishes, among many other provisions, new PBR frameworks and tools for regulating the state's electric utilities. This docket involves the first step in the new ratemaking process—the establishment of new "performance metrics" and "tracking metrics" to be applied to utilities that elect to file a Multi-Year Rate Plan under Section 16-108.18 of CEJA.

On January 20, 2022, pursuant to 220 ILCS 5/16-108.18(e), ComEd submitted a petition for approval of eight performance metrics and eleven tracking metrics, along with supporting testimony from three witnesses. ComEd Exhibit 1.01 consists of a

Performance Metrics Plan, which explains each of ComEd's proposed metrics and the company's claimed statutory basis for approval.[1]

The Commission subsequently granted petitions to intervene filed by several parties, including the Joint Solar Parties, the Environmental Law & Policy Center, and Vote Solar (collectively referred to as the "Solar Intervenors" for the purposes of briefing). Through their testimony, the Commission Staff, the Illinois Attorney General, and intervenors presented detailed feedback on and criticisms of ComEd's proposed metrics and, in many cases, alternative metrics for the Commission's consideration.

The Commission held an evidentiary hearing on June 16, 2022, following which the Administrative Law Judge marked the record heard and taken.

III. LEGAL STANDARDS

A. Statutory Framework

CEJA requires the Commission to take various actions to implement new programs, initiatives, and directives to further the goals of transitioning Illinois to 100% clean energy; supporting a responsible transition away from carbon-intensive power generation; increasing public participation in regulatory matters; and encouraging further diversity and inclusion within the renewable energy industry.[2] The performance incentive mechanisms (PIMs) and tracking metrics under review in this docket are a part of CEJA's comprehensive overhaul of the utility ratemaking process from the prior "formula rate" regime created by the Energy Infrastructure Modernization Act of 2011 (Illinois Public Act

[1] The most recent iteration of that Plan is contained in ComEd Exhibit 18.01 filed with ComEd's surrebuttal testimony.
[2] *See* Illinois Commerce Commission, Climate and Equitable Jobs Act Implementation https://www.icc.illinois.gov/programs/climate-and-equitable-jobs-act-implementation.

97-616, or EIMA) to a new "performance-based ratemaking" regime described in new Section 16-108.18 of the Act. The new performance-based ratemaking regime is embedded within a much larger statutory framework intended to rapidly and urgently "mov[e] electric utilities toward the State's ambitious energy policy goals: protecting a healthy environment and climate, improving public health, and creating quality jobs and economic opportunities, including wealth building, especially in economically disadvantaged communities and communities of color." 220 ILCS 5/16-108.18(a)(4). Among many other provisions, CEJA includes a significant expansion of the state's renewable portfolio standard (RPS) under Section 1-75 of the Illinois Power Agency Act, a new Multi-Year Integrated Grid Planning process described in Section 16-105.17 of the Public Utilities Act (PUA), and a new Commission-led investigation into the value of distributed energy resources and "additive services" under Section 16-107.6(e) of the Act. The establishment of PIMs in this docket must be understood in context of this larger statutory framework. *See* 220 ILCS 5/16-108.18(e)(1) ("Building upon the State's goals to increase the procurement of electricity from renewable energy resources, including distributed generation and storage devices, the General Assembly finds that electric utilities should make cost-effective investments that support moving forward on Illinois' clean energy policies.").

The Illinois General Assembly adopted performance-based ratemaking to "enable alignment of utility, customer, community, and environmental goals" by providing utilities with "targeted incentives" for achieving desired state policy goals. 220 ILCS 5/16-108.18(a). The purpose is to "better tie utility revenues to performance and customer benefits, accelerate progress on Illinois energy and other goals, ensure equity and

affordability of rates for all customers, including low-income customers, and hold utilities publicly accountable." 220 ILCS 5/16-108.18(e).[3] To achieve this, CEJA directs the Commission to approve a suite of PIMs and "tracking metrics" for Illinois utilities that elect to pursue a Multi-Year Rate Plan under Section 16-108.18 of the Act. 220 ILCS 5/16-108.18(e)(6)(A). The PIMs are cost-of-equity rewards or penalties tied to the utility's performance measured against utility-specific performance metrics established by the Commission for each utility. 220 ILCS 5/16-108.18(e)(2). Tracking metrics are used to collect and monitor utility performance on the established PIMs and potentially establish baseline data and additional information to support future performance metrics. 220 ILCS 5/16-108.18(e)(3). Each year, for the utilities that have selected a performance-based Multi-Year Rate Plan framework, the Commission will open a "performance evaluation proceeding" to assess the utility's "achievement of or failure to achieve its performance targets" and assign the appropriate basis-point incentives or penalties to be assessed as a surcharge on the next year's rates. 220 ILCS 5/16-108.18(f). Tracking metrics will be reviewed, but do not result in incentives or penalties.

The Commission, in this proceeding, will review and approve a set of PIMs and tracking metrics to apply in future performance evaluation proceedings for ComEd. The

[3] This paragraph contains additional legislative findings and objectives for performance-based regulation, stating that: "The electric industry is undergoing rapid transformation, including fundamental changes in how electricity is generated, procured, and delivered and how customers are choosing to participate in the supply and delivery of electricity to and from the electric grid. Building upon the State's goals to increase the procurement of electricity from renewable energy resources, including distributed generation and storage devices, the General Assembly finds that electric utilities should make cost-effective investments that support moving forward on Illinois' clean energy policies. It is therefore in the State's interest for the Commission to establish performance incentive mechanisms in order to better tie utility revenues to performance and customer benefits, accelerate progress on Illinois energy and other goals, ensure equity and affordability of rates for all customers, including low-income customers, and hold utilities publicly accountable." 220 ILCS 5/16-108.18(e)(1).

Commission may approve up to eight PIMs, with at least one metric from each of six designated statutory categories covering topics such as: affordable customer delivery costs, DER deployment, improved customer service, peak load reductions, supplier diversity, and reliability and resiliency. 220 ILCS 5/16-108.18(e)(2). The Commission must issue an order approving or modifying the utility's suite of proposed performance and tracking metrics by no later than September 30, 2022, several months before the utility must make its January 20, 2023, general rate case or multi-year rate plan election. 220 ILCS 5/16-108.18(e)(6)(A).

B. Statutory Criteria for Metrics

As mentioned above, the Commission must approve a minimum of six and maximum of eight PIMs, including at least one from each of six designated categories listed in Section 16-108.18(e)(2)(A) of the Act. The PIMs shall be "designed to achieve incremental improvements over baseline performance values and targets, over a performance period of up to 10 years, and no less than 4 years." 220 ILCS 5/16-108.18(e)(2).

220 ILCS 5/16-108.18(e) requires performance metrics to include multiple distinct components and satisfy certain minimum requirements. PIMs must include "a description of the metric, a calculation method, a data collection method, annual performance targets, and any incentives or penalties for the utility's achievement of, or failure to achieve, their performance targets." 220 ILCS 5/16-108.18(e)(2)(B). Metrics must be "reasonably within the control of the utility to achieve" and may not be "solely expected to have the effect of reducing the workforce." 220 ILCS 5/16-108.18(e)(2)(D). Where possible, PIMs should include one year of tracking data so that a "baseline" and outcomes can be accurately

measured. 220 ILCS 5/16-108.18(e)(2)(E). PIMs must also result in "benefits [that] exceed costs for customers," based on a methodology established by the Commission "that includes customer and societal costs and benefits and quantifies the effect on delivery rates." 220 ILCS 5/16-108.18(e)(2)(F).

The Commission largely agrees with the presentation of statutory criteria in Staff's Initial Brief (pp. 8-10) with two important clarifications. The first clarification is to note that Staff's list neglects to include the fundamental statutory requirement that metrics be designed to result in "benefits [that] exceed costs for customers." 220 ILCS 5/16-108.18(e)(2)(F). Second, the Commission interprets the "symmetry" requirement for incentives and penalties at Section 16-108.18(e)(2)(B) to apply to the full suite of performance metrics as a whole, and not to each individual metric. The relevant statutory language reads, in context:

> Performance metrics shall include a description of the metric, a calculation method, a data collection method, annual performance targets, and any incentives or penalties for the utility's achievement of, or failure to achieve, their performance targets, provided that *the total amount of potential incentives and penalties shall be symmetrical*.

220 ILCS 5/16-108.18(e)(2)(B) (emphasis added). The statute's reference to the "total amount" makes clear that not every performance metric need be symmetrical so long as the "total amount" of potential incentives and penalties across the full suite of metrics is symmetrical. This reading is further strengthened by the next sentence, which reads:

> Incentives shall be rewards *or* penalties *or both*, reflected as basis points added to, or subtracted from, the utility's cost of equity.

Id. (emphasis added). By using the word "or" when describing the construction of metrics, the statute makes clear that a proposed metric may be upside only (an incentive) or downside only (a penalty) "or both." It would make no sense for the

legislature to describe metrics as "rewards or penalties or both" if each metric were required to include a perfectly symmetrical reward *and* penalty. Under such a reading, the phrase "or both" would be rendered meaningless. *See Cooke v. Illinois State Bd. of Elections*, 2021 IL 125386, ¶ 52, 183 N.E.3d 116, 127 (when interpreting a statute, "[n]o part of a statute should be rendered meaningless or superfluous").

C. Standard for Approval

220 ILCS 5/16-108.18(e)(2) sets forth the Commission's standard for approval in this case. It states:

> The Commission shall approve, based on the substantial evidence proffered in the proceeding initiated pursuant to this subsection performance metrics that, to the extent practicable and achievable by the electric utility, encourage cost-effective, equitable utility achievement of the outcomes described in this subsection (e) while ensuring no degradation in the significant performance improvement achieved through previously established performance metrics.

220 ILCS 5/16-108.18(e)(2). Subject to the statutory minimum requirements discussed above, this decision standard provides the Commission with substantial discretion to approve or modify a suite of performance metrics based on the testimony and recommendations offered by the utility and intervening parties. The Commission looks to the entirety of CEJA's statutory framework and legislative findings to guide its review of the PIMs and tracking metrics that the parties have proposed in this docket. *See* 220 ILCS 5/16-108.18(a) (laying out legislative findings and objectives).

The statutory goals and objectives in Section 16-108.18 indicate clear legislative intent for the Commission to approve PIMs that challenge utilities in transformative ways and that do not just reward the utility for incremental improvements over business-as-

usual. As the Staff's Post-Workshop Report recommends, performance metrics should result in "meaningful achievement of desired objectives":

> Performance metrics should incentivize utilities to achieve goals that are not otherwise incented elsewhere. They should also ensure utilities are not rewarded for achieving what is already required and expected from Illinois public utilities, but awards utilities for achieving outcomes beyond the expected.[4]

CEJA requires the Commission to approve performance metrics in this docket while reserving the implementation details for future proceedings. Importantly, the Act identifies the Multi-Year Integrated Grid Plans (filed under Section 16-105.17 of the Act) as the place where the utilities must propose "[a] detailed plan" for achieving the performance metrics approved by the Commission in this docket. 220 ILCS 5/16-105.17(f)(2)(J). Each Grid Plan must "propose distribution system investment programs, policies, and plans designed to … achieve the metrics approved by the Commission pursuant to Section 16-108.18 of this Act." 220 ILCS 5/16-105.17(f)(1)(B). Grid Plans must also include "holistic consideration" of related utility programs to "coordinate" their implementation and "maximize the benefits" of each. 220 ILCS 5/16-105.17(f)(4).

IV. PROPOSED PENALTIES AND INCENTIVES STRUCTURE

A. Proposed Total Number of Basis Points

B. Proposed Overall BPS Allocation

Solar Intervenors' Position

The Solar Intervenors describe their proposed basis points allocation to the DERIUV metric in Section VI, below. The Solar Intervenors would not object, however, to

[4] Performance and Tracking Metrics Workshop Summary, ICC Staff Report to the Commission (co-authored with Rocky Mountain Institute), (Dec. 1, 2021) at pp. 31-32, available at: https://icc.illinois.gov/informal-processes/Electric-Utility-Performance-and-Tracking-Metrics.

a basis point allocation that varies from that proposal, provided the structure of the underlying performance metric remains intact.

C. BPS Assignment Method (by Metric)

V. PROPOSED NET BENEFITS METHODOLOGIES

Solar Intervenors' Position

A. The Commission Must Approve Performance Metrics that are Cost-effective and Ensure that "Benefits Exceed Costs for Customers."

Solar Intervenors state that cost-effectiveness is a key pillar of the PBR section of CEJA. CEJA expressly envisions three distinct processes—comprehensive grid planning, ratemaking and the establishment of performance incentives—to coordinate, such that each utility's resulting "performance-based ratemaking framework" (which is a product of the three aforementioned processes) leads the utility to:

- "make **cost-effective** investments that support achievement of Illinois' clean energy policies, including, at a minimum, investments designed to integrate distributed energy resources . . .", and;
- "choose **cost-effective** assets and services, whether utility-supplied or through third-party contracting, considering both economic and environmental costs and the effects on utility rates, to deliver high quality service to customer at least cost."

220 ILCS 5/16-108.18(c) (emphasis added) (listing objectives that utility's performance-based ratemaking framework should be designed to accomplish); *see also* 220 ILCS 5/16-108.18(e)(1) ("the General Assembly finds that electric utilities should make cost-effective investments that support moving forward on Illinois' clean energy policies).

To that end, the Act requires the Commission to develop, in this proceeding:

> **a methodology to calculate net benefits** that includes customer and societal costs and benefits and quantifies the effect on delivery rates. In determining the appropriate level of a performance incentive, the Commission shall consider: the extent to which the amount is likely to encourage the utility to achieve the performance target in the least cost manner; the value of benefits to customers, the grid, public health and safety, and the environment from achievement of the performance target,

> including in particular benefits to equity investment eligible community; the affordability of customer's electric bills, including low-income customers, the utility's revenue requirement, the promotion of renewable and distributed energy, and other such factors that the Commission deems appropriate. **The consideration of these factors shall result in an incentive level that ensures benefits exceed costs for customers**.

220 ILCS 5/16-108.18(e)(2)(F) (emphasis added). Further, the Act requires that the Commission approve, in this proceeding, performance metrics that each "encourage cost-effective, equitable utility achievement" of the several outcomes listed in the "performance incentive mechanisms" section of the Act (220 ILCS 5/16-108.18(e)). In other words, the Act does not require that ComEd or any party supply a methodology to calculate net benefits.[5] The Act does**,** however, prohibit the Commission from approving any performance metric that is not cost-effective.

B. ComEd's Proposed "Interconnection Timeliness Metric" is not Cost-Effective and Would Lead to a Windfall for Utility Shareholders.

Solar Intervenors explain that ComEd's benefit-cost analysis for its proposed interconnection metric (ComEd Exhibit 11.0 (Rev.) at 43-45) is structurally unsound, inconsistent with the requirements of the Act, and would result in substantial net costs to customers and a windfall to the Company's shareholders. Solar Intervenors therefore request that the Commission reject it.

1. ComEd's benefit-cost methodology is structurally unsound because it treats incentive payments to ComEd's shareholders as a "benefit" to consumers, in violation of the Act's express requirements.

Solar Intervenors explain that ComEd did not prepare a formal benefit-cost analysis to support its proposed suite of metrics in this case, but it did file testimony from

[5] The Solar Intervenors note that ComEd appears to agree with this interpretation of the Act. See ComEd Ex. 25.0 at 2-3.

a consulting firm recommending "methodological approaches" for the Commission to consider when evaluating the cost-effectiveness of individual performance metrics. (ComEd Exhibit 11.0 at 5) The consultants' proposed methodology identifies a modest annual net benefit of approximately $335,000 per year for the interconnection metric (based entirely on reduced electric service costs for DER customers), but the methodology is flawed because it assumes that these benefits can be achieved at zero net costs. (ComEd Exhibit 11.0 at 45) ("We have assumed a value of zero costs for the purposes of the cost-benefit analysis.") This raises two important questions: (1) If ComEd can reduce interconnection processing time at zero cost, why is it not doing so already? and (2) If ComEd can reduce interconnection processing time at zero cost, why is it requesting millions of dollars in performance incentives in this docket for such an easy and cost-free task?

Solar Intervenors further explain that ComEd's proposed benefit-cost methodology omits the substantial incentive costs (up to $5,852,000 in added earnings or $8,185,000 when grossed up for taxes) that would be paid to the Company if the Company were to achieve its goals under the Interconnection Timeliness Metric.[6] ComEd invites the Commission to effectively divorce its assessment of the cost-effectiveness of any metric

[6] *See* JSP Exhibit 2.0 at 7. If the Company were to achieve between 12 and 15.99 days-saved in 2024, for example, it proposes a 5-basis point incentive of $2,926,000 in additional annual earnings, or $4,092,500 (grossed up for taxes) in additional revenue requirements from customers. If the Company were to achieve 16 or more days-saved, it proposes a 10-basis point incentive of $5,852,000 in added earnings or $8,158,000 when grossed up for taxes. The JSP estimate ComEd's added earnings and incremental revenue requirements based on the Company's estimates that each basis point is worth about $585,200 in increased annual earnings, which when grossed up for taxes is $818,500 per basis point in increased revenue requirement. (*See* JSP Exhibit 1.0 at 25)

from its assessment of the number and cost of the basis points that should be applied to that metric. (ComEd Exhibit 11.0 at 22)

Solar Intervenors assert that the Act does not support ComEd's extraordinary approach. There is no reason that the Commission should disregard incentives—which, if earned by the Company, will be paid by ComEd's customers—when evaluating the costs and benefits associated with any performance metric. Section 16-108.18(e)(2)(F) of the Act requires an incentive level that "ensures benefits exceed costs *for customers.*" 220 ILCS 5/16-108.18(e)(2)(F) (emphasis added). The incentives accruing to ComEd's shareholders are not benefits "for customers." On the contrary, there is no dispute that the incentive received by the Company's shareholders will be paid by the Company's ratepayers through delivery service rates. As such, these incentive payments are "costs" to ratepayers. The statute therefore requires that ComEd reflect incentives as costs in the benefit-cost analysis.

Solar Intervenors posit that ComEd's benefit-cost approach would establish perverse incentives and absurd results because it asks the Commission to ignore the transfer of value from the Company's customers to its shareholders—no matter how large that transfer is. ComEd's approach, taken to its logical conclusion, suggests that the Commission must ignore any imbalance between the potential for shareholder profit and potential customer benefits from a performance incentive mechanism—no matter how large the imbalance between shareholder profit and customer benefit. Nothing in the Act requires this absurd result or compels the Commission to adopt such an interpretation and award a windfall to ComEd's shareholders. To the contrary, the statute expressly prohibits this result.

Solar Intervenors assert that ComEd's reading of the Act, if adopted by the Commission, would encourage the utility to propose increasingly modest performance metrics, at minimum cost to the Company and delivering correspondingly low benefits to customers, just so that the utility had the opportunity to maximize its return to shareholders. The Commission should adopt a methodology that is consistent with CEJA's requirements and accounts for incentives paid to the Company by ratepayers as a cost in its net benefits analysis. This would require the utility to propose performance metrics that deliver customer benefits that outweigh customer costs inclusive of upside incentives, as required by Section 16-108.18(e)(2)(F) of the Act. When the full costs and benefits are viewed from its customers' perspective, as required by law, ComEd's proposed interconnection metric results in substantial net *costs* to customers, as discussed further below.

2. Applying an appropriate benefit-cost methodology that complies with the Act, ComEd's Interconnection Timeliness Metric has a substantial net cost to ratepayers.

Solar Intervenors explain that if ComEd were to correctly reflect the cost associated with the incentive payment it proposes in its benefit-cost analysis, the total cost of the Company's proposed Interconnection Timeliness Metric increases to up to $8,158,000 per year. Based on ComEd's projections, the Interconnection Timeliness Metric would produce total benefits to end-users (not ratepayers) of between $335,167 and $488,793, depending on the number of "days saved." (ComEd Exhibit 11.0 at 45)[7]

[7] ComEd estimates $335,167 in benefits for 12 days saved (ComEd Ex. 11.0 at 45, ComEd Ex. 25.0 at 7), or $27,931 per day saved. ComEd proposes a 10-basis point incentive for 16 days saved in 2024, and the same incentive for 17.5 days saved 2027. (ComEd Ex. 9.0 at 11) 16 days saved multiplied by $27,931 per day saved equals $446,896. 17.5 days saved multiplied by $27,931 per day saved equals $488,793.

Dividing those modest benefits by the significant costs of ComEd's requested basis-point incentives produces a benefit cost ratio of .05 in 2024, rising to .06 in 2027. Put another way, ComEd's proposal would offer the Company's shareholders an enormous windfall in return for an added burden so small that ComEd failed to quantify it. While the Solar Intervenors have explained several other reasons why the Commission should reject ComEd's proposed Interconnection Timeliness Metric, the fact that the Company's proposal is demonstrably cost-*ineffective* is a sufficient basis for the Commission to reject the Company's proposal. Solar Intervenors therefore argue that ComEd's proposal violates 220 ILCS 5/16-108.18(e)(2)(F), which requires "an incentive level that ensures benefits exceed costs for customers."

C. The DERIUV Metric is Cost-effective by Definition.

Solar Intervenors assert that in contrast with ComEd's highly costly Interconnection Performance Metric, the DERIUV metric is, by definition, cost-effective. That is because the incentive paid to the Company under the "DER Utilization for Value" component of the DERIUV metric is indexed to the net ratepayer savings that the Company achieves by deploying and utilizing DERs. (JSP Exhibit 1.0 at 53-54; JSP Exhibit 2.0 at 33-34) The DUV component is designed such that any incentive earned by the Company reflects only a portion of the net savings that ratepayers realize. (JSP Exhibit 2.0 at 33-34) More specifically: JSP and ELPC/VS propose a "Sharing Factor" of 25%, which means that—for example—if the Company were to achieve $5,000,000 in net savings, the Company would earn a $1,000,000 in incentives and customers would realize $4,000,000 in savings.[8] This design ensures that even in a scenario where ComEd earns the maximum

[8] JSP Exhibit 2.4 at 3-4. Under the design of the DERIUV metric, those savings are net of costs, and therefore are net benefits to customers.

incentive under the DERIUV metric (7 basis points per year or $4,096,400), over the course of the four-year rate plan, ComEd's ratepayers will save more money than the incremental costs they will collectively pay through rates, because the Company would have had to achieve $11,700,000 in net savings to earn the entire 5 basis points available under the DUV component of the incentive. The Commission should therefore find that the DERIUV metric meets the Act's cost-effectiveness requirement because, unlike ComEd's proposal, the DERIUV metric "result[s] in an incentive level that ensures benefits exceed costs for customers." 220 ILCS 5/16-108.18(e)(2)(F).

VI. PROPOSED PERFORMANCE METRICS

A. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(i) (reliability, resilience, power quality)

Solar Intervenors' Position

1. ComEd Proposals

ComEd's application and Direct Testimony did not propose a performance metric that focused on reliability and resilience in environmental justice communities as required by Section 16-108.18(e)(2)(A)(i). In response to Staff and other intervenor testimony, however, ComEd put forward a revised Performance Metric Plan on rebuttal which added a new Metric 2 called the "EJ and R3 Communities Reliability and Resiliency Based on SAIDI" metric. ComEd's new Metric 2 would measure the aggregate SAIDI for customers located in Environmental Justice (EJ) communities and low-income communities eligible for grant funding (R3) within ComEd's service territory for each calendar year during the ten-year period 2024 through 2033. (ComEd Exhibit 5.0 at 27)

Solar Intervenors assert that while ComEd's Metric 2 represents an improvement, it still does not fully meet the intent of the Act to establish Illinois as a leader in the area

of locational reliability in environmental justice communities. As Mr. Kenworthy explains in his Rebuttal Testimony, ComEd's metric is "one-dimensional" in that it only considers SAIDI and therefore "ignores other important dimensions of reliability and resilience that are addressed in the RRVC metric." (ELPC-VS Exhibit 2.0 at 7) Further, ComEd's metric does not distinguish between communities that have different geographical and population densities. (*Id*.) Therefore Mr. Kenworthy recommends approval of the Reliability and Resiliency in Vulnerable Communities (RRVC) metric as described below.

2. Other Proposals

The Solar Intervenors support the RRVC metric proposed by EDF/CUB witness Barbeau (CUB/EDF Exhibit 1.0 at 18) and supported by ELPC/VS witness Kenworthy. (ELPC-VS Exhibit 1.0 at 21)

CEJA requires the reliability metric to focus on improvements in locational reliability, resiliency, and power quality, "including and particularly in environmental justice and equity investment eligible communities." 200 ILCS 5/16-108.18(e)(2)(A)(i). Further, the statute requires that "Metrics related to reliability shall be implemented to ensure equitable benefits to environmental justice and equity investment eligible communities, as defined in this Act." 200 ILCS 5/16-108.18(e)(2)(C).

In his direct testimony, Mr. Kenworthy supported EDF/CUB Witness Andrew Barbeau's proposed RRVC metric. (ELPC-VS Exhibit 1.0 at 21) Mr. Kenworthy's testimony discussed steps that other Midwest states have been taking to assess and improve locational reliability, including in Minnesota and Michigan. (*Id.*) He concluded that the proposed RRVC metric "improves on the recent work done in this area in Michigan and Minnesota" (*Id.*)

As noted by Mr. Kenworthy, "CEJA launched Illinois into a leadership role" with a clear statutory intent to ensure equitable service quality in environmental justice and other disadvantaged communities. (ELPC-VS Exhibit 1.0 at 21) Therefore, the Commission should approve Mr. Barbeau's proposed RRVC metric to "ensure that Illinois utilities do not lag behind utilities in neighboring states on developing tools to assess locational reliability and equity." (*Id.*)

3. Basis Points

B. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(ii) (peak load)

Solar Intervenors' Position

1. ComEd Proposals

ComEd proposes a peak load reduction metric that includes counting "new solar programs and projects verified by third-party analysis as being a direct result of ComEd metric activities" toward achieving peak load reduction targets. (ComEd Exhibit 20.0 at 8-9) ComEd's surrebuttal peak demand reduction valuation methodology ascribes only one value to peak load reductions: capacity market cost reductions of $25,170 per MW-year. (*See* AEE Init. Br. at 12 *citing* ComEd Ex. 11.0 at 31)

AEE criticizes ComEd's revised valuation methodology as too narrow and limited because it ignores the substantial value of avoided transmission and distribution (T&D) system costs that result from peak load reductions. (AEE Init. Br. at 12-13) AEE provides examples of avoided T&D system benefits calculated in other jurisdictions and observes that while Illinois does not currently have the regulatory frameworks in place to calculate avoided T&D costs, it does not mean that value is zero. (*Id.* at 13) AEE correctly points out the upcoming Multi-year Integrated Grid Plan proceeding pursuant to 220 ILCS 5/16-

105.17[9] and the additive services investigation proceeding under 220 ILCS 5/16-107.6(e) will be helpful in providing this information, these proceedings do not commence until after the order in this proceeding has been issued. (*Id.* at 15)

2. Other Proposals

Solar Intervenors support the adoption of metrics that specifically incentivize the use of DERs to provide peak load reduction benefits. Solar, energy storage, and other DERs (including EVs) provide substantial peak load reduction potential. (JSP Exhibit 1.0 at 37) While ComEd's proposal indicates that certain verified solar programs and projects could count toward achieving the Company's proposed peak reduction targets, it does not appear that other DERs, such as battery energy storage are included in the Company's proposal. Moreover, it is not clear what criteria a third-party evaluator would use to determine which solar programs or projects are a direct result of "ComEd's metric activities." Thus—as discussed further below—in the event the Commission adopts the Company's peak load reduction proposal, "solar programs and projects" allowed to count toward peak load reduction should include energy storage as well as solar.

Moreover, in the event the Commission approves a peak load reduction metric that counts DERs toward the target goals, peak load reduction from DERs that *exceed* the targets and available basis points approved for the peak load reduction metric should be eligible for incentives under the DERIUV metric. This will ensure the Company is appropriately incentivized to maximize cost-effective peak load reduction benefits from

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9 *See also*, Docket No. 22-0486, *Order Requiring Commonwealth Edison Company to file an Initial Multi-Year Integrated Grid Plan and Initiating Proceeding to Determine Whether the Plan is Reasonable and Complies with the Public Utilities Act.*

DERs, but that it is not double earning incentives for the same peak load reduction benefits under both metrics.

In the event that the Commission approves a peak load reduction metric that does not count DERs toward the achievement of peak reduction targets, any peak load reduction benefits achieved by DERs should be available for incentives under the DERIUV metric, as discussed further below.

Thus, Solar Intervenors urge the Commission to ensure the peak load reduction benefits of DERs are captured under either (a) the DERIUV metric or (b) the peak load reduction **and** the DERIUV metric and ensure the appropriate safeguards are in place to prevent double recovery.

Solar Intervenors also note that AEE recommends the Commission adopt peak load reduction metric targets that take into account the avoided cost information and data that becomes available from the grid planning and related proceedings directed by CEJA. As AEE points out, ComEd's proposed metric omits its own distribution system entirely. (*Id.* at 14) Section 16-101A(g) of the Act specifically identifies the deployment of renewables and demand response resources to "reduce long-term direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure." (*Id.*)

Solar Intervenors support the Commission requiring an accurate and rigorous valuation that includes T&D benefits of peak load reduction.

3. Basis Points

C. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(iii) (supplier diversity)

1. ComEd Proposals

2. Other Proposals

3. Basis Points

D. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(iv) (affordability)

1. ComEd Proposals

2. Other Proposals

3. Basis Points

E. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(v) (interconnection)

Solar Intervenors' Position

Solar Intervenors urge the Commission to reject ComEd's proposed Metric 5 and approve the DERIUV metric proposed in the testimonies of JSP witness Karl Rábago and ELPC/VS witness Will Kenworthy. The statutory language of Metric 5 – referred to herein as the "DER Metric" – contains broad language focused on the deployment, integration, and utilization of DERs to create customer value and "maximiz[e] the benefits of grid modernization and clean energy for ratepayers." 220 ILCS 5/16-108.18(e)(2)(A)(v). Whereas ComEd's Interconnection Timeliness proposal ignores that statutory language, the Solar Intervenors' proposed DERIUV metric faithfully implements it.

1. ComEd Proposals

ComEd's proposed DER Metric provides incentives for the Company to improve the timeliness with which it processes interconnection applications as compared to the

Commission's "Part 466" interconnection standards.[10] The Solar Intervenors support improvements in the Company's performance in processing interconnection applications; however, the Company's proposed metric is unreasonably narrow and does not address the Act's clear intent that utilities also improve their performance in *integrating* DERs into system planning and operations to provide high-quality cost-effective service to customers and deliver on the state's clean energy goals. Moreover, the Company requests the Commission approve $8,185,000 (or $5,852,000 after taxes) per year in performance incentives for the Company to reduce the time it takes to process various interconnection-related tasks under the Part 466 rules.[11] (JSP Exhibit 2.0 at 6-7, *see also id.* at 6*,* FN 5 noting the Company estimates each basis point is worth $818,500 before taxes and $585,200 after taxes.) Improvements in interconnection processing are an important area of focus to support increased deployment of clean energy resources; however, standing alone, these improvements do not deliver on the core objectives of CEJA, which include the actual integration of DERs to maximize the grid modernization and clean energy benefits for ratepayers. Moreover, as discussed above in Section V "Proposed Net Benefits Methodologies," the undisputed evidence produced by ComEd in this docket reveals that its proposed interconnection metric will result in significant net costs to customers, thereby violating the Act's cost-effectiveness requirement at 220 ILCS 5/16-108.18(e)(2)(F). (JSP Exhibit 2.0 at 8; ELPC-VS Ex. 2.0 at 12)

[10] 83 Ill. Adm. Code Part 466.

[11] Assuming the Company's proposal for 10 basis points. Under the Company's alternative proposal recommending 7 basis points if the Commission approves a total of 40 basis points across all metrics, the Company requests the Commission approve annual incentives of $5,729,500 (or $4,095,000 after taxes) (*see* ComEd Exhibit 23.0 at 7).

Rather than demonstrating the cost-effectiveness of its proposal, as required by law, ComEd cites only "feedback in the performance metrics workshops" that stakeholders consider interconnection timeliness to be important. (ComEd Ex. 23.0 at 14) The Solar Intervenors indeed agree that interconnection timeliness is important. The key issue here, however, is whether ComEd has justified over $5 million in incentive payments per year for small improvements on the timelines required by Part 466 and whether such a performance incentive results in "benefits [that] exceed costs for customers" as required by Section 16-108.18(e)(2)(F). ComEd's proposal to earn more than $5 million in incentive payments in exchange for customer benefits of less than $500,000 per year fails to even come close to meeting this standard.

The Company proposes 10 basis points in incentives for achieving the incremental improvement target. This would put ratepayers on the hook for $23,400,000 in increased shareholder earnings after taxes (and $32,740,000 in total ratepayer costs) over the course of the four-year multi-year rate plan in comparison to ComEd's estimated maximum end-user benefits of between $335,167 to $488,793 over the four-year period. (ComEd Exhibit 11.0 at 45) This is a grossly disproportionate level of utility reward to risk and utility reward to ratepayer benefit. In addition to violating the Act's explicit cost-effectiveness requirement, it would be unjust and unreasonable for the Commission to reward ComEd shareholders performance incentive worth between 16 to 23 times the estimated benefits resulting from the Company's activity.

2. Other Proposals

In contrast to the Company's proposal, the Solar Intervenors' proposed DERIUV Metric described in detail below in JSP witness Rábago and ELPC/Vote Solar witness Kenworthy's rebuttal testimony, results in net-benefits to ratepayers by incentivizing the

Company to not only improve interconnection performance, but also *integrate* DERs into its system planning and operations to deliver ratepayer savings, advance Illinois' ambitious clean energy and climate goals, and provide other public benefits.

a. CEJA's Statutory Language for the DER Metric Focuses on DER Integration and Customer Value, Not Just Interconnection Timeliness.

For Metric 5 – the DER Metric— CEJA directs the Commission to adopt:

> **Metrics designed around the utility's timeliness to customer requests for interconnection in key milestone areas, such as: initial response, supplemental review, and system feasibility study**; improved average service reliability index for those customers that have interconnected a distributed renewable energy generation device to the utility's distribution system and are lawfully taking service under an applicable tariff; offering a variety of affordable rate options, including demand response, time of use rates for delivery and supply, real-time pricing rates for supply; comprehensive and predictable net metering, **and maximizing the benefits of grid modernization and clean energy for ratepayers**; and improving customer access to utility system information according to consumer demand and interest.

220 ILCS 5/16-108.18(e)(2)(A)(v) (emphasis added).

As discussed above, ComEd construes this section narrowly to allow for a metric focused solely on timeliness of various steps in the Part 466 interconnection process. However, interconnection "timeliness" is not the sole, or even the overarching, objective of the DER Metric paragraph in CEJA. (220 ILCS 5/16-108.18(e)(2)(A)(v)) Instead, the balance of the paragraph focuses on activities that create *customer benefits* from deployment of DERs, such as "improved average service reliability," and "maximizing the benefits of grid modernization and clean energy for ratepayers." (*Id*.)

Importantly, several of the statutory elements in the DER Metric paragraph require the utility to adopt or implement new programs that create value and other benefits for customers—such as adopting "affordable rate options" such as "demand response, time

of use rates, [and] real-time pricing" or "improving customer access to utility system information." (*Id*.) None of these statutory factors and programs have anything to do with "timeliness" of interconnection. They are all broader activities focused on creating customer and ratepayer *value and other benefits.*

Solar Intervenors explain that ComEd witness Daniel Gabel, who admittedly is not a lawyer, designed the Company's metric based on an erroneous reading of the statute that led him to solely focus on "the utility's timeliness to customer requests for interconnection." (ComEd Ex. 9.0 at 13) Mr. Gabel's narrow interpretation of the statute is incorrect. The plain language of the statute contemplates a much broader set of potential DER-related activities. Indeed, the concept of "timeliness" is limited to the first clause of the paragraph (behind the first semicolon). The words "such as" in the first sentence of the paragraph refer only to the three listed examples of interconnection-related "key milestone areas" under the Part 466 Rules— "initial response, supplemental review, and system feasibility study." "Timeliness of customer requests for interconnection" has nothing to do with the other activities and statutory goals in the remainder of the paragraph, such as "offering a variety of affordable rate options" or "improving customer access to utility system information." (*See* 220 ILCS 5/16-108.18(e)(2)(A)(v)) It therefore would make no sense to read the "such as" clause in the first sentence to swallow the rest of the paragraph. As such, the performance metric adopted pursuant to the DER Metric category should include performance metrics targeting the broad scope of listed categories, including "maximizing the benefits of grid modernization and clean energy for ratepayers"; it is not limited to "timeliness of customer requests to interconnection."

All of the traditional rules of statutory interpretation support a broader reading of the statute than that offered by ComEd. First, the Commission "should construe a statute to give a reasonable meaning to all words and sentences so that no part is rendered superfluous." (*People v. Glisson*, 202 Ill. 2d 499, 505, 782 N.E.2d 251, 255 (2002)) ComEd's narrow focus on "timeliness" would render the majority of the paragraph superfluous. Second, the Commission "should evaluate a statutory provision as a whole rather than reading phrases in isolation." (*Id.* at 506) When read in the context of CEJA as a whole, the DER Metric category clearly reflects the General Assembly's intent for the Commission to adopt metrics that advance fundamental objectives in improving utility performance in facilitating the interconnection *and integration* of energy storage, solar energy, electric vehicles, and other DER technologies into utility planning and system operations. The goal is not just "more" DERs interconnected more quickly, but the *integration* of these resources into the utility planning and system operations to "substantially change the makeup of the grid and protect Illinois residents and businesses from potential economic and environmental harm from the State's energy systems." (*See* 220 ILCS 5/16-108.18(a)(1))

Indeed, CEJA directs that the PBR framework be designed to accomplish, among other objectives, directing "electric utilities to make cost-effective investments that support achievement of Illinois' clean energy policies, *including, at a minimum, investments designed to integrate distributed energy resources* . . .." and choose cost-effective assets and services, whether utility-supplied *or through third-party contracting* . . . to deliver high-quality service to customers at least cost." (220 ILCS 5/16-108.18(c)(3)-(4) (emphasis added))

The "urgency around addressing the increasing threats from climate change and assisting communities that have borne disproportionate impacts from climate change []" and the need for "urgently moving electric utilities toward the State's ambitious energy policy goals []" 220 ILCS 5/16-108.18(a)(2), (4) underscores the need to align the Company's earning opportunities with the integration of DERs through the metrics developed in this proceeding. The DER Metric approved by the Commission should therefore reflect the urgent need for the Company to integrate DERs into system planning and operations to deliver ratepayer savings, meet clean energy and climate goals, and provide other public benefits described in CEJA.

Solar Intervenors assert that in light of this broader statutory context, it would lead to an absurd result to read the "such as" clause in the DER Metric category to swallow the entire paragraph in a way that would reduce the scope of the Metric to be merely about "timeliness" of customer interconnection. That is clearly not what the legislature intended when it adopted the broad DER-related goals in CEJA. *Glisson*, 202 Ill. 2d at 505 ("courts may assume that the legislature did not intend absurdity, inconvenience or injustice to result from legislation"). The Commission should reject ComEd's unreasonably narrow reading of the DER Metric category and interpret this section of the Act to require a performance metric that includes steps the Company can take to integrate, deploy, and utilize DERs to "maximiz[e] the benefits of grid modernization and clean energy for ratepayers." (220 ILCS 5/16-108.18(e)(2)(A)(v))

b. Solar Intervenors' Proposed DERIUV Metric Reflects the Broader Intent of the DER Metric to Create Grid Value and Customer Benefits.

Solar Intervenors explain that the DERIUV metric combines two of the major statutory elements identified in the Act's DER Metric category: improving utility

performance in (1) interconnection processing and (2) integrating DERs to maximize the benefits of grid modernization and clean energy for ratepayers. (*See* 220 ILCS 5/16-108.18(e)(2)(A)(v)) Improvement in utility performance on interconnection timeliness improves the developer and customer experience in DER installation. Improvement in the integration of DERs to meet grid needs ensures that the deployment of DERs creates grid value in a manner that provides benefits of grid modernization and clean energy to all ratepayers. Together, the component parts of the DERIUV metric measure two performance categories specifically identified in the DER Metric category of the Act to deliver on key CEJA objectives.

ELPC/VS witness Will Kenworthy presents Part I of the combined DERIUV metric—the Interconnection Index. (ELPC/VS Exhibit 2.0) The Interconnection Index proposed by Mr. Kenworthy is based on ComEd's Baseline and Target Performance sections of ComEd's interconnection timeliness metric (Sections V(A)(i) and V(A)(ii) of ComEd Ex. 4.01 at 12-13) The specific methodology for calculating incentives and penalties is explained in JSP Exhibit 2.4.

JSP witness Karl Rábago presents Part II of the combined DERIUV metric—the DER Utilization for Value (DUV) component. (JSP Exhibit 2.0) The DUV component measures the utility's performance in utilizing DERs to maximize grid modernization and clean energy benefits for ratepayers. The DUV component incentivizes the utility to facilitate the integration and utilization of DERs by: (1) identifying grid needs that can be beneficially and cost-effectively served by DERs, and (2) implementing the programs and other market participation pathways needed to unlock that value. The DUV component is

fundamentally anchored in aligning the utility's earning opportunity with achieving the CEJA goals of maximizing grid modernization and clean energy benefits.

While the DERIUV metric does indeed have two components, it is not "two separate and distinct metrics" as ComEd witness Gabel asserts in his surrebuttal testimony. (ComEd Exhibit 23.0 at 18) As further explained below, the DERIUV has a symmetric upside incentive and downside penalty across all four years of the performance period. The two components of the DERIUV metric, working in tandem, target the deployment and utilization of DER, as envisioned by Section 16-108.18(e)(2)(A)(v) of the Act. If the Commission adopts the DERIUV metric, ComEd's performance with respect to deploying and integrating DERs will result in a single incentive or penalty value in any given year—just like any of the other performance metrics that the Commission will approve. Contrary to Mr. Gabel's assertions, therefore, the Solar Intervenors' proposal does not require the Commission to approve *two* separate metrics. The mechanics for implementing the DERIUV metric are summarized in a shared exhibit attached to Mr. Kenworthy and Mr. Rábago's respective rebuttal testimonies and further detailed below. (ELPC/VS Ex. 2.01R; JSP Ex. 2.4)

i. Calculation Method

The Interconnection Index component of the metric provides incentives and penalties tied to the Company's performance in completing interconnection tasks (Tasks) identified in the Part 466 interconnection rules. The Interconnection Index largely adopts the Metric Description and Baseline and Target Performance sections of ComEd's Metric 7 (Sections V(A)(i) and V(A)(ii) of ComEd Exhibit 4.01 at 12-13) but proposes an alternative incentive and penalty structure discussed below.

The DUV component is an "upside only" component to the metric with earning incentives tied to the Company achieving net savings by utilizing DERs to provide grid services.[12] As described in more detail in Mr. Rabago's testimony, the specific value of net savings from DER-related grid services will be established, in part, through the Commission-led investigation into DER value and "additive services" under Section 16-107.6(e) of the Act. Because no additive services value has been identified or captured in prior years, the baseline is $0. "Net savings" reflects the customer and system savings after accounting for program costs, including any return allowed on additive service rebates under 220 ILCS 5/16-107.6(e). To provide substantial benefits to customers and a reasonable earning incentive to the utility, customers would retain 75% of the net savings and the Company would earn 25% of the net savings, up to the cap of 5 basis points. The total incentive amount the Company can earn is calculated by multiplying the net savings times 25% (the Company's "Sharing Factor"). If net savings are greater than the amount equal to five basis points, 100% net savings greater than the 5-basis point cap would accrue to ratepayers.

The incentive level of compensation for DUV is calculated by the following formulae:

(1) Realized System Savings – Program Costs = Net Savings

(2) Net Savings X Sharing Factor = Incentive Amount ($)

(3) Incentive Amount / Revenue Requirement per Basis Point = Incentive Amount (BP)

[12] "Upside only" means that there are no penalties attached to this part of the metric. Overall symmetry is achieved through the combination of both parts of the combined DERIUV metric, as explained below.

The following table from Mr. Rábago and Mr. Kenworthy's joint exhibit illustrates the calculation method and results.

Sample Incentive Earnings for DER Value

Net Savings = Realized system savings - program costs
1 basis point = $585,000 in incentives
Sharing Factor = 25% of Net Savings
Maximum Incentive = $2,925,000 (5 basis points)

Net Savings	Sharing Factor	Incentive ($)	Incentive (BP)
$500,000	25%	$125,000	0.21
$1,000,000	25%	$250,000	0.43
$2,000,000	25%	$500,000	0.85
$3,000,000	25%	$750,000	1.28
$4,000,000	25%	$1,000,000	1.71
$5,000,000	25%	$1,250,000	2.14
$6,000,000	25%	$1,500,000	2.56
$7,000,000	25%	$1,750,000	2.99
$8,000,000	25%	$2,000,000	3.42
$9,000,000	25%	$2,250,000	3.85
$10,000,000	25%	$2,500,000	4.27
$11,000,000	25%	$2,750,000	4.70
$11,700,000	25%	$2,925,000	5.00
> $11,700,000	25%	$2,925,000	5.00

(ELPC/VS Exhibit 2.01R; JSP Exhibit 2.4)

ii. Data Collection Method

The Interconnection Index component is calculated using data collected by the Company in its interconnection review process under Part 466. Data on interconnection application processing timelines, including all data required to calculate the metrics will be reported quarterly.

The DUV component is calculated using data collected through the Multi-Year Integrated Grid Plan and Additive Services processes under Section 16-107.6(e) of the Act, as well as data associated with DER deployment and operations through other utility tracking metrics. The utility would track interconnection rates, system sizes and design,

operating hours, circuit conditions, and operation of DER programs and tariffs targeting specific grid needs in order to demonstrate savings achieved.

iii. Annual Performance Targets

As described above, the Interconnection Index component uses the revised methodology proposed by ComEd in rebuttal, with some minor modifications. The output of that calculation is a "Days Saved" index that is a weighted average of the number of days saved for all interconnection customers. The baseline for this performance metric will be the total number of business days set forth in the Part 466 interconnection rules for utility-performed tasks related to interconnection requests. In order to earn an incentive in any year, ComEd must achieve an increase in the number of days saved, in comparison to the days allotted under the Commission's Rules. The Part I performance target bands are the same as ComEd's proposal:

Table 2: Performance Targets

Year	Incremental Annual Target	Performance Bands				
		Band 1	Band 2	Deadband	Band 3	Band 4
Yr 1	12	-4.01 or lower	-4.00 to -0.01	0 to 11.99	12 to 15.99	16.00 or greater
Yr 2	12.5	-3.51 or lower	-3.50 to -0.01	0 to 12.49	12.50 to 16.49	16.50 or greater
Yr 3	13	-3.01 or lower	-3.00 to -0.01	0 to 12.99	13.00 to 16.99	17.00 or greater
Yr 4	13.5	-2.99 or lower	-2.50 to -0.01	0 to 13.49	13.50 to 17.49	17.50 or greater

The DUV component is a shared savings mechanism that allows the utility to earn up to 5 basis points derived from the Company's Sharing Factor of the net savings achieved. The DUV metric would not take effect until rate-year 2 of the Company's multi-year rate plan. This provides time to complete the Commission's Multi-Year Integrated Grid Plan and Additive Services Investigation proceedings, which will commence by no later than January 20, 2023 and June 30, 2023 respectively.

iv. Incentives and Penalties

The combined interconnection and DUV components are designed to provide a penalty and incentive structure where the Company's exposure to both upside and downside risk are symmetrical.

The interconnection component includes both incentives and penalties based on the annual performance targets in the table above for ten years. For the first year of the Company's Multi-Year Rate Plan, the maximum upside and downside potential is 2 basis points. For rate years 2-4, the upside remains at 2 basis points while the downside potential increases to 7 basis points for missing interconnection deadlines. The increase in downside exposure reflects the fact that the utility is required by regulation to meet the baseline interconnection timelines and provides for overall symmetry with DERIUV metric as a whole for rate years 2-4 when the DUV component becomes effective starting in rate-year 2.

Table 3: Interconnection Index Incentives and Penalties

Metric 7 Performance Band	Band 1	Band 2	Deadband	Band 3	Band 4
Year 1	-2 BP	-1 BP	0 BP	1 BP	2 BP
Years 2-4	-7 BP	-3.5 BP	0 BP	1 BP	2 BP

The DUV component provides an "upside" incentive not to exceed 5 basis points calculated and adjusted annually based on prior year performance. There are no penalties associated with the DUV metric. When combined with the Interconnection Index, the overall penalties and incentives for the combined DERIUV metric are symmetrical, as demonstrated in the table below.

Table 4: Combined Incentives and Penalties

	Yr1	Yr2	Yr3	Yr4
Part I	-2 BP to +2 BP	-7 BP to +2 BP	-7 BP to +2 BP	-7 BP to +2 BP
Part II	N/A	0 to +5 BP	0 to +5 BP	0 to +5 BP
Combined	**-2 BP to +2 BP**	**-7 BP to +7 BP**	**-7 BP to +7 BP**	**-7 BP to +7 BP**

c. Solar Intervenors' Proposed DERIUV Metric is within the Utility's Control and is not Expected to Reduce the Workforce

CEJA requires that performance metrics be "reasonably within control of the utility to achieve" and not be "solely expected to have the effect of reducing the workforce." (220 ILCS 5/16-108.18(e)(2)(D)) Both components of the DERIUV metric are within the "reasonable control of utility to achieve" and neither is expected to have the effect of reducing the workforce.

The interconnection component of the DERIUV metric is reasonably within control of the utility to achieve. Indeed, the Company concedes through its own proposed interconnection metric that it controls the resources and time necessary to improve the processing of interconnection tasks.

The DUV component is also reasonably within the control of the Company to achieve. The Company exercises enormous control over the utility platform upon which DERs operate and are integrated with the grid and through which customers interact with the utility. As discussed by JSP witness Rábago, the Company exercises enormous control over the individual customer experience from the time the customer applies for interconnection through the customer's participation in DER programs as well as the identification of grid needs and the implementation of programs that provide the market participation pathway for DERs to meet those needs. (*See* JSP Exhibit 1.0 at 55-57)

Solar Intervenors further assert that the Company's claim that it does not exercise control over key elements of DUV metric is unsupported and directly contradicted by other metrics proposed by ComEd. First, ComEd asserts the DUV component is not within its control because "utilities do not control how many customers actually adopt these technologies, or the extent to which they may sign up for programs that may influence ComEd's performance against goals of a DUV metric as described in Mr. Rábago's testimony." (ComEd Exhibit 9.0 at 20) This argument is soundly contradicted by Company witness Kirchman's proposed peak demand reduction metric for which the Company proposes to achieve peak reduction targets through certain solar programs and projects and energy efficiency measures. (ComEd Exhibit 20.0 at 8-9) In response to information requests, the Company confirmed that the outcomes associated with the incentives and penalties in its rebuttal peak load reduction metric are within the Company's control stating "ComEd believes that the modified Peak Load reduction metric as presented in Kirchman Reb., ComEd Ex. 6.0 is practicable and reasonably within ComEd's control to achieve." (JSP Cross Exhibit 7)

The Company cannot on the one hand argue that future DERs programs and projects over which it does not control customer adoption or enrollment are sufficiently within its control to count toward its peak reduction metric, and then on the other hand credibly argue that future DER programs and projects are not sufficiently within its control to count toward the DERIUV metric. Further undermining the Company's argument is that the Company's role in facilitating the customer adoption and enrollment in DER programs is very similar to the Company's role in implementing energy efficiency programs.

Similar to customer adoption and installation of DERs, the Company does not ultimately control the installation and deployment of energy efficiency measures or whether any individual customer ultimately chooses to adopt an energy efficiency measure or enroll in an energy efficiency program. However, like with DER programs the Company plays an essential role in energy efficiency program development, education, marketing, working with third party installers, and multiple other facets of implementing statutorily required energy efficiency programs. (*See* JSP Exhibit 2.0 at 21-22) Through its essential role in energy efficiency program development and deployment, the Company exercises "reasonable control" over its ability to achieve the energy efficiency targets established by the Commission.

Indeed, the Company exercises such substantial control over energy efficiency implementation that it has consistently achieved its program targets to earn statutorily authorized incentives. (*See* JSP Cross Exhibit 6; JSP Exhibit 2.0 at 22, fn 35; ComEd Exhibit 20.0 at 8-9)[13] Thus, despite the fact that ComEd does not control the installation of all its efficiency measures on customer premises, has not identified specific customers who would participate in those energy efficiency programs, and that customers must

[13] The Company's proposed Peak Load Reduction Metric would allow the Company to count toward its peak reduction target "Energy Efficiency programs designed for this metric that are not incentivized through the ComEd Energy Efficiency and Demand Response Plans pursuant to Section 8-103B." This
exposes fundamental inconsistencies in the Company's position regarding the extent of its control in implementing energy efficiency programs vs. DER programs - both of which depend on customer adoption and enrollment in programs to meet the peak demand reduction performance target and the DUV performance target, respectively, despite that the Company does not directly control whether a customer adopts the energy efficiency measure or DER technology or enrolls in the respective program.

agree to participate in those programs since ComEd does not require customer participation. (JSP Cross Exhibit 3; JSP Cross Exhibit 4; JSP Cross Exhibit 7)

As such, similar to its energy efficiency programs, while ComEd does not directly control the installation or deployment of DERs, or whether any individual customer ultimately decides to adopt DERs or elect to participate in DER programs, it exerts enormous control over visibility into grid conditions and needs, DER hosting capacity, DER program design and implementation, customer outreach and education, working with third party installers, and multiple other facets of the grid planning and additive services investigation required by CEJA. (JSP Exhibit 1.0 at 55-58; JSP Exhibit 2.0 at 13-16) Through its essential role in DER program development and deployment, the Company has a strong influence on the overall growth of the DER market in its service territory. As such, the DUV component of the DERIUV metric is "reasonably within control of the utility to achieve" as that term is used in Section 16-108.18(e)(2)(D) of the Act.

Second, ComEd also contends the DUV component relies on the results of future proceedings outside the Company's control. (ComEd Exhibit 9.0 at 17) As discussed in the following subpart, the Company's assertion that the DUV component is not within its control because it relies on values and services that will be established in future proceedings is similarly unsupported. CEJA provides clear directives to Illinois' utilities and a detailed framework for how utilities shall integrate DERs into their system operations to deliver ratepayer value. There is no question that ComEd exercises reasonable control over the processes necessary to achieve the DUV component of the DERIUV metric.

d. The Commission Will Establish the Details for Achieving the DERIUV Metric through the forthcoming Multi-Year Integrated Grid Plan and Additive Services Investigation Proceedings.

As described in the Statutory Framework section above, CEJA requires the Commission to approve performance metrics in this docket, but reserves the specific implementation details for future proceedings. (*See* 220 ILCS 5/16-105.17(f)(2)(J) (identifying the Multi-Year Integrated Grid Plan as the place where the utilities must propose "[a] detailed plan" for achieving the performance metrics approved by the Commission in this docket); 220 ILCS 5/16-105.17(f)(1)(B) (requiring Grid Plans to "propose distribution system investment programs, policies, and plans designed to … achieve the metrics approved by the Commission" in this docket.))

ComEd's first Multi-Year Integrated Grid Plan (to be filed on January 20, 2023) will serve as the foundation for achieving the DERIUV metric proposed by Mr. Rábago and Mr. Kenworthy. Section 16-105.17 states that Grid Plans must include:

> (G) **An evaluation of the short-term and long-run benefits and costs of distributed energy resources located on the distribution system**, including, but not limited to, the locational, temporal, and performance-based benefits and costs of distributed energy resources. The utility shall use the results of this evaluation to inform its analysis of Solution Sourcing Opportunities, including nonwires alternatives, under subparagraph (K) of paragraph (2) subsection (f) of this Section. The Commission may use the data produced through this evaluation to, among other use-cases, **inform the Commission's investigation and establishment of tariffs and compensation for distributed energy resources interconnecting to the utility's distribution system**, including rebates provided by the electric utility pursuant to Section 16-107.6 of this Act."

(220 ILCS 5/16-105.17(f)(2)(G) (emphasis added)) Section 16-105.17(d)(1) specifically requires the Grid Plan be designed to "**support efforts to bring the benefits of grid modernization and clean energy, including, but not limited to, deployment of distributed energy resources**." (220 ILCS 5/16-105.17(d)(1) (emphasis added)) Section

16-105.17(f)(2) further requires ComEd's grid plan to include a comprehensive suite of information specifically related to DER integration with the distribution system, including:

> (B) Detailed descriptions of the operating conditions of the distribution system and supporting data on DERs deployed on the system by type, size, customer class, and geographic dispersion; along with system load and peak demand forecast information for the next 5 years, and up to 10 years, with distributed energy resources and energy efficiency factored into the forecast.
>
> (C) Financial data on maintenance, the total amount of investments associated with the integration of DERs, the total amount of charges to DER developers and retail customers for interconnection of DERs to the distribution system.
>
> (D) System data on DERs on the utility's distribution system, including the total number and nameplate capacity of DERs that completed interconnection in the prior year, current DER deployment by type, size, and geographic dispersion, and other data as requested by the Commission or determined by Commission rules.
>
> (E) Hosting capacity analysis results that include mapping and GIS capability.
>
> ….
>
> (J) A detailed plan for achieving the applicable metrics that were approved by the Commission for the utility pursuant to the performance metrics established in this proceeding.
>
> (K) Identification of potential cost-effective solutions from nontraditional and third-party owned investments that could meet anticipated grid needs, including, but not limited to, distributed energy resources procurements, tariffs or contracts, programmatic solutions, rate design options, technologies or programs that facilitate load flexibility, nonwires alternatives, and other solutions that are intended to meet the objectives described at subsection (d).

In sum, the Grid Plans must include "holistic consideration" of all the other related utility programs and "comprehensively detail" and "coordinate" their implementation "in order to maximize the benefits" of each. (220 ILCS 5/16-105.17(f)(4))

Following approval of ComEd's first Grid Plan, the Act directs the Commission to open an investigation by no later than June 30, 2023 "into the value of, and compensation for, distributed energy resources." (220 ILCS 5/16-107.6(e)) This DER value investigation must identify a "base rebate" for "system-wide grid services" but also additional compensation for "additive services."

> (3) The Commission shall also determine, as a part of its investigation under this subsection, whether distributed energy resources can provide any additive services. Those additive services may include services that are provided through utility-controlled responses to grid conditions. If the Commission determines that distributed energy resources can provide additive grid services, the Commission shall determine the terms and conditions for the operation and compensation of those services. That compensation shall be above and beyond the base rebate that the distributed energy generation, community renewable generation project and energy storage system receives. Compensation for additive services may vary by location, time, performance characteristics.

(220 ILCS 5/16-107.6(e)(3)) "Additive services" include, but are not limited to, "any geographic, time-based, performance based and other benefits of distributed energy resources, as well as the present and future technological capabilities of distributed energy resources and present and future grid needs." (220 ILCS 5/16-107.6(a))

ComEd's additive service tariffs developed pursuant to the Section 16-107.6(e) investigation must use "inputs" derived from the Grid Plans. (*See* 220 ILCS 5/16-107.6(e)(2), (5)) The Act establishes a goal to have these new DER value tariffs in place by December 31, 2024. (*See* 220 ILCS 5/16-107.6(a) (defining "threshold date" for implementation of "new compensation values" established by subsection (e) investigation.))

The DUV component of the DERIUV metric directly ties this metrics proceeding to achievement of the Grid Plan and Additive Service investigation proceeding goals by establishing meaningful and achievable targets for the Company to develop plans related

to DER deployment and utilization to deliver the "grid modernization and clean energy benefits" of DERs to ratepayers. As explained in JSP Exhibit 2.4, the data collected and developed through the Multi-Year Integrated Grid Plan and Additive Services investigation proceedings, as well as data associated with DER deployment and operations through other utility tracking metrics will be used to support the DUV component. Ultimately, the DUV component provides ComEd with an opportunity to earn "shared savings" to the extent that it can create net customer value through "Additive Services" acquired through its DG rebate tariff. *Id.* Importantly, the metric is structured so that "Customers receive the majority of the benefits from success under the DUV metric" *id.*; thereby ensuring that the DERIUV metric as a whole delivers net benefits to ratepayers.

CEJA's structure makes clear that the programs for achieving the utility's new performance metrics will be implemented over time, not created from scratch in this docket. CEJA establishes the following overlapping proceedings and deadlines:

- This PBR metrics proceeding must be decided by September 30, 2022. (220 ILCS 5/16-108.18(e)(6)(A));
- Multi-Year Integrated Grid Plan cases shall open by January 20, 2023 and be decided by December 15, 2023. (220 ILCS 5/16-105.17(f));
- Multi-Year Rate Plan proceeding shall open by January 20, 2023 (220 ILCS 5/16-108.18(d)(1)) and will likely be consolidated with the Grid Plan proceedings (220 ILCS 5/16-108.18(d)(12));
- The PBR "performance period" shall not commence prior to January 1, 2024. (220 ILCS 5/16-108.18(e)(6)(A)); and
- The DG Rebate value investigation shall open by June 30, 2023 with DER tariffs in place by January 2025. (220 ILCS 5/16-107.6(e)).

This PBR metrics docket is the first step in a series of proceedings that together are aimed at aligning the utility business model with achieving public interest goals

defined in CEJA. The Commission does not need to and should not try to solve every implementation detail in this case. Instead, the Commission should follow the process established in CEJA to adopt the goals and incentive framework set forth in the DERIUV metric, and allow additional implementation details (*e.g.,* specific grid services, values and programs) to be defined through the Multi-Year Grid Plans and Additive Services investigation proceedings. (*See* JSP Exhibit 1.0 at 48-50)

To illustrate the substantial potential that DERs offer to provide these additive services, JSP witness Rábago described multiple services that are likely to be identified through Grid Plan and Additive Services investigation proceedings, including non-wires alternatives (NWAs), peak load reduction, and other temporal and locational values. Mr. Rábago also provided examples of programs implemented in other states to unlock and deliver that value to ratepayers. (*See* JSP Exhibit 2.0 at 11-15, 19-21, 32-33; *see also* JSP Exhibit 2.1, JSP Exhibit 2.2, and JSP Exhibit 2.3) As summarized by Mr. Rábago, ComEd is not starting from scratch in exploring opportunities to maximize the benefits of grid modernization and clean energy through the use of DERs. Other states and utilities have demonstrated the opportunity and developed programs to unlock this value that could be adapted to meet needs in ComEd's service territory. (JSP Exhibit 2.0 at 20-21, JSP Exhibit 2.1, JSP Exhibit 2.2, JSP Exhibit 2.3)

To put a finer point on the opportunity to identify and capture the value from DERs, JSP Exhibit 2.1 provides a non-exclusive list of programs implemented in other states to capture a wide range of grid values from DERs. As Mr. Rábago points out, "The costs and benefits of any particular program will vary by state and utility; however, **the potential for DER to provide net benefits to ratepayers and the ability to unlock these**

benefits through programmatic and other market participation pathways is well documented." (JSP Exhibit 2.1 at 32-33 (emphasis added))

The DUV component incentivizes ComEd to meaningfully engage in the Grid Plan and Additive Service investigation proceedings to identify that DER value and develop the programs and other market participation pathways to unlock that value. The DERIUV metric is therefore reasonably within control of the Company to achieve.

e. Solar Intervenors' DERIUV metric is the only metric proposed in the DER Metric category that results in net-benefits to ratepayers.

Staff's testimony presents a slightly modified version of ComEd's interconnection metric, but Staff's modified "days saved" proposal continues to violate the Act's requirement that benefits exceed costs for customers. Staff criticized ComEd's proposal on multiple grounds, including that "there is absolutely no evidence that the qualitative benefits exceed the cost of awarding ComEd additional basis points"; and recommends the Commission reject ComEd's proposal in favor of Staff's proposal. Staff Init. Br. at 55-56.[14] Staff's proposal suggests minor modifications to the deadband as compared ComEd's proposal, but fails to explain how its modifications would fix the substantial gap between annual customer costs (in excess of $8 million per year) and annual participant benefits (of less than $400,000 per year). (*Id.*) IIEC recommends the Commission reject

[14] Staff concludes that "With respect to the direct benefits and costs, it appears that the benefits exceed the costs. This is true regardless of how meager the benefits may be since the incremental costs are assumed to be zero." As discussed in Solar Intervenors' Initial Brief and as Staff acknowledge, the benefits appear to exceed costs only if you ignore the cost side of the equation, which skews the results and is not supported by a plain reading of the statute. Importantly, ComEd's approach ignores the very real cost that customers will experience to reward ComEd's shareholders more than $8 million per year.

ComEd's metric, but in the event it approves an interconnection related metric, IIEC endorses Staff's proposal. (IIEC Init. Br. at 29-33) IIEC's testimony also fails to explain how Staff's proposal could possibly be cost-beneficial, as required by the Act.

Solar Intervenors' explain that the DERIUV metric is the only metric proposed in the DER Metric category that results in net benefits to ratepayers. The DERIUV metric incentivizes the Company to (1) improve interconnection performance, and (2) integrate DERs into its system planning and operations to deliver ratepayer savings, advance Illinois' ambitious clean energy and climate goals, and provide other public benefits. (Solar Intervenors' Init. Br. at 23) It is likely for this reason that the Citizens Utility Board– the entity that is statutorily required to "represent and protect the interests of the residential utility consumers of this State"–supports the DERIUV metric. (220 ILCS 10/5; *see* CUB/EDF Init. Br. at 36-38)

While ComEd and Staff's proposed Interconnection Timeliness metrics should not and legally cannot be approved as a stand-alone metric for the reasons described by Solar Intervenors, it is appropriate to adopt targets for improved interconnection timeliness with modest incentives targeting these improvements. As such, Solar Intervenors included ComEd's Days Saved framework and targets in their rebuttal proposal for the two-part DERIUV metric; but with important modifications to the incentives and penalties structure to ensure that the overall metric is cost-beneficial to customers. The changes reflect the fact that ComEd is already required by the Part 466 rules to meet interconnection timelines, so penalties are increased in rate years 2-4 to hold the utility accountable if it fails to meet the timelines. The DUV component of the DERIUV metric establishes an upside-only incentive starting in rate year 3 based on a

shared-savings mechanism that encourages the Company to maximize opportunities to unlock the value of DERs for customers through the integrated grid plan and additive services investigation proceedings. As Solar Intervenors describe, the upside only aspect of the DUV design acknowledges that these activities are part of an evolution in utility planning and operation and therefore attaching a penalty to this component of the DERIUV metric is not appropriate at this juncture. (*See* Solar Intervenors Init. Br. at 21-40)

f. ComEd's criticisms of the DERIUV metric are meritless.

ComEd opposes the DERIUV metric on the grounds that it is (1) "two metrics, not one"; (2) the DUV component "is based on unknown factors and yet-to-be determined outcomes" and "is actually focused on the value of DER"; (3) the component parts "have inappropriately asymmetrical penalty and incentive structures"; and (4) the DUV component is focused on DER construction which is not under the control of the utility. (ComEd Init. Br. at 80) Solar Intervenors explain that none of ComEd's criticisms have merit.

First, the DERIUV metric is a single metric that measures utility performance against two of the five target areas for utility performance improvement listed in the DER Metric category of the Act. Nothing in the statute prohibits the Commission from adopting a metric that achieves multiple target outcomes for any particular metric category. Indeed, 220 ILCS 5/16-108.18(e)(2)(A)(v) includes a broad suite of goals, including metrics designed around:

- **the utility's timeliness to customer requests for interconnection in key milestone areas,** such as: initial response, supplemental review, and system feasibility study;
- improved average service reliability index for those customers that have

interconnected a distributed renewable energy generation device to the utility's distribution system and are lawfully taking service under an applicable tariff;
- offering a variety of affordable rate options, including demand response, time of use rates for delivery and supply, real-time pricing rates for supply;
- comprehensive and predictable net metering, and **maximizing the benefits of grid modernization and clean energy for ratepayers;** and
- improving customer access to utility system information according to consumer demand and interest.

The plain language of the statute indicates the General Assembly's clear intent for this category to target multiple areas of utility performance from which the Commission must adopt metrics. The DERIUV metric combines two of these core topic areas into a single performance metric tying together utility improvement in interconnection (*i.e.*, deployment of DERs) with maximizing the benefits of grid modernization and clean energy for ratepayers (*i.e.*, integration and utilization of the interconnected DERs). The DERIUV metric is a substantial improvement over ComEd and Staff's proposals which focus solely on interconnection timeliness, which is just one of the multiple topic areas referenced by Section 16-108.18(e)(2)(A)(v). In addition to incentivizing interconnection performance improvement, the DERIUV metric incentivizes the Company to develop the programs and other market participation pathways necessary for DERs to deliver the broader grid modernization and clean energy benefits envisioned by CEJA. The broad language in the DER metric category reflects the legislature's intent for Illinois utilities to both walk and chew gum when it comes to DERs. Other states are deploying similar programs to do just that. *See, e.g.* JSP Exhibit 2.0 at 20-21, 32-33; JSP Exhibit 2.1 (detailing efforts by electric utilities in other states to accelerate and strengthen their reliance on DERs to achieve operational savings and improved system performance). Aligning utility earning opportunities with achieving these multiple goals—as the DUV component does—reflects the broader intent of the statute, which encourages metrics

designed around "maximizing the benefits of grid modernization and clean energy for ratepayers." (220 ILCS 5/16-108.18(e)(2)(A)(v))

To the extent the Commission interprets the statute as ambiguous as to whether it may adopt a metric that achieves multiple outcomes under 16-108.18(e)(2)(A)(v), the Commission should interpret its authority consistent with the broad intent of CEJA read in context with the related provisions in the Act. All of the traditional rules of statutory interpretation support a broader reading of the statute than that offered by ComEd. First, the Commission "should construe a statute to give a reasonable meaning to all words and sentences so that no part is rendered superfluous." (*People v. Glisson*, 202 Ill. 2d 499, 505, 782 N.E.2d 251, 255 (2002)) ComEd's narrow focus on "timeliness" would render the majority of the DER Metric category paragraph superfluous. Second, the Commission "should evaluate a statutory provision as a whole rather than reading phrases in isolation." *Id.* at 506. When read in the context of CEJA as a whole, the DER Metric category clearly reflects the General Assembly's intent for the Commission to adopt metrics that advance fundamental objectives in improving utility performance on a broad suite of DER related areas. (*See* Solar Intervenors Init. Br. at 25)

Indeed, CEJA directs the Commission to design the PBR framework to accomplish, among other objectives, directing "electric utilities to make cost-effective investments that support achievement of Illinois' clean energy policies, *including, at a minimum, investments designed to integrate distributed energy resources* . . .." and "choose cost-effective assets and services, whether utility supplied or through third-party contracting . . . to deliver high-quality service to customers at least cost." (220 ILCS 5/16-108.18(c)(3)-(4) (emphasis added)) It is simply not possible to achieve these fundamental

PBR design objectives by limiting the targets and incentives established for the DER Metric category to interconnection timeliness as proposed by ComEd. CEJA sets forth fundamental utility transformation goals that require utilities to *integrate* DERs into their system planning and operations as a grid resource (*i.e.*, "maximize the benefits of grid modernization and clean energy for ratepayers").

Further, assuming arguendo that the Commission agreed with the Company's suggestion that the DERIUV metric is "really two metrics, not one" and therefore cannot be approved (both suggestions Solar Intervenors reject), the Commission has discretion to adopt the component parts of the DERIUV metric as two individual metrics while maintaining the structure and respective basis point allocations. CEJA provides the Commission may approve up to *eight* PIMs, with *at least one* from each of six designated statutory categories. (220 ILCS 5/16- 108.18(e)(2)) Given that DER integration is a core theme of CEJA, it would be entirely in keeping with the statutory intent to develop multiple performance metrics targeting utility improvement under the DER Metric category.

Second, the Company's argument that the DUV component of the DERIUV metric "is based on unknown factors and yet-to-be determined outcomes" is inconsistent with its acknowledgment later in its brief (pp. 102-103) that multiple details critical to the implementation of the metrics approved in this proceeding will in fact be determined in future proceedings, including the Multi-Year Integrated Grid Plans, *and that this feature is part of the intended design of CEJA*. Indeed, ComEd specifically cites CEJA's statutory language requiring utilities to "submit a plan for achieving the metrics in a future proceeding" as a reason why all of the details regarding implementation of the performance metrics need not be worked out in this docket. (ComEd Init. Br. at 102-103,

citing 220 ILCS 5/16-105.17(f)(2)(H)(iii) (emphasis in original)) ComEd explains that "detailed plans" for achieving the metrics are not required in this docket:

> Rather, the General Assembly intended to create a process sequence that first requires the establishment of performance metrics in the instant docket, based on substantial evidence showing that the metrics encourage cost-efficient achievement of the objectives of the statute, followed by the review of costs to implement the metrics in potential future multi-year grid and rate plans and later cost reconciliations – proceedings with their own standards of evidence. The plainest reading of these sections is that Section 16-108.18(e)(6)(A) intentionally does not require implementation plans in this metrics approval case, because these plans are subject to the Commission's consideration in the potential upcoming multi-year ratemaking process.

(ComEd Init. Br. at 102-103)

Solar Intervenors agree that the metrics approved in this proceeding can and should be implemented through future proceedings like the Multi-Year Integrated Grid Plans. As described in Solar Intervenors' Initial Brief:

> CEJA requires the Commission to approve performance metrics in this docket, but reserves the specific implementation details for future proceedings. See 220 ILCS 5/16-105.17(f)(2)(J) (identifying the Multi-Year Integrated Grid Plan as the place where the utilities must propose "[a] detailed plan" for achieving the performance metrics approved by the Commission in this docket); 220 ILCS 5/16-105.17(f)(1)(B) (requiring Grid Plans to "propose distribution system investment programs, policies, and plans designed to… achieve the metrics approved by the Commission" in this docket). ComEd's first Multi-Year Integrated Grid Plan (to be filed on January 20, 2023) will serve as the foundation for achieving the DERIUV metric proposed by Mr. Rábago and Mr. Kenworthy.

(Solar Intervenors Init. Br. at 36)

Solar Intervenors further explained that Section 16-105.17(f)(2) requires ComEd's grid plan to include a comprehensive suite of information specifically related to DER integration with the distribution system, including the "Identification of potential cost-effective solutions from nontraditional and third-party owned investments that could meet anticipated grid needs, including, but not limited to, distributed energy resources

procurements, tariffs or contracts, programmatic solutions, rate design options, technologies or programs that facilitate load flexibility, non-wires alternatives, and other solutions that are intended to meet the objectives described at subsection (d)."

In short, the framework for approval and implementation of the DUV component that Solar Intervenors propose is directly aligned with and predicated on the Commission's future Multi-Year Integrated Grid Plans and DER Value/Additive Services proceedings. ComEd's assertion that the DUV component seeks to prematurely set the *value* of DERs in this proceeding mischaracterizes Solar Intervenors' proposal. (*See* ComEd Init. Br. at 6, fn. 2) The DERIUV metric does not set the value of DERs. Instead, the DERIUV metric creates a framework and formula for the Commission to insert the value of DERs *once it is determined in the DER Value Investigation pursuant to Section 16-107.6(e) of the Act.*

Third, ComEd's argument that the DERIUV metric creates an "inappropriately asymmetrical penalty and incentive structure" is incorrect. The DERIUV metric allocates two basis points (upside and downside) in 2024 and seven basis points (upside and downside) for 2025-2027. (Solar Intervenors Init. Br. at 32, Table 4) As discussed in Section III.B above, nothing in the Act requires that each individual metric be symmetrical or that its component parts be symmetrical. Instead, the Act requires that the "*total* amount of potential incentives and penalties shall be symmetrical" and that "incentives shall be rewards or penalties or both, reflected as basis points added to, or subtracted from, the utility's cost of equity." (220 ILCS 5/16-108.18(e)(2)(B)) The statute is clear: individual metrics can be incentive only, penalty only, or a combination of incentives and penalties; but nothing requires the individual metric to have a symmetrical incentive and penalty

structure. The symmetry requirement applies only to the *total* amount of incentives and penalties for *all* performance metrics approved by the Commission. Contrary to ComEd's assertion, and while not required by statute, the DERIUV metric is internally symmetrical by design. However, if the Commission elected to adopt the component parts of DERIUV metric as two separate metrics, the statute is clear that the Commission could retain the respective basis point allocation proposed by Solar Intervenors to maintain overall symmetry.

Finally, ComEd's argument that the DUV component is not designed to be achievable by the utility is simply false, as demonstrated by the record. CEJA requires that performance metrics be "reasonably within the control of the utility to achieve." (220 ILCS 5/16-108.18(e)(2)(D)) It does not require that the utility have "sole" control over every single element of the metric. The Company's assertion that the DUV component "involves the construction of the DER" and therefore "not in the utility's control" (ComEd Init. Br. at 80) is (a) an incorrect characterization of the DUV component; (b) not true; and (c) absurd. ComEd is *required by statute* to facilitate the integration and utilization of DERs as a grid resource in its system planning and operations. (220 ILCS 5/16-105.17) Any suggestion that DER integration is "not in the utility's control" abdicates one of ComEd's core responsibilities as a distribution utility.

As discussed in detail in Solar Intervenors' Initial Brief, ComEd exercises "enormous control over the utility platform upon which DERs operate and are integrated with the grid and through which customers interact with the utility." (Solar Intervenors' Init. Br. at 33) Further, the suggestion that a metric is insufficiently within the control of the utility to achieve because it will involve future deployment of DERs (*i.e.*, "construction") is

flatly contradicted by ComEd's position for other metrics it proposes and the Company's experience implementing and *earning incentives* for its energy efficiency programs. (*See* Solar Intervenors' Init. Br. at 33-35 (discussing the Company's reliance on the construction of DERs in the future to meet its proposed Peak Demand Reduction metric and its successful implementation of its energy efficiency program))

ComEd and Staff's criticisms fail to identify any statutory or other impediment that prevent the Commission from adopting Solar Intervenors proposed DERIUV metric. The DERIUV metric provides net benefits to customers by virtue the shared savings mechanism of the DUV component, is strongly supported by record evidence, is designed to achieve core objectives of CEJA for the deployment *and utilization* of DERs to provide ratepayers benefits, is reasonably within the control of the utility to achieve, and meets the other requirements of the Act for approval. Solar Intervenors therefore request that the Commission adopt the DERIUV metric.

3. Basis Points

ComEd proposes up to 10 basis points for its proposed Interconnection Performance Metric if the Commission approves a total of 60 basis points and 7 basis points if the Commission approves a total of 40 basis points. Solar Intervenors propose 7 basis points for the combined DERIUV Metric.

F. Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(vi) (customer service)

1. *ComEd Proposals*

2. *Other Proposals*

3. *Basis Points*

VII. PROPOSED TRACKING METRICS

Solar Intervenors' Position

Section 16-108.8(e)(3) of the Act requires the Commission to approve "reasonable and appropriate tracking metrics to collect and monitor data" for two purposes: (1) to measure and report utility performance, and (2) to establish future performance metrics. 220 ILCS 5/16-108.18(e)(3). JSP witness Rábago observes that utilities already collect enormous amounts of data for a wide range of purposes. (JSP Exhibit 1.0 at 38) Tracking metrics approved in this proceeding can streamline and focus the objectives and methods of utility data collection, organization and reporting. (*Id.*) To that end, Solar Intervenors offer the following overarching recommendations with respect to the Commission's consideration of tracking metrics in this proceeding.

First, tracking metrics approved in this proceeding should focus the utility on collecting and reporting the data most salient to the policy goals and objectives underlying the Act. (*Id.*) Second, tracking metrics should require the utility to report key data to the Commission after an opportunity for stakeholder input. (*Id.*) Third, the Commission should consider that tracking metric data and reports can provide information about component parts of a performance metric. Even if the tracking metric itself does not have an incentive tied to it, the tracking metric can deliver information that may drive changes in regulatory standards and inform how the subject utility's performance in a particular area compares with its peers and best practices. (*Id.*) Fourth, tracking metrics should allow the utility to collect relevant data for key conditions and trends without being narrowly tied to specific outcomes within the utility's control. (*Id*. at 38-39) Finally, tracking metrics can not only provide information regarding the utility's performance in areas relevant to the performance metrics approved in this proceeding, but also set the stage for improved

future iterations of those performance metrics, consistent with Section 16-108.18(e)(3). (*Id*. at 39)

In sum, tracking metrics should not operate in a vacuum. The Commission should consider tracking metrics as part of a transparent, intentional framework that support near and medium-term utility sector transformation. As such, the Commission should approve tracking metrics that enhance the PBR framework set forth in Section 16-108.18, and reject tracking metrics that do not, consistent with 220 ILCS 5/16-108.18(e)(3). Below, the Solar Intervenors support certain of ComEd's proposed tracking metrics, and propose modifications to certain other of ComEd's proposals under four of the five categories enumerated in 220 ILCS 5/16-108.18(e)(3)(A)-(F). The Solar Intervenors also propose several additional tracking metrics that, if approved by the Commission, will assist in accelerating the collection of data to support the development of the DUV component of the DERIUV metric and provide the data feedback structure necessary to increase visibility into the Company's progress towards achieving Interconnection Index and DUV components of the DERIUV metric. Solar Intervenors observe that these additional tracking metrics will also inform and strengthen future iterations of the DERIUV performance metric and overall achievement of CEJA's goal of integrating DERs into the Company's planning and system operations to deliver long-term benefits for ratepayers.

A. Proposed Tracking Metrics Falling Within Section 16-108.18(e)(3)(A) (minimize emissions)

Solar Intervenors' Position

1. *ComEd Proposals*

ComEd proposes two tracking metrics under 220 ILCS 5/16-108.18(e)(3)(A): "Emissions Reductions Supported by ComEd Programs" and "ComEd Net GHG

Emissions." (ComEd Ex. 18.01 at 17-18) The Solar Intervenors support the Company's proposals because those metrics will enable electrification and efficiency program improvements, consistent with Section 16-108.18(e)(3)(A).

2. *Other Proposals*

B. Proposed Tracking Metrics Falling Within Section 16-108.18(e)(3)(B) (grid flexibility)

Solar Intervenors' Position

1. *ComEd Proposals*

In surrebuttal testimony, ComEd proposes five Grid Flexibility tracking metrics under 220 ILCS 5/16-108.18(e)(3)(B), two of which were specifically adapted from tracking metrics that JSP proposed (in bold):

1. DERMS and Managed Charging Network Availability
2. DERMS Participation
3. **Cumulative DER Interconnected to ComEd Distribution System**
4. **Annual DER Interconnected to ComEd Distribution System**
5. EV Load and Participation

(ComEd Ex. 23.0 at 24-25; ComEd Ex. 18.01 at 15-16). The Solar Intervenors support ComEd's proposed tracking metrics in this category and appreciate the Company's efforts to strengthen its tracking metric proposals in this category over the course of this proceeding based on intervenor feedback.

2. *Other Proposals*

In testimony, JSP witness Rábago proposed a series of tracking metrics to support the Company's achievement of its goals under the Solar Intervenors' proposed DERIUV metric and enhance future iterations of that metric. Those tracking metrics are detailed in

Table KRR-1 in Mr. Rábago's direct testimony (JSP Exhibit 1.0 at 62-66) and reproduced in Appendix A to this brief. Mr. Rábago's proposed tracking metrics are organized in four categories of the utility's suite of DER-related administrative and operational responsibilities: 1) interconnection; 2) implementation of DER programs; 3) identification of grid needs; and 4) utilization of DERs to meet grid needs. Mr. Rábago's proposed tracking metrics create a feedback structure that will not only enhance the likelihood of ComEd achieving the goals of the DERIUV metric, but will also provide the data necessary to calibrate and improve the DERIUV metric over time. (JSP Exhibit 1.0 at 61) Further, tracking several aspects of the utility's execution of its DER-related administrative and operational responsibilities will help inform the development of additional performance incentives, or other incentives necessary to achieve the public interest goals set forth in CEJA. (*Id.*). While ComEd's proposed surrebuttal tracking metrics in this category (described above) are an acceptable substitute for Mr. Rábago's first three proposed tracking metrics (Total front-of-the-meter DERs deployed; Total behind-the-meter DERs deployed; Total of new front-of-meter and behind-the-meter DERs deployed in the last calendar year), the Solar Intervenors request that the Commission approve the remainder of Mr. Rábago's proposed DER-related tracking metrics and direct the Company to make the data and information tracked publicly available through a dedicated part of the Company's website.

C. Proposed Tracking Metrics Falling Within Section 16-108.18(e)(3)(C) (grid modernization cost savings and use of DERs to forego investments)

Solar Intervenors' Position

1. *ComEd Proposals*

ComEd proposes two metrics under Section 16-108.18(e)(3)(C): "Avoided Outage Cost Due to Grid Modernization Investments" and "Number of NWA Opportunities." (ComEd Ex. 18.01 at 20) The Solar Intervenors support these tracking metrics because they will provide valuable baseline information for DER deployment and operation. (JSP Exhibit 1.0 at 40)

2. *Other Proposals*

JSP witness Rábago recommends that the Company propose additional tracking metrics relating to marginal distribution costs under Section 16-108.18(e)(3)(C) that would allow the Company to compare the costs of interconnecting DERs as they are interconnected. (JSP Exhibit 1.0 at 41) Mr. Rábago states that "In this way, the Company can assess whether DERs added to the grid provide locational and temporal value to the grid that can help defer or avoid traditional investment costs." (*Id.*) In rebuttal testimony, the Company objected to the JSP's proposed addition, stating that "additional tracking metrics related to the locational and temporal value for DERs to the grid are related to the "Value of DER" proceeding which is set to begin no later than June 2023 with implementation by 2025." (ComEd Exhibit 9.0 at 23) On that basis, the Company asserts that the JSP's proposal is "premature."

ComEd is correct that assessing whether DERs provide locational and temporal value to the grid will be within the scope of the "Value of DER" proceeding required by Section 16-107.6 of the Act. The fact that the Value of DER investigation has not yet

begun (but will begin soon), however, only emphasizes the value of ComEd tracking data on marginal distribution costs now. The Value of DER proceeding will not result in the Commission approving tracking metrics—that must happen here. Directing ComEd to track marginal distribution costs at the feeder level in no way requires the Commission to prematurely rule on a methodology or formula to establish the value of DER in this proceeding as ComEd suggests. The Commission should therefore adopt the JSP's recommendation and direct ComEd to track marginal distribution costs at the feeder level in addition to the Company's proposed tracking metrics under Section 16-108.18(e)(3)(C).

D. Proposed Tracking Metrics Falling Within Section 16-108.18(e)(3)(D) (jobs and opportunities)

1. ComEd Proposals

2. Other Proposals

E. Proposed Tracking Metrics Falling Within Section 16-108.18(e)(3)(E) (allocation of grid planning benefits to environmental justice and economically disadvantaged customers and communities)

1. ComEd Proposals

2. Other Proposals

VIII. INDEPENDENT EVALUATOR

IX. PROPOSED PERFORMANCE METRICS PLAN COMPLIANCE FILING

X. PROPOSED RIDER PIM COMPLIANCE FILING

XI. OTHER

XII. FINDINGS AND ORDERING PARAGRAPHS

Accordingly, the Commission, having reviewed the entire record in this proceeding and being fully advised in the premises, is of the opinion and finds that:

(1) the Commission has jurisdiction over the subject matter of this proceeding;

(2) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;

(3) specifically with respect to the Proposed Performance Metrics Falling Within Section 16-108.18(e)(2)(A)(v) (interconnection), the Commission finds that:

a. the Solar Intervenors' proposed DERIUV Metric proposed by JSP witness Rábago and ELPC/Vote Solar witness Kenworthy should be adopted as it is the only metric falling within Section 16-108.18(e)(2)(A)(v) that is supported by the record and meets all of the legal requirements of Section 16-108.18(e);

b. The proposed DERIUV metric supports multiple statutory objectives of Section 16-108.18(e)(2)(A)(v), including the objective to "maximiz[e] the benefits of grid modernization and clean energy for ratepayers," and it supports the broader objectives of CEJA focused on deployment and utilization of DERs for value on the grid, including the Multi-Year Integrated Grid Planning process described in Section 16-105.17 of the Public Utilities Act (PUA) and the Commission's forthcoming investigation into the value of DERs and "additive services" under Section 16-107.6(e) of the Act. In contrast, ComEd's proposed "Interconnection Timeliness" metric focuses narrowly on the administrative processing of interconnection applications, which fails to address the underlying objectives of CEJA to advance the utilization of DERs.

c. Regarding cost effectiveness, the record supports the finding that the DERIUV metric will result in net benefits to customers because the shared savings approach of the DUV component of the metric ensures that the utility is rewarded only upon delivering net savings to ratepayers. In contrast, ComEd's proposed "Interconnection Timeliness" metric produces only modest benefits for DER customers while providing a windfall earning opportunity exceeding $5,000,000 per year for ComEd's shareholders, all at customer expense. It therefore fails to meet the basic statutory requirement that performance metrics result in "benefits [that] exceed costs for customers." 220 ILCS 5/16-108.18(e)(2)(F).

d. Regarding symmetry, the DERIUV metric along with the other performance metrics approved in this docket provide "a total amount of potential incentives and penalties" in a symmetrical way, as required by ILCS 5/16-108.18(e)(2)(B). Contrary to the argument advanced by ComEd, nothing in the Act requires each individual metric, standing

alone, to be symmetrical, and therefore ComEd's argument that the DERIUV metric is "inappropriately asymmetrical" is hereby rejected.

e. The Commission also rejects ComEd's position that the DERIUV is not "reasonably within the control of the utility to achieve" (220 ILCS 5/16-108.18(e)(2)(D)). ComEd is required by statute to facilitate the integration and utilization of DERs as a grid resource in its system planning and operations. 220 ILCS 5/16-105.17. Any suggestion that DER integration is "not in the utility's control" abdicates one of ComEd's core responsibilities as a distribution utility.

IT IS THEREFORE ORDERED that the Solar Intervenors' proposed DERIUV Metric proposed by JSP witness Rábago and ELPC/Vote Solar witness Kenworthy is hereby ADOPTED as it is the only metric falling within Section 16-108.18(e)(2)(A)(v) that is supported by the record and that meets all of the legal requirements of the Act.

IT IS FURTHER ORDERED that ComEd's proposed "Interconnection Timeliness" metric and Staff's alternative interconnection metric are REJECTED as the record fails to demonstrate that the proposals would result in "benefits [that] exceed costs for customers." 220 ILCS 5/16-108.18(e)(2)(F).

IT IS FURTHER ORDERED that ComEd shall work with stakeholders, including the Solar Intervenors, to develop a detailed plan for implementing the DERIUV metric as part of its Initial Multi-Year Integrated Grid Plans in Docket 22-0486, as required by Section 16-105.17(f)(2)(J) of the Public Utilities Act.

IT IS FURTHER ORDERED that the tracking metrics detailed in Table KRR-1 in Mr. Rábago's direct testimony (JSP Exhibit 1.0 at 62-66) and reproduced in Appendix A to the Solar Intervenors' Initial Brief in this docket are hereby ADOPTED.

DATED: _____, 2022
BRIEFS ON EXCEPTIONS _____, 2022

Heather Jorgenson
Terrance M. Garmon,

Administrative Law Judges

July 25, 2022

Respectfully submitted,

/s/ *Nikhil Vijaykar*

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